

TESLIN TLINGIT LAND AND RESOURCES ACT

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TESLIN TLINGIT LAND AND RESOURCES ACT 2016

[Consolidated to include an amendment made by General Council Resolution 2018 - 008 February 22, 2018 (effective February 22, 2018)]

Assent given July 14, 2016.

PREAMBLE**WHEREAS:**

The Teslin Tlingit are the original stewards and caretakers of the land in our traditional territory. Our people have lived since time immemorial as part of the land and part of the water in harmony and in accordance with Tlingit law, tradition and culture. Our lands and abundant natural resources have sustained and nurtured *Ha Kus Teyea* (Tlingit way of life) and vibrant communities for generations and they must continue to do so today and into the future;

The Teslin Tlingit have inherent rights including without limitation: harvesting rights, aboriginal title and the inherent right to self-government which are recognized and affirmed by section 35 of the *Constitution Act, 1982* (Canada), and which have not been extinguished;

The inherent rights enjoyed by the Teslin Tlingit and recognised and affirmed under section 35 of the *Constitution Act, 1982* (Canada), include without limitation harvesting rights, aboriginal title, and governance rights over our traditional lands, waters and resources in British Columbia;

As an incident of our aboriginal title and our inherent right to self government, TTC has the jurisdiction to make rules respecting the occupation and use of land and resources, and the granting of interests in, and licences to use, land and resources, and TTC exercises this jurisdiction within the framework of our Constitution;

The treaty rights recognized and affirmed by the *Constitution Act, 1982* (Canada) include rights acquired by way of the Teslin Tlingit Council Final Agreement and rights given effect to through the Teslin Tlingit Council Self-Government Agreement;

The Teslin Tlingit Council ("TTC") also has the authority under section 13.3 of its Self-Government Agreement to enact laws on settlement land in relation to: the use, management, administration, control and protection of settlement land; the allocation or disposition of rights and interests in and to settlement land, including expropriation by Teslin Tlingit Council for Teslin Tlingit Council purposes; use, management, administration and protection of natural resources under the ownership, control and jurisdiction of the Teslin Tlingit Council; control of the construction, maintenance, repair and demolition of buildings and other structures; and planning, zoning and land development;

By entering into the Final Agreement and Self Government Agreement TTC did not give up aboriginal title to its settlement land;

TTC intends that its administration and management of settlement land and BC aboriginal title be guided by the principles of *Ha Kus Teyea*;

In accordance with the Constitution, TTC wishes to exercise its jurisdiction and responsibility to establish a comprehensive and integrated process for making decisions that:

- (a) considers the importance of environmental, socio-economic, cultural and heritage values of citizens and ensures protection and conservation of settlement land and natural resources for present and future generations; and
- (b) promotes wise and respectful decision-making that safeguards the culture, traditions, health and lifestyle of citizens.

The General Council enacts as follows:

PART ONE: PRELIMINARY MATTERS

Name

1. This Act may be cited as the *Teslin Tlingit Land and Resources Act 2016*.

Purposes

2. The purpose of this Act is to set out the rules, principles and legislative and administrative structures for the disposition of interests and licences in, and the use and development of, settlement land, natural resources and BC aboriginal title land, and through which the Teslin Tlingit Council will exercise authority over those lands.

Interpretation

3. For the purposes of this Act, and unless they are otherwise defined in this Act, terms have the same definitions as in the *Administration and Interpretation Act*, STTC 1998 c. 5.

Definitions

4. In this Act,

“allocation” means an allocation of settlement land made under section 29;

“allocation holder” means a citizen to whom an allocation has been made under section 29;

“applicable laws” means the applicable laws of a First Nation, Teslin Tlingit Council, Yukon, Canada, and local governments;

“BC aboriginal title land” means lands within the province of British Columbia in which TTC holds asserted aboriginal title;

“beds” has the same meaning as in the Final Agreement;

“Certificate of Allocation” means a certificate granted pursuant to section 40;

“citizen” means a citizen of the Teslin Tlingit Council as determined by the Constitution;

“clans” means the Yanyedi, Ishkitan, Deshitan, Dakhlawedi and Kukhhittan clans of the TTC, and “clan” means one of them;

“Committee” means the Teslin Tlingit Land Management Committee as established by section 8 of this Act;

“common law spouse” means a person who has been living with another person in a marriage-like relationship for a continuous period of at least two years, which marriage-like relationship may, for greater certainty, be between persons of the same gender;

“decision document” means a decision document issued by any decision body in accordance with the YESAA;

“development” means any human project, industry, undertaking, enterprise, operation or activity or any alteration, expansion, removal or decommissioning of the same that involves construction on, or the altering or disturbing of, settlement land or natural resources on settlement land; and includes subdivision but does not include traditional activities or activities undertaken in conjunction with traditional activities;

“Director of Lands” means the Teslin Tlingit Council employee appointed from time to time by the Executive Council to be responsible for the administration of this Act;

“disposition” includes a grant, assignment or transfer of all or part of an interest or licence;

“easement” means a non-exclusive interest in Settlement Land granted under this Act, giving one person (the grantee) the right to use or control the land of another (the grantor) for a specific limited purpose, and which despite common law to the contrary does not need to have a dominant tenement;

“effective date” means the date the Final Agreement and the Self-Government Agreement came into effect, which is February 14, 1995;

“enactment” means an Act or regulation, or any portion of an Act or regulation of the Teslin Tlingit Council;

“environment” means the components of the earth and includes:

- (a) air, land and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include the components referred to in paragraphs (a) to (c);

“First Nation Land Titles Registry” means a register established pursuant to land titles legislation as may be enacted by General Council;

“government” means the government of Canada, the government of the Yukon, the government of another First Nation, *Indian Act* (Canada) Band, municipality, or any combination, depending upon which has responsibility, from time to time, for the matter in question;

“Ha Kus Teyea” means the Teslin Tlingit Way;

“immediate family member” means, in relation to an individual, that individual’s spouse, child, parent, sibling, or grandparent;

“inspector” means a person appointed from time to time under section 123;

“interest” means an interest in settlement land made in accordance with this Act which is less than the entire interest and includes an allocation, leasehold, and easement but for greater certainty does not include the fee simple title or the rights, obligations and liabilities equivalent to fee simple to that land;

“leasehold” means an interest granted under this Act giving a person the exclusive right of use and possession of the lands, upon agreed conditions, for a specified time, calculated by including any renewal or extension period, and includes a sub-lease;

“licence” means a permission granted under Division Four of Part 3 of this Act, or prior to the date this Act comes into force, under the *Settlement Land and Resources Act 2008 (Revised)*, to use, develop, or extract specified natural resources, or otherwise have use of, a specified parcel or parcels of settlement land, but which does not grant an interest in settlement land;

“minerals” has the same meaning as in the Final Agreement;

“mines” has the same meaning as in the Final Agreement;

“mortgage” means a charge on an interest created merely to secure a debt, loan or other obligation;

“natural resources” any materials or substances on, under or in settlement land in their natural state which, when removed, have economic or other value;

“permit” means a regulatory authorization issued under Part Four and includes a development permit issued under section 100, an access permit issued under subsection 109(1) and a fire permit issued under subsection 121(3);

“permittee” means the holder of a permit and includes any person employed by or contracting with a permittee;

“person” means a natural person, sole proprietor, association, society, partnership, corporation, trust or other entity having the capacity, rights, powers and privileges of a natural person and includes any assignee, successor or other legal representative of a person, and for greater certainty, includes the Teslin Tlingit Council and any other government;

“project” has the same meaning as in YESAA;

“registry” means the First Nation Land Titles Registry, the register of titles to land kept in accordance with the *Land Titles Act* (Yukon), or a register established pursuant to section 61 of this Act;

“registered interest” means an interest in Settlement Land registered in a registry;

“settlement land” means land that is category A settlement land, category B settlement land or fee simple settlement land under the Final Agreement and section 63 of the *Yukon Surface Rights Board Act* (Canada), and land that is to be treated as such by virtue of the Self-Government Agreement or an agreement made in accordance with section 9.6.1 of the Final Agreement or section 63 of this Act, and for greater certainty includes Teslin Lands as identified in section 29 of the Self-Government Agreement;

“specified substance” has the same meaning as in the Final Agreement;

“spouse” means a person who:

- (a) is married to another person, including through an Aboriginal customary marriage; or
- (b) is a common law spouse;

“subdivision” means the division of a lot, parcel, or tract of land into two or more lots, tracts, parcels, legal descriptions or other divisions of land for the purpose of development or for creating or granting separate interests in land;

“sub-lease” means a lease executed by a lessee in a parcel of settlement land to a third person, conveying the same interest that the lessee enjoys in all or a portion of the parcel, but for a shorter term than that for which the lessee holds;

“traditional activities” are those activities undertaken by citizens for food, subsistence or ceremonial purposes to strengthen and enhance social, spiritual and cultural relationships and values between and of citizens that, except for trapping, are not intended for commercial purposes;

“traditional territory” includes the geographic area within the Yukon identified in the Final Agreement as the Teslin Tlingit traditional territory and the area within British Columbia traditionally used by the Teslin Tlingit;

“TTC” and “Teslin Tlingit Council” means the legal entity recognized in section 9 of the Self-Government Agreement; and

“YESAA” means the *Yukon Environmental and Socio-economic Assessment Act* (Canada).

Application of Act

5. This Act applies to all Teslin Tlingit Council settlement land and BC aboriginal title land.

TTC Bound

6. This Act binds the Teslin Tlingit Council.

Citizens and Non-Citizens Bound

7. For greater certainty, and unless specified otherwise in this Act, another enactment, or the Final Agreement, this Act binds citizens and non-citizens.

PART TWO: LAND MANAGEMENT COMMITTEE**Land Management Committee Established**

8. The Teslin Tlingit Land Management Committee is hereby established.

Land Management Committee Membership

9. (1) Subject to subsection (4), the clans shall each select one member of the Committee.

(2) Subject to subsection (4), each clan may also select an alternate member to the Committee.

(3) When selecting members and alternates for the Committee, the clans shall take into account the prospective Committee members' character, relevant qualifications, and interest in the business of the Committee.

(4) Members and alternates shall be formally appointed by the Executive Council.

Eligibility

10. Any citizen who is 19 years or older, whether or not resident on settlement land, is eligible to be appointed to the Committee, except for a citizen who is a member of the TTC lands department staff or a member of the Executive Council or the Justice Council, unless that citizen resigns as a lands department staff member or as a member of the Executive Council or Justice Council as the case may be, upon being appointed to the Committee.

Committee Member Duties and Obligations

11. Each member of the Committee, upon accepting his or her selection as a member, will accept the duties and obligations of membership and will agree to observe and carry out those duties and obligations according to Ha Kus Teyea, and the provisions of this Act.

Term of Office

12. (1) Committee members and alternates shall hold office for a four year term, except any appointee replacing a member whose term has not expired shall only hold office for the unexpired portion of that term.

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(2) In the event that the office of a member of the Committee becomes vacant, that member's alternate shall replace the member on the Committee until the clan selects, and the Executive Council appoints, a new member to the Committee.

(3) Nothing precludes an incumbent member of the Committee from being appointed for a further term.

(4) Notwithstanding subsection (1), if, upon the expiry of a Committee member's term, no appointment has been made under subsection 9(4) the incumbent Committee member shall remain in office until the Executive Council appoints a Committee member.

Vacancy

13. The office of a member of the Committee becomes vacant if the member, while holding office:

- (a) is or becomes ineligible to hold office under section 10;
- (b) ceases to be a citizen;
- (c) is appointed to the Executive Council or Justice Council or accepts employment in the TTC lands department;
- (d) is absent from three (3) meetings of the Committee for a reason other than illness or incapacity without being authorized to be absent by the Committee;
- (e) dies or becomes mentally incompetent; or
- (f) resigns in writing to the Executive Council and the clan.

Powers and Responsibilities of the Committee

14. (1) The purpose of the Committee is:

- (a) to advise the Director of Lands, Executive Council and General Council on all matters relating to the management, use and protection of settlement land and natural resources;
- (b) at the request of the Director of Lands, Executive Council or General Council, to advise on matters pertaining to the management, use and protection of BC aboriginal title land, and other land and resources within the traditional territory; and
- (c) to perform such other related duties and functions as the Executive Council and the General Council may direct.

(2) Without restricting the generality of subsection (1), the powers and responsibilities of the Committee include:

- (a) assisting with the development of the TTC settlement land administration system;
- (b) providing advice and recommendations to the Executive Council on the development and coordination of policies, procedures, programs, and enactments relating to settlement land and natural resources, including processes and criteria for managing revenue from settlement land;
- (c) assisting in the exchange of information about matters related to settlement land and resources between citizens, TTC departments, the Executive Council, and the General Council;
- (d) providing advice and direction concerning the implementation of the Final Agreement, including rights or benefits realized pursuant to the Final Agreement in relation to matters concerning settlement land and natural resources;
- (e) co-ordinating with the Teslin Tlingit Renewable Resources Council as required regarding related matters and respective responsibilities under this Act and the *Fish and Wildlife Act*;
- (f) making recommendations concerning disposition of interests in, and licences with respect to, settlement land;
- (g) providing advice and direction respecting the development and implementation of Land Use Plans, Resource Management Plans, and Cooperative Agreements pursuant to Division One of Part Four of this Act; and
- (h) acting in an advisory capacity to boards, heads of departments and agencies of the Teslin Tlingit Council on matters pertaining to the management, use and protection of land and resources within settlement land and the traditional territory, including, for greater certainty, the Teslin Renewable Resource Council established under the Final Agreement and any land use planning commissions established for the traditional territory in accordance with Chapter 11 of the Final Agreement.

- (3) The Committee, in exercising its duties and responsibilities, shall:
- (a) operate for the benefit of TTC and all citizens; and
 - (b) incorporate Ha Kus Teyea into all operations, advice, and recommendations of the Committee, including, for greater certainty, consensus decision-making.

Committee Procedures

15. The Committee may adopt rules for its internal management and may make rules governing its procedures consistent with the Final Agreement, this Act, and Ha Kus Teyea.

Reporting

16. The Committee shall report to the General Council as required or upon request by the Executive Council or the General Council.

PART THREE: INTERESTS AND LICENCES IN SETTLEMENT LAND

DIVISION ONE: GENERAL

Settlement Land Administered for Citizens

17. (1) Settlement land shall be administered for the use and benefit of present and future generations of citizens.

- (2) Nothing in subsection (1) precludes TTC from granting:
- (a) interests in settlement land less than the fee simple or rights, obligations and liabilities equivalent to fee simple, and
 - (b) licences to use settlement land, or to take or use natural resources on settlement land to citizens and non-citizens.

Criteria for Consent to Dispositions

18. The Executive Council may not grant an interest or licence until the applicable prescribed criteria have been met at the applicant's expense.

Committee Recommendation

19. (1) The Executive Council shall obtain a recommendation from the Committee prior to all dispositions by the Executive Council, unless:

- (a) a disposition or a class of dispositions is exempted from this requirement by regulation; or
- (b) the Committee does not make a recommendation within the prescribed timeframe, or in the absence of a prescribed timeframe, a reasonable time.

(2) Executive Council shall not make a disposition which varies from, sets aside, or replaces the Committee's recommendation obtained under subsection (1) unless the Executive Council:

- (a) explains in writing why, in its opinion, varying, setting aside, or replacing the recommendation is the best interests of TTC, its citizens, or any of them;
- (b) has provided the Committee with an opportunity to respond; and
- (c) has made reasonable efforts to reach consensus with the Committee.

Delegation

20. The Committee may be authorized by resolution of the Executive Council to act as a delegate of the Executive Council in the granting of an interest or licence, or a class of interests or licences, under this Part.

Disputes in relation to Interests in Land

21. (1) Any person initiating a proceeding involving an interest or licence must provide notice to TTC.

(2) The notice referred to in subsection (1) shall give any particulars necessary to show the issue proposed to be argued, and shall be served at least 60 days before the day proposed for argument of the issue.

(3) The TTC has standing in the proceeding and is entitled to be heard on the issue even if the TTC is not a party to the proceeding in which the issue arises.

DIVISION TWO: DISPOSITION OF INTERESTS IN SETTLEMENT LAND

Interests must Comply with Act

22. An interest in settlement land may only be created, granted, disposed of, assigned, or transferred by an instrument issued in accordance with this Act.

Improper Transactions Void

23. A deed, lease, contract, document, agreement or any other instrument of any kind by which TTC, a citizen, or any other person purports to create, grant, dispose of, assign, or transfer an interest in settlement land after the effective date is void if it contravenes this Act.

Existing Interests

24. (1) An interest in settlement land that is in effect on the effective date is, subject to this Act, continued in force in accordance with the terms and conditions of that interest.

(2) Subject to this Act, an interest created under the *Settlement Land and Resources Act 2008 (Revised)* continues in force according to the terms and conditions of that interest.

Interests Granted in Error or by Fraud

25. The Executive Council may, subject to any ruling by a court of competent jurisdiction, cancel or correct any interest in land issued or allotted in error, by mistake, or by fraud.

New Interests

26. (1) Subject to section 27, the Executive Council may grant interests in land that are:
(a) less than the entire fee simple or rights, obligations and liabilities equivalent to fee simple therein;
and
(b) consistent with this Act.

(2) The grant of an interest may be made subject to conditions.

Long Term Interests Requiring General Council Consent

27. Where General Council has not established an applicable plan under section 93 which designates settlement land for certain uses and purposes, the following dispositions require the consent of the General Council:

- (a) the proposed grant of an interest other than an allocation for residential purposes for a term greater than 99 years;
- (b) the proposed grant of an interest for recreational purposes for a term greater than 60 years;
- (c) the proposed grant of an interest for agricultural purposes for a term greater than 25 years; and
- (d) the proposed grant of an interest for commercial, industrial or institutional purposes with a term of 15 years or more.

General Council may Require consent

28. The General Council may, by resolution, require General Council consent or additional clan and citizen consultation prior to any particular disposition.

DIVISION THREE: ALLOCATIONS OF SETTLEMENT LAND

Allocation of Settlement Land

29. The Executive Council may, by resolution, allocate settlement land to a citizen who is 19 years of age or older.

Duration and Conditions

30. A grant of an allocation to a citizen may be permanent or for a specified period of time, and may be made subject to conditions.

Allocation Holder Rights

31. Subject to sections 25 and 30, and any encumbering rights as defined in section 5.4.2 of the Final Agreement, an allocation in respect of a parcel of land is an interest that entitles the citizen to:

- (a) a permanent right to exclusive occupation of the land; and
- (b) transfer, devise, or otherwise dispose of the allocation rights to another citizen who is 19 years of age or older, including, for certainty, allocated land that is subject to a lease.

Allocation Does Not Confer Subsurface Rights

32. For greater certainty, an allocation does not confer on the holder subsurface rights.

Restrictions

33. An allocation in respect of a parcel of land does not, of itself, entitle the citizen holding the allocation to:

- (a) develop and benefit from the natural resources of the land;
- (b) subdivide the parcel;
- (c) grant subsidiary interests in the land, including leases, easements, or rights of way;
- (d) grant licences to use the land or take natural resources from the land, including cutting timber or removing minerals; or
- (e) to engage in a development.

Allocation Holder Obligations

34. The holder of an allocation must:

- (a) observe and abide by the provisions of this Act, and all other applicable laws;
- (b) pay all property taxes and fees lawfully imposed by any Government; and
- (c) conserve and protect the allocated settlement land to protect its value and importance to all citizens.

Criteria for Consent to a New Allocation

35. Prior to a grant of an allocation, the Committee will review the proposed interest and advise the Executive Council as to measures that may be necessary or desirable to protect the interests of TTC in respect of the proposed allocation.

Prerequisites to Allocation

36. The Executive Council must not grant an allocation until the citizen has met all requirements set out in the regulations.

Rights of Non-Citizens

37. Subject to sections 38 and 46, a person who is not a citizen may not hold an allocation.

Life Estates

38. Section 37 does not preclude a non-citizen spouse or other immediate family member from obtaining a life estate or other time-limited interest in an allocation through testamentary disposition, by operation of any applicable law concerning the division of spousal property, or by operation of any other applicable law, provided that the allocation reverts to a citizen or TTC upon determination of the life estate or other time-limited interest as the case may be.

Life Estate Conditions

39. For greater certainty, a life estate or other time-limited interest in a parcel of allocated settlement land:

- (a) gives the holder no greater interest in the parcel than the interest held by the allocation holder from whom the interest was received;
- (b) remains subject to all of the terms, conditions, exceptions and reservations to which the allocation was subject; and
- (c) does not confer the right to transfer the allocation without TTC consent.

Certificate of Allocation

40. The Executive Council may issue a Certificate of Allocation in the prescribed form, as evidence of the allocation interest.

Transfer upon Death Intestate

41. (1) Subject to subsections (2) and (3), if an allocation holder dies intestate, the allocation shall revert to TTC, free of any claim of the allocation holder.

(2) If the deceased holds the allocation in common with one or more other citizens, those citizens shall be offered the right of first refusal to purchase the deceased's interest in the allocation, with the deceased's share to be divided equally between those purchasers or as agreed.

(3) If an allocation reverts to TTC under subsection (1) and subsection (2) does not apply, Executive Council may transfer the allocation to another citizen, in accordance with Ha Kus Teyea.

Allocation Holder may hold Leasehold Interest in Allocated Lands

42. Subject to section 43, the Executive Council may, upon application by an allocation holder (including, for certainty, a non-citizen who holds a life estate in an allocation) in the prescribed form, and upon the

mutual agreement of TTC and the allocation holder on acceptable lease terms, grant a leasehold interest in the allocated parcel of land to the allocation holder.

Consent for Leasehold Required

43. The Executive Council shall not grant a leasehold interest in allocated land under section 42 except with the consent of all holders of the allocation.

Allocation may be Held in Trust

44. An allocation may be held in trust only if:

- (a) the trustee is
 - (i) a citizen,
 - (ii) the legal guardian of all individuals holding the beneficial interest, or
 - (iii) The executor or administrator of a deceased citizen;
- (b) all individuals holding the beneficial interest are citizens; and
- (c) the trust agreement, or other document which appoints the trustee, is registered in a registry.

Loss of Citizenship of Allocation Holder

45. (1) Where a citizen who holds an allocation loses their status as a TTC citizen, the allocation holder may sell or transfer their allocation to another citizen within six months of the date of their loss of status.

(2) If the transfer of the allocation or its sale is not completed within six months, the allocation shall revert to TTC free from any claim on the part of the former allocation holder, subject to the payment, at the discretion of the Executive Council, to the former allocation holder, from the funds of TTC, of such compensation for permanent improvements as the Executive Council may determine.

(3) The purchaser or transferee of an allocation under subsection (1) shall be deemed not to be in lawful possession of the allocation until the sale or transfer is approved by the Executive Council.

Transfer of Allocation by Will to Non-Citizens

46. (1) Where an allocation passes by testamentary disposition to a person who is not a citizen, the non-citizen devisee shall be deemed to have received a life estate in the allocation.

(2) On the determination of the life estate described in subsection (1), the allocation shall revert to TTC, free of any claim of the holder of the life estate or the former allocation holder.

(3) If an allocation reverts to TTC under subsection (2), Executive Council may transfer the allocation to another citizen, in accordance with Ha Kus Teyea.

Revocation of Allocation

47. The Executive Council may revoke any grant of an allocation which is road accessible and located within 30 kms of the Village of Teslin if, within five (5) years of the grant, the allocation holder has not made at least \$5000 worth of improvements on the allocated land unless the Executive Council exempts the allocation holder from this requirement in writing.

Onus

48. The allocation holder bears the onus of establishing that section 47 has been complied with.

DIVISION FOUR: DISPOSITION OF LICENCES TO USE SETTLEMENT LAND OR TO TAKE OR USE
NATURAL RESOURCES ON SETTLEMENT LAND

No Taking or Use of Natural Resources or Use of Settlement Land without Licence

49. Subject to section 54, and unless an enactment provides for an applicable exemption, no person shall use settlement land, take or use natural resources located on settlement land, or enter onto settlement land for the purpose of using or taking natural resources located on settlement land or for otherwise using settlement land except under an interest or licence granted in accordance with this Act or another enactment.

Executive Council may Issue Licences

50. (1) Upon receipt of an application that meets the applicable requirements set out in the regulations, the Executive Council may grant licences including:

- (a) a licence of occupation;
- (b) a forest licence;
- (c) a mineral licence; or
- (d) a specified substance licence.

(2) The grant of a licence may be made subject to conditions.

Maximum Term of Licence

51. Unless otherwise prescribed, a licence granted under section 50 shall be for a maximum term of three (3) years and may be made subject to conditions.

Consent of Allocation Holder Required

52. (1) The Executive Council shall not grant licences in respect of settlement land which is subject to an allocation without the consent of the holder or holders of the allocation unless the licence does not unreasonably affect the allocation holder's use and enjoyment of the land subject to the allocation, or fair and reasonable compensation is paid to the allocation holder.

(2) A dispute concerning licences granted under subsection (1) will be resolved in accordance with the dispute resolution procedures set out in Division Seven of this Part.

Existing Licences

53. (1) A licence in settlement land that is in effect on the effective date is, subject to this Act, continued in force in accordance with the terms and conditions of that licence.

(2) Subject to this Act, a licence created under the *Settlement Land and Resources Act 2008 (Revised)* continues in force according to the terms and conditions of that licence.

Final Agreement Rights Preserved

54. Nothing in this Act shall be construed to prevent any person from exercising a right to take natural resources, or from exercising a right to enter onto settlement land, pursuant to the Final Agreement.

Licence does not Confer Interest in Land

55. Unless an enactment provides otherwise, a licence to use settlement land or to take or use natural resources does not confer on the licensee any interest in land.

Security

56. (1) The Executive Council may require, before granting a licence, that an applicant provide financial security for the performance and completion all of the obligations and requirements specified by the Executive Council, including the performance of any remedial or preventative action required to protect and conserve, or restore and rehabilitate the settlement land.

(2) This section does not affect the liability of a person holding a licence for any damage to settlement land in excess of the amount of the financial security provided in accordance with subsection (1).

Compensation

57. The Executive Council may require, before granting a licence, that an applicant enter into a compensation agreement for any potential loss or damage that may result to:

- (a) holders of outfitting concessions, Category 1 or Category 2 traplines or holders of other rights of similar nature;
- (b) citizens possessing improvements on settlement land to be affected;
- (c) citizens engaging in traditional activities in the area to be affected; or
- (d) any other person with an interest or licence in the area to be affected, or who may otherwise be affected by the grant of the licence.

Impact, Benefit, and Co-operation Agreements

58. The Executive Council may require, before granting a licence, that an applicant enter into agreements that address the impacts, benefit sharing and areas of cooperation with the Teslin Tlingit Council in relation to the development addressing:

- (a) employment and training opportunities;
- (b) supply of goods and services for the licensee and any contractors of the licensee;
- (c) any related benefits to be realized by the Teslin Tlingit Council and its citizens; or
- (d) any other benefits.

Royalties and Payments

59. Licences may provide for royalty or other payments to the Teslin Tlingit Council for the use of settlement land or for the removal of natural resources from settlement land.

DIVISION FIVE: REGISTRATION AND RECORDING OF INTERESTS AND LICENCES IN SETTLEMENT LAND**Interests not Enforceable Unless Registered**

60. (1) An interest is not enforceable against registered interests unless and until it is registered in a registry in a manner that complies with all applicable laws.

(2) For greater certainty, interests in effect prior to the establishment of a registry that are not registered in that registry are not enforceable as against registered interests.

(3) No instrument that requires the consent or approval of TTC under this or any other law may be registered in a registry unless:

- (a) a certified copy of the document that records the consent or approval, or
- (b) an affidavit of execution

is attached to the instrument.

Internal Registration and Recording Systems

61. The Executive Council may, by regulation, establish one or more systems for registering or recording interests and licences, and documents in relation to interests and licences.

Records in First Nation Land Titles Registry or Yukon Land Title Office Prevail

62. To the extent of any inconsistency or conflict between documents registered or recorded in a registry or recording system established under section 61 and documents registered in the First Nation Land Titles Registry or the Yukon Land Title Office, the First Nation Land Titles Registry or the Yukon Land Title Office (as the case may be) prevails.

DIVISION SIX: RESTRICTIONS AND LIMITS ON INTERESTS AND LICENCES

No Grants of Fee Simple

63. (1) Teslin Tlingit Council shall not grant, convey, or otherwise dispose of the entire fee simple, or the rights, obligations and liabilities equivalent to fee simple, in settlement land to any person other than TTC, except in accordance with section 9.6.1 of the Final Agreement.

(2) Except as provided in subsection (1), any grant of fee simple title or the rights, obligations and liabilities equivalent to fee simple in settlement land is void.

Limitations on Grants to Non-Citizens

64. A person who is not a citizen may hold a lease or other time-limited interest in, or a licence in relation to, settlement land.

Permanent Interest not Available to Non-Citizens

65. A person who is not a citizen may not hold a permanent interest in settlement land.

Transfer and Assignment of Interests

66. (1) Executive Council may, by resolution, require Executive Council consent prior to the transfer or assignment of any interest or licence, or class of interests or licences.

(2) Where the Executive Council has made a resolution under subsection (1), then except for transfers that occur by operation of law, including transfers of estates by testamentary disposition or in accordance with any applicable law concerning spousal property, there will be no transfer or assignment of an interest or licence to which the resolution applies without the written consent of the Executive Council.

Exceptions and Reservations

67. Unless otherwise provided for in a disposition, a disposition under this Act excepts and reserves the following interests, rights and privileges:

- (a) mines and minerals and the right to work the mines and minerals;
- (b) specified substances;
- (c) any timber that is from time to time situated on the land subject to the disposition;
- (d) beds of bodies of water where the lands subject to the disposition border a body of water; and
- (e) all rights of fishery and fishing, and occupation in connection with the fishery or fishing on, around, or adjacent to the lands subject to the disposition.

Disposition does not Convey Water Rights

68. Unless otherwise provided for in a disposition, no disposition under this Act conveys any exclusive right, privilege, property, or interest with respect to any lake, river, stream, or other body of water, within, bordering on, or passing through the lands subject to the disposition.

Interests in Land Subject to Encumbering Rights

69. All interests and licences are subject to encumbering rights as defined in section 5.4.2 of the Final Agreement.

Limitations on Mortgage and Seizure

70. The fee simple in settlement land, or the rights, obligations and liabilities equivalent to fee simple in settlement land:

- (a) shall not be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other instrument of obtaining credit;
- (b) may not be subject to any lien authorized by statute; and
- (c) is not subject to seizure under legal process.

Allocations Mortgageable only to TTC

71. A citizen may not mortgage their interest in an allocation to anyone except TTC.

Term of Mortgage

72. Unless the Executive Council otherwise approves in writing, the term of a charge or mortgage of an interest will not exceed the lesser of:

- (a) the term of the lease or other interest being charged or mortgaged; or
- (b) 30 years.

Default in Mortgage

73. In the event of default in the terms of a charge or mortgage of an interest, the interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:

- (a) the charge or mortgage was registered in a registry; and
- (b) a reasonable opportunity to redeem, or to pay and satisfy the charge or mortgage was given to TTC.

Citizen Mortgages Bound

74. For greater certainty, section 73 applies to a charge or mortgage between citizens.

Power of Redemption

75. If the Executive Council exercises its right of redemption (or payment and satisfaction) under section 73 then TTC becomes the interest holder and takes the position of the chargor or mortgagor for all purposes after the date of the redemption (or payment and satisfaction).

Right of First Refusal

76. If the Executive Council does not exercise its right of redemption under section 75, and before the mortgagee offers the interest for sale to a third party, the mortgagee shall provide TTC with a right of first refusal of any sale or transfer of the interest.

DIVISION SEVEN: EXPROPRIATION OF INTERESTS AND LICENCES IN SETTLEMENT LAND BY TTC

Rights and Interests that may be Expropriated

77. An interest or licence in settlement land, or a portion of an interest or licence, may be expropriated by TTC in accordance with the Constitution, the Final Agreement, this Division and any requirements prescribed by regulation.

Rights that may not be Expropriated

78. Encumbering Rights pursuant to 5.4.2 of the Final Agreement and rights persisting under section 29.4 of the Self-Government Agreement are not subject to expropriation by TTC.

Community Purposes

79. The General Council may only expropriate an interest or licence:
- (a) for a necessary community purpose or works of TTC, including fire halls, sewage or water treatment facilities, community centers, public works, roads, schools, day-care facilities, hospitals, health care facilities or retirement homes; and
 - (b) after the General Council has determined that the purpose is sufficiently compelling to justify expropriation.

Public Report

80. Before TTC expropriates an interest or licence, the General Council will:
- (a) prepare a report on the reasons for the expropriation;
 - (b) post a copy of the report in TTC administration offices; and
 - (c) mail or email a copy of the report to each citizen and each affected holder of an interest in land at their last known address.

Acquisition by Mutual Agreement

81. TTC may expropriate an interest or licence only after a good faith effort to acquire, by mutual agreement, the interest or licence.

Compensation for Rights and Interests

82. TTC will, in accordance with its applicable enactments:
- (a) serve reasonable notice of expropriation on each affected holder of an interest or licence to be expropriated; and
 - (b) pay fair and reasonable compensation to the holder of the interest or licence to be expropriated.

Compensation Calculations

83. The total value of compensation payable under paragraph (b) will be based on:
- (a) the fair market value of the interest or licence being expropriated;
 - (b) the replacement value of any improvement to the land being expropriated;
 - (c) the damages attributable to any disturbance; and
 - (d) damages for reduction in the value of any remaining interest or right.

Fair Market Value

84. The fair market value of an expropriated interest or licence will be deemed to be equivalent to the amount that would have been paid for the interest or licence if it had been sold on settlement land, with all of the rights, limits and restrictions that apply to interests, licences and transactions on settlement land, by a willing seller to a willing buyer.

Dispute Resolution

85. A person wishing to resolve a dispute concerning TTC's right to expropriate, the entitlement of the holder of an expropriated interest or licence to compensation, or the amount of compensation owed, may file a dispute with the Director of Lands setting out:

- (a) the nature of the dispute;
- (b) the facts and arguments upon which the person filing the notice of dispute relies; and
- (c) the relief that is sought.

Filing of Notice

86. A notice of dispute must be filed within 30 days of the person filing the notice of dispute becoming aware of the decision being disputed.

Dispute Resolution Process

87. (1) A dispute concerning TTC's right to expropriate, the entitlement of the holder of an expropriated interest or licence to compensation, or the amount of compensation owed will be resolved:

- (a) first through the assistance of an independent evaluator appointed by the Justice Council; and
- (b) then with the assistance of the Peacemaker Court's dispute resolution services, if all parties agree to be bound by an agreement resulting from that process.

(2) Nothing in subsection (1) precludes the parties from accessing the services of a mediator or engaging other dispute resolution procedure, provided that all parties to the dispute consent.

Dispute Resolution by Evaluator

88. Where a dispute is referred to an evaluator under paragraph 87(1)(a) the evaluator will, where appropriate:

- (a) identify the issues in the dispute;
- (b) assess the strengths of each party's case;
- (c) encourage the settlement of the dispute; and
- (d) provide the parties with a non-binding opinion or recommendation to resolve the dispute.

Dispute Resolution Report

89. If the Peacemaker Court provides dispute resolution services under paragraph 87(1)(b) it shall be provided with a copy of any report by the evaluator.

Costs

90. The costs of evaluation and dispute resolution under this Division will be shared between the parties to the dispute, provided that the Peacemaker Court's jurisdiction to award costs will be determined in accordance with applicable enactments.

Adjudication by Peacemaker Court

91. Disputes which cannot be resolved under the procedures set out in section 87 are to be adjudicated by the Peacemaker Court.

Resolution of Disputes Prior to Operation Date of Peacemaker Court

92. If the dispute arises before the operation date of the Peacemaker Court, then a dispute not resolved by evaluation or dispute resolution may be heard by the Yukon Supreme Court.

PART FOUR: USE AND DEVELOPMENT OF LAND AND RESOURCES

DIVISION ONE: LAND USE AND RESOURCE MANAGEMENT PLANNING

Land Uses and Plans

93. (1) The General Council may:

- (a) establish plans for the purpose of facilitating the siting and control of residential, commercial, agricultural, institutional and industrial land uses on settlement land;
- (b) designate settlement land for certain uses and purposes (including public purposes and preservation of ecological and cultural values) consistent with the purposes of this Act.

(2) The General Council may establish land use plans for the purpose of facilitating the siting and control of land uses on BC aboriginal title land.

(3) When a plan or plans are established under subsection (1) or (2), they will be added as a schedule to, and form part of, this Act.

(4) To the extent practicable, plans prepared under the authority of subsection (1) shall be coordinated with regional land use plans prepared as a result of Chapter 11 of the Final Agreement to minimize any overlap or redundancy between the land use planning process required under Chapter 11 of the Final Agreement and subsection (1).

(5) Where the General Council has prepared a plan under subsection (1) or (2), all new interests, licences and permits granted, issued or made under the authority of this Act must comply with the plan.

Resource Management Plans

94. (1) The General Council may establish resource management plans for the purpose of facilitating the wise use and conservation of settlement land and natural resources.

(2) The General Council may establish resource management plans for the purpose of facilitating the wise use and conservation of BC aboriginal title land.

(3) When a plan or plans are established under subsection (1) or (2), they will be added as a schedule to, and form part of, this Act.

(4) To the extent practicable, resource management plans prepared under the authority of subsection (1) shall be coordinated with regional land use plans prepared as a result of Chapter 11 of the Final Agreement and Forest Resources Management plans prepared under Chapter 17 of the Final Agreement

to minimize any overlap or redundancy between the land use planning process required under Chapter 11 and Chapter 17 of the Final Agreement and subsection (1).

(5) Where the General Council has prepared a plan under subsection (1) or (2), all new interests, licences and permits granted, issued or made under the authority of this Act must comply with the plan.

Cooperative Management

95. The General Council may enter into cooperative agreements with other governments and non-government organizations for the purposes of managing settlement land and natural resources, managing BC aboriginal title land, or any other matter relating to management or conservation of the natural environment of the traditional territory.

Aboriginal Title

96. When establishing a plan under this Division, the General Council will take into account whether land and natural resource uses identified in the plan are reconcilable with the nature of the Teslin Tlingit's relationship with, and historic patterns of occupation of, the land identified for such uses.

Citizen and Clan Consultation on Land Use and Natural Resource Management Plans

97. Citizen and Clan consultation on plans established under section 93 and 94 shall be carried out in accordance with section 48 of the *Administration and Interpretation Act*.

DIVISION TWO: DEVELOPMENT OF SETTLEMENT LAND

No Development without a Permit

98. Subject to section 103, and unless an enactment provides for an applicable exemption, no person shall engage in a development on settlement land unless authorized to do so under a permit issued in accordance with this Act or an authorization issued under another enactment.

Permit Requirement applies to Interest Holders and Licencees

99. For greater certainty, and subject to section 105, section 98 applies to interest-holders and licencees.

Development Permit

100. Upon receipt of an application that meets the applicable requirements set out in the regulations, the Executive Council may issue a development permit.

Term and Conditions of Development Permits

101. A development permit issued under section 100 shall be for a maximum term of three (3) years and may be made subject to conditions.

Delegation

102. The Executive Council may, by resolution, authorize the Land Management Committee or the Director of Lands to act as its delegate in the issuance of development permits under this Division.

Final Agreement Rights Preserved

103. Nothing in this Act shall be construed to prevent any person from exercising a right to engage in a development pursuant to the Final Agreement.

Permit does not Confer Tenure

104. A development permit does not confer on the permittee any interest, licence or other tenure in the land.

No Duplication of Regulatory Requirements

105. The Executive Council may exempt the holder of a valid interest or licence under this Act or an authorization under another enactment from the requirement to obtain a development permit in respect of the authorized use of settlement land or taking or use of natural resources, provided that all of the holder's proposed activities and uses are within the scope of the instrument granting the interest, or the terms and conditions of the licence or other authorization, as the case may be.

Requirement for Building Permit Continued

106. (1) The issuance of a development permit under this Act does not relieve the permittee from any requirements to obtain a building permit under any law of general application.

(2) To the extent of any inconsistency between a development permit issued under this Act and a requirement of, or authorization under, the *Building Standards Act* (Yukon) or its regulations as amended or replaced from time to time, the *Building Standards Act* (Yukon) requirement or authorization prevails.

DIVISION THREE: ACCESS PERMITS

TTC Consent Required

107. (1) A person must not exercise a right of access under the Final Agreement without TTC's consent.

(2) Subsection (1) does not apply to a person exercising a right of access where the Final Agreement expressly provides that TTC's consent is not required.

Application for Access Permit

108. A person requiring TTC's consent for access to settlement land under subsection 107(1) shall apply to the Executive Council for an access permit in the prescribed form.

Access Permit

109. (1) Upon receipt of an application that meets all applicable requirements, the Executive Council may issue an access permit to a person requiring access to settlement land for the purpose of exercising a right under the Final Agreement.

(2) An access permit issued under subsection (1) may be subject to conditions consistent with the Final Agreement.

Delegation

110. The Executive Council may, by resolution, authorize the Land Management Committee or the Director of Lands to act as its delegate in the issuance of access permits under this Division.

Compensation Agreement

111. The Executive Council may require, before issuing an access permit, that the applicant enter into a compensation agreement for any actual or potential loss or damage that may result to settlement lands or any person's rights in and to settlement land.

DIVISION FOUR: ENVIRONMENTAL ASSESSMENT

Executive Council shall Exercise the Duties of a Decision Body

112. When, in relation to a project to which the YESAA applies, TTC is a decision body, Executive Council shall exercise all the duties and carry out all the functions of the decision body.

No Project Approval without Decision Document

113. For any project to which YESAA applies:

- (a) TTC shall not issue any approvals for the project under this Act or any other enactment until Executive Council has first issued a decision document; and
- (b) A permit or licence issued or granted under this Act, or any other instrument or authorization issued under this or any other enactment shall include conditions as required to implement any applicable decision document, in accordance with YESAA.

Executive Council may Require YESAA Assessment

114. The Executive Council may waive any exemption under YESAA and require a YESAA Assessment, if Executive Council is of the opinion that the project may cause significant adverse effects on settlement land.

Decision Document Requirement Prevails

115. To the extent of any inconsistency between section 113 of this Act and any other enactment, section 113 of this Act prevails.

Implied Terms

116. A requirement to comply with any applicable decision document is deemed to be a term of every permit and licence issued or granted under this Act.

Decision Document Prevails

117. To the extent of any inconsistency or conflict between the terms and conditions of a permit, licence or other authorization for a development and those of a decision document, the decision document prevails.

DIVISION FIVE: PROTECTION OF SETTLEMENT LAND

No Unauthorized Occupation or Use of Settlement Land or Natural Resources (Trespass)

118. (1) No person shall access, occupy or use settlement land or natural resources except in accordance with:

- (a) a right of access, as described in the Final Agreement;
- (b) a licence or other authorization approving access and use of settlement land granted or issued under this Act, another enactment, or another applicable law;
- (c) a Certificate of Allocation issued in accordance with this Act; or
- (d) an interest granted in accordance with this Act.

(2) Subsection (1) does not apply to a citizen exercising aboriginal rights or other rights pursuant to the Final Agreement in a manner that is not incompatible with other uses.

(3) Subsection (1) does not apply to persons employed or contracted by a government while they are involved in the delivery of emergency services or actions undertaken to protect public health, welfare or safety or to prevent irreparable harm to the environment.

Civil Remedies Preserved

119. All civil remedies for trespass and nuisance are preserved.

Occupier's Liability

120. The Teslin Tlingit Council owes no greater duty of care to a person exercising a right of access on undeveloped settlement land pursuant to the Final Agreement than the Crown owes to a person on unoccupied Crown land.

Fire Protection

121. (1) There shall be a fire season in each year beginning on April 1 and ending on September 30, which may, by order, be extended or shortened by the Director of Lands.

(2) During the fire season, the Director of Lands may, by order, restrict or prohibit the kindling or starting of a fire for some or all purposes.

(3) No person may start a fire contrary to an order made pursuant to subsection (2) unless the Director of Lands has issued to a fire permit authorizing that person to kindle or otherwise start a fire.

(4) An order issued under subsection (2) does not apply to a person who kindles or otherwise starts a fire in a stove, furnace or other device designed to confine the fire and suitable for that purpose.

(5) No person shall leave the vicinity of a fire that they have started or kindled, other than a fire kindled in a stove, furnace or other device designed and capable of confining the fire, until the fire has been totally extinguished.

(6) Where an inspector considers any flammable material dangerous to life or property, the inspector may issue a notice to the person occupying the settlement land on which the flammable material is located and upon receipt of the notice the person shall immediately remove the flammable material to the satisfaction of the inspector.

(7) A person who finds a fire, other than a fire in a stove, furnace or other device designed to confine the fire and suitable for that purpose, shall do their utmost to extinguish the fire or prevent it from spreading and shall report the fire to an inspector as soon as practicable.

(8) Where a fire is burning on settlement land, whether the fire is burning under the authority of a fire permit or not, the person responsible for the fire shall do their utmost to prevent the fire from spreading and to extinguish it if it does spread, and at the person's own expense shall place their services and the services of their employees or contractors at the disposal of the inspector for the purposes of preventing the fire from spreading and to extinguish the fire.

(9) A person who kindles or otherwise starts a fire, whether the fire was started on settlement land or off of settlement land, shall be held liable for costs incurred by the Teslin Tlingit Council for preventing the spread of the fire, extinguishing the fire and for restoring or rehabilitating settlement land damaged by the fire.

Kindling fire in an emergency

122. (1) Notwithstanding subsections 118(1) and 121(3) a person may enter upon and use settlement land in an emergency and, if required, may kindle or otherwise start a fire for the sole purpose of cooking or preparing food or for obtaining warmth.

(2) Any damage caused to settlement land during an emergency must be reported as soon as practicable to an inspector.

(3) A person causing significant damage to settlement land or to any improvements on settlement land during an emergency shall be liable for the damage caused.

(4) A person who fails to report as required in subsection (2) commits an offence.

PART FIVE: COMPLIANCE

DIVISION ONE: ENFORCEMENT

Designation of Inspectors

123. The Executive Council shall appoint such inspectors as may be necessary for the administration and enforcement of this Act and shall confer on an inspector any or all of the powers or authority given to an inspector under this Act.

Cross-Appointment with Other Jurisdictions

124. (1) The Executive Council may enter into agreements with other governments:

- (a) to enable inspectors appointed under this Act to enforce designated legislation of the other government; or
- (b) to enable designation of any person or class of persons employed by the other government to act as an inspector for the purposes of this Act.

(2) Subject to any limitations respecting enforcement provided for in an agreement made in accordance with paragraph (1)(b), every person or class of persons designated in accordance with paragraph (1)(b) shall be deemed an 'inspector' for the purposes of enforcing this Act.

Identification Cards

125. (1) Every inspector and any person or class of persons designated in accordance with an agreement made under paragraph 124(1)(b) shall be provided with an identification card by the Executive Council stating the name, place of employment and the scope of enforcement authority of the person identified.

(2) On entering any place under this Act, an inspector shall, on request, show the certificate of designation to the person in charge of the place.

Enforcement

126. Every inspector appointed under section 123 or designated under paragraph 124(1)(b) has the authority to enforce the provisions of this Act.

Assistance to Inspectors

127. (1) An inspector may be assisted in carrying out their duties and powers under this Act by an officer appointed under the *Fish and Wildlife Act*, a peace officer or a conservation officer appointed under the *Wildlife Act* (Yukon).

(2) The owner of and every person found in any place in respect of which an inspector is exercising powers or duties under this Act, shall:

- (a) give the inspector all reasonable assistance to enable the inspector to exercise their powers and carry out their functions and duties; and
- (b) provide all information necessary to the inspector to enable the inspector to exercise their powers and carry out their functions and duties.

Obstruction

128. No person shall hinder or obstruct an inspector or any person who has been appointed by Executive Council to enforce or administer this Act, where such person is exercising their powers or carrying out their functions and duties under this Act.

Production of Permits

129. No person who is the holder of a permit or is attempting to exercise any rights or privileges granted by the permit shall refuse to show the permit to an inspector upon request.

False Statements

130. (1) No person shall knowingly make any false or misleading statement, either orally or in writing, to an inspector or to the Director of Lands.

(2) A permit or licence is void where it is issued or granted based upon a false statement or false information given orally or in writing.

Transfer of Permits

131. No person shall have physical possession of a permit issued to another person and claim to be that person or exercise or attempt to exercise any rights or privileges carried by the permit which the person would not otherwise have.

Duplication of Permits

132. No person shall alter, imitate or duplicate a permit.

Requirement to Stop

133. (1) The operator of a vehicle shall stop the vehicle when requested to do so by an inspector who is readily identifiable as such.

(2) Upon request, an inspector who exercises a power under subsection (1) shall identify themselves as an inspector either by production of a copy of their designation or by some other means and shall explain the purposes of the inspection.

Posting of Signs and Notices

134. (1) Where considered necessary or advisable in order to carry out the provisions of this Act, an inspector may post signs or notices on settlement land.

(2) No person shall without lawful authority remove, alter, destroy or damage a sign or notice placed under the authority of this Act.

Inspection of Premises and Records

135. (1) For the purposes of ensuring compliance with any provision of this Act, an inspector may, subject to subsection (3), at any reasonable time enter and inspect any place in which the inspector believes, on reasonable grounds, there is anything to which the provision applies or any document relating to its administration and the inspector may:

- (a) open or caused to be opened any container that the inspector believes, on reasonable grounds, contains any such thing or document;
- (b) inspect the thing and take samples free of charge;
- (c) require any person to produce documents for inspection or copying, in whole or in part;
- (d) conduct any tests or analyses and take any measurements;
- (e) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system and reproduce any data record from the computer in any form of a print-out or other intelligible output and remove the print-out or other form of output for copying; and
- (f) use any copying equipment at the place to make copies of any record or document.

(2) An inspector may, without a warrant, seize any thing that is produced to the inspector or that is in plain view during an inspection under subsection (1) if the inspector reasonably believes that there has been a contravention of this Act and that the thing will afford evidence of the contravention.

(3) The inspector may not enter a dwelling-place except with the consent of the occupant or person in charge of the dwelling-place or under the authority of a warrant.

(4) If on application by an inspector only, without notice to the person to be affected by the warrant, a justice of the peace is satisfied by an information on oath that:

- (a) the conditions for entry described in subsection (1) exist in relation to a dwelling-place;
- (b) entry to the dwelling-place is necessary in relation to the administration of this Act; and
- (c) entry to the dwelling-place has been refused or there are reasonable grounds for believing that entry will be refused,

the justice may issue a warrant authorizing the inspector to enter the dwelling-place subject to any conditions that may be specified in the warrant.

(5) For the purposes of carrying out the inspection, the inspector may stop a vehicle or direct that it be moved to a place where the inspection can be carried out.

Search

136. (1) An inspector with a warrant issued under subsection (2) may enter and search any place, including any premises, dwelling-place or vehicle in which the inspector believes on reasonable grounds there is:

- (a) evidence that a development is being or has been carried out in contravention of this Act;
- (b) evidence that any activity which requires a permit is being or has been carried out in contravention of this Act; or
- (c) any thing in the place that will afford evidence of a contravention of this Act.

(2) Where on application by an inspector only, without notice to the person to be affected by the warrant, a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any place referred to in subsection (1), any thing referred to in subsection (1), the justice may issue a warrant authorizing the inspector named in the warrant to enter and search the place for the thing subject to any conditions that may be specified in the warrant.

(3) In carrying out a search under this section, the inspector may exercise any power mentioned in subsection 135(1).

Search without a Warrant

137. (1) Notwithstanding section 135, an inspector may, without a search warrant, search any place other than a dwelling-place if the inspector has reasonable grounds to believe:

- (a) that an offence has been committed;
- (b) that there is in the place any thing that will afford evidence as to the commission of the offence;
- and
- (c) that there are exigent circumstances that make it impractical to obtain a search warrant.

(2) For the purposes of paragraph (1)(c), exigent circumstances include circumstances in which the delay necessary to obtain the search warrant would result in danger to human life or safety, irreparable harm to the environment or loss or destruction of evidence.

(3) An inspector may seize any thing that is found by the inspector during the search under subsection (1), if the inspector reasonably believes that the thing will afford evidence of the commission of the offence.

Custody of Seized Things

138. (1) If an inspector seizes any thing under sections 135, 136 or 137, the inspector may retain custody of the thing for a maximum of 30 days.

(2) If proper storage facilities are not available or if it appears that storage will be necessary for longer than 30 days or for any other reason the inspector cannot properly store the thing, the inspector shall appear before a justice of the peace for direction regarding the disposition of the thing seized.

- (3) Where any thing is seized and brought before a justice of the peace, the justice shall, by order:
- (a) detain it or direct it to be detained in the care of a person named in the order, or
 - (b) direct it to be returned,

and the justice may, in the order, authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

(4) Nothing shall be detained under an order made under subsection (3) for more than four months after the time of seizure unless, before the expiration of that time period,

- (a) upon motion, a justice of the peace is satisfied that having regard to the nature of the investigation, its further detention for a specific period is warranted and the justice so orders; or
- (b) a proceeding is instituted in which the thing may be required.

(5) Upon the motion of a person having an interest in a thing detained under subsection (3), and upon notice to the defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and the prosecutor, a justice of the peace may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

Perishable Items Seized

139. Notwithstanding section 138, if the seized thing is perishable, the inspector may dispose of it or destroy it, and any proceeds of its disposition must be:

- (a) paid to the lawful owner or person lawfully entitled to possession of the thing, unless proceedings under this Act are commenced within 90 days after its seizure; or
- (b) retained by the inspector pending the outcome of the proceedings.

Forfeiture

140. (1) Notwithstanding section 138, if the lawful ownership of or entitlement to a seized thing cannot be ascertained within 30 days after its seizure, the thing, or any proceeds from its disposition, are forfeited to the Teslin Tlingit Council.

(2) The owner of any seized thing may abandon it to the Teslin Tlingit Council.

(3) Any thing that has been forfeited or abandoned under this Act is to be dealt with and disposed of as the General Council may direct.

(4) Where a person is convicted of an offence under this Act, the convicting court may, in addition to any punishment imposed, order that any thing detained or seized, or any proceeds realized from their disposition, be forfeited to the Teslin Tlingit Council.

No Right of Action

141. No right of action lies and no right of compensation exists against the Teslin Tlingit Council, the General Council or an inspector for loss or damage occurring from the disposal of any thing under this Act or from the deterioration of any thing during the period when it is under seizure unless the inspector was negligent in the care of the thing.

Protection of Inspectors and Others

142. No inspector or any other person assisting an inspector is liable for anything done or omitted in good faith execution of any duty or power under this Act.

Notice of Non-Compliance

143. (1) An inspector may issue a notice of non-compliance to a permittee where the inspector believes that a permittee, or the development under the control of the permittee, is not in compliance with this Act or a permit.

(2) The notice under subsection (1) shall state:

- (a) the nature of the non-compliance;
- (b) a request for voluntary compliance;
- (c) the steps which should be taken to achieve compliance; and
- (d) the date by which compliance must be effected.

(3) Where the inspector is satisfied that a person to whom a notice of non-compliance was issued has effected compliance as set out in the notice, the inspector shall withdraw the notice.

(4) No person shall ignore, disobey or disregard a notice of non-compliance issued under subsection (1).

Notice of Unauthorized Occupation

144. If an inspector reasonably believes a person is in contravention of subsection 118(1), the inspector may issue a notice to the person directing that they:

- (a) cease the unauthorized occupation of the settlement land;
- (b) give up possession of the settlement land and remove any improvements made by the person to the settlement land; and
- (c) restore the settlement land to a condition satisfactory to the inspector.

- (2) A notice given under subsection (1) must state:
- (a) the time and place of the unauthorized occupation;
 - (b) a description of the activities occurring as a part of the unauthorized occupation;
 - (c) the action required to be taken by the person; and
 - (d) the time period within which the person must take the action referred to in paragraph (c).
- (3) A person who fails to comply with a notice issued to them under subsection (1) commits an offence.

Orders by Inspectors

145. (1) In addition to any applicable fine, penalty or remedy, an inspector may:
- (a) order the temporary suspension of a permit where the inspector is of the opinion that any of the terms and conditions of the permit have not been complied with by the permittee;
 - (b) issue a Stop Work Order to order any person who has not received full and proper authorization under this Act to cease carrying out any activity, use or development;
 - (c) order any structures, works or installations carried out in violation of this Act to be removed within 30 days, failing which the Lands Manager may order them to be removed or may have them removed at the expense of the interest holder or the person who constructed or installed the structures, works or installations without proper authorization;
 - (d) seize and detain any natural resource or product manufactured from natural resources when the inspector has reasonable grounds to believe it was not obtained in accordance with the terms of this Act or its regulations or the terms of any authorization under this Act or its regulations.
- (2) Where the inspector is satisfied that adequate steps have been taken by the permittee to remedy the conditions which led to the making of the order under paragraph (1)(a), the inspector shall revoke the order and reinstate the suspended permit.
- (3) An order made under paragraph (1)(a) expires thirty days from the date of issue or after such shorter period as is specified in the order.
- (4) The Director of Lands may extend the expiry date of an order made under paragraph (1)(a).
- (5) No person shall ignore, disobey or disregard an order issued under paragraph (1)(a).
- (6) A Stop Work Order imposed under paragraph (1)(b):
- (a) may be registered in court and enforced as a court order; and
 - (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the Stop Work Order receives a permit or authorization under this Act.
- (7) If materials are seized under paragraph (1)(d):
- (a) they may be removed to a place that is appropriate for their protection and, if in the care of a carrier at the time of seizure, the carrier may be directed to move the materials to the place so designated;
 - (b) the costs of transportation and other charges incurred in the event of a seizure will be included in the costs of seizure and are chargeable to a party found in breach of this Act; and
 - (c) seizure shall not prejudice or affect any lien to which a carrier may be entitled in respect of the materials to the time of such seizure.

Orders by the Director of Lands

146. (1) The Director of Lands may, after giving the permittee reasonable notice and an opportunity to be heard, order the suspension or cancellation of a permit, where the Director of Lands is of the opinion that the permittee:
- (a) has failed to comply with any of the terms and conditions of their permit;
 - (b) is carrying on a development that fails to comply with this Act; or

- (c) has undertaken the development or activity subject to a permit in a manner that is detrimental to the health, welfare, safety or environment of citizens on settlement land.
- (2) The Director of Lands shall immediately upon ordering the suspension or cancellation of a permit give notice of the order of suspension or cancellation to the permittee with reasons for the suspension or cancellation.
- (3) Where the Director of Lands is satisfied that adequate steps have been taken by the permittee to remedy the conditions which led to the suspension or revocation, the Director of Lands shall reinstate any suspended permit or issue a new permit.
- (4) A decision by the Director of Lands to suspend or cancel a permit is not subject to judicial review.
- (5) A person who ignores, disobeys or disregards an order issued to them under subsection (1) commits an offence.

Immunity

147. No right of action lies and no right of compensation exists against the Director of Lands for loss or damage occurring from the cancellation, suspension, or revocation of a permit under section 146.

Action to Restore Damage

148. (1) If a permittee fails to comply with any terms and conditions of a permit and has been notified of this failure in an order or notice of non-compliance, the Director of Lands may take whatever action they consider necessary to effect compliance with the permit, the order or notice of non-compliance.
- (2) The costs of any action taken by the Director of Lands may be recovered from the permittee as a debt due to the Teslin Tlingit Council.

DIVISION TWO: OFFENCES

Penalties

149. (1) Every person who contravenes this Act is guilty of an offence punishable on summary conviction and liable to a fine not exceeding three hundred thousand dollars (\$300,000) or to imprisonment for a term not exceeding six months, or to both.
- (2) On a court's own initiative or on application by counsel for the prosecution, a court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person to take all or part of the action necessary to prevent, decrease or eliminate the effects on the natural environment of the offence and to restore the natural environment within the period of time specified in the order.
- (3) An order under subsection (2) may contain such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation.
- (4) Any fines paid into court under this section shall be paid to the Teslin Tlingit Council.
- (5) Where any contravention of this Act is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

Other Penalties

150. On a conviction for a contravention of this Act, in addition to or instead of a fine or other penalty, the court may require the convicted person:

- (a) to take any action as may be necessary to refrain from causing any further adverse effect;
- (b) to take any action as may be necessary to restore or rehabilitate the environment affected by the commission of the offence;
- (c) to make restitution to any person who suffered damages as a result of the commission of the offence as the judge may consider appropriate; or
- (d) to undertake any other actions as may be necessary to achieve compliance.

Request for Compliance

151. An inspector may issue a notice of non-compliance to a person when the officer believes that the person, or a development under the person's control, is not in compliance with this Act or a permit issued by the Teslin Tlingit Council relating to a development.

Notice of Penalties

152. A notice under section 151 shall state:

- (a) the nature of the non-compliance;
- (b) a request for compliance;
- (c) the steps which must be taken to achieve compliance; and
- (d) the date by which compliance must be effected.

Public Register of Notices

153. The Executive Council may establish a public register of notices of non-compliance and, when such a register is established, shall cause a copy of every active notice of non-compliance to be placed on the register.

Register Accessible to Public

154. A register established under section 153 shall be accessible to the public without charge during normal business hours at the principal administrative offices of the Teslin Tlingit Council.

Withdrawal of Notice

155. If an inspector is satisfied that a person to whom a notice of non-compliance was issued under section 151 is now complying with the notice, the officer shall withdraw the notice of non-compliance and the council shall then cause the copy of the notice to be removed from the public register.

Tickets

156. If an inspector believes on reasonable grounds that a person has committed an offence under this Act, then, as an alternative to prosecution for the offence or other sanctions, the officer may issue a ticket against the alleged offender in the following amount:

- (a) for a first offence, up to \$500 and, in the case of a continuing offence, to a further penalty of up to \$500 for each day or part of a day during which the offence continues after the first day; and
- (b) for a second offence, up to \$1,000 and, in the case of a continuing offence, to a further penalty of up to \$1,000 for each day or part of a day during which the offence continues after the first day.

Ticket Endorsement

157. Any ticket issued in respect of an offence under this Act shall bear the following endorsement:
“A conviction arising from the issuance of this ticket may constitute a prior conviction for the purpose of imposing a higher penalty for any subsequent conviction under the *Settlement Land and Resources Act 2016*.”

Punishment not Otherwise Provided For

158. Except as otherwise provided in this Act, every person who contravenes this Act or the regulations is guilty of an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars (\$10,000) and or to imprisonment for a term not exceeding six months, or to both.

Offences by Corporations

159. Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the penalty provided under this Act, whether or not the corporation has been prosecuted.

Offences by Employers or Agents

160. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused and the accused knew or ought to have known of the offence, whether or not the employee or agent is identified or has been prosecuted for the offence.

Due Diligence

161. No person shall be convicted of an offence under this Act if the person establishes that the person:

- (a) exercised all due diligence to prevent the commission of the offence; or
- (b) reasonably and honestly believed in the existence of facts that, if true, would render the person's conduct innocent.

Continuing Offences

162. Where a violation of this Act continues for more than one day, the person shall be deemed to have committed a separate offence for each day the violation continues.

Limitation Period

163. (1) Proceedings relating to an offence under this Act shall not be commenced later than two years after the later of:

- (a) the day on which the offence was committed; or
- (b) the day on which evidence of the offence sufficient to justify a prosecution for the offence first came to the knowledge of an inspector.

(2) Only the Executive Council on behalf of the Teslin Tlingit Council may institute proceedings in respect of any offence under this Act.

Procedure

164. Any offence or administrative penalty created under this Act shall be prosecuted as an offence or ticket against an enactment pursuant to the *Summary Conviction Act (Yukon)*, with any modifications that are necessary.

Orders under this Act

165. Judicial notice shall be taken of:

- (a) a notice of non-compliance issued by an inspector under section 143 or 151 of this Act; and
- (b) an order made by the enforcement officer under subsection 145(1) of this Act directing a person to stop all work or carry out measures to mitigate the effects of non-compliance.

Remedies Preserved

166. A proceeding, conviction or penalty for an offence under this Act does not relieve a person from other liability.

Recovery of Fines

167. (1) When a fine, or any part of a fine, imposed on a person under this Act is not paid within 15 days after its imposition, or within any other time that may be allowed for its payment, the fine shall be deemed to be a debt due to the Teslin Tlingit Council and on the proof of the non-payment of the fine, a justice shall grant default judgment in favour of the Teslin Tlingit Council.

(2) If a default judgment is granted under subsection (1), the justice shall complete a default judgment in the prescribed form, and on the filing of the default judgment with the Small Claims Court, if the unpaid amount is within that court's jurisdiction, or the Supreme Court, it shall be deemed to be a judgment of that court for all purposes.

(3) A default judgment shall not be granted under this section more than two years after the day on which the fine was to be paid in full.

Injunctions

168. The Executive Council may apply to a judge of the Supreme Court of the Yukon for and the judge may grant an injunction enjoining any person from continuing conduct that is in contravention of this Act.

Sentencing Principles

169. (1) A court shall take into account the sentencing objectives and principles in this section and such other objectives and principles as it considers appropriate when imposing a sentence for an offence.

(2) The fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a safe and healthy environment by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to provide reparations for harm done to the community;
- (d) to promote a sense of responsibility in offenders and acknowledgment of the harm done to the community;
- (e) to protect the special relationship between the citizens of the Teslin Tlingit Council and the environment; and
- (f) to protect the cultures, traditions, health and lifestyle of the citizens of the Teslin Tlingit Council and other residents of the Yukon Territory.

(3) The following sentencing principles shall be taken into account:

- (a) a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender;
- (b) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender; and
- (c) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.

PART SIX: REGULATIONS

Executive Council may make Regulations

170. The Executive Council may make regulations respecting:
- (a) the form and content of applications for interests, licences, and permits;
 - (b) the requirements and procedures for granting interests, licences and permits;
 - (c) criteria for Executive Council consent to dispositions;
 - (d) systems for recording interests and licences pursuant to section 61;
 - (e) pre-conditions to the granting and issuance of interests, licences and permits, including, without limitation, engineering requirements, and heritage, environmental assessment, timber harvesting and mineral extraction requirements;
 - (f) exemptions from the requirement for a licence or permit;
 - (g) application fees;
 - (h) where financial security is required, procedures respecting the financial security to be provided and its terms;
 - (i) rates, or principles to be applied in setting rates, for royalties or other payments to TTC for the use or removal of natural resources from settlement land;
 - (j) rights and procedures for expropriations under Division Seven of Part 3;
 - (k) rules and procedures for the receipt, management, expenditure, and borrowing of moneys in relation to settlement land and the administration of settlement land, and the establishment of administrative structures to manage such moneys;
 - (l) zoning and other matters as required to implement plans established under Division One of Part Four;
 - (m) the establishment of a register under section 153; and
 - (n) any other matter necessary to implement this Act.

PART SEVEN: GENERAL

Severability

171. In the event that all or any part of any Part, Division, section, subsection or paragraph of this Act are found by a court of competent jurisdiction to be invalid, such portions or sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

Aboriginal Rights, Titles and Interests

172. If TTC grants to any person, by way of a disposition or otherwise, less than the entire interest it holds to a parcel of settlement land under sections 5.4.1.1(a) or 5.4.1.2 of the Final Agreement, for which confirmation of registration in a registry is issued, the priority provisions of section 5.9.1 and the undertaking provisions of section 5.9.2 of the Final Agreement shall apply to such lands.

Immunity

173. No action for damages lies or may be instituted against TTC, or a manager, officer, employee, servant or agent of TTC:

- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority; or
- (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

No Immunity

174. Section 173 does not provide a defence if:

- (a) TTC, or a manager, member, employee, servant or agent of TTC, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
- (b) the cause of action is libel or slander.

Limitation of Liability

175. TTC, or a manager, member, employee, servant or agent of TTC, is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions of this Act or any other TTC enactment, or from the neglect or failure, for any reason or in any manner, to enforce this Act or any other TTC enactment.

Limitation Period

176. All actions against TTC for the unlawful doing of anything that:
- (a) is purported to have been done by TTC under the powers conferred by this Act or any TTC Act, and
 - (b) might have been lawfully done by TTC if acting in the manner established by law, must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

Service

177. An order, a notice or any other document that must be served under this Act, may be served by:
- (a) personally giving the order, notice or other document to the person to whom it is directed;
 - (b) mailing the order, notice or other document, by registered mail, to the person to whom it is directed to the last known address for that person; or
 - (c) if the person is unknown, affixing the order, notice or other document in a conspicuous location where the development or other activity of concern is occurring.

Alternative Dispute Resolution

178. The Peacemaker Court may establish dispute resolution mechanisms for resolving disputes in relation to the possession, use or occupation of Settlement Land.

PART EIGHT: REPEAL OF OTHER ENACTMENTS, COMING INTO FORCE

Repeal

179. The *Settlement Land and Resources Act 2008 (Revised)* is repealed on the day this Act comes into force.

Permits Continue

180. (1) Any permits, authorizations or other approvals issued under the *Settlement Land and Resources Act 2008 (Revised)* or its predecessors shall be treated as if they were permits issued under this Act for the term of the permit.

(2) A person holding a permit, authorization or other approval issued under the *Settlement Land and Resources Act 2008 (Revised)* or its predecessors may apply for a renewal of the permit, authorization or other approval as if it were a permit issued under this Act.

Appointments Continue

181. Appointments to the Committee and appointments of inspectors made under the authority of the *Settlement Land and Resources Act 2008 (Revised)* or its predecessors shall continue as if the appointments had been made under this Act.

Coming into Force

182. This Act or any provision of it comes into force on a day or days to be fixed by the Executive Council.