

SETTLEMENT LAND AND RESOURCES ACT

*Assent Given November 20, 1998*

*The General Council enacts as follows:*

**Short Title**

1. This Act may be cited as the *Settlement Land and Resources Act*.

**Definitions**

2. In this Act,

“allocation” means an allocation of Settlement Land made under section 26;

“allocation holder” means a citizen to whom an allocation has been made under section 26;

“Committee” means the Land Management Committee as established by section 4 of this Act;

“development” means any human project, industry, undertaking, enterprise, operation or activity or any alteration or expansion of the same that involves the use of the surface of Settlement Land or resources found on the surface of Settlement Land, unless exempt by the regulations, but does not include traditional activities or activities undertaken in conjunction with traditional activities;

“Director” means the person appointed from time to time by the Chief Executive to be responsible for the administration of this Act;

“disposition” includes an allocation, lease, licence of occupation, right of way or easement made in accordance with this Act;

“dwelling place” includes a camp used on a temporary or permanent basis;

“flammable material” includes trees, timber, brush, slash, grass, vegetation, garbage, debris, gas, solvents, fuels and other volatile materials whether in a gaseous, liquid or solid state;

“government” means the government of Canada, the government of the Yukon, the government of another Yukon First Nation, or all three, depending upon which has responsibility from time to time for the matter in question;

“inspector” means a person appointed from time to time under section 37;

“leasehold” means the estate in real property held by a lessee;

“lessee” means a person who enters into a lease with the Teslin Tlingit Council;

“litter” includes any rubbish, refuse, garbage, paper, packaging, containers, bottles, cans, the whole or part of a vehicle or piece of machinery, construction material or demolition waste that is abandoned or discarded;

“permit” means a permit issued under this Act;

“permittee” means the holder of a permit and includes any person engaged in a development or anyone employed by a permittee to conduct a development;

“register” means the Register of Lands and Resources as established by section 6 of this Act;

“residential use” includes the use of Settlement Land for the purposes of constructing a person’s primary residence as well as any cabins, camps or other dwelling places used in relation to traditional activities;

“resources” includes renewable and non-renewable resources, including fish, wildlife, timber, plants, minerals, gravel, water, air and other natural components of the environment;

“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 members 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;

“vehicle” includes trucks, automobiles, all-terrain vehicles, boats and any other land, air or water craft or device used to transport people and things; and

in addition to the meaning of “wildlife” provided in the final agreement, “wildlife” includes invertebrate animals of any species or subspecies that are wild in the Yukon.

### **Purposes**

3. The purposes of this Act are to:
  - (a) ensure that Settlement Land and resources are held and managed in trust for all citizens, including future generations of citizens;
  - (b) establish a comprehensive and integrated process for making decisions that considers the importance of environmental, social, cultural and heritage values of citizens and ensures protection and conservation of Settlement Land and resources for present and future generations;
  - (c) fully consider and use the knowledge and experience of citizens in making decisions about Settlement Land and resources;
  - (d) enhance control and responsibility for the use and protection of Settlement Land and resources by citizens; and
  - (e) protect the culture, traditions, health and lifestyle of citizens and to ensure that information about these things is used respectfully and wisely in making decisions about Settlement Land and resources.

## **PART ONE - TESLIN TLINGIT LAND MANAGEMENT COMMITTEE**

### **Land Management Committee**

- 4.(1) The Teslin Tlingit Land Management Committee is hereby established.

- (2) One member and one alternate from each of the Yanyedi, Ishkitan, Deshitan, Dakh'l'awedi and Kukhhittan clans of the Teslin Tlingit Council shall be appointed to the Committee.
- (3) Members and alternates shall be appointed by each clan within 60 days of a request from the Chief Executive.
- (4) The members and alternates shall hold office for a three year term, except any appointment replacing a member whose term has not expired shall only be for the unexpired portion of that term.
- (5) Members and alternates shall work for the betterment of citizens.
- (6) In the event of a member resigning or otherwise withdrawing from the Committee, that member's alternate shall replace the member on the Committee until the appointing clan appoints a new member to the Committee.
- (7) Members and alternates may only be removed for cause.
- (8) The Committee may adopt bylaws for its internal management and may make rules governing its procedures consistent with the final agreement.
- (9) The Committee shall report to the General Council as required, but no less than twice annually.
- (10) The Committee shall file a written report of its activities with the General Council annually.

#### **Powers of the Committee**

5. (1) The purpose of the Committee is to advise the Director, Executive Council and General Council on all matters relating to:
  - (a) maintaining land and resources in a natural condition while providing for their sustainable use;
  - (b) the management and protection of land and resources; and,
  - (c) such other related activities as may be directed by the General Council.
- (2) Without restricting the generality of subsection (1), the Committee may provide advice on the following:
  - (a) coordination of policies, procedures, programs and laws of the Teslin Tlingit Council respecting the administration, use and management of land and resources under the control of the Teslin Tlingit Council;
  - (b) management and administration of rights or benefits realized pursuant to the final agreement and to be controlled by the Teslin Tlingit Council where those rights or benefits affect land and resources;
  - (c) management, administration or use of land and resources by any person where the management, administration or use are to be controlled by the Teslin Tlingit Council; and,
  - (d) advising all boards, heads of departments and agencies of the Teslin Tlingit Council and government on matters pertaining to the management, use and protection of land and resources within the Traditional Territory, and for greater certainty, this includes 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 all citizens; and

(b) incorporate the Tlingit way into all operations of the Committee, including, for greater certainty, consensus decision-making.

(4) In this section, 'land' includes all Settlement and Non-Settlement Land within the Traditional Territory.

## **PART TWO: REGISTER OF LAND AND RESOURCES**

### **Establishment**

6. There is hereby established a Register of Lands and Resources which shall contain:

- (a) duplicate originals of Certificates of Allocation issued under this Act;
- (b) duplicate originals of leases, licences of occupation and other similar instruments issued under this Act to convey an interest in Settlement Land;
- (c) copies of permits or any licence or other authorization issued under another enactment; and
- (d) any other document required by this Act or another enactment to be placed in the register.

### **Administration of the Register**

7. (1) A clerk of the register shall be appointed by the Chief Executive who shall be responsible for maintaining the register.

(2) The register shall be located at the head administrative offices of the Teslin Tlingit Council in Teslin, Yukon and be accessible to any person during normal business hours.

(3) Fees, as may be established by regulations, may be collected for costs incurred for copying documents contained in the register.

## **PART THREE: LAND USE**

### **DIVISION ONE: PROHIBITIONS AND EXCEPTIONS**

#### **Land Held for citizens**

8. (1) All Settlement Land, and any other land acquired by the Teslin Tlingit Council, shall be held in trust by the Teslin Tlingit Council for the use and benefit of present and future generations of citizens.

(2) The Executive Council may, by regulation, determine whether a proposed land use or occupation is for the use and benefit of the citizens.

#### **Restrictions**

9. (1) No grants of the fee simple interest in a parcel of Settlement Land shall be permitted.

(2) Settlement Land 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 that may be entered into by the Teslin Tlingit Council or the General Council.

### **Prohibition on Unauthorized Use or Occupation of Land**

10. (1) No person shall access, occupy or use Settlement Land or resources except in accordance with

- (a) a right of access, as described in the final agreement;
- (b) a licence or other form of authorization approving access and use of Settlement Land issued under another enactment;
- (c) a Certificate of Allocation issued in accordance with this Act; or
- (d) a lease, licence of occupation or other similar instrument of tenure issued in accordance with this Act.

(2) Subsection (1) does not apply to a citizen, unless they are engaged in a development.

(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.

### **Damage to Land**

11.(1) Except as authorized by a permit or disposition or as provided in the final agreement, no person shall:

- (a) cause significant damage to Settlement Land or to improvements on Settlement Land;
- (b) cause mischief to be committed on Settlement Land; or
- (c) cause significant interference with the use and peaceful enjoyment of Settlement Land by citizens.

(2) Any person who causes damage, mischief or interference contrary to subsection (1) shall be liable for any damage to property, Settlement Land or resources resulting from their actions.

### **Right to Civil Action Maintained**

12. Prosecution of an offence under section 10 or 11 does not preclude a civil action in trespass or any other cause of action initiated by:

- (a) a citizen;
- (b) the Teslin Tlingit Council; or
- (c) the Teslin Tlingit Council, on behalf of a citizen.

### **Litter**

13.(1) All persons using, accessing or occupying Settlement Land shall do so in a manner that shows respect to citizens, Settlement Land and resources.

(2) No person shall abandon or discard litter except in a litter receptacle placed for the purpose of collecting litter or as provided in a permit or a disposition of Settlement Land.

(3) The permit referred to in subsection (2) shall be issued or renewed following the procedures described in Division Two of this Part, with the necessary modifications.

**Fire Protection**

14. (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 General Council.

(2) During the fire season, the General Council 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 a permit authorizing the person to kindle or otherwise start a fire has been issued under this Act.

(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 permit or not, the person responsible for 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.

(10) The permit referred to in subsection (3) shall be issued or renewed following the procedures described in Division Two of this Part, with necessary modifications.

**Emergencies**

15.(1) Notwithstanding section 10 or subsection 14(2), 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.

### **Closure and Use of Lands**

16. The General Council may
- (a) withdraw Settlement Land from use and occupation; and
  - (b) designate Settlement Land for certain uses and purposes consistent with the purposes of this Act.

### **Occupier's Liability**

17. 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.

## **DIVISION TWO: ACCESS AND USE OF SETTLEMENT LAND AND RESOURCES**

### **Application**

18. This Division does not apply to
- (a) persons engaged in activities for which a right of access to Settlement Land is provided in the final agreement;
  - (b) persons engaged in activities that are licenced or otherwise authorized to be undertaken on Settlement Land by another enactment; or
  - (c) 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.

### **Prohibitions**

19. No person shall undertake a development on Settlement Land except as authorized by a permit.

### **Permits**

20. (1) The Director may, subject to any terms and conditions he or she considers appropriate, issue or renew a permit for a term not exceeding three years.
- (2) Where a permit is to be substituted for a licence or other authorization or approval that could have been issued under another enactment, the permit may contain any terms and conditions necessary to satisfy the other enactment in addition to any terms and conditions necessary to satisfy this Act.
- (3) All permits are subject to any encumbering rights, as defined in paragraph 5.4.2 of the final agreement.
- (4) It is a condition of every permit that developments must be undertaken by a permittee in a manner that shows respect to citizens, Settlement Land and resources.

**Security**

21. (1) The Director may require, before issuing a permit, that an applicant for a permit provide financial security for:

- (a) the performance of any remedial or preventative action specified in the permit; or
- (b) the restoration and rehabilitation of the area affected by the development to prevent damage during and after the development occurs.

(2) This section does not affect the liability of a permittee for any damage to Settlement Land in excess of the amount of financial security provided in accordance with subsection (1).

**Compensation**

22. The Director may require, before issuing a permit, that an applicant for a permit enter into a compensation agreement for any potential loss or damage that may result from the development to be permitted with:

- (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; or
- (c) citizens engaging in traditional activities in the area to be affected.

**Impact Agreements**

23. The Director may require, before issuing a permit, that an applicant for a permit enter into an impact benefit agreement with the General Council in relation to the development addressing:

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

**Payments**

24. Permits may provide for royalty or other payments to the Teslin Tlingit Council for the use of Settlement Land or for the removal of resources from Settlement Land at rates to be set out in regulations.

**Resource Management Plans**

25.(1) The General Council may establish, amend or revoke resource management plans for the purpose of facilitating the wise use and conservation of Settlement Land and resources.

(2) 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 to minimize any overlap or redundancy between the land use planning process required under Chapter 11 of the final agreement and subsection (1).

**DIVISION THREE: OCCUPATION OF LAND****Allocation of Land**

26. (1) The General Council may allocate Settlement Land to a citizen who is
- (a) 19 years of age or older; and
  - (b) who resides in the Yukon or has resided in the Yukon.
- (2) Allocations shall be subject to the following terms and conditions
- (a) the allocation holder has the right to exclusive occupation and use of the allocated Settlement Land, subject to any restrictions as may be provided in the allocation and in the regulations;
  - (b) the allocation holder has the obligation to pay all property taxes or fees levied by the Teslin Tlingit Council for the allocated Settlement Land;
  - (c) the allocation holder has the obligation to abide by all applicable Teslin Tlingit, territorial or federal laws;
  - (d) the allocation holder has the obligation to conserve and protect the allocated Settlement Land to protect its value and importance to citizens;
  - (e) the allocation is subject to the exceptions and reservations described in section 35;
  - (f) the allocation is subject to any encumbering rights, as defined in paragraph 5.4.2 of the final agreement, that may apply to the allocated Settlement Land; and
  - (g) any other terms and conditions that may be determined by the General Council.
- (3) Allocations may be for a specified period of time or an unspecified period of time, at the discretion of the General Council.
- (4) In the event of an inconsistency or conflict between the terms and conditions of an allocation and the final agreement or this Act, the final agreement or this Act, as the case may be, prevails to the extent of the inconsistency or conflict.
- (5) Allocations may 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 that may be entered into by a citizen.
- (6) Allocations may not be transferred to a person who is not a citizen.
- (7) Allocations may be transferred by a citizen to another a citizen if:
- (a) the citizen to whom the allocation is to be transferred is 19 years of age or older or if this person is less than 19 years of age, the allocation will be held, in trust, by another citizen for the person until he or she reaches the age of 19 years.
  - (b) the citizen resides or has resided in the Yukon; and
  - (c) the transfer is approved by the General Council.
- (8) For greater certainty, subsection (6) does not prevent a citizen from providing in a will that a non-citizen may have a life estate in the allocation as long as the transfer of the allocation remains between two citizens and is conducted in accordance with subsection (7) and the regulations.
- (9) A Certificate of Allocation shall be issued for each allocation made under subsection (1) and for each transfer made in accordance with subsection (7) and a duplicate original of every Certificate shall be filed in the register.

### Revocation of an Allocation

27. (1) The General Council may, in accordance with the regulations, revoke an allocation and the Certificate of Allocation where the citizen to whom the Settlement Land was allocated fails to meet the terms and conditions provided in the allocation or as set out in subsection 26(2).

(2) If the General Council revokes an allocation pursuant to subsection (1), it shall file a notice of revocation in the register.

### Leases

28. (1) The General Council may lease Settlement Land to any person who is

- (a) 19 years of age or older; and
- (b) who resides in the Yukon or has resided in the Yukon.

(2) All leases shall be subject to the following terms and conditions

- (a) the leasehold cannot be used for any other purpose than that which is described in the lease;
- (b) all property taxes or fees levied by the Teslin Tlingit Council for the leasehold are the responsibility of the lessee;
- (c) the lessee has the obligation to abide by all applicable Teslin Tlingit, territorial or federal laws;
- (d) the lessee has the obligation to conserve and protect the leased Settlement Land to protect its value and importance to citizens;
- (e) the leasehold is subject to the exceptions and reservations described in section 35;
- (f) all leaseholds are subject to any encumbering rights, as defined in paragraph 5.4.2 of the final agreement, that may apply to the leasehold;
- (g) leases may be renewed, subject to the approval of the General Council;
- (h) no lease may be transferred or assigned unless the General Council has agreed, in writing, to the transfer or assignment; and
- (i) any other terms and conditions that may be determined by the General Council.

(3) Leases shall be for a specified period of time, not exceeding:

- (a) 99 years for residential leases;
- (b) 25 years for agricultural leases;
- (c) 15 years for commercial, industrial or institutional leases,

based upon the primary land use for the Settlement Land, as determined by the General Council.

(4) In the event of an inconsistency or conflict between the terms and conditions of a lease and the final agreement or this Act, the final agreement or this Act, as the case may be, prevails to the extent of the inconsistency or conflict.

(5) Subject to the regulations, leases may be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other instrument of obtaining credit that may be entered into by a lessee.

(6) A duplicate original of a lease shall be filed in the register.

### Other Dispositions

29. The General Council may grant a licence of occupation, an easement or right of way to Settlement Land subject to any terms and conditions it considers appropriate.

### **Negotiations on Dispositions**

30. (1) A disposition of Settlement Land is not binding on the General Council or the Teslin Tlingit Council until a Certificate of Allocation, lease, licence of occupation, easement or right of way is executed in accordance with this Act.

(2) Negotiations or arrangements, whether in writing or otherwise, made prior to the execution of documents concerning a disposition of Settlement Land are not binding and do not commit the General Council or the Teslin Tlingit Council to perform or complete the disposition.

### **Payments**

31. Dispositions may provide for royalty or other payments to the Teslin Tlingit Council for the use of Settlement Land or for the removal of resources from Settlement Land at rates to be set out in regulations.

### **Surveys and Studies**

32. The General Council may require, before issuing a disposition, that an applicant for a disposition obtain and file with them, at the applicant's expense,

- (a) a survey of the Settlement Land;
- (b) feasibility studies;
- (c) environmental assessments;
- (d) timber cruises;
- (e) land valuation appraisals; and
- (f) any other information the General Council may require.

### **Security**

33. (1) The General Council may require, before issuing a disposition, that an applicant for a disposition provide financial security for the performance and completion by the applicant of all of the obligations and requirements specified by the General Council, including the performance of any remedial or preventative action required to protect and conserve the land or to restore and rehabilitate the Settlement Land.

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

### **Cancellation of dispositions**

34.(1) If the General Council considers it advisable, a disposition may be cancelled or amended if they find any of the following:

- (a) a clerical error in the names or descriptions of the applicant, the description of the Settlement Land or any other material part of the disposition has occurred;
- (b) that the Settlement Land is not available for disposition;
- (c) that a survey completed for the Settlement Land is incorrect; or
- (d) that the information provided by the applicant is incorrect.

(2) If the General Council revokes a disposition pursuant to subsection (1), it shall file a notice of revocation in the register.

### **Exceptions and Reservations**

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

- (a) the right of the Teslin Tlingit Council, or any person acting for it, to resume control over any part of the Settlement Land that is deemed by the General Council to be necessary;
- (b) the right of the Teslin Tlingit Council, or any person acting under the authority of the General Council, to enter any part of the Settlement Land and explore and remove any minerals or other resources; and,
- (c) all timber that may be on the Settlement Land.

### **Land Allocation and Occupation Plans**

36. (1) The General Council may establish, amend or revoke plans for the purpose of facilitating the siting and control of residential, commercial, agricultural, institutional and industrial land uses.

(2) 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).

## **PART FOUR: ENFORCEMENT AND COMPLIANCE**

### **Designation of Inspectors**

37. The General 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**

38. (1) The General 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**

39. Every inspector and any person or class of persons designated in accordance with an agreement made under paragraph 38(1)(b) shall be provided with an identification card by the General Council stating the name, place of employment and the scope of enforcement authority of the person identified.

**Enforcement**

40. Subject to section 37, every inspector has the authority to enforce the provisions of this Act.

**Assistance to Inspectors**

41.(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**

42. No person shall hinder or obstruct an inspector or any person who has been appointed by General 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**

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

**False Statements**

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

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

**Transfer of Permits**

45. 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**

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

**Requirement to Stop**

47. (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**

48. (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**

49. (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**

50. (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 49(1).

### **Search without a Warrant**

51. (1) Notwithstanding section 50, 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 subsection (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**

52. (1) If an inspector seizes any thing under sections 49, 50 or 51, 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 not longer necessary for the purpose of an investigation or proceeding.

### **Perishable Items Seized**

- 53.(1) Notwithstanding section 52, 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**

54. (1) Notwithstanding section 52, if the lawful ownership or of 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**

55. No right of action lies and no right of compensation exists against the Teslin Tlingit Council, 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**

56. 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**

57. (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).

### **Orders by Inspectors**

58. (1) An inspector may 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.

(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, the inspector shall revoke the order and reinstate the suspended permit.

(3) An order made under subsection (1) expires thirty days from the date of issue or after such shorter period as is specified in the order.

(4) The Director may extend the expiry date of an order made under subsection (1).

(5) No person shall ignore, disobey or disregard an order issued under subsection (1).

### **Orders by the Director**

59. (1) The Director may, after giving the permittee reasonable notice and an opportunity to be heard, order the suspension or cancellation of a permit, where the Director 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 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 is satisfied that adequate steps have been taken by the permittee to remedy the conditions which led to the suspension or revocation, the Director shall reinstate any suspended permit or issue a new permit.

(4) A decision by the Director 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.

### **Action to Restore Damage**

60. (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 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 may be recovered from the permittee as a debt due to the Teslin Tlingit Council.

### **Service**

61. 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.

## **PART FIVE: OFFENCES**

### **Penalties**

62.(1) Every person who violates a provision of this Act commits an offence and is liable upon summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or 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 General Council.

### **Continuing offences**

63. 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**

64. 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.

## **PART SIX: MISCELLANEOUS**

### **Cooperative management**

65. The General Council may enter into cooperative agreements with other governments and non-government organizations for the purposes of managing Settlement Land and resources or any other matter relating to conservation of the natural environment of the Traditional Territory.

### **Appeals**

66. (1) Where the General Council has delegated its responsibility for issuing or revoking a disposition, a person affected by the decision made by the delegated body may appeal the decision to the General Council or to a body designated by the General Council to hear such appeals.

(2) The General Council, or the body designated by them to hear an appeal, shall adopt procedures to ensure that the appeal is heard in a fair, reasonable and public forum.

(3) If the General Council designates a body to hear an appeal as set out in subsection (1), the body delegated by the General Council to hear the appeal shall not be a delegated body who originally made the decision that is the subject of the appeal.

### **Regulations**

67. The Executive Council may make regulations prescribing

- (a) those developments for which a permit is not required;
- (b) the process and procedures for withdrawing Settlement Land and designating specific purposes and uses for Settlement Land;
- (c) the form and content of permit applications and the standards and procedures for issuing permits;
- (d) the procedures and requirements for obtaining and using financial security in relation to developments;
- (e) procedures, standards and requirements for issuing or revoking allocations, leases and other interests in Settlement Land;
- (f) procedures and requirements for transferring allocations between citizens;
- (g) procedures and limitations of using leases as security, warranties or other forms of collateral;
- (h) procedures, standards and requirements for the issuance of notices and orders;

- (i) standards and criteria to identify residential, commercial, agricultural and industrial uses of Settlement Land;
- (j) fees payable, where fees are provided for in the Act; and
- (k) any other matter which the Executive Council considers necessary to carry out the purposes and provisions of this Act.

### ***Land and Resources Act***

68. The *Land and Resources Act* is repealed on the day this Act comes into force.

### **Permits Continue**

69.(1) Any permits, authorizations or other approvals issued under the *Land and Resources Act* 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 *Land and Resources Act* may apply for a renewal of the permit, authorization or other approval as if it were a permit issued under this Act.

### **Appointments Continue**

70. Appointments to the Committee and appointments of inspectors made under the authority of the *Land and Resources Act* shall continue as if the appointments had been made under this Act.

### **Consequential Amendment**

71. The definition of 'development' found in section 2 of the *Fish and Wildlife Act* is repealed and replaced with the following:

“development” means any human project, industry, undertaking, enterprise, operation or activity or any alteration or expansion of the same that involves the use of the surface of Settlement Land or resources found on the surface of Settlement Land, unless exempt by the regulations, but does not include traditional activities or activities undertaken in conjunction with traditional activities;

### **Coming into Effect**

72. This Act comes into force on a day to be fixed by the General Council.