

**FISH AND WILDLIFE ACT****Title**

1. This Act may be cited as the *Fish and Wildlife Act*.

**Definitions**

2. In this Act,

'authorization' means any licence, permit or proof of consent issued under this Act or the regulations;

'Category A Settlement Land' has the same meaning as that used in the Final Agreement;

'Category B Settlement Land' has the same meaning as that used in the Final Agreement;

'Citizen' has the same meaning as that used in the Teslin Tlingit Council Constitution, as amended from time to time;

'conservation' means the management of wildlife populations and habitats and the regulation of users to ensure the quality, diversity and long term optimum productivity of wildlife populations, with the primary goal of ensuring a sustainable harvest and its proper utilization;

'Chief Executive' means the Chief Executive Officer of the Executive Council as established in the Teslin Tlingit Council Constitution, as amended from time to time;

'Council' means the Teslin Tlingit Renewable Resources Council as established by section 4 of this Act;

'Developed Category B Settlement Land' has the same meaning as that used in the Final Agreement;

'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 Director appointed from time to time by the Chief Executive to be responsible for the administration of this Act;

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

'fee simple Settlement Land' has the same meaning as that used in the Final Agreement;

'Final Agreement' means the land claims agreement entered into between Her Majesty in right of Canada as represented by the Minister of Indian Affairs and Northern Development, the Government of the Yukon Territory as represented by the Government Leader of the Yukon and the Teslin Tlingit Council, as represented by the Teslin Tlingit General Council, signed on May 29, 1993, and includes any amendments made to it from time to time in accordance with its provisions;

'fishing' means to fish for, catch or attempt to catch fish by any method;

'General Council' has the same meaning as that used in the Teslin Tlingit Council Constitution, as amended from time to time;

'Government' means the Government of Canada or the Government of the Yukon, or both, depending upon which has responsibility, from time to time, for the matter in question;

'habitat' means the air, soil, water, food, cover and all the other components of the natural environment of wildlife;

'harvest' includes hunting and fishing;

'hunt' includes shooting at, attracting, looking for or following wildlife, whether or not wildlife is then or subsequently wounded, killed or captured, while in possession of a firearm or other weapon, but does not include trapping;

'litter' includes abandoning or discarding materials including rubbish, garbage, paper, packaging, containers, bottles, cans, sewage, the whole or part of a vehicle or piece of machinery, construction material or demolition waste into the natural environment, but does not include abandoning or discarding materials at a waste disposal site maintained by the Government of the Yukon or in a village or municipal garbage and refuse disposal system;

'Manager' means the Manager of Renewable Resources, as appointed from time to time by the Chief Executive;

'officer' means a wildlife officer as appointed under section 41 of this Act;

'outfitter' means a person authorized to outfit under the *Wildlife Act (Yukon)*;

'outfitting area' means an area for which an outfitter's concession has been granted under the *Wildlife Act (Yukon)*;

'permit' includes a habitat protection permit, a research permit and any other permit issued under this Act;

'proof of enrollment' means an identification card or other evidence of a person having been enrolled under the Final Agreement in accordance with the criteria established in Chapter 3 - Eligibility and Enrollment of the Final Agreement, issued by the Teslin Tlingit Council;

'road' includes the travelled portion of the road and if present, any shoulder or ditch immediately adjacent to the travelled portion of the road;

'subsistence' has the same meaning as that used in the Final Agreement;

'Teslin Renewable Resources Council' has the same meaning as that used in the Final Agreement;

'trap' means to capture a furbearing animal by snare, net or other device used or designed for trapping animals, but does not include trapping undertaken for the purposes of public safety or conservation by an officer or by a conservation officer appointed under the *Wildlife Act (Yukon)*;

'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, boats and any other land, air or water craft or device used to transport people and things;

'weapon' includes a longbow, crossbow, rifle, shotgun, handgun, spring gun and any other device that propels a projectile by means of an explosion, compressed gas or spring; and,

'wildlife' means any vertebrate animal found in a wild state, excluding fish and migratory birds.

### **Purposes**

3. The purposes of this Act are:

- a) to ensure conservation in the management of all wildlife and their habitat;
- b) to preserve and enhance the renewable resource economy of Citizens;
- c) to preserve and enhance the culture, identity and values of Citizens;
- d) to integrate all aspects of renewable resource use and management;
- e) to develop responsibility for renewable resource management by Citizens;
- f) to honour wildlife harvesting customs of Citizens;
- g) to provide for the ongoing wildlife needs of Citizens; and,
- h) to ensure the maintenance of essential ecological processes and the preservation of biological diversity.

## **PART ONE - TESLIN TLINGIT RENEWABLE RESOURCES COUNCIL**

### **Establishment of the Renewable Resources Council**

4. (1) The Teslin Tlingit Renewable Resources Council is established.

(2) One member and one alternate from each of the five clans of the Teslin Tlingit, as identified in the Teslin Tlingit Council Constitution, as amended from time to time, shall be appointed to the Council.

(3) Members and alternates shall be appointed by each clan within 60 days of a request for appointment from the Chief Executive.

(4) The members and alternates shall hold office for a five 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 Council, that member's alternate shall replace the member on the Council until the appointing clan appoints a new member to the Council.

(7) Members and alternates may only be removed by their appointing clan for cause.

(8) The Council may adopt bylaws for its internal management and may make rules governing its procedures consistent with the Final Agreement.

(9) The Council shall report to the Executive Council and General Council as required, but no less than two times per year.

(10) The Council shall file an annual written report of its activities with the General Council.

### **Purpose and duties of the Council**

5(1) The purpose of the Council is to advise the Manager, Director, Executive Council and General Council on all matters relating to:

- a) the conservation and enhancement of the quality of the environment;
- b) the conservation and enhancement of renewable resources, including fish, wildlife, migratory birds and other non-domestic flora and fauna; and,
- c) such other related activities as may be directed by the General Council.

(2) Without restricting the generality of subsection (1), the Council may provide advice on the following:

- a) the development of policies, programs, procedures and laws of the Teslin Tlingit Council respecting the protection and enhancement of the quality of the environment;
- b) the management and administration of rights or benefits realized pursuant to the Final Agreement and to be controlled by the Teslin Tlingit Council where such rights or benefits affect renewable resources; and,
- c) the management and administration of renewable resources on Settlement Land and the use of renewable resources by any person on Settlement Land where such resources and activities are to be controlled by the Teslin Tlingit Council.

(3) The Council may provide advice to all boards, heads of departments and agencies of the Teslin Tlingit Council, the Government of the Yukon, the Government of Canada and any boards, committees or other bodies established pursuant to the Final Agreement on matters pertaining to the conservation and enhancement of the quality of the renewable resources located within the Traditional Territory.

(4) The Council, in exercising its duties and responsibilities, shall:

- a) operate for the benefit of all Citizens;
- b) incorporate the Tlingit Way into all operations of the Council, including, for greater certainty, consensus decision-making;
- c) maximize Tlingit control and jurisdiction over the Traditional Territory and the programs and services to Citizens;
- d) achieve economic self-sufficiency by creating a viable economic base; and,
- e) provide good common sense government for and by Citizens.

## **PART TWO: HUNTING BY TESLIN TLINGIT CITIZENS**

### **Application**

6. This Part applies only to Citizens harvesting within the Traditional Territory.

**Proof of Enrollment**

- 7.(1) No person shall harvest within the Traditional Territory without proof of enrollment.
- (2) Subsection 1 does not apply to a person enrolled under the Final Agreement who was 55 years of age or older on February 14, 1995.

**Regulations**

8. The Executive Council may make regulations prescribing any restrictions or qualifications on persons harvesting under the authority of Part Two, including regulations
- a) establishing any age or training requirements for harvesting;
  - b) closing areas to harvesting;
  - c) establishing quotas or other restrictions on species that can be harvested;
  - d) prescribing harvesting methodologies; and,
  - e) respecting any other matter which the Executive Council considers necessary to manage, administer, allocate or otherwise regulate the exercise of harvesting rights of Citizens under the Final Agreement or this Part.

**PART THREE: HUNTING BY NON-TESLIN TLINGIT CITIZENS****Application of this Part**

9. This Part does not apply to Citizens hunting in accordance with Part Two of this Act.

**Subsistence Harvesting by Consent**

- 10.(1) No person shall harvest for subsistence within the Traditional Territory without proof of consent of the Teslin Tlingit Council.
- (2) Proof of consent shall be in the form approved by the General Council.

**Harvesting on Settlement Land**

- 11.(1) This section shall not apply to a person subsistence harvesting as authorized in section 10.
- (2) No person shall enter and stay upon Category A Settlement Land, Developed Category B Settlement Land or fee simple Settlement Land for the purposes of hunting, except as authorized by a licence issued under this Act.
- (3) No outfitter shall enter and stay upon Settlement Land for the purposes of, or in connection with, hunting on Settlement Land, except as authorized by a licence issued under this Act.
- (4) Subsection (2) does not apply to those persons hunting with an outfitter who is licenced in accordance with subsection (3).
- (5) Except as provided in the Final Agreement, no person shall enter and stay upon Settlement Land for the purposes of fishing, except as authorized by a licence issued under this Act.

(6) Applications for licences shall be in a form provided by the General Council and shall state

- (a) the name and mailing address of the applicant;
- (b) the area in which the person intends to hunt;
- (c) the proposed dates of the hunting; and
- (d) any other information as determined by the General Council.

(7) An officer may issue a licence to an applicant subject to any terms and conditions that the General Council considers appropriate or the officer may refuse to issue a licence to an applicant.

(8) Licences shall be issued in a form approved by the General Council.

(9) Fees, as may be prescribed from time to time by the Executive Council, may be collected for licences issued under subsections (2), (3) or (5).

(10) The Executive Council may waive fees if they consider it appropriate in the circumstances.

(11) All licences issued under this Part shall be deemed to be proof of consent to access and use Settlement Land or Category A Settlement Land, Developed Category B Settlement Land, and fee simple Settlement Land, as the case may be, for the purposes of hunting or fishing.

### **Regulations**

12. The Executive Council may make regulations prescribing restrictions or qualifications of persons hunting under the authority of Part Three, including regulations

- a) establishing any age or training requirements;
- b) closing areas to access for hunting;
- c) establishing quotas or other restrictions on species that can be hunted;
- d) prescribing hunting methodologies; and
- e) respecting any matter which the Executive Council considers necessary to carry out the purposes and provisions of this Part.

## **PART FOUR: GENERAL PROHIBITIONS**

### **Paramourcy of this Part**

13. This Part is paramount to Part Two and Part Three of this Act.

### **Application**

14.(1) For greater certainty, this part applies to Citizens throughout the Traditional Territory and to persons hunting for subsistence within the Traditional Territory with the consent of the Teslin Tlingit Council.

(2) For greater certainty, this part applies to non-Citizens while hunting on Settlement Land within the Traditional Territory.

### **Damage to Settlement Land or Improvements**

15.(1) 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) For greater certainty, Settlement Land in subsection (1) includes all Category A Settlement Land, Category B Settlement Land and fee simple Settlement Land.
- (3) Any prosecution initiated in relation to subsection (1) does not affect any civil action that may be initiated by
- a) a Citizen;
  - b) the Teslin Tlingit Council on behalf of any Citizen; or
  - c) the Teslin Tlingit Council
- in relation to the trespass.

### **Dangerous Hunting**

16. No person shall hunt
- a) without reasonable consideration for the lives, safety or property of other persons;
  - b) by discharging a weapon on or across a road that is used by the public;
  - c) with a weapon that is in an unsafe condition; or
  - d) while impaired by alcohol or a narcotic within the meaning of the *Narcotic Control Act (Canada)*;

### **Kills in Defence of Person or Property**

- 17.(1) Notwithstanding anything in this Act or the regulations, a person may wound or kill wildlife if it is necessary:
- a) to preserve their or another person's life; or
  - b) to protect property.
- (2) Every person who wounds or kills wildlife under subsection (1) shall as soon as is reasonably practical report the wounding or killing to an officer and
- a) give the wildlife to the officer, or
  - b) advise the officer of where the wildlife was last seen by the person.
- (3) The officer may attempt to locate any animal reported killed or wounded under subsection (2) and, if located, shall dispose of the wildlife in a manner deemed appropriate by the officer.
- (4) A report of a defence kill made in accordance with the *Wildlife Act (Yukon)* shall be considered a report under subsection (2).

### **Emergency Kills**

- 18.(1) Notwithstanding anything in this Act or the regulations, a person may hunt wildlife for food where it is necessary to prevent their or another person's starvation.
- (2) Every person who relies upon subsection (1) through mismanagement or poor planning commits an offence.
- (3) Every person who kills wildlife under subsection (1) shall as soon as reasonably practical report the kill to an officer.

(4) A report of an emergency kill made in accordance with the *Wildlife Act (Yukon)* shall be considered a report under subsection (3).

### **Dangerous Wildlife**

19. (1) An officer or a person authorized in writing by an officer may kill or destroy wildlife on Settlement Land at any time and by any means where

- a) the wildlife is endangering property or public safety; or
- b) the wildlife is wounded or diseased or the officer or person reasonably believes that the wildlife is wounded or diseased.

(2) Every person who kills wildlife under the authority of subsection (1) shall as soon as reasonably practical report the kill to an officer.

## **PART FIVE: CATEGORY 1 TRAPLINES**

### **Category 1 Traplines**

20. (1) All traplines designated in accordance with the Final Agreement as Category 1 traplines shall be allocated by the General Council to a person or to a group of persons for

- a) a probationary period of one year, with the possibility of renewal; or
- b) up to five years, with the possibility of renewal.

(2) Fees, as may be prescribed from time to time by the Executive Council, may be collected for allocations or renewals of allocations made under subsection (1).

### **Category 1 Trapline Certificate**

21.(1) The Manager shall issue a Category 1 Trapline Certificate to each person or group of persons allocated a Category 1 Trapline pursuant to section 20.

(2) Where the General Council allocates a Category 1 Trapline to a group of persons, each person shall be named on the Category 1 Trapline Certificate.

(3) The Category 1 Trapline Certificate shall be issued in a form approved by the General Council.

### **Assistant Trappers**

22.(1) A Category 1 Trapline holder may designate assistant trappers for their Category 1 Trapline.

(2) Where a group of persons hold a Category 1 trapline, the Council may determine the total number of assistant trappers that may be designated for that Category 1 trapline.

### **Category 1 Trapline Register**



23.(1) The Manager shall establish a register for the purposes of recording the names of all persons eligible to trap on a Category 1 Trapline.

(2) For the purposes of subsection (1), persons eligible to trap are the registered Category 1 Trapline holder and any assistant trappers designated by the Category 1 Trapline holder or in the case of a group trapline, any designated members of the group and their assistant trappers.

(3) The Manager shall provide access to the register to all Citizens during normal office hours.

### **Trapping only with Certificate**

24. No person shall trap furbearers on a Category 1 trapline except as authorized by a Category 1 Trapline Certificate issued under this Act.

### **Regulations**

25. The Executive Council may make regulations respecting:

- a) criteria for the allocation of Category 1 traplines;
- b) criteria for the revocation and reassignment of all new, vacant and under-utilized Category 1 traplines;
- c) requirements for trapper training and the development of curricula for trapper education programmes for Category 1 trapline holders;
- d) content and location of the Category 1 trapline register;
- e) requirements, duties and responsibilities of Category 1 trapline holders to maintain Category 1 traplines, including the use of humane trapping methodologies;
- f) closure of Category 1 traplines, in whole or part; and
- g) any other matter which the Executive Council considers necessary to manage, administer or allocate Category 1 traplines established pursuant to the Final Agreement.

## **PART SIX: HABITAT PROTECTION AND LITTERING**

### **Application**

26. This part does not apply to developments undertaken in accordance with a right of access as provided in the Final Agreement.

### **Habitat Protection Permit**

27. No person shall undertake a development that may affect habitat on Settlement Land except as authorized by a habitat protection permit issued under this Act.

### **Application for Permit**

28.(1) Applications for a habitat protection permit shall be in a form provided by the General Council and shall state

- a) the name and mailing address of the applicant;

- b) a description of the development to be undertaken and the anticipated impact on habitat as a result of the development;
  - c) the area and location of the habitat to be effected;
  - d) any rehabilitation or restoration action proposed to be undertaken;
  - e) any alternatives to the proposed development which may lessen the impact to habitat;
  - f) the proposed dates of the development to be undertaken; and
  - g) any other information as determined by the General Council.
- (2) The General Council may issue a habitat protection permit to an applicant subject to any terms and conditions that the General Council considers appropriate or may refuse to issue a habitat protection permit to an applicant.
- (3) The General Council may renew a habitat protection permit subject to any terms and conditions that the General Council considers appropriate or may refuse to renew a habitat protection permit.
- (4) A habitat protection permit may be issued or renewed for a term not exceeding one year.
- (5) Habitat protection permits shall be issued in a form approved by the General Council.
- (6) Fees, as may be prescribed from time to time by the Executive Council, may be collected for habitat protection permits and renewals to such permits.

### **Substitutions**

29. At the discretion of the General Council, any other permit issued under the authority of another enactment of the Teslin Tlingit Council that addresses habitat protection may be substituted for a habitat protection permit issued under the authority of this part.

### **Security**

30. The General Council may require, before issuing a habitat protection permit, that the person to whom the habitat protection permit is to be issued provide financial security to the Teslin Tlingit Council for

- a) the performance of any remedial or preventative action specified in the habitat protection permit; and
- b) restoration and rehabilitation of the area affected by the development to prevent further habitat damage upon and following the cessation of the development causing the damage.

**Regulations**

31. The Executive Council may make regulations
- a) designating areas of Settlement Land closed to access for the purposes of ensuring habitat protection and wildlife conservation;
  - b) prescribing any development for which a habitat protection permit is not required;
  - c) prescribing any processes and procedures for reviewing applications for habitat protection permits; and
  - d) respecting any other matter which the Executive Council considers necessary to carry out the purposes and provisions of this Part or to ensure habitat protection and wildlife conservation.

**Littering**

32. No person shall abandon or discard litter on Settlement Land.

**PART SEVEN: RESEARCH PERMITS AND SURVEYS****Government surveys**

33. The General Council may make recommendations to the Teslin Renewable Resources Council on applications for wildlife surveys and research permits for Government surveys and research within Settlement Land.

**Private surveys**

34. No person shall undertake private fish or wildlife surveys or research projects on Settlement Land except as authorized by a research permit issued under this Act.

**Application for Permit**

35. (1) Applications for research permits shall be in a form provided by the General Council and shall state
- a) the name and mailing address of the applicant;
  - b) the area in which the person intends to undertake the research;
  - c) the proposed dates of the research;
  - d) background information detailing the need for the research and the anticipated benefits and outcome of the research;
  - e) the role of Citizens in the research;
  - f) any potential impact the research may have on the lifestyles and land use activities of Citizens;
  - g) methods of relating information gathered to Citizens; and
  - h) any other information as determined by the General Council.

- (2) The General Council may issue a research permit to an applicant subject to any terms and conditions that the General Council considers appropriate or the General Council may refuse to issue a research permit to an applicant.

- (3) The General Council may renew a research permit subject to any terms and conditions that the General Council considers appropriate or may refuse to renew a research permit.
- (4) A research permit may be issued or renewed for a term not exceeding two years.
- (5) Research permits shall be issued in a form approved by the General Council.
- (6) Fees, as may be prescribed from time to time by the Executive Council, may be collected for research permits issued under this Act.

### **Regulations**

36. The Executive Council may make regulations
- a) prescribing the processes and procedures for screening and approving applications for research permits; and
  - b) respecting any matter which the Executive Council considers necessary to carry out the purposes and provisions of this Part.

## **PART EIGHT: LICENCES, PERMITS AND AUTHORIZATIONS**

### **Issuance of authorizations**

37. An officer may issue authorizations.

### **Transfer of authorizations**

38. No person shall have physical possession of an authorization or proof of enrollment issued to another person and
- a) claim to be that other person; or
  - b) exercise or attempt to exercise any rights or privileges carried by the authorization or proof of enrollment which the person would not otherwise have.

### **Production of authorizations**

39. No person who is
- a) the holder of an authorization or proof of enrollment; or
  - b) is exercising or attempting to exercise any rights or privileges carried by the authorization or proof of enrollment,
- shall refuse to show the authorization or proof of enrollment to an officer upon request.

### **False Statements**

- 40.(1) When an officer is carrying out duties or functions under this Act or the regulations, no person shall knowingly make any false or misleading statement, either orally or in writing, to the officer.
- (2) An authorization is void where it is issued based upon a false statement or false information given orally or writing to an officer.

**Duplication of Authorizations**

41.(1) No person shall obliterate, alter, imitate or duplicate an authorization issued under this Act.

(2) No person shall obliterate, alter, imitate or duplicate proof of enrollment for the purposes of hunting under this Act.

**PART NINE: ENFORCEMENT****Designation of officers**

42. The General Council shall appoint such officers as may be necessary for the administration and enforcement of this Act or the regulations and shall confer on the officer any or all of the powers or authority given to an officer under this Act or the regulations.

**Cross-Appointment with other jurisdictions**

43.(1) The General Council may enter into agreements with other Governments and jurisdictions to

- a) enable officers appointed under this Act to enforce designated legislation of the other jurisdiction; or
- b) to enable designation of any person or class of persons employed by the other Government to act as officers for the purposes of this Act or the regulations.

(2) Where a person or class of persons is designated in accordance with paragraph (1)(b), those persons designated to act as officers for the purposes of this Act or the regulations shall be provided an identification card by the General Council stating the name, place of employment and the scope of enforcement authority of the person identified.

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

**Enforcement**

44. Subject to section 42, every officer has the authority to enforce the provisions of this Act or the regulations.

**Obstruction**

45. No person shall hinder or obstruct an officer in the lawful performance of their duties under this Act or the regulations.

**Requirement to stop**

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

(2) Upon request, an officer who exercises a power under subsection (1) shall identify themselves as an officer 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**

47.(1) Where considered necessary or advisable in order to carry out the provisions of this Act or the regulations, an officer may post signs or notices on Settlement Land.

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

**Officers Exempt**

48. The offence provisions of this Act and the regulations do not apply to an officer engaged in the performance of their duties.

**Inspection of premises and records**

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

- a) open or cause to be opened any container that the officer 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 the document 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 data processing system at the place to examine any data contained in or available to the data processing system and reproduce any record from the data in the form of a print-out or other intelligible output and remove the print-out or other form of output for exemption and copying; and,
- f) use any copying equipment at the place to make copies of any record or document.

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

(3) The officer 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 *ex parte* application a justice, as defined in section 2 of the *Criminal Code*, 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 or the regulations; 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 officer 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 officer may stop a vehicle or direct that it be moved to a place where the inspection can be carried out.

### **Search**

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

- a) evidence that a development is being or has been carried on in contravention of this Act or the regulations;
- b) evidence that research is being or has been carried on in contravention of this Act or the regulations; or
- c) any wildlife or other thing in the place that will afford evidence of a contravention of this Act or the regulations.

(2) Where on *ex parte* application 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 wildlife or other thing referred to in subsection (1), the justice may issue a warrant authorizing the officer 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 of a place under this section, the officer may exercise any power mentioned in subsection 49(1).

### **Search without a Warrant**

51. (1) Notwithstanding section 50, an officer may, without a search warrant, search any place other than a dwelling-place if the officer 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 the loss or destruction of evidence.

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

### **Custody of Seized Things**

52. (1) If an officer seizes any thing under sections 49, 50 or 51, the officer 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 officer cannot properly store the thing, the officer 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, 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 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 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 officer 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 or the regulations are commenced within 90 days after its seizure; or
- b) retained by the officer 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 of its disposition, are forfeited to the General Council.

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

(3) Any thing that has been forfeited or abandoned under this Act or the regulations 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 or the regulations, 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 General Council.

### **No right of action**



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

### **Protection of officers and others**

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

### **Orders**

57. (1) The Director may order the suspension, withdrawal or cancellation of an authorization issued under this Act or the regulations where there are reasonable grounds to believe that any of the terms and conditions of the authorization have not been complied with by the holder of the authorization.

(2) Where the Director is satisfied that adequate steps have been taken by the person to whom an order is issued under subsection (1) to remedy the conditions which led to the making of the order, the Director shall revoke the order and reinstate any suspended authorization or issue a new authorization.

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

### **Notice of Non-Compliance**

58. (1) An officer may issue a notice of non-compliance to a person where the officer believes that the person, or the development or research under the control of the person, is not in compliance with this Act, the regulations or an authorization issued under this Act or the regulations.

(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 an officer is satisfied that a person to whom a notice of non-compliance was issued has effected compliance pursuant to the notice, the officer shall withdraw the notice of non-compliance.

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

### **Service**

59. An order or notice of non-compliance issued under this Act may be served by

- a) personally giving the order or notice of non-compliance to the person to whom it is directed; or
- b) mailing the order or notice of non-compliance to the person to whom it is directed at the last known address for that person.

**Assistance to Officers**

60.(1) An officer may be assisted in carrying out their duties and powers under this Act or the regulations by 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 officer is exercising powers or duties under this Act or the regulations shall
- a) assist the officer to enable the officer to carry out their duties; and,
  - b) provide all information necessary to the officer to enable the officer to carry out their duties.

**PART TEN: OFFENCES****Penalties**

61.(1) Every person who violates a provision of this Act or the regulations 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 or the regulations, 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.

**Separate and continuing offences**

62.(1) Where a violation of this Act or the regulations involves more than one animal, a separate offence is committed with respect to each animal.

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

**Proof of origin of wildlife**

63. In any proceedings under this Act or the regulations fish and wildlife found on Settlement Land or the Traditional Territory shall be presumed to have been taken on Settlement Land or the Traditional Territory, as the case may be, unless the contrary is proven.

**Limitation Period**

64. Proceedings relating to an offence under this Act or the regulations 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 officer.

**Ticketable Offences**

65. (1) In addition to the procedures set out in the *Criminal Code* for commencing a proceeding, proceedings in respect of any offence specified in the regulations may be initiated by a ticket.

(2) Tickets shall be issued using the form prescribed under the *Summary Convictions Act (Yukon)*, with the necessary modifications.

(3) Any fines paid into court for offences committed under this Act or the regulations shall be paid to the General Council.

***Summary Convictions Act (Yukon)***

66. Any offence created under this Act or the regulations shall be prosecuted in accordance with the *Summary Convictions Act (Yukon)*.

**Regulations**

67. The Executive Council may make regulations

- a) specifying offences in the Act or regulations that may be commenced by means of a ticket issued under this Act;
- b) prescribing the forms of tickets to be used;
- c) prescribing the procedures for the issuance of tickets;
- d) prescribing how an offence may be indicated on a ticket;
- e) authorizing the use on a ticket of any word, symbol or expression to designate an offence; and,
- f) any other matter which the Executive Council considers necessary to carry out the purposes and provisions of this Part.

**PART ELEVEN: MISCELLANEOUS****Cooperative management**

68. The General Council may enter into cooperative agreements with other Governments and non-Government organizations for
- a) the purposes of managing fish and wildlife and habitat within the Traditional Territory;
  - b) the purposes of enforcing this Act or the regulations;
  - c) the purposes of implementing the Agreement on International Humane Trapping Standards agreed to by the European Community, the Government of Canada and the Government of the Russian Federation, as amended from time to time; or
  - d) any other matter relating to conservation of the natural environment of the Traditional Territory.

**Delegation of authority**

69. (1) The General Council may, in writing, delegate the exercise of any power conferred or duty imposed on the General Council under this Act or the regulations to
- a) the Director or Manager;
  - b) the Council; or
  - c) any other Government,
- and shall specify the terms and conditions under which the delegation is made.
- (2) The General Council may, by notice in writing, withdraw the delegation referred to in subsection (1).
- (3) On an emergency basis, delegations made under subsection (1) may be withdrawn by the Chief Executive and new delegations made by the Chief Executive until the next meeting of the General Council at which time subsection (2) shall come into effect.

**Coming into Effect**

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

***Interim Wildlife Act***

71. (1) The *Interim Wildlife Act* is repealed on the day this Act comes into force.
- (2) Notwithstanding subsection (1), appointments to the Council and appointments of officers made under the authority of the *Interim Wildlife Act* shall continue as if the appointments had been made under this Act.