

# Enforcement and Administrative Monetary Penalties Regulation

Regulation 2021-4 made under the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat*

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## GENERAL

### **Purpose**

1. The purpose of this Regulation is to promote compliance with and support the fair and efficient enforcement of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* along with its regulations and related instruments, including through an administrative monetary penalty system.

## Definitions

2. In this Regulation,
  - a. “appeal” means an appeal under s. 46 (Appeal may be filed), except in s. 57 (Appeal is final) in which the meaning of ‘not subject to be appealed’ includes any type of appeal whether in any court or otherwise;
  - b. “notice of violation” means a notice of violation under s. 10 (Issuance of notice of violation), and any such notice of violation is issued further to s. 63 of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat*;
  - c. “penalty” means an administrative monetary penalty under this Regulation, being an administrative monetary penalty imposed further to s. 63 of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat*;
  - d. “recipient” means an external protection authority, a federal or provincial or territorial government or entity such government created, or a service provider other than the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, that has been served with a notice of violation or that a Compliance Officer intends to serve with a notice of violation that has been issued;
  - e. “review” means a review under s. 36 (Request for review), except in s. 57 (Appeal is final) in which the meaning of ‘review’ includes any type of review including a judicial review in any court;
  - f. “violation” means a violation within the meaning of s. 63 of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat*, whether due to an act or omission, and whether or not the failure to comply occurred knowingly or unknowingly, or intentionally or unintentionally.

## Interpretation – section references

3. Unless otherwise specified, section references in this Regulation refer to sections of this Regulation.

### **Policies and forms**

4. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may establish policies and forms relating to enforcement that are consistent with this Regulation.

### **Not an offence, etc.**

5. For greater certainty:
  - a. a violation is not an offence;
  - b. the issuance of a notice of violation and all related processes, including any review or appeal, is not a prosecution; and
  - c. the imposition of an administrative monetary penalty is an administrative and civil remedy, not a penal sanction.

### **Designation of Compliance Officer**

6. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat is to designate at least one person as a Compliance Officer.
  - a. A Compliance Officer may or may not be an employee of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat.
  - b. A Compliance Officer is authorized to issue notices of violation, and to carry out all functions of a Compliance Officer set out in this Regulation.

### **Designation of Review Officer**

7. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat is to designate at least one person as a Review Officer.
  - a. A Review Officer may or may not be an employee of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat.
  - b. If both a Review Officer and a Compliance Officer are employees of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, a Review Officer must

be more senior in the organization in relation to the Compliance Officer.

- c. A Review Officer is authorized to conduct reviews in accordance with this Regulation, and to carry out all functions of a Review Officer set out in this Regulation.

### **Designation of Independent Appeal Lawyer**

8. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat is to retain a lawyer as the Independent Appeal Lawyer, no later than 10 days after receiving a completely filed appeal.
  - a. The lawyer must be in good standing with and authorized by the Law Society of the Northwest Territories to practice law in the Northwest Territories.
  - b. The lawyer must not be an employee of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, nor an employee of Inuvialuit Regional Corporation or another Inuvialuit corporation.
  - c. The Independent Appeal Lawyer is to act independently in hearing and deciding on an appeal under this Regulation, and must do so in a fair and impartial manner.
  - d. The Independent Appeal Lawyer is not to take instructions from the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, Inuvialuit Regional Corporation or another Inuvialuit corporation in the course of an appeal.
  - e. Subject to the terms of this section, it is permissible for an Independent Appeal Lawyer to perform work for Inuvialuit corporations that is unrelated to an appeal, or to have done so in the past.

## RESPONSE TO VIOLATION

### **Discretion in enforcement**

9. A Compliance Officer has full discretion as to the appropriate enforcement response in relation to a violation, in accordance with any policies the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may establish.

### **Issuance of notice of violation**

10. If a Compliance Officer believes an external protection authority, a federal or provincial or territorial government or entity such government has created, or a service provider other than the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat has committed a violation, the Compliance Officer may issue a notice of violation.

### **Requirements for notice of violation**

11. A notice of violation must:
  - a. state the name or reasonably describe the external protection authority, provincial or territorial government, or service provider that is believed to have committed the violation;
  - b. briefly describe the violation, including a reference to the provision of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* or its regulations or prior notice of violation that was not complied with, and providing a date or time range or approximation of a date or time range when the violation occurred;
  - c. state the date the notice of violation is issued;
  - d. indicate where the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* and its regulations may be obtained;
  - e. state whether the response is a warning, a requirement to attend mediation, or an administrative monetary penalty;
  - f. if the response is an administrative monetary penalty:

- i. state the penalty amount, and the date on which it is due;
- ii. indicate at least one available means of payment; and
- iii. briefly describe the rights available under this Regulation in relation to advance payment, review, and appeal.

### **Multiple violations**

12. A notice of violation may be issued in respect of more than one violation at a time, as long as the response to each violation is clear.

### **Limitation period in issuance of notice of violation**

13. A notice of violation may not be issued more than 3 years after the violation occurred.

### **Service of notice of violation**

14. A Compliance Officer must ensure a notice of violation is served on the recipient in accordance with s. 15 of this Regulation within 24 hours of the date the notice of violation is issued.

### **Methods of service**

15. A notice of violation is deemed to have been served on the recipient after it has been:
  - a. emailed to an officer, senior employee, or other individual who appears to be in control or management of the recipient or to a general email address for the recipient, and sent by mail or courier to the recipient's head office or place of business;
  - b. faxed to an officer, senior employee, or other individual who appears to be in control or management of the recipient or to a general fax number for the recipient, and sent by mail or courier to the recipient's head office or place of business; or
  - c. delivered in person to an individual who is confirmed to be an officer, senior employee, or other individual in control or management of the recipient;

and service under (a) and (b) is deemed to be complete on the date sending is complete, not date of receipt.

### **Duty to end violation**

16. A recipient of a notice of violation must end any violation without delay.

### **Notice may specify what is required for compliance**

17. A notice of violation may provide details on what must be done in order to end a violation.

### **Additional violation after continued non-compliance**

18. If the same violation remains outstanding 30 days after the issuance of a notice of violation, an additional violation is deemed to occur and a notice of violation may be issued in respect of that additional violation.

### **Deemed to commit violation**

19. A recipient of a notice of violation is deemed to have committed a violation as follows:
  - a. If more than 60 days has passed since the date of issuance of the notice of violation and the recipient did not request a review under s. 36 (Request for review) in accordance with all requirements in this Regulation for requesting such review, the recipient is deemed to have committed every violation set out in the notice of violation.
  - b. If more than 60 days has passed since a Review Officer determined, in a review, that a violation occurred, and the recipient did not file an appeal under s. 46 (Appeal may be filed) in accordance with all requirements in this Regulation for filing such appeal, the recipient is deemed to have committed every violation as determined by the Review Officer in the review.
  - c. If an Independent Appeal Lawyer has determined, in an appeal, that a violation occurred, the recipient is deemed to have committed every violation in accordance with the appeal decision.

- d. If a violation is set out as a violation in a settlement agreement further to s. 70 (Settlement agreement may be reached), the recipient is deemed to have committed every violation set out as a violation in such an agreement.
- e. If the recipient pays a penalty in respect of a violation, the recipient is deemed to have committed that violation.

### **Possibility of publication**

20. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may publish information about committed violations and about enforcement actions taken in respect of such violations.

### **Recording of results**

21. Every Compliance Officer who issues a notice of violation must ensure that the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat has a record, in respect of that notice of violation, of:
  - a. the notice of violation, including its contents, date of issuance, and date and manner of service;
  - b. whether the violation is deemed to have been committed in accordance with s. 19 (Deemed to commit violation);
  - c. whether a review took place and the result;
  - d. whether an appeal took place and the result;
  - e. whether any payments were made in respect of a penalty, and any related interest and fees, and whether those payments satisfy the amount due; and
  - f. whether any proceedings took place in respect of the recovery or collection of debts due, and the result.

### **Email communications**

22. In every review and appeal, all documents and other communications must be transmitted by email unless otherwise agreed or otherwise specified by

the Review Officer in the case of a review and by the Independent Appeal Lawyer in the case of an appeal.

### **Corrections etc.**

23. A Compliance Officer may:
- a. correct a notice of violation if the Compliance Officer determines it contains an error;
  - b. correct any statement of an amount due if the Compliance Officer determines it contains an error;
  - c. address defects in service and may amend the date of issuance of a notice of violation if appropriate; and
  - d. withdraw a notice of violation if the Compliance Officer determines it was issued in error, or if the Compliance Officer no longer believes a violation occurred.

### WARNING

#### **Warnings not subject to appeal**

24. If a notice of violation indicates a warning, the notice of violation may be subject to review, but not to appeal.

#### **Informal warning also available**

25. Nothing in this Regulation limits the discretion of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat or of a Compliance Officer to give an informal warning without issuing a notice of violation.

### MEDIATION

#### **Requirement to attend mediation**

26. If a notice of violation indicates a requirement to attend mediation, the following applies:

- a. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may assign a mediator.
- b. The recipient of the notice must participate in the mediation at its own cost and in good faith with a view to ending any violation, coming into compliance with the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* and its regulations, and remedying any past or continuing non-compliance.
- c. A settlement agreement may be reached that is consistent with sections 70-72 (Settlement Agreements).

#### ADMINISTRATIVE MONETARY PENALTIES

#### Penalty amount

27. The amount of a penalty is the base amount multiplied by the past violation amount.
28. Further to s. 27, for each violation set out in Column 1, the base amount is the amount set out in Column 2:

<i>Column 1: Violation</i>	<i>Column 2: Base Amount</i>
<i>Provisions of Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat</i>	
Failure to comply with s. 10(b) (Inuvialuit views in best interests)	\$2,000
Failure to comply with s. 10(a) or s. 12 (Cultural continuity), and each of subsections s. 11 (a) through (i) may be treated as a separate violation	\$2,000
Failure to comply with s. 13 (Coordination etc. with Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat)	\$2,000
Failure to comply with s. 21 (Information from external protection authority)	\$100 per day past due, up to maximum of \$5,000

Failure to comply with s. 22 (Information from service provider)	\$100 per day past due, up to maximum of \$5,000
Failure to comply with s. 31 (Identifying Inuvialuit children)	\$2,000
Failure to comply with s. 33 (Notice for prevention)	\$2,000
Failure to comply with s. 34 (Notice points set by regulation), and each notice point set in the General Regulation may be treated as a separate violation	\$2,000
Failure to comply with s. 36(b) (Name Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat in proceeding)	\$2,000
Failure to comply with s. 36(c)(i) (Inform Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat of proceeding)	\$2,000
Failure to comply with s. 37 (Inclusion in case planning)	\$2,000
Failure to comply with s. 38 (Parent legal assistance)	\$2,000, plus cost of legal assistance
Failure to comply with s. 39 (Support to parents)	\$2,000
Failure to comply with s. 40 (Continuation of youth services)	\$2,000, plus cost of the youth service
Failure to comply with s. 42 (Cultural competency training)	\$5,000
<b>General Regulation</b>	
As to identification of Inuvialuit children and youth, see violation of s. 31 of the law, above	See above
As to notice points, see violation of s. 34 of the law, above	See above
Failure to comply with s. 3 (Jurisdictional gaps, delays, denials)	\$2,000

Failure to comply with s. 5 (Mandatory resolution process)	\$2,000
Family Support Regulation	
Failure to comply with s. 4 (Services follow child, youth)	\$2,000 plus cost of the service
Failure to comply with s. 7(c) (Housing continuity)	\$5,000
Other	
Failure to comply with a provision of the <i>Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat</i> or of a regulation under it not otherwise set out above	\$2,000

29. Further to s. 27, the past violation amount is:

- a. 2 if the notice of violation is for a second violation by that recipient, with the first violation being any violation deemed to have been committed by that recipient within the 5 years prior to the issuance of the notice of violation; and
- b. 3 for a third or further violation by that recipient, with the first and second violations being any violations deemed to have been committed by that recipient within the 5 years prior to the issuance of the notice of violation.

### **Payment**

30. Payment of a penalty must be made to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, by a method indicated on the notice of violation.

### **Due date**

31. A penalty is due to be paid to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat within 30 days of the date of issuance of the notice of violation, unless the recipient requests a review under s. 36 (Request for review).

### **Due date deferred during review, appeal**

32. While a review or appeal is underway, a penalty indicated on the applicable notice of violation is not yet due.

### **Discount for early payment**

33. If payment of a penalty is made within 15 days of the date of issuance of the notice of violation, a payment of 50% of the penalty amount is deemed to be full payment.

### **Administrative fees**

34. The following administrative fees apply and must be paid by the recipient to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, within 30 days of the event:
  - a. in the event of a bounced check or other form of defaulted payment: \$50;
  - b. in the event the recipient requests a review but does not attend the review: \$50; and
  - c. in the event the recipient files an appeal but does not attend the appeal hearing: \$100.

### **Interest**

35. A penalty or fee that is past due to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat under this Regulation accrues interest at the rate of 5% per year, starting on the date after the due date and ending on the day payment is made, compounded annually, and this interest is due to be paid by the recipient to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat.

## **REQUEST FOR REVIEW**

### **Request for review**

36. Within 30 days after the date of issuance of a notice of violation, the recipient of the notice may request a review.

### **Exceptional circumstances for delay in requesting a review**

37. No request for review may be made after 30 days from the date of issuance of a notice of violation unless there are exceptional circumstances justifying the delay, in the opinion of the Review Officer, but in all cases, no extension may be sought more than 60 days from the date of issuance of the notice of violation.

### **Form**

38. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may specify a form to be used in requesting a review by providing that form online, and if it does so, a request must be made in that form.

### **Information required**

39. In a request form, or in any event within 5 days from the request for review, the recipient must provide the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat with:
  - a. the reasons they are requesting a review, briefly stated; and
  - b. the name, email address, and phone number of a person who will act as the recipient's representative during the review.

### **Review Officer to set review**

40. The Review Officer must:
  - a. set a time and manner for the review that is no more than 60 days from the date of the request for review; and
  - b. notify the recipient's representative of the time and manner of the review at least 5 days in advance of the review.

### **Manner of review**

41. The manner of the review is in the discretion of the Review Officer, and may be:
  - a. in person;

- b. by online video;
- c. by phone;
- d. in writing;
- e. or another manner the Review Officer reasonably determines.

### **Review result**

42. The Review Officer is to determine the result of the review, whether or not the recipient attends the review.

### **Review result options**

43. The result of a review may be:
- a. to maintain a notice of violation as is;
  - b. to modify a notice of violation in any manner; or
  - c. to withdraw a notice of violation.

### **Communication of result**

44. A Review Officer must communicate the result of the review, in writing, to the recipient and to the Compliance Officer.

### **Penalty etc. due following a review**

45. If the Review Officer finds any penalty applies, that penalty is due within 30 days from the date the Review Officer's decision was communicated in writing to the recipient, unless an appeal is filed, and:
- a. section 30 applies (Payment);
  - b. section 33 does not apply (Discount for early payment); and
  - c. unless waived by the Review Officer, a review fee of \$200 must be paid by the recipient in addition to the penalty, and is due on the same date the penalty is due.

## APPEAL

### **Appeal may be filed**

46. Within 30 days after the communication by the Review Officer of the result of a review, the recipient may file an appeal.

### **Exceptional circumstances for delay in filing appeal**

47. No appeal may be made after 30 days from the date of the communication of the result of a review, unless there are exceptional circumstances justifying the delay, in the opinion of the Independent Appeal Lawyer, and in all cases, no extension may be sought more than 60 days from the date of communication of the result of a review.

### **Appeal filing requirements**

48. An appeal is not considered to be filed unless the recipient has:
  - a. submitted any form required by the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat for the filing of appeals;
  - b. paid the appeal filing fee of \$300 to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat; and
  - c. paid \$1,000 as a deposit to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, which:
    - i. is to be credited towards any amounts due by the recipient after the appeal decision; and
    - ii. any amount of this deposit not due by the recipient after the appeal decision must be returned to the recipient.

### **Form**

49. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may specify a form to be used in filing an appeal by providing that form online, and if it does so, an appeal must be made in that form.

### **Recipient materials**

50. In an appeal form, or in any event within 10 days after the filing date of an appeal, the recipient must provide the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat with:
- a. the reasons they are filing the appeal and any other written submissions they may wish to submit, being no more than 10 pages not including any legal decisions or relevant documents that may be attached or linked; and
  - b. the name, email address, and phone number of a person who will act as the recipient's representative during the appeal.

### **Communication obligation**

51. Within 15 days after the filing date of an appeal, the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat must:
- a. forward any material received under s. 50 (Recipient materials) to the Independent Appeal Lawyer and to the Compliance Officer; and
  - b. notify the recipient's representative and the Compliance Officer of the name and email address of the Independent Appeal Lawyer.

### **Compliance officer materials**

52. Within 25 days of the filing date of an appeal, the Compliance Officer may provide the Independent Appeal Lawyer with written submissions, being no more than 10 pages not including any legal decisions or relevant documents that may be attached or linked.

### **Independent Appeal Lawyer to set hearing**

53. The Independent Appeal Lawyer must:
- a. set a time and manner for hearing the appeal that is 30 to 60 days from the date of filing of the appeal, unless the Independent Appeal Lawyer determines that the circumstances require more time; and

- b. notify the recipient's representative, the Review Officer, and the Compliance Officer of that time and manner, at least 10 days in advance of the hearing date.

### **Manner of appeal hearing**

54. The manner of the hearing of the appeal may be:
  - a. in person;
  - b. by online video;
  - c. by phone;
  - d. or in another manner that has the consent of the Independent Appeal Lawyer, recipient, and Compliance Officer.

### **Appeal decision**

55. At or following the hearing of an appeal, whether or not the recipient attended the appeal, the Independent Appeal Lawyer will make a decision on the appeal and communicate that decision, with reasons in writing, to the recipient, Compliance Officer, and Review Officer.

### **Cost award**

56. In an appeal decision under s. 55, the Independent Appeal Lawyer may award costs of up to a maximum of \$10,000 to either the recipient or the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, and:
  - a. a cost award must be in accordance with the result of the appeal;
  - b. a cost award over \$5,000 may not exceed actual costs;
  - c. subject to (a) and (b), the Independent Appeal Law may have regard to any other appropriate factors in determining whether to award costs and the quantum; and
  - d. a cost award is due to be paid within 30 days of the communication of the decision of the Independent Appeal Lawyer.

### **Appeal is final**

57. An appeal decision under s. 55 (Appeal decision) is final and binding, and not subject to review, including judicial review, nor subject to be appealed, altered, enjoined, or set aside, in any court or otherwise.

### **Penalty etc. due after appeal**

58. If the Independent Appeal Lawyer finds any penalty applies, that penalty is due within 30 days from the date the appeal decision was communicated in writing to the recipient, and:
- a. section 30 applies (Payment); and
  - b. section 33 does not apply (Discount for early payment).

## DEBTS DUE

### **Debts due**

59. The following amounts are debts due to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat:
- a. penalties imposed under this Regulation that are past due;
  - b. fees imposed under this Regulation that are past due;
  - c. interest accrued under this Regulation;
  - d. a cost award under this Regulation in favour of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat that is past due; and
  - e. amounts to be paid to the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat under a settlement agreement under this Regulation that are past due.

### **Recovery and collection**

60. Debts due under s. 59 (Debts due) are subject to recovery and collection by the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat or by its agents or by persons to whom that debt has been sold, except that – despite any other

provision of this Regulation – no proceeding for recovery or collection, including the registration of a certificate under s. 64 (Certificate may be registered), and no sale of a debt may occur until one of the following points:

- a. More than 60 days has passed since the date of issuance of a notice of violation, and the recipient has not requested a review under s. 36 (Request for review) nor sought an extension to do so under s. 37 (Exceptional circumstances for delay in requesting a review);
- b. More than 30 days has passed since the date of issuance of a notice of violation, the recipient sought an extension to request a review under s. 37 (Exceptional circumstances for delay in requesting a review), and the extension has been refused by the Review Officer;
- c. The recipient requested a review under s. 36 (Request for review), the Review Officer communicated the result of the review under s. 42 (Review result) which result included a penalty, and more than 60 days has passed since the date of that communication without the recipient filing for appeal under s. 46 (Appeal may be filed) or for an extension of time to do so under s. 47 (Exceptional circumstances for delay in filing appeal);
- d. More than 30 days has passed since the date of communication of the result of a review under s. 42 (Review result), the recipient sought an extension to file an appeal under s. 47 (Exceptional circumstances for delay in filing appeal), and the extension has been refused by the Independent Appeal Lawyer;
- e. The recipient filed an appeal under s. 46 (Appeal may be filed), the Independent Appeal Lawyer communicated the appeal decision which included a penalty, and more than 30 days has passed since the date of that communication;
- f. A review was requested and then withdrawn by the recipient, and the time limit for requesting a review under s. 36 (Request for review) has elapsed; or
- g. An appeal was filed and then withdrawn by the recipient, and the time limit for filing an appeal under s. 46 (Appeal may be filed) has elapsed.

### **Sale of debt**

61. A debt due under s. 59 (Debts due) may be sold by the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat, and the person to whom the debt is sold may recover or collect the debt in any manner normally permitted for the recovery or collection of debts.

### **Recovery or collection by Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat**

62. The Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat or its agents may recover or collect a debt due under s. 59 (Debts due) in any manner normally permitted for the recovery or collection of debts, or using the certificate process set out in this Regulation.

### **Certificate**

63. A debt due under s. 59 (Debts due) that has not been paid may be certified by the Executive Director of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat.

### **Certificate may be registered**

64. On production to the Supreme Court of the Northwest Territories, Territorial Court of the Northwest Territories, Federal Court of Canada, or other court of competent jurisdiction, a certificate made under section 63 must be registered by that court and, when registered, is deemed to be an order of that court for a debt of:
  - a. the amount specified in the certificate; and
  - b. all reasonable costs and charges attendant in the registration of the certificate.

### **Same force and effect as court judgment**

65. In becoming a deemed order, a certificate registered under s. 64 (Certificate may be registered) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment obtained in that court.

### **Certificate of debt is final**

66. A certificate made under s. 63 (Certificate) is final and not subject to review, including judicial review, nor subject to be appealed, altered, enjoined, or set aside, in any court or otherwise, except through processes set out in this Regulation.

### **Certificate may be canceled**

67. The Executive Director of the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat may, to address an error or for other reasons, cancel a certificate, which does not preclude the issuance of a new certificate with respect to the same debt.

### **Enforcement costs to be added**

68. Costs incurred in enforcing a deemed order under s. 64 (Certificate may be registered) are added to the deemed order and may be recovered or collected under the deemed order.

### **Limitation period for proceeding to recover debt**

69. No proceedings to recover a debt due under s. 59 (Debts due), including a registration of a certificate under s. 64 (Certificate may be registered), may be commenced later than 5 years after the debt became payable.

## SETTLEMENT AGREEMENTS

### **Settlement agreement may be reached**

70. During any of the following periods of time, a settlement agreement may be reached that is signed by the recipient and the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat:
- a. after a notice of violation is issued, and before the expiry of the time period for requesting a review;
  - b. during the course of mediation, including periods of time leading up to or following mediation; or
  - c. during the course of a review or appeal, but before an appeal decision.

### **Contents of settlement agreement**

71. A settlement agreement may provide for any of the following:
- a. confirmation that a violation is deemed to have been committed, or not to have been committed;
  - b. payments due not in excess of the penalties that would apply under this Regulation, and all terms under this Regulation in respect of penalties apply to those amounts;
  - c. measures to remedy past non-compliance and the effects of such non-compliance;
  - d. measures to encourage future compliance; and
  - a. other terms as the parties may agree.

### **Effect of settlement agreement**

72. If a settlement agreement is reached, a review or appeal that was ongoing in respect of the same violation or alleged violation is considered closed.

VARIOUS

### **Burden of proof**

73. If a notice of violation is reviewed or appealed, the Compliance Officer who issued the notice of violation has the burden to establish, on a balance of probabilities, that the recipient committed the violation.

### **Notice of violation presumed authentic**

74. In the absence of evidence to the contrary, a document that appears to be a notice of violation is presumed to be authentic and is proof of its contents in any proceeding in respect of a violation.

### **Certificate presumed authentic**

75. In the absence of evidence to the contrary, a document that appears to be a certificate under s. 63 (Certificate) is presumed to be authentic and is proof of its contents in any proceeding in respect of that certificate.

### **Informal evidence admissible**

76. In a review or appeal, oral and written evidence may be considered informally and may be admitted without the use of an oath or affirmation, unless the Review Officer or Independent Appeal Lawyer directs a more formal process for reasons of credibility, reliability, or contentious facts.

### **Procedural discretion**

77. A Review Officer in a review, and an Independent Appeal Lawyer in an appeal, has, subject to this Regulation and the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat*, discretion over procedural matters in the course of that review or appeal, and may address any procedural irregularities related to compliance with this Regulation as they see fit.

### **Certain defences**

78. In determining whether a recipient committed a violation during a review or appeal:
- a. due diligence may be a defence if the recipient took all reasonable care to comply with the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* and its regulations;
  - b. lack of awareness of the *Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat* or its regulations, or misunderstanding of their legal effect, is not a defence;
  - c. subject to (b), reasonable and honest belief by the recipient in facts that, if true, would exonerate them, may be a defence; and
  - d. the recipient has the burden to prove any defence.

**Vicarious liability of recipient**

79. A recipient is liable for a violation that is committed by any of its employees, volunteers, contractors or agents acting in the course of their employment or acting or purporting to act on behalf of the recipient.

**No external proceedings etc.**

80. No order shall be made, process entered or proceeding taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to restrain, prohibit, or remove a Review Officer in a review, an Independent Appeal Lawyer in an appeal, or the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat in any recovery or collection proceeding under this Regulation.

**No cause of action**

81. No action lies against a Compliance Officer, Review Officer, Independent Appeal Lawyer or the Inuvialuit Qitunrariit Inuuniarnikkun Maligaksat for their actions or omissions in good faith in carrying out duties or exercising powers under this Regulation.
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