

NISGA'A CITIZENSHIP ACT

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

NISGA'A CITIZENSHIP ACT

Wilp Si'ayuukhl Nisga'a enacted this law on _____

Signed _____
Nelson Leeson, President of the Nisga'a Nation

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Definitions and interpretation**1. (1) In this Act:**

“applicant” means, as the context requires,

- (a) a person who makes an application or takes another proceeding under this Act on their own behalf,
- (b) a person who makes an application or takes another proceeding under this Act on behalf of a minor or adult whose affairs they have the legal authority to manage, or
- (c) a minor or adult whose affairs are legally authorized to be managed by another person, on whose behalf an application or other proceeding is made or taken under this Act;

“director” means the Director of Programs and Services;

“eligibility criteria” means the criteria set out in paragraph 1 of the Eligibility and Enrolment Chapter of the Nisga'a Treaty;

“enrolled” means, unless the context otherwise requires, entered by name in the Enrolment Register;

“enrolment” means entry by name in the Enrolment Register;

“Enrolment Committee” means the committee continued under section 10(1);

“Enrolment Register” means the register maintained under section 13(1)(a);

“List of Nisga'a Citizens” means the list maintained under section 13(1)(b);

“Nisga'a participant” means a person who has been enrolled and whose name has not been deleted from the Enrolment Register in accordance with this Act;

“oath of Nisga'a citizenship” means the oath set out in the Schedule.

- (2) For the purposes of this Act, a person has been adopted by one of the four Nisga'a tribes in accordance with Ayuukhl Nisga'a if the person has been accepted by a Nisga'a tribe, as a member of that tribe, in the presence of witnesses from the other Nisga'a tribes at a settlement or stone moving feast.

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- (3) Any application or other step that may be made or taken under this Act in respect of the enrolment or Nisga'a citizenship of
- (a) a minor, may only be made or taken by the parent or legal guardian of that minor, or
 - (b) an adult whose affairs are legally authorized to be managed by another person, may only be made or taken by that other person.
- (4) For the purposes of this Act, an application is submitted, and information is given, to the Enrolment Committee by providing the application or information to the Enrolment Committee, care of the director, at the principal administrative offices of Nisga'a Lisims Government.
- (5) Any notice, document or other information that must be provided to an applicant or other person under this Act or the regulations may
- (a) be delivered to the applicant or other person by hand, or by another method agreed to by the applicant or other person,
 - (b) be addressed to the applicant or other person, and sent by mail to, left with any person at or deposited in a mail box or other receptacle at the most recent residential or business address of the applicant or other person known to the director, or
 - (c) be sent by fax to the applicant or other person at the most recent residential or business fax number of the applicant or other person known to the director.
- (6) A written notice, document or other written information referred to in subsection (5) is deemed to have been received,
- (a) if sent by mail in accordance with subsection (5)(b), seven days after the date on which it is posted at a Canada Post office,
 - (b) if left with a person at, or deposited in a mail box or other receptacle at, a residential or business address in accordance with subsection (5)(b), on the date on which it is left or deposited, or
 - (c) if sent by fax in accordance with subsection (5)(c), on the date on which it is transmitted.

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PART 1 – NISGA'A CITIZENSHIP OF NISGA'A PARTICIPANTS

Nisga'a citizenship of Nisga'a participants

2. Every Nisga'a participant who is a Canadian citizen or a permanent resident of Canada is automatically a Nisga'a citizen.

PART 2 – NISGA'A CITIZENSHIP OF OTHERS**Citizenship entitlement of non-Aboriginal persons****3.** A person who

- (a) is not an Aboriginal person,
- (b) before the effective date of the Nisga'a Treaty, was a member of an Indian band referred to in the Indian Act Transition Chapter of the Nisga'a Treaty,
- (c) is a Canadian citizen or permanent resident of Canada,
- (d) is ordinarily resident on Nisga'a Lands,
- (e) is not enrolled under another land claims agreement,
- (f) is or was married to a Nisga'a participant, and
- (g) has been adopted by one of the four Nisga'a tribes in accordance with Ayuukhl Nisga'a

is entitled to become a Nisga'a citizen in accordance with this Part.

Applications

- 4.** (1) A person described in section 3 may apply to become a Nisga'a citizen by
 - (a) submitting to the Enrolment Committee an application in the form required by the director, and including any information or documents required by the director, and
 - (b) paying any prescribed fee.
- (2) Each applicant for Nisga'a citizenship under this section has the burden of satisfying the Enrolment Committee that the applicant meets the criteria set out in section 3.

Decisions on applications

- 5.** (1) After considering an application for Nisga'a citizenship made under section 4 the Enrolment Committee must
 - (a) approve the application if the Enrolment Committee is satisfied that

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- (i) the applicant meets the criteria set out in section 3, and
 - (ii) the application meets the requirements of this Act and the regulations, or
 - (b) refuse the application if the Enrolment Committee is not satisfied that
 - (i) the applicant meets the criteria set out in section 3, or
 - (ii) the application meets the requirements of this Act and the regulations.
 - (2) An applicant whose application for Nisga'a citizenship under section 4 is approved by the Enrolment Committee under subsection (1)(a) or (5)(a) becomes a Nisga'a citizen upon taking the oath of Nisga'a citizenship at a meeting of the Council of Elders.
 - (3) The Enrolment Committee must give each applicant for Nisga'a citizenship under section 4 a written notice of its decision under subsection (1) or (5) and, if the Enrolment Committee refuses an application for Nisga'a citizenship, the Enrolment Committee must include written reasons for the refusal and advise the applicant of the provisions of subsections (4) to (6).
 - (4) An applicant whose application for Nisga'a citizenship under section 4 is refused by the Enrolment Committee under subsection (1)(b) may, within 30 days after the applicant receives the written notice of the decision with reasons for the refusal given under subsection (3), either
 - (a) submit additional information to the Enrolment Committee and request the Enrolment Committee to reconsider its decision based upon that additional information, or
 - (b) request a review of that decision of the Enrolment Committee under the *Nisga'a Administrative Decisions Review Act*.
 - (5) If, under subsection (4)(a), an applicant submits additional information to the Enrolment Committee and requests the Enrolment Committee to reconsider its decision made under subsection (1)(b), the Enrolment Committee must consider the additional information and
 - (a) approve the application if the Enrolment Committee is satisfied that
 - (i) the applicant meets the criteria set out in section 3, and
 - (ii) the application meets the requirements of this Act and the regulations, or
 - (b) refuse the application if the Enrolment Committee is not satisfied that

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- (i) the applicant meets the criteria set out in section 3, or
 - (ii) the application meets the requirements of this Act and the regulations.
- (6) An applicant whose application for Nisga'a citizenship under section 4 is refused by the Enrolment Committee under subsection (5)(b) may, within 30 days after the applicant receives the written notice of the decision with reasons for the refusal given under subsection (3), request a review of that decision under the *Nisga'a Administrative Decisions Review Act*.
- (7) If under subsection (1)(a) or (5)(a) the Enrolment Committee approves the application for Nisga'a citizenship made by an applicant under section 4, the director must, as soon as practicable after the applicant takes the oath of Nisga'a citizenship at a meeting of the Council of Elders in accordance with subsection (2), enter the applicant's name in the List of Nisga'a Citizens.

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PART 3 – ENROLMENT**Applications for enrolment**

6. (1) A person is entitled to become a Nisga'a participant in accordance with this Part if that person meets the eligibility criteria.
- (2) A person may apply to be enrolled by submitting an application to the Enrolment Committee in the form required by the director, and including any information or documents required by the director.
- (3) Each applicant for enrolment under this section has the burden of satisfying the Enrolment Committee that the applicant meets the eligibility criteria.
- (4) After considering an application for enrolment made under subsection (2), the Enrolment Committee must
- (a) subject to section 7, approve the application if the Enrolment Committee is satisfied that
 - (i) the applicant meets the eligibility criteria, and
 - (ii) the application meets the requirements of this Act and the regulations, or
 - (b) refuse the application if the Enrolment Committee is not satisfied that
 - (i) the applicant meets the eligibility criteria, or
 - (ii) the application meets the requirements of this Act and the regulations.
- (5) The Enrolment Committee must give each applicant for enrolment under subsection (2) a written notice of its decision under subsection (4) or (7) and, if the Enrolment Committee refuses an application for enrolment, the Enrolment Committee must include written reasons for the refusal and advise the applicant of the provisions of subsections (6) to (8).
- (6) An applicant whose application for enrolment under subsection (2) is refused by the Enrolment Committee under subsection (4)(b) may, within 30 days after the applicant receives the written notice of the decision with reasons for the refusal given under subsection (5), either
- (a) submit additional information to the Enrolment Committee and request the Enrolment Committee to reconsider its decision based upon that additional information, or

- (b) request a review of that decision of the Enrolment Committee under the *Nisga'a Administrative Decisions Review Act*.
- (7) If under subsection (6)(a) an applicant submits additional information to the Enrolment Committee and requests the Enrolment Committee to reconsider its decision made under subsection (4)(b), the Enrolment Committee must consider the additional information and either
- (a) subject to section 7, approve the application if the Enrolment Committee is satisfied that
 - (i) the applicant meets the eligibility criteria, and
 - (ii) the application meets the requirements of this Act and the regulations, or
 - (b) refuse the application if the Enrolment Committee is not satisfied that
 - (i) the applicant meets the eligibility criteria, or
 - (ii) the application meets the requirements of this Act and the regulations.
- (8) An applicant whose application for enrolment under subsection (2) is refused under subsection (7)(b) may, within 30 days after the applicant receives the written notice of the decision with reasons for the refusal given under subsection (5), request a review of that decision under the *Nisga'a Administrative Decisions Review Act*.
- (9) If, under subsection (4)(a) or (7)(a), the Enrolment Committee approves the application for enrolment made by an applicant, the director must, as soon as practicable, enter the applicant's name
- (a) in the Enrolment Register, and
 - (b) if the applicant is a Canadian citizen or a permanent resident of Canada, in the List of Nisga'a Citizens.

Conditional approvals

7. (1) After considering an application for enrolment made under section 6(2), the Enrolment Committee must conditionally approve the application if the Enrolment Committee is satisfied that
- (a) the applicant meets the eligibility criteria, and
 - (b) the application meets the requirements of this Act and the regulations, but

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- (c) the applicant is enrolled under a land claims agreement in Canada other than the Nisga'a Treaty.
- (2) If under subsection (1) the Enrolment Committee conditionally approves the application for enrolment made by an applicant, the Enrolment Committee must give the applicant a written notice of its conditional approval, identify the other land claims agreement in which the Enrolment Committee is satisfied the applicant is enrolled and advise the applicant of the provisions of subsections (3) to (5).
- (3) If within 90 days after an applicant receives notice under subsection (2) of the conditional approval of their application for enrolment, the applicant provides documentary proof satisfactory to the director that the applicant was not or is no longer enrolled under the other land claims agreement, the director must as soon as practicable,
- (a) enter the applicant's name
- (i) in the Enrolment Register, and
- (ii) if the applicant is a Canadian citizen or a permanent resident of Canada, in the List of Nisga'a Citizens, and
- (b) notify the applicant of the steps that have been taken under paragraph (a).
- (4) If within 90 days after an applicant receives notice under subsection (2) of the conditional approval of their application for enrolment, the applicant fails to provide documentary proof satisfactory to the director that the applicant was not or is no longer enrolled under the other land claims agreement, the application is deemed to be refused, and the director must as soon as practicable give the applicant a written notice of and reasons for the refusal and advise the applicant of the provisions of subsection (5).
- (5) An applicant whose application for enrolment is refused under subsection (4) may, within 30 days after the applicant receives the written notice of and reasons for the refusal given under that subsection, request a review of that refusal under the *Nisga'a Administrative Decisions Review Act*.

PART 4 – CEASING TO BE A NISGA'A PARTICIPANT AND NISGA'A CITIZEN**Renunciations**

8. (1) A person may cease to be enrolled and renounce their Nisga'a citizenship as follows:
- (a) if the person is a Nisga'a participant, but not a Nisga'a citizen, by sending to the director a notice in the form required by the director requesting the director to delete their name from the Enrolment Register;
 - (b) if the person is a Nisga'a participant and a Nisga'a citizen, by sending to the director a notice in the form required by the director requesting the director to delete their name from the Enrolment Register and the List of Nisga'a Citizens;
 - (c) if the person is a Nisga'a citizen but not a Nisga'a participant, by sending to the director a notice in the form required by the director requesting the director to delete their name from the List of Nisga'a Citizens.
- (2) If the director receives a notice from a person under subsection (1)(a), (b) or (c) the director must, as soon as practicable, delete the name of the person from the Enrolment Register, the List of Nisga'a Citizens, or both, as the case may be.
- (3) A person ceases to be
- (a) a Nisga'a participant pursuant to a request under subsection (1)(a), when the director deletes the person's name from the Enrolment Register,
 - (b) a Nisga'a participant and a Nisga'a citizen pursuant to a request under subsection (1)(b), when the director deletes the person's name from the Enrolment Register and from the List of Nisga'a Citizens, or
 - (c) a Nisga'a citizen pursuant to a request under subsection (1)(c), when the director deletes the person's name from the List of Nisga'a Citizens.

Revocations

9. (1) If the Enrolment Committee has reason to believe that
- (a) a person has become a Nisga'a participant or Nisga'a citizen on the basis of false representation, fraud or knowingly concealing a material fact or circumstances,

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- (b) a person who has become a Nisga'a participant or Nisga'a citizen did not meet the requirements for enrolment or Nisga'a citizenship at the time of their enrolment or grant of Nisga'a citizenship,
- (c) a Nisga'a participant is enrolled in another land claims agreement in Canada, or
- (d) a Nisga'a citizen is no longer a Canadian citizen or permanent resident of Canada,
- the Enrolment Committee must give a written notice to that person, as well as to any other person who, to the Enrolment Committee's knowledge, derived their enrolment or Nisga'a citizenship solely from that person, advising that it may make an order revoking the enrolment, Nisga'a citizenship, or both, of the person or persons named in the notice.
- (2) A notice under subsection (1) must
- (a) set out the reasons that the Enrolment Committee has for believing the person in question to be a person referred to in subsection (1)(a), (b), (c) or (d), and
- (b) indicate that the person in question, and any other person who, to the Enrolment Committee's knowledge, derived their right to enrolment or Nisga'a citizenship solely from that person, is entitled to make representations as to why an order of revocation should not be made, by filing a written answer with the Enrolment Committee within 30 days after the date the person in question receives the notice.
- (3) After considering any written answer filed under subsection (2) in respect of a person who was the subject of a notice under subsection (1), the Enrolment Committee must
- (a) order that the enrolment, Nisga'a citizenship, or both, of that person, and of any other person to whom a notice was given under subsection (1), is revoked, if the Enrolment Committee is satisfied that the person in question is a person referred to in subsection (1)(a), (b), (c) or (d), or
- (b) order that the enrolment, Nisga'a citizenship, or both, of that person, and of any other person to whom a notice was given under subsection (1), is confirmed if the Enrolment Committee is not satisfied that the person in question is a person referred to in subsection (1)(a), (b), (c) or (d).
- (4) The Enrolment Committee must give any person who is referred to in an order made under subsection (3) or (8) written notice of the order and, if the Enrolment Committee makes or confirms an order of revocation, include written reasons for the revocation and advise the person of the provisions of subsections (5) to (10).
- (5) If the Enrolment Committee makes an order under subsection (3)(a), the director must, as soon as practicable, delete the name of the person or persons referred to in the order from the Enrolment Register, the List of Nisga'a Citizens, or both.

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- (6) A person ceases to be a Nisga'a participant, a Nisga'a citizen, or both, pursuant to an order made under subsection (3)(a), when the director deletes the person's name from the Enrolment Register, the List of Nisga'a Citizens, or both, under subsection (5).
- (7) A person whose enrolment, Nisga'a citizenship, or both, has been revoked under subsection (3)(a) may, within 30 days after the person receives the written notice of the order with reasons for the revocation given under subsection (4), either
- (a) submit additional information and request the Enrolment Committee to reconsider its decision based upon that additional information, or
 - (b) request a review of that decision under the *Nisga'a Administrative Decisions Review Act*.
- (8) If under subsection (7) a person submits additional information to the Enrolment Committee and requests the Enrolment Committee to reconsider its order made under subsection (3)(a), the Enrolment Committee must consider the additional information and
- (a) if it is satisfied that the person in question is not a person referred to in subsection (1)(a), (b), (c) or (d), withdraw its order of revocation and reinstate the person or persons referred to in the order of revocation by ordering the director to restore their names to the Enrolment Register, List of Nisga'a Citizens, or both, or
 - (b) if it is satisfied that the person in question is a person referred to in subsection (1)(a), (b), (c) or (d), order that the revocation or revocations in question are confirmed.
- (9) The reinstatement of a person under subsection (8)(a) is effective on the date the director restores the name of the person to the Enrolment Register, List of Nisga'a Citizens, or both.
- (10) A person whose enrolment, Nisga'a citizenship, or both, has been confirmed to be revoked under subsection (8)(b) may, within 30 days after the person receives the written notice of the order with reasons for the revocation given under subsection (4), request a review of the order under the *Nisga'a Administrative Decisions Review Act*.
- (11) For greater certainty, if a person became a Nisga'a citizen on the basis of false representation, fraud or knowingly concealing a material fact or circumstance in their application for enrolment, the person is deemed to have obtained their Nisga'a citizenship on the basis of false representation, fraud or knowingly concealing a material fact or circumstance.

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PART 5 – ENROLMENT COMMITTEE**Committee continued**

- 10.** (1) The Executive must continue an enrolment committee to carry out the duties and responsibilities set out in this Act and the regulations.
- (2) The Enrolment Committee is responsible for
- (a) impartially and objectively discharging its obligations under this Act and the regulations, and
- (b) except as provided under a Nisga'a Lisims enactment, keeping confidential all information, other than names and date of enrolment, provided to it in respect of persons' enrolment or Nisga'a citizenship.

Composition of Enrolment Committee

- 11.** (1) The Enrolment Committee consists of four regular members and four alternate members appointed by the Executive.
- (2) A member of the Enrolment Committee must understand Ayuukhl Nisga'a, Nisga'a culture, ancestry, tribes and institutions.
- (3) The Executive may prescribe
- (a) the terms and other conditions of office of members of the Enrolment Committee, and
- (b) requirements for representation from the Nisga'a tribes and the Nisga'a Villages among the members of the Enrolment Committee.

Proceedings of the Enrolment Committee

- 12.** (1) Subject to this Act and the regulations, the Enrolment Committee may determine its own procedures.
- (2) The quorum for a meeting of the Enrolment Committee is three members.
- (3) At the first meeting of the Enrolment Committee in each calendar year, the regular members of the Enrolment Committee must appoint from among them a chairperson who is responsible, during that calendar year, for

- (a) chairing all meetings of the Enrolment Committee,
 - (b) giving directions to the personnel assisting the Enrolment Committee to perform its responsibilities, and
 - (c) signing all decisions and orders of the Enrolment Committee.
- (4) In making its decisions, the Enrolment Committee has the responsibility to consider the knowledge of its members as to the Ayuuk and the identity of Nisga'a clans, houses and families.
- (5) The Enrolment Committee must attempt to reach its decisions by consensus but if consensus is not possible on a particular matter, the Enrolment Committee must decide the matter by vote on a motion.
- (6) Subject to subsection (7), a motion before the Enrolment Committee passes if it is supported by at least a simple majority of the members of the Enrolment Committee who vote on the motion.
- (7) If a vote of the Enrolment Committee is tied on the question of
- (a) a person's entitlement to become a Nisga'a participant,
 - (b) whether a person meets the criteria to become a Nisga'a citizen, or
 - (c) whether a person's enrolment or Nisga'a citizenship, or both, should be revoked,
- the vote is deemed to be a vote that the person should be, or continue to be, a Nisga'a participant or Nisga'a citizen, or both, as the case may be.

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PART 6 – MISCELLANEOUS**Enrolment Register and List of Nisga'a Citizens**

- 13.** (1) The director must maintain and certify as accurate
- (a) a printed enrolment register that records the names of Nisga'a participants and the date on which they were enrolled, and
 - (b) a printed list of Nisga'a citizens that records the names of Nisga'a citizens and date on which their names were entered on the list.
- (2) The director must delete a person's name from the Enrolment Register, the List of Nisga'a Citizens, or both, on receiving evidence satisfactory to the director that the person has died.
- (3) The director must certify a new version of the Enrolment Register and the List of Nisga'a Citizens forthwith upon making any additions to or deletions from the Enrolment Register or the List of Nisga'a Citizens in accordance with this Act and the regulations.

Offences

- 14.** A person commits an offence under the *Nisga'a Offence Act* if that person, by false representation, fraud, or knowingly concealing a material fact or circumstances,
- (a) becomes or attempts to become a Nisga'a participant or Nisga'a citizen, or
 - (b) assists another person to become or attempt to become a Nisga'a participant or Nisga'a citizen.

Regulations

- 15.** (1) The Executive may make regulations it considers necessary or advisable for purposes of this Act.
- (2) Without limiting subsection (1), the Executive may make regulations in respect of the following:
- (a) the making of any application or the giving of notice under this Act, including
 - (i) information to be included in an application or notice, and

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- (ii) records that must be submitted with an application or notice;
- (b) the establishment and maintenance of the Enrolment Register and List of Nisga'a Citizens;
- (c) the administration of any oath, solemn affirmation or declaration under this Act or the regulations;
- (d) fees for applications under this Act;
- (e) documentation or other evidence of Nisga'a citizenship;
- (f) the procedures of the Enrolment Committee;
- (g) the notification of Nisga'a Village Governments and Nisga'a Urban Locals of deletions and reinstatements of names under the provisions of this Act.

Repeal and replacement

16. The *Nisga'a Citizenship Act*, NLGSR 2000/02, as amended, is repealed and replaced by this Act.

Transition

17. To facilitate the transition from the *Nisga'a Citizenship Act*, NLGSR 2000/02, to this Act, the Executive may by regulation change the terms or other conditions of office of any member of the Enrolment Committee holding office on the date this Act comes into force.

Commencement

18. This Act comes into force by regulation of the Executive.

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SCHEDULE

Oath of Nisga'a Citizenship

Each new Nisga'a citizen who is granted citizenship under Part 2 of this Act must, while holding Ganim Siwilyeensk, swear or affirm loyalty to the Nisga'a Nation and obedience to the Nisga'a Constitution, by answering the following question, which will be asked by the Chairperson of the Council of Elders:

“Will you be loyal to the Nisga'a Nation, uphold its values, protect and obey its constitution and fulfil your duties as a Nisga'a citizen?”

“I will.”