



Government of
Northwest Territories

PUBLIC LAND ACT

Frequently Asked Questions





Tłicho

GENERAL FAQs

Q | Why did the Department of Lands develop the *Public Land Act*?

- » Since devolution in 2014, the GNWT manages public land under two sets of legislation; the *Northwest Territories Lands Act* and the *Commissioner's Land Act*. This is confusing to land managers and the public because rules apply differently under each act.
- » In 2017, the Department of Lands initiated a review of the *Northwest Territories Lands Act* and the *Commissioner's Land Act* to identify potential changes and align the two land administration regimes to improve consistency and clarity for users of public land.
- » The Department of Lands identified possible amendments to the two acts in an [engagement paper](#) and asked the public for its input to address existing, recurring land administration challenges. The *Public Land Act* is the result of the [review](#) and the input received from NWT residents.
- » By addressing the inconsistencies between the *Northwest Territories Lands Act* and the *Commissioner's Land Act*, changes to how responsibilities are managed and administrative services are delivered can be set out in regulations, policies and other tools under a single land administration regime.

Q | The original plan was to amend both acts. Why is there now only one act, instead of two?

- » Throughout the engagement period, many respondents suggested the Department consider merging the two acts. The Department initially believed this to be difficult within the timeframe of the initiative.
- » When drafting the amendments, the provisions in the acts were re-ordered to conform to modern drafting standards. The result was two nearly identical acts, revealing an opportunity to merge the two and simplify land administration in the NWT.
- » The Department assessed the challenges and opportunities and determined that it could merge the acts and maintain the original scope of the initiative, as outlined in the [What We Heard Report](#).

Q | Why do we need a public land act and what does it do?

The *Public Land Act* outlines the general framework and authorities to guide land administration in the NWT. Approximately 80% of the land in the NWT is public land, under the administration of the GNWT.

Governments use land acts to outline the authorities and rules over how the land is administered, including:

- » Mechanisms to allocate land from the GNWT to another person through grants (sales), and dispositions such as leases, licenses, permits, and other instruments
- » Controls and protections for the sale, occupancy and use of land with a range of tools such as land withdrawals, reservations, securities, inspections and enforcement
- » Establishment of regulation-making authorities specific to matters in lands legislation such as collecting rents and royalties, recording and maintaining records and land transactions, and specific rules for the administration of land interests.

GENERAL FAQs

Q | How will the Act change things for NWT residents?

The *Public Land Act* sets the stage for future improvements to the land management regime under one cohesive legislative framework. The new Act enables the implementation of initiatives and policy advancements via a clear and consistent legislative base. Work related to land administration and unauthorized occupancies will be more efficient and effective under the new Act. Any future legislative amendments under the *Public Land Act* allow for all public land to be reviewed concurrently and as part of a whole. This also allows the department to evolve how it manages land as policy develops to meet the needs of land users.

Q | How will the Act improve land administration in the NWT?

The *Public Land Act* improves land administration and management by:

- » **Removing old rules and language that are no longer relevant** such as references to muskrat farming, servants, movement of timber and imperial measurements
- » **Eliminating the distinction between “Territorial Land” and “Commissioner’s Land”**, and replacing them with “Public Land”.
- » **Providing adequate and consistent authorities** for inspections, enforcement, securities and issuance of dispositions of land for all public land
- » **Providing flexibility to create and implement** the necessary regulations and policies to support legislation

Q | Why aren’t there more specific rules in the *Public Land Act*?

The government has a number of tools that it can use to carry out its responsibilities. Statutes, like this Act, set the general framework and powers to guide how the government must act. Regulations, policies and procedures are the tools to specify how those legislated powers are used.

This is particularly important in the instance of this Act, which does not apply to a single sector, or a single user group and has a broad range of land interests under its domain. Because of this, the specific rules that define and control land interests and the processes to administer them must be described in regulations, policies or procedures. These rules will have the necessary detail and retain the flexibility to be amended as the needs of NWT residents evolve.

There are currently several regulations that exist under the *Northwest Territories Lands Act* and *Commissioner’s Land Act*. The Department is currently engaging with NWT residents to develop new regulations under the *Public Land Act*. Once the *Public Land Act* comes into force, the regulations under the *Northwest Territories Lands Act* and the *Commissioner’s Land Act* will be repealed and replaced by the new regulations developed under the *Public Land Act*.

SPECIFIC ISSUE Q&As

Q | I have a lease (or other existing interest). What will this mean for me?

Any existing interests, such as current leases, permits and other dispositions will be continued. The transitional provisions in the Act protect them when it comes into force.

Q | Will the Act help address unauthorized occupants?

Though addressing unauthorized occupancy was not a goal of the initiative, the Act will make future approaches clearer because:

- » There will be one law that governs public land under GNWT administration, allowing greater consistency in addressing new instances of unauthorized occupancy. For example, trespass and other provisions that are currently in the *Commissioner's Land Act* and *Northwest Territories Lands Act* have been merged and harmonized to make it clear what rules apply.
- » Under the *Northwest Territories Lands Act* the Minister determines and initiates trespass proceedings, while the *Commissioner's Land Act* delegates this authority to a director in the Department. The Act will allow the Minister to appoint "inspectors" for the purposes of determining trespass, with the goal of finding the right balance between sufficient authority and being able to respond when unauthorized occupancy is identified.
- » The Act also includes a new section to clarify that one can only use or occupy public land with lawful authority. This will allow the GNWT to create regulations that clarify the activities on public land that are allowed and the activities that require permission or authorization.
- » Updated enforcement authorities and maximum fines for punishments will be consistent across public land under GNWT administration.

Q | How does the Act work with other land management authorities?

The Act is not the only piece of legislation that affects public land and it must not conflict with other applicable authorities. The Act must provide clarity regarding land administration and function alongside other government authorities and legislation, some of which include:

- » The administration of public land identified for specific purposes under other legislation such as the *Public Highways Act* and the *Public Airports Act*;
- » The ability to designate and regulate specific areas for development through the *Area Development Act*;
- » The regulation of land and water use, environmental assessment and land use planning in the federal *Mackenzie Valley Resource Management Act*; and
- » The management of specific resources on public land such as authorizations under the *Forest Management Act*, the *Petroleum Resources Act*, or the *Tourism Act*.

SPECIFIC ISSUE Q&As

Q | Does the Act “roll back” financial security requirements for mines and other land uses?

The Act provides the Minister with the authority to require security for any type of land uses and any type of dispositions (leases, permits, licenses, etc.). This means that the Act represents a broadening of security authority, and will allow the Department to develop regulations to address security requirements in any situations that may be necessary.

In 2011 mandatory requirements for securities were added to the *Commissioner's Land Act*, but only for commercial and industrial leases. By contrast, the *Northwest Territories Lands Act* does not contain an explicit authority to require security and relies on the Department of Lands to negotiate security as a condition of a lease if security is required to backstop securities already set in other authorizations such as a water licence or land use permit. The *Commissioner's Land Act* applies to only approximately 0.02% of public land and the securities provisions apply only to leases.

Q | Why aren't securities mandatory for all commercial and industrial uses?

The Act does not define specific uses and types of dispositions. Regulations created under the Act will include provisions that address the specific instances in which securities may or will be required. The regulations will also outline criteria for requiring securities and acceptable forms of securities. This approach is consistent with other laws that have security requirements like the *Waters Regulations* and *Mackenzie Valley Land Use Regulations*.

The Act does not make security mandatory in all cases, but instead allows the Minister to consider the nature and extent of the development proposal and further regulatory requirements for a range of specific uses, from mining to agriculture.

Under the *Commissioner's Land Act* all commercial leases are subject to a mandatory securities formula thus creating a barrier to small commercial developments in the NWT. This requirement applies equally to a mine site or a small commercial greenhouse and illustrates why specific uses, calculations and forms of securities are best managed in regulations.

Q | Why does the Act refer to mineral rights. I thought that was what the Mineral Resources Act was for?

Currently, mineral rights, like mineral claims and prospecting permits are regulated under the *Mining Regulations*, *Coal Regulations* and *Dredging Regulations*, which are established through authorities in the *Northwest Territories Lands Act*. The *Mineral Resources Act* received assent during the 18th Legislative Assembly but is not yet in force. The *Mineral Resources Act* and its regulations will eventually govern mineral rights administration in the territory. The *Mineral Resources Act* and regulations are expected to come into force over several years which is why the *Public Land Act* retains the authorities currently in the *Northwest Territories Lands Act*. Once the relevant authorities under the *Mineral Resources Act* are in force, those equivalent provisions in the *Public Land Act* will be repealed.

SPECIFIC ISSUE Q&As

Q | Does the Act include a public registry system?

The Act does not contain an explicit requirement for the GNWT to maintain a formal public registry.

However, existing requirements to maintain records and make certain information available to the public under the *Northwest Territories Lands Act* and *Commissioner's Land Act* will be preserved in the Act, such as:

- » Interests on surveyed lands that are or can be registered at Land Titles under the Land Titles Act. The Land Titles Office is responsible for the registration of interests against land such as fee simple title, lease hold title, easement agreements and claim agreements, among others. Land Titles records are public records and can be accessed by the general public.
- » Requirements in the regulations such as records relating to mining claims and leases under the Mining Regulations.

The Department also makes certain information about the location and type of dispositions of public land available on the GNWT's mapping website, "ATLAS". The Department will continue to make this information available and is reviewing how best to balance private information of leaseholders with the request for greater transparency in relation to public land records.

In addition, the Act requires the Department of Lands to table an annual report in the legislative assembly that contains a significant amount of information such as the number of grants and dispositions issued in the year, the amount of security being managed by the Department, and a summary of inspection and enforcement activities carried out during the year.