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The Commissioner of Yukon, by and with the advice and consent of the Legislative Assembly, enacts as follows

## PART 1 - INTRODUCTORY PROVISIONS

### Definitions

1 In this Act

“assistant deputy minister” means the assistant deputy minister of the Corrections Branch of the Government of Yukon;

"authorized person" means the person in charge and includes

(a) a staff member designated by the person in charge to exercise the powers and perform the duties and functions under section 18 [*inmate communication*], 19 [*disclosure*], 20 [*use of force*], 21 [*search of inmates*], 22 [*search and detention of visitors*], 23 [*search and detention of staff members*], 25 [*urinalysis*], or 26 [*power of seizure and disposition of things seized*]; and

(b) a member of a class of persons designated by the person in charge to exercise the powers and perform the duties and functions under section 18 [*inmate communication*], 19 [*disclosure*], 20 [*use of force*], 21 [*search of inmates*], 22 [*search and detention of visitors*], 23 [*search and detention of staff members*], 25 [*urinalysis*], or 26 [*power of seizure and disposition of things seized*];

“community corrections” means correctional services located in the community that are provided by or authorized by the Corrections Branch;

"contraband" means any of the following

(a) an intoxicant;

(b) if possessed without prior authorization, a weapon, any component of a weapon or ammunition for a weapon, or anything that is designed to kill, injure or disable or is altered so as to be capable of killing, injuring or disabling;

(c) an explosive or bomb, or any component of an explosive or bomb;

(d) if possessed without prior authorization, any

currency;

(e) if possessed without prior authorization, tobacco leaves or any products produced from tobacco in any form or for any use;

(f) if possessed without prior authorization, any other object or substance that, in the opinion of an authorized person, may threaten the management, operation, discipline or security of, or safety of persons in, the correctional centre;

"correctional centre" means a lawful place of confinement in Yukon, including, without limitation, a jail, prison, lockup, place of imprisonment, camp or correctional institution, and any land connected with it, but does not include any of the following

(a) penitentiaries under the control of Canada;

(b) a facility established or designated for young offenders under the *Corrections (Young Offenders) Act*;

"Corrections Branch" means the branch of the department of the minister responsible for administering this Act;

"court" means any court of competent jurisdiction in the Yukon and includes a justice of the peace;« *tribunal* »

"deputy head" has the meaning assigned by section 1 of the *Public Service Act*;

"director of corrections" means the Director of Corrections appointed under paragraph 6(1)(a);

"director of investigations and standards" means the Director of the Investigations and Standards Office appointed under paragraph 6(1)(b);

"First Nations person" means a person who is identified as a citizen of a Yukon First Nation by the Yukon First Nation;

"inmate" means a person who is sentenced to imprisonment, lawfully detained or confined for treatment, at a correctional centre, and includes a prisoner;

"inmate communication" means communication made or intended to be made by oral, written, electronic or prescribed means between an inmate and another

person, including another inmate, other than a privileged communication specified under paragraph 46(1)(w) [*power to make regulations*];

"monitor" means, in respect of inmate communication,

(a) to listen to an inmate communication that is made by electronic means or to an inmate communication that was made by electronic means and recorded; or

(b) to read inmate communication delivered to the correctional centre or sent from within the correctional centre;

"offender" means an inmate, a person serving a conditional sentence, and a person on probation;

"person in charge" means the person in charge of a correctional centre;

"staff member" means a person holding an appointment under paragraph 6(1)(a) or (b) [*directors, probation officers and other officers and employees*] and includes a person providing a service in a correctional centre under a contract with the Minister;

"Yukon First Nation" means one of the following

- (a) Carcross/Tagish First Nation;
- (b) Champagne and Aishihik First Nations;
- (c) Kluane First Nation;
- (d) Kwanlin Dun First Nation;
- (e) Liard First Nation;
- (f) Little Salmon/Carmacks First Nation;
- (g) First Nation of Nacho Nyak Dun;
- (h) Ross River Dena Council;
- (i) Selkirk First Nation;
- (j) Ta'an Kwach'an Council;
- (k) Teslin Tlingit Council;
- (l) Tr'ondëk Hwëch'in;

- (m) Vuntut Gwitchin First Nation; or
- (n) White River First Nation. « *Première nation* »

#### **Does not affect self-government agreements**

2(1) For greater certainty, nothing in this Act shall be construed so as to affect any provision of a self-government agreement.

(2) In this section, “self-government agreement” means a self-government agreement entered into by a First Nation, the Government of Canada and the Government of Yukon that is approved and has the force of law under the *First Nations (Yukon) Self-Government Act*.

### **PART 2 - PROVISION OF CORRECTIONAL SERVICES**

#### **Principles of corrections**

3 This Act and the regulations must be interpreted and administered in accordance with the following principles

- (a) the protection of society shall be given paramount consideration in making decisions or taking any action under this Act;
- (b) the Corrections Branch considers the rehabilitation, healing and reintegration of offenders when making decisions or taking any action under this Act;
- (c) the Corrections Branch works in collaboration with Yukon First Nations in developing and delivering correctional services and programs that incorporate the cultural heritage of Yukon First Nations and address the needs of offenders who are First Nations persons;
- (d) correctional policies, programs and practices are responsive to the particular needs of female offenders;
- (e) offenders are expected to actively participate, to the best of their ability, in programs designed to promote their rehabilitation, healing, and reintegration;
- (f) staff members of the Corrections Branch are given
  - (i) appropriate career development and training opportunities, including training respecting the cultural heritage of Yukon First Nations,

(ii) good working conditions in an environment that encourages integrity and personal accountability that is consistent with the code of conduct,

(iii) opportunities that allow them to effectively work with offenders, and

(iv) opportunities to participate in the development of correctional policies and programs;

(g) the Corrections Branch uses the least restrictive measures with offenders consistent with the protection of the public, staff members and offenders;

(h) discipline and restrictions imposed on offenders otherwise than by a court are applied by a fair process and with lawful authority, with access by the offender to an effective review procedure;

(i) the Corrections Branch provides opportunities for the public, organizations, and other governments to participate in the development and delivery of programs and services.

#### **Agreements with First Nations**

4 The Minister may enter into an agreement with a Yukon First Nation, the council of a band under the *Indian Act (Canada)*, or a society, corporation or other person controlled by a First Nations person

(a) respecting the provision of any correctional service provided or to be provided under this Act or a program established or to be established under this Act or the provision of a service relating to corrections or offenders that is provided or required under an act of Parliament, to include the terms set out in the regulations;

(b) for the lease of property for use, or for the right to use any property, in the administration of this Act; or

(c) for any other purpose appropriate to the administration of this Act.

#### **Agreements**

5 The Minister, the Minister's deputy head, or, on the written authority of the Minister, the director of corrections may, on behalf of the Government of Yukon, make agreements with the government of Canada, the government of another province, or any other person or group of persons

(a) respecting the provision of any correctional service provided or to be provided under this Act or a program established or to be established under this Act or the provision of a service relating to corrections or offenders that is provided or required under an act of Parliament, to include the terms set out in the regulations;

(b) respecting the transfer of inmates between a correctional centre in Yukon and a penitentiary or institution for the custody of offenders in another province;

(c) for the lease of property for use, or for the right to use any property, in the administration of this Act; or

(d) for any other purpose appropriate to the administration of this Act.

### **PART 3 - DUTIES AND POWERS OF CORRECTIONS STAFF**

#### **Directors, probation officers and other officers and employees**

6(1) The Minister may appoint under the *Public Service Act*

(a) a director of corrections;

(b) a director of investigations and standards;

(c) persons, or persons within a class of persons, to be probation officers; and

(d) correctional officers and other officers and employees the Minister considers necessary to exercise powers and perform duties under this Act.

(2) In an appointment under subsection (1), the Minister may

(a) limit the powers and duties that a person, officer or employee may exercise under this Act; and

(b) make the appointment subject to terms and conditions.

(3) Persons, officers and employees appointed to exercise powers and perform duties under this Act are peace officers while exercising those powers and performing those duties.

(4) Subsection (3) does not apply to the director of investigations and standards or an employee of the Investigation and Standards Office.

### **Staff must follow principles**

7 Persons, officers and employees appointed to exercise powers and perform duties under this Act must act according to the principles of this Act while exercising those powers and performing those duties.

### **Powers and duties of probation officers**

8(1) Subject to any limitations, terms and conditions imposed on the appointment under subsection 6(2) [*probation officers and other officers and employees*], a probation officer

- (a) is a probation officer for all of Yukon;
- (b) is an officer of every court in Yukon;
- (c) must prepare reports for the court as the court may order;
- (d) has power to procure and report information for the court in respect of a person convicted by the courts;
- (e) is, if appointed a parole supervisor under the *Corrections and Conditional Release Act* (Canada), a peace officer under the jurisdiction of the government;
- (f) is, if attached to the staff of a correctional centre, subject to the directions of the person in charge of the correctional centre, and must assist in casework services and post-release planning for inmates; and
- (g) has the additional prescribed powers and duties.

(2) A probation officer is responsible for the supervision of

- (a) persons placed on probation by a court; and
- (b) persons subject to conditional sentences imposed by a court.

(3) A probation officer may exercise the powers of an authorized person set out in subsection 25(1) [*urinalysis*] in respect of a person under their supervision.

(4) If a probation officer exercises the powers of an authorized person set out in subsection 25(1) in respect of a

person under their supervision, the probation officer must perform the duties set out in subsection 25(2) in respect of the person under their supervision.

(5) A probation officer charged with the supervision of a person on whom the passing of sentence was suspended, or who is subject to a probation order or a conditional sentence, may report to the court or prosecutor if the person fails to carry out the terms

- (a) on which the passing of sentence was suspended;
- (b) of the probation order; or
- (c) of the conditional sentence.

### **Volunteers**

9(1) The director of corrections may appoint volunteers to provide correctional services for offenders in accordance with this enactment.

(2) The director of corrections must determine the screening, qualifications and training of volunteers.

(3) A volunteer appointment must be made in writing and state the duties and responsibilities of the volunteer.

(4) A volunteer may not be paid remuneration but may be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties in accordance with the directives of Management Board for the payment of travel expenses to the public service of the Government of Yukon.

## **PART 4 - COMMUNITY CORRECTIONS**

### **Program integration**

10(1) Community reintegration is an integral part of the correctional services of Yukon.

(2) Community reintegration must be administered with the objectives of

- (a) assisting an offender to make a satisfactory adjustment to community living; and
- (b) preventing and reducing offending behaviour.

(3) The director of corrections must co-ordinate and encourage the interrelated activities of correctional centres and community corrections programs that are concerned

with offenders at all stages of their sentences and after their release.

(4) The person in charge must whenever possible notify probation officers and, with the offender's consent, other persons involved in community corrections of the plans for the release of an inmate into the community.

(5) In this section, "community reintegration" means the assistance made available to persons discharged from custody, parole or probation.

### **Programs and services**

**11(1)** The director of corrections must develop and offer programs and services to encourage offenders to develop an awareness of the consequences of their behaviour and initiate a personal process focusing on developing their sense of accountability so that they may be rehabilitated, healed and reintegrated into the community.

(2) The programs and services offered must

(a) reflect the needs and culture of offenders who are First Nations persons;

(b) provide for the particular needs of female offenders; and

(c) provide for the specific needs of other classes of offender that are identified by the director of corrections.

### **Community-based programs**

**12** The director of corrections must ensure that offenders have access to existing programs and services offered by community-based resources to support offenders' rehabilitation and healing and facilitate their reintegration into the community.

## **PART 5 - CUSTODY OF INMATES**

### **DIVISION 1 - CORRECTIONAL CENTRES**

#### **Establishing, continuing or discontinuing centres**

**13** The Commissioner in Executive Council may, by regulation, establish, continue or discontinue correctional centres as the Commissioner in Executive Council considers necessary.

**Regulation outside correctional centre**

**14** A street, highway or place, public or private, along or across which an inmate may pass in going to or returning from work, duty or other absence authorized under section 30 [*attendance of inmate outside centre*] or 31 [*temporary absences*], and every place where an inmate may be under those sections, must, while so used by an inmate, be considered a portion of a correctional centre for the purposes of this Act, except for the purposes of subsection 24(2) [*contraband and trespassing offences*].

**Duties of person in charge**

**15(1)** The person in charge of a correctional centre is responsible, under the supervision of the director of corrections, for

- (a) the safe, secure and efficient operation of the centre;
- (b) the well-being of the inmates of the centre;
- (c) making arrangements that will help the inmates of the centre to relocate in the community;
- (d) the operation of programs established under section 11 [*programs and services*] and 34 [*work programs*]; and
- (e) the administration of this Act within the centre.

(2) The person in charge is responsible for the custody of the persons admitted to the centre until their final release or their transfer to another centre.

**Person in charge may make rules**

**16(1)** The person in charge of a correctional centre must establish rules, not inconsistent with this Act and the regulations and subject to the approval of the director of corrections, respecting the matters referred to in section 15 [*duties of person in charge*] which must include rules respecting

- (a) the conduct of inmates of the centre;
- (b) activities of inmates of the centre; and
- (c) other matters necessary or advisable for the maintenance of order and good management of the centre.

(2) The person in charge must inform inmates of the correctional centre of the rules of the correctional centre.

(3) Inmates of a correctional centre must comply with the rules set by the person in charge of the correctional centre.

### **Inmate plans**

**17(1)** The person in charge must, as soon as practicable after an inmate has entered a correctional centre, make an assessment of the inmate in a manner compatible with the length of the sentence, the inmate's status and the nature of the offence, and prepare a plan for the inmate.

(2) An assessment must assess the inmate's correctional needs and the appropriate programs to meet those needs to

(a) support the inmate in developing accountability and being rehabilitated, healed and reintegrated into the community; and

(b) prevent and reduce offending behaviour.

### **Inmate communication**

**18(1)** An authorized person may restrict, intercept, monitor or record inmate communication in accordance with this section and the regulations.

(2) An authorized person may without individualized suspicion intercept or record inmate communication.

(3) An authorized person may restrict, intercept or monitor inmate communication if one or more of the following apply

(a) the authorized person has reasonable grounds to believe that the inmate is

(i) involved in illegal activities,

(ii) harassing or causing harm to others, or

(iii) participating in an activity that may jeopardize the safety, security or operation of the correctional centre;

(b) a court order restricts or prohibits communication or contact between the inmate and the other person;

(c) the other person has indicated to the authorized person that he or she does not wish to communicate with

the inmate.

(4) If inmate communication has been restricted, an authorized person must as soon as practicable inform the inmate in writing and give the reasons under subsection (3) for the restriction.

### **Disclosure**

**19(1)** An authorized person may,

(a) in prescribed circumstances or in relation to prescribed classes of inmate communication, disclose in the prescribed manner that a communication is inmate communication, and

(b) in prescribed circumstances or in relation to prescribed classes of communication specified under paragraph 46(1)(w) [*power to make regulations*] as privileged, disclose in the prescribed manner that a privileged communication originates from the correctional centre.

(2) For the purposes of paragraph (1)(b), an authorized person may without individualized suspicion intercept a privileged communication.

### **Use of force**

**20(1)** Officers and employees appointed under this Act may use a reasonable degree and means of force for any of the following purposes

(a) to prevent injury or death to a person;

(b) to prevent property damage;

(c) to prevent an inmate from escaping;

(d) to maintain custody and control of an inmate.

(2) A device used to physically restrain an inmate may only be used in prescribed circumstances and in accordance with prescribed procedures.

### **Search of inmates**

**21(1)** On admission, entry or return of an inmate to a correctional centre, an authorized person must conduct a search of the inmate and any personal possessions, including clothing, that the inmate may be carrying or wearing.

(2) For the purpose of detecting contraband, an authorized person may without individualized suspicion conduct periodic searches of

(a) an inmate and any personal possessions, including clothing, that the inmate may be carrying or wearing, and

(b) the inmate's cell and its contents.

(3) If an authorized person believes on reasonable grounds that an inmate may be in possession of contraband or evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*], the authorized person may conduct a search of any of the following, as necessary in the circumstances

(a) the inmate and any personal possessions, including clothing, that the inmate may be carrying or wearing;

(b) the inmate's cell and its contents.

(4) A search under subsection (1), (2), or (3) may include a strip search conducted in accordance with the regulations.

(5) A strip search of an inmate must be conducted by an authorized person of the same sex as the inmate unless the delay that would be caused by complying with this requirement would result in danger to human life or safety.

### **Search and detention of visitors**

22(1) Subject to subsection (2), an authorized person may, for security or safety purposes and without individualized suspicion, conduct routine searches of a visitor entering or leaving or in the correctional centre and of any personal possessions, including clothing, that the visitors may be carrying or wearing.

(2) If a visitor refuses to undergo a search under subsection (1), the authorized person may

(a) prohibit a contact visit with an inmate and authorize a non-contact visit; or

(b) request the visitor to leave the correctional centre immediately.

(3) A visitor must comply with a request made under subsection (2)(b).

(4) If an authorized person believes on reasonable grounds that a visitor is carrying contraband or is in possession of evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*],

(a) the authorized person may, with the visitor's consent, conduct a search of the visitor and any personal possessions, including clothing, that the visitor may be wearing or carrying, in order to find the contraband or evidence; or

(b) the person in charge of the correctional centre may authorize the detention of the visitor in order to obtain the services of the police.

(5) With the visitor's consent, a search under paragraph (4)(a) may include a strip search conducted in accordance with the regulations.

(6) A strip search of a visitor must be conducted by an authorized person of the same sex as the visitor unless the delay that would be caused by complying with this requirement would result in danger to human life or safety.

(7) If contraband or evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*] is found in a search under subsection (1) or paragraph (4)(a) of this section, the person in charge of the correctional centre may authorize the further detention of the visitor in order to obtain the services of the police.

(8) A person detained under this section must

(a) be informed promptly of the reasons for the detention and of his or her right to retain and instruct counsel; and

(b) be given a reasonable opportunity to retain and instruct counsel.

### **Search and detention of staff members**

**23(1)** An authorized person may without individualized suspicion conduct

(a) routine searches, authorized for security or safety purposes by the person in charge of the correctional centre, of staff members entering or leaving or in the correctional centre and of any personal possessions, including clothing, that staff members may be carrying or wearing; and

(b) random searches, authorized for security or safety purposes by the person in charge of the correctional centre of staff members' lockers.

(2) A staff member must not impede or obstruct an authorized person conducting a search under subsection (1).

(3) If an authorized person believes on reasonable grounds that a staff member is carrying contraband or is in possession of evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*],

(a) the authorized person may, with the staff member's consent, conduct a search of the staff member, the staff member's locker in the correctional centre and any personal possessions, including clothing, that the staff member may be wearing or carrying, in order to find the contraband or evidence; or

(b) the person in charge of the correctional centre may authorize the detention of the staff member in order to obtain the services of the police.

(4) With the staff member's consent, a search under paragraph (3)(a) may include a strip search conducted in accordance with the regulations.

(5) A strip search of a staff member must be conducted by an authorized person of the same sex as the staff member unless the delay that would be caused by complying with this requirement would result in danger to human life or safety.

(6) If contraband or evidence relating to an offence under section 24(1) [*contraband and trespassing offences*] is found in a search under subsection (1) or paragraph (3)(a) of this section, the person in charge of the correctional centre may authorize the further detention of the staff member in order to obtain the services of the police.

(7) A staff member detained under this section must

(a) be informed promptly of the reasons for the detention and of his or her right to retain and instruct counsel; and

(b) be given a reasonable opportunity to retain and instruct counsel.

### **Contraband and trespassing offences**

**24(1)** A person commits an offence if at a correctional

centre the person possesses, delivers or sends to or receives from an inmate anything that is referred to in paragraph (a), (b) or (c) of the definition of "contraband" in section 1.

(2) A person commits an offence if the person trespasses on the grounds, buildings or other premises belonging or related to a correctional centre.

(3) Every person who commits an offence under this section is liable, on summary conviction, to a fine of up to \$2000 or to imprisonment for a term of up to 6 months or to both fine and imprisonment.

### Urinalysis

**25(1)** An authorized person may demand that an inmate submit to urinalysis

(a) at any time, if the authorized person believes on reasonable grounds that the inmate has taken an intoxicant into the inmate's body; or

(b) if abstention from an intoxicant is a condition of a temporary absence, work program, voluntary treatment program, probation, or conditional release and urinalysis is required to monitor an inmate's compliance with the condition,

(i) at regular intervals, or

(ii) at any time, if the authorized person believes on reasonable grounds that the inmate has breached the condition.

(2) An authorized person who makes a demand under this section must

(a) first inform the inmate of the basis of the demand and the consequences of failure to comply with the demand; and

(b) carry out the demand and take the sample in accordance with the regulations.

### Power of seizure and disposition of things seized

**26(1)** A staff member may seize an object or substance if the staff member believes on reasonable grounds that the object or substance is contraband or evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*].

(2) As soon as practicable after an object or a substance is seized under subsection (1), the staff member must

(a) make a record describing the object or substance and the circumstances in which it was seized; and

(b) deposit the object or substance in a secure place at the correctional centre.

(3) The person in charge of the correctional centre must return an object or substance seized under subsection (1) to its owner if

(a) it is in the custody or control of the person in charge of the correctional centre;

(b) it is not contraband or evidence relating to an offence under subsection 24(1) [*contraband and trespassing offences*]; and

(c) there is no dispute about who owns it.

(4) If an object or substance is seized from an inmate under subsection (1) and the object or substance is contraband but its possession outside the correctional centre would be lawful, the person in charge of the correctional centre may direct that

(a) the object or substance be kept in a secure place at the correctional centre and returned to the inmate on his or her release from custody;

(b) the inmate be given 30 days to make arrangements for the disposal or safekeeping of the object or substance outside the correctional centre; or

(c) the object or substance be disposed of if

(i) it is of a perishable nature and subject to spoilage,

(ii) it will deteriorate in value if kept,

(iii) its custody involves unreasonable expense or inconvenience,

(iv) keeping it is unsafe, or

(v) it is dangerous to life, health or property.

(5) An object or substance seized under subsection (1) is forfeited to the government in accordance with the regulations if

- (a) within 30 days after being notified of its seizure, the owner does not request its return;
- (b) the owner cannot be located and 3 months have passed since the seizure;
- (c) the object or substance is determined to be contraband in a hearing referred to in paragraph 46(2)(p) [*power to make regulations*] and possession of it outside the correctional centre would be unlawful; or
- (d) in the case of an owner who is an inmate,
  - (i) possession of it by the inmate would constitute possession of contraband, and
  - (ii) the inmate has not arranged for the disposal or safekeeping of the object or substance outside the correctional centre within 30 days after being given the opportunity to do so in accordance with paragraph (5)(b).

## DIVISION 2 - DISCIPLINE

### Hearing adjudicators for disciplinary hearings

27(1) The assistant deputy minister may appoint persons who are not employees of the department of the minister as hearing adjudicators to preside over disciplinary hearings in accordance with the regulations for the purpose of

- (a) reviewing breaches by inmates of the regulations or of the rules of a correctional centre; and
- (b) determining appropriate punishment for breaches of the regulations or of the rules of a correctional centre.

(2) The assistant deputy minister may in writing delegate any of the assistant deputy minister's powers, duties or functions under this section to any person under the authority of the assistant deputy minister.

(3) A hearing adjudicator may be appointed for a term of not more than 5 years and may be reappointed.

(4) A person appointed as a hearing adjudicator continues to hold office after the expiry of the term of the appointment until the person is reappointed, the person's successor is appointed or a period of 3 months has elapsed, whichever occurs first.

(5) Hearing adjudicators are entitled to remuneration in an amount determined by the assistant deputy minister and to be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties in accordance with the directives of Management Board for the payment of travel expenses to the public service of the Government of Yukon.

### **Review of disciplinary decision**

**28(1)** An inmate to whom the decision relates or the person in charge of the correctional centre where the inmate was charged with the breach of the regulations or of the rules of the correctional centre that resulted in the disciplinary hearing may request that the director of investigations and standards review the decision and the penalty imposed.

(2) A review must be based solely on the record of the disciplinary hearing and the decision of the person presiding over the hearing.

(3) The record of the disciplinary hearing may be in the form of a written document or an audio or video recording of the disciplinary hearing, or any combination of them.

### **Disciplinary action and offence proceedings**

**29** The fact that an inmate is alleged to have committed an act or omission that is an offence under an enactment of Canada or Yukon does not prevent disciplinary action from being taken against the inmate in respect of a contravention of this Act or the regulations or the rules of a correctional centre.

## **DIVISION 3 - ABSENCES, EMPLOYMENT AND REMISSION**

### **Attendance of inmate outside centre**

**30(1)** The director of corrections may authorize the employment or attendance of an inmate for any specific work, duty or purpose beyond the limits of a correctional centre.

(2) The degree of supervision of the inmate must be determined by the person in charge of the correctional centre.

(3) During the employment or attendance referred to in subsection (1), the inmate is subject to the rules, regulations and discipline of the correctional centre, as applicable, and

must obey all instructions given to him or her by the person in charge of the correctional centre.

(4) The director of corrections may delegate his or her power under subsection (1) to the person in charge of the correctional centre.

### **Temporary absences**

**31(1)** The person in charge may authorize an inmate to be absent from a correctional centre with or without escort, subject to any conditions that the person in charge considers appropriate, if in the opinion of the person in charge the absence is necessary or desirable

(a) for medical, educational, employment, or humanitarian reasons; or

(b) to assist in the inmate's rehabilitation or reintegration into the community.

(2) A temporary absence under this section may be authorized for a maximum period of 60 days and may be renewed by the person in charge for one or more periods of a maximum of 60 days on reassessment of the case.

(3) Despite subsection (2), a temporary absence for medical reasons may be authorized for an unlimited period.

(4) During the period of a temporary absence authorized under subsection (1), the inmate is subject to the rules, regulations and discipline of the correctional centre, as applicable, and must obey all instructions given to them by the person in charge.

(5) The person in charge may delegate his or her powers under this section to an authorized person.

### **Suspension, cancellation and revocation of temporary absence**

**32(1)** The person in charge may suspend, cancel or revoke an inmate's temporary absence under section 31 [*temporary absences*], before or after it begins, if

(a) a breach of a condition of the absence has occurred or, in the opinion of the person in charge, the suspension, cancellation or revocation is necessary to prevent a breach of a condition of the absence;

(b) the grounds for authorizing the absence have changed or no longer exist; or

(c) based on information that could not reasonably have been provided at the time the absence was authorized, the application has been reassessed.

(2) If the person in charge suspends, cancels or revokes an inmate's temporary absence, the person in charge may issue a warrant or notice of suspension, cancellation or revocation for the apprehension and recommittal of the inmate.

(3) A peace officer may arrest a person without a warrant or notice and remand the person into custody if the peace officer believes on reasonable grounds that a warrant or notice

(a) has been issued under subsection (2) in respect of that person; and

(b) is still in force.

(4) Unless the warrant or notice is produced within 48 hours after an arrest is made under subsection (3), the inmate must be released.

#### **Appeal of denial respecting temporary absence**

**33(1)** The director of corrections may establish a temporary absence panel by appointing up to 3 persons to the panel.

(2) An inmate whose request for a temporary absence under section 31 [*Temporary absences*] is denied may appeal the denial to the director of corrections.

(3) The director of corrections may delegate his or her determination in respect of an appeal under subsection (2) to a temporary absence panel.

#### **Work programs**

**34(1)** The director of corrections may establish and administer work programs.

(2) The *Employment Standards Act* and the *Public Service Labour Relations Act* do not apply to inmates in respect of or due to their participation in employment authorized under this section.

#### **Work release and work program**

**35(1)** If the director of corrections authorizes an inmate's absence from a correctional centre in order to be employed for wages, the director of corrections may require

that any wages earned by the inmate from this employment be applied in the manner set out in subsections (4) and (5).

(2) If an inmate receives compensation as a result of his or her participation in a work program, the director of corrections may require that the compensation received by the inmate be applied in the manner set out in subsections (4) and (5).

(3) If an inmate is employed for wages outside of a correctional centre or is participating in a work program inside or outside of a correctional centre, the director of corrections may require

(a) the employer of the inmate; or

(b) the person who is paying compensation to the inmate

to forward the total amount owed to the inmate, less deductions required by law, to the person in charge of the correctional centre.

(4) The person in charge of the correctional centre must, subject to the approval of the director of corrections, disburse the money received by the inmate for the following purposes in descending order of priority

(a) the maintenance and support of the inmate's dependants in sums the minister may direct;

(b) the actual cost of travel expenses and meals for the inmate;

(c) the cost of keeping the inmate at the correctional centre;

(d) any other expense that the director of corrections considers is in the best interest of the inmate or the dependants of the inmate.

(5) The person in charge of the correctional centre must credit any balance remaining to the account of the inmate to be paid to him or her on his or her release from custody.

(6) Despite subsections (4) and (5), the person in charge of the correctional centre may waive or vary the manner of disbursing the earnings of the inmate received by the person in charge in any way that the person in charge, in his or her discretion, considers necessary for the benefit of the inmate or the dependants of the inmate.

(7) The person in charge of the correctional centre receiving money under this section must keep proper

records of its receipt and disbursement and account to the inmate on his or her release from custody.

### **Earned remission**

**36** An inmate who is serving a sentence for civil contempt or for an offence under an enactment may be credited with earned remission in accordance with the regulations.

## **DIVISION 4 - INSPECTION AND INVESTIGATION**

### **Inspections**

**37(1)** The Minister must provide for the inspection of each correctional centre on a periodic basis that the Minister considers appropriate in the circumstances.

(2) The Minister or a person conducting an inspection under this section may at any time

- (a) enter a correctional centre, and
- (b) access any part of the correctional centre.

(3) The Minister or person conducting the inspection may examine any thing or any record, except a medical record of an inmate, in the correctional centre.

### **Investigations**

**38(1)** The Minister must maintain the Investigation and Standards Office.

(2) The director of investigations and standards

(a) may delegate in writing one or more of the director's powers and duties to an employee of the Investigation and Standards Office;

(b) must investigate a matter respecting the administration of this Act on the written request of the assistant deputy minister;

(c) may investigate a matter respecting the administration of this Act on the director's own motion;

(d) must, subject to subsection (3), investigate complaints about the administration of this Act as it affects the complainant, on receiving a written complaint from

- (i) an inmate,
- (ii) a person on probation under this Act, or
- (iii) a person who is subject to a conditional sentence;

(e) must report his or her findings under paragraph (b), (c) or (d) in writing to the deputy head; and

(f) is entitled to access at any time to

- (i) a correctional centre and an inmate,
- (ii) a person appointed or approved under section 6 or a staff member, and
- (iii) a file or document under the custody and control of the department of the minister.

(3) The director of investigations and standards may refuse to investigate a complaint or may stop or postpone investigation of a complaint if the director considers that the complaint is frivolous, vexatious or trivial or is not made in good faith.

(4) An investigator to whom a power or duty is delegated under paragraph (2)(a) may not delegate that power or duty to another person.

#### **Power to compel persons to answer questions and order disclosure**

**39(1)** For the purposes of an investigation under paragraph 38(2)(b), (c) or (d) [*investigations*], the director of investigations and standards may make an order requiring a person to do either or both of the following

- (a) attend, in person or by electronic means, before the director to answer questions on oath or affirmation, or in any other manner;
- (b) produce for the director a record or thing in the person's possession or control.

(2) The director of investigations and standards may apply to the Supreme Court for an order

- (a) directing a person to comply with an order made under subsection (1), or
- (b) directing any directors and officers of a person to cause the person to comply with an order made under

subsection (1).

### **Contempt proceeding for uncooperative person**

**40** The failure or refusal of a person subject to an order under section 39 [*power to compel persons to answer questions and to order disclosure*] to do any of the following makes the person, on application to the Supreme Court by the director of investigations and standards, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court

- (a) attend before the director;
- (b) take an oath or make an affirmation;
- (c) answer questions;
- (d) produce records or things in the person's possession or control.

### **Immunity protection**

**41** No legal proceeding for damages lies or may be commenced or maintained against the director of investigations and standards, or a person acting on behalf of or under the direction of the director, because of anything done or omitted in good faith

- (a) in the performance or intended performance of any duty under section 38 [*investigations*]; or
- (b) in the exercise or intended exercise of any power under sections 38 [*investigations*] to 40 [*contempt proceeding for uncooperative person*].

### **Offence of obstructing inspections or investigations**

**42(1)** A person must not obstruct or impede or refuse to admit the assistant deputy minister or a person conducting an inspection under section 37 [*inspections*] or a person conducting an investigation under section 38 [*investigations*].

(2) A person must not aid or assist a person in obstructing or impeding or refusing to admit the assistant deputy minister or a person conducting an inspection under section 37 [*inspections*] or a person conducting an investigation under section 38 [*investigations*].

(3) A person who contravenes subsection (1) or (2) commits an offence punishable on summary conviction by a fine of up to \$2000 or imprisonment for a term of up to 6

months or both fine and imprisonment.

## PART 6 - COMMUNITY INVOLVEMENT

### Community advisory boards

43(1) The assistant deputy minister may establish one or more community advisory boards, each consisting of up to 7 members appointed by the assistant deputy minister.

(2) At least one member of a community advisory board must be a First Nations person.

(3) An appointment under subsection (1) may be made and renewed for a term of up to 3 years.

(4) A member of a community advisory board is entitled to be paid remuneration and reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties in accordance with the directives of Management Board for the payment of travel expenses to the public service of the Government of Yukon.

## PART 7 - GENERAL

### Jurisdiction of National Parole Board

44 The National Parole Board is authorized to exercise in Yukon the jurisdiction described in subsection 108(2) of the *Corrections and Conditional Release Act (Canada)*.

### *Summary Convictions Act*

45 Section 3 of the *Summary Convictions Act* does not apply to this Act.

### Power to make regulations

46(1) The Commissioner in Executive Council may make regulations as follows

- (a) establishing terms that must be included in agreements for the provision of correctional services and programs;
- (b) for the management, operation, and security of correctional centres;
- (c) prescribing the powers and duties of persons employed in or about a correctional centre and the qualifications, powers and duties of probation officers;
- (d) respecting limitations or conditions on the admission

of persons into custody at a correctional centre, the transfer of inmates between correctional centres, and the discharge of inmates;

(e) establishing a process for receiving and responding to inmate complaints;

(f) respecting the separate confinement or segregation of inmates;

(g) respecting the use of force and physical restraint devices on inmates;

(h) respecting searches under sections 21 to 23, including, without limitation, strip searches;

(i) specifying the manner in which a demand that an inmate submit to urinalysis be carried out and a urine sample be taken;

(j) governing visits to inmates in correctional centres and the conduct of visitors while in a correctional centre;

(k) respecting the disposal of

(i) unclaimed property abandoned by an inmate at a correctional centre, including, without limitation, providing for the forfeiture of the property to the government, and

(ii) property forfeited under section 26;

(l) for the diet, clothing, maintenance, accommodation, employment and training of inmates;

(m) establishing rules governing the conduct of inmates in a correctional centre, which may provide differently for different correctional centres;

(n) providing that an inmate's breach of a rule referred to in paragraph (m) is a matter in respect of which the inmate may be disciplined;

(o) establishing and providing for an informal resolution process that may be employed in relation to breaches of rules referred to in paragraph (m);

(p) respecting hearings in relation to an alleged breach of the rules referred to in paragraph (m), including, without limitation, the practices and procedures for the hearings;

(q) establishing and providing for a range of penalties for breaches of rules referred to in paragraph (m) and specifying criteria to be applied by a person presiding over a disciplinary hearing in imposing a penalty from the range of penalties established;

(r) establishing a process for reconsideration of a penalty imposed in a disciplinary hearing, and the powers and duties of a person conducting the reconsideration;

(s) providing a process specifically for dispositions of fines for inmate offences involving property damage;

(t) establishing a process for review of a decision made in a disciplinary hearing, and the powers and duties of a person conducting the review;

(u) respecting the restriction, interception, monitoring or recording of inmate communication;

(v) providing for the handling, retention and disposal of inmate communication that is intercepted or recorded;

(w) specifying communications between an inmate and another person that are privileged;

(x) respecting procedures that an authorized person must follow, and specifying criteria that an authorized person must apply, to examine an inmate communication and determine whether it is a privileged communication;

(y) governing inmates who are authorized to be absent from a correctional centre;

(z) specifying criteria for crediting earned remission, failing to earn remission and forfeiting earned remission and providing for the appointment and duties of remission awards assessors and reviews of their decisions;

(aa) respecting the inspection of correctional centres;

(bb) establishing or authorizing the minister to establish a process for community and Yukon First Nations' involvement in the operation of correctional programmes and services including but not limited to

(i) appointment of qualified persons to preside over disciplinary hearings and sit on temporary absence boards, alternate measures panels and community advisory boards,

(ii) training, support and community participation activities for representatives of the community and Yukon First Nations,

(iii) supporting and maintaining agreements with community and Yukon First Nations for the operation of correctional programmes and services;

(cc) defining words or expressions used but not defined in this Act;

(dd) any other matter that the Commissioner in Executive Council considers necessary or advisable to facilitate the administration of this Act.

## **PART 8 - CONSEQUENTIAL AMENDMENTS**

### **Former Act amended**

**47(1) The *Corrections Act*, R.S.Y. 2002, c.46 is amended by this section.**

**(2) The title “*Corrections Act*” is repealed and replaced with the title “*Corrections (Young Offenders) Act*”.**

**(3) Section 1 is amended by repealing the definitions of “correctional institution”, “court”, “director”, “inmate”, and “superintendent”.**

**(4) Parts 1 to 3 are repealed.**

**(5) Section 15 is amended by repealing paragraph 15(1)(a) and subsection (3).**

**(6) Section 16 is repealed.**

**(7) Subsection 21(2) is repealed.**

**(8) Sections 22 to 25 are repealed.**

### ***Education Act***

**48 Paragraph 99(1)(d) of the *Education Act* is amended by repealing the expression “corrections centre” and replacing it with the expression “correctional centre”.**

### ***Jury Act***

**49 Paragraph 5(j) of the *Jury Act* is amended by repealing the expression “Community and Corrections Services Branch” and replacing it with the expression**

“Corrections Branch”.

**Repeal**

**50** The *Jails Act*, R.S.Y. 2002, c.127, is repealed.

**PART 9 - COMMENCEMENT**

**Date of coming into force**

**51** This Act comes into force on October 1, 2009.

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