

NISGA'A LAND ACT

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

NISGA'A LAND ACT

**UNOFFICIAL CONSOLIDATION
CURRENT TO NOVEMBER 23, 2015**

NISGA'A LAND ACT

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Part 1 – Definitions

Definitions

1. In this Act,

“applicant” means a person applying for a disposition under this Act;

“conventional boundary” means a boundary consisting of a straight line or a series of straight lines of fixed direction and length conforming as nearly as possible to the natural boundary, but eliminating minor sinuosities;

“director” means the Director of Lands and Resources;

“disposition” means

(a) the act by which an interest in respect of

(i) Lisims land, or

(ii) Lisims gravel resources in, on or under registered land

is disposed of or created, including, for greater certainty, the issuance of an investigative permit, or

(b) the instrument by which an act referred to in paragraph (a) is evidenced or effected;

“gravel resources” means natural substances that

(a) can be mined, quarried or dug, and

(b) are used for building or construction purposes,

including earth, soil, peat, marl, sand, gravel, rock and stone;

“instrument of disposition” means an instrument by which a disposition is evidenced or effected;

“interest” in reference to land includes a privilege, right, title or estate in that land;

“investigative permit” means a permit referred to in section 8.1(2);

“Lisims gravel resources” means gravel resources owned by the Nisga'a Nation;

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“Lisims land” means Nisga'a Lands

- (a) in which the Nisga'a Nation owns the estate in fee simple, and
- (b) the estate in fee simple to which is not registered under the *Nisga'a Land Title Act* or under the British Columbia *Land Title Act*;

“Nisga'a grant” means a grant of an estate in fee simple to Lisims land;

“Nisga'a land title office” means the Nisga'a Land Title Office established under the *Nisga'a Land Title Act*;

“Nisga'a Nation entitlement” means a Nisga'a Nation entitlement as defined in the *Nisga'a Nation Entitlement Act*;

“Nisga'a Village entitlement” means a Nisga'a Village entitlement as defined in the *Nisga'a Village Entitlement Act*;

“owner”, in relation to registered land, means the person registered under the *Nisga'a Land Title Act* as the owner of the estate in fee simple to the land;

“register” has the same meaning as in the *Nisga'a Land Title Act*;

“registered land” means Nisga'a Lands the title to which is registered under the *Nisga'a Land Title Act*;

“registrar” means the Registrar appointed under the *Nisga'a Land Title Act*;

“road” means land designated or indicated as a road or lane in an instrument of disposition, map or plan made under this Act, whether or not a road or lane is constructed, and includes a road allowance or walkway allowance established under section 45;

“statutory right of way” means a statutory right of way as defined in the *Nisga'a Land Title Act*.

Part 2 – Administration of Lisims land

Administration by executive

2. Except as otherwise specifically provided in this or another Nisga'a Lisims enactment, the executive administers all Lisims land.

Director of Lands and Resources

3. The office of the Director of Lands and Resources is established.

Lisims land registry

4.
 - (1) The Lisims land registry is established for the purpose of maintaining an inventory of Lisims land.
 - (2) In accordance with the policies of the Nisga'a Lisims Government Executive, the director
 - (a) must record in the Lisims land registry
 - (i) a description of all Lisims land, and
 - (ii) all dispositions under section 6, and
 - (b) may record in the Lisims land registry other information relating to Nisga'a Lands.
 - (3) The director is responsible for the security and maintenance of the Lisims land registry.
 - (4) During regular business hours, any person may examine and inspect the records of the Lisims land registry
 - (a) after completing an application in the form that the director requires, and
 - (b) on the conditions that the director imposes.
 - (5) The Nisga'a Nation makes no representation as to the accuracy or completeness of the records of the Lisims land registry and a person may not recover from the Nisga'a Nation any loss or damage that the person suffers by reliance on the records of the Lisims land registry.

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Part 3 – Dispositions**Acquisition of interests**

5. (1) No person may acquire an interest in Lisims land except under this or another Nisga'a Lisims enactment.
- (2) A disposition under this Act is not binding on the Nisga'a Nation until the instrument of disposition is executed by the executive or the director under this Act.
- (3) Negotiations or arrangements, whether in writing or otherwise, before the execution of an instrument of disposition by the executive or the director under this Act, are not binding on and do not commit the Nisga'a Nation to perform or complete a disposition.

Dispositions by executive

6. (1) Subject to this Act and the regulations, the executive may make a disposition under subsection (2) to an applicant who satisfies the eligibility requirements in section 17, if the executive considers the disposition to be in the interest of the Nisga'a Nation.
- (2) In accordance with subsection (1), the executive may
- (a) make a Nisga'a grant,
 - (b) grant a lease, statutory right of way, easement or licence of occupation in respect of Lisims land,
 - (c) grant a Nisga'a Village entitlement or Nisga'a Nation entitlement in respect of Lisims land within Nisga'a Village Lands, or
 - (d) grant to the owner of registered land a licence of occupation in respect of Lisims gravel resources in, on or under the land.
- (3) In a disposition under this section, the executive may impose the terms, covenants and stipulations it considers advisable, including, without limitation, the following:
- (a) payment by the applicant of the cost of a survey of the land completed under the instruction of the director;
 - (b) personal residence on the land by the applicant for a period set by the executive;
 - (c) permanent improvement of the land by and at the cost of the applicant on the conditions specified by the executive.

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- (4) A disposition under this section must be made in the applicant's name only.

Limit on area of interest

7. Except with the prior approval of Wilp Si'ayuukhl Nisga'a, the executive may not under section 6 make a disposition with a surface area greater than 5 ha at any one time or on any one application.

Amendment of area under application

8. Subject to section 7, the executive may under section 6 make a disposition with
- (a) a surface area reduced or expanded from the surface area stated in the application, and
 - (b) boundaries varied from the boundaries described in the application.

Investigative permits

- 8.1 (1) Subject to this Act and the regulations, the director may make a disposition under subsection (2) to an applicant who satisfies the eligibility requirements in section 17, if the director considers the disposition to be in the interest of the Nisga'a Nation.
- (2) In accordance with subsection (1), the director may
- (a) issue a permit to use or occupy Lisims land, or
 - (b) in respect of Lisims gravel resources in, on or under registered land, issue to the owner of the registered land a permit to use or occupy the land
- for the carrying out of
- (c) minimally invasive appraisals, inspections, analyses, or other investigations of land, natural resources or potential impact on the environment, or
 - (d) other prescribed activities.
- (3) In an investigative permit, the director may impose the terms, covenants and stipulations the director considers advisable, including, without limitation,
- (a) a surface area reduced or expanded from the surface area stated in the application,

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or

- (b) boundaries varied from the boundaries described in the application.
- (4) An investigative permit
 - (a) may be issued in the applicant's name only, and
 - (b) must not have a term exceeding two years.

Conditions, provisos, restrictions, exceptions and reservations

9. (1) A disposition under this or another Nisga'a Lisims enactment
- (a) excepts and reserves a right in the Nisga'a Nation, or any person acting for it or under its authority,
 - (i) to resume any part of the land that is deemed to be necessary by the executive for making roads, canals, bridges or other public works, but not more than 1/20 part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden or otherwise,
 - (ii) to enter any part of the land, and to raise and get out of it any mineral resources that may be found in, on or under the land, and to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them, paying reasonable compensation for the raising, getting and use,
 - (iii) to enter any part of the land, and to harvest, replenish or protect forest resources that may from time to time be found on, in or under the land, and to use and enjoy any part of the land for any purpose connected with the harvesting, replenishing or protecting of forest resources, and to provide access on and through the land for the harvesting, replenishing or protecting of forest resources on or outside the land,
 - (iv) to take and occupy water privileges and to have and enjoy the rights of carrying water over, through or under any part of the land, as may be reasonably required for mining or agricultural purposes in the vicinity of the land, paying a reasonable compensation to the grantee, the grantee's successors and assigns, and
 - (v) to take from any part of the land, without compensation, gravel, sand, stone, lime, timber or other material that may be required in the

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construction, maintenance or repair of a road, ferry, bridge or other public work, and

(b) conveys no interest in

- (i) mineral resources that may be found in, on or under the land,
- (ii) forest resources that may from time to time be found in, on or under the land, or
- (iii) roads on, over or through the land,

except as otherwise specifically provided in the instrument of disposition.

- (2) Subsection (1) applies whether or not express words are used in the instrument of disposition, but is subject to subsection (3).
- (3) A disposition under another Nisga'a Lisims enactment that expressly authorizes the disposition on terms different from those referred to in subsection (1) may be made on those terms.
- (4) A disposition may, by express words, except or reserve to the Nisga'a Nation interests more extensive than those referred to in subsection (1).
- (5) For all purposes, including section 17 of the *Nisga'a Land Title Act*, every disposition is conclusively deemed to contain express words making the exceptions and reservations referred to in subsection (1) of this section, except to the extent that the disposition is made on different terms under subsection (3).
- (6) The power under subsection (4) to except and reserve interests includes a power to create a statutory right of way, and if this is done
 - (a) the Nisga'a Nation is, with respect to the statutory right of way, a grantee, and
 - (b) the statutory right of way is conclusively deemed to be necessary for the operation and maintenance of the Nisga'a Nation's undertaking.
- (7) Despite subsection (1)(a)(ii), reasonable compensation is not required to be paid in connection with a grant by the Nisga'a Nation of a right in respect of mineral resources to the owner of the registered land in, on or under which the mineral resources are located.

Deletion of conditions

10. (1) If, after a disposition has been made under this Act or another Nisga'a Lisims enactment, the executive finds that a condition, proviso, restriction, exception or reservation in the

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disposition is no longer required in the interest of the Nisga'a Nation, the executive may order that the condition, proviso, restriction, exception or reservation be deleted from the disposition.

- (2) If, under subsection (1), the executive orders the deletion of a condition, proviso, restriction, exception or reservation in a disposition that is registered under the *Nisga'a Land Title Act*,
- (a) the executive must deposit a copy of the order in the Nisga'a land title office, and
 - (b) the registrar must make an entry in the register to describe the order.

Bodies of water

11. If land bordering on a lake, river, stream or other body of water is the subject of a disposition under this Act or another Nisga'a Lisims enactment, no interest in the bed or shore of the body of water below its natural boundary passes to the person receiving the disposition.

Roads

12. Unless a contrary intention is expressly stated in an instrument of disposition, map or plan made under this Act, a road is deemed to be 20 m in width, being 10 m on each side of the centre line of the travelled portion of the road.

Date of disposition

13. A disposition under section 6 is effective
- (a) if a survey is not required, on the date that the instrument of disposition states, which must not be more than 30 days after the date on which the executive executes the instrument of disposition, or
 - (b) if a survey is required, on the later of
 - (i) the date on which the executive executes the instrument of disposition, and
 - (ii) the date on which the director confirms the survey under section 38.

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Assignment of disposition

- 14.** (1) A person who acquires an interest in land by a disposition under section 6, other than by a Nisga'a grant, must not dispose of or otherwise deal with that interest, unless the disposing or other dealing is expressly allowed by
- (a) this Act or another Nisga'a Lisims enactment,
 - (b) the instrument of disposition, or
 - (c) the executive, in writing.
- (2) A purported disposing of or other dealing with an interest in contravention of this section is void.
- (3) As a condition precedent to an approval under subsection (1)(c), the executive may require the person to agree to and observe or perform, in respect of the land, additional terms, covenants or stipulations.

Withdrawal from availability

- 15.** (1) The executive may, for any purpose it considers advisable, by order
- (a) withdraw Lisims land from availability for disposition under this Act, and
 - (b) amend or cancel a withdrawal made under paragraph (a).
- (2) Land withdrawn from availability for disposition under subsection (1) may not be the subject of a disposition under this Act.

Designation for use or purpose

- 16.** (1) The executive may, if it considers it advisable, by order
- (a) designate Lisims land for a particular use or for the conservation of natural or heritage resources, and
 - (b) amend or cancel a designation made under paragraph (a).
- (2) Land designated under subsection (1) may not be the subject of a disposition under this Act if, in the opinion of the executive, the disposition is not compatible with the use or purpose for which the land has been designated.

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Applications for disposition

17. (1) Subject to this Act and the regulations,
- (a) an individual at least 19 years of age, a corporation or other association, a Nisga'a Village, the government of Canada or the government of British Columbia may apply for a disposition described in section 6(2)(a) to (c) or 8.1(2)(a), and
 - (b) an owner of registered land who is an individual at least 19 years of age, a corporation or other association, a Nisga'a Village, the government of Canada or the government of British Columbia may apply for a disposition described in section 6(2)(d) or 8.1(2)(b) in respect of Lisims gravel resources in, on or under the land.
- (2) Nothing in this Act obliges the Nisga'a Nation to consider an application for a disposition, or to make a disposition on an application.
- (3) An applicant does not obtain an interest in land, or a priority to acquire an interest in land, by applying for a disposition.

Application procedure for dispositions

18. (1) An application under section 17(1) must
- (a) be made to the director in the form specified by the director, and
 - (b) be accompanied by any prescribed application fee.
- (2) If the land that is the subject of an application under section 17(1) is unsurveyed or if no evidence of survey is available, the applicant must, along with the application, provide a map indicating the location of the proposed interest, in the form required by the director.

Public notice

19. (1) An applicant for a disposition described in section 6(2) must publish a notice in accordance with Nisga'a law of an application under section 17(1).
- (2) The notice under subsection (1) must
- (a) be headed "Nisga'a Land Act: Notice of Intention to Apply for a Disposition",
 - (b) state the applicant's name, address and occupation,

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- (c) state whether the application is for a Nisga'a grant, Nisga'a Village entitlement, Nisga'a Nation entitlement, lease, right of way, easement or licence of occupation,
 - (d) state the location and approximate surface area of the land,
 - (e) state the purpose for which the interest is required, and
 - (f) be signed by the applicant or their agent.
- (3) The applicant must provide to the director proof of publication of the notice satisfactory to the director.

Register of applications

- 20.** (1) The director must keep a register of applications under section 17(1) for a disposition including, for each application, a copy of any notice published by the applicant under section 19.
- (2) During regular business hours, any person may examine and inspect the register of applications
- (a) after completing an application in the form that the director specifies, and
 - (b) on the conditions that the director imposes.
- (3) The Nisga'a Nation makes no representation as to the accuracy or completeness of the register of applications and a person may not recover from the Nisga'a Nation any loss or damage that the person suffers by reliance on the register of applications.

Feasibility studies and costs

- 21.** (1) The director may require an applicant to obtain and file with the director, at the applicant's expense,
- (a) feasibility studies,
 - (b) environmental assessments,
 - (c) timber cruises,
 - (d) land valuation appraisals, or
 - (e) any other information about the application required by the director or the executive.

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- (2) If an application is made under section 17(1), the director may
- (a) estimate the cost
 - (i) to assess the impact of the disposition, or
 - (ii) to monitor compliance with terms of the disposition, and
 - (b) require the applicant to pay to the Nisga'a Nation all or part of that estimated cost before the application is considered or the disposition made.

Security may be required

22. (1) The director may require an applicant to deposit with the Nisga'a Nation a bond or other form of security for the performance and completion by the applicant of all the obligations and requirements specified by the director under this Act.
- (2) The bond or other form of security required under subsection (1) must be payable to the Nisga'a Nation for the amount and on the terms required by the director.

Affidavit may be required

23. The director may require an applicant to provide proof, by affidavit or otherwise, of any matter connected with the application, including the applicant's financial capacity.

Part 4 – Disallowance, cancellation, amendment and abandonment**If approval subject to survey**

- 24.** (1) If an application for a disposition has been approved by the executive subject to completion of a satisfactory survey, the executive may disallow the application if
- (a) the survey is not completed by the date specified by the director, or
 - (b) the executive considers it not to be in the interest of the Nisga'a Nation to make the disposition because of information
 - (i) in the completed survey,
 - (ii) in a report from the land surveyor who conducted the survey, or
 - (iii) received by the executive from another source.
- (2) If the executive disallows an application under subsection (1)(b), the Nisga'a Nation must reimburse the applicant for the applicant's survey costs, unless the applicant made a misrepresentation that resulted in the disallowance.

If error in approval or disposition

- 25.** (1) The executive may, by order,
- (a) amend or correct
 - (i) a disposition made under this Act, or
 - (ii) an approval of a disposition given under this Act,
 - (b) disallow an application for a disposition made under this Act, or
 - (c) cancel a disposition made under this Act
- if the executive determines that
- (d) there is an error in the names or description of the applicant, the description of the land, or any other material part of the approval or disposition,
 - (e) the land is not available for disposition under this Act,
 - (f) the survey of the land is incorrect, or

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- (g) information provided by the applicant is incorrect.
- (2) If the executive amends or corrects a disposition or approval under this section, the amended or corrected disposition or approval is effective as of the date of the original disposition or approval.
- (3) If the executive disallows an application under this section, the executive may
- (a) reimburse the applicant for all or part of the money paid on the application,
 - (b) reimburse the applicant for the applicant's survey costs, and
 - (c) pay to the applicant any compensation that the executive considers advisable.
- (4) If the executive cancels a disposition under this section,
- (a) the interest in respect of land disposed of or created in the disposition and any claim to that interest by the disposition holder or any person claiming through the disposition holder are terminated,
 - (b) in the case of a disposition in respect of Lisims land, all improvements to the land become the property of the Nisga'a Nation, and
 - (c) the executive may
 - (i) reimburse the disposition holder for all or part of the money paid for or under the disposition,
 - (ii) reimburse the disposition holder for the disposition holder's survey costs, and
 - (iii) pay to the disposition holder any compensation that the executive considers advisable.
- (5) If a disposition that is amended or cancelled under this section is registered under the *Nisga'a Land Title Act*,
- (a) the executive must deposit a copy of the order in the Nisga'a land title office, and
 - (b) the registrar must amend or cancel the registration on receipt of the order.
- (6) A person who is affected by an order under subsection (1) may request a review of that order under the *Nisga'a Administrative Decisions Review Act*.

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If non-compliance with disposition

26. (1) If a person who holds a disposition under this Act fails or neglects to comply with a term, covenant or stipulation set out in the instrument of disposition or imposed by the executive or the director in the disposition, the director may send a notice by registered mail, addressed to the person at their last known address, requiring the person to comply with the term, covenant or stipulation within 60 days after the date the notice is mailed.
- (2) If the failure or neglect referred to in subsection (1) continues after the 60 day period, the executive may, by order, cancel the disposition.
- (3) If the executive cancels a disposition under this section,
- (a) the interest in respect of land disposed of or created in the disposition and any claim to that interest by the disposition holder or any person claiming through the disposition holder are terminated,
 - (b) in the case of a disposition in respect of Lisims land, all improvements to the land become the property of the Nisga'a Nation, and
 - (c) any money paid for or under the terms of the disposition is forfeited to the Nisga'a Nation.
- (4) If a disposition that is amended or cancelled under this section is registered under the *Nisga'a Land Title Act*,
- (a) the executive must deposit a copy of the order in the Nisga'a land title office, and
 - (b) the registrar must amend or cancel the registration on receipt of the order.
- (5) A person who is affected by an order under subsection (2) may request a review of that order under the *Nisga'a Administrative Decisions Review Act*.

Abandonment of disposition

27. (1) A person holding a disposition under this Act may abandon and terminate the disposition by giving written notice to the director.
- (2) On abandonment and termination of a disposition under subsection (1),
- (a) in the case of a disposition in respect of Lisims land, all improvements to the land become the property of the Nisga'a Nation, and

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- (a) all money paid for or under the terms of the disposition is forfeited to the Nisga'a Nation.
 - (3) If a disposition that is abandoned and terminated under subsection (1) is registered under the *Nisga'a Land Title Act*,
 - (a) the executive must deposit in the Nisga'a land title office a copy of the written notice given to the director under subsection (1), and
 - (b) the registrar must cancel the registration on receipt of the written notice.

Notations of licences granted under section 6(2)(d)

- 27.1** (1) If the executive grants a licence of occupation under section 6(2)(d),
- (a) the director must file a notice of the grant of the licence with the registrar in the prescribed form, and
 - (b) on the filing of the notice under paragraph (a), the registrar must endorse a notation of the grant of the licence in the register.
- (2) If a licence of occupation granted by the executive under section 6(2)(d)
- (a) expires or is terminated or cancelled,
 - (i) the director must file a notice of the expiry, termination or cancellation of the licence with the registrar in the prescribed form, and
 - (ii) on the filing of the notice under subparagraph (i), the registrar must cancel the notation of the grant of the licence endorsed in the register under subsection (1)(b), or
 - (b) is amended or corrected,
 - (i) the director must file a notice of the amendment or correction of the licence with the registrar in the prescribed form, and
 - (ii) on the filing of the notice under subparagraph (i), the registrar must make any change to the notation of the grant of the licence endorsed in the register under subsection (1)(b) that the registrar determines to be appropriate.

Debts payable on cancelled disposition

28. (1) Unless the executive otherwise directs, the holder of a disposition that is cancelled under section 26 or abandoned and terminated under section 27 must pay all money remaining due under the disposition and observe or perform all terms, covenants and stipulations of the disposition.
- (2) Money remaining due to the Nisga'a Nation on a cancelled or abandoned and terminated disposition is recoverable by the Nisga'a Nation as a debt due to the Nisga'a Nation.

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Part 5 – Nisga'a grants and statutory rights of way**Survey costs for Nisga'a grants**

29. Unless the executive otherwise orders or section 24(2) applies, an applicant for a Nisga'a grant must pay the cost of a survey of the land that is required under this Act.

Registration of Nisga'a grants

30. The director must transmit a Nisga'a grant to the Nisga'a land title office for registration under the *Nisga'a Land Title Act* on the date that the Nisga'a grant is effective under section 13.

Statutory rights of way not requiring dominant and servient tenements

31. To the extent necessary to give effect to the provisions of this Act relating to statutory rights of way, the rule requiring an easement to have a dominant and a servient tenement is abrogated.

If Nisga'a Nation grantee of statutory right of way

32. The requirement in section 141 of the *Nisga'a Land Title Act* that a statutory right of way be for a purpose necessary for the operation and maintenance of a grantee's undertaking does not apply if the grantee is the Nisga'a Nation.

Part 6 – Trespass on Nisga'a Lands

Trespass on Lisims land

33. (1) If a person does anything described in section 34 on Lisims land, the executive may, on written notice to that person, do one or more of the following:
- (a) require the person to cease the unauthorized activity and restore the land to a condition satisfactory to the director;
 - (b) require the person to pay to the Nisga'a Nation a sum of money considered by the executive reasonable for the unauthorized occupation, possession or use set out in section 34 or for the restoration of the land;
 - (c) instruct the director to seize, on behalf of the Nisga'a Nation, any goods, chattels or other materials on the Lisims land;
 - (d) require the person to remove, to the satisfaction of the director, any improvements made by or on behalf of the person on the Lisims land and, if the person fails to comply within the required time, instruct the director to remove the improvements at the person's cost.
- (2) A notice under subsection (1) must state the following:
- (a) details, including the time and place, of the unauthorized activity;
 - (b) the requirement or instruction of the executive under subsection (1);
 - (c) if applicable, the date by which the person must comply with a requirement of the executive under subsection (1).
- (3) The notice under subsection (1) may be given
- (a) by personal service on the person,
 - (b) by registered mail addressed to the person, or
 - (c) if the person or the address of the person is unknown to the executive, by posting it on the Lisims land.
- (4) A notice under subsection (1) may be issued more than once in respect of the same matter if a person does not comply with the first notice issued in respect of that matter.
- (5) Money required to be paid to the Nisga'a Nation by a person under this section is recoverable by the Nisga'a Nation as a debt due to the Nisga'a Nation.

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- (6) Any improvements removed or goods, chattels or other materials seized under this section become the property of the Nisga'a Nation and the executive may authorize the improvements, goods, chattels or other materials to be sold, rented, removed or destroyed by the director.
- (7) A person who is affected by a requirement or instruction set out in a notice under subsection (1) may request a review of that requirement or instruction under the *Nisga'a Administrative Decisions Review Act*.

Offences**34.** A person who

- (a) without lawful authority
- (i) occupies or possesses Nisga'a Lands,
 - (ii) damages Nisga'a Lands or improvements on Nisga'a Lands,
 - (iii) harvests, extracts or damages forest resources, mineral resources, fish or wildlife on Nisga'a Lands,
 - (iv) interferes with the lawfully authorized use, occupation or possession of Nisga'a Lands,
 - (v) constructs a building, structure, enclosure or other works on Nisga'a Lands,
 - (vi) excavates Nisga'a Lands,
 - (vii) throws, deposits, dumps or in any way causes to be placed on Nisga'a Lands any glass, metal, garbage, soil or other material,
 - (viii) abandons on Nisga'a Lands any vehicle or vessel, or
 - (ix) interferes with or removes a sign erected by, on behalf of or with the authority of the Nisga'a Nation on Nisga'a Lands,
- (b) uses a designated area of Lisims land contrary to a regulation made under section 36, or
- (c) fails to comply with a requirement set out in a notice given to that person under section 33(1)

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commits an offence punishable under the *Nisga'a Offence Act*.

Liability for activities under section 34

- 35.** A person who does, or causes another person to do, anything described in section 34 is liable for loss and damages suffered by the Nisga'a Nation or any other person as a result of that activity.

Prohibition of use

- 36.** The executive may, by regulation, designate Lisims land and prohibit a specific use of that designated land.

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Part 7 – Surveys**Land districts**

37. For the purpose of describing Nisga'a Lands under this Act and the *Nisga'a Land Title Act*, the director may
- (a) constitute a part of Nisga'a Lands as a land district, and
 - (b) amend or cancel a land district.

Surveys to be confirmed

38. A survey may not be used or adopted for the purpose of this Act until it is confirmed in writing by the director on the official plan.

Authorized surveyor

39. All surveys required under this Act must be carried out by a British Columbia land surveyor acting under the instruction of the director.

Power to order survey

40. The executive may require a survey to be made of Lisims land.

Surveys: district lots

41. (1) Lisims land may be surveyed into district lots that are rectangular in shape and bounded by lines run as nearly as may be true north and south and east and west.
- (2) At the discretion of the director, district lots may be polygonal in shape and oriented to conform to topography.
- (3) The natural boundary of a body of water may be adopted as a boundary of a district lot.
- (4) A conventional boundary may be established in a survey of a district lot, and land defined by a conventional boundary carries with it the rights and incidents as if it were bounded by the natural boundary.

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- (5) District lots must be numbered in a consecutive numbering system for each land district constituted under section 37.
- (6) Subject to subsection (7), the area of a district lot must not be larger than 520 ha.
- (7) If one of the boundaries of a district lot is a natural boundary, the area of the district lot must not be larger than 550 ha.

Survey instructions by director

- 42.** (1) If
- (a) an application for a disposition of unsurveyed Lisims land has been approved by the executive subject to completion of a satisfactory survey, and
 - (b) a land surveyor engaged by the applicant to conduct the survey of the Lisims land makes a request of the director for instructions,
- the director must issue instructions about the survey to the surveyor.
- (2) A survey under subsection (1) must be completed in the time specified in the instructions, and the survey records must be forwarded immediately to the director unless, in special circumstances, the director extends the date for completion.
 - (3) If, for any reason, a survey under subsection (1) is not satisfactory to the director, the director may require a further survey or report.
 - (4) If a survey under subsection (1) is not completed and forwarded by the required date, the surveyor must discontinue the survey and advise the applicant.
 - (5) A surveyor who discontinues a survey under this section must immediately forward to the director the field notes and the results of the surveyor's work to the date the survey was discontinued.

Road and walkway allowances

- 43.** The executive may authorize the director to establish or cancel a road allowance or walkway allowance on Lisims land.

Director may order resurvey

- 44.** (1) Subject to subsection (2), the director may order a resurvey of Nisga'a Lands if the director considers that

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- (a) a survey of land, on the ground, differs materially from the field notes or plan of that survey confirmed under this Act,
 - (b) it is advisable to replace a natural boundary confirmed under this Act with a conventional boundary, or
 - (c) the posts, monuments or boundaries of a survey confirmed under this Act cannot be located.
- (2) If the estate in fee simple to land is registered under the *Nisga'a Land Title Act*, the director may not order a resurvey of that land under this section unless the director receives an application for a resurvey from a registered owner of the estate in fee simple to the land.

Persons likely to be affected by resurvey

45. If a person applies to the director for a resurvey under section 44(2), and the director believes that other persons are likely to be adversely affected by a resurvey, the director must direct the person applying for the resurvey to publish a notice in accordance with Nisga'a law of the application.

Decision on application for resurvey

46. (1) Before deciding an application for resurvey under section 44(2), the director may permit any person who the director believes may be affected by the application an opportunity to make a submission to the director on the application.
- (2) After deciding an application for resurvey under section 44(2), the director must provide a written decision
- (a) to the applicant for the resurvey, and
 - (b) to any other person who the director believes may be affected by the decision.

Confirmation of resurvey plan

47. (1) On receipt of a plan of resurvey ordered under section 44, the director may
- (a) by signing the plan, confirm the plan of resurvey, or
 - (b) order supplementary work by the surveyor.

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- (2) On receipt of the surveyor's report of supplementary work ordered under subsection (1), the director may confirm the resurvey as originally submitted or with any amendments that the director considers advisable.

Resurvey binding

48. On confirmation by the director of a plan of resurvey under section 47,
- (a) the resurvey is, for all purposes, deemed to be the original survey of the land,
 - (b) the boundaries established by the previous survey have no further effect,
 - (c) the notes or plans of the previous survey have no further effect, and
 - (d) if the estate in fee simple to the land is registered under the *Nisga'a Land Title Act*, the director must deposit a copy of the confirmed resurvey plan in the Nisga'a land title office.

Resurvey: gain or loss of property

49. (1) If, as a result of a resurvey, a person acquires the estate in fee simple to land, the person must pay the person from whom the estate in fee simple is taken compensation in an amount ordered by the registrar.
- (2) An amount that the registrar orders one person to pay to a second person under subsection (1) is recoverable by the second person as a debt owed to the second person.
- (3) If either person described in subsection (1) is dissatisfied with the amount of compensation ordered by the registrar, the person may request a review of the order of the registrar under the *Nisga'a Administrative Decisions Review Act*.

Cost of resurvey

50. (1) Subject to subsection (3), if the estate in fee simple to land that is resurveyed under this Part is registered under the *Nisga'a Land Title Act*, all of the registered owners of the estate in fee simple to the land contained in the plan of resurvey must pay, as determined by the registrar under subsection (2), a proportion of
- (a) the cost of the resurvey, and
 - (b) if applicable, any other costs and expenses to complete and deposit the plan of resurvey in the Nisga'a land title office.

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- (2) The registrar must determine the amount payable by a registered owner under subsection (1) by
 - (a) calculating the proportion of the total area of land contained in the plan of resurvey that is made up by the registered owner's area, and
 - (b) applying that proportion to the total amount payable under subsection (1).
 - (3) On the recommendation of the director, the executive may exempt the registered owners from paying all or any part of the costs or expenses in subsection (1) and in that event the Nisga'a Nation must assume those costs or expenses.
 - (4) An amount payable by a registered owner under this section is recoverable by the Nisga'a Nation as a debt due to the Nisga'a Nation.

Part 8 – Miscellaneous

Cancellation of Nisga'a Nation title

51. (1) If under the *Nisga'a Land Title Act*
- (a) the Nisga'a Nation is the registered owner of the estate in fee simple to land, and
 - (b) there are no charges registered against the estate in fee simple to that land,
- the executive may order that the *Nisga'a Land Title Act* ceases to apply to the land.
- (2) On receipt of an order of the executive under subsection (1), the registrar must cancel the registration of the estate in fee simple to the land.
- (3) On cancellation of a registration under subsection (2), the land is deemed to be Lisims land under this Act.

Right of entry

52. For the purpose of discharging their duties under this Act, the following persons may, at reasonable times, enter any Lisims land and premises:
- (a) the director;
 - (b) the registrar;
 - (c) an authorized employee of the Nisga'a Nation who has identification from the Nisga'a Nation for the purpose.

Power to make regulations

53. (1) The executive may make regulations it considers necessary or advisable for the purposes of this Act.
- (2) Without limiting subsection (1), the executive may make regulations
- (a) adopting all or any part of a regulation made under the *Land Act* (British Columbia), and
 - (b) prescribing the form of notice to be filed with the registrar under section 27.1(1)(a) and (2)(a)(i) and (b)(i).

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LEGISLATIVE HISTORY

Nisga'a Land Act, NLGSR 2000/10, in force May 11, 2000 [NLGSR 2008/12]

Amendments

Section	Amendments	In Force
1	amended [2001/02, s.5] amended [2013/04, s.1] amended [2015/02, s.1]	December 5, 2000 July 30, 2013 November 23, 2015
4	(2) replaced [2000/31, s.1(1)] (2)(a)(ii) amended [2013/04, s.2]	September 13, 2000 July 30, 2013
5	(2) and (3) amended [2013/04, s.3]	July 30, 2013
6	(1) amended [2015/02, s.2(a)] (2) replaced [2015/02, s.2(b)]	November 23, 2015 November 23, 2015
8.1	added [2013/04, s.4] replaced [2015/02, s.3]	July 30, 2013 November 23, 2015
9	(5) amended [2013/04, s.5] (7) added [2015/02, s.4]	July 30, 2013 November 23, 2015
11	amended [2015/02, s.5]	November 23, 2015
14	amended [2015/02, s.5]	November 23, 2015
17	(1) replaced [2000/31, s.1(2)] (1) replaced [2002/23, s.1] (1) replaced [2003/08, s. 1] (1) amended [2013/04, s.6] (1) replaced [2015/02, s.6(a)] (3) amended [2015/02, s.6(b)]	September 13, 2000 December 12, 2002 December 12, 2002 July 30, 2013 November 23, 2015 November 23, 2015
19	(1) amended [2013/04, s.7] (2)(c) amended [2015/02, s.7]	July 30, 2013 November 23, 2015
20	(1) amended [2013/04, s.8] (1) amended [2015/02, s.8]	July 30, 2013 November 23, 2015
24	(1) amended [2015/02, s.9]	November 23, 2015
25	(4)(a) and (b) replaced [2015/02, s.10]	November 23, 2015
26	(1) amended [2013/04, s.9] (3)(a) and (b) replaced [2015/02, s.11]	July 30, 2013 November 23, 2015
27	(2)(a) replaced [2015/02, s.12]	November 23, 2015
27.1	added [2015/02, s.13]	November 23, 2015
32	amended [2013/04, s.10]	July 30, 2013
53	replaced [2015/02, s.14]	November 23, 2015

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Amending Acts:

NLGSR 2000/31	<i>Nisga'a Statute Amendment Act #1</i>
NLGSR 2001/02	<i>Nisga'a Statute Amendment Act #2</i>
NLGSR 2002/23	<i>Nisga'a Statute Amendment Act #9</i>
NLGSR 2003/08	<i>Nisga'a Land Amendment Act</i> [enacted June 5, 2003; effective December 12, 2002]
NLGSR 2013/04	<i>Nisga'a Land Amendment Act, 2013</i>
NLGSR 2015/02	<i>Nisga'a Land Amendment Act, 2015</i> [2015/09]

Regulations:

NLGSR 2015/09	<i>Nisga'a Land Amendment Act, 2015 In Force Regulation</i>
NLGSR 2015/10	<i>Nisga'a Land Regulations</i>