



Government of
Northwest Territories

BILL 48

POST-SECONDARY EDUCATION ACT

Summary of the Proposed Act



May 2019



English

French

Cree

Tłic hq

Chipewyan

South Slavey

North Slavey

Gwich'in

Inuvialuktun

Inuktitut

Inuinnaqtun

Francophone Affairs Secretariat: 867-767-9343

Introduction

This document provides a plain language summary of Bill 48, Post-Secondary Education Act (Bill). The Bill is currently before the Legislative Assembly's Standing Committee on Social Development, and this summary is intended to assist in simplifying the Bill for public review. It is not intended to be an interpretation of the Bill. For clarity, the Bill has not yet been passed into law. The Bill may be changed before it is made into law by the Legislative Assembly and the NWT Commissioner and, until that time, it is not enforceable. This summary should not be considered an interpretation of any final Post-Secondary Act that may be passed into law following this process.

This plain language summary is without prejudice to the position that the Government of the Northwest Territories may subsequently take on the interpretation of any provision in Bill 48.

To review Bill 48, or learn more about the legislative process, please see the Legislative Assembly's webpage at www.assembly.gov.nt.ca.

What is Bill 48?

Bill 48 creates a structure to recognize post-secondary education institutions in the NWT, including universities, and colleges. It formalizes a quality assurance system for the review and approval of degree programs and of any institution seeking to be established as a college or university in the territory.

The Bill also provides for the recognition and regulation of private training institutions and private vocational training programs, including the issuing of certificates of registration for both; and allows a Director of Private Vocational Training to be appointed.

The quality assurance system and regulation of post-secondary education created by the Bill protects students by ensuring that recognized institutions and programs have been reviewed and meet certain requirements, which will be developed in alignment with best practices and industry standards.

The Bill also sets out reporting schedules for public post-secondary institutions receiving regular and ongoing funding from the Government, as well as for other post-secondary institutions, including those that receive grants or contributions.

Public institutions are required to seek Ministerial approval of tuition fees, regularly evaluate programs, prepare a mandate statement as well as strategic and corporate plans, and prepare and submit annual operating and capital budgets. Finally, the Bill contains provisions with respect to information sharing, enforcement, and offences and penalties.

Summary of Bill 48

Post-Secondary Education Act

The key features of the proposed Post-Secondary Education Act (Act) are summarized below.

Part 1 - Application

The Act applies to postsecondary institutions that have a physical presence in the NWT, such as a head office or a NWT mailing address.

Part 2 - Roles and Responsibilities

Minister

The Act outlines the role of the Minister in post-secondary education. The Minister is to facilitate the development of a coordinated, accessible and affordable post-secondary system that is designed to meet labour market needs and that respects principles of academic freedom.

The Act also outlines specific duties of the Minister, including:

- setting directions and priorities for support of the post-secondary education system, and allocating money accordingly;
- monitoring and evaluating the post-secondary education system in the NWT;
- developing, administering, monitoring and evaluating GNWT support of programming;
- advising and assisting public post-secondary institutions in developing mandates;
- encouraging and supporting post-secondary institutions in establishing credit transfer arrangement; and supporting linkages across the system;
- advising and assisting institutions in planning for the development and delivery of programs; and
- having regard for the autonomy of post-secondary institutions.

Quality Assurance Bodies

The purpose of quality assurance bodies is to complete external reviews of institutions and programs before they are recognized or established. This is to maintain a quality post-secondary education system, in which NWT degrees and institutions are held to a high standard and therefore recognized across jurisdictions.

The Act allows the Minister to establish an Advisory Committee to review matters referred to it by the Minister. A Committee may be tasked with performing the required quality assurance reviews before any university, college or degree granting institution can be established. A Committee may also be tasked with advising the Minister on other matters about the administration of post-secondary education. The Act allows for three to five members to be appointed to a Committee for up to five year terms; and allows the Minister to set out its powers and duties and establish terms of reference to follow in its review of matters referred to it.

As an alternative to the Committee, the Act allows the Minister to designate another quality assurance body to perform quality assurance reviews of institutions and programs. For example, a quality assurance body in another jurisdiction may be designated to perform these reviews.

Part 3 – Indigenous Institutions

The Act allows the Minister to recognize an institution as an Indigenous institution, in accordance with the regulations. Regulations, developed through engagement with Indigenous governments and organizations, will include criteria that must be met to be recognized.

Part 4 - Universities

The Act requires the Minister's consent for any NWT university to be established or operate. A separate Act of the Legislative Assembly is also required for each institution. Any application for consent to establish or operate a NWT university must be referred by the Minister to the Advisory Committee or another designated quality assurance body for review and recommendation. In certain prescribed circumstances, the Minister may reject an application without making this referral. Once the Committee or another quality assurance body makes a recommendation to the Minister, the Minister may provide their consent and may attach terms and conditions to this consent. As mentioned above, a separate Act of the Legislative Assembly is also required for any NWT university to be created.

Out-of-territory institutions may be established or operate in the NWT with authorization from the Minister. A referral to a quality assurance body is not required. These institutions would have undergone similar quality assurance reviews in their home jurisdictions.

The Act prohibits the use of the term "university" unless authorized by the Minister or an Act of the Legislative Assembly.

Universities may, in accordance with their enabling legislation, offer approved programs of study that lead to the granting of degrees, diplomas or certificates.

Part 5 – Degree Granting

The Act sets out the requirements to grant a NWT degree or provide all or part of a degree program. Unless authorized to do so under its enabling legislation, any institution seeking to offer a degree must apply to the Minister. The application is then referred to the Advisory Committee or a designated quality assurance body for review. The Minister may reject the application without making a referral in certain circumstances. Approval of Executive Council (Cabinet) is required to authorize an institution to grant degrees. Terms and conditions, approved by Executive Council, may be attached to the authorization.

An exception is included in the Act for institutions offering degree programs in partnership with an out-of-territory institution or in partnership with an institution authorized to offer degrees under an Act. In those cases, the Minister may authorize the institution to offer the degree program without making a referral for a quality assurance review, provided the degree granted is from the other institution.

Summary of Bill 48 – Post-Secondary Education Act

Part 6 - Colleges

To be recognized as a college, an institution must have the consent of the Minister and must be established under a separate Act of the Legislative Assembly. A person may apply to the Minister for consent to establish or operate a college, which the Minister must then refer to the Advisory Committee or a designated quality assurance body for review. In certain circumstances established in regulation, the Minister may reject an application without making a referral.

Colleges may offer approved programs of study that lead to the granting of diplomas, certificates and degrees, as authorized in the Act establishing a given college. Colleges may also be authorized to offer degrees under this Act. In addition, colleges may provide other programs of study, training and services approved by the Minister.

Part 7 – Private Training Institutions

This part allows institutions to apply to be registered as private training institutions (PTI). Terms and conditions may be attached to certificates of registration. Every PTI is required to provide an annual report to the Minister. The Minister is empowered to order a refund of fees for a program, or that other measures be taken, if the Minister has reason to believe that a student contract or certificate of registration is not being complied with. The Minister may also require proof of an institution's financial position if they have reason to believe that the financial position of a PTI is inadequate. Registration may be suspended or cancelled in some circumstances, including if the Minister is of the opinion that it is necessary to do so to protect students. Where a certificate is suspended or cancelled, the Minister is required to post or give the notice to students.

Part 8 – Private Vocational Training

An institution may apply to the Director of Private Vocational Training, once established, for a certificate of registration to provide a vocational training program. Any holder of a certificate of registration is required to submit an annual report to the Director. If the Director has reason to believe that a certificate or student contract is not being complied with, the Director may order a refund of fees. The Director may also require proof of an institution's financial position if they have reason to believe that its financial position is inadequate. Registration may be suspended or cancelled in some circumstances, including if the Minister is of the opinion that it is necessary to do so to protect students. Where a certificate is suspended or cancelled, this Minister is required to post or give the notice to students.

While this part includes similar enforcement and student protection mechanisms as Part 7, the main difference is that this part applies to vocational training programs, while Part 7 applies to institutions. Requirements for program vs. institutional recognition set out in regulation are expected to differ.

Part 9 – General Institutional and Reporting Requirements

This part sets out general requirements and reporting requirements for post-secondary institutions. For public post-secondary institutions it regulates tuition fee increases and requires the preparation of mandate statements. Public post-secondary institutions, as well as private universities and colleges, are required to regularly evaluate programs of study and services. The Minister is empowered to conduct institutional audits and program assessments of post-secondary institutions to ensure the requirements of the Act continue to be met.

The Act further sets out reporting and financing and accountability requirements for different classes of post-secondary institutions. Public post-secondary institutions may be provided with grants and contributions, in accordance with the *Financial Administration Act*, and are required to develop a planning and accountability framework regarding the funding. Public post-secondary institutions are required to prepare and submit an annual operating and capital budget. They are also required to develop and maintain a multi-year strategic plan, as well as an annual corporate plan that reports on progress made with respect to the strategic plan. An annual report must be prepared for the Minister and tabled before the Legislative Assembly. The Minister may appoint a person to undertake a review on any matter concerning the management, administration or operation of a public post-secondary institution.

Private post-secondary institutions may also be given some funding through a grant or contribution. If an institution receives such funding, they must submit an operating budget and other financial information, as requested by the Minister. All private colleges and universities are required to submit annual reports to the Minister.

This part also addresses information sharing, and includes provisions that allow the Minister to request information from post-secondary institutions and departments or agencies for the purpose of fulfilling their role under the Act. The Act also has provisions for the collection of personal information for the purpose of administering the Act, undertaking planning, monitoring and evaluation in respect of post-secondary education, and other listed purposes relating to providing post-secondary education in the NWT. Limitations on collection of information are included to ensure that no more information than is reasonably necessary to meet the purpose of collection or use is collected.

The Act allows the Minister to direct a post-secondary institution to assign a student number to be used in respect of each student. It also authorizes the Minister to enter into agreements with other governments or quality assurance bodies.

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Part 10 – Enforcement

This part includes enforcement provisions, which allow the Minister to appoint inspectors and undertake investigations to ensure compliance with the Act and Regulations. Powers of inspection are listed to make inspections feasible. This part also sets out prohibitions and offences and penalties. The making of false or misleading statements on applications or reports or in the context of an inspection is prohibited. An offence is created for disobeying the Act or regulations, with a fine of up to \$50,000 for a corporation and \$10,000 for any other person.

Part 11 – Regulations

Should this Bill pass into law, the Act will create the general framework and rules governing post-secondary education in the NWT. Regulations are a secondary form of legislation that set out the detail for how the broader objectives of the enabling Act will be implemented. They typically address matters such as more detailed criteria, specific processes, fees, etc.

The Act provides authorities to make regulations in certain areas. The Act also addresses who is empowered to make regulations. This may be either the Commissioner in Executive Council (The Commissioner on the recommendation of Executive Council) or the Minister. In the proposed Act, regulation-making authorities include some Ministerial regulations and some Executive Council regulations. The Commissioner in Executive Council may make regulations respecting the recognition of Indigenous institutions and degree granting institutions. In other areas, the Minister is empowered to make regulations. Generally, Executive Council regulations are thought to have more government-wide importance, as opposed to being more process or practice oriented.

Under this Act, regulation making authorities allow for the creation of more specific criteria to be met before an institution may be recognized. Regulations will be developed for each part described above to operationalize those provisions. The list of regulation making authorities is extensive, and Part 11 of Bill 48 should be consulted for the complete list.

