

NISGA'A INTERPRETATION ACT

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NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

**NISGA'A INTERPRETATION ACT**

UNOFFICIAL CONSOLIDATION  
CURRENT TO FEBRUARY 20, 2013

NISGA’A INTERPRETATION ACT

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**PART 1 – APPLICATION****Application**

1. (1) Every provision of this Act applies to every other Nisga'a enactment, whether enacted before or after this Act, unless a contrary intention appears in this Act or in the other Nisga'a enactment.
- (2) The provisions of this Act apply to this Act.
- (3) This Act does not exclude the application to a Nisga'a enactment of a rule of construction that is applicable to that Nisga'a enactment and not inconsistent with this Act.

**PART 2 – GENERAL RULES OF INTERPRETATION****Enactment always speaking**

2. (1) Every Nisga'a enactment must be construed as always speaking.
- (2) If a provision in a Nisga'a enactment is expressed in the present tense, the provision applies to the circumstances as they arise.

**Enactment remedial**

3. Every Nisga'a enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

**Title, preamble and reference aids**

4. (1) The title, and the preamble, if any, of a Nisga'a enactment are part of the enactment and are intended to assist in explaining its meaning and object.
- (2) In a Nisga'a enactment, an explanatory memorandum, table of contents, heading to a part, division, section or other portion, reference after a part, division, section or other portion, footnote or endnote is not part of the enactment and must be considered to have been added only for convenience of reference.

**Subdivisions of sections**

5. A section of a Nisga'a enactment is divided into subdivisions known in descending order as subsections, paragraphs, subparagraphs and clauses.

**Citation**

6. A Nisga'a enactment may be cited by reference to
  - (a) its document number in the registry of Nisga'a laws, or
  - (b) its title, with or without reference to its document number.

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**References within enactments**

7. (1) A reference in a Nisga'a enactment to a series of numbers or letters by the first and last numbers or letters of the series includes the number or letter first and last mentioned.
- (2) A reference in a Nisga'a enactment to a part, division, section, schedule, appendix or form is a reference to the part, division, section, schedule, appendix or form of the enactment in which the reference occurs.
- (3) A reference in a Nisga'a enactment to a subsection, paragraph, subparagraph or clause is a reference to the subsection, paragraph, subparagraph or clause of the section, subsection, paragraph or subparagraph in which the reference occurs.

**References to other enactments**

8. (1) A reference in a Nisga'a enactment to regulations is a reference to regulations made under the enactment in which the reference occurs.
- (2) A reference in a Nisga'a enactment to another Nisga'a enactment is a reference to that other enactment as deposited in the registry of Nisga'a laws.
- (3) In a Nisga'a enactment, a reference to another Nisga'a enactment, or to an enactment of Canada, British Columbia or another jurisdiction, is a reference to that other enactment as amended, whether amended before or after the commencement of the Nisga'a enactment in which the reference occurs.
- (4) If all or part of a Nisga'a enactment or an enactment of Canada, British Columbia or another jurisdiction ("the former enactment") is repealed and all or part of another Nisga'a enactment or enactment of Canada, British Columbia or that other jurisdiction ("the new enactment") is substituted for it, and there is a reference to the former enactment in an unrepealed Nisga'a enactment,
- (a) that reference must be construed as a reference to the provision of the new enactment relating to the same subject matter, if any, or
- (b) if there is no provision of the new enactment relating to the same subject matter, the former enactment must be construed as being unrepealed so far as is necessary to give effect to the unrepealed Nisga'a enactment.

**Necessary changes**

9. If a Nisga'a enactment provides that another Nisga'a enactment applies, or that an enactment of Canada, British Columbia or another jurisdiction applies, that other enactment applies with the

necessary changes and so far as it is applicable.

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**PART 3 – MEANINGS OF WORDS AND EXPRESSIONS****Application of definitions and interpretation provisions**

10. (1) A definition or interpretation provision in a Nisga'a enactment applies to the whole enactment, including the section containing the definition or interpretation provision.
- (2) A word or expression used in a Nisga'a regulation has the same meaning as in the Nisga'a legislation authorizing the regulation.

**Words and expressions defined**

11. In a Nisga'a enactment:

**“acquire”** means obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

**“affidavit”** or **“oath”** includes an affirmation, a statutory declaration or a solemn declaration made under the *Evidence Act* (British Columbia) or under the *Canada Evidence Act* (Canada);

**“Ayuukhl Nisga'a”** and **“Ayuuk”** mean the traditional laws and practices of the Nisga'a Nation;

**“bank”** or **“chartered bank”** means a bank to which the *Bank Act* (Canada) applies;

**“British Columbia”** means, as applicable,

- (a) Her Majesty the Queen in right of British Columbia, or
- (b) the geographic area within the jurisdiction of Her Majesty the Queen in right of British Columbia;

**“British Columbia land surveyor”** means a person entitled to practise as a land surveyor under the *Land Surveyors Act* (British Columbia);

**“calendar month”** means January, February, March, April, May, June, July, August, September, October, November or December, beginning on the first day of the month and ending on the last day of the month;

**“calendar year”** means a period of 12 consecutive calendar months beginning on January 1 and ending on December 31;

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**“Canada”** means, as applicable,

- (a) Her Majesty the Queen in right of Canada, or
- (b) the geographic area within the jurisdiction of Her Majesty the Queen in right of Canada;

**“Canada Post office”** means a post office as defined in the *Canada Post Corporation Act* (Canada);

**“Chairperson”** means the person holding the office of Chairperson within Nisga'a Lisims Government, as referred to in the *Nisga'a Constitution*;

**“Chairperson of the Council of Elders”** means the person holding the office of Chairperson of the Council of Elders within Nisga'a Lisims Government, as referred to in the *Nisga'a Constitution*;

**“Chief Administrator”** means, in relation to a Nisga'a Village Government, the Nisga'a Village public officer holding the chief administrative position within that Nisga'a Village Government;

**“Chief Councillor”** means the person holding the office of Chief Councillor within a Nisga'a Village Government, as referred to in the *Nisga'a Constitution*;

**“Chief Executive Officer”** or **“chief executive officer”** means the person holding the office of Chief Executive Officer, as referred to in the *Nisga'a Government Act*;

**“Chief Financial Officer”** or **“Director of Finance”** means the person holding the office of Chief Financial Officer, as referred to in the *Nisga'a Financial Administration Act*;

**“commencement”**, when used in relation to a Nisga'a enactment, means the beginning of the day on which that Nisga'a enactment comes into force;

**“commercial paper”** includes a bill of exchange, cheque, promissory note, negotiable instrument, conditional sale agreement, lien note, hire purchase agreement, chattel mortgage, bill of lading, bill of sale, warehouse receipt, guarantee, instrument of assignment, things in action and any document of title that passes ownership or possession and on which credit can be raised;

**“corporation”** means an incorporated association, company, society, or other incorporated body, wherever and however incorporated, and includes a corporation sole;

**“correctional centre”** means a correctional centre under the *Correction Act* (British Columbia);

**“Council of Elders”** means the Council of Elders, as referred to in the *Nisga'a Constitution*;

**“credit union”** means a credit union authorized to carry on business under the *Financial*



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*Institutions Act* (British Columbia);

“**Criminal Code**” means the *Criminal Code* (Canada);

“**Deputy Chief Councillor**” means the person holding the office of Deputy Chief Councillor within a Nisga'a Village Government, as referred to in the *Nisga'a Constitution*;

“**designated Executive member**” or “**designated executive member**” means a member of the Executive assigned responsibility for the administration, application or enforcement of a particular Nisga'a law or administrative function under section 37(e) of the *Nisga'a Constitution*;

“**Director of Communications and Intergovernmental Relations**” means the person holding the office of Director of Communications and Inter-governmental Relations, as established by the Executive under the *Nisga'a Personnel Administration Act*;

“**Director of Fish and Wildlife**” means the person holding the office of Director of Fish and Wildlife, as referred to in the *Nisga'a Fisheries and Wildlife Act*;

“**Director of Lands and Resources**” means the person holding the office of Director of Lands and Resources, as referred to in the *Nisga'a Land Act*;

“**Director of Programs and Services**” means the person holding the office of Director of Programs and Services, as referred to in the *Nisga'a Programs and Services Act*;

“**dispose**” means to create or transfer by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, divest, release and agree to do any of those things;

“**effective date**” means May 11, 2000, the date on which the Nisga'a Treaty took effect;

“**enact**” includes to issue, make, establish or prescribe;

“**enactment**” means legislation or a regulation or a portion of legislation or a regulation;

“**Executive**” or “**executive**” means the Nisga'a Lisims Government Executive, as referred to in the *Nisga'a Constitution*;

“**Finance Committee**” or “**finance committee**” means the Nisga'a Finance Committee, as referred to in the *Nisga'a Constitution*;

“**fiscal agreement with a senior government**” or “**intergovernmental fiscal agreement**” means

- (a) a fiscal financing agreement,
- (b) an agreement referred to in a fiscal financing agreement in respect of programs or

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services,

- (c) an own source revenue agreement,
- (d) a taxation agreement, or
- (e) any agreement, other than an agreement referred to in paragraphs (a) to (d), between the Nisga'a Nation and Canada or British Columbia, that is likely to substantially affect the finances of the Nisga'a Nation;

**“fiscal financing agreement”** means a fiscal financing agreement within the meaning of that term as used in the Fiscal Relations Chapter of the Nisga'a Treaty;

**“fiscal year”** means a fiscal year as defined in the *Nisga'a Financial Administration Act*;

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

**“geothermal resource”** means the natural heat of the earth and all substances that derive an added value from it, including steam, water, and water vapour heated by the natural heat of the earth, and all substances dissolved in the steam, water, or water vapour obtained from a well, but does not include

- (a) water that has a temperature less than 80 degrees Centigrade at the point where it reaches the surface, or
- (b) hydrocarbons;

**“government of British Columbia”** means Her Majesty the Queen in right of British Columbia;

**“government of Canada”** means Her Majesty the Queen in right of Canada;

**“holiday”** means

- (a) Sunday, Christmas Day, Good Friday and Easter Monday,
- (b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day and New Year's Day,
- (c) December 26,
- (d) a day set by Wilp Si'ayuukhl Nisga'a for the commemoration of significant events in the life of the Nisga'a Nation, for the celebration of Nisga'a customs, for the observation of Nisga'a cultural events or as a Nisga'a public holiday, and

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- (e) a day set by the Parliament of Canada or by the Legislature of British Columbia, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday;

**“includes”** means includes, but is not limited to;

**“including”** means including, but not limited to;

**“individual”** means a natural person;

**“land”** includes any interest in land, including any right, title or estate in it of any tenure, with all buildings and houses, unless there are words to exclude buildings and houses, or to restrict the meaning;

**“land claims agreement”** means

- (a) a land claims agreement in Canada within the meaning of sections 25 and 35 of the *Constitution Act, 1982*, or
- (b) a treaty within the meaning of sections 25 and 35 of the *Constitution Act, 1982*, that came into effect in Canada after the effective date;

**“law”** includes federal, British Columbia and Nisga'a legislation, acts, ordinances, regulations, orders in council, bylaws, and the common law, but, for greater certainty, does not include Ayuukhl Nisga'a or Ayuuk;

**“lawyer”** or **“legal counsel”** means a person who, under the *Legal Profession Act* (British Columbia), is permitted to engage in the practice of law in British Columbia;

**“legislation”** means a law, whether named an Act, a Code, a Charter or otherwise, enacted by a legislative body, but does not include a regulation;

**“Lisims Fisheries Conservation Trust”** means the Lisims Fisheries Conservation Trust, established under the Fisheries Chapter of the Nisga'a Treaty, as that Trust is amended or replaced from time to time;

**“mail”** refers to the deposit of the matter to which the context applies at a Canada Post office at any place in Canada, postage prepaid, for transmission by post;

**“may”** is to be construed as permissive and empowering;

**“member of the Council”** means a member of the Council as defined in the *Nisga'a Government Act*;

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**“member of the House”** means a member of the House as defined in the *Nisga'a Government Act*;

**“Members' Code of Conduct”** means the Members' Code of Conduct, set out in Schedule 3 to the *Nisga'a Government Act*;

**“mentally disordered person”** means a person with a mental disorder as defined in the *Mental Health Act* (British Columbia);

**“mineral resources”** includes minerals and geothermal resources;

**“minerals”** means ores of metal and all natural substances that can be mined, and includes

- (a) rock or other materials from mine tailings, dumps and previously mined deposits of minerals,
- (b) coal, petroleum, gas, earth, soil, peat, marl, gravel, rock, stone, limestone, dolomite, marble, shale, clay, volcanic ash and diatomaceous earth, and
- (c) all precious and base minerals;

**“minister”** means the Minister or Ministers of Her Majesty the Queen in right of Canada or in right of British Columbia, as the case may be, responsible for the exercise of powers in relation to a matter;

**“minor”** means an individual who has not attained the age of 19 years;

**“must”** is to be construed as imperative;

**“Nass Area”** means

- (a) the entire Nass watershed,
- (b) all Canadian watersheds and water bodies that drain into portions of Portland Inlet, Observatory Inlet, or Portland Canal, as defined in paragraph (c), and
- (c) all marine waters in Pearse Canal, Portland Inlet, Observatory Inlet, and Portland Canal northeast of a line commencing at the Canadian border, midway between Pearse Island and Wales Island, and proceeding along Wales Passage southeasterly to Portland Inlet, then northeasterly to the midpoint between Start Point and Trefusis Point, then south to Gadu Point

as set out approximately in Appendix I of the Nisga'a Treaty;

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**“natural boundary”** means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

**“Nisga’a Administrative Decisions Review Board”** means the Nisga’a Administrative Decisions Review Board, as referred to in the *Nisga’a Administrative Decisions Review Act*;

**“Nisga’a citizen”** means a person who is or becomes a Nisga’a citizen under the *Nisga’a Citizenship Act*, and whose Nisga’a citizenship has not been revoked or renounced under that Act;

**“Nisga’a Constitution”** means the Constitution of the Nisga’a Nation, adopted in accordance with the Nisga’a Treaty, and includes any amendments to that Constitution made from time to time in accordance with its terms;

**“Nisga’a enactment”** means Nisga’a legislation or a Nisga’a regulation or a portion of Nisga’a legislation or a Nisga’a regulation;

**“Nisga’a Government”** means Nisga’a Lisims Government and Nisga’a Village Governments;

**“Nisga’a governmental body”** means a Nisga’a governmental body as defined in the Members’ Code of Conduct;

**“Nisga’a Institution”** means:

- (a) Nisga’a Lisims Government,
- (b) a Nisga’a Village Government, or
- (c) a Nisga’a Public Institution;

**“Nisga’a land title office”** means the Nisga’a land title office as defined in the *Nisga’a Land Title Act*;

**“Nisga’a Lands”** means the lands identified in paragraphs 1 and 2 of the Lands Chapter of the Nisga’a Treaty, and includes the parcels of land added under paragraph 9 or 11 of the Lands Chapter;

**“Nisga’a laws”** includes the *Nisga’a Constitution*;

**“Nisga’a legislation”** means legislation enacted by Wilp Si’ayuukhl Nisga’a or a Nisga’a Village Government;

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**“Nisga’a Lisims enactment”** means Nisga’a Lisims legislation or a Nisga’a Lisims regulation;

**“Nisga’a Lisims Government”** means Nisga’a Lisims Government, as referred to in the *Nisga’a Constitution*;

**“Nisga’a Lisims Government Director”** means a person holding the office of a director of a department or similar division of the Nisga’a Nation or a Nisga’a Lisims Institution, as established by a Nisga’a Lisims enactment or by the Executive under the *Nisga’a Personnel Administration Act*, and includes the Director of Communications and Intergovernmental Relations, the Chief Financial Officer, the Director of Fish and Wildlife, the Director of Lands and Resources and the Director of Programs and Services;

**“Nisga’a Lisims Institution”** means Nisga’a Lisims Government, or a Nisga’a Public Institution established under a Nisga’a Lisims enactment;

**“Nisga’a Lisims legislation”** means legislation enacted by Wilp Si’ayuukhl Nisga’a;

**“Nisga’a Lisims public officer”** means a Nisga’a public officer employed by the Nisga’a Nation or appointed under a Nisga’a Lisims enactment;

**“Nisga’a Lisims regulation”** means a regulation enacted under the authority of Nisga’a Lisims legislation;

**“Nisga’a Nation”** means the collectivity of those aboriginal people who share the language, culture, and laws of the Nisga’a of the Nass Area, and their descendants;

**“Nisga’a official”** means a person employed or appointed by the Nisga’a Nation, a Nisga’a Village or a Nisga’a Institution;

**“Nisga’a participant”** means an individual who is enrolled in the enrolment register provided for in the Nisga’a Treaty and continued under the *Nisga’a Citizenship Act*;

**“Nisga’a Private Lands”** means the Nisga’a Lands that are designated as Nisga’a Private Lands under the *Nisga’a Lands Designation Act*;

**“Nisga’a Public Institution”** means a Nisga’a Government body, board, commission, or tribunal established under Nisga’a law, such as a school board, health board, or police board, but does not include the Nisga’a Court referred to in the Administration of Justice Chapter of the Nisga’a Treaty;

**“Nisga’a Public Lands”** means Nisga’a Lands other than Nisga’a Village Lands or Nisga’a Private Lands;

**“Nisga’a public officer”** means

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- (a) a member, commissioner, director, or trustee of a Nisga'a Public Institution,
  - (b) a director of a Nisga'a Corporation, the documents of incorporation of which have been approved by the Inspector of Municipalities for British Columbia,
  - (c) an officer or employee of the Nisga'a Nation, a Nisga'a Village, a Nisga'a Institution, or a Nisga'a Corporation the documents of incorporation of which have been approved by the Inspector of Municipalities for British Columbia,
  - (d) an election official within the meaning of a Nisga'a law, or
  - (e) a volunteer who participates in the delivery of services by the Nisga'a Nation, a Nisga'a Village, a Nisga'a Institution, or a body referred to in paragraph (b) or (c), under the supervision of an officer or employee of the Nisga'a Nation, a Nisga'a Village, a Nisga'a Institution, or a body referred to in paragraph (b) or (c);

**“Nisga'a regulation”** means a regulation enacted under the authority of Nisga'a legislation;

**“Nisga'a representative”** means a Nisga'a representative as defined in the Members' Code of Conduct;

**“Nisga'a settlement trust”** means a Nisga'a settlement trust as defined in the Fiscal Relations Chapter of the Nisga'a Treaty;

**“Nisga'a Treaty”** means the Nisga'a Final Agreement among the Nisga'a Nation, Canada and British Columbia, as it took effect on May 11, 2000, and includes any amendments made to that Agreement from time to time in accordance with its provisions;

**“Nisga'a tribe”** means one of the tribes named in section 1 of the *Nisga'a Constitution*;

**“Nisga'a Urban Local”** means an entity established for the purpose of participation in Nisga'a Lisims Government by Nisga'a citizens residing outside of the Nass Area, and includes a Nisga'a Urban Local Society;

**“Nisga'a Urban Local Area”** means a geographic area within British Columbia which is served by a Nisga'a Urban Local and the boundaries of which are established under the *Nisga'a Government Act*;

**“Nisga'a Urban Local Executive member”** means a Nisga'a Urban Local Representative who is a member of the Executive under the *Nisga'a Government Act*;

**“Nisga'a Urban Local Representative”** means a representative to Nisga'a Lisims Government

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from a Nisga'a Urban Local;

**“Nisga'a Urban Local Society”** means a society

- (a) established by Nisga'a citizens residing in a Nisga'a Urban Local Area for purposes including those set out in section 26(3) of the *Nisga'a Constitution*, and
- (b) incorporated and registered under the *Society Act* (British Columbia);

**“Nisga'a Village”** means, as applicable,

- (a) the village of New Aiyansh, Gitwinksihlkw, Laxgalt'sap or Gingolx, or
- (b) the geographic area of
  - (i) the Nisga'a Village Lands granted in fee simple by the Nisga'a Nation to the village of New Aiyansh, Gitwinksihlkw, Laxgalt'sap or Gingolx on the effective date, and
  - (ii) any Nisga'a Village Lands contiguous with the Nisga'a Village Lands referred to in subparagraph (i) and granted in fee simple by the Nisga'a Nation to the village of New Aiyansh, Gitwinksihlkw, Laxgalt'sap or Gingolx after the effective date;

**“Nisga'a Village enactment”** means an enactment enacted by a Nisga'a Village Government;

**“Nisga'a Village Government”** means a Nisga'a Village Government, as referred to in the *Nisga'a Constitution*;

**“Nisga'a Village Institution”** means a Nisga'a Village Government, or a Nisga'a Public Institution established under a Nisga'a Village enactment;

**“Nisga'a Village Lands”** means Nisga'a Lands that are designated as Nisga'a Village Lands under the *Nisga'a Lands Designation Act*;

**“Nisga'a Village public officer”** means a Nisga'a public officer employed by a Nisga'a Village or appointed under a Nisga'a Village enactment;

**“now”** must be construed as referring to the time of commencement of the enactment containing the word;

**“obligation”** includes a duty and a liability;

**“Officer of Nisga'a Lisims Government”** means the President, the Secretary-Treasurer, the



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Chairperson, the Chairperson of the Council of Elders, or the person holding the office of any other Officer of Nisga'a Lisims Government established by Wilp Si'ayuukhl Nisga'a;

**“opening words”**, when referring to words in a section, subsection, paragraph or subparagraph of a Nisga'a enactment, means all of the words of that section, subsection, paragraph or subparagraph before any enumerated portions of that section, subsection, paragraph or subparagraph;

**“own source revenue agreement”** means an own source revenue agreement within the meaning of that term as used in the Fiscal Relations Chapter of the Nisga'a Treaty;

**“peace officer”** means a peace officer as defined in the *Interpretation Act* (British Columbia);

**“person”** includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law;

**“personal representative”** includes an executor of a will and an administrator with or without will annexed of an estate, and, if a personal representative is also a trustee of part or all of the estate, includes the personal representative and trustee;

**“prescribed”** means prescribed by regulation;

**“President”** means the person holding the office of President within Nisga'a Lisims Government, as referred to in the *Nisga'a Constitution*;

**“professional engineer”** means a person registered or licensed under the *Engineers and Geoscientists Act* (British Columbia);

**“property”** includes any right, title, interest, estate or claim to or in property;

**“province”**, when used as meaning a part of Canada, includes the Northwest Territories, the Yukon Territory, and Nunavut;

**“Provincial Court”** means the Provincial Court of British Columbia;

**“record”** includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

**“registered mail”** includes certified mail;

**“registry of Nisga'a laws”** means the registry of Nisga'a laws established under the *Nisga'a Government Act*;

**“regulation”** means a law enacted under the authority of legislation in which the word

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“regulation”, “regulations”, “prescribe”, “prescribes” or “prescribed” is used in the provision conferring the authority;

“**repeal**” includes to revoke, cancel or rescind;

“**right**” includes a power, authority, privilege and licence;

“**savings institution**” means

- (a) a bank,
- (b) a credit union,
- (c) an extraprovincial trust corporation authorized to carry on deposit business under the *Financial Institutions Act* (British Columbia), or
- (d) a corporation that is a subsidiary of a bank and is a loan company to which the *Trust and Loan Companies Act* (Canada) applies;

“**Secretary-Treasurer**” means the person holding the office of Secretary-Treasurer within Nisga'a Lisims Government, as referred to in the *Nisga'a Constitution*;

“**Simgigat**” and “**Sigidimhaanak**” mean individuals who are Nisga'a chiefs, or Nisga'a matriarchs, respectively, in accordance with Ayuukhl Nisga'a;

“**Supreme Court**” means the Supreme Court of British Columbia;

“**swear**” includes solemnly declare or affirm;

“**taxation agreement**” means

- (a) a taxation agreement within the meaning of that term as used in the Taxation Chapter of the Nisga'a Treaty, or
- (b) the Taxation Agreement, within the meaning of that term as used in the Taxation Chapter;

“**trust company**” means

- (a) a trust company authorized under the *Financial Institutions Act* (British Columbia) to carry on trust business, or
- (b) an extraprovincial trust corporation authorized under the *Financial Institutions Act* (British Columbia) to carry on trust business, deposit business or both;

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“**Village Councillor**” means a person holding the office of Village Councillor within a Nisga'a Village Government, as referred to in the *Nisga'a Constitution*;

“**will**”, when referring to a testamentary instrument, means a will as defined in the *Wills Act* (British Columbia);

“**Wilp Si'ayuukhl Nisga'a**” means Wilp Si'ayuukhl Nisga'a, as referred to in the *Nisga'a Constitution*;

“**words**” includes figures, punctuation marks, and typographical, monetary and mathematical symbols.

### Common names

12. In a Nisga'a enactment, a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied, regardless of whether a more formal or extended name could also be applied to the country, place, body, corporation, society, officer, functionary, person, party or thing.

### Included and corresponding meanings

13. In a Nisga'a enactment,
- (a) words in the singular include the plural, and words in the plural include the singular,
  - (b) gender-specific terms include both genders, and include corporations, and
  - (c) if a word or expression is defined, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

### Use of forms

14. If a form is prescribed by or under a Nisga'a enactment, deviations from the prescribed form do not invalidate the form used, unless they
- (a) affect the substance of the form, or
  - (b) are calculated to mislead.

**Calculation of time or age**

- 15.** (1) If the time stated in a Nisga'a enactment for doing something falls or expires on a holiday, the time is extended to the next day that is not a holiday.
- (2) If the time stated in a Nisga'a enactment for doing something in a business office falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open.
- (3) Subject to subsection (4), if in a Nisga'a enactment a period of time is expressed
- (a) as a specified number of days after or before a particular day or the occurrence of a particular event, the period
    - (i) is determined by excluding that particular day or the day on which that particular event occurs, and then counting forward or backward, as the case may be, the specified number of days, and
    - (ii) includes and ends on the last day counted under subparagraph (i),
  - (b) as a specified number of weeks after or before a particular day or the occurrence of a particular event, the period
    - (i) is determined by excluding that particular day or the day on which that particular event occurs, and then counting forward or backward, as the case may be, the number of days calculated by multiplying the specified number of weeks by seven, and
    - (ii) includes and ends on the last day counted under subparagraph (i),
  - (c) as a specified number of months after or before a particular day or the occurrence of a particular event, the period
    - (i) is determined by excluding the calendar month in which that particular day or that particular event occurs, and then counting forward or backward, as the case may be, the specified number of months in calendar months, and
    - (ii) in the last calendar month counted under subparagraph (i), includes and ends on
      - (A) the day that has the same calendar number as the particular day or the day on which the particular event occurs, or
      - (B) the last day of the month, if that last counted month has no day with the same calendar number as the particular day or the day on

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which the particular event occurs, and

- (d) as a specified number of years after or before a particular day or the occurrence of a particular event, the period
  - (i) is determined by excluding the calendar year in which the particular day or the particular event occurs, and then counting forward or backward, as the case may be, the specified number of years in calendar years, and
  - (ii) in the last calendar year counted under subparagraph (i), includes and ends on
    - (A) the day that has the same calendar date as the particular day or the day on which the particular event occurs, or
    - (B) February 28, if the particular day or the day on which the particular event occurs is February 29 and that last counted calendar year is not a leap year.
- (4) If in a Nisga'a enactment a period of time is expressed as a specified number of clear days, weeks, months or years, or as "at least" or "not less than" a specified number of days, weeks, months or years, after or before a particular day or the occurrence of a particular event, the period
  - (a) is determined in the manner set out in the applicable paragraph of subsection (3), but
  - (b) rather than ending on the day determined under that paragraph, includes and ends on the next consecutive day in the direction being counted.
- (5) If in a Nisga'a enactment a period of time is expressed as from one specific date to another specific date, the period includes both the first and last date specified.
- (6) When calculating time for the purposes of a Nisga'a enactment, a day begins and ends at 12:00 midnight.
- (7) Subject to subsection (8), for the purposes of a Nisga'a enactment a person reaches a particular age expressed in years at the beginning of the day on the relevant anniversary of their birth.
- (8) For the purposes of a Nisga'a enactment, if a person was born on February 29, that person reaches a particular age expressed in years at the beginning of
  - (a) February 29, if the relevant anniversary of their birth falls in a leap year, or

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- (b) February 28, if the relevant anniversary of their birth occurs in any other year.
- (9) In a Nisga'a enactment, a specified time of day is a reference to
- (a) Pacific Standard time, or eight hours behind Greenwich mean time, unless Daylight Saving time is being used or observed in British Columbia on the day on which the specified time is applicable, or
  - (b) Daylight Saving time, or seven hours behind Greenwich mean time, if Daylight Saving time is being used or observed in British Columbia on the day on which the specified time is applicable.
- (10) If a provision of a Nisga'a enactment sets out a date or event by which, or a period by the end of which, Wilp Si'ayuukhl Nisga'a is to perform an act, that provision is satisfied if Wilp Si'ayuukhl Nisga'a performs that act before the end of the first sitting of Wilp Si'ayuukhl Nisga'a to commence following that date or event, or the end of that period, as the case may be.

**Metric expressions**

16. In a Nisga'a enactment, metric expressions and symbols have the meanings given to them in the *Weights and Measures Act* (Canada) and if not mentioned there, have the meanings given to them in the International System of Units established by the General Conference of Weights and Measures.

**Notices in accordance with Nisga'a law**

17. (1) To satisfy a provision in a Nisga'a enactment for notice "in accordance with Nisga'a law", a notice containing the required information must
- (a) be headed "Notice in Accordance with Nisga'a Law", and
  - (b) be delivered by hand to, or sent by mail or fax addressed to,
    - (i) the Chief Executive Officer and each Officer of Nisga'a Lisims Government, at the principal administrative office of Nisga'a Lisims Government,
    - (ii) the Chief Councillor of each Nisga'a Village Government, at the principal administrative office of that Nisga'a Village Government, and
    - (iii) the Nisga'a Urban Local Executive member from each Nisga'a Urban Local, at the principal administrative office of that Nisga'a Urban Local.

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- (2) A notice referred to in subsection (1) is not effective until it is received at the principal administrative offices of Nisga'a Lisims Government, the Nisga'a Village Governments and the Nisga'a Urban Locals during regular business hours.
- (3) The Chief Executive Officer
- (a) must ensure that that if a notice referred to in subsection (1) is received at the principal administrative office of Nisga'a Lisims Government, the notice is posted on a notice board accessible to the public at that office, and
- (b) may take other steps to communicate the contents of the notice to Nisga'a citizens.
- (4) The Chief Councillor of a Nisga'a Village Government
- (a) must ensure that if a notice referred to in subsection (1) is received at the principal administrative office of that Nisga'a Village Government, the notice is posted on a notice board accessible to the public at that office, and
- (b) may take other steps to communicate the contents of the notice to Nisga'a citizens within the applicable Nisga'a Village.
- (5) The Nisga'a Urban Local Executive member from a Nisga'a Urban Local
- (a) must ensure that if a notice referred to in subsection (1) is received at the principal administrative office of a Nisga'a Urban Local, the notice is posted on a notice board accessible to the public at that office, and
- (b) may take other steps to communicate the contents of the notice to Nisga'a citizens within the applicable Nisga'a Urban Local Area.

**Notices to members of the House and Nisga'a public officers**

- 18.** (1) To satisfy a provision in a Nisga'a enactment for the giving or delivery of a written notice, document or other written information, however expressed, to a member of the House or a Nisga'a public officer, that notice, document or other information must,
- (a) if the intended recipient is an Officer of Nisga'a Lisims Government or a Nisga'a Lisims public officer,
- (i) be delivered to that person by hand, or by another method agreed to by the person, or

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- (ii) be addressed to the person and delivered by hand or sent by mail or fax to the principal administrative office of Nisga'a Lisims Government,
  - (b) if the intended recipient is the Chief Councillor or a Village Councillor of a Nisga'a Village Government or a Nisga'a Village public officer,
    - (i) be delivered to that person by hand, or by another method agreed to by the person, or
    - (ii) be addressed to the person and delivered by hand or sent by mail or fax to the principal administrative office of the applicable Nisga'a Village Government, or
  - (c) if the intended recipient is a Nisga'a Urban Local Representative,
    - (i) be delivered to that person by hand, or by another method agreed to by the person, or
    - (ii) be addressed to the person and delivered by hand or sent by mail or fax to the principal administrative office of the applicable Nisga'a Urban Local.
- (2) The giving or delivery of a written notice, document or other written information referred to in subsection (1) is not effective until that notice, document or other information is
- (a) received by the intended recipient, or
  - (b) received during regular business hours at the principal administrative office of Nisga'a Lisims Government, the applicable Nisga'a Village Government or the applicable Nisga'a Urban Local, as the case may be.

**Notices by members of the House and Nisga'a public officers**

- 19.** (1) Subject to section 18, to satisfy a provision in a Nisga'a enactment for the giving or delivery of a written notice, document or other written information, however expressed, by a member of the House or a Nisga'a public officer to another person, that notice, document or other information may
- (a) be delivered to that other person by hand, or by another method agreed to by the other person,
  - (b) be addressed to the 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 other person known to that member of the House or Nisga'a public officer, or



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- (c) be sent by fax to the other person at the most recent residential or business fax number of the other person known to the member of the House or Nisga'a public officer.
- (2) A written notice, document or other written information referred to in subsection (1) is deemed to have been received,
- (a) if sent by mail in accordance with subsection (1)(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 (1)(b), on the date on which it is left or deposited, or
  - (c) if sent by fax in accordance with subsection (1)(c), on the date on which it is transmitted.

**PART 4 – RESERVED AND INCLUDED POWERS****Power of repeal and amendment**

20. Each Nisga'a enactment must be construed so as to reserve to the body enacting the enactment the power
- (a) to amend, repeal or replace the enactment, and
  - (b) to revoke, restrict or modify a power, privilege or advantage that the enactment vests in or grants to any person.

**Power to make regulations**

21. (1) In Nisga'a legislation, a power to make regulations includes, for the purpose of carrying out the legislation according to its intent, the authority
- (a) to make regulations that are ancillary to the legislation and not inconsistent with it,
  - (b) to provide for administrative and procedural matters for which no express, or only partial, provision has been made,
  - (c) to limit the application of a regulation in time or place or both,
  - (d) to prescribe the amount of a fee authorized by the legislation,
  - (e) to provide that the contravention of a regulation is an offence, and
  - (f) to provide that a person who is guilty of an offence under a regulation is liable to punishment under the *Nisga'a Offence Act*, and subject to a penalty within the limits set out in that Act.
- (2) A regulation made under the authority of Nisga'a legislation has the force of law.

**Power to appoint or delegate**

22. (1) A power under a Nisga'a enactment to appoint a person to an office or position includes the authority
- (a) to set the duration of that person's term of appointment to that office or position,

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- (b) to terminate the appointment, or remove or suspend the person from the office or position,
  - (c) to reappoint the person to, or reinstate the person in, the office or position,
  - (d) to set the person's remuneration, and vary or terminate it,
  - (e) to appoint someone else to replace the person or act in the place of the person, and
  - (f) to appoint another person as the deputy of the person.
- (2) A power under a Nisga'a enactment to delegate a function includes the authority
    - (a) to establish, change or revoke conditions, standards or requirements for the performance of that function by a person to whom the function is delegated, and
    - (b) to revoke a delegation of the function.
  - (3) If a person's appointment to an office or position by or under a Nisga'a enactment is effective on a specified day, the appointment is effective at the beginning of that day.
  - (4) If a person's appointment to an office or position by or under a Nisga'a enactment expires on a specified day, the appointment expires at the end of that day.
  - (5) If a person's appointment to an office or position by or under a Nisga'a enactment is for a specified term, the appointment expires at the end of the last day of that term.

**Power to act for others**

- 23. (1) Words in a Nisga'a enactment that direct or empower a member of the House or a Nisga'a public officer to do something, or that otherwise apply to that member of the House or Nisga'a public officer by name of office or position, include a person authorized under Nisga'a law to act in the office or position of the member of the House or Nisga'a public officer.
- (2) This section applies whether or not the office or position of a member of the House or Nisga'a public officer is vacant.

**Ancillary power**

- 24. (1) If in a Nisga'a enactment

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- (a) the power to do or enforce the doing of an act or thing is conferred on a person, that power includes any power necessary to enable that person to do or enforce the doing of that act or thing,
  - (b) the power to inspect or to require the production of records is conferred on a person, that power includes the power to make copies or extracts of those records, or
  - (c) a power is conferred or a duty is imposed on a person, that power may be exercised and that duty must be performed from time to time as occasion requires.
- (2) If in a Nisga'a enactment the doing of an act or thing is dependent on the doing of another act or thing by a Nisga'a governmental body, member of the House or Nisga'a public officer, that Nisga'a legislative body, member of the House or Nisga'a public officer, as the case may be, has the power to do that other act or thing.

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**PART 5 – COMMENCEMENT, AMENDMENT AND REPEAL OF NISGA'A ENACTMENTS****Coming into force of Nisga'a legislation**

25. (1) Subject to subsections (2) to (5), Nisga'a legislation comes into force on the day on which it is enacted.
- (2) If the resolution enacting Nisga'a legislation provides
- (a) that that legislation comes into force on a specified date other than the day on which the legislation is enacted, the legislation comes into force on that specified date,
  - (b) that a portion of the legislation comes into force on a specified date other than the day on which the legislation is enacted,
    - (i) that portion of the legislation comes into force on that specified date, and
    - (ii) the remainder of the legislation comes into force on the day on which the legislation is enacted,
  - (c) for the legislation to be brought into force by regulation, the legislation comes into force on the day on which the relevant regulation is enacted, or on any later date specified in that regulation, or
  - (d) for a portion of the legislation to be brought into force by regulation,
    - (i) that portion of the legislation comes into force on the day on which the relevant regulation is enacted, or on any later date specified in that regulation, and
    - (ii) the remainder of the legislation comes into force on the day on which the legislation is enacted.
- (3) If a provision of Nisga'a legislation provides
- (a) that that legislation comes into force on a specified date other than the day on which the legislation is enacted,
    - (i) that provision of the legislation comes into force on the day on which the legislation is enacted, and
    - (ii) the remainder of the legislation comes into force on that specified date,

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- (b) that a portion of the legislation comes into force on a date other than the day on which the legislation is enacted,
    - (i) that portion of the legislation comes into force on that specified date, and
    - (ii) the remainder of the legislation comes into force on the day on which the legislation is enacted,
  - (c) for the legislation to be brought into force by regulation,
    - (i) that provision of the legislation comes into force on the day on which the legislation is enacted, and
    - (ii) the remainder of the legislation comes into force on the day on which the relevant regulation is enacted, or on any later date specified in that regulation, or
  - (d) for a portion of the legislation to be brought into force by regulation,
    - (i) that portion of the legislation comes into force on the day on which the relevant regulation is enacted, or on any later date specified in that regulation, and
    - (ii) the remainder of the legislation comes into force on the day on which the legislation is enacted.
- (4) If under this section Nisga'a legislation comes into force on a date earlier than the day on which that legislation is enacted, the legislation is deemed to have come into force on that earlier date and is retroactive to the extent necessary to give it force and effect on and after the earlier date.
- (5) If under this section a portion of Nisga'a legislation comes into force on a date earlier than the day on which that legislation is enacted, that portion of the legislation is deemed to have come into force on that earlier date and is retroactive to the extent necessary to give it force and effect on and after the earlier date.

**Coming into force of Nisga'a regulations**

26. (1) Subject to subsections (2) to (5), a Nisga'a regulation comes into force on the day on which it is enacted.
- (2) If the resolution enacting a Nisga'a regulation provides that
- (a) that regulation comes into force

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- (i) on a specified date later than the day on which the regulation is enacted, or
    - (ii) on a specified date earlier than the day on which the regulation is enacted and the Nisga'a legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

the regulation comes into force on that specified date, or
  - (b) a portion of that regulation comes into force
    - (i) on a specified date later than the day on which the regulation is enacted, or
    - (ii) on a specified date earlier than the day on which the regulation is enacted and the Nisga'a legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

that portion of the regulation comes into force on that specified date and the remainder of the regulation comes into force on the day on which the regulation is enacted.
  - (3) If a provision of a Nisga'a regulation provides that
    - (a) that regulation comes into force
      - (i) on a specified date later than the day on which the regulation is enacted, or
      - (ii) on a specified date earlier than the day on which the regulation is enacted and the Nisga'a legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

that provision of the regulation comes into force on the date the regulation is enacted and the remainder of the regulation comes into force on that specified date, or
    - (b) a portion of that regulation comes into force
      - (i) on a specified date later than the day on which the regulation is enacted, or
      - (ii) on a specified date earlier than the day on which the regulation is enacted and the Nisga'a legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

that portion of the regulation comes into force on that specified date and the remainder of the regulation comes into force on the day on which the regulation is

enacted.

- (4) If under this section a Nisga'a regulation comes into force on a date earlier than the day on which that regulation is enacted, the regulation is deemed to have come into force on that earlier date and is retroactive to the extent necessary to give it force and effect on and after the earlier date.
- (5) If under this section a portion of a Nisga'a regulation comes into force on a date earlier than the day on which that regulation is enacted, that portion of the regulation is deemed to have come into force on that earlier date and is retroactive to the extent necessary to give it force and effect on and after the earlier date.

### **Commencement of effect of Nisga'a enactments**

- 27.**
- (1) A Nisga'a enactment, or a portion of a Nisga'a enactment, commences to have effect at the beginning of the day on which it comes into force.
  - (2) A Nisga'a enactment, or a portion of a Nisga'a enactment, that is repealed and replaced ceases to have effect at the time the replacing enactment commences to have effect.
  - (3) A Nisga'a enactment, or a portion of a Nisga'a enactment, that is repealed but not replaced ceases to have effect at the end of the day on which it ceases to be in force.
  - (4) A Nisga'a enactment, or a portion of a Nisga'a enactment, that provides that it ceases to be in force on a specified day, or on the occurrence of a specified event, ceases to have effect
    - (a) at the beginning of that specified day, or
    - (b) at the end of the day on which that specified event occurs.
  - (5) A Nisga'a enactment, or a portion of a Nisga'a enactment, that has expired or has otherwise ceased to be in force is deemed to have been repealed.

### **Preliminary proceedings and staggered commencement**

- 28.**
- (1) If Nisga'a legislation that is not in force confers a power to make regulations, or do any other thing, to make that legislation operative when it comes into force, that power may be exercised before the legislation comes into force, but the regulation made or the thing done has no force until the legislation comes into force, except in so far as is necessary to make the legislation operative when it comes into force.
  - (2) If Nisga'a legislation provides for that legislation, or a portion of the legislation, to come



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into force or be repealed by regulation, such a regulation may

- (a) apply to the coming into force or repeal of any provision of the legislation, and
- (b) be made at different times for different provisions of the legislation.

**Amending enactment part of enactment amended**

**29.** An amending Nisga'a enactment must be construed as part of the Nisga'a enactment that it amends.

**Repeal**

- 30.** (1) If all or a portion of a Nisga'a enactment is repealed, the repeal
- (a) does not revive a Nisga'a enactment or thing not in effect or not existing immediately before the time when the repeal takes effect,
  - (b) does not affect the previous operation of the enactment so repealed or anything done or suffered under it,
  - (c) does not affect a right or obligation acquired, accrued, accruing or incurred under the enactment so repealed,
  - (d) subject to section 31, does not affect an offence committed against, or a contravention of, the repealed enactment, or a penalty, forfeiture or punishment incurred under it, or
  - (e) does not affect an investigation, proceeding or remedy for
    - (i) a right or obligation referred to in paragraph (c), or
    - (ii) a penalty, forfeiture or punishment referred to in paragraph (d).
- (2) Subject to section 31, an investigation, proceeding or remedy referred to in subsection (1)(e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the Nisga'a enactment or the portion of the Nisga'a enactment had not been repealed.

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**Repeal and replacement**

- 31.** If a Nisga'a enactment (the "former enactment") is repealed and another Nisga'a enactment (the "new enactment") is substituted for it,
- (a) every person acting under the former enactment must continue to act as if appointed or elected under the new enactment until another person is appointed or elected in their place,
  - (b) every proceeding commenced under the former enactment must be continued under and in conformity with the new enactment in so far as it may be done consistently with the new enactment,
  - (c) the procedure established by the new enactment must be followed as far as it can be adapted in the recovery or enforcement of penalties and forfeitures incurred under the former enactment, in the enforcement of rights existing or accruing under the former enactment, and in a proceeding relating to matters that happened before the repeal,
  - (d) when a penalty, forfeiture or punishment is reduced or mitigated by the new enactment, the penalty, forfeiture or punishment, if imposed or adjusted after the repeal, must be reduced or mitigated accordingly, and
  - (e) all regulations made under the former enactment remain in force and are deemed to have been made under the new enactment, in so far as they are consistent with the new enactment, until they are repealed or others are made in their place.

**No implications from repeal or amendment**

- 32.** (1) The repeal of all or part of a Nisga'a enactment, or the repeal of a Nisga'a enactment and the substitution for it of another Nisga'a enactment, must not be construed to be or to involve either
- (a) a declaration that the repealed Nisga'a enactment was or was considered by the body that enacted it to have been previously in force, or
  - (b) a declaration about the previous state of the law.
- (2) The amendment of a Nisga'a enactment must not be construed to be or to involve either
- (a) a declaration that the law under the Nisga'a enactment prior to the amendment was or was considered by the body that enacted it to have been different from the law under the Nisga'a enactment as amended, or

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- (b) a declaration about the previous state of the law.
- (3) An amendment, consolidation, re-enactment or revision of a Nisga'a enactment must not be construed to be or to involve an adoption of the construction that has by judicial decision or otherwise been placed on the language used in the Nisga'a enactment or on similar language.

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**PART 6 – MISCELLANEOUS**

**Repeal**

33. The *Nisga'a Interpretation Act*, enacted on May 11, 2000, as amended, is repealed.

**Commencement**

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