

NISGA'A FOREST ACT

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

NISGA'A FOREST ACT

**UNOFFICIAL CONSOLIDATION
CURRENT TO AUGUST 31, 2012**

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PART 1 – INTERPRETATION**Definitions**

1. (1) In this Act:

“annual harvest level” means the rate of timber harvesting determined for a forest management unit under section 8;

“botanical forest product” means

- (a) Pine mushrooms, and
- (b) any plant or fungus that
 - (i) occurs naturally on Nisga'a Lands, and
 - (ii) is a prescribed botanical forest product;

“botanical forest product harvesting permit” includes an individual botanical forest product harvesting permit and a group botanical forest harvesting permit;

“compacted area” means an area of soil that

- (a) is greater than 100 m² in area and greater than 5 m wide,
- (b) has been compacted by equipment travelling over it, and
- (c) has one or more of the following attributes:
 - (i) altered soil structure or increased density relative to the surrounding undisturbed soil;
 - (ii) soil puddling;
 - (iii) compacted deposits of forest floor, fine slash, and woody debris overlaying or crushed into the mineral soil;

“corduroyed trail” means an area occupied by logs and woody debris placed side-by-side to form a surface greater than 2 m in length and capable of supporting equipment traffic;

“crop tree” means a tree that

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- (a) is healthy,
 - (b) is of a species that is commercially valuable and ecologically suited to the site,
 - (c) is at least 1.5 m in height,
 - (d) is at least 125% of the height of competing vegetation within a 1 m radius of the tree trunk, and
 - (e) is at least 2.0 m from the nearest tree that meets the requirements of paragraphs (a) to (d);

“culvert” means a transverse drain pipe or log structure covered with soil and lying below the road surface;

“cutblock” means a specific area, other than a road right of way, from which timber is to be or has been harvested;

“director” means the Director of Lands and Resources;

“eligible person” means an individual, a corporation or other association, or a Nisga'a Village;

“firewood permit” means a firewood permit issued under section 15;

“forest development plan” means a forest development plan prepared by the director and given effect under section 19;

“forest management unit” means land designated as a forest management unit under section 7;

“forest officer” means a person who is designated to be a forest officer by the director under section 109;

“forest practice” means timber harvesting, road construction, road maintenance, road deactivation, silviculture treatments and botanical forest product harvesting;

“forest resources” means all timber and non-timber forest resources on Nisga'a Lands, including all biota, but does not include wildlife, migratory birds, water or fish;

“free use permit” means a free use permit entered into under section 11;

“group botanical forest harvesting permit” means a harvesting permit for botanical forest products, as referred to in section 17.1(2);

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“individual botanical forest product harvesting permit” means a harvesting permit for botanical forest products, as referred to in section 17.1(1);

“industrial activity” means land clearing, timber harvesting, timber processing, silviculture treatments, mining, road construction or any prescribed activity;

“logging trail” means a trail, constructed to facilitate transportation of logs, that has

- (a) an excavated or bladed width greater than 1.5 m, and
- (b) a mineral soil cutbank height greater than 30 cm;

“Nisga’a forest road” means a road

- (a) constructed by the Nisga’a Nation, or
- (b) declared to be a Nisga’a forest road under section 44;

“Nisga’a partnership” means a partnership between the Nisga’a Nation and a Nisga’a Corporation;

“Nisga’a Public Lands licence” means a Nisga’a Public Lands licence entered into under section 11;

“open fire” means any burning conducted in such a manner that combustion products are not vented through a stack or chimney;

“operational plan” means a forest development plan, site plan and stand treatment plan;

“recreation site” means a site designated as a recreation site pursuant to section 70;

“reforest” means to establish a stand of crop trees in accordance with section 55;

“resource features” means resource features prescribed by regulation;

“road permit” means a road permit granted under section 42;

“road use permit” means a road use permit granted under section 43;

“site plan” means a site plan under section 22;

“special area” means an area established under section 2;

“special use permit” means a special use permit issued under section 3;

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“**stand treatment plan**” means a stand treatment plan required under section 23;

“**stream**” means a watercourse, flowing on a perennial or seasonal basis having a continuous channel bed that may be locally obscured by overhanging or bridging vegetation or soil mats, if the channel bed

- (a) is scoured by water, or
- (b) contains observable deposits of mineral alluvium;

“**stumpage**” means the amount of money, determined in accordance with a licence or permit granted under this Act, that is payable to the Nisga'a Nation under section 88 in respect of timber harvested under the licence or permit, as the case may be;

“**timber**” means trees, whether standing, fallen, living, dead, limbed, bucked or peeled;

“**timber harvesting contract**” means a timber harvesting contract entered into under section 11;

“**timber harvesting licence**” means a timber harvesting licence entered into under section 11;

“**unstable area**” means an area that, due to the presence of field indicators, including

- (a) recent landslide scars,
- (b) tension fractures,
- (c) debris on the upslope side of trees or at the base of the slope,
- (d) poorly drained sites on steep slopes, or
- (e) other similar indicators

is subject to a high likelihood of any of the following landslide types if timber harvesting, logging trail construction or road construction were to be carried out on the area:

- (f) debris avalanches, flows, torrents or slides;
- (g) slumps or earth flows;
- (h) rock slides or rock fall;

“**wetland**” means a swamp, marsh or other similar area that supports natural vegetation that is distinct from nearby upland areas;

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- “wildlife tree”** means a tree with characteristics that provide present or future wildlife habitat.
- (2) In this Act a cutblock is “greened-up” when
- (a) at least 75% of the cutblock contains a total stand density of commercially valuable species of not less than 800 stems per hectare, and
 - (b) the leading species or the overstory species in the cutblock has attained a top height of at least 3 m.
- (3) In this Act all distances are horizontal distances, except riparian management area widths, which are slope distances.

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PART 2 – MANAGEMENT OF NISGA'A LANDS**Special areas**

2. (1) The executive, by written order, may
 - (a) if the executive determines that special circumstances require that an area be treated differently from adjacent lands,
 - (i) establish the area as a special area, and
 - (ii) establish requirements for the special area, and
 - (b) vary or cancel a special area or a requirement for a special area.
- (2) Before establishing, varying or cancelling a special area or a requirement for a special area in a way that significantly affects the public, the executive must
 - (a) publish in accordance with Nisga'a law a notice of the establishment, variance or cancellation, and
 - (b) for a period of at least 30 days provide an opportunity for Nisga'a citizens and other individuals who are ordinarily resident within Nisga'a Lands to review and comment of the establishment, variance or cancellation.
- (3) Unless otherwise specified in an order made under this section, the order takes effect on the date it is made.
- (4) The director must make available for viewing
 - (a) a copy of each order made under this section, and
 - (b) a map showing the boundaries of each special area.
- (5) An order made under this section is subject to any interest in land registered under and in accordance with the Nisga'a Land Act or the Nisga'a Land Title Act.

Special use permits

3. (1) A person authorized to do so in a special use permit may use Nisga'a Lands for the following:
 - (a) construction and maintenance of a road, including construction and maintenance of drainage structures;

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- (b) sand pits, gravel pits, rock quarries or other quarries that provide materials for road construction or maintenance authorized under this Act;
 - (c) a communications site;
 - (d) a logging camp and associated facilities, including a waste disposal site;
 - (e) a log dump or dry land sort;
 - (f) a temporary timber processing site;
 - (g) a lookout;
 - (h) a weather station;
 - (i) an airstrip, helipad or other air transportation landing site;
 - (j) educational or research purposes;
 - (k) any other prescribed purpose.
- (2) An eligible person may apply to the director for a special use permit.
- (3) An application under subsection (2) must
- (a) be in the form specified by the director,
 - (b) contain the information that the director requires, and
 - (c) be accompanied by a plan that sets out how the land will be used.
- (4) The director may issue a special use permit if the director is of the opinion that the special use permit would not impair the proper management and conservation of forest resources.
- (5) The director may issue a special use permit under this section subject to one or more of the following conditions:
- (a) a condition that the holder of the permit will use the land in accordance with the plan submitted under subsection (3)(c),
 - (b) any conditions the director determines necessary to manage and conserve the forest resources on the area, including
 - (i) restricting, regulating or prohibiting the building of or disposal of any chattel or fixture, and

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- (ii) requiring the clean up and restoration of the land under the permit to the satisfaction of the director on the expiry of the special use permit, and
 - (c) a condition that the holder of the permit provide, in an amount specified in the permit, a deposit in the form of money or other security acceptable to the director
 - (i) to ensure that the conditions of the permit are met, or
 - (ii) if personal property owned by a person other than the holder of the permit or the Nisga'a Nation is situated on the land under the permit.
 - (6) The director may use any or all of the deposit referred to in subsection (5)(c)
 - (a) to satisfy a claim for damages made by the owner of the personal property referred to in subsection (5)(c)(ii), or
 - (b) to cover the costs incurred by the Nisga'a Nation

resulting from a failure of the holder of the permit to meet the conditions of the permit.
 - (7) Subject to subsection (6), on expiry or cancellation of a special use permit, the director must return the remainder of the deposit to the holder of the permit.
 - (8) On the expiry of a special use permit, the director may issue a replacement special use permit if the director is satisfied that the holder
 - (a) has met the conditions of the expired permit, and
 - (b) will meet the conditions set out in subsection (5)(b) and (c).
 - (9) A holder of a special use permit must not assign or transfer the special use permit without the prior written consent of the director.

Compatible use

- 4. No licence or permit issued under this Act prevents or impedes the Nisga'a Nation from using, or granting the use of, Nisga'a Lands for any other purpose permitted under this Act or another enactment.

Authorization for forest practices

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5. (1) A person, other than the Nisga'a Nation, must not carry out a forest practice on lands other than the settled portions of Nisga'a Village Lands unless authorized to do so under this Act or another enactment.
- (2) If a person, at the direction of or on behalf of another person, carries out a forest practice contrary to subsection (1), the person
- (a) who gave the direction, or
 - (b) on whose behalf the forest practice was carried out
- also contravenes that subsection.

Authorization for construction and occupation

6. (1) Before constructing or occupying a building or other structure on lands other than settled portions of Nisga'a Village Lands, a person must obtain the prior written consent of the director unless the construction or occupation is authorized under another enactment.
- (2) If a person contravenes subsection (1), the director may, by written notice, order the person to do one or both of the following:
- (a) remove or destroy the building or other structure;
 - (b) restore the land affected by the construction or occupation of the building or other structure.

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PART 3 – HARVESTING OF FOREST RESOURCES**Division 1 – Annual Harvest Level****Forest management units**

7. (1) On the effective date, Nisga'a Lands are designated as a single forest management unit.
- (2) The director may designate forest management units by ordering the division, consolidation, or abolition of forest management units or by ordering that their boundaries be changed.

Annual harvest level determined for each forest management unit

8. (1) The executive must determine an annual harvest level for each forest management unit
 - (a) within 5 years after the effective date, and
 - (b) at least once every 5 years after the date of the determination referred to in paragraph (a).
- (2) In determining an annual harvest level for a forest management unit under subsection (1), the executive must consider all of the following:
 - (a) the rate of timber production that may be sustained, taking into account:
 - (i) the composition of the forest and its expected rate of growth;
 - (ii) the expected time that the forest will take to become re-established following harvesting;
 - (iii) the silviculture treatments to be applied;
 - (iv) the standard of timber utilization and the allowance for decay, waste and breakage expected to be applied;
 - (v) the constraints expected from non-timber related uses of the area;
 - (vi) any other information that, in the opinion of the executive, relates to the capability of the area to produce timber;
 - (b) the short and long term implications to the Nisga'a Nation of alternative rates of timber harvesting;

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- (c) the economic and social objectives of the Nisga'a Nation;
 - (d) any abnormal damages or losses of timber due to insect infestations or fire.
- (3) If, in any given year, the rate of timber harvesting in a forest management unit is less than the annual harvest level for that forest management unit, the unused portion of the annual harvest level will be added to the annual harvest level for the following year.

Division 2 – Forms of Rights to Harvest Timber**Rights to harvest timber**

9. The executive may not grant a right to harvest timber except in accordance with this Act or another enactment.

Use by Nisga'a Nation

10. The executive may authorize employees and agents of the Nisga'a Nation, while acting in the course of their duties,
- (a) to harvest timber, or
 - (b) to use and occupy Nisga'a Lands,

on terms and conditions that the executive considers are appropriate and consistent with this Act.

Licences, permits and contracts

11. (1) An eligible person may be granted a right to harvest timber in the form of
- (a) a timber harvesting licence,
 - (b) a timber harvesting contract,
 - (c) a timber salvage permit,
 - (d) a firewood permit,
 - (e) a road permit, or
 - (f) free use permit.

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- (2) The executive may enter into an agreement with an eligible person in the form of a timber harvesting licence.
- (2.1) The executive may enter into an agreement with the Lisims Forest Resources Limited Partnership in the form of a Nisga'a Public Lands licence.
- (3) The director may enter into an agreement with an eligible person in the form of a timber harvesting contract, timber salvage permit, firewood permit, free use permit or a road permit.
- (4) A timber harvesting licence or timber harvesting contract that provides for the harvesting of timber on Nisga'a Village Lands may be entered into by the executive or the director, as the case may be, only with the agreement of the Nisga'a Village Government that has jurisdiction over those lands.
- (5) No licence, contract or permit that is entered into under this section provides its holder, either on or before the expiry of the licence, contract or permit, with a right to a replacement agreement.
- (6) A holder of a licence, contract or permit entered into under this section must not assign, pledge as security or transfer the licence, contract or permit, as the case may be, without the prior written consent of the director.

Application for licences and contracts

- 12.** (1) The director may publish in accordance with Nisga'a law a notice inviting applications from eligible persons for a timber harvesting licence or a timber harvesting contract.
- (2) An application for a timber harvesting licence must
 - (a) be in the form specified by the director,
 - (b) contain the information the director requires, and
 - (c) include an offer to pay to the Nisga'a Nation
 - (i) amounts payable under this Act and the regulations, and
 - (ii) stumpage under section 88.
- (3) An application for a timber harvesting contract must
 - (a) be in the form specified by the director, and
 - (b) contain the information the director requires.

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- (4) On receipt of applications for a timber harvesting licence or a timber harvesting contract, the executive or the director, as the case may be, may
- (a) approve one or more applications for all or part of the advertised volume of timber, or
 - (b) decline to approve all of the applications.
- (5) The executive or the director, as the case may be, may, without advertising or accepting applications from other persons, enter into an agreement with an eligible person in the form of a timber harvesting licence or a timber harvesting contract.

Timber harvesting licences**13.** A timber harvesting licence

- (a) must be for a term not exceeding two years,
- (b) must describe one or more areas of land within which its holder may harvest timber,
- (c) must specify an estimate of the volume of timber that may be harvested from the area of land described in the licence,
- (d) must require its holder to pay to the Nisga'a Nation,
 - (i) amounts payable under this Act and the regulations, and
 - (ii) stumpage under section 88, and
- (e) may include other terms and conditions, consistent with this Act and the regulations, that the executive considers necessary.

Nisga'a Public Lands Licence**13.1** A Nisga'a Public Lands Licence:

- (a) must be for a term not exceeding 5 years;
- (b) may apply to all or a portion of Nisga'a Public Lands;
- (c) must provide that its holder establish and/or maintain recreations sites on Nisga'a Public Lands;

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- (d) may provide for replacement of the licence at the discretion of the executive;
- (e) must require its holder to maintain Nisga'a Forest Roads;
- (f) must require its holder to reforest those areas, within the area covered by the licence, where timber has been harvested or destroyed;
- (g) must require its holder to pay to the Nisga'a Nation amounts payable under this Act and the regulations;
- (h) may require its holder to pay to the Nisga'a Nation an annual fee to be determined by the executive from time to time;
- (i) must require its holder to submit for the approval of the director, at least every 5 years, an inventory of the forest, recreation, wildlife and cultural heritage resources on Nisga'a Public Lands; and
- (j) may include other terms and conditions, consistent with this Act and the regulations, that the executive considers necessary.

Timber harvesting contracts**14.** A timber harvesting contract

- (a) may include terms and conditions, consistent with this Act and the regulations, that the director considers necessary, and
- (b) does not confer any interest in land or timber.

Firewood permits**15.** (1) An eligible person may apply to the director for a firewood permit.

(2) An application for a firewood permit must

- (a) be in a form specified by the director, and
- (b) contain the information required by the director.

(3) The director must not issue a firewood permit to an applicant who

- (a) has, on land the applicant owns or occupies, sufficient timber that is reasonably accessible for the purpose specified in the application, or

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- (b) is the holder of another firewood permit.
- (4) A firewood permit
- (a) must be for a term not exceeding one year,
 - (b) must give its holder the right to harvest timber from an area of land for the purposes specified in it,
 - (c) must be limited to a volume of timber not exceeding 50 m³,
 - (d) must provide for the payment to the Nisga'a Nation of a fee prescribed by regulation, and
 - (e) may contain other terms and conditions, consistent with this Act and the regulations,
- that the director considers necessary.
- (5) A holder of a firewood permit must not sell timber harvested under the permit.

Timber salvage permits

- 16.** (1) An eligible person may apply to the director for a timber salvage permit.
- (2) An application for a timber salvage permit must
- (a) be in a form specified by the director, and
 - (b) contain the information required by the director.
- (3) A timber salvage permit
- (a) must be for a term not exceeding two years,
 - (b) must describe one or more areas of land within which its holder may harvest timber that is windthrown, dead, damaged, insect infested or diseased,
 - (c) must be limited to a volume of timber not greater than 2000 m³,
 - (d) must require its holder to pay to the Nisga'a Nation
 - (i) amounts payable under this Act and the regulations, and

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- (ii) stumpage under section 88, and
- (e) may include other terms and conditions, consistent with this Act and the regulations, that director considers necessary.

Free use permit

- 16.1** (1) An eligible person may apply to the director for a free use permit.
- (2) An application for a free use permit must
- (a) be in a form specified by the director, and
 - (b) contain the information required by the director.
- (3) A free use permit
- (a) must be for a term not exceeding 2 years,
 - (b) must describe one or more areas of land within which its holder may harvest timber,
 - (c) must be limited to a volume not exceeding 200 m³, and
 - (d) must provide for the payment to the Nisga'a Nation of a fee prescribed by regulation, and may contain other terms and conditions, consistent with this Act and the regulations, that the director considers necessary.

Division 3 – Botanical Forest Products**Botanical forest product harvesting permit**

- 17.** (1) The director may not grant a right to harvest a botanical forest product except in accordance with this Act.
- (2) An eligible person may apply to the director for a botanical forest product harvesting permit.
- (3) An application for a botanical forest product harvesting permit must
- (a) be in a form specified by the director,
 - (b) contain the information required by the director, and

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- (c) be accompanied by the payment of any prescribed fee.
 - (4) The director may issue a botanical forest product harvesting permit.
 - (5) A botanical forest product harvesting permit
 - (a) must specify the species of botanical forest product that may be harvested under the permit,
 - (b) must be for a term not exceeding one year,
 - (c) may limit the volume of the botanical forest product that may be harvested under the permit,
 - (d) may specify the area of land from which that volume of the botanical forest product may be harvested, and
 - (e) may include other terms and conditions, consistent with this Act and the regulations, that the director considers necessary.
 - (6) A botanical forest product harvesting permit does not provide its holder, either on or before the expiry of that permit, with a right to a replacement permit.
 - (7) A holder of a botanical forest product harvesting permit must not assign or transfer that permit without the prior written consent of the director.

Individual and Group Botanical Forest Product Harvesting Permits

- 17.1**
- (1) An individual botanical forest harvesting permit authorizes the holder of the permit to harvest botanical forest products in accordance with this Act, the regulations, and any terms and conditions set out in the permit under section 17(5).
 - (2) A group botanical forest product harvesting permit authorizes the holder of the permit, and any other individuals that the holder of the permit wishes to allow to harvest under that permit, to harvest botanical forest products in accordance with this Act, the regulations, and any terms and conditions set out in the permit under section 17(5).
 - (3) The holder of a group botanical forest product harvesting permit who allows other individuals to harvest under their permit must
 - (a) provide to each such individual documentation satisfactory to the director that identifies the individual as someone allowed to harvest under the botanical forest product group harvesting permit, and
 - (b) ensure that each such individual is aware of and observes the provisions of this

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Act and the regulations in respect of the lawful harvesting of botanical forest practices, as well as any terms and conditions set out in the permit under section 17(5).

Botanical forest product buyer permit

18. (1) No person may, as part of a commercial enterprise, buy any botanical forest product unless the person has a botanical forest product buyer permit.
- (2) An eligible person may apply to the director for a botanical forest product buyer permit.
- (3) An application for a botanical forest product buyer permit must
- (a) be in a form specified by the director, and
 - (b) contain the information required by the director.
- (4) The director may issue a botanical forest product buyer permit.
- (5) A botanical forest product buyer permit
- (a) may give its holder the right to establish a temporary buying station for the term of the permit,
 - (b) must specify the species of botanical forest products that may be purchased under the permit,
 - (c) must be for a term not exceeding one year,
 - (d) may limit the volume of botanical forest products that may be purchased under the permit,
 - (e) must require the holder to pay to the Nisga'a Nation a fee prescribed by regulation, and
 - (f) may include other terms and conditions, consistent with this Act and the regulations, that the director considers necessary.
- (6) A botanical forest product buyer permit does not provide its holder, either on or before the expiry of that permit, with a right to a replacement permit.
- (7) A holder of a botanical forest product buyer permit must not assign or transfer that permit without the prior written consent of the director.

PART 4 – PLANNING FOR TIMBER HARVESTING**Requirement for a forest development plan**

- 19.** (1) The director must prepare and give effect to a forest development plan that meets the requirements of this Part before timber harvesting is authorized under a timber harvesting licence or timber harvesting contract unless, in the opinion of the director, removing the timber immediately from an area is necessary to ensure responsible forest resource stewardship on that area.
- (1.1) The holder of a Nisga'a Public Lands Licence must submit a forest development plan to the director for approval.
- (1.2) To the extent that the director has, approved a cutblock proposed in a forest development plan submitted by a holder of a Nisga'a Public Lands licence, the approved forest development plan constitutes the authority for the holder to harvest that cutblock.
- (1.3) The director may require a person who submitted a forest development plan in accordance with subsection (1.1) to submit further information, as required by the director, before approving and giving effect to the forest Development Plan.
- (2) The director may only give effect to a forest development plan if the director determines that
- (a) the level of timber harvesting proposed in the plan is consistent with the annual harvest rate established for each forest management unit,
- (b) the timber harvesting and related forest practices proposed in the plan
- (i) are consistent with the any requirements for special areas,
- (ii) are consistent with the requirements of Part 6 and 7, and
- (iii) do not prevent the forest resources on the area from being adequately managed and conserved, and
- (c) the following persons have been given an opportunity to review and comment on the plan for a period of at least 30 days:
- (i) Nisga'a citizens;
- (ii) persons who are ordinarily resident within Nisga'a Lands;
- (iii) persons specified by the executive.

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- (3) A forest development plan is not required to address a cutblock where the proposed timber harvesting is
 - (a) associated with a timber salvage permit, firewood permit or a free use permit, or
 - (b) restricted to the cutting or removal of timber in conjunction with silviculture treatments referred to in section 23.
- (4) The director may prepare an amendment to a forest development plan at any time.
- (4.1) A person who submitted a forest development plan in accordance with subsection (1.1) may submit an amendment to the forest development plan to the director for approval.
- (5) The director may approve or give effect to an amendment to a forest development plan only if
 - (a) the amendment meets the requirements of subsections (2)(a) and (b), and
 - (b) the director, if required by the executive, has made the amendment available for review and comment in accordance with subsection (2)(c).

Term of a forest development plan

- 20.** (1) A forest development plan must address a period of at least five years unless the director determines that a shorter period of time is appropriate.
- (2) A forest development plan takes effect and expires on the dates specified in the plan.
- (3) Before or after the expiry of a forest development plan, the director may extend the plan for a period or periods not exceeding a total of one year.
- (4) If the term of a forest development plan is extended, the director must amend the plan as necessary to comply with the requirements of this Act.

Forest development plan content

- 21.** (1) A forest development plan must address all forest management units unless the director is satisfied that it may be limited to a smaller area.
- (2) A forest development plan must describe or identify the following:
 - (a) for the area addressed under the plan
 - (i) the forest cover,

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- (ii) the location of streams, wetlands and lakes, and
 - (iii) the location of special areas and any requirements established for those areas;
 - (b) for each proposed cutblock
 - (i) its proposed location and size,
 - (ii) its proposed silvicultural system, and
 - (iii) the location of any contiguous cutblocks that are not currently greened-up;
 - (c) for each proposed or existing road associated with proposed or existing cutblocks
 - (i) the approximate location of road construction operations to be carried out to provide access to the proposed cutblocks,
 - (ii) the road structural maintenance operations that are to be carried out during the term of the plan, and
 - (iii) the road deactivation operations that are to be carried out during the term of the plan;
 - (d) the location of resource features that may be potentially affected by proposed timber harvesting or road construction operations.
- (3) A forest development plan must be consistent with a land use plan that is in effect at the time the plan is submitted for approval by a holder of a Nisga'a Public Lands licence or prepared by the director.

Site plans

- 22.** (1) If the director is of the opinion that it is necessary to effectively manage the forest resources on a specific area, the director may:
- (a) prepare and give effect to a site plan for that area that is consistent with the forest development plan in effect for the area, or
 - (b) direct the person who submitted, for approval, a forest development plan for the area to prepare and submit for approval a site plan for the area that is consistent with the forest development plan for the area.
- (2) The director may approve and give effect to a site plan for an area submitted in

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accordance with subsection (1)(b) if, in the opinion of the director, it effectively manages the forest resources of the area.

Stand treatment plans

- 23.** (1) Before a person carries out a silviculture treatment on an area other than an area where reforestation is being carried out, the person must prepare and obtain the director's approval of a stand treatment plan for that area that describes the following:
- (a) the location of the proposed treatment area;
 - (b) the current condition of the area;
 - (c) the nature and timing of the proposed treatment;
 - (d) the anticipated post-treatment condition of the area.
- (2) The director may exempt a person from the requirements of subsection (1) if the director is of the opinion that a stand treatment plan is not necessary to adequately manage and conserve the forest resources on the area.

Variations

- 24.** (1) A person who is required to perform a forest practice in accordance with a requirement of this Act or the regulations may propose a variance from that requirement.
- (2) A proposal under subsection (1) must
- (a) be submitted in writing to the director, and
 - (b) include the following
 - (i) the requirement that the submission applies to,
 - (ii) the proposed variance, and
 - (iii) a statement of the probable impact of the proposed variance on the area affected by the proposed variance.
- (3) The director may approve a proposed variance if the director is of the opinion that the proposed variance is
- (a) consistent with forest management policies established by the executive,

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- (b) necessary in the interests of public safety, or
 - (c) otherwise in the public interest.
- (4) If the director approves the proposed variance, the person who submitted the proposal must comply with the variance.
- (5) A variance approved under this section does not affect any fine, imprisonment, fee, charge or penalty to which a person is liable under this Act or the Nisga'a Offence Act if the offence or contravention occurred before the variance was approved.

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PART 5 – GENERAL FOREST PRACTICES**Division 1 – General****Compliance with established requirements**

- 25.** A person who carries out a forest practice must comply with all of the following that apply to the area where the forest practice is carried out:
- (a) requirements for special areas established under section 2;
 - (b) specifications contained in an operational plan;
 - (c) authorizations, conditions or requirements specified by the director or forest officer under this Act.

Protection of forest resources

- 26.** (1) A person must not carry out a forest practice that degrades forest resources.
- (2) A person does not contravene subsection (1) if the person is acting in accordance with
- (a) this Act or the regulations,
 - (b) an operational plan or a permit issued under this Act, or
 - (c) an authorization or exemption given under this Act.
- (3) A person who contravenes subsection (1) must
- (a) prevent any further degradation of forest resources,
 - (b) promptly notify the director, and
 - (c) take any remedial measures that the director requires.

Division 2 – Riparian Management**Riparian management area widths**

- 27.** (1) In this section, “active flood plain” means a level area, with alluvial soils, that is

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- (a) adjacent to streams,
 - (b) flooded by stream water on a periodic basis, and
 - (c) at the same elevation as areas showing evidence of
 - (i) flood channels free of terrestrial vegetation,
 - (ii) recently rafted debris or fluvial sediments newly deposited on the surface of the forest floor or suspended on trees or vegetation, or
 - (iii) recent scarring of trees by material moved by flood waters.
- (2) Riparian management areas are measured from
- (a) the edge of a stream channel bank,
 - (b) the edge of a wetland, and
 - (c) the edge of the natural boundary of a lake.
- (3) Unless otherwise specified in writing by the director, the riparian management area width for a stream is
- (a) the active flood plain for those sections of the stream that have, over a 1 km length
 - (i) a channel width of 100 m or greater, and
 - (ii) an active flood plain width of 100 m or greater,
 - (b) subject to paragraph (a), 70 m if the stream is greater than 20 m wide,
 - (c) 50 m if the stream is of a width that is greater than 5 m but less than 20 m,
 - (d) 40 m if the stream is between 1.5 m and 5 m wide, and
 - (e) 30 m if the stream is less than 1.5 m wide.
- (4) Despite subsection (3), unless otherwise specified in writing by the director, the riparian management area width is 30 m for a stream that is designated by the director in accordance with the regulations to not be a fish bearing stream.
- (5) Unless otherwise specified in writing by the director, the riparian management area width for a wetland is

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- (a) 40 m if the wetland is greater than 5 ha in size,
 - (b) 30 m if the wetland is between 1 ha and 5 ha in size, and
 - (c) 40 m if the area consists of 2 or more individual wetlands with overlapping riparian areas and the combined size of the wetlands is 5 ha or larger.
- (6) Unless otherwise specified in writing by the director, the riparian management area width for a lake is 40 m.

General requirements within riparian management areas

- 28.** (1) Unless otherwise specified in an operational plan, permit or authorization under this Act, a person who carries out a forest practice in a riparian management area must
- (a) ensure that those forest practices minimize deleterious impacts on
 - (i) stream channel dynamics, aquatic ecosystems, and water quality of the streams, wetlands and lakes adjacent to that riparian management area, and
 - (ii) the diversity, productivity and sustainability of wildlife habitat and vegetation adjacent to the stream, wetland and lake associated with that riparian management area,
 - (b) not increase the risk that the trees that are to be retained in areas adjacent to the stream, wetland and lake will be windthrown,
 - (c) retain important wildlife habitat attributes including wildlife trees, large trees, hiding and resting cover, nesting sites, structural diversity, coarse woody debris, and food sources characteristics of natural riparian ecosystems,
 - (d) retain sufficient vegetation along streams to provide shade, reduce bank microclimate changes, maintain natural channel and bank stability and important attributes for wildlife, and
 - (e) retain adjacent to wetlands and lakes key wildlife habitat attributes characteristic of natural riparian ecosystems.
- (2) A person who carries out a forest practice must not deposit in any area a volume or slash or debris capable of damaging fish habitat or reducing water quality.
- (3) Unless permitted in an operational plan or otherwise authorized by the director, a person who carries out a forest practice must ensure that the tracks or wheels of ground based machinery used in carrying out the forest practice are not permitted within 5 m of a

stream bank unless the operations are conducted in such a manner that they protect stream banks and minimize damage to understory vegetation.

- (4) Unless authorized by the director, a person who carries out a forest practice must ensure that machinery used in carrying out the forest practice is not fuelled or serviced within the riparian management area.

Division 3 – Soil Conservation

Limits on unrehabilitated roads, landings and logging trails

- 29.** (1) The maximum proportion of the area within a cutblock that may be occupied by unrehabilitated roads, landings and logging trails is
- (a) the amount specified for the cutblock in an operational plan, or
 - (b) 7% if no amount is specified for the cutblock in an operational plan.
- (2) A person who carries out a forest practice must not establish an amount of unrehabilitated roads, landings and logging trails that results in a contravention of the limit specified in subsection (1).
- (3) If a person contravenes subsection (2), the person must
- (a) promptly notify the director, and
 - (b) carry out any site rehabilitation measures required by the director.

Limits on soil disturbance

- 30.** (1) In this section:

“**soil disturbance**” means any of the following that have resulted from a forest practice:

- (a) an area occupied by a logging trail of a temporary nature;
- (b) an area occupied by corduroyed trail;
- (c) a compacted area;
- (d) an area of dispersed disturbance;

“**dispersed disturbance**” means an area that meets any of the following:

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- (a) an area of soil that is at least 1 m x 2 m and that otherwise meets the requirements of a compacted area;
 - (b) a rut in the soil that
 - (i) is at least 30 cm x 2 m, and
 - (ii) has a minimum depth for a distance of at least 2 m, of 5 cm from the surface of the undisturbed mineral soil;
 - (c) an excavation into mineral soil that is
 - (i) deeper than 30 cm,
 - (ii) deeper than 5 cm if it covers
 - (A) at least 80% of a 1.8 m x 1.8 m area, or
 - (B) an area of a least of 1 m x 3 m, or
 - (iii) to the depth of bedrock;
 - (d) an area in which the forest floor has been removed from over 80% of a 3 m x 3 m area.
- (2) The maximum proportion of the area within a cutblock where reforestation is required that may be occupied by soil disturbance is
- (a) the amount specified for the area in an operational plan, or
 - (b) 5%, if there is no amount specified for the area in an operational plan.
- (3) The maximum proportion of the area to be treated under a stand treatment plan that may be occupied by soil disturbance is
- (a) the amount specified in the plan, or
 - (b) 5%, if the amount is not specified in the plan.
- (4) A person who carries out a forest practice must not exceed the limit for soil disturbance specified in subsection (2) or (3).
- (5) If a person contravenes subsection (4), the person must
- (a) promptly notify the director, and

- (b) carry out any site rehabilitation measures required by the director.

Division 4 – Biodiversity

Biodiversity objectives and management strategies

31. (1) Subject to any

- (a) land use plan approved by the executive, or
- (b) requirement under section 2 for a special area,

the long term objective of the Nisga'a Nation is to promote the restoration of natural biodiversity across Nisga'a Lands.

(2) Subject to subsection (4), the director must manage biological diversity

- (a) at the landscape level to promote a reflection of natural disturbance patterns, by manipulating
 - (i) seral stage distribution,
 - (ii) temporal and spatial distribution of harvested areas and retention areas,
 - (iii) connectivity across the landscape,
 - (iv) stand structure, and
 - (v) species composition, and
- (b) within cutblocks by maintaining
 - (i) stand structure,
 - (ii) tree and vegetation species composition, and
 - (iii) coarse woody debris.

(3) The director may identify for harvesting a cutblock in a forest development plan that is adjacent to a previously harvested cutblock that is not greened-up only if

- (a) at least 40% or more of the pre-harvest basal area will be retained and evenly distributed,

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- (b) the total area of the cutblock to be harvested and the area that is not greened-up does not exceed 60 hectares, or
 - (c) the primary purpose of the harvesting is to recover damaged timber.
- (4) Nothing in this section limits the director from specifying a cutblock design that is inconsistent with the requirements of this section, if the director is of the opinion that the cutblock location and design
- (a) is appropriate in the circumstances, and
 - (b) adequately manages and conserves the forest resources of the area.

Biological diversity requirements within cutblocks

32. (1) Unless otherwise authorized by the director, a person who carries out timber harvesting operations within a cutblock must
- (a) maintain stand structure by retaining
 - (i) at least 10% of the cutblock area in wildlife tree patches,
 - (ii) patches of advanced regeneration, and
 - (iii) non-merchantable defect trees as recruitment snags,
 - (b) maintain tree and vegetation species composition by retaining
 - (i) across the cutblock, a variety of native understory plants and plant communities, and
 - (ii) minor tree species which form less than 20% of the trees present on the cutblock, and
 - (c) maintain coarse woody debris by
 - (i) limbing and topping harvested trees on the cutblock,
 - (ii) leaving any residue and waste distributed across the cutblock, and
 - (iii) leaving non-merchantable material on the cutblock.
- (2) If a person carrying out a forest practice finds a resource feature that was not identified on an approved operational plan or permit, the person carrying out the forest practice must

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- (a) modify or stop any forest practice that is in the immediate vicinity of the resource feature to the extent necessary to refrain from threatening it, and
- (b) promptly advise the director of the existence and location of the resource feature.

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PART 6 – TIMBER HARVESTING**No harvest of reserves**

- 33.** (1) If required by the director, before a person commences timber harvesting, the person must mark in the field the location of any reserves that are identified in an operational plan or otherwise required to be retained within a cutblock.
- (2) Marking under subsection (1) must be visible during harvesting and for a period of at least 6 months after the completion of harvesting of the cutblock.
- (3) A person must not harvest or damage any reserves that are identified in an operational plan or otherwise required under this Act to be retained within a cutblock.

Ensuring terrain stability

- 34.** (1) If required by the director, before a person carries out timber harvesting within a cutblock, the person must assess to the satisfaction of the director the stability of the terrain within the cutblock.
- (2) The director may, by written notice to the person described in subsection (1), require the person to modify the proposed harvesting operations to the extent necessary to ensure the terrain within the cutblock remains stable.

Harvesting on sensitive slopes

- 35.** (1) In this section “clearcut” means a silvicultural system that
- (a) removes the entire stand of trees in a single harvesting operation from an area that is
 - (i) one ha or greater, and
 - (ii) at least 2 tree heights in width, and
 - (b) is designed to manage the area as an even-aged stand.
- (2) Unless authorized in writing by the director, a person must not
- (b) clearcut timber on an unstable area,
 - (c) construct a logging trail on an unstable area, or

- (d) sidecast material onto unstable areas.

Logging trails

- 36.** (1) A person must not build a logging trail unless it is
- (a) provided for in an operational plan, or
 - (b) authorized in writing by the director,
- (2) A person who builds a logging trail must ensure that the logging trail:
- (a) prevents subsurface seepage water from being diverted onto unstable slopes or into stream channels or gullies that would not naturally have received the water;
 - (b) maintains stability of cut slopes and fill slopes;
 - (c) maintains surface drainage patterns;
 - (d) facilitates any rehabilitation treatments required under subsection (3);
 - (e) minimizes soil erosion and the amount of sediment entering streams.
- (3) At the conclusion of harvesting, a person who builds a logging trail must rehabilitate the area occupied by the logging trail by
- (a) carrying out to the satisfaction of the director all of the following:
 - (i) decompacting the running surface, unless the soil is sand, loamy sand, or contains in excess of 70% coarse fragments by volume;
 - (ii) placing sidecast fill material on the excavated portion of the trail;
 - (iii) recontouring the slope;
 - (iv) re-establishing surface drainage patterns;
 - (v) scattering woody debris on exposed mineral soil surfaces, or
 - (b) carrying out other measures approved by the director.
- (4) The director may relieve a person from the requirements of subsection (3) if the director is satisfied that
- (a) the logging trail will be required to provide access for future harvesting, or

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- (b) treating the area occupied by the logging trail
 - (i) is unlikely to restore soil productivity to an acceptable level, or
 - (ii) creates an unacceptable risk of damaging forest resources.

Landings

- 37.** (1) Unless permitted in an operational plan or otherwise authorized in writing by the director, a person who harvests timber must not construct a landing within 30 m of a stream.
- (2) A person who harvests timber must deactivate a landing when the landing is no longer required for harvesting operations.
- (3) A person who deactivates a landing under subsection (2) must
- (a) if the landing is a permanent structure
 - (i) incorporate drainage systems to minimize runoff flowing onto the landing and erosion of the landing fill and material, and
 - (ii) ensure that the landing is stable, or
 - (b) if the landing is a temporary structure,
 - (i) incorporate drainage systems to minimize runoff flowing onto the landing and erosion of the landing fill and material,
 - (ii) carry out measures to ensure that the landing area is stable,
 - (iii) decompact the landing area,
 - (iv) spread retrievable soil material, that was displaced to construct the landing, over the surface of the landing,
 - (v) re-establish natural surface drainage,
 - (vi) place some woody debris over exposed mineral soil, and
 - (vii) revegetate exposed mineral soil.

Harvesting in gullies

- 38.** (1) In this section “**gully**” means an area containing a stream where
- (a) the overall stream gradient is at least 25%, and
 - (b) a portion of the stream that is at least 100 m long, has
 - (i) a side wall greater than 3 m,
 - (ii) a side slope greater than 50%, and
 - (iii) a stream channel gradient greater than 20%.
- (2) Unless authorized in writing by the director, a person must not carry out harvesting in a gully.
- (3) The director must not authorize a person under subsection (2) unless the director is satisfied that the harvesting activity will
- (a) not increase the risk of erosion of the gully banks,
 - (b) cause excessive damage to the understory,
 - (c) not increase sediment and debris transport potential, and
 - (d) adequately manage and conserve the forest resources of the area.

Slash accumulations

- 39.** Unless otherwise authorized by the director, a person must burn the combustible slash that accumulates at landings and roadside work areas before
- (a) any insects emerge, if the slash is insect-infested, or
 - (b) the end of the first burning season after harvesting is completed, if the slash is not insect-infested.

Rehabilitation of compacted areas and corduroyed trails

- 40.** (1) At the conclusion of timber harvesting activities, or at another time specified by the director, a person who carries out harvesting must rehabilitate compacted areas and corduroyed trails to the satisfaction of the director.

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- (2) The director may exempt a person from the requirements of subsection (1) if the director is of the opinion that
- (a) the area is too small to warrant rehabilitation, or
 - (b) rehabilitating the area
 - (i) is unlikely to restore productivity to an acceptable level, or
 - (ii) creates an unacceptable risk of damaging forest resources.

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PART 7 – ROADS**Not applicable to settled portions of Nisga'a Village Lands**

41. Nothing in this Part applies to the settled portions of Nisga'a Village Lands.

Division 1 – Road Use**Road Permits**

- 42.** (1) A person who has a right to harvest timber may apply to the director for a road permit to construct a road.
- (2) The director may issue a road permit to construct a road, including the right to harvest timber from the area under the permit, if the director is satisfied that
- (a) the location of the proposed road is identified on a forest development plan, and
 - (b) the timber must be harvested to construct the road.
- (3) A road permit
- (a) must describe the location of the road to be constructed under the road permit,
 - (b) must authorize its holder to construct and use the road,
 - (c) must authorize its holder to manage and use the area under the road permit for sand pits, gravel pits, rock quarries or other quarries that provide materials for the construction or maintenance of the road,
 - (d) must, if the road permit grants the right to harvest timber, require its holder to pay stumpage under section 88, and
 - (e) may include any other terms and conditions, consistent with this Act and the regulations, that the director considers necessary.

Road use permits

- 43.** (1) A person must not, without a road use permit, use a road to facilitate the carrying out of timber harvesting or an industrial activity, unless the person is
- (a) the holder of a Nisga'a Public Lands licence that covers the area on which that

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road is located, or

- (b) the holder of a road permit for that road.
- (2) The director may issue a road use permit for a road if the director is satisfied that the use of the road is necessary to facilitate the carrying out of timber harvesting or an industrial activity.
- (3) A road use permit
- (a) must describe the road that its holder may use, and
 - (b) may include other terms and conditions, consistent with this Act and the regulations, that the director considers are necessary.

Road use permit exemption

44. The director may exempt a person from the requirement to have a road use permit, on being satisfied that the person's use of a road will not materially affect the use of the road by others.

Declaration of Nisga'a forest roads

45. (1) The executive may declare a road to be a Nisga'a forest road.
- (2) If a road, declared to be a Nisga'a forest road under subsection (1), is subject to an active road permit or special use permit at the time of the declaration, the director must grant a road use permit to the holder of the road permit or special use permit, as the case may be.

Non-industrial use of a road under a road permit

46. (1) A road under a road permit may be used by any person for non-industrial purposes without charge.
- (2) The holder of a road permit may with the prior consent of the director, close the road or restrict its use if the use of the road for non-industrial purposes would likely cause significant damage to the road or environment or endanger life or property.
- (3) The holder of a road permit may, at the expense of the owner of a vehicle, remove the vehicle from the road if the presence on the road of a vehicle would likely cause damage to the road or environment or endanger life or property.

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Use of a Nisga'a forest road

47. The director may order in a notice published in accordance with Nisga'a law that, for the period specified in the notice, use of a Nisga'a forest road is restricted or prohibited.

Damage to roads

48. A person must not use a road in a manner that damages that road.

Liability insurance

49. (1) A person must not operate a motor vehicle or trailer, other than a motor vehicle or trailer described in section 2(2) of the *Motor Vehicle Act* of British Columbia, on a Nisga'a forest road unless the driver and motor vehicle or trailer are insured under a valid and subsisting contract of accident insurance providing insurance against liability to third parties in the amount of at least \$200 000.
- (2) A person referred to in subsection (1) must
- (a) carry
 - (i) written evidence, supplied by the insurer, of the insurance described in subsection (1), or
 - (ii) a copy of that written evidence, and
 - (b) produce that written evidence, on demand, to a peace officer or forest officer.

Division 2 – Road Construction, Maintenance and Deactivation**Authorization**

50. (1) Before a road is constructed by the Nisga'a Nation for the purpose of accessing timber, the road must be identified on a forest development plan.
- (2) A person, other than the Nisga'a Nation, may only construct a road if the road
- (a) is identified in a forest development plan, and the construction has been authorized in a road permit or timber harvesting licence, or
 - (b) has been authorized in a special use permit or under another enactment.

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General requirements

- 51.** When constructing, maintaining or deactivating a road a person must
- (a) provide for user safety,
 - (b) protect forest resources,
 - (c) protect water quality, stream bank stability and fish habitat,
 - (d) provide for safe passage of fish in streams for the purposes of spawning, rearing or migration,
 - (e) protect structural integrity of the road and drainage structures,
 - (f) maintain slope stability,
 - (g) maintain surface drainage patterns, and
 - (h) minimize surface soil erosion and sediment entering into streams.

Road construction

- 52.** Unless exempted by the director, before a person begins construction of a road, the person must prepare and obtain the approval of the director of a road layout and design that includes
- (a) a map showing the location of
 - (i) the road,
 - (ii) any proposed stream or lake crossings, and
 - (iii) the outer boundary of any riparian management area in or adjacent to a proposed road other than at a proposed crossing of a stream, wetland or lake, and
 - (b) specifications for road design, drainage design and re-vegetation.

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Road maintenance

- 53.** (1) A person who uses a road under a road permit, a timber harvesting licence or a special use permit must maintain the road until
- (a) the road is deactivated, or
 - (b) the person is relieved of the obligation to maintain the road by the director under section 54.
- (2) The executive must ensure that the following roads are maintained until deactivated:
- (a) a road constructed by the Nisga'a Nation;
 - (b) a road referred to in subsection (1)(b).
- (3) Despite subsection (1) or (2), the director may require the holder of a road use permit for a road to assume all or part of the responsibility for maintaining the road.
- (4) Despite subsection (1), (2) or (3), the holder of a Nisga'a Public Lands licence must maintain those roads, within the area covered by the licence, that are
- (a) Nisga'a forest roads, or
 - (b) roads used by the holder to facilitate timber harvesting of timber or another industrial activity.

Road deactivation

- 54.** (1) A person who is required to maintain a road under section 53(1) must, at the conclusion of use of the road, deactivate the road unless the person is notified, in writing, by the director that deactivation is not required.
- (2) The executive must, at the conclusion of use of a road that it is required to maintain under section 53, deactivate the road unless the director is of the opinion that deactivation is not required.

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PART 8 – SILVICULTURE**Reforestation**

55. (1) The holder of a Nisga'a Public Lands licence must ensure, in accordance with this section, that areas covered by the licence where the timber has been harvested or destroyed are reforested.
- (1.1) The executive must ensure, in accordance with this section, that areas, not referred to in subsection (1), where the timber has been destroyed are reforested.
- (2) Despite subsection (1), the following areas are not required to be reforested:
- (a) those areas within a cutblock where the land will be used for a purpose that is incompatible with the establishment of successive crops of trees;
 - (b) a cutblock where the harvesting in the cutblock was limited to removal of a volume of timber not exceeding 500 m³;
 - (c) those portions of a cutblock that are occupied by
 - (i) roads, landings or logging trails that will be used in future timber harvesting operations,
 - (ii) areas of rock, wetland or any other areas that in its natural state is incapable of growing a stand of trees that meets the stocking requirements specified in this section, or
 - (iii) a reserve area;
 - (d) those portions of Nisga'a Village Lands that were harvested for the purpose of village expansion, and
 - (e) an area where the timber was destroyed and the director is of the opinion that the size or remoteness of the area makes it impractical to reforest.
- (3) Unless a different period is specified by the director, an area to be reforested must, within 15 years of the harvesting or destruction of the timber, contain at least the minimum number of crop trees per hectare as determined to be ecologically appropriate for the area by the director.

Silviculture treatment restrictions

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- 56.** (1) A person who carries out spacing or pruning must ensure that the leave trees are not damaged.
- (2) Without limiting subsection (1), a person who carries out pruning must leave at least 30% live crown on each leave tree.
- (3) A person who uses fertilizer in silviculture treatments must ensure that it is stored, handled and applied in a manner that protects forest resources.
- (4) Unless authorized by the director, a person must not use pesticides when carrying out a silviculture treatment.
- (5) Unless exempted by the director, a person who uses trap trees or pheromones to concentrate insect populations must ensure that the insect brood is destroyed before the insects emerge.

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PART 8.1 – ECOSYSTEM RESTORATION AND CARBON RIGHTS**56.1** In this Part:

“ecosystem restoration contractor” means, in relation to an ecosystem restoration and carbon rights agreement, the person entering into the agreement with the executive;

“ecosystem restoration and carbon rights agreement” means an ecosystem restoration and carbon rights agreement entered into under section 56.2;

“ecosystem restoration area” means, in relation to an ecosystem restoration and carbon rights agreement, the area of Nisga'a Lands to which the agreement applies;

“ecosystem restoration plan” means a plan for carrying out an ecosystem restoration project, including, but not limited to, stocking standards, mapping standards, silviculture treatment and site preparation methods, replanting prescriptions, including planting stock species, age and provenance, post-planting assessment methods and stand tending work to be undertaken;

“ecosystem restoration project” means a project to restore an ecosystem restoration area to a functional woodland state in accordance with an ecosystem restoration plan approved by the director;

“greenhouse gas emissions” means human induced emissions to the atmosphere of gases known or suspected to contribute to climate change;

“sequestered” means, in relation to an ecosystem restoration and carbon rights agreement, sequestered in the trees planted in the ecosystem restoration area by or on behalf of the ecosystem restoration contractor in accordance with the ecosystem restoration plan approved by the director.

Designation of Nisga'a Corporations and Nisga'a partnerships

56.2 The executive may enter into an ecosystem restoration and carbon rights agreement with a Nisga'a Corporation or Nisga'a partnership designated by regulation.

Ecosystem restoration and carbon rights agreement

56.3 An ecosystem restoration and carbon rights agreement

- (a) may have a term of up to 100 years,
- (b) may apply to an ecosystem restoration area of up to 300 hectares,

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- (c) must require the ecosystem restoration contractor to submit to the director for approval an ecosystem restoration plan for an ecosystem restoration project to be undertaken on the ecosystem restoration area,
 - (d) may confer on the ecosystem restoration contractor the exclusive right, during the term of the agreement, to claim, sell, assign or otherwise dispose of any or all of the entitlements, benefits, allowances, allocations and credits that may from time to time be available in relation to the carbon sequestered under the agreement, including as an offset of the greenhouse gas emissions of any person pursuant to a greenhouse gas reduction or mitigation program, whether voluntary or regulated by an international, Canadian or British Columbia governmental authority or body,
 - (e) may specify the terms and conditions under which the ecosystem restoration contractor may claim, sell, assign or otherwise dispose of all or any part of the ecosystem restoration contractor's rights and obligations under the agreement,
 - (f) must provide that the trees planted in the ecosystem restoration area by or on behalf of the ecosystem restoration contractor in accordance with the ecosystem restoration plan approved by the director will be the property of the Nisga'a Nation,
 - (g) may require the ecosystem restoration contractor to pay to the Nisga'a Nation such fees or other amounts as are set out in the agreement or determined by the executive from time to time, and
 - (h) may include other terms and conditions, consistent with this Act and the regulations, that the executive considers necessary or advisable.

Director approval of ecosystem restoration plan

56.4 The director may, in the director's discretion, approve an ecosystem restoration plan for the purposes of an ecosystem restoration and carbon rights agreement if the director is satisfied that the plan, if implemented, will

Timber harvesting on an ecosystem restoration area

56.5 Nothing in an ecosystem restoration and carbon rights agreement will authorize an ecosystem restoration contractor to harvest any timber on an ecosystem restoration area except as may be required to implement the applicable ecosystem restoration plan approved by the director.

Ecosystem restoration as a forest practice

56.6 For the purposes of Part 5 of the Act,

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- (a) the implementation of a ecosystem restoration project will be deemed to be a forest practice, and
- (b) an ecosystem restoration plan approved by the director will be deemed an approved operational plan.

PART 9 – PROTECTION OF TIMBER FOREST RESOURCES**Division 1 – Fire and Prevention****Open fires**

- 57.** (1) Unless otherwise authorized by the director, a person must not light, fuel or use an open fire except in accordance with
- (a) this Act and the regulations, and
 - (b) any notice or order under this section.
- (2) A person who lights, fuels or uses an open fire must, on the completion of use of that fire, ensure that the fire is completely extinguished.
- (3) If the director considers it necessary to limit the risk of a forest fire starting or to address a public health or safety concern, the director may,
- (a) order, in a notice published in accordance with Nisga'a law,
 - (i) the restriction or the prohibition of, the lighting, fueling or use of an open fire in an area, or
 - (ii) that a person who is lighting, fueling or using an open fire in an area extinguish the fire, and
 - (b) in a notice given to a person who is lighting, fueling or using an open fire in an area
 - (i) restrict or prohibit the person from lighting, fueling or using of the fire, or
 - (ii) order the person to extinguish the fire.

Fire hazard assessment

- 58.** (1) A person who engages in a prescribed activity must, in accordance with the regulations,
- (a) assess the fire hazard, and
 - (b) submit the results of the fire hazard assessment to a forest officer.
- (2) The director may assess whether a fire hazard exists.

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- (3) If the director makes an assessment under subsection (2), the director must provide the results of that assessment to the person carrying out an industrial activity on the land.
- (4) An assessment under subsection (1) is effective to the extent it does not conflict with an assessment under subsection (2).

Abatement and removal of fire hazard

- 59.** (1) If a fire hazard exists as a result of an industrial activity, the person carrying out the activity must remove or abate the fire hazard in accordance with the regulations.
- (2) If the director determines that a person described in subsection (1) has failed to remove or abate a fire hazard as required under those subsections, the director may, in a written notice, require the person to remove or abate the fire hazard.

Division 2 – Fire Control and Suppression**Definitions**

- 60.** In this Division

“person’s area of operation” means the area within 1000 m of the site where the person is carrying out an industrial activity;

“initial fire suppression” means those actions that are taken when a fire is first discovered, to contain or limit the spread of the fire, and, if possible, to extinguish the fire;

“restricted area” means an area of land designated by the director as a restricted area under section 61.

Restricted area

- 61.** (1) The director may order in a notice published in accordance with Nisga’a law that, for the period specified in the notice, an area is designated a restricted area,
- (a) as a preventive measure to limit the risk of a forest fire starting,
 - (b) as a public safety measure to protect the public from an actual or potential fire or from fire control or suppression operations, or

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- (c) to avoid interference with fire control or suppression operations.
- (2) No person may enter a restricted area, other than in accordance with the order, without the written consent of a forest officer unless the person is travelling to or from, or occupying, their residence.
- (3) A person entering a restricted area must comply with any regulations applicable to restricted areas.

Order to leave area

- 62.** (1) A forest officer may, by order, require a person to leave an area specified in the order if fire control or suppression operations are being conducted on the area.
- (2) A forest officer may make an order under subsection (1) whether or not the area specified in the order has been designated a restricted area.

General duty to report a fire

- 63.** A person who sees a fire must immediately report the fire to the director, a forest officer, a peace officer or a person who answers a forest fire reporting telephone number, if the fire
- (a) appears to be unattended, or
 - (b) is burning without any precautions being taken to extinguish it to prevent its spread.

Person starting fire

- 64.** A person who starts or causes an open fire
- (a) other than as permitted by this Act and the regulations, or
 - (b) that spreads beyond the areas authorized or intended for burning or that otherwise becomes out of control,

must immediately take all reasonable steps to extinguish the fire and then report the fire to the director, a forest officer, peace officer or person answering a forest fire reporting telephone number.

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Fire preparedness

- 65.** (1) A person who carries out an industrial activity must have available for use
- (a) the tools and equipment in the quantity and of the type required by the regulations, and
 - (b) the prescribed number of personnel who meet the prescribed training qualifications.
- (2) A person who is engaged in a prescribed category of industrial activity must submit to a forest officer a fire preparedness plan that meets the prescribed requirements and specifies proposed fire detection and initial fire suppression for the person's area of operation.

Initial fire suppression

- 66.** If a person is carrying out an industrial activity and a fire occurs in the person's area of operation, the person must
- (a) report the fire to the director, a forest officer, a peace officer or a person answering a forest fire reporting telephone number, and
 - (b) carry out initial fire suppression.

Requisition of facilities, equipment and personnel

- 67.** For the purposes of carrying out fire control or suppression operations, the director may
- (a) order a person to make available for use by the Nisga'a Nation
 - (i) facilities and equipment that the person owns or has use of, and
 - (ii) an employee who is ordered to assist in controlling or extinguishing a fire under paragraph (b) and to pay the employee their usual wages while fighting the fire, and
 - (b) order a person who is 19 year of age or older to assist in controlling or extinguishing a forest fire if the person is
 - (i) physically capable of doing so, and
 - (ii) trained to fight forest fires or possesses skills that can be used to fight forest fires.

Compensation

- 68.** (1) The Nisga'a Nation must, in accordance with the regulations, compensate a person who
- (a) carries out initial fire suppression under section 66, or
 - (b) complies with an order issued under section 67.
- (2) Despite subsection (1), the Nisga'a Nation is not liable to pay compensation for expenses incurred by
- (a) Nisga'a Village Government while carrying out initial fire suppression on settled portions of Nisga'a Village Lands, or
 - (b) a person described in subsection (1), if the director determines that the person, or the person's employee,
 - (i) caused the fire,
 - (ii) failed to carry out initial fire suppression as required, or
 - (iii) failed to comply with the regulations and that failure contributed to the cause or spread of a fire.
- (3) The director, when making a determination under subsection (2)(b), must give the person a notice of determination setting out sufficient information to enable the person to respond to the determination.

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PART 10 – PROTECTING NON-TIMBER RESOURCES**Division 1 – Forest Recreation****Definitions**

69. In this Part

“**camp**” means to occupy a campsite, by setting up a tent or parking a motor vehicle to remain overnight, and

“**campsite**” means that area within the recreation site designed to accommodate a person who wishes to remain overnight.

Protection of recreation resources

- 70.** (1) If the director determines that it is necessary to protect a recreation resource or manage public recreation use, the director may, by written order posted in the area to which it applies, restrict, prohibit or attach a condition to a non-recreational use, except a use that is specifically permitted by or under another enactment.
- (2) An order under subsection (1) must contain the following:
- (a) the nature of the order;
 - (b) the area to which the order applies;
 - (c) the date on which the order takes effect;
 - (d) the period during which the order is to remain in effect.
- (3) A person must not remove, alter, destroy or deface a notice posted under subsection (1) without lawful authority.
- (4) The executive/director may, by written order establish an area of Nisga'a Public Lands as a recreation site and may vary or cancel an order made under this subsection.
- (5) The director may, by order, require the holder of a Nisga'a Public Lands licence to construct, maintain and repair a recreation site within the area covered by the licence.

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Motor vehicles

- 71. (1) A person must not operate a motor vehicle on a recreation site in a manner that is likely to
 - (a) cause damage to the recreation site, or
 - (b) endanger, injure or damage people or property.
- (2) A person must not operate a motor vehicle on a recreation site at a speed exceeding 20 km/hr.
- (3) A person must not park a motor vehicle on a recreation site in a manner that impedes traffic or inhibits a person's use of the site.
- (4) If a motor vehicle is parked on a recreation site contrary to subsection (3), a forest officer or a peace officer may order that the vehicle be impounded and removed.
- (5) Any cost incurred in impounding or removing a motor vehicle under an order made under subsection (4)
 - (a) is a debt owed by the owner of the vehicle to the person who impounded and removed the vehicle, and
 - (b) must be paid before the vehicle is released.

Refuse

- 72. (1) A person who owns, or is responsible for, a motor vehicle that has a holding tank for waste water or sewage must ensure that the contents of the holding tank are not deposited or discharged at a recreation site other than at any area specifically designated for that purpose.
- (2) A person must not deposit or otherwise dispose of at a recreation site
 - (a) any kind of refuse except refuse that the person has accumulated while using the site, and then only if the refuse is deposited in a container provided for that purpose, or
 - (b) game offal, entails, hides or bones.

Traps and firearms

- 73. (1) In this section “**firearm**” means a rifle, shotgun, handgun, spring gun or any device that propels a projectile by means of an explosion, a spring or compressed gas.

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- (2) Unless authorized by a forest officer, a person must not set a trap, discharge a firearm or shoot a bow or crossbow on or into a recreation site.
- (3) An authorization under subsection (2) may specify conditions including, the type of devices that may be used, the time and location where they may be used, required supervision and purpose of use.

Pets

- 74.** (1) A person who owns, or is responsible for, a pet must ensure that the pet does not, while on a recreation site,
- (a) present a threat to another person's property or to the life or safety of another person or animal, or
 - (b) disturb another person or animal unnecessarily.
- (2) A forest officer or a peace officer who is of the opinion that a person has contravened subsection (1) may require that person
- (a) to restrain the pet, or
 - (b) to remove the pet from the recreation site.

Firewood

- 75.** A person may remove firewood from a recreation site only as authorized by a forest officer.

Structures

- 76.** (1) A person may erect, modify or move a structure or post a sign or a poster on a recreation site only as authorized by a forest officer.
- (2) A forest officer may alter or remove a structure, sign or poster referred to in subsection (1) whether or not it was erected or posted under the forest officer's authority.

Limitations on use and occupancy

- 77.** (1) Unless authorized by a forest officer, a person must not use a recreation site for any of the following:

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- (a) a competitive sporting event;
 - (b) a business or industrial activity;
 - (c) a place of temporary residence while engaged in a business or industrial activity outside the site.
- (2) A person may camp at a recreation site for a period exceeding 14 consecutive days only as authorized by a forest officer.
- (3) For the purposes of calculating 14 consecutive days under subsection (2), a period of consecutive days is cumulative unless the person and their vehicle and equipment, as the case may be, are not present on the recreation site for a period of at least 72 consecutive hours.
- (4) No more than 6 people may camp at one campsite in a recreation site at a time, unless the number camping at the campsite is made up entirely of parents and their unmarried children under the age of 19, or guardians and their unmarried wards under the age of 19.
- (5) A forest officer
- (a) may limit the occupancy of a campsite or recreation site, including the number of persons and motor vehicles, if the forest officer is satisfied that the limit is necessary to adequately manage the recreation site, and
 - (b) if a limit is imposed, must take reasonable steps to make people who arrive at the recreation site aware of the limit.

Respect for property

- 78.** A person must not carelessly, negligently or deliberately damage, or cause any alterations to a recreation site including any structure.

Quiet enjoyment

- 79.** A person must not deliberately or unnecessarily disturb other persons on a recreation site.

Responsibility for minors

- 80.** If requested to do so by a forest officer or a peace officer, a parent, guardian or other person in charge of a minor must immediately make a reasonable attempt to stop the minor from contravening this Act on the regulations with respect to a recreation site.

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Recreation site rules and closures

- 81.** (1) A forest officer may establish rules for the use of a recreation site by posting a sign containing the rules to be followed at the site.
- (2) A person must not in respect of a sign posted under subsection (1)
- (a) contravene any rule expressed in the sign, or
 - (b) remove, alter, cover, destroy or deface the sign.
- (3) A forest officer may close all or part of a recreation site to protect the public or site.
- (4) A person must comply with a rule or closure made under this section.

Division 2 – Botanical Forest Products**Harvesting of botanical forest products**

- 82.** (1) A person who harvests botanical forest products from an area
- (a) may do so only in accordance with the terms and conditions set out in any permit issued by the director or a forest officer, and
 - (b) must not deleteriously impact the productive capacity of that area.
- (2) If the director is of the opinion that the establishment of a no harvest area is required as a preventative measure to limit the risk of damage to the capacity of an area to produce botanical forest products, the director
- (a) may establish the no harvest area by publishing a notice to that effect in accordance with Nisga'a law, and
 - (b) must cause any notice published under paragraph (a) to be posted at one or more conspicuous locations in the vicinity of the no harvest area.
- (3) A person must not enter a no harvest area established under this section for the purpose of harvesting or buying botanical forest products without the written consent of the director.
- (4) A person entering a no harvest area established under this section must comply with any regulations applicable to that area.

PART 11 – RECORDS AND PAYMENTS**Requirement to scale timber**

- 83.** (1) The following persons must ensure that the timber that they harvest is sealed promptly to the satisfaction of the director:
- (c) a holder of a timber harvesting licence;
 - (d) a holder of a timber salvage permit;
 - (e) a holder of a timber harvesting contract.
 - (f) a holder of a Nisga'a Public Lands licence.
- (2) The director may relieve a holder of a timber harvesting contract of the requirement under subsection (1).
- (3) If the director is not satisfied that a person referred to in subsection (1) has correctly scaled timber that is required to be scaled, the director may
- (a) order the person to scale or rescale the timber, as the case may be, or
 - (b) have the timber independently scaled.
- (4) If the director has timber scaled under subsection (3)(b), the director may order the person who was originally responsible for scaling the timber under subsection (1) to reimburse the Nisga'a Nation for the costs incurred in having the timber independently scaled.

Scale return

- 84.** A person who is required to have timber scaled under section 83 must ensure that copies of all scale returns, including any check scale details, are delivered to the director within the time specified by the director.

Records and returns for timber

- 85.** (1) A person who is the holder of a licence, contract or permit referred to in section 11 must maintain accurate records of their activities under the licence, contract or permit, as the case may be.
- (3) The director may inspect, at reasonable times, records described in subsection (1).

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- (4) If requested by the director, the person required to maintain records described in subsection (1) must submit copies of those records at the times and in the manner specified by the director.

Records and returns for botanical forest products

- 86.** (1) A holder of a botanical forest product harvesting permit and the holder of a botanical forest product buyer permit must keep accurate records of
- (a) the volume of the botanical forest product harvested or purchased, and
 - (b) the species, grade and price of the botanical forest products described in paragraph (a).
- (2) The director may inspect, at reasonable times, records required to be kept under subsection (1).
- (3) If requested by the director, a holder of a botanical forest product harvesting permit and the holder of a botanical forest product buyer permit must submit, at the times and in the manner specified by the director, the records required to be kept under subsection (1).

Transfer of ownership

- 87.** (1) Subject to subsection (2), ownership of timber or botanical forest products that are harvested under a licence or permit under this Act vests in the holder of the licence or permit.
- (2) Ownership of botanical forest products that are harvested by an individual harvesting under a group botanical forest product harvesting permit vests in the individual.

Payment to Nisga'a Nation

- 88.** The holder of a licence or permit under this Act must pay to the Nisga'a Nation, stumpage, fees and other charges required by the licence or permit or as prescribed.

Recovery of money

- 89.** Money that is required to be paid to the Nisga'a Nation under this Act or the regulations
- (a) is due on, and payable by, the date specified for payment in a statement to, or notice served on, the person who is required to pay it,
 - (b) bears interest as prescribed, and

- (c) may be recovered in a court proceeding as a debt due to the Nisga'a Nation.

Responsibility for payment

90. A person who acquires timber on which stumpage or other charges are owing to the Nisga'a Nation must

- (a) report the acquisition to the director, in a form required by the director, not later than 10 days following the date on which the acquisition occurred, and
- (b) pay all money payable to the Nisga'a Nation in respect of the timber.

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PART 12 – COMPLIANCE AND ENFORCEMENT**Division 1 – Cancellation and Loss of Eligibility****Cancellation**

- 91.** (1) In addition to any administrative charge assessed, or order made, under this Act, the regulations, or proceeding under the Nisga'a Offence Act, the executive may cancel a right granted under this Act if the person to whom the right is granted has
- (a) made a material misrepresentation, omission or misstatement of fact in an application for a licence or permit, or in information provided with an application,
 - (b) failed to perform an obligation required to be performed under a licence or permit, or
 - (c) failed to comply with a requirement of this Act or the regulations.
 - (d) made an assignment for the benefit of its creditors, become insolvent or committed an act of bankruptcy.
- (2) Despite the expiry, surrender or cancellation of a licence or permit granted or issued under this Act or the regulations, the holder of the licence or permit is liable for all of the following that were incurred before the expiry, surrender or cancellation:
- (a) to pay any fees, costs and penalties owing to the Nisga'a Nation in respect of the licence or permit;
 - (b) to perform all obligations under the licence or permit;
 - (c) to perform all obligations imposed by or under this Act or the regulations with respect to the licence or permit.

Eligibility

- 92.** If the director determines that the holder of a licence has failed to
- (a) provide security or a deposit required under this Act or the regulations, or
 - (b) perform an obligation under this Act, the regulations or the licence in respect of an area of land specified in a road permit or road use permit associated with the licence,

the director may refuse to issue a permit required by the holder of the licence until the failure has been corrected.

Division 2 – Inspecting, Stopping and Seizing

Entry and inspection

- 93.** (1) For any purpose related to the administration or enforcement of this Act and the regulations, a forest officer may enter, at any reasonable time, on land or premises, other than a dwelling house or a room being used as a dwelling, if the forest officer has reasonable grounds to believe that the land or premises
- (a) has located on it timber that is required to be scaled,
 - (b) is the site of a forest practice,
 - (c) is the site of trading in botanical forest products,
 - (d) is the site of an activity that is regulated under this Act, or
 - (e) is the site of an industrial activity.
- (2) A forest officer may, at any reasonable time, enter on land to inspect for fire hazards if the forest officer has reasonable grounds to believe that an activity is being carried out or a condition exists on the land that might cause or produce a fire hazard.
- (3) A forest officer who enters on land or premises under this section may
- (a) inspect any thing or any activity that is reasonably related to the purpose of the inspection, and
 - (b) require production for the purposes of inspection or copying of
 - (i) a licence, permit or operational plan that is required for the activity, and
 - (ii) a record required to be kept under this Act or the regulations.

Stopping vehicles

- 94.** (1) For any purpose related to the administration and enforcement of this Act and the regulations, a forest officer may stop and inspect a vehicle the forest officer has reasonable grounds to believe contains or is transporting timber, timber products or botanical forest products.

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- (2) A forest officer may stop and inspect a vehicle if the forest officer has reasonable grounds to believe that an occupant of the vehicle is contravening or has contravened this Act or the regulations.
 - (3) The operator of a vehicle must stop the vehicle when required to do so by a forest officer under this section who
 - (a) is in uniform,
 - (b) displays a forest officer badge, or
 - (c) is in or near a vehicle that is readily identifiable as a Nisga'a Nation vehicle.
 - (4) A forest officer may stop and inspect a person and that person's belongings if the forest officer has reasonable grounds to believe that the person is contravening or has contravened this Act or the Regulations.

Obligation of a forest officer

- 95.** A forest officer who conducts an inspection under this Division, or who seizes goods under section 97, must, on request, provide proof of identity to the person who has apparent custody or control of the property or activity being inspected or the goods being seized.

Obstruction

- 96.** (1) A person must not obstruct a forest officer in the lawful exercise of the forest officer's duties.
- (2) The occupant of the premises or vehicle that is being inspected by a forest officer in accordance with this Act must, on the request of the forest officer, produce proof of identity.
- (3) A person who has been stopped by a forest officer in accordance with this Act must, on request of the forest officer, produce proof of identity.

Forfeiture of forest products

- 97.** (1) A forest officer may seize any of the following:
- (a) timber that the forest officer has reasonable grounds to believe was cut or removed in contravention of this Act or the regulations;

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- (b) forest products on which stumpage and other charges have not been paid in accordance with section 88;
 - (c) timber that the forest officer has reasonable grounds to believe
 - (i) has not been scaled in accordance with this Act, or
 - (ii) is mixed with timber to which this subsection applies;
 - (d) any timber product that the forest officer has reasonable grounds to believe has been manufactured from timber that has not been scaled under this Act;
 - (e) a botanical forest product that the forest officer has reasonable grounds to believe has been harvested, bought or traded contrary to this Act;
 - (f) a vehicle transporting timber, timber products or botanical forest products to which paragraphs (a) to (e) apply.
- (2) The director may sell
- (a) at a public auction or by private sale, timber seized under subsection (1)(a) or botanical forest products seized under subsection (1)(e), and
 - (b) at a public auction, timber or timber products seized under subsection (1)(b), (c) or (d).
- (3) If timber or timber products are to be auctioned under subsection (2)(b), the director must, at least 10 days in advance of the auction, publish in accordance with Nisga'a law, a notice that
- (a) specifies the time and place of the auction, and
 - (b) identifies the name of the person from whom the timber or timber product was seized.
- (4) Subject to subsection (5), if
- (a) property sold at an auction under this section is
 - (i) timber or a timber product seized under subsection (1)(b), or
 - (ii) timber seized under subsection (1)(c)(ii), and
 - (b) the money realized from the public auction exceeds the money that is payable to the Nisga'a Nation, including interest and costs of seizure, storage and sale,

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- the surplus must be paid to the person who possessed the property when it was seized.
- (5) If, within 30 days after an auction under this section, a person serves on the director a notice of a claim to the surplus money referred to in subsection (4), the surplus must be retained until the rights of persons claiming the surplus have been determined and settled.
 - (6) A vehicle seized under subsection (1)(f) must be released by the forest officer when the timber, timber product or botanical forest product is delivered to a location specified by the forest officer.

Division 3 – Administrative Remedies**Administrative charges**

- 98.**
- (1) If the director determines that a holder of a licence, contract or permit granted under this Act or their employee, agent or contractor has contravened this Act, the regulations or an operational plan, the director may assess an administrative charge payable to the Nisga'a Nation against the holder of the licence, contract or permit up to the maximum amount and in the manner prescribed.
 - (2) If the holder of a licence, contract or permit described in subsection (1) is a corporation, a director or officer of it who authorized, permitted or acquiesced in the contravention of this Act, the regulations or an operational plan also commits the contravention.
 - (3) Before the director assesses an administrative charge under subsection (1), the director must consider all of the following:
 - (a) previous contraventions of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was repeated or continuous;
 - (d) whether the contravention was deliberate;
 - (e) any economic benefit derived by the person from the contravention;
 - (f) the person's cooperativeness and efforts to correct the contravention;
 - (g) any other prescribed consideration.
 - (4) When assessing an administrative charge under this section, the director must give a notice of the determination to the person against whom the administrative charge is assessed setting out all of the following:

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- (a) the nature of the contravention;
- (b) the amount of the administrative charge;
- (c) the date by which the administrative charge must be paid.

Remediation order

- 99.** (1) If the director determines that a holder of a licence, contract or permit granted under this Act or their employee, agent or contractor has contravened this Act, the regulations or an operational plan, the director may, by notice of determination, order the holder of the licence, contract or permit to carry out measures to remedy the contravention.
- (2) A notice of determination under subsection (1) must set out the following, as applicable:
- (a) the nature of the contravention;
 - (b) the nature of the work to be done to remedy the contravention;
 - (c) the date by which the work must be completed.
- (3) If a person fails to comply with an order under subsection (1) by the date specified in the notice of determination, the director may do one or more of the following:
- (a) in a notice given to the person, prohibit the person from carrying out the work referred to in the order;
 - (b) carry out the work;
 - (c) realize on any security the person was required to provide.
- (4) If security is realized upon under subsection (3)(c), the person described in that subsection must immediately replace the security to the extent it has been realized.
- (5) If there is a surplus remaining from the realization of security under subsection (3)(c) after payment of the costs incurred by the Nisga'a Nation in doing the work, the director must promptly refund the surplus to the person referred to in subsection (3).

Suspension order

- 100.** (1) If a forest officer determines that a person is contravening this Act, the regulations, a licence, a permit or an operational plan, the forest officer may order, in writing, that the person suspend operations to the extent specified by the order.

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- (2) If a forest officer believes that the nature of the contravention is causing, or may imminently cause, serious damage to the environment, the forest officer may make an oral order that the person suspend operations.
- (3) The director may at any time rescind an order made under this section.

Order to vacate

- 101.** If a forest officer or peace officer determines that a person has contravened this Act or the regulations in relation to the use of a recreation site, the forest officer or peace officer may, by notice served on the person, order the person to vacate the recreation site for a period specified in the notice.

Order for compliance

- 102.** If the executive considers that a person is not complying, or has not complied, with an order, decision or determination of the director, a forest officer or peace officer under this Act or the regulations, the executive may apply to the Supreme Court of British Columbia for an order directing the person to comply with the order, decision or determination.

Right to request a review

- 103.** A person who is subject to
- (a) a determination under section 68(2)(b),
 - (b) cancellation of a Nisga'a Public Lands licence, timber harvesting licence or timber salvage permit under section 91(1), or
 - (c) an order or determination under sections 98 to 100

may request a review of the order, determination or cancellation under the Nisga'a Administrative Decisions Review Act.

Division 4 – Offences and Court Orders**Limitation period**

- 104.** (1) The time limit for laying an information respecting an offence under this Act or the regulations is three years after the facts on which the information is based first came to

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the knowledge of the director.

- (2) A document purporting to have been issued by the director certifying the day on which the director became aware of the facts on which an information is based, in the absence of evidence to the contrary, is proof of the matter certified.

Offences

- 105.** (1) A person who contravenes this Act or the regulations commits an offence under the Nisga'a Offence Act and is liable on conviction to penalties specified in that Act.
- (2) Subsection (1) does not apply to the executive, the director, a forest officer or a peace officer acting in the course of their duties.
- (3) A proceeding, convictions or penalty for an offence under the Nisga'a Offence Act for a contravention of this Act or the regulations does not relieve a person from any other liability under this Act.

Employer liability

- 106.** (1) In a proceeding under the Nisga'a Offence Act for a contravention of this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by the defendant's employee, agent or contractor.
- (2) Subsection (1) applies even if the defendant's employee, agent or contractor has not been prosecuted for the offence.

Offence by directors and officers

- 107.** If a corporation commits an offence under the Nisga'a Offence Act for a contravention of this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

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PART 13 – GENERAL**Service of documents**

- 108.** (1) A notice or other document that is required to be given to a person under this Act or the regulations may be given to the person in the following manner:
- (a) if the person is an individual
 - (i) by leaving it with the individual,
 - (ii) by leaving it at the individual's last or most usual place of residence with someone who is or appear to be at least 16 years of age, or
 - (iii) by mailing it by registered mail to the individual's last known postal address;
 - (b) if the person is a corporation
 - (i) by leaving it with
 - (A) a director, officer or manager of the corporation,
 - (B) a receptionist at a place of business of the corporation, or
 - (C) the attorney of the corporation appointed under the Company Act of British Columbia,
 - (ii) by leaving it at the registered office of the corporation if the corporation is incorporated under the Company Act of British Columbia, or
 - (iii) by mailing it by registered mail to
 - (A) the registered office of the corporation,
 - (B) the attorney of the corporation appointed under the Company Act of British Columbia, or
 - (C) an address for service provided by the corporation.
- (2) A notice or other document that is mailed to a person by registered mail under subsection (1) is deemed to be served on the person on the eighth day after it is mailed.

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Designation

- 109.** (1) The director may designate a person employed by the Nisga'a Nation as a forest officer for the purposes of this Act and the regulations and may establish the terms of the designation.
- (2) A document purporting to have been issued by the director certifying that the director has designated a person as a forest officer under this section is admissible as evidence of the designation without proof of the signature of the director purporting to have signed the document.

Delegation

- 110.** (1) In this Act or the regulations, a reference to
- (a) the executive includes a reference to a person authorized by the executive to act on its behalf, and
- (b) the director includes a reference to a person authorized by the director to act on behalf of the director.
- (2) A document purporting to have been issued by the executive certifying that the executive has delegated a power or duty to a person under this Act or the regulations is admissible as evidence of the delegation without proof of the signatures of the members of the executive purporting to have signed the document.
- (3) A document purporting to have been issued by the director certifying that the director has delegated a power or duty to a person under this Act or the regulations is admissible as evidence of the delegation without proof of the signature of the director purporting to have signed the document.
- (4) A person who exercises a power through a delegation referred to under subsection (1) is required to comply with the requirements of this Act and the regulations in respect of the exercise of that power and a decision of the delegate is a decision of the person who delegated the power.

Director's included powers

- 111.** (1) If, under this Act, the director is empowered to establish an authorization, condition or requirement, the director is also empowered to establish the manner and timing for carrying out the authorization, condition or requirement.
- (2) If the director exempts a person from a requirement of this Act, the director may make the exemption subject to conditions.

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Compliance with notices, orders and determinations

- 112.** (1) A person who is served with a notice, order or determination made under this Act or the regulations must comply with the requirements or the notice, order or determination, as the case may be.
- (2) A person must comply with the requirements, restrictions or prohibitions specified in a notice or order that is
- (a) made under this Act or the regulations, and
 - (b) published in accordance with Nisga'a law.
- (3) Without limiting subsection (1) or (2), a person must comply with any of the following as specified in a notice, order or determination made under this Act or the regulations:
- (a) a requirement to perform an activity or perform the activity in a specific manner or subject to specific conditions;
 - (b) a requirement to refrain from performing one or more activities, in whole or in part;
 - (c) a requirement to not enter an area or to restrict activities within the area;
 - (d) a requirement to leave an area;
 - (e) a requirement to pay any monies specified.

Regulations

- 113.** (1) The executive may make regulations including, but not limited to the following:
- (a) defining a word or expression used in the Act;
 - (b) prescribing forms for the purposes of this Act;
 - (c) respecting fees for the provision, under this Act or the regulations, of a service by the Nisga'a Nation to any person;
 - (d) requiring security to be provided by the holder of a licence or permit granted under this Act or the regulations, and prescribing
 - (i) the type of security that is acceptable or not acceptable,

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- (ii) the form and content of the security, and
 - (iii) the circumstances under which the security may be realized;
- (e) respecting the determination and payment of fees, including stumpage that are required to be paid to the Nisga'a Nation;
- (f) respecting the recovery of money that is required to be paid to the Nisga'a Nation under this Act or the regulations;
- (g) respecting the exemption of a person, place, thing or transaction from a provision of this Act or the regulations, including
 - (i) making the exemption subject to conditions, and
 - (ii) restricting the director's authority to exempt a person from a provision under this Act or the regulations;
- (h) respecting land use including special areas and special use permits;
- (i) respecting operational plans and road layout and designs, including
 - (i) providing for review and comment,
 - (ii) the carrying out, submitting and retaining of surveys, and
 - (iii) the making, submitting and retaining of assessments and reports;
- (j) respecting forest practices, including
 - (i) silvicultural systems,
 - (ii) silviculture treatments,
 - (iii) collection, drying, processing, registration, transportation, purchase, sale, disposition and standards of quality of tree cones, tree seeds, vegetative propagules and vegetative material,
 - (iv) rehabilitation of areas that fail to comply with a requirement of this Act or the regulations, and
 - (v) timber harvesting practices and methods;
- (k) respecting cutblocks, including size, design and spatial distribution;

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- (l) respecting roads and rights of way, including
 - (i) the use of Nisga'a forest roads and rights of way,
 - (ii) the use and operation of vehicles or classes of vehicles on Nisga'a forest roads or rights of way, and
 - (iii) construction, maintenance or deactivation;
 - (m) respecting the protection of forest resources;
 - (n) respecting fire use, prevention, control and suppression, including
 - (i) fire precautions to be taken in relation to plants, machinery and equipment in or near forests and in relation to utilities,
 - (ii) regulating or prohibiting burning,
 - (iii) initial fire suppression, and
 - (iv) site rehabilitation;
 - (o) respecting administrative remedies including, administrative charges, fees, remediation orders and suspension orders in cases where there is a failure to comply with the requirements of
 - (i) this Act or the regulations, or
 - (ii) an operational plan under this Act or the regulations.
 - (2) In making a regulation under this Act, the executive may do one or more of the following:
 - (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different regulations for different persons, places, things or transactions.
 - (3) The executive may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.

Transition

- 114.** (1) The executive may make regulations considered necessary or advisable for the purpose of more effectively bringing into operation this Act or amendments to this Act, and to

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- remedy any transitional difficulties encountered in doing so.
- (2) For a period the executive specifies, a regulation made under this section may amend this Act, a regulation made under this Act or an enactment that amends this Act.
 - (3) A regulation made under this section may be made retroactive to a date not earlier than the effective date.
 - (4) This section is repealed on January 1, 2002, and on its repeal any regulations made under it are also repealed.

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LEGISLATIVE HISTORY

Nisga'a Forest Act, NLGSR 2000/15, in force May 11, 2000

Amendments

Section	Amendment	In Force
1	(1) amended [2002/23, s. 3(1)]	December 12, 2002
5	(1) amended [2002/23, s. 3(2)]	December 12, 2002
8	(3) added [2002/23, s. 3(3)]	December 12, 2002
11	(1)(d) and (1)(e) amended, (1)(f) and (2.1) added, and (3) and (6) amended [2002/23, s. 3(4)]	December 12, 2002
13.1	added [2002/23, s. 3(5)]	December 12, 2002
16.1	added [2002/23, s. 3(6)]	December 12, 2002
	(3) amended [2003/9, s. 1]	June 5, 2003
19	(1), (3) and (5) amended, (1.1), (1.2), (1.3) and (4.1) added [2002/23, s. 3(7)]	December 12, 2002
21	(3) added [2002/23, s. 3(8)]	December 12, 2002
22	amended [2002/23, s. 3(9)]	December 12, 2002
43	(1) amended [2002/23, s. 3(10)]	December 12, 2002
53	(4) added [2002/23, s. 3(11)]	December 12, 2002
55	(1) amended, (1.1) added, (2)(d) renumbered as (2)(e), new (2)(d) added [2002/23, s. 3(12)]	December 12, 2002
70	(4) and (5) added [2002/23, s. 3(13)]	December 12, 2002
83	(1)(d) added [2002/23, s. 3(14)]	December 12, 2002
91	(1)(d) added [2002/23, s. 3(15)]	December 12, 2002
94	(4) added [2001/15, s. 2(1)]	July 26, 2001
96	(3) added [2001/15, s. 2(2)]	July 26, 2001
103	(b) amended [2002/23, s. 3(16)]	December 12, 2002

Amending Acts:

NLGSR 2001/15 *Statute Amendment Act #4*
 NLGSR 2002/23 *Nisga'a Statute Amendment Act #9*
 NLGSR 2003/09 *Nisga'a Forest Amendment Act*

Regulations:

NLGSR 2000/23 *Nisga'a Fire Management Regulation*
 NLGSR 2000/24 *Nisga'a Fees and Administrative Charges Regulation*
 NLGSR 2000/33 *Regulation #2 Under Nisga'a Forest Act*

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NLGSR 2001/13 *Botanical Forest Products Regulation*