



Environmental Rights Act

Plain Language Summary

The Plain Language Summary of the *Environmental Rights Act* is provided solely to facilitate public understanding of the Act and is not intended as an interpretive tool.

About the *Environmental Rights Act*

The *Environmental Rights Act* recognizes that all people in the Northwest Territories (NWT) have a responsibility to look after the environment for our benefit and for the benefit of our children and our children's children.

The Act takes into account that NWT residents have a right to a healthy environment, and that there is value in local, community, traditional and scientific knowledge in making environmental decisions. It recognizes that NWT residents have a unique relationship to the environment, and deserve to have a means to protect it.

The Act recognizes the Government of the Northwest Territories (GNWT) strives to make decisions that consider environmental protection both within and beyond the territory.

It also recognizes the importance of Aboriginal and treaty rights, and that there are rights and processes set out in land, resources and self-government agreements relating to environmental protection.

What are the goals of the Act?

- protect people's right to a healthy environment
- help ensure the GNWT always considers the ways in which its decisions could impact the environment
- give ordinary citizens of the NWT the tools to help the GNWT protect their right to a healthy environment

How are Aboriginal and treaty rights protected?

- The rights of Indigenous peoples are protected under the Canadian Constitution. Nothing in the *Environmental Rights Act* changes those rights.
- Anything done under the Act must be done in a way that is consistent with land, resources and self-government agreements.

Definitions

Environment

- water, snow and ice
- land
- air and sky
- all living things, such as plants, animals and other organisms
- all non-living things, such as soil and stone
- the natural system in which living and non-living things interact

Land, resources and self-government agreement

- land claim agreements
- land and resources agreements
- self-government agreements
- other similar agreements between Indigenous governments and organizations, the GNWT and the Government of Canada that deal with the environment

Public trust

- the best interests of all NWT residents in protecting the environment for our benefit and for the benefit of our children and our children's children

Investigations under the Act

How can someone request an investigation under the Act?

Any person living in the NWT who believes some entity has caused or could cause significant harm to the environment, because of something they did or failed to do, can ask the GNWT to investigate. The request for an investigation must be made by sending an application to the Minister of Environment and Natural Resources (ENR).

The application to the Minister must contain:

- the name and address of the person requesting the investigation
- a description of what is believed to have happened, or may happen, to cause harm to the environment
- the names and addresses of anyone believed to be involved in causing harm to the environment, if known
- a summary of the proof or evidence related to the application

The person submitting the application must swear or affirm, before a commissioner for oaths, that the facts in the application are true.

The Minister must let the person who requested the investigation know the application was received within 30 days of receiving it.

How will the Minister decide whether or not to carry out the investigation?

- The Minister will look at the application, consider all the information included, and then decide how best to investigate the situation.
- The Minister can decide not to begin or continue an investigation if he or she believes the application was submitted by someone who was not serious or who was using the process only to harass others.
- The Minister can also decide not to investigate if he or she feels there is no cause for concern and that significant harm to the environment is unlikely to occur. The factors the Minister will consider are listed in the Act.
- If it turns out the actions described in the application are permitted by law, the Minister is not required to investigate.
- If someone requests an investigation of something that has already been investigated or that is part of an ongoing investigation, the Minister can decide not to get involved.
- If the Minister decides not to proceed with an investigation, he or she will inform the person who applied for the investigation and give reasons for the decision within 60 days of the decision.
- If the Minister decides to stop an ongoing investigation, he or she will inform the person who applied for the investigation and give reasons for the decision, within 90 days of making the decision. The Minister will send the same information to any person named in the application who was believed to be involved in causing harm to the environment.

How will the Minister report on investigations?

- After receiving an application, the Minister will update the person who applied for the investigation every 90 days about the status of the investigation.
- The Minister will also send a report describing the results of the investigation within 60 days of its completion to the person who applied for the investigation, as well as any other person named in the application.
- The report will describe what action, if any, the Minister has or will take as a result of the investigation.
- The Minister may decide that he or she needs more time to figure out what further actions should be taken. In that case, the Minister will send out another report in 90 days describing any further actions he or she has decided to take.
- None of the reports the Minister sends out will contain any personal information (such as names or addresses) about anyone involved in the investigation.
- Once a year, the Minister will give a report to the Legislative Assembly that describes any actions taken under the Act.

‘Whistleblower’ protection

What protections for employees are included under the proposed Act?

- Employers are not allowed to fire, punish, threaten or take to court any employee who takes any action allowed under the Act, including if the employee refuses to carry out an order he or she believes could cause harm to the environment.
- If an employer in any way punishes an employee because they have taken an action allowed by the Act, then the employer may be convicted of an offence. If convicted of an offence, the employer can be fined up to \$250,000, be sent to jail for up to one year, or both.
- In addition to having to pay a fine or go to jail for the offence, the court may order the employer to make up for actions taken against the employee. This could include giving the employee their job back or giving them money to make up for any wages they lost because of the employer’s actions.
- The Act will apply even if the employee was required, as part of their job, to keep information confidential.

Involving the Supreme Court

What if a person wants to take action through the Supreme Court?

- Any adult living in the NWT who believes someone has caused or could cause significant harm to the environment through actions that are against the law can make a formal complaint to a court.
- If the actions described in the complaint to the Supreme Court are permitted by law, the complaint will not be considered by the court.
- If a person is convicted of breaking the law as a result of a complaint from a resident, the judge may order the convicted person to pay the resident whatever it cost to make the complaint and participate in the trial.

What could the Supreme Court decide?

- A person charged with causing harm to the environment in the Supreme Court has the right to defend their actions. If the environmental harm was or would be limited to the person's own property, the person could use that as a valid defence for their actions.
- If the Supreme Court decides the defendant is guilty of causing harm to the environment, the court can:
 - order the defendant to stop whatever they are or were doing that caused or could cause harm to the environment
 - order the defendant to repair any of the damage they have caused to the environment
 - order the defendant to pay money to compensate for the environmental damage they have caused, especially if the damage cannot be repaired. The money paid by the defendant can go to the person whose property was affected by the damage or it can go to the GNWT.
- In addition to the orders above, the court can make any other order it feels is appropriate in the case at hand.
- If the Supreme Court makes an order for the defendant to pay money to the GNWT to compensate for any damage done to the environment, the money will go into a dedicated central government account that can be used to either repair the environmental damage or, if repair is not possible, improve the environment in other ways.
- Nothing in the Act affects someone's ability to seek justice using other existing environmental laws.

How could the Minister be involved in a court case?

- If a complaint is made to the Supreme Court about environmental damage, a copy of the complaint must be sent to the Minister of Environment and Natural Resources.
- The Minister may want to become involved in the Supreme Court case.

Decision making and reporting

What is the Statement of Environmental Values?

A Statement of Environmental Values is a means for the GNWT to record its commitment to the environment and be accountable for ensuring the environment is considered in decision making.

Under the proposed Act, the GNWT must describe, in a Statement of Environmental Values, how it will consider the possible effects of its decisions and activities on the environment or to residents' right to a healthy environment.

The Statement of Environmental Values must be considered in decisions made by all GNWT departments, as well as:

- Aurora College
- Northwest Territories Business Development and Investment Corporation
- Northwest Territories Housing Corporation
- Northwest Territories Power Corporation

The GNWT may change the Statement of Environmental Values from time to time.

The head of every GNWT department is responsible for making sure any possible effects to the environment were considered in the department's decisions or activities as described by the Statement of Environmental Values.

What is the State of the Environment report?

The GNWT must produce a report describing the state of NWT's environment every four years. This report must be provided to the Legislative Assembly for public review.

The purpose of the State of the Environment report is to:

- describe the current health of the environment in the NWT
- describe any noticeable trends or patterns that can help us understand what will happen to the environment in the future
- give data or information that can be useful to others in the territory, in the country, or in the world who are also studying the environment
- provide early warning about what could happen as a result of environmental changes over time

The State of the Environment report will:

- show data and information on the environment that was collected by monitoring and research
- use traditional, local and scientific knowledge to understand the environment
- report on how different parts of the environment have improved or become less healthy over time
- describe what might be causing any changes in the environment (for example, changes due to climate change or industrial developments)
- point out any environmental problems that have arisen or are getting worse
- discuss anything else the Minister believes would be useful in the report

The Minister will let the public know about the completion of the State of the Environment report within seven days of providing it to the Legislative Assembly. The public will have 90 days to review the report and provide comments or questions to the Minister.

In addition to sending the State of the Environment report out to the public, the Minister will send a letter describing how the public can make comments or ask questions about the report.

Within 90 days of receiving public comments, the Minister will respond to the comments or questions made on the State of the Environment report. The Minister's response will be made public.

English

French

Cree

Tłychó

Chipewyan

South Slavey

North Slavey

Gwich'in

Inuvialuktun

Inuktitut

Inuinnaqtun

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