

NUNATSIAVUT ASSEMBLY

AN ACT RESPECTING THE FINANCIAL ADMINISTRATION OF THE INUIT COMMUNITY  
GOVERNMENTS

Contents

1	Short title
2	Definitions and Interpretation
3	Inconsistencies with accounting principles
4	Responsibility for Community's Financial Affairs
5	Property of the Inuit Community Government
6	Disposition of Property
7	Acquisition of Property
8	Charges for Property or Services
9	Authority to Contract
10	Bonding
11	Financial Year
12	Budget
13	Reserves
14	Budget to be approved by Executive Council
15	Revised Budget
16	Expenditures to be Within Budget
17	Bank Account
18	Refunds
19	Write-off and Extinguishment of debts
20	Financial Records
21	Preparation of Financial Statements
22	Audit of Financial Statements
23	Publication of Financial Statements and Audit
24	Copy of Financial Statements to Executive Council
25	Powers of Expenditure of Inuit Community Councils
26	Pensions
27	Procurement
28	Borrowing
29	Loans
30	Taxation
31	Service Charges and other fees
32	Private services
33	Powers of Executive Council in Relation to Community Financial Administration
34	Councils to facilitate Inquiries of Controller
35	Joint Management Committee
36	Treasurer is Chairperson
37	Meetings
38	AngajukKât may requisition meetings
39	Quorum
40	Participation in meetings
41	Rules and Procedures
42	Functions

Short title

  
Sept 19 / 2018

1 This Act may be cited as the *Communities Financial Administration Act*

## Definitions and Interpretation

2

(1) In this Act:

“Agreement” means the Labrador Inuit Land Claims Agreement;

“Appropriation” means an allocation of a specific sum of money to or for an approved purpose under an Act of the Assembly;

“Approved Investment” means an investment that has been approved in writing by the Controller;

“Assembly” means the Nunatsiavut Assembly;

“Auditor” means the Auditor for Nunatsiavut under part 8.11 of the Constitution and part 11 of the *Financial Administration Act*;

“Bank” means a bank within the meaning of the *Bank Act* (Canada) and includes a credit union registered under the *Credit Union Act* (NL);

“Budget” means a comprehensive financial plan for an Inuit Community Government containing estimates of the revenues and expenditures of the Council for a financial year and a statement showing all fees, Service Charge rates and tax rates that will be imposed and rental income that will be received during that year;

“Community” means an Inuit Community as defined in the Agreement;

“Community Lands” means lands within the boundaries of a Community that are owned by the Inuit Community Government under a transfer referred to in section 17.42.1 of the Agreement;

“Controller” means the Controller of the Nunatsiavut Government;

“Constitution” means the Labrador Inuit Constitution;

“Council” means the Inuit Community Council of an Inuit Community Government;

“Councillor” means an Inuit Community Councillor under part 10.4 of the Constitution;

"Executive Council" means the Nunatsiavut Executive Council;

“generally accepted accounting principles” means Canadian public sector accounting and financial reporting standards established from time to time by the Public Sector Accounting Board;

“Inuit Community Government” means the government of an Inuit Community referred to in section 10.1.1 of the Constitution;

“Joint Management Committee” means the Inuit Communities Joint Management Committee originally established and constituted under the *Financial Administration Act* and continued pursuant to this Act;

“Member” means a member of the Joint Management Committee under subsection 35(2) and includes a delegate under subsection 35(3), an appointee under subsection 35(4) or a replacement under subsection 35(5) unless the context otherwise requires;

“President” means the President of the Nunatsiavut Government;

“Service Charge” includes a fee, levy, duty, rate or other charge in respect of public water supply, storm water and other drainage, sewage collection, treatment and disposal, garbage and solid waste collection treatment and disposal, land fill costs, litter control and abatement, fire protection, fire fighting and other emergency services, street or area lighting, public transportation, street parking and parking lots, public libraries, and any other service or supply provided by a Council; and

“Treasurer” means the Treasurer of Nunatsiavut appointed by the President pursuant to subsection 5.1.1 (c) of the Constitution.

- (2) A reference in this Act to a section or subsection must be read as a reference to a section or subsection of this Act unless the context indicates that some other Act is being referred to.
- (3) If there is any inconsistency or conflict between a provision of this Act and a law adopted by reference in subsection 30(4) or 31(4), this Act prevails to the extent of the inconsistency.

#### **Inconsistencies with accounting principles**

- 3 If there is an inconsistency or conflict between a generally accepted accounting principle and a provision of this Act that pertains to accounting or financial reporting, the generally accepted accounting principle prevails to the extent of the inconsistency or conflict.

#### **Responsibility for Community’s Financial Affairs**

4

- (1) The Council is responsible for the management and administration of the Inuit Community Government’s financial affairs subject to the Agreement, the Constitution, this Act and applicable Inuit Laws.
- (2) The Council may, in conformity with the applicable requirements of part 10.3 of the Constitution, enact Bylaws respecting any matter pertaining to the management and administration of the Inuit Community Government’s financial affairs that has not otherwise been provided for under the Agreement, the Constitution, this Act or other applicable Inuit Law.

#### **Property of the Inuit Community Government**

- 5 Property of an Inuit Community Government, including money and Community Lands, must be held in the name of the Inuit Community Government.

#### **Disposition of Property**

6

- (1) A disposition or loan of property of an Inuit Community Government must not be made to any person without written authorization of the Council.
- (2) A disposition or loan of property must be properly accounted for in the accounts of the Council.

### **Acquisition of Property**

7

- (1) A Council or a duly authorized Councillor or employee of the Council may acquire property for or in the name of the Inuit Community Government.
- (2) Nothing in subsection 7(1) authorizes a payment or disbursement in respect of the acquisition or holding of property except as provided in the Budget.

### **Charges for Property or Services**

- 8 If a Council disposes of or authorizes the use of property of the Inuit Community Government or provides a service to any person, the Council may establish the consideration, charge, rent or fee to be paid to the Council by the person for such disposition, use or service.

### **Authority to Contract**

9

- (1) A Council may:
  - (a) enter into contracts and agreements for or in the name of the Inuit Community Government;
  - (b) authorize one or more Councillors or employees to sign any contract or agreement or class of contracts or agreements; and
  - (c) establish restrictions, limits and conditions on an authority to enter into contracts or agreements or classes of contracts or agreements.
- (2) Nothing in subsection 9(1) authorizes a payment or disbursement in respect of a contract or agreement except as provided in a Budget that has been approved by the Executive Council under section 14 or 15.

### **Bonding**

10

- (1) A Council may require that a Councillor or an employee of the Council must provide security for:
  - (a) the performance of the trust reposed in him or her;

- (b) the accounting for all money entrusted to the officer or employee or placed under his or her control;
  - (c) the fulfillment of a duty to, or of an obligation undertaken on behalf of, the Council; or
  - (d) the fulfillment of the Councillor's or employee's duties and obligations in carrying out any office or employment of trust in which he or she is concerned and that pertains to the collection, receipt, disbursement or expenditure of money of the Inuit Community Government whether under this Act or otherwise.
- (2) A security required under this section, must be in favour of the Inuit Community Government in the amount approved by the Council and must be by:
- (a) the deposit of money or property;
  - (b) the giving and entering into of a bond, with sureties or otherwise, or
  - (c) the giving or entering into of a policy of insurance with an insurer.

### **Financial Year**

- 11 The financial year of an Inuit Community Government is from January 1 to the following December 31.

### **Budget**

12

- (1) A Council must, not later than September 30 in each year, prepare a Budget, which must, subject to subsection 12(2), conform to the advice of the Joint Management Committee.
- (2) Estimated expenditures of an Inuit Community Government for a financial year and the accumulated net surplus for the previous financial year must not be more than estimated revenue for that year.
- (3) In subsection 12(2):
  - (a) "expenditure" includes the cost of acquiring capital assets, the cost of goods and services acquired in the financial year whether or not payment has been made or invoices received, and transfer payments due where no value is received directly in return; and
  - (b) "accumulated net surplus" means the amount by which the revenue for the previous financial years exceeded the sum of the expenditures for the previous financial years.

### **Reserves**

13

Nothing in section 12 is intended to prevent or is to be construed or applied so as to prevent a Council:

- (a) from establishing a capital reserve and making a transfer or expenditure for the capital reserve if the capital reserve is for a specific capital project and that reserve appears in the Council's audited financial statement;
- (b) from providing over a specified period not to exceed 10 years for an operating reserve fund and that reserve must appear in the Council's audited financial statement; or
- (c) from investing a reserve fund referred to in (a) or (b) in an Approved Investment.

### **Budget to be approved by Executive Council**

14

- (1) The Budget must be forwarded to the Executive Council no later than October 31 in each year for approval.
- (2) The Executive Council may:
  - (a) approve the Budget as submitted;
  - (b) send the Budget back to the Council for its reconsideration; or
  - (c) revise the Budget.
- (3) The Budget of a Council as approved by the Executive Council is the Council's Budget subject to Appropriations.

### **Revised Budget**

15

- (1) Where, a Budget is sent back for reconsideration or where, during a financial year, it appears to a Council that its actual revenue and expenditure is likely to be substantially greater or less than estimated, the Council must prepare and adopt a revised Budget.
- (2) A copy of the revised Budget must be sent to the President within 5 business days of its adoption.
- (3) A revised Budget takes effect on the first day of the month following the date of its approval by the Executive Council.

### **Expenditures to be Within Budget**

- 16 Unless otherwise authorized by the Assembly under section 8.5.2 or 8.5.3 of the Constitution, a Council may not spend or become in any way liable for an expenditure or indebtedness in excess of the estimated expenditure or indebtedness set out in a Budget or revised Budget approved by the Executive Council.

### **Bank Account**

17

- (1) Each Council must open a Bank account in the name of the Inuit Community Government.
- (2) A Council must deposit all money that it receives in the Inuit Community Government's Bank account.
- (3) A person must not open an account for the receipt and deposits of money of the Inuit Community Government, except in the name of the Inuit Community Government and as authorized in writing by the Council.
- (4) All payments made by or for a Council must be drawn on the Inuit Community Government's Bank account.
- (5) All cheques or orders withdrawing or transferring money from the Inuit Community Government's Bank account must be signed by two officials of the Inuit Community Government, at least one of whom must be the AngajukKâk or other Councillor designated by the Council.

### **Refunds**

- 18 Money received by a Council that is paid or collected in error or for a purpose that is not fulfilled may be refunded in part or in whole as circumstances require.

### **Write-off and Extinguishment of debts**

19

- (1) A Council may approve the write-off of a debt or obligation to the Inuit Community Government and may establish the circumstances and manner in which the debt or obligation may be written off.
- (2) The write-off of all or part of a debt or obligation does not extinguish the right of the Council to collect the amount or liability written off.
- (3) All or part of a debt or obligation to the Inuit Community Government may be forgiven only by a resolution adopted by a two-thirds majority vote of the Council and to the extent that the debt or obligation is forgiven, the liability for it is extinguished.

### **Financial Records**

- 20 A Council must ensure that complete books of account of all financial dealings of the Council are kept in accordance with generally accepted accounting principles.

### **Preparation of Financial Statements**

- 21 Each Council must adopt, within 4 months of the end of each financial year, a financial statement showing a full and detailed balance sheet and a statement of all revenues and expenditures of the Council.

### **Audit of Financial Statements**

22

- (1) The Auditor is the auditor for the Council and must audit the accounts of the Council and report on the Council's annual financial statement.
- (2) The costs of an audit of a Council's accounts and annual financial statements prepared by the Auditor are a cost of the Council for which the audit was prepared.
- (3) The Auditor may request, and the Council must supply, all documents, books of account and records of the Council that the Auditor considers necessary for a proper audit of the Council's accounts.
- (4) The Auditor must examine and report on the annual financial statement of the Council and its books of account with particular attention to:
  - (a) any expenditure in excess of the Council's Budget;
  - (b) any arrears in the Council's revenues;
  - (c) the position with regard to any capital or operating reserves established by the Council;
  - (d) the manner in which the Council's accounts are being kept;
  - (e) the adequacy of safeguards against fraud; and
  - (f) any other matters that the Auditor considers of sufficient interest or importance to mention.
- (5) The Auditor must complete and submit the audit report to the Council before April 30<sup>th</sup> of the year immediately following the financial year covered by the report.

### **Publication of Financial Statements and Audit**

- 23 A Council's financial statements and the Auditor's report must be signed by the AngajukKâk and one other Councillor designated for that purpose by the Council and must be published by the Council.

### **Copy of Financial Statements to Executive Council**

- 24 A copy of the financial statements of a Council and the Auditor's report must be delivered to the President for the attention of the Executive Council before June 30<sup>th</sup> in each year.

### **Powers of Expenditure of Inuit Community Councils**



25 A Council may, from out of the funds at its disposal, pay salaries to Councillors, officers and employees of the Council and all the other expenditures incurred in the performance of its functions, powers and duties if there has been a provision for such an expenditure in the approved Budget of the Council, in an Appropriation, or in a contribution agreement under which funding has been received by the Council.

### **Pensions**

26

- (1) A Council may provide a pension scheme for Councillors, other than the AngajukKâk, full-time employees and regular part-time employees, or a class of those employees, who
  - (a) have worked for a stated period and discontinued their employment or, in the case of a Councillor, his or her tenure as a Councillor; or
  - (b) have suffered permanent disability before reaching retirement age.
- (2) A pension scheme under this section is subject to the prior written approval of the Executive Council and must be a defined contribution plan.

### **Procurement**

27 For greater certainty, the *Procurement Act* applies to the Councils.

### **Borrowing**

28 Subject to the requirements of and compliance with sections 8.5.2 and 8.5.3 of the Constitution a Council may, with a supporting vote of at least 60% of the Councillors, borrow money for current account or capital account purposes.

### **Loans**

29

- (1) A Council must not lend money to the AngajukKâk, a Councillor or an employee of the Council.
- (2) A Council must not provide a salary advance to the AngajukKâk, a Councillor or an employee of the Council.
- (3) A Council must not provide a loan guarantee to the AngajukKâk, a Councillor or an employee of the Council.

### **Taxation**

30

- (1) Subject to section 20.2.2 of the Agreement and any applicable taxation powers agreement under part 20.3 of the Agreement, a Council may make Bylaws in relation to the taxation of residents of the Community.

- (2) A Council Bylaw imposing a tax and every Bylaw and resolution pertaining to taxation must comply with the requirements of Part 10.3 of the Constitution.
- (3) A tax imposed by a Council remains in effect until replaced, varied or cancelled by a Bylaw or resolution enacted or adopted in compliance with the requirements of Part 10.3 of the Constitution.
- (4) The provisions of the *Municipalities Act* respecting taxes and taxation by town councils and in particular sections 101 to 148, and the *Assessment Act*, 2006, apply to the Councils making all necessary changes in points of detail.

### **Service Charges and other fees**

31

- (1) A Council may, in addition to the imposition of taxes but subject to the Agreement, establish and impose, fees, levies, duties, rates and Service Charges upon owners or occupants of land in the Community and upon any person receiving a service or supply in the Community, and may vary those fees, levies, duties, rates or Service Charges.
- (2) Fees, levies, duties, rates or Service Charges that may be imposed or varied and all matters pertaining to Service Charges may only be imposed or varied pursuant to a Bylaw enacted in accordance with part 10.3 of the Constitution and, for greater certainty, subsection 10.3.6(c) of the Constitution applies to any such Bylaw.
- (3) A fee, levy, duty, rate or Service Charge imposed by a Council remains in effect until replaced, varied or cancelled by a Bylaw or resolution of the Council.
- (4) The provisions of Part VI of the *Municipalities Act* respecting assessments and levies by town councils, apply to the Councils with all necessary changes in points of detail.

### **Private services**

- 32 A Council may contract to do work, supply goods or provide services if:
- (a) the contract has been authorized by resolution of the Council;
  - (b) it has equipment, staff or goods surplus to its needs;
  - (c) it charges normal commercial rates for the work, goods or service;
  - (d) the work, supply or service provided is not in competition with a non-Council entity located in the municipality; and
  - (e) performance of the contract does not limit, delay or interfere with the Council's ability or capacity to fulfill any of its public functions, powers and duties in relation to the Community.

### **Powers of Executive Council in Relation to Community Financial Administration**

- 33 The Executive Council acting on the advice of the President and the Treasurer may:
- (a) provide a model bylaw with respect to the administration and management of the financial affairs of the Inuit Community Governments that a Council may adopt or vary;
  - (b) order the Controller to look into and report on any matter related to a Council's financial affairs and for that purpose authorize the Controller to access a Council's offices, books, records and accounts;
  - (c) requisition the Auditor to perform an interim audit or an extraordinary audit of a Council's accounts, financial records and statements and its financial affairs;
  - (d) prescribe forms in relation to Budgets and make regulations to implement this Act or the provisions of sections 12.2.1 and 12.2.2 of the Constitution with respect to financial matters; and
  - (e) where the Executive Council has intervened in the governance of a Community under section 10.1.6 of the Constitution, enact regulations with respect to any matter related to the financial administration and management of a Council or the financial affairs of the Community to the same extent as the Council may do.

#### **Councils to facilitate Inquiries of Controller**

- 34 Where the Controller has been authorized by the Executive Council under subsection 33(b) to have access to a Council's offices, books, records and accounts the Council and its employees must take all reasonable steps to facilitate the access and to supply all information and explanations required by the Controller.

#### **Joint Management Committee**

35

- (1) The Inuit Communities Joint Management Committee as established and constituted under the *Financial Administration Act*, CIL F1 09-06-2017, immediately prior to the coming into effect of the *Financial Administration Amendment Act, 2018*, IL 2018-02, is continued under this Act.
- (2) The Joint Management Committee is comprised of the President, the Treasurer, the Controller and the AngajukKâk of each Community.
- (3) The President, the Treasurer and the Controller may, in written instruments provided to the Joint Management Committee, delegate their respective functions as Members to officials of the Nunatsiavut Government who are responsible to them.
- (4) If an AngajukKâk cannot attend a meeting of the Joint Management Committee for medical reasons, death in the family or as a consequence of a court order, the AngajukKâk may, in a written instrument provided to the Joint Management Committee, appoint the Community's Deputy AngajukKâk or a Councillor to act as the Community's representative at the meeting with full power to vote.

- (5) A Member referred to in subsection 35(2) who makes a delegation under subsection 35(3) or an appointment under subsection 35(4) may, from time to time in a written instrument provided to the Joint Management Committee, revoke or revoke and replace the delegation or appointment.

### **Treasurer is Chairperson**

- 36 The Treasurer is the chairperson of the Joint Management Committee and must ensure that personnel are made available to provide secretarial services to the Joint Management Committee and to maintain its records.

### **Meetings**

- 37 The Joint Management Committee must meet at least once in each fiscal year for the purpose of assisting the Treasurer in the preparation and submission of a proposed draft Consolidated Financial Plan for the Nunatsiavut Government under section 19 of the *Financial Administration Act* that takes into consideration the Budgets of the Inuit Community Governments and the Joint Management Committee may meet at such additional times and at such places as may be determined by the chairperson.

### **AngajukKât may requisition meetings**

- 38 The chairperson must call a meeting of the Joint Management Committee if all the AngajukKât sign a written notice to the Treasurer requiring that a meeting be called.

### **Quorum**

- 39 A quorum of the Joint Management Committee is a majority of the Members.

### **Participation in meetings**

40

- (1) A Member may participate in a Joint Management Committee meeting by means of telephone or other communications facility provided that the Member consents to participate by such means and all Members participating in the meeting can hear each other.
- (2) A Member participating in a Joint Management Committee meeting in accordance with subsection 40(1) is deemed to be present at the meeting, must be counted in the quorum and is entitled to vote and to speak at the meeting.

### **Rules and Procedures**

41

- (1) Each Member has one vote on all questions.
- (2) All questions must be decided by majority vote.
- (3) A vacancy in Membership does not impair the power of the remaining Members to act.

- (4) The Joint Management Committee must use all reasonable efforts to perform its functions within any time the Treasurer directs.
- (5) Subject to this Act and any regulations that the Treasurer may enact for purposes of managing and administering the business of the Joint Management Committee, the Joint Management Committee may determine its rules and procedures.

### **Functions**

42

- (1) The Joint Management Committee is responsible for providing advice to the Treasurer, the Executive Council, the Assembly and the Councils, as appropriate, with respect to the following matters:
  - (a) Inuit Community Government Budgets as they pertain to the Consolidated Financial Plans of the Nunatsiavut Government and the corresponding appropriations;
  - (b) the equitable division among the Inuit Community Governments of revenue available under fiscal financing agreements and appropriated by the Assembly for purposes of the basic programs and services for which the Inuit Community Governments are responsible having regard to:
    - (i) the needs and interests of the Nunatsiavut Government and Inuit residing in Nunatsiavut as a whole;
    - (ii) the need to ensure that the Inuit Community Governments are able to provide the functions and services allocated to them and meet their obligations under the Agreement, the Constitution and Inuit law;
    - (iii) the fiscal capacity, efficiency and effectiveness of the Inuit Community Governments;
    - (iv) developmental and other needs of the Inuit Community Governments as determined under their respective annual financial plans;
    - (v) economic disparities within and among the Inuit Communities; and
    - (vi) the desirability of stable and predictable allocations of revenue shares;
  - (c) procurement of capital facilities, public works, Community infrastructure and heavy equipment in or for the purposes of the Communities;
  - (d) any Inuit Law that will substantially affect the finances of the Inuit Community Governments; and
  - (e) any other matter relating to the financial affairs of the Inuit Community Governments.
- (2) The Joint Management Committee may:

- (a) when requested by a Council or an agency of an Inuit Community Government, authorize the Inuit Community Government or agency to procure goods or services by inviting tenders, requesting proposals or through direct sourcing instead of proceeding by way of open tender as prescribed by the *Procurement Act* if the Joint Management Committee considers that inviting an open tender in respect of the goods and services would not achieve the best value for money; and
- (b) exercise any other power or authority or make any other decision specifically conferred on the Joint Management Committee under Inuit Law.