

SETTLEMENT LAND REGISTRATION REGULATION

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Table of Contents

PART ONE: PRELIMINARY MATTERS	4
Short Title	4
Definitions.....	4
PART TWO: ADMINISTRATION.....	5
Delegation	5
Register of Lands	5
Lands Registry Office.....	5
Office Hours	5
Registrar	5
Duties of the Registrar	5
Copies of Documents.....	6
Copies of Block Record or Parcel Record	6
PART THREE: PARCEL RECORDS AND BLOCK RECORDS	6
Maintenance of Parcel Records	6
Restriction	6
Maintenance of Block Records	6
Maintenance of List of Interest and Licence of Occupation Holders.....	7
PART FOUR: APPLICATIONS	7
Application Forms.....	7
Application Requirements	7
Application Fee.....	8
Daybook	8
Receipt of Application	8
Grounds for Refusal to Register.....	8
Survey Requirements.....	9
PART FIVE: REGISTRATION	9
Registration of Existing Interests.....	9
Order of Registration or Recording	9
Priority of Registered Interests	10
Priority of Mortgages	10
Agreement to Postpone Priority	10
Notice of Registration	10
PART SIX: GENERAL PROVISIONS	10
Correction of Errors in the Daybook or Record.....	10
Witnessing and Execution	10
No Reliance, Liability, Insurance or Compensation	11
Forms	11
Repeal.....	11

Schedule 1 – Lands Registry Office Address

Schedule 2 – Fees

Schedule 3 – Parcel Record

Schedule 4 – Block Record

Schedule 5 – Day Book

Schedule 6 – Registration Checklist

Schedule 7 – Application for Registration of an Interest or Licence Granted by TTC

Schedule 8 – Application for Registration of Transfer of an Allocation

Schedule 9 – Application for Registration of a Transfer or Assignment of an Interest (Other than an Allocation) or a Licence

Schedule 10 – Application for Registration of an Instrument – Other

Schedule 11 – Application for Registration of Mortgage

The following regulation is made by the Executive Council pursuant to section 61 of the *Teslin Tlingit Land and Resources Act 2016*:

PART ONE: PRELIMINARY MATTERS

Short Title

1. This regulation may be cited as the *Settlement Land Registration Regulation*.

Definitions

2. Unless otherwise defined in this regulation, terms have the same meaning as in the *Teslin Tlingit Land and Resources Act 2016*.

3. In this regulation,

“Act” means the *Teslin Tlingit Land and Resources Act 2016*;

“application” means an application to register or record a document in the Register of Lands;

“block” in relation to settlement land, means the whole of a Parcel of Settlement Land described in the Settlement Land Description attached as Appendix A to the final agreement, and shown on a Map attached as Appendix B to the Final Agreement;

“block identifier” means the unique alphabetic and numeric identifier assigned to each parcel of settlement land under Appendix A of the final agreement;

“Block Record” means the record described in section 14(d);

“Daybook” means the daybook described in section 20;

“Lands Registry Office” means the Teslin Tlingit Council Lands Registry Office continued under section 6;

“limitation” means a condition, proviso, restriction, including restriction on alienation, exception, reservation, or royalty;

“official plan” means a graphical description of boundaries of land prepared from field notes of a survey confirmed under section 29 of the *Canada Lands Surveys Act*;

“parcel” means a portion of a block of settlement land described in an official plan, registration plan, or if permitted under this regulation or other enactment, a textual description, against which an interest or licence of occupation has been registered;

“Parcel Record” means the record described in section 12(1)(d);

“Register of Lands” means the Register of Lands continued under section 5;

“registration plan” means a graphical description of the boundaries of land shown on the plan made by the Surveyor General under section 31 of the *Canada Lands Surveys Act*;

“Registrar” means the individual appointed under section 8(1) responsible for the management of the Lands Registry Office; and

“textual description” means a metes and bounds description of a parcel or any other description of a parcel that does not refer exclusively to one or more complete parcels on a registration plan or official plan.

PART TWO: ADMINISTRATION

Delegation

4. The Registrar may, with the consent of the Director of Lands, assign the performance of any duties of the Registrar under this regulation to any officer, employee, contractor or agent of the First Nation.

Register of Lands

5. (1) The Register of Land and Resources established under the *Settlement Land and Resources Act 2008* is continued as the Register of Lands.

(2) The Register of Lands must be maintained in accordance with this regulation.

Lands Registry Office

6. (1) The Teslin Tlingit Council Lands Registry Office is established.

- (2) The Lands Registry Office must be maintained
- (a) in the TTC Lands Department or other location in Teslin, Yukon as specified in a resolution of Executive Council; and
 - (b) in accordance with this regulation.

Office Hours

7. The Lands Registry Office shall be open to the public from Monday to Thursday and alternating Fridays, except on holidays and during general TTC administration office closures, from 8:30 a.m. to 5:00 p.m. Pacific Standard time or Pacific Daylight Time, as applicable.

Registrar

8. (1) The Director of Lands shall appoint an individual to hold the office of the Registrar.

(2) The Registrar shall report to the Director of Lands.

(3) The Registrar may be a TTC staff member but shall avoid any conflict of interest and must exercise his or her duties as the Registrar separately and independently, and independently from any other duties.

Duties of the Registrar

9. (1) The Registrar shall perform the following duties:
- (a) manage the Lands Registry Office;
 - (b) maintain the Register of Lands;
 - (c) register and record documents in accordance with this regulation; and
 - (d) provide for the security of the Register of Lands.
- (2) The Registrar and any employees of the Lands Registry Office shall not:
- (a) directly or indirectly act as the agent of a person investing money in, or taking security in, settlement land;
 - (b) advise for a fee, reward or otherwise on a disposition; or
 - (c) express any opinion about any interest or licence in settlement land, including whether
 - (i) a document submitted for registration or recording is validly made; or
 - (ii) a document has been registered, as opposed to having been recorded.

Copies of Documents

10. Subject to any applicable law or lands department policy concerning confidentiality or privacy of records, the Registrar shall provide a copy of a document registered in the Register of Lands upon receipt of

- (a) a request made to the Registrar in person or in writing; and
- (b) payment of the fee set out in Schedule 2.

Copies of Block Record or Parcel Record

11. Subject to any applicable law or lands department policy concerning confidentiality or privacy of records, the Registrar shall provide a copy of a Block Record or a Parcel Record certified by the Registrar indicating all the interests, licences, charges and any other documents registered in respect of a block or parcel of settlement land upon receipt of

- (a) a request made to the Registrar in person or in writing; and
- (b) payment of the fee set out in Schedule 2.

PART THREE: PARCEL RECORDS AND BLOCK RECORDS

Maintenance of Parcel Records

12. (1) the Registrar shall
- (a) establish and maintain a file for each parcel for which an interest or licence of occupation has been granted in accordance with, or which is acknowledged under, the Act and this regulation;
 - (b) label each file with the block identifier and the parcel's survey plan number or textual description;
 - (c) deposit a copy of every document relating to that parcel in the file; and
 - (d) for each file, maintain a Parcel Record containing, in respect of every document relating to that parcel, the information set out in Schedule 3.
- (2) If a parcel of settlement land is subdivided, the Registrar shall:
- (a) assign new file number(s) to the subdivided parcel(s);
 - (b) record the former file number in the Parcel Record(s) for the new file(s);
 - (c) make a notation in the former Parcel Record of the forward file number(s); and
 - (d) enter each document that affects the subdivided parcel into the Parcel Record for the new file(s).

Restriction

13. (1) The Registrar shall not create a Parcel Record unless the Parcel Record refers exclusively to a lot described on an official plan or registration plan, or if permitted under an enactment, a textual description.

(2) Documents which comply with the requirements of this regulation and all applicable enactments but which do not relate to one parcel shall be registered or recorded in the Block Record for the affected block.

Maintenance of Block Records

14. The Registrar shall:
- (a) establish and maintain a file for each block of settlement land;
 - (b) label each file by with the block identifier;
 - (c) deposit in the file a copy of every document relating to the block as a whole (as opposed to a specific parcel within the block); and
 - (d) for each file, maintain a Block Record containing, in respect of every document relating to that block as a whole, the information set out in Schedule 4.

Maintenance of List of Interest and Licence of Occupation Holders

15. The Registrar shall maintain in the records of the Lands Registry Office a list of the names of each registered holder of an interest or licence with a reference opposite each name to the Plan number for each parcel under which the interest or licence of the person is registered.

PART FOUR: APPLICATIONS

Application Forms

16. Any person may apply for the registration or recording in the Register of Lands of a document that affects settlement land:

- (a) in person, by submitting the document and an application that includes the information set out in section 17 during regular business hours at the physical address set out in Schedule 1, or
- (b) by mailing the document and an application that includes the information set out in section 16 to the mailing address set out in Schedule 1.

Application Requirements

17. (1) An application for registration or recording shall contain the following information in related to the document submitted:

- (a) the date of the application;
- (b) the names of all parties to the document;
- (c) the name and address of the person who completed the application;
- (d) the type of document;
- (e) if applicable, the date the document was executed;
- (f) the name of the block, parcel, and lot number, if any, associated with the land, or other information sufficient to identify the land;
- (g) the land description, or a textual description sufficient to identify the land;
- (h) a list of any supporting documents accompanying the document submitted for registration or recording; and
- (i) if two or more documents that are to be registered or recorded are submitted together, directions regarding the order to be respected in registering or recording each document relative to each other.

(2) The application must contain the information set out in the applicable schedule (Schedules 7-11).

(3) The following supporting documents must be included with an application:

- (a) subject to section 18, the original document to be registered or recorded;
- (b) the application fee described in Schedule 2, unless waived by the Registrar under section 19(2);
- (c) if Executive Council's consent or approval to the document is required, a certified copy of the document that records the consent or approval or an affidavit of execution; and
- (d) any other information requested by the Registrar.

(4) If the document to be registered:

- (a) is an interest or licence of occupation; and
- (b) section 23(1) applies,

an official plan or registration plan must be included in the application

18. The following documents may be submitted for registration instead of the original document:

- (a) a copy of a judgment or court order, certified by the court;
- (b) a copy of a document registered in a federal, provincial or territorial registry or land titles system, certified by the appropriate registrar;

- (c) a copy of a death certificate, marriage certificate, name change certificate, power of attorney, will, approval or probate of will or appointment of administrator, certified by the person who has custody of the original;
- (d) a copy of a certificate of amalgamation or change of name of a corporation, certified by the agency responsible for recording the amalgamation or change of name;
- (e) a copy of an order in council, certified by the Clerk of the Privy Council;
- (f) a copy of a ministerial order; or
- (g) a copy of a document issued by TTC, certified by the person who has custody of the original.

Application Fee

19. (1) Subject to subsection (2), an application will not be accepted unless accompanied by the fee set out in Schedule 2.

(2) The Registrar may waive the requirement for payment of the fee if he or she is satisfied that payment of the fee would result in hardship to the applicant.

(3) An applicant requesting a waiver of the fee under subsection (2) shall provide to the Registrar any information requested and reasonably required by the Registrar to assess the entitlement of the applicant to the fee waiver.

Daybook

20. (1) The Registrar shall keep a Daybook in the form provided at Schedule 5 and in which shall be entered

- (a) a description of every application received by the Registrar, including the type of document;
- (b) the day, hour and minute that the application was submitted;
- (c) if applicable, the date the document was executed;
- (d) the settlement land affected; and
- (e) the names of all parties to the document.

(2) The Registrar shall enter each application into the Daybook in the order that it is received by the Registrar.

Receipt of Application

21. Upon receipt of an application, the Registrar will:

- (a) date-stamp an application with the applicable date, hour and minute;
- (b) enter the application in the Daybook; and
- (c) provide a written acknowledgement of receipt to the applicant by hand delivery, by mail or by email, without delay.

Grounds for Refusal to Register

22. (1) The Registrar may refuse to register or record a document if:

- (a) the application does not meet the requirements under section 17, or
- (b) there is a defect in the execution of the document.

(2) If the Registrar believes that a document submitted for registration

- (a) grants a lease or licence of occupation of only part of a parcel of settlement land to which a disposition applies;
- (b) charges, mortgages or otherwise encumbers only part of a parcel of settlement land to which a disposition other than an allocation applies;
- (c) provides for the transfer of part of a parcel of settlement land to which a disposition applies; or
- (d) has the effect of subdividing the parcel

the Registrar must not register or record the document unless he or she is satisfied that the subdivision meets the approval requirements and other requirements of all applicable enactments.

- (3) If the Registrar refuses to register or record a document, the Registrar shall:
- (a) advise the applicant of the refusal to register within ten (10) working days of the application having been submitted;
 - (b) return the application and all supporting documents to the applicant; and
 - (c) provide written reasons for the refusal to register or record the document.

Survey Requirements

23. (1) No document that purports to grant, allocate, assign or transfer an interest or a licence of occupation for a term of 10 or more years in respect of lands:

- (a) located within 30 km of the Village of Teslin or within 1 km of the Alaska Highway Corridor; or
- (b) which the terms of the document require or refer to a survey plan

shall be registered or recorded unless the land description contained in the document consists exclusively of a reference to one or more complete parcels on a registration plan or official plan.

- (2) Subsection (1) does not apply to easements.

PART FIVE: REGISTRATION

Registration of Existing Interests

24. (1) Any document registered or recorded in the Register of Land and Resources under the *Settlement Land and Resources Act 2008*, and any amendments to that Act, shall continue as if registered or recorded under this regulation.

(2) Any interest registered under subsection (1) has priority over an interest subsequently registered under this regulation.

(3) The Registrar shall register or record all documents listed in the Indian Lands Registry System as of the date this regulation comes into force, if not already registered or recorded in the Register of Lands, and such documents shall be deemed to have been registered before the day on which this regulation comes into force.

(4) Subsection (2) shall not be interpreted to confer a priority on one interest that was registered in the Register before the day on which this regulation comes into force over any other interest that was also registered in the Register before that day.

Order of Registration or Recording

25. (1) Subject to section 28, the Registrar shall register or record each document submitted for registration or recording that meets the requirements of this regulation in the order that it is received by the Lands Registry Office.

(2) A document is considered to have been registered or recorded as of the time and date indicated in the Daybook.

(3) If two or more documents affecting the same parcel or block are submitted for registration or recording at the same time by the same person and the documents meet the requirements of this regulation for registration or recording, the Registrar shall register or record them in the order indicated on the applications.

Priority of Registered Interests

26. (1) Subject to
- (a) a contrary intention appearing in the document; and
 - (b) section 28,

interests and licences of occupation registered under this regulation that affect the same parcel of settlement land have priority according to the time and date recorded in the Daybook and not according to the time and date the documents were executed.

- (2) For greater certainty, subsection (1) does not apply to a document that does not grant an interest or licence of occupation in settlement land.

Priority of Mortgages

27. A registered mortgage has priority over a subsequently registered interest that affects the same parcel of settlement land to the extent of the money actually advanced under the mortgage, to a maximum of the amount secured by the mortgage, even if all or part of the money was advanced after the registration of the subsequently registered interest or right, unless the mortgagee had actual notice of the registration of the subsequently registered interest or right before making the advance.

Agreement to Postpone Priority

28. (1) The holder of a registered interest, or a person applying to register an interest, may apply to record a postponement agreement that gives priority over the registered interest to a specified interest that was, or is to be, subsequently registered.

(2) A postponement agreement must demonstrate the consent of all registered interest-holders for the applicable parcel.

(3) On the recording of a postponement agreement, priority shall be accorded to the interests or rights referred to in the agreement in the manner provided for in the agreement.

Notice of Registration

29. Within ten (10) working days of the Registrar registering or recording a document, the Registrar shall mail to the applicant's address as set out in the application:

- (a) a notice of the registration and a copy of the updated Parcel Record or Block Record against which the document was registered or recorded; and
- (b) any original document submitted for registration or recording, and any other original documents submitted in support of the application.

PART SIX: GENERAL PROVISIONS

Correction of Errors in the Daybook or Record

30. If the Registrar becomes aware of an omission or error in the Daybook or a Block Record or Parcel Record, the Registrar shall

- (a) immediately make the necessary corrections;
- (b) add a notation to the Daybook, Block Record or Parcel Record identifying the errors and corrections; and
- (c) notify all persons who may be adversely affected by the corrections.

Witnessing and Execution

31. (1) The execution by a transferor of a document must be witnessed by an individual who is not a party to the document and who meets any other requirements provided under any enactment.

(2) In the absence of evidence to the contrary, the signature of a transferor on a document is proof that the transferor

- (a) knows the contents of the document;
- (b) has signed the document voluntarily;
- (c) has the legal capacity to execute the document; and
- (d) intends to be bound by the document.

(3) An affidavit necessary for the purposes of this regulation may be taken or made inside or outside the Yukon Territory by a person before whom an affidavit may be sworn under the *Evidence Act* (Yukon).

No Reliance, Liability, Insurance or Compensation

32. (1) TTC:

- (a) makes no representation as to the accuracy or completeness of the records, documents or any aspect of the Register of Lands; and
- (b) accepts no responsibility or liability of any kind in relation to any claim, damages, losses or harm of any type that arises directly or indirectly from, or in relation to, the Register of Lands or any related registrations, records, documents, cancellations, corrections, or any related matter, regardless of whether or not there was or may have been negligence on the part of the Registrar or any TTC official involved in administering the Register of Lands.

(2) Registration of a document is not a determination by the Registrar that

- (a) the document creates or evidences an interest, licence of occupation or charge;
- (b) the document is enforceable; or
- (c) the interest, licence of occupation or charge is not affected by an encumbering right.

(3) There is no assurance or insurance fund for the Register of Lands and no compensation payable to any person in relation to any matter set out in subsection (1).

(4) Every person who registers or records a document in, or has dealings with, the Register of Lands is deemed to accept subsections (1), (2), and (3).

Forms

33. (1) The Executive Council may, on the recommendation of the Director of Lands, amend the schedules to this regulation by resolution, or otherwise approve forms for use by the Lands Registry Office.

(2) For greater certainty, section 56 of the *Administration and Interpretation Act* shall not apply to amendments to the schedules or the creation of forms use by the Lands Registry Office.

Repeal

34. The *Settlement Land and Resource Use Regulations TTCR 98/02* are repealed on the day this regulation comes into force.