

Post-devolution: Why do we need new legislation?

Our current legislation needs updating. The proposed new legislation and amendments are required to bring GNWT law in line with the authorities received through devolution, to help give the GNWT a legislative base to better integrate environmental protection with economic and social needs, and to ensure the GNWT is using the most current and comprehensive legislative tools to manage lands and resources.

A thriving economy for the Northwest Territories starts with our most important and cherished resources: our land, water and air. Our collective efforts across a suite of legislation will result in a made-in-the-NWT model that better integrates environmental protection with economic and social needs, while respecting Aboriginal and treaty rights.

ENR is in the process of developing five new or amended pieces of legislation:

- *Environmental Rights Act (amended)*
- *Forest Act (new)*
- *Protected Areas Act (new)*
- *Environmental Protection Act (amended)*
- *Waters Act (amended)*

The new and amended pieces of legislation will address feedback brought forward by Indigenous governments and organizations, stakeholders and the public. They will help us to design and implement an effective regulatory process by increasing efficiencies, filling gaps, eliminating overlaps and establishing a consistent legislative base for existing policy. They will also explicitly affirm Aboriginal and treaty rights.

Where can I find more information?

For more information on the *Environmental Rights Act*, contact:

Environment and Natural Resources
Environmental Protection and Waste Management
Environmental_Protection@gov.nt.ca



Environmental Rights Act



The Government of the Northwest Territories (GNWT) Department of Environment and Natural Resources (ENR) is making amendments to the *Environmental Rights Act* (ERA).

The ERA works in combination with other GNWT legislation that permits, licenses or allows activities related to air, land and water use.

Amendments to the Act, which were developed in collaboration with Indigenous governments and organizations, regulatory boards, stakeholders and the public, provide an overarching commitment to ensuring a healthy environment for NWT citizens, achieved through the implementation of complementary, issue-specific legislation, such as the *Waters Act* and the *Environmental Protection Act* (EPA).

What is the purpose of the *Environmental Rights Act*?

Every day, residents rely on effective environmental protection practices to live, work and participate in recreation activities in the Northwest Territories (NWT).

The ERA recognizes the right to protect the integrity, biological diversity and productivity of the ecosystems in the NWT, and to provide NWT residents with the tools and processes needed to ensure these rights are protected by the GNWT.

Why do we need amendments to the *Environmental Rights Act*?

The proposed amendments to the Act will increase coherence and consistency across legislation, and are based on best practices found elsewhere in Canada. The amended Act will result in improved implementation, enforcement and decision-making, which will enable the GNWT to assume post-devolution responsibilities for land, air and water, ultimately leading to a more sustainably managed environment.

The amendments will also enable the GNWT to assume responsibility for elements of the *Canadian Environmental Protection Act* (CEPA). This requires that the NWT *Environmental Protection Act* (EPA) also be amended.

Government of
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What are the key components of the Act?

The proposed amendments to the ERA will:

- Extend the right to protect the environment.
- Reflect numerous well-accepted developments in land claims and Aboriginal and treaty rights, environmental law, human rights and international law.
- Ensure consistency with provisions and approaches in other NWT legislation.

The *Environmental Rights Act* explicitly recognizes and affirms Aboriginal and treaty rights, including the commitments of land, resources and self-government agreements, and recognizes the role of co-management bodies. Proposed language for the affirmation of these rights was based on the *Wildlife Act*, with modernizations as proposed by Indigenous governments through the Technical Working Group and consultation.

What are the key differences from the current legislation?

- The right to protect the environment will be extended in the revised ERA to include anything that might be of harm to the health of the environment.
- Changes to the ERA will make it easier to request an investigation and clarify the responsibilities of the applicant and the Minister in the process.
- The new Act will expand “whistle blower” protection given to employees.
- The new Act will require a State of the Environment report to be issued every 4 years.
- Executive Council will be required to develop a government-wide *Statement of Environmental Values* to guide departments in their planning and decision-making under the Act.
- Amendments will acknowledge the GNWT’s responsibility to appropriately protect the environment and the right to a healthy environment, in accordance with the public trust.
- The ERA will apply to all relevant GNWT legislation, including the EPA and *Waters Act*.
- The amended Act will explicitly recognize and affirm the protection of asserted and established Aboriginal and treaty rights, along with the commitments of land claim and self-government agreements.

How was the Environmental Rights Act developed?

Amendments to the *Environmental Rights Act* were developed through a partnership approach with a Technical Working Group (TWG) of Indigenous governments and organizations, and with input from a Stakeholders Advisory Group (SAG) consisting of non-government organizations, regulatory boards and industry representatives.

This process was designed with input and agreement from the Intergovernmental Council of IGOs.

A framework for the drafting of the *Environmental Rights Act* was developed through this partnership approach over two years of engagement that included five TWG meetings and three meetings with the SAG.

The partnership approach was developed to ensure coordination across resource management legislation to reduce the potential for conflict or duplication, and was based on the process used for the development of the *Wildlife Act*.

Through the partnership process, the TWG and SAG assisted ENR in developing a framework for the drafting of the *Environmental Rights Act*.

There was also an external public review period, in which the general public was invited to provide feedback on summary documents through an online engagement process.

Once the bill was drafted, the GNWT carried out additional formal consultation with Indigenous governments and organizations to determine and address potential impacts the bill could have on Aboriginal or treaty rights.

Who was invited to participate in the Technical Working Group (TWG) for the *Environmental Rights Act*?

- K’atl’odeeche First Nation
- Tłıchq Government
- Inuvialuit Regional Corporation
- Gwich’in Tribal Council
- Sahtu Secretariat Inc.
- Délıne Got’ıne Government
- Salt River First Nation
- Acho Dene Koe First Nation
- Deninu Kue First Nation
- Northwest Territory Métis Nation
- Dehcho First Nations
- Akaitcho Territory Government
- North Slave Métis Alliance
- Renewable Resources Boards