

NISGA'A LAND TITLE ACT

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**NISGA'A LISIMS GOVERNMENT**

**WILP SI'AYUUKHL NISGA'A**

**NISGA'A LAND TITLE ACT**

**UNOFFICIAL CONSOLIDATION  
CURRENT TO AUGUST 29, 2008**

NISGA'A LAND TITLE ACT

**TABLE OF CONTENTS**

**PART 1 – DEFINITIONS .....7**

1. DEFINITIONS .....7

**PART 2 – NISGA'A LAND TITLE OFFICE.....11**

2. NISGA'A LAND TITLE OFFICE .....11

3. REGISTRAR AND STAFF .....11

4. REGISTER.....11

5. OFFICIAL RECORD .....11

6. CONTENT OF RECORDS .....12

7. SEARCHING OF RECORDS.....13

8. CERTIFICATES AND COPIES .....13

9. CORRECTION AND OMISSION OF ENTRIES.....13

10. CANCELLATION AND CORRECTION OF INSTRUMENTS.....14

11. PRESERVATION OF RECORDS.....14

12. NO REPRESENTATION, WARRANTY OR GUARANTEE.....15

**PART 3 – REGISTRATION AND ITS EFFECT .....16**

13. UNREGISTERED INSTRUMENT .....16

14. NO TRANSFER WHILE NO INDEFEASIBLE TITLE .....16

15. INSTRUMENT OPERATES WHEN REGISTERED .....16

16. EFFECT OF FEE SIMPLE TITLE .....16

17. PRESCRIPTION ABOLISHED.....17

18. REGISTRATION OF CHARGE.....17

19. PRIORITY OF CHARGES.....17

20. EFFECT OF NOTICE OF UNREGISTERED INTEREST .....17

21. COMPLETION OF REGISTRATION .....18

22. REGISTRATION EFFECTIVE FROM TIME OF APPLICATION .....18

**PART 4 – INSTRUMENTS .....19**

23. DEFINITIONS .....19

24. RESTRICTIONS ON REGISTRATION .....19

25. REGISTRABLE INSTRUMENTS .....19

26. WITNESSING AND EXECUTION .....19

27. WITNESSING – INDIVIDUALS.....20

28. WITNESSING – CORPORATIONS .....20

29. WITNESSING – INDIVIDUAL POWER OF ATTORNEY .....21

30. WITNESSING – CORPORATE POWER OF ATTORNEY .....22

31. WITNESSING – PERSONS NOT FLUENT IN ENGLISH.....23

32. EXECUTION UNDER SEAL .....23

33. IF INSTRUMENT NOT WITNESSED.....23

34. DEFECTS IN EXECUTION .....24

**PART 5 – POWERS OF ATTORNEY .....25**

35. DEPOSIT OF POWER OF ATTORNEY .....25

36. SUBSEQUENTLY ACQUIRED RIGHTS AND INTERESTS .....26

37. EXECUTION OF SUBSEQUENT POWER OF ATTORNEY.....26

38. VALID THREE YEARS .....26

39. ENDURING POWER OF ATTORNEY .....26

40. REVOCATION OF POWER OF ATTORNEY .....27

**PART 6 – DESCRIPTIONS AND PLANS .....28**

## NISGA'A LAND TITLE ACT

<b>DIVISION 1 – GENERAL .....</b>	<b>28</b>
41. METHODS OF DESCRIBING LAND.....	28
42. DESCRIPTION OF LAND IN NISGA'A GRANT .....	28
43. SUBSEQUENT DESCRIPTIONS OF LAND .....	28
44. REQUIREMENTS AS TO SUBDIVISION AND REFERENCE PLANS.....	28
45. POSTING PLAN.....	28
46. BLOCK OUTLINE SURVEY .....	29
47. COMPOSITE PLANS.....	30
<b>DIVISION 2 – SUBDIVISION OF LAND.....</b>	<b>30</b>
48. RESTRICTIONS ON SUBDIVISION.....	30
49. METHOD OF DEFINING NEW PARCEL .....	31
50. REQUIREMENTS FOR SUBDIVISIONS .....	31
51. RELIEF FROM SECTION 50(1) .....	32
52. APPOINTMENT OF APPROVING OFFICER.....	32
53. SUBDIVISION OF LAND SUBJECT TO FLOODING.....	32
<b>DIVISION 3 – APPROVAL OF SUBDIVISION PLANS .....</b>	<b>33</b>
54. TENDER OF PLAN FOR EXAMINATION AND APPROVAL .....	33
55. REFERRAL TO BRITISH COLUMBIA .....	34
56. LATE TENDER OF PLAN.....	34
57. MATTERS TO BE CONSIDERED BY APPROVING OFFICER .....	35
58. CONSIDERATION OF PUBLIC INTEREST .....	36
59. NISGA'A GOVERNMENT CONSIDERATIONS.....	36
60. TIME LIMIT FOR APPROVAL .....	36
61. APPROVAL OF PLAN.....	36
62. POWER TO PROHIBIT DEPOSIT .....	37
<b>DIVISION 4 – DEPOSIT OF PLANS.....</b>	<b>37</b>
63. APPROVAL OF PLAN REQUIRED .....	37
64. APPLICATION FOR DEPOSIT.....	37
65. TITLE TO BE REGISTERED .....	38
66. ENDORSEMENT OF CERTIFICATE .....	38
67. ACCRETED LAND.....	39
68. WATER BOUNDARY NATURAL BOUNDARY .....	39
69. SIGNATURES OF OWNERS TO PLAN.....	40
70. NEW FEE SIMPLE TITLES .....	41
<b>DIVISION 5 – OTHER METHODS OF DESCRIBING LAND .....</b>	<b>41</b>
71. ACCEPTABLE LAND DESCRIPTION.....	41
72. RE-ESTABLISHMENT OF BOUNDARIES.....	42
73. ROAD PLANS.....	42
74. VESTING OF ROAD BY DEPOSIT OF PLAN.....	43
75. DESCRIPTION OF ROAD ON CLOSURE .....	43
76. PLANS SIGNED .....	43
77. SERIAL DEPOSIT NUMBER.....	44
<b>DIVISION 6 – CONFLICTING MEASUREMENTS .....</b>	<b>44</b>
78. IF MEASUREMENTS IN CONFLICT .....	44
79. CORRECTION OF ERRORS, DEFECTS OR OMISSIONS .....	44
<b>DIVISION 7 – STATUTORY RIGHT OF WAY PLANS.....</b>	<b>44</b>
80. DEPOSIT .....	44
81. INSTEAD OF REFERENCE PLAN .....	45
82. BY NISGA'A NATION OR NISGA'A VILLAGE .....	46

NISGA'A LAND TITLE ACT

83. WIDENING OF AREA .....46

84. WATER BOUNDARY NATURAL BOUNDARY .....46

85. ALTERATION OF PLAN .....47

**DIVISION 8 – CANCELLATION OF PLANS .....47**

86. CANCELLATION BY EXECUTIVE .....47

87. CANCELLATION OF INTERIOR LINES.....48

**PART 7 – APPLICATIONS FOR REGISTRATION .....49**

88. APPLICATION REQUIRED .....49

89. FORM AND MANNER OF APPLYING .....49

90. ADDRESS OF APPLICANT .....49

91. PARTICULARS AS TO WITNESS AND PARTIES TO INSTRUMENT .....50

92. TIME OF APPLICATION.....50

93. ORDER OF CONSIDERATION.....50

94. APPLICATION FOR REGISTRATION OF CHARGE .....51

95. APPLICATION ALL-INCLUSIVE.....51

96. FORMS.....51

97. REQUIRED PRODUCTION OF INSTRUMENTS .....52

98. DISPOSAL OF INSTRUMENTS .....52

99. WITHDRAWAL OF APPLICATION .....53

100.DEFECTIVE APPLICATION.....53

**PART 8 – FEE SIMPLE TITLES .....54**

101.FEE SIMPLE TITLE .....54

102.NUMBER OF PARCELS .....54

103.RESTRICTIVE COVENANTS AND EASEMENTS .....54

**PART 9 – CHARGES.....55**

**DIVISION 1 – GENERAL .....55**

104.REGISTRATION OF CHARGE.....55

105.REGISTRATION OF SUBCHARGE .....55

106.JOINT TENANTS.....55

107.PERSONAL REPRESENTATIVES AND TRUSTEES .....55

108.ASSIGNMENT OF CHARGE .....57

109.TRANSFER, EXTENSION OR MODIFICATION OF CHARGE .....57

110.TRANSFER OF MORTGAGE.....58

**DIVISION 2 – STATUTORY RIGHTS OF WAY, COVENANTS AND EASEMENTS.....58**

111.STATUTORY RIGHT OF WAY .....58

112.COVENANT AS TO USE AND ALIENATION.....59

113.REGISTRABLE RESTRICTIVE COVENANT .....60

114.SUBDIVISION OF DOMINANT TENEMENT .....61

**DIVISION 3 – MORTGAGES.....61**

115.DEFINITION .....61

116.FORM OF MORTGAGE .....62

117.MODIFICATION OF STANDARD TERMS .....63

118.PREScribed STANDARD TERMS .....63

119.FILED STANDARD TERMS .....64

120.DELIVERY OF STANDARD TERMS TO MORTGAGOR.....64

121.EFFECT OF A MORTGAGE .....65

**DIVISION 4 – GENERAL INSTRUMENTS .....65**

**NISGA'A LAND TITLE ACT**

---

122. DEFINITIONS AND APPLICATION .....	65
123. FORM OF GENERAL INSTRUMENT .....	66
124. MODIFICATION OF STANDARD TERMS .....	67
125. FILED STANDARD TERMS .....	68
126. EFFECT OF GENERAL INSTRUMENT.....	69
127. RELEASE OF REGISTERED CHARGE.....	69
<b>DIVISION 5 – CANCELLATIONS .....</b>	<b>69</b>
128. CANCELLATION OF REGISTRATION OF CHARGE .....	69
129. CANCELLATION ON EFFLUXION OF TIME.....	69
130. EFFECT OF CANCELLATION.....	70
<b>DIVISION 6 – TRANSMISSIONS.....</b>	<b>70</b>
131. DEFINITIONS .....	70
132. REGISTRATION OF TRANSMISSION BEFORE SUBSEQUENT DEALING .....	70
133. EFFECT ON PERSONAL REPRESENTATIVE OF REGISTRATION .....	70
134. TRANSMISSION ON DEATH .....	70
135. DISCHARGE OF MORTGAGE.....	71
136. DEATH OF JOINT TENANT .....	71
137. DISCHARGE OF MORTGAGE BY SURVIVING JOINT TENANT .....	72
138. PRESUMPTION AS TO REGULARITY OF FORECLOSURE AND CANCELLATION PROCEEDINGS .....	72
<b>PART 10 – REVIEW OF REGISTRAR’S DECISIONS.....</b>	<b>73</b>
139. REVIEW OF REGISTRAR’S DECISIONS.....	73
<b>PART 11 – NOTICES.....</b>	<b>74</b>
140. REGISTRAR’S DISCRETION .....	74
141. SERVICE IF PERSON IS DEAD.....	74
<b>PART 12 – SPECIAL SURVEYS.....</b>	<b>76</b>
142. EXECUTIVE MAY ORDER.....	76
143. NOTICE OF SPECIAL SURVEY .....	76
144. SURVEYOR TO ACT UNDER REGISTRAR.....	77
145. GUIDING PRINCIPLES.....	77
146. SUBSTITUTE SURVEYOR.....	77
147. PLAN AND REPORT OF SURVEYOR .....	78
148. FURTHER WORK BY SURVEYOR.....	78
149. NOTICE OF PLAN AND REPORT .....	79
150. HEARING OF SUBMISSIONS .....	79
151. REPORT TO EXECUTIVE.....	79
152. APPROVAL OF PLAN.....	79
153. REGISTRATION OF ORDER .....	81
154. CONFLICTING MONUMENTS .....	81
<b>PART 13 – SURVEYS UNDER ROADS AND RIGHTS OF WAY CHAPTER.....</b>	<b>82</b>
155. EFFECTIVE DATE RIGHT OF WAY AREAS.....	82
156. NISGA’A HIGHWAY CORRIDOR BOUNDARIES .....	82
157. TRANSMISSION OF PLAN AND ORDER .....	82
158. REGISTRATION OF PLAN AND ORDER.....	83
159. OFFICIAL PLAN .....	83
<b>PART 14 – MISCELLANEOUS.....</b>	<b>84</b>
160. REGULATIONS.....	84
161. FEES .....	85
162. OFFENCES .....	85

NISGA'A LAND TITLE ACT

---

163. CONVICTION NOT TO AFFECT LIABILITY .....86  
164. TRANSITIONAL .....86

## NISGA'A LAND TITLE ACT

---

**PART 1 – DEFINITIONS****Definitions**

1. In this Act,

**“approving officer”** means the Approving Officer appointed under section 52;

**“charge”** means any of the following interests:

- (a) a covenant registrable under section 112 or 113;
- (b) an easement;
- (c) a lease;
- (d) a mortgage of a lease;
- (e) a mortgage of a Nisga'a Nation entitlement;
- (f) a mortgage of a Nisga'a Village entitlement;
- (g) a Nisga'a Nation entitlement;
- (h) a Nisga'a Village entitlement;
- (i) a statutory right of way;

**“Crown road”** means a Crown road as defined in the Nisga'a Treaty;

**“director”** means the Director of Lands and Resources;

**“explanatory plan”** means a plan that

- (a) is not based on a survey but on existing descriptions, plans or records of the Nisga'a land title office, and
- (b) is certified correct in accordance with the records of the Nisga'a land title office by a British Columbia land surveyor;

**“fee simple title”** means the title to the estate in fee simple to registered Nisga'a Lands;

**“instrument”** means

## NISGA'A LAND TITLE ACT

- 
- (a) a Nisga'a grant, or
  - (b) a document or plan relating to the transfer, charging or otherwise dealing with or affecting land, and includes, without limitation
    - (i) a grant of probate or administration or other trust instrument, and
    - (ii) a Nisga'a Lisims enactment;

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

**“lease not exceeding three years”** means a lease or agreement for lease

- (a) the total term of which, including any right to renew or extend, does not exceed three years, and
- (b) under which there is actual occupation of the relevant land;

**“Lisims land”** means Nisga'a Lands

- (a) in which the Nisga'a Nation owns the estate in fee simple, and
- (b) to which the estate in fee simple is not registered;

**“Nisga'a grant”** means a Nisga'a grant as defined in the *Nisga'a Land Act*;

**“Nisga'a Highway corridor”** means the Nisga'a Highway corridor as defined in the Nisga'a Treaty;

**“Nisga'a land title office”** means the Nisga'a Land Title Office established under section 2;

**“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*;

**“parcel”** means a lot, block or other area in which an interest in land is held or into which land is subdivided;

**“posting plan”** means a plan filed as a posting plan under this Act;

**“public utility”** means a public utility as defined in the British Columbia *Utilities Commission Act*;

## NISGA'A LAND TITLE ACT

**“records”** includes the register, drawings, plans, instruments and other documents or any part of them registered, deposited or filed in the Nisga'a land title office;

**“register”** means

- (a) as a noun, that part of the records in which information respecting fee simple titles is stored, and
- (b) as a verb, to register under this Act;

**“registered Nisga'a Lands”** means Nisga'a Lands to which the estate in fee simple is registered;

**“registrar”** means the Registrar appointed under section 3;

**“road”** means land designated or indicated as a road or lane in a map, plan or instrument that is registered, deposited or filed under this Act, whether or not a road or lane is constructed, and includes a road allowance or walkway allowance established under the *Nisga'a Land Act*;

**“sketch plan”** means a dimensioned drawing of the area affected by a lease of all or part of a building located on land shown on a plan of survey deposited in the Nisga'a land title office;

**“statutory right of way”** means an easement without a designated dominant tenement registrable under section 111;

**“statutory right of way plan”** means a plan prepared by a British Columbia land surveyor and deposited under section 80;

**“subdivision”** means the division of registered Nisga'a Lands into two or more parcels, whether by plan, metes and bounds description, or otherwise;

**“transfer”** includes a conveyance, a grant and an assignment;

**“transferee”** includes a grantee and an assignee;

**“transferor”** includes a grantor and an assignor;

**“transmission”** means a change of ownership

- (a) effected by the operation of an enactment or law,
- (b) under an order of a court, or
- (c) resulting from any change in the office of a personal representative or trustee,

but does not include a change of ownership resulting from an amalgamation of two or more

corporations, however effected.

## NISGA'A LAND TITLE ACT

---

**PART 2 – NISGA'A LAND TITLE OFFICE****Nisga'a land title office**

2. (1) The Nisga'a Land Title Office is established for the purpose of maintaining an inventory of registered Nisga'a Lands.
- (2) The Nisga'a land title office must have an official seal bearing the impression of the seal of the Nisga'a Nation.
- (3) A fee simple title, certificate of charge, certificate, notice or instrument issued by the registrar must be signed by the registrar and sealed with the official seal.

**Registrar and staff**

3. (1) The executive must appoint the Registrar.
- (2) The business of the Nisga'a land title office must be conducted by the registrar and any employees of the Nisga'a Nation who are assigned by the executive to work under the direction of the registrar as the staff of the land title office.
- (3) The registrar or staff of the Nisga'a land title office must not
  - (a) directly or indirectly act as the agent of a person investing money in or taking securities on Nisga'a Lands,
  - (b) advise for a fee, reward or otherwise on titles to Nisga'a Lands, or
  - (c) practice as a lawyer, notary public or conveyancer in respect of Nisga'a Lands.

**Register**

4. The registrar must keep a register in the Nisga'a land title office and enter or store in the register
  - (a) all fee simple titles and all information required by this Act or the regulations to be registered or entered on a fee simple title and affecting land included in it, and
  - (b) any other information required by the executive.

**Official record**

5. (1) In this section,

## NISGA'A LAND TITLE ACT

**“duplicate”** means the counterpart of an original instrument or document made by the registrar in the usual and ordinary course of business using a technique that

- (a) records all significant details of the original instrument or document, and
- (b) does not permit additions, deletions or changes from the original instrument or document;

**“original document”** means the document that is registered, deposited or filed under this Act.

- (2) The registrar must make and maintain an official record of all instruments and documents registered, deposited or filed under this Act.
- (3) The official record must consist of the original instrument or document or its duplicate, or both.
- (4) The registrar must store the official record made under subsection (2) either in the Nisga'a land title office or in some other location approved by the executive.
- (5) The registrar may
  - (a) make a copy of an original instrument or document, or of a duplicate, and
  - (b) certify that the copy is a true copy of the original instrument or document.
- (6) A certification of the registrar under subsection (5) is conclusive proof that the copy, and the duplicate if the copy is made from a duplicate, was made by the registrar in the usual and ordinary course of business using a technique that
  - (a) is capable of recording all significant details of the original instrument or document, and
  - (b) does not permit additions, deletions or changes from the original instrument or document.

### Content of records

- 6. (1) The registrar must store in the records the names of registered owners of estates in fee simple and holders of charges, with a reference opposite each name to the serial number under which the interest of the person is registered.
- (2) The registrar may store in the records information required by the director respecting Nisga'a Lands.

NISGA'A LAND TITLE ACT

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**Searching of records**

7. During regular business hours, the register and any other official records of the Nisga'a land title office are open to search, on the conditions that the registrar imposes, by any person who completes an application in the form that the registrar specifies.

**Certificates and copies**

8. The registrar must provide to any person who completes an application in the form that the registrar specifies
- (a) a state of title certificate showing the subsisting fee simple title on the register and all pending applications, and
  - (b) a copy of an instrument registered, deposited or filed in the Nisga'a land title office.

**Correction and omission of entries**

9. (1) For the purposes of this Act, the registrar may, on any evidence the registrar considers sufficient,
- (a) correct errors in entries made under this Act, or
  - (b) supply entries omitted under this Act

in respect of the registration of fee simple titles and charges.

- (2) In correcting an error in an entry under subsection (1), the registrar

- (a) must not erase or render illegible the original entry, and
- (b) must sign and date the corrected entry.

- (3) In supplying an omitted entry under subsection (1), the registrar must sign and date the supplied entry.

- (4) The correction of an error or the supply of an omitted entry under subsection (1) has the same validity and effect as if the error had not been made or the supplied entry not omitted.

**Cancellation and correction of instruments**

- 10.** (1) For the purposes of this Act, the registrar may, on any evidence the registrar considers sufficient, so far as practicable without prejudicing rights acquired in good faith and for value,
- (a) cancel an instrument issued in error or the registration of such an instrument,
  - (b) correct an error in an instrument,
  - (c) cancel an endorsement made in error on an instrument, or
  - (d) supply an endorsement omitted in error on an instrument.
- (2) In cancelling an instrument under subsection (1)(a) or an endorsement under subsection (1)(c), the registrar
- (a) must not erase or render illegible the instrument or endorsement, and
  - (b) must sign and date the cancellation.
- (3) In correcting an error in an instrument under subsection (1)(b), the registrar
- (a) must not erase or render illegible the original information, and
  - (b) must sign and date the corrected information.
- (4) In supplying an omitted endorsement under subsection (1)(d), the registrar must sign and date the supplied endorsement.
- (5) The cancellation of an instrument or endorsement under subsection (1) has the same validity and effect as if the instrument had not been issued or the endorsement had not been made.
- (6) The correction of an error or the supply of an omitted endorsement under subsection (1) has the same validity and effect as if the error had not been made or the supplied endorsement had not been omitted.

**Preservation of records**

- 11.** (1) The registrar may cause a record, or a selected portion of it, to be copied in a record of similar description if
- (a) the record, from use or age, is becoming obliterated or unfit for future use, or

## NISGA'A LAND TITLE ACT

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- (b) in the opinion of the registrar, convenience of reference requires it.
  - (2) The copy of a record made under subsection (1), together with a certificate of the registrar at the end of the copy, stating that the copied record is a true copy of the original record, must, for all purposes be accepted and received as the original record.
  - (3) The original record copied under subsection (1) must be preserved among the records.
  - (4) If necessary for purposes of preservation, the registrar may cause
    - (a) a record that is unfit for use to be repaired or rebound, or
    - (b) a plan that is deposited or filed to be repaired, copied or mounted.

**No representation, warranty or guarantee**

- 12.** The Nisga'a Nation makes no representation as to the accuracy or completeness of the records of the Nisga'a land title office 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 Nisga'a land title office.

## NISGA'A LAND TITLE ACT

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**PART 3 – REGISTRATION AND ITS EFFECT****Unregistered instrument**

13. (1) Except as against the person making it, an instrument purporting to transfer, charge, deal with or affect registered Nisga'a Lands or an interest in registered Nisga'a Lands does not operate to pass an interest, either at law or in equity, in the registered Nisga'a Lands unless the instrument is registered under this Act.
- (2) Subsection (1) does not apply to a lease not exceeding three years.

**No transfer while no indefeasible title**

14. An estate in fee simple to registered Nisga'a Lands or fee simple title may not be transferred or transmitted for so long as an indefeasible title to the parcel is not registered under the British Columbia *Land Title Act*.

**Instrument operates when registered**

15. An instrument purporting to charge, deal with or affect
- (a) registered Nisga'a Lands, or
  - (b) an interest in registered Nisga'a Lands

does not charge, deal with or affect the Nisga'a Lands or the interest, either at law or in equity, until the time that the instrument is registered, despite the date of its execution.

**Effect of fee simple title**

16. A registered fee simple title, as long as it remains in effect and uncanceled, is evidence that the person named in the title is entitled to the estate in fee simple to the land described in the title, subject to the following:
- (a) the subsisting conditions, provisos, restrictions, exceptions and reservations including royalties, contained in the original Nisga'a grant or in any other disposition made by the Nisga'a Nation;
  - (b) a lease not exceeding three years;
  - (c) an order of vesting under a Nisga'a Lisims enactment;

## NISGA'A LAND TITLE ACT

- (d) a road;
- (e) a registered charge on the land.

**Prescription abolished**

17. All methods of acquiring an interest in registered Nisga'a Lands by prescription or adverse possession are abolished, including the common law doctrine of prescription and the doctrine of the lost modern grant.

**Registration of charge**

18. (1) A holder of a registered charge is deemed to be entitled to the interest created or evidenced by the instrument in respect of which the charge is registered.
- (2) Registration of a charge is not a determination by the registrar that
- (a) the instrument in respect of which the charge is registered creates or evidences an interest in the registered Nisga'a Lands, or
  - (b) the charge is enforceable.
- (3) Registration of a charge gives notice, from the date and time the application for registration was received by the registrar, to every person dealing with the land affected, of
- (a) the interest in respect of which the charge is registered, and
  - (b) the contents of the instrument creating the charge so far as it relates to that interest,
- but not otherwise.

**Priority of charges**

19. Subject to a contrary intention appearing in the instruments creating charges, if two or more charges entered on the register affect the same land, the charges have, as between themselves, priority according to the date and time the applications for registration of the charges were received by the registrar, despite the dates of execution of the instruments.

**Effect of notice of unregistered interest**

NISGA'A LAND TITLE ACT

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- 20.** (1) A person who is contracting or dealing with or taking or proposing to take from a registered holder
- (a) a charge on registered Nisga'a Lands, or
  - (b) a transfer or assignment of the charge

is not affected by a notice, express, implied or constructive, of an unregistered interest purporting to affect the registered Nisga'a Lands, other than

- (c) a charge, the registration of which is pending, or
  - (d) a lease not exceeding three years.
- (2) Subsection (1) does not apply in a case of fraud in which the person has participated.
- (3) Subsection (1) applies despite a rule of law or equity to the contrary.

**Completion of registration**

- 21.** After registration of a fee simple title or charge or after cancellation of a charge, the registrar must make on an instrument deposited in support of the application for registration or cancellation an endorsement in the prescribed form.

**Registration effective from time of application**

- 22.** Once registered, an instrument or application is deemed to have been registered and to have become operative for all purposes in respect of the fee simple title, charge or cancellation claimed by the application, and according to the intent of the instrument or application, as of the date and time when the application was received by the registrar.

## NISGA'A LAND TITLE ACT

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**PART 4 – INSTRUMENTS****Definitions**

23. In this Part

“**corporation**” includes the Nisga’a Nation and a Nisga’a Village;

“**officer**” means a person, excluding the registrar, before whom an affidavit may be taken or made under section 26 (3);

“**signature**” includes the mark of an individual who cannot sign their name in English characters;

“**transferor**” includes a grantor and assignor and any other transferring or charging party.

**Restrictions on registration**

24. The registrar must not register an instrument unless the instrument complies with and has been completed, executed and witnessed in accordance with this Act and the regulations.

**Registrable instruments**

25. An instrument that is sufficient to create a charge or to pass a charge is registrable only if it is in the prescribed form.

**Witnessing and execution**

26. (1) The execution by a transferor of an instrument must be witnessed by an officer who is not a party to the instrument.
- (2) Subsection (1) does not apply to
- (a) a Nisga’a grant, or
  - (b) an instrument that is prescribed for the purposes of this section.
- (3) An affidavit necessary for the purposes of this Act may be taken or made inside or outside British Columbia by and before a person before whom an affidavit may be sworn under the British Columbia *Evidence Act*.

## NISGA'A LAND TITLE ACT

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- (4) In the absence of evidence to the contrary, the signature of a transferor on an instrument is proof that the transferor
- (a) knows the contents of the instrument,
  - (b) has signed the instrument voluntarily,
  - (c) has the legal capacity to execute the instrument, and
  - (d) intends to be bound by the instrument.

**Witnessing – individuals**

27. The signature of the officer witnessing the execution of an instrument by an individual is a certification by the officer that
- (a) the individual appeared before and acknowledged to the officer that they are the person named in the instrument as transferor, and
  - (b) the signature witnessed by the officer is the signature of the individual who made the acknowledgment.

**Witnessing – corporations**

28. (1) A corporation must execute an instrument by its authorized signatory who must, on behalf of the corporation, sign their name on the instrument.
- (2) In the case of an instrument executed for a corporation by more than one authorized signatory, only the signature of one authorized signatory is required to be witnessed under this Part.
- (3) In the case of an instrument that is executed by a corporation, the signature of the officer witnessing the execution is a certification by the officer that
- (a) the individual who executed the instrument for the corporation appeared before and acknowledged to the officer that
    - (i) the individual is an authorized signatory of the corporation,
    - (ii) the individual was authorized by the corporation to execute the instrument, and
    - (iii) the corporation existed at the time the instrument was executed and is legally entitled to hold and dispose of land in British Columbia, and

## NISGA'A LAND TITLE ACT

- (b) the signature witnessed by the officer is the signature of the individual who made the acknowledgment.

**Witnessing – individual power of attorney**

- 29.** (1) In the case of an instrument that is executed by an individual who is acting under a subsisting power of attorney, the signature of the officer witnessing the execution is a certification by the officer that
- (a) the individual appeared before and acknowledged to the officer that
    - (i) the individual is the person named as the attorney of the transferor in a subsisting power of attorney,
    - (ii) if the transferor is an individual, the individual acting under the power of attorney had, at the time the instrument was executed, no knowledge of the death or bankruptcy of the transferor, or of the revocation of the power by the transferor, and
      - (A) if the power of attorney is not an enduring power of attorney under section 8 (1) of the British Columbia *Power of Attorney Act*, the individual had, at that time, no knowledge of the mental infirmity of the transferor, or
      - (B) if the power of attorney is an enduring power of attorney under section 8(1) of the British Columbia *Power of Attorney Act*, the individual had, at that time, no knowledge of the termination of their authority by the operation of section 8 (2) of that Act, and
    - (iii) if the transferor is a corporation, the corporation is legally entitled to hold and dispose of land in British Columbia and, at the time the instrument was executed, the corporation existed and the individual had no knowledge of the bankruptcy of the transferor or of a revocation of the power by the transferor, and
  - (b) the signature witnessed by the officer is the signature of the individual who made the acknowledgment.
- (2) An attorney who is an individual must
- (a) execute the instrument by signing their name, and
  - (b) indicate on the instrument that they are the attorney of the transferor.

**Witnessing – corporate power of attorney**

30. (1) In the case of an instrument that is executed by a corporation acting under a subsisting power of attorney, the signature of the officer witnessing the execution is a certification by the officer that
- (a) the individual who executed the instrument for the corporate attorney appeared before and acknowledged to the officer that
    - (i) the individual is an authorized signatory of the corporate attorney,
    - (ii) the individual and any other individual who executed the instrument for the corporate attorney were authorized by the corporate attorney to execute the instrument,
    - (iii) the corporate attorney is the attorney of the transferor under a subsisting power of attorney,
    - (iv) if the transferor is an individual, the individual executing the instrument for the corporate attorney had, at the time the instrument was executed, no knowledge of the death or bankruptcy of the transferor, or of the revocation of the power by the transferor, and
      - (A) if the power of attorney is not an enduring power of attorney under section 8 (1) of the British Columbia *Power of Attorney Act*, the individual had, at that time, no knowledge of the mental infirmity of the transferor, or
      - (B) if the power of attorney is an enduring power of attorney under section 8(1) of the British Columbia *Power of Attorney Act*, the individual had, at that time, no knowledge of the termination of their authority by the operation of section 8 (2) of that Act, and
    - (v) if the transferor is a corporation, the corporation is legally entitled to hold and dispose of land in British Columbia and, at the time the instrument was executed, the corporation existed and the individual had no knowledge of the bankruptcy of the transferor or of a revocation of the power by the transferor, and
  - (b) the signature witnessed by the officer is the signature of the individual who made the acknowledgment.
- (2) A corporate attorney must execute an instrument in accordance with section 28(1) and must indicate on the instrument that the corporation is the attorney of the transferor.

## NISGA'A LAND TITLE ACT

**Witnessing – persons not fluent in English**

- 31.** In the case of an instrument that is executed by an individual who appears to the officer to be unable to read English or to sign their name in English characters, the signature of the officer is, in addition to the certification in section 27, a certification by the officer that the individual appeared before and acknowledged to the officer that the contents and effect of the instrument were sufficiently communicated to the individual and that the individual fully understood the contents of the instrument.

**Execution under seal**

- 32.** (1) In the case of an instrument executed under seal by an individual, whether on the individual's own behalf or as the attorney for the transferor, the signature of the officer witnessing the execution is, in addition to any other certification evidenced by the officer's signature, a certification by the officer that the individual appeared before the officer and acknowledged that
- (a) the individual affixed their seal to the instrument, or
  - (b) if the individual is acting under a power of attorney, the individual affixed their seal to the instrument and was authorized by the transferor to do so.
- (2) In the case of an instrument executed under the seal of a corporation, whether on its own behalf or as the corporate attorney of the transferor, the signature of the officer witnessing the execution is, in addition to any other certification evidenced by the officer's signature, a certification by the officer that the individual who signed the instrument as the authorized signatory appeared before the officer and acknowledged that
- (a) the individual affixed the corporate seal of the transferor to the instrument and was authorized to do so, or
  - (b) in the case of a corporate attorney, the individual affixed the corporate seal of the attorney to the instrument and was authorized to do so.

**If instrument not witnessed**

- 33.** If
- (a) the signature of a transferor is not witnessed as required under this Part,
  - (b) the registrar has satisfactory evidence, by affidavit,

## NISGA'A LAND TITLE ACT

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- (i) from a person who has reached 16 years of age and is acquainted with the transferor and the transferor's signature, stating their belief that the signature subscribed to the instrument is the signature of the person named in the instrument as transferor, or
  - (ii) in the case of a corporate transferor or corporate attorney, from a person who has reached 16 years of age and has personal knowledge of the matters contemplated in sections 28, 30 and 32 (2) that would otherwise be acknowledged by the authorized signatory before an officer under those sections, and
- (c) the registrar considers it to be appropriate to act under this section to avoid hardship,

the registrar may receive the instrument for registration as if it had been witnessed as required.

**Defects in execution**

- 34.** If there is a defect in the execution of an instrument, the registrar may, if the registrar considers the instrument is legally binding, register it, and the registration is valid for all purposes of this Act despite the defect.

## NISGA'A LAND TITLE ACT

**PART 5 – POWERS OF ATTORNEY****Deposit of power of attorney**

35. (1) The registrar must not register an instrument that is tendered for registration and executed by an attorney under a power of attorney unless one of the following is filed with the registrar:
- (a) the original power of attorney;
  - (b) a copy of the original power of attorney certified to be a true copy of the original
    - (i) by the registrar, if the registrar has custody of the original,
    - (ii) by the registrar of companies under the British Columbia *Company Act*, if the registrar of companies has custody of the original, or
    - (iii) by the registrar under subsection (4), or
  - (c) if the original power of attorney has been executed, filed or deposited in a province or country the laws of which require that the original power of attorney be filed or deposited with the officer preparing it or with some other officer or a court, a copy of the original power of attorney certified by the officer under the officer's seal of office or under the seal of the court, as the case may be, and a certificate or other evidence that
    - (i) the original has been filed or deposited by the officer or court, and
    - (ii) the filing or depositing was required by the law of that province or country.
- (2) The execution of a power of attorney must be witnessed or proved in the manner required for instruments under Part Four.
- (3) A person who is appointed an attorney for the execution of an instrument tendered for registration must have reached 18 years of age at the time of the appointment, and proof of that fact must be given to the registrar at the time the power of attorney is filed.
- (4) For the purposes of subsection (1) (b) (iii), the registrar may certify a copy of a power of attorney to be a true copy if the instrument tendered for registration is accompanied by
- (a) the original power of attorney, and
  - (b) an application, in a form acceptable to the registrar, for the return of the original.

## NISGA'A LAND TITLE ACT

- (5) A certified copy of the original power of attorney filed under subsection (1) is conclusive proof of the contents of the power of attorney for the purposes of this Act.

**Subsequently acquired rights and interests**

36. Unless a power of attorney provides expressly to the contrary, the rights and powers conferred on an attorney with respect to interests in registered Nisga'a Lands held by the principal at the date of the execution of the power of attorney also apply to interests in registered Nisga'a Lands acquired by the principal after that date.

**Execution of subsequent power of attorney**

37. For the purposes of this Act, the execution by a principal of a subsequent power of attorney does not revoke the appointment of an attorney made by that principal under a previous power of attorney, unless
- (a) the subsequent power of attorney expressly revokes in whole or in part the previous power of attorney, and
  - (b) section 40 is complied with.

**Valid three years**

38. (1) For the purposes of this Act, a power of attorney filed in the Nisga'a land title office is not valid after three years following the date of its execution, unless the power of attorney
- (a) expressly excludes the application of this section,
  - (b) is a power of attorney referred to in section 8 (1) of the British Columbia *Power of Attorney Act*, or
  - (c) is executed by a corporation.
- (2) Subsection (1) does not invalidate a dealing that is
- (a) otherwise valid, and
  - (b) entered into within three years after the date of execution of a valid power of attorney.

**Enduring power of attorney**

NISGA'A LAND TITLE ACT

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- 39.** For the purposes of this Act, but subject to section 40, a power of attorney referred to in section 8 (1) of the British Columbia *Power of Attorney Act* that is filed in the Nisga'a land title office remains valid, unless terminated by another means, until an order terminating the power of attorney under section 8 (2) of that Act is filed in the Nisga'a land title office.

**Revocation of power of attorney**

- 40.** (1) For the purposes of this Act, a power of attorney filed in the Nisga'a land title office may be revoked by filing a notice of revocation in the prescribed form, or by filing other evidence that, in the opinion of the registrar, is sufficient to effect a revocation.
- (2) On receiving a notice of revocation or other sufficient evidence under subsection (1), the registrar must endorse on the power of attorney the fact that it has been revoked.

**PART 6 – DESCRIPTIONS AND PLANS****Division 1 – General****Methods of describing land**

41. The registrar must require the use of a method of describing land that
- (a) is authorized by this Act, and
  - (b) in the registrar's opinion, is compatible with a method of describing land used by a provincial registrar under the British Columbia *Land Title Act*.

**Description of land in Nisga'a grant**

42. Registration of a fee simple title under this Act must, in the first instance, be according to the description of the land in the original Nisga'a grant or other original instrument issued by the Nisga'a Nation.

**Subsequent descriptions of land**

43. A description of registered Nisga'a Lands made after a description referred to in section 42 must be in accordance with this Part.

**Requirements as to subdivision and reference plans**

44. A plan tendered for deposit, other than an explanatory plan or sketch plan, must comply with the technical requirements for plans specified in section 67 of the British Columbia *Land Title Act*.

**Posting plan**

45. (1) If
- (a) an angle of a parcel is redefined on the ground by a post or monument, or
  - (b) an angle or a parcel described by
    - (i) metes and bounds,
    - (ii) an abbreviated description, or

## NISGA'A LAND TITLE ACT

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- (iii) an explanatory plan
    - is defined on the ground by a post or monument, the redefinition or definition, as the case may be, must be
  - (c) made by a British Columbia land surveyor, and
  - (d) shown on a posting plan.
- (2) The surveyor referred to in subsection (1) must certify the posting plan as correct and file it in the Nisga'a land title office within two months after the completion of the redefinition or definition, as the case may be.

**Block outline survey**

46. (1) Subject to conditions the registrar considers necessary, the registrar may, on an application, before a survey is made for the purpose of a subdivision or for the purpose of establishing a road,
- (a) allow the survey to be posted by setting, at proper intervals, monuments of a specified permanent character, or
  - (b) allow a block outline posting of the survey to be made by setting key monuments at specified locations.
- (2) In a survey under subsection (1)(a), the monuments with the information on the plan showing their location is the only posting of the survey required.
- (3) In a survey under subsection (1)(b),
- (a) the information on the plan showing the relationship of the monuments to the boundaries shown on the plan is evidence of the boundaries until a complete and final posting of the boundaries is made by the surveyor,
  - (b) the surveyor must complete the final posting of the boundaries within a period specified by the registrar,
  - (c) the surveyor who makes the block outline survey must make the final posting of the boundaries, and
  - (d) a posting plan must
    - (i) be filed before the period of time specified under paragraph (b),

## NISGA'A LAND TITLE ACT

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- (ii) comply with all the requirements of this Act for a subdivision or reference plan, except the requirements for
    - (A) the signature of the owner, and
    - (B) the approval of the approving officer, and
  - (iii) conform in all respects with the block outline plan, unless a departure from it is authorized by the registrar.
- (4) A posting plan filed under subsection (3)(d) is, in the absence of evidence to the contrary, proof of the boundaries.
  - (5) On receiving a posting plan under subsection (3)(d), the registrar must,
    - (a) if the posting plan refers only to one block outline plan, assign the posting plan the same serial number as that assigned to the block outline plan, and
    - (b) if the posting plan refers to more than one block outline plan, assign the posting plan a new serial number
  - (6) If the surveyor referred to in subsection (3)(c) is unable to make the final posting, the registrar may appoint another British Columbia land surveyor to make the final posting.
  - (7) An application to the registrar under subsection (1) must be accompanied by the prescribed fee.

**Composite plans**

- 47.** If the registrar considers it necessary or convenient for registration or administrative purposes, the registrar may allow or require composite plans to be prepared from the deposited plans or other records in the Nisga'a land title office.

**Division 2 – Subdivision of Land****Restrictions on subdivision**

- 48.** (1) Except as permitted in this Part, a person must not subdivide a parcel of registered Nisga'a Lands into a smaller parcel than that registered.
- (2) Subsection (1) does not apply to a subdivision for the purpose of
- (a) leasing a building or part of a building, or

## NISGA'A LAND TITLE ACT

- (b) a lease not exceeding three years.
- (3) An instrument made in contravention of this section does not confer on the party claiming under it a right to registration of the instrument or any part of it.

**Method of defining new parcel**

- 49.** Except as otherwise provided in section 71, a new parcel created by subdivision must be defined by a subdivision plan.

**Requirements for subdivisions**

- 50.** (1) A subdivision must comply with the following, and all other, requirements in this Part:
- (a) to the extent of the owner's control, there must be sufficient roads to provide necessary and reasonable access
    - (i) to all new parcels, and
    - (ii) through the land subdivided to land lying beyond or around the subdivided land;
  - (b) all existing roads
    - (i) provided for in subdivision plans of adjoining land, and
    - (ii) otherwise legally establishedmust be continued without unnecessary jogs;
  - (c) if the subdivided land borders on
    - (i) a body of water,
    - (ii) the boundary of a strip of land established as the boundary of a water reservoir, or
    - (iii) a strip of Lisims land 20 m or less in width contiguous to a natural boundary,access must be given by roads 20 m wide to the body of water and to the strips at distances not greater than 200 m between centre lines, or, outside of Nisga'a Village Lands, at distances not greater than 400 m between centre lines;

## NISGA'A LAND TITLE ACT

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- (d) suitable lanes must be provided in continuation of existing lanes and in every case where lanes are considered necessary by the approving officer.
- (2) In considering the sufficiency of a road shown on a plan, the approving officer must consider the following:
- (a) the location and width of the road;
  - (b) the suitability of the road in relation to the existing use of the subdivided land and the use intended by the subdivision;
  - (c) the configuration of the land subdivided;
  - (d) the relation of the road to an existing main road or approach, whether by land or water, and local circumstances;
  - (e) the extent of the use, present and future, to which the road may be put;
  - (f) the likely or possible role of the road in a future road network serving the area in which the subdivided land is located.

**Relief from section 50(1)**

- 51.** The executive may make regulations prescribing the circumstances in which the approving officer may grant relief from compliance with all or part of subsection 50(1), which may be different for different areas.

**Appointment of approving officer**

- 52.** The executive must appoint the Approving Officer for registered Nisga'a Lands.

**Subdivision of land subject to flooding**

- 53.** (1) The executive may designate flood plain areas by map, plan, legal description or a combination of any of them.
- (2) For the purpose of minimizing potential damage that could be caused by flooding, the executive may establish conditions for the approval of subdivisions in designated flood plain areas, including, but not limited to, a condition that the owner of the estate in fee simple to land being subdivided enter into one or more covenants under section 112 in respect of each of the parcels that are being created by the subdivision.

## NISGA'A LAND TITLE ACT

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- (3) Conditions established under subsection (2) may be different for different designated flood plain areas or for different parts of a designated flood plain area.
- (4) If the approving officer considers that a proposed subdivision would not comply with an applicable condition established under subsection (2), the approving officer must not approve the plan of subdivision without the written consent of the executive.
- (5) If the approving officer considers that land in a proposed plan of subdivision, that is not within a designated flood plain area, is or would likely be subject to flooding, the approving officer must not approve the plan without the written consent of the executive.
- (6) As a condition of its consent under subsection (4) or (5), the executive may require that the registered owner of the estate in fee simple to the land being subdivided enter into one or more covenants under section 112 in respect of each of the parcels that are being created by the subdivision.
- (7) The covenants under section 112 referred to in subsections (2) and (6) of this section may be included in a Nisga'a grant or other disposition made under the *Nisga'a Land Act*, and
- (a) the grantee or other person entitled under the Nisga'a grant or other disposition, and
  - (b) their successors in title
- are bound by the covenants, even though they have not signed the Nisga'a grant or other disposition.

**Division 3 – Approval of Subdivision Plans****Tender of plan for examination and approval**

- 54.** (1) A subdivision plan must be tendered for examination and approval by the approving officer.
- (2) The subdivision plan must be accompanied by the following:
- (a) the prescribed fees;
  - (b) a certificate
    - (i) that any taxes assessed on the subdivided land have been paid, and
    - (ii) if taxes, rates or assessments are payable by instalments, that all instalments owing at the date of the certificate have been paid;

## NISGA'A LAND TITLE ACT

- (c) if the approving officer considers that there is reason to anticipate that the land may be resubdivided and requires this information, a sketch showing that the parcels into which the land is subdivided can conveniently be further subdivided into smaller parcels;
  - (d) if the approving officer requires this information, profiles of every new road shown on the plan and any necessary topographical details that indicate engineering problems to be dealt with in opening up the roads, including environmental impact or planning studies.
- (3) The executive may, by regulation, prescribe fees for subdivision plan examination by the approving officer, which may vary with the number, size and type of parcels involved in the proposed subdivision.

**Referral to British Columbia**

- 55.** If a subdivision plan affects land adjacent to a Crown road, the approving officer
- (a) must refer the plan to British Columbia for review,
  - (b) must not approve the plan if the plan is inconsistent with any regulation by British Columbia referred to under paragraph 43 of the Roads and Rights of Way Chapter of the Nisga'a Treaty, and
  - (c) may, before approving the plan, impose on the person applying for subdivision approval any regulation by British Columbia referred to under paragraph 43 of the Roads and Rights of Way Chapter of the Nisga'a Treaty.

**Late tender of plan**

- 56.** (1) If a subdivision plan is tendered for examination and approval more than three months after the date the survey is completed, the approving officer may require the surveyor who carried out the survey
- (a) to inspect the survey,
  - (b) to confirm that
    - (i) all posts and monuments are in place, and
    - (ii) the survey has not been affected by an intervening survey or a registration, deposit or filing under this Act, and

## NISGA'A LAND TITLE ACT

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- (c) to write on the plan "inspected under the *Nisga'a Land Title Act*", with the date of the inspection and their signature.
  - (2) The surveyor may take the steps described in subsection (1) before the plan is tendered for examination and approval.
  - (3) If the surveyor is unable to take the steps described in subsection (1), the registrar may appoint another British Columbia land surveyor to take those steps.

**Matters to be considered by approving officer**

- 57.** (1) Without limiting section 58, in considering an application for approval of a subdivision plan, the approving officer may
- (a) at the cost of the applicant, personally examine or have an examination and report made on the proposed subdivision,
  - (b) hear from any person who, in the approving officer's opinion, is affected by the proposed subdivision, and
  - (c) refuse to approve the subdivision plan, if the approving officer considers that
    - (i) the anticipated development of the subdivision would injuriously affect the established amenities of adjoining or reasonably adjacent lands,
    - (ii) the plan does not comply with
      - (A) the provisions of this Act relating to access and the sufficiency of roads shown in the plan, or
      - (B) the regulations relating to subdivision plans,
    - (iii) the roads shown in the plan are not satisfactorily cleared, drained, constructed and surfaced,
    - (iv) the land in the plan has inadequate drainage installations,
    - (v) the land in the plan is subject, or could reasonably be expected to be subject, to flooding, erosion, land slip or avalanche,
    - (vi) based on all available environmental impact and planning studies, the anticipated development of the subdivision would adversely affect the natural environment or the conservation of heritage property to an unacceptable level,

## NISGA'A LAND TITLE ACT

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- (vii) the cost to the Nisga'a Nation or a Nisga'a Village of providing public utilities or other works or services to the subdivision would be excessive,
  - (viii) the subdivision is unsuited to the configuration of the land being subdivided or to the use intended, or
  - (ix) the subdivision makes impracticable future subdivision of the land within the proposed subdivision or of land adjacent to it.
- (2) Subsection (1)(c)(iii) does not apply if, in circumstances the approving officer considers appropriate, the applicant has provided security in an amount and form acceptable to the approving officer for the completion of the work described in that subsection.
- (3) The executive may, by regulation, amend, add to, substitute or repeal any of the grounds for refusal set out in this section or in section 58.

**Consideration of public interest**

- 58.** In considering an application for approval of a subdivision plan, the approving officer may reject the subdivision plan if the approving officer considers that the plan is not in the public interest.

**Nisga'a Government considerations**

- 59.** Without limiting section 58, the approving officer may refuse to approve a subdivision plan if the approving officer considers that the subdivision does not conform to all applicable Nisga'a Lisims Government and Nisga'a Village Government laws.

**Time limit for approval**

- 60.** (1) A subdivision plan must be approved or rejected by the approving officer within any period that is prescribed by the executive.
- (2) If the approving officer rejects a subdivision plan under subsection (1), the approving officer must give written notice of the rejection to the applicant, stating briefly the reason and any requirements of the approving officer.

**Approval of plan**

- 61.** On the approval of a subdivision plan, the approving officer must
- (a) write on the plan "Approved under the *Nisga'a Land Title Act*" along with the date of approval, and

NISGA'A LAND TITLE ACT

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- (b) sign the plan along with the title “Approving Officer for Registered Nisga’a Lands”.

**Power to prohibit deposit**

- 62. (1) If the executive considers the deposit of a subdivision plan to be against the public interest, the executive may order the registrar not to receive the plan for deposit.
- (2) Subsection (1) applies whether or not the subdivision plan has been approved under this Part.

**Division 4 – Deposit of Plans****Approval of plan required**

- 63. (1) The registrar must not deposit a subdivision plan or reference plan if
  - (a) the plan has not been approved by the approving officer under this Part, or
  - (b) an order relating to the plan has been made under section 62 (1).
- (2) Subsection (1)(a) does not apply
  - (a) if, under section 66, the plan only consolidates into a single parcel lawfully accreted land and another parcel, or
  - (b) to a reference plan deposited under section 71 (1)(e), (f), (g) or (h).

**Application for deposit**

- 64. (1) An application to deposit a subdivision plan must be
  - (a) in the prescribed form,
  - (b) accompanied by the subdivision plan, and
  - (c) tendered for deposit to the registrar within
    - (i) two months after it has been approved by the approving officer,
    - (ii) any longer prescribed period, or

## NISGA'A LAND TITLE ACT

- (iii) any further time after the two months or longer prescribed period that the registrar allows for sufficient cause on an application made within the two months or longer prescribed period.
- (2) If the application and subdivision plan are not tendered to the registrar within the time required in this section, the subdivision plan is deemed to have been rejected.

**Title to be registered**

- 65.** (1) Subject to section 66, the registrar must not deposit a plan unless the fee simple title to all the land included in the plan and subdivided by it is registered.
- (2) The registrar may refuse to deposit a plan covering land held under more than one fee simple title if the registrar considers that confusion as to title of parcels may result.

**Endorsement of certificate**

- 66.** (1) Despite the *Nisga'a Land Act*, if a plan to be tendered for deposit in the Nisga'a land title office
- (a) includes land that has lawfully accreted to the land being subdivided, or
  - (b) shows a water boundary that differs from the water boundary shown on the plan already on deposit and on which the current fee simple title is based,
- the approving officer may, if, in the approving officer's opinion, it is in the public interest to do so, endorse on the plan a certificate that
- (c) the relevant land is lawfully accreted land, or
  - (d) the water boundary shown on the plan is the natural boundary of the relevant land.
- (2) The approving officer must not endorse on the plan a certificate under subsection (1) unless the approving officer is satisfied that
- (a) the relevant land has lawfully accreted to the land being subdivided, or
  - (b) the water boundary shown on the plan is the natural boundary of the relevant land and the water boundary shown on the plan already on deposit and on which the present fee simple title is based is incorrect due to lack of sufficient detail, or any other good reason.

## NISGA'A LAND TITLE ACT

- (3) An application to the approving officer for endorsement under subsection (1) must be accompanied by the prescribed fee.

**Accreted land**

- 67.** (1) If a subdivision or reference plan
- (a) is tendered for deposit, and
  - (b) has endorsed on it a certificate of the approving officer that all or part of land intended to be dealt with by the plan is lawfully accreted land,
- the certificate is satisfactory proof to the registrar that
- (c) the registered owner of the estate in fee simple to the land, purporting to include in the tendered plan the accreted land, has established to that accreted land a good safe holding and marketable title in fee simple, and
  - (d) the registered owner's fee simple title may be amended to include the accreted land.
- (2) If a fee simple title, endorsed with a registered charge, is amended under subsection (1) to include accreted land, the charge is extended to include that land.

**Water boundary natural boundary**

- 68.** (1) If a subdivision or reference plan
- (a) is tendered for deposit, and
  - (b) has endorsed on it a certificate of the approving officer that the water boundary shown on the plan is the natural boundary of the relevant land,
- the certificate is satisfactory proof to the registrar that
- (c) the registered owner of the estate in fee simple to the land, purporting to include in the tendered plan the land described by the water boundary, has established to that land a good safe holding and marketable title in fee simple, and
  - (d) the registered owner's fee simple title may be amended to include the land described by the water boundary.

## NISGA'A LAND TITLE ACT

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- (2) Subsection (1) applies even though the water boundary does not agree with the natural boundary shown on a plan already on deposit in the Nisga'a land title office due to a lack of sufficient detail or other good reason.
  - (3) If a fee simple title, endorsed with a registered charge, is amended under subsection (1) to include land described by a water boundary, the charge is extended to include that land.

**Signatures of owners to plan**

- 69.**
- (1) A subdivision plan must be signed by
    - (a) each registered owner of the estate in fee simple to the land proposed to be subdivided, and
    - (b) each holder of a registered charge on that land.
  - (2) All the signatures to the subdivision plan under subsection (1) must be witnessed by at least one person who is 18 years of age or older and is not an owner of an estate in fee simple or the holder of a charge affected by the plan, and the address and occupation of each witness must be stated on the subdivision plan.
  - (3) The registrar may deposit a subdivision plan that has not been signed by all the owners of the estate in fee simple and all the holders of charges if, in the registrar's opinion, the interests of the owners and holders who have not signed are not affected by the deposit of the plan.
  - (4) If a holder of a charge, other than a charge by way of lease, fails or refuses to sign the subdivision plan, the owners of the estate in fee simple may apply to the registrar under subsection (5) for an order that the holder of the relevant charge is not required to sign the subdivision plan, after serving the holder of the charge with notice of the intended application.
  - (5) On application made 30 days after the serving of a notice under subsection (4), the registrar may issue an appointment for the hearing of all interested parties, and on the return of the appointment may
    - (a) hear all interested parties or their agents,
    - (b) adjourn the hearing of the application on terms the registrar considers proper, and
    - (c) grant or refuse all or part of the application, on conditions the registrar considers proper.
  - (6) The deposit of a subdivision plan under an order of the registrar under this section has the same effect in all respects as if the plan had been signed.

## NISGA'A LAND TITLE ACT

**New fee simple titles**

- 70.** (1) If a subdivision or reference plan is tendered for deposit, the registrar must
- (a) examine the application and plan and any supporting instrument produced, and
  - (b) if satisfied that the documents comply with this Act, deposit the plan under the serial deposit number assigned to the plan on its receipt, and
  - (c) register new fee simple titles for the parcels shown on the plan as may be necessary.
- (2) If a new fee simple title is registered under subsection (1), the registrar must cancel the former fee simple title.
- (3) Concurrently with the tender of the plan under subsection (1), an application may be made to the registrar to register an instrument dealing with any parcel included in the plan, and reference in the instrument to the plan and parcel must be made in the manner required by the registrar.

**Division 5 – Other Methods of Describing Land****Acceptable land description**

- 71.** (1) The registrar may accept
- (a) a metes and bounds description or an abbreviated description, with or without a reference plan or an explanatory plan, or
  - (b) a reference plan or an explanatory plan, with or without a metes and bounds description,
- in any of the following cases:
- (c) if a new parcel is created by the subdivision of an existing parcel shown on a deposited subdivision plan;
  - (d) if a new parcel is created for the purpose of adding it to an already existing adjoining parcel in the same subdivision plan, in which case the new parcel is deemed to be an integral portion of the parcel to which the new parcel is added;

## NISGA'A LAND TITLE ACT

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- (e) if an easement, restrictive covenant, covenant under section 112 or a statutory right of way is being created;
  - (f) if a parcel is being established as a road;
  - (g) if there is a statutory right to acquire compulsorily a parcel smaller than the registered parcel or an interest in respect of a part of a registered parcel;
  - (h) if a parcel is being leased for public purposes to the Nisga'a Nation or a Nisga'a Village;
  - (i) if a new parcel is being created for a lease.
- (2) Before the registrar decides whether to accept a metes and bounds description, abbreviated description, reference plan or explanatory plan under subsection (1)(c), (d) or (i), the applicant must provide evidence satisfactory to the registrar that the approving officer has approved the proposed subdivision.
- (3) In the case of a lease of all or part of a building, the registrar may accept a sketch plan with or without a metes and bounds description or abbreviated description, if in the opinion of the registrar it would result in hardship or economic loss to require otherwise.

**Re-establishment of boundaries**

- 72.** (1) The registrar may accept
- (a) a reference plan without an accompanying description, if a resurvey or survey of an existing parcel is made for the purpose of re-establishing the boundaries of the parcel in accordance with the fee simple title, and
  - (b) a reference or an explanatory plan without an accompanying description, if a new parcel is created by the consolidation of adjoining surveyed parcels.
- (2) Section 70 applies to the deposit of a reference plan or an explanatory plan under this section.
- (3) Sections 50 and 63 do not apply to a survey, resurvey or consolidation under this section.
- (4) A reference plan or an explanatory plan tendered for deposit under this section must be accompanied by a written application in the prescribed form signed by the owner of the estate in fee simple to the relevant land and consented to by each holder of a registered charge on the land.

**Road plans**

## NISGA'A LAND TITLE ACT

73. (1) If the Nisga'a Nation or a Nisga'a Village
- (a) is the registered owner of an estate in fee simple to a parcel that is free from charges, and
  - (b) intends to establish all or part of the parcel as a road,
- the Nisga'a Nation or the Nisga'a Village may deposit a reference plan showing the area intended to become a road.
- (2) If the intended establishment of a road under subsection (1) is being effected primarily for the clarification of the records, the registrar may accept an explanatory plan instead of a reference plan.

**Vesting of road by deposit of plan**

74. The deposit of a subdivision, reference or explanatory plan showing a portion of the land as a road, that is not designated on the plan to be of a private nature, vests the estate in fee simple to the land shown in the plan as road
- (a) in the Nisga'a Nation, if the land is outside Nisga'a Village Lands, or
  - (b) in the particular Nisga'a Village, if the land is within Nisga'a Village Lands.

**Description of road on closure**

75. (1) If a road on registered Nisga'a Lands is closed by a law made by Nisga'a Lisims Government or a Nisga'a Village Government, Nisga'a Lisims Government or the Nisga'a Village Government, as the case may be, must transmit to the Nisga'a land title office for filing
- (a) a description of the road acceptable to the registrar, and
  - (b) a copy of the law closing the road.
- (2) Under subsection (1), the registrar may accept as a description of the road a reference plan, an explanatory plan or a metes and bounds description, including an abbreviated description.

**Plans signed**

76. Unless the registrar otherwise orders, a reference plan and an explanatory plan must be

- (a) signed by each owner of the estate in fee simple to the land described by the plan, and by each holder of a registered charge on the land, and
- (b) witnessed in the same manner required by section 69 (2).

### **Serial deposit number**

77. The registrar must assign a serial number to each reference plan and explanatory plan accepted for deposit.

## **Division 6 – Conflicting Measurements**

### **If measurements in conflict**

78. (1) If the measurements shown on a plan tendered for deposit do not correspond with the measurements shown on a plan already on deposit that covers all or part of the same land or has a common boundary with the plan being tendered, the registrar may
- (a) refuse to accept the tendered plan,
  - (b) order a new survey, or
  - (c) order other necessary steps to be taken to ascertain the true measurements.
- (2) This section does not apply to a posting plan.

### **Correction of errors, defects or omissions**

79. If, on the filing of satisfactory evidence, the registrar determines that there is an error, defect or omission in a deposited plan, the registrar
- (a) may correct the plan, and
  - (b) in that event, must make an appropriate note of the correction on the plan and in the register following the description of the land.

## **Division 7 – Statutory Right of Way Plans**

### **Deposit**

## NISGA'A LAND TITLE ACT

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- 80.** (1) In this section, "person" means a grantee referred to in section 111 (1).
- (2) The registrar must not register a statutory right of way unless
- (a) a statutory right of way plan is deposited with the registrar, or
  - (b) the deposit of a statutory right of way plan is waived by the registrar because in the opinion of the registrar it would result in hardship or economic loss to require otherwise.
- (3) A statutory right of way plan tendered for registration under subsection (2) must
- (a) include in its title a reference to the Act authorizing the acquisition of the statutory right of way, and
  - (b) comply with the technical requirements for statutory right of way plans in section 116 of the British Columbia *Land Title Act* and prescribed in the regulations made by the Surveyor General of British Columbia under the British Columbia *Land Act*.
- (4) The person claiming a statutory right of way may apply for its registration concurrently with the tendering of the statutory right of way plan or after the deposit of the plan.
- (5) The registrar must
- (a) examine the plan, and
  - (b) if satisfied that the plan complies with this Division, assign to the plan a serial deposit number.
- (6) Subject to any other Nisga'a Lisims enactment that provides otherwise, the deposit of a statutory right of way plan, that is not accompanied by an instrument of grant, does not confer an interest in the land affected.
- (7) After a statutory right of way plan has been deposited in the Nisga'a land title office, an instrument affecting the land included in the plan must conform to the plan and contain a reference to its serial deposit number, unless either or both of those requirements are waived by the registrar.

**Instead of reference plan**

- 81.** The registrar may allow a person to use and deposit a statutory right of way plan, instead of a reference plan, if the statutory right of way plan

## NISGA'A LAND TITLE ACT

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- (a) is approved by the approving officer in the manner required under this Act for a subdivision plan, and
  - (b) complies with section 80(3)(b).

**By Nisga'a Nation or Nisga'a Village**

- 82.** (1) The Nisga'a Nation or a Nisga'a Village may tender for deposit a statutory right of way plan in respect of land to which the Nisga'a Nation or Nisga'a Village has acquired the estate in fee simple for the establishment of a road.
- (2) The registrar must
- (a) examine the plan tendered under subsection (1), and
  - (b) if satisfied that the plan is in order, assign to the plan a serial deposit number.
- (3) Concurrent with or following the deposit of a statutory right of way plan under this section, the Nisga'a Nation or Nisga'a Village may file with the registrar a certificate in the prescribed form certifying that all or part of the land in the statutory right of way plan is established as a road.
- (4) On the filing of the notice, the registrar must amend the records accordingly.

**Widening of area**

- 83.** If
- (a) a statutory right of way
    - (i) is contiguous to and parallel to a surveyed boundary, or
    - (ii) is shown on a posted statutory right of way plan on deposit, and
  - (b) the statutory right of way is to be widened by the addition of a parallel contiguous strip,

the registrar may accept, instead of a statutory right of way plan, an explanatory plan without an accompanying description.

**Water boundary natural boundary**

- 84.** (1) If a statutory right of way plan

**NISGA'A LAND TITLE ACT**

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- (a) is tendered for deposit, and
  - (b) has endorsed on it a certificate of the approving officer certifying that the water boundary shown on the plan is the natural boundary of the relevant land,
- the certificate is satisfactory proof to the registrar that
- (c) the registered owner of the estate in fee simple to the relevant land has established a good safe holding and marketable title in fee simple to the land described by the water boundary, and
  - (d) the registered owner's fee simple title may be amended to include the land described by the water boundary.
- (2) Subsection (1) applies even though the water boundary does not agree with the natural boundary shown on a plan already on deposit in the Nisga'a land title office due to a lack of sufficient detail or other good reason.

**Alteration of plan**

- 85.** (1) If a deposited statutory right of way plan must be altered to define a subsequently acquired area, the registrar may
- (a) authorize the deposit of a supplemental plan prepared by a British Columbia land surveyor showing the alteration, and
  - (b) if satisfied that the supplemental plan is in order, assign to it a serial deposit number and cross reference the supplemental plan with the original statutory right of way plan.
- (2) Section 80 (6) applies to a supplemental plan deposited under this section.

**Division 8 – Cancellation of Plans**

**Cancellation by executive**

- 86.** (1) The executive may order the cancellation of a plan or a portion of a plan comprising registered Nisga'a Lands to which the Nisga'a Nation owns the estate in fee simple.
- (2) On receipt of an order under subsection (1) and an explanatory plan showing the land affected, the registrar must

NISGA'A LAND TITLE ACT

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- (a) assign one or more distinguishing letters or numbers to the newly created parcel,
- (b) register a new fee simple title for the newly created parcel, and
- (c) cancel the existing fee simple title affected.

**Cancellation of interior lines**

- 87.** (1) Subject to subsection (2), on application in the prescribed form, the registrar may cancel the lines dividing two or more contiguous parcels shown on a plan, if the estates in fee simple to the parcels are owned by the same person.
- (2) The registrar may not cancel dividing lines under subsection (1) unless
- (a) there are no registered charges on the land, or
  - (b) the owners of all registered charges consent in writing and the charges are extended by an appropriate instrument to cover and coincide with the boundaries of the parcel to be created as a result of the application.
- (3) On an application under subsection (1), the registrar may require the applicant to deposit an explanatory plan showing the proposed new boundaries.

## NISGA'A LAND TITLE ACT

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**PART 7 – APPLICATIONS FOR REGISTRATION****Application required**

- 88.** (1) The registrar may not accept an instrument or other document tendered for registration, deposit or filing unless it is
- (a) the original instrument or document, and
  - (b) accompanied by an appropriate application.
- (2) Despite section 89, an instrument itself constitutes an appropriate application if
- (a) the instrument is in the prescribed form, and
  - (b) the registrar considers that no further information or act of the applicant is necessary.

**Form and manner of applying**

- 89.** (1) An application under this Act must
- (a) be in writing, and
  - (b) be made in or include one of the prescribed forms.
- (2) An application must be made by the applicant personally, or on the applicant's behalf, by the applicant's
- (a) legal counsel, or
  - (b) agent residing in British Columbia who has reached 19 years of age.
- (3) If a legal counsel or agent has made an application on behalf of an applicant, the legal counsel or agent may, within the scope of the authority given to them by the applicant, do anything that the applicant is permitted or required to do under this Act.
- (4) A statement in an application made by a legal counsel or agent that they are the legal counsel or agent of the applicant is, in the absence of evidence to the contrary, satisfactory proof to the registrar that they are the legal counsel or agent of the applicant.

**Address of applicant**

## NISGA'A LAND TITLE ACT

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- 90.** (1) An applicant must
- (a) include in the instrument or other document tendered for registration, deposit or filing, or
  - (b) deliver to the registrar a written memorandum stating
- an address for the mailing of any notices that, under this Act, are required to be served on or allowed to be mailed to the applicant.
- (2) The applicant may, by a notice in the prescribed form or other writing, file with the registrar a change of address.
  - (3) On receipt of a notice or other writing under subsection (2), the registrar must note the change of address in the register.

**Particulars as to witness and parties to instrument**

- 91.** (1) The registrar may require that the given names, surname, address and occupation of all witnesses and all parties to an instrument tendered for registration be provided by evidence to the satisfaction of the registrar.
- (2) If a party to an instrument is a corporation, the registrar may require that its incorporation number be stated after the name of the corporation.

**Time of application**

- 92.** (1) The registrar must write or stamp on each application received by the registrar
- (a) the day and hour of its receipt, and
  - (b) the serial number assigned to the instrument or other document included with the application.
- (2) For all purposes under this Act, including but not limited to establishing priority between transferees, mortgagees and others, the day and hour written or stamped under subsection (1) is deemed to be the time when the application was made.

**Order of consideration**

- 93.** Each application received by the registrar must be examined and must be given consideration in order of its receipt.

## NISGA'A LAND TITLE ACT

**Application for registration of charge**

- 94.** (1) If a fee simple title has been registered, a person wishing to be registered as the holder of a charge on that land must apply in the prescribed form to the registrar for registration of the charge.
- (2) If a registered charge
- (a) is transferred, or
  - (b) by agreement
    - (i) is modified or extended, or
    - (ii) is postponed to another charge,

the transferee or a party to the agreement, as the case may be, may apply for registration of the transfer, modification, extension or postponement in the prescribed form, adapted to suit the circumstances.

**Application all-inclusive**

- 95.** (1) A person tendering an instrument in support of an application for registration of a charge must apply to register the interest dealt with by the instrument to the full extent to which the instrument is effectual.
- (2) If application is made to register an undivided portion of the interest comprised in and effectually dealt with by an unregistered instrument, the registrar must not register the application unless registration of the remaining undivided portion of that interest is applied for concurrently.
- (3) Subsection (1) applies to an instrument purporting to create, assign or otherwise deal with two or more charges on land.

**Forms**

- 96.** (1) If an application is made in the appropriate prescribed form, the form must
- (a) appear on the first page at least 1 ½ inches from the top of the instrument tendered for registration unless the registrar allows the form to appear elsewhere, and
  - (b) must be signed by the applicant or the applicant's legal counsel or authorized agent.

## NISGA'A LAND TITLE ACT

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- (2) If no instrument is required to be tendered in support of an application under section 94, the prescribed form may be included in a letter or other document satisfactory to the registrar.
  - (3) The signature of a person on a prescribed form included in an application implies a statement by the signatory that the applicant is
    - (a) applying for registration of, and
    - (b) entitled to be registered as the holder ofthe charge specified on the land described.
  - (4) Unless the signatory is the applicant, a signatory to a prescribed form must state whether they are acting as the legal counsel or authorized agent of the applicant.
  - (5) If a signatory described in subsection (4) fails to make the required statement, the signatory is deemed to state that they are the duly authorized agent for the applicant.
  - (6) Unless otherwise stated in the prescribed form, the address of the applicant is deemed to be that shown in the instrument.
  - (7) If a signatory to a prescribed form is an agent, the signatory is deemed to state that the signatory is the duly authorized agent for the applicant and has reached 19 years of age.

**Required production of instruments**

- 97.** The registrar may require an applicant to produce or deposit an instrument or other document that
- (a) is in the applicant's possession or control, and
  - (b) relates to the application.

**Disposal of instruments**

- 98.**
- (1) All instruments and other documents deposited with the registrar must remain on deposit in the Nisga'a land title office.
  - (2) If an application to register or deposit an instrument is refused by the registrar or withdrawn, the registrar must return to the applicant the instrument produced in support of the application.

## NISGA'A LAND TITLE ACT

**Withdrawal of application**

- 99.** (1) Subject to subsection (2), if an application has been made, and no other pending application is affected by it, the applicant may withdraw the application as to all or any part of the land comprised in it at any time before registration, on terms the registrar considers proper.
- (2) If the signatory to an application is an authorized agent who is not a legal counsel, the registrar may refuse to allow the application to be withdrawn by that signatory until the signatory produces the written consent, properly verified, of their principal.
- (3) An application that has been withdrawn is void.

**Defective application**

- 100.** (1) Before receiving an application under section 92, the registrar may cause the application and an instrument or other document tendered with it to undergo a preliminary inspection.
- (2) An application may be summarily rejected by the registrar if, in a preliminary inspection under this section,
- (a) the instrument or other document
    - (i) does not qualify in substance or in form for registration, deposit or filing,
    - (ii) is not on sufficiently durable paper,
    - (iii) is illegible in any respect, including the signature of a witness or an officer authorized to take an affidavit,
    - (iv) is in whole or in part a carbon copy of a typewritten document, or
    - (v) is not capable of being satisfactorily stored in the Nisga'a land title office,
  - (b) the application or other document is incomplete or not in proper form, or
  - (c) obvious defects in title are discovered.
- (3) Despite a preliminary inspection under this section, an application is not received until the registrar has complied with section 92.

**PART 8 – FEE SIMPLE TITLES****Fee simple title**

- 101.** (1) On the transmission of a Nisga'a grant made under the *Nisga'a Land Act* to the Nisga'a land title office for registration, if the registrar is satisfied that the boundaries of the affected land are sufficiently defined by the description in the Nisga'a grant, the registrar must
- (a) register the fee simple title granted, in the name of the grantee, subject to the provisions of the grant, and
  - (b) give notice of the registration to the grantee.
- (2) No application is required for the registration of a Nisga'a grant made under the *Nisga'a Land Act*.

**Number of parcels**

- 102.** The registrar may
- (a) cancel a fee simple title that covers more than one parcel, and
  - (b) substitute in its place a single fee simple title for each parcel that was covered by the cancelled title or any other combination that the registrar sees fit.

**Restrictive covenants and easements**

- 103.** If a restrictive covenant, easement or other charge is created for the purpose of being annexed to registered Nisga'a Lands, the registrar must make an endorsement of the covenant, easement or other charge, and of the instrument creating it, against the fee simple title to that land.

## NISGA'A LAND TITLE ACT

**PART 9 – CHARGES****Division 1 – General****Registration of charge**

- 104.** (1) Subject to subsection (2), on being satisfied from an examination of an application and any instrument accompanying it that an applicant is the holder of a charge, the registrar must register the charge.
- (2) Despite subsection (1), the registrar may refuse to register a charge if the registrar is of the opinion that
- (a) a good safe holding and marketable title to the charge has not been established by the applicant, or
  - (b) the charge is not registrable under this Act.

**Registration of subcharge**

- 105.** The registrar must not register an instrument purporting to create a charge by way of a subcharge unless the charge on which the subcharge depends has first been registered.

**Joint tenants**

- 106.** If, on the registration of an instrument or document, two or more persons are joint tenants in a charge, the registrar must enter in the register, following the names, addresses and occupations of those persons, the words “joint tenants”.

**Personal representatives and trustees**

- 107.** (1) If a charge vests in a personal representative or a trustee, the charge may be registered, but the particulars of a trust created or declared in respect of that charge must not be entered in the register.
- (2) In effecting registration in the name of a personal representative, the registrar must add, following the name and address of the personal representative, an endorsement containing any additional information that the registrar considers necessary to identify the estate of the testate or intestate, and a reference to the trust instrument.

## NISGA'A LAND TITLE ACT

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- (3) In effecting registration in the name of a trustee, the registrar must add, following the name and address of the trustee, an endorsement containing the words "in trust" and a reference by number to the trust instrument.
- (4) A personal representative or trustee referred to in subsection (1) must file with the registrar the trust instrument along with the application for registration of the charge.
- (5) If an instrument, other than a will, creating or declaring a trust has been executed outside British Columbia, and also affects or deals with land or other property outside British Columbia, or the trusts of the instrument are being administered outside British Columbia, the registrar,
- (a) on satisfactory proof of the facts and that the original instrument is required for use outside British Columbia, and
  - (b) on production of the original or a copy certified by the officer in charge of the public record office in which the original is filed,
- may accept for filing the certified copy of the instrument, or a copy of the instrument that the registrar has compared with the original and certified as a true copy.
- (6) A copy certified under subsection (5) has the same effect as the original.
- (7) If an endorsement has been made in the register under subsection (2) or (3), an instrument purporting to deal with the charge must not be registered unless
- (a) expressly authorized by law or by the instrument creating or declaring the trust, or
  - (b) the court has made an order construing the instrument as authorizing the dealing, or ordering and directing the transfer, mortgage or other dealing, and a certified copy of the order has been filed with the registrar.
- (8) Subsection (7) does not apply to a dealing by the Public Guardian and Trustee.
- (9) If
- (a) a registered holder appears on the face of the register to be beneficially entitled to a charge, and
  - (b) from an instrument creating or declaring a trust, it is established to the satisfaction of the registrar that the registered holder of the charge was at the time that person became registered and remains a trustee on the trusts set out under the instrument,
- the registrar may,

## NISGA'A LAND TITLE ACT

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- (c) on application, make and date an endorsement in the register similar to that required under subsection (3), or
  - (d) register a new charge in the name of the trustee, if, in the registrar's opinion, the circumstances require.
- (10) If registration of a charge has been completed under this section and an instrument that is tendered and filed is effective
- (a) to modify the terms or conditions of the trust vesting that charge, or
  - (b) to evidence an alteration of or among the beneficiaries
    - (i) by operation of law, or
    - (ii) on the happening of an event contemplated by the trust instrument,  
  
other than a transfer or assignment of the rights of a beneficiary made while the transferor or assignor is living,

the registrar, on application, may add to the existing endorsement a note of the fact of the modification or alteration and of the filing number of the instrument.

**Assignment of charge**

- 108.** If a person purporting to assign a charge is alive and may be registered as the holder of the charge, the registrar must not register as the holder of the charge the person to whom the assignment purports to be made unless the person purporting to assign the charge is first registered as the holder of the charge.

**Transfer, extension or modification of charge**

- 109.** (1) If an application is made for registration of a transfer, extension or modification of a charge, and the registrar is satisfied that all necessary parties have joined in the transfer, extension or modification, the registrar must register the transfer, extension or modification by endorsing it in the register as a separate entry or as a note against the original entry or both, using the number and date of the application for registration and an appropriate symbol or abbreviation indicating the nature and effect of the instrument registered.
- (2) The registration of a modification of a charge does not affect the registered holder of the charge unless the holder is a party to the modification.

**Transfer of mortgage**

- 110.** A transfer of a mortgage may be in the prescribed form and, when in the prescribed form and registered, operates to transfer the following to the transferee:
- (a) the mortgage;
  - (b) the benefit of all collateral securities and the right to call for an express assignment of them;
  - (c) the right to demand, sue for, recover and give receipts for the mortgage money or the unpaid part of it, and the interest then due or to become due on it, if any;
  - (d) the full benefit of and the right to sue on the covenants with the mortgagee, and the right to exercise the powers of the mortgagee.

**Division 2 – Statutory Rights of Way, Covenants and Easements****Statutory right of way**

- 111.** (1) A person may and is deemed always to have been able to create, by grant or otherwise in favour of
- (a) the Nisga'a Nation, a Nisga'a Village or a Nisga'a Corporation,
  - (b) the Crown, a Crown corporation or agency, or
  - (c) a public utility
- an easement, without a dominant tenement, to be known as a "statutory right of way" for any purpose necessary for the operation and maintenance of the grantee's undertaking.
- (2) To the extent necessary to give effect to subsection (1), the rule requiring an easement to have a dominant and servient tenement is abrogated.
- (3) Registration of an instrument granting or otherwise creating a statutory right of way
- (a) constitutes a charge on the land in favour of the grantee, and
  - (b) confers on the grantee the right to use the land charged in accordance with the terms of the instrument, and the terms, conditions and covenants expressed in the instrument are binding on and take effect to the benefit of the grantor and grantee and their successors in title, unless a contrary intention appears.

## NISGA'A LAND TITLE ACT

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- (4) A person who executes an instrument in which a statutory right of way is created is not liable for a breach of a covenant in the instrument occurring after the person has ceased to be the owner of the estate in fee simple to the relevant land.
  - (5) This section is retroactive in its application and applies to all statutory rights of way, whenever created.
  - (6) A recital in a grant or reservation of a statutory right of way that it "is necessary for the operation and maintenance of the grantee's undertaking", or a statement to that effect in the application to register the statutory right of way, is sufficient proof to the registrar of that fact.

**Covenant as to use and alienation**

- 112.** (1) A covenant described in subsection (2) in favour of the Nisga'a Nation, a Nisga'a Village, a Nisga'a Corporation, the Crown, or a Crown corporation or agency, as covenantee, may be registered as a charge on the land subject to the covenant and is enforceable against the covenantor and the successors in title of the covenantor even if the covenant is not annexed to land to which the covenantee owns the estate in fee simple.
- (2) A covenant registrable under subsection (1) may be of a negative or positive nature and may include one or more of the following provisions:
- (a) provisions in respect of
    - (i) the use of land, or
    - (ii) the use of a building on or to be erected on land;
  - (b) that land
    - (i) is to be built on in accordance with the covenant,
    - (ii) is not to be built on except in accordance with the covenant, or
    - (iii) is not to be built on;
  - (c) that land
    - (i) is not to be subdivided except in accordance with the covenant, or
    - (ii) is not to be subdivided;
  - (d) that parcels of land designated in the covenant and registered under one or more fee simple titles are not to be sold or otherwise transferred separately;

## NISGA'A LAND TITLE ACT

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- (e) that land or a specified amenity in relation to it is to be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.
- (3) For the purpose of subsection (2)(e), "amenity" includes any natural, historical, heritage, cultural, scientific, architectural, environmental, wildlife or plant life value relating to the land that is subject to the covenant.
- (4) A covenant registrable under this section may include, as an integral part,
- (a) an indemnity of the covenantee against any matter agreed to by the covenantor and covenantee and provision for the just and equitable apportionment of the obligations under the covenant as between the owners of the estates in fee simple to the land affected, and
- (b) a rent charge charging the land affected and payable by the covenantor and the covenantor's successors in title.
- (5) If an instrument contains a covenant registrable under this section, the covenant is binding on the covenantor and the covenantor's successors in title, even though the instrument or other disposition has not been signed by the covenantee.
- (6) No person who enters into a covenant under this section is liable for a breach of the covenant occurring after the person has ceased to be the owner of the estate in fee simple to the land.
- (7) A covenant registrable under this section may be
- (a) modified by the holder of the charge and the owner of the estate in fee simple to the land charged, or
- (b) discharged by the holder of the charge
- by an agreement or instrument in writing the execution of which is witnessed or proved in accordance with this Act.
- (8) The registration of a covenant under this section is not a determination by the registrar of its enforceability.

**Registrable restrictive covenant**

- 113.** (1) The registrar must not register a restrictive covenant unless

## NISGA'A LAND TITLE ACT

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- (a) the obligation that the covenant purports to create is, in the registrar's opinion, negative or restrictive,
  - (b) the land to which the benefit of the covenant is annexed and the land subject to the burden of the covenant are both satisfactorily described in the instrument creating the covenant, and
  - (c) the fee simple title to the land affected is registered under this Act.
- (2) The registration of a restrictive covenant under this section is not a determination by the registrar of its essential nature or enforceability.

**Subdivision of dominant tenement**

- 114.** (1) If a dominant tenement is subdivided in whole or in part, on the deposit of a plan of subdivision
- (a) the benefit of a registered appurtenant easement is annexed to each of the new parcels shown on the plan,
  - (b) the burden of the easement is increased accordingly, even though the owner of the estate in fee simple to the servient tenement has not consented to the increase, and
  - (c) the easement continues to be annexed to the remainder, if any, of the dominant tenement,
- unless
- (d) the instrument creating the easement expressly provides otherwise, or
  - (e) the subdivider designates on the plan the parcel or a part of the land to which the benefit does not attach.
- (2) A designation under subsection (1)(e) witnessed or proved in accordance with this Act is sufficient authority for the registrar to give effect to the designation and to make the necessary endorsements in the records.

**Division 3 – Mortgages****Definition**

- 115.** In this Division "terms" includes covenants, conditions, representations, warranties, grants and assignments.

**Form of mortgage**

- 116.** (1) A mortgage of a lease, of a Nisga'a Nation entitlement or of a Nisga'a Village entitlement must comply with this section unless the registrar determines otherwise.
- (2) A mortgage must be in two parts.
- (3) Part 1 of a mortgage must
- (a) be in the prescribed form,
  - (b) contain the prescribed information,
  - (c) be executed and witnessed in accordance with Part Four, and
  - (d) meet all other requirements of the regulations.
- (4) A regulation referred to in subsection (3) may
- (a) specify any requirement for the format or content of the prescribed form, and
  - (b) require that the form be completed and executed to the satisfaction of the registrar.
- (5) Part 2 of the mortgage must
- (a) consist of all other terms of the mortgage, and
  - (b) be adopted in one of the following forms:
    - (i) the set of standard mortgage terms prescribed under section 118 that was in effect at the time the mortgage was executed;
    - (ii) a set of standard mortgage terms filed under section 119;
    - (iii) mortgage terms expressly set out in Part 2 of the mortgage.
- (6) If Part 2 of a mortgage consists of
- (a) the set of standard mortgage terms prescribed under section 118, Part 1 of the mortgage must contain a statement that Part 2 of the mortgage consists of the set of standard mortgage terms prescribed under section 118,

## NISGA'A LAND TITLE ACT

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- (b) a set of standard mortgage terms filed under section 119, Part 1 of the mortgage must contain a statement that Part 2 of the mortgage consists of the set of standard mortgage terms filed under section 119, and
  - (c) terms referred to in subsection (5)(b)(iii), Part 1 of the mortgage must contain a statement that Part 2 of the mortgage consists of express terms that are annexed to Part 1 as Part 2.

**Modification of standard terms**

- 117.** (1) If Part 2 of the mortgage consists of
- (a) the set of standard mortgage terms prescribed under section 118, or
  - (b) a set of standard mortgage terms filed under section 119,
- the set may be modified by making additions, amendments or deletions.
- (2) If a modification is made under subsection (1),
- (a) Part 1 of the mortgage must contain a statement that a modification has been made, and
  - (b) the modification must be included in Part 2 of the mortgage and attached as a schedule to Part 1.
- (3) If, as a result of a modification permitted under subsection (1), there is an inconsistency between a term contained in the set of standard mortgage terms and a modified term, the modified term prevails.

**Prescribed standard terms**

- 118.** (1) The executive
- (a) may prescribe one set of standard mortgage terms for the purposes of this Division, and
  - (b) must not amend a set of prescribed standard mortgage terms, other than by repealing and replacing the entire set.
- (2) If the executive repeals the set of standard mortgage terms prescribed under subsection (1), the terms of any mortgage that adopted that set before the repeal are conclusively deemed to be the terms of that mortgage, subject to any modification made under section 117.

**Filed standard terms**

- 119.** (1) A person who wishes to file a set of standard mortgage terms for purposes of adoption under section 116 (5)(b)(ii), must apply to the registrar, accompanying the application with the proposed set of standard mortgage terms.
- (2) If the registrar considers the set of standard mortgage terms received under subsection (1) to be appropriate for filing under this section, the registrar must
- (a) file the set,
  - (b) assign a filing number to the set, and
  - (c) advise the applicant when the set was filed and the filing number assigned to it.
- (3) A set of standard mortgage terms filed under this section
- (a) must not contain a reference to any other set of standard mortgage terms for the purpose of incorporating a term contained in the other set, and
  - (b) must set out the mortgage terms in numbered paragraphs.
- (4) A set of standard mortgage terms must not be added to, varied or deleted except as permitted in section 117.

**Delivery of standard terms to mortgagor**

- 120.** (1) If Part 2 of a mortgage consists of a set of standard mortgage terms referred to in section 116 (5)(b)(i), the mortgagee or its agent must, before or at the time the mortgage is executed,
- (a) deliver a true copy of the set of terms together with a statement of any additions, amendments or deletions referred to in section 117 (2), if any, to each mortgagor, and
  - (b) obtain an acknowledgment from each mortgagor that the copy and statement have been delivered.
- (2) If subsection (1) is not complied with, Part 2 of the mortgage referred to in subsection (1) is deemed to have the standard terms prescribed by the executive under section 118 (1), that were in effect at the time the mortgage was executed.
- (3) The failure to comply with subsection (1) does not extinguish

## NISGA'A LAND TITLE ACT

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- (a) the mortgage debt or the obligation to repay it,
  - (b) the right of the court to foreclose the mortgagor's right to redeem, or
  - (c) any other right or remedy that is available to the parties under the general law of mortgages.

**Effect of a mortgage**

- 121.** (1) Subject to other applicable provisions of this Act being complied with, a mortgage that complies with this Division operates to charge the interest of the mortgagor in order to secure payment of the debt or performance of the obligation expressed in the mortgage, whether or not the mortgage contains words of transfer or charge, subject to a proviso for redemption.
- (2) Whether or not a mortgage referred to in section 116 contains words of transfer or charge subject to a proviso for redemption, the mortgagor and mortgagee are entitled to all the legal and equitable rights and remedies that would be available to them if the mortgagor had transferred the mortgagor's interest to the mortgagee, subject to a proviso for redemption.
- (3) Subsections (1) and (2) do not
- (a) validate a mortgage that, at law or in equity, is void or unenforceable,
  - (b) operate to change the general law of mortgages or the legal and equitable rules that apply between mortgagor and mortgagee, or
  - (c) preclude the inclusion of express words of transfer or charge, subject to a provision for redemption in a set of standard or express mortgage terms referred to in section 116 (5).

**Division 4 – General Instruments****Definitions and application**

- 122.** (1) In this Division "terms" includes covenants, conditions, representations, warranties, grants and assignments.
- (2) Subject to subsection (3), this Division applies to any instrument that creates, assigns, modifies, enlarges or discharges a charge.

## NISGA'A LAND TITLE ACT

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- (3) This Division does not apply to
- (a) an instrument or class of instrument that is prescribed by this Act or another Nisga'a Lisims enactment, or
  - (b) an instrument that creates a mortgage.
- (4) The executive may, by regulation, exempt an instrument or class of instrument from the application of subsection (2).

**Form of general instrument**

- 123.** (1) An instrument to which this Division applies must comply with this section unless
- (a) another Nisga'a Lisims enactment requires a general instrument to be in a form different from that required by this section, or
  - (b) the registrar determines otherwise.
- (2) An instrument to which this Division applies must be in the form of a general instrument.
- (3) A general instrument must be in two parts, unless it
- (a) creates or assigns a Nisga'a Village entitlement or Nisga'a Nation entitlement, or
  - (b) discharges a charge.
- (4) Part 1 of a general instrument must
- (a) be in the prescribed form,
  - (b) contain the prescribed information,
  - (c) be executed and witnessed in accordance with Part 4, and
  - (d) meet all other requirements of the regulations.
- (5) A regulation referred to in subsection (4) may
- (a) specify any requirement for the format or content of the prescribed form, and
  - (b) require that the form be completed and executed to the satisfaction of the registrar.
- (6) A regulation under subsection (4) may

## NISGA'A LAND TITLE ACT

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- (a) require Part 1 of a general instrument to be on a single page,
  - (b) permit the addition of one or more pages to accommodate an additional or necessary party or any other addition the registrar requires or considers necessary,
  - (c) specify the information or material that must be set out on the first page and on any additional page,
  - (d) specify the information or material that is permitted to be set out on the first page or on any additional page, or
  - (e) specify any other requirements as to the format and content of the prescribed form that the executive considers necessary for the purposes of this Act or for any other purpose.
- (7) Part 2 of a general instrument must
- (a) consist of all other terms of the general instrument, and
  - (b) be adopted in any one of the following forms:
    - (i) a set of standard charge terms filed under section 125;
    - (ii) terms that are expressly set out in Part 2.
- (8) If Part 2 of a general instrument consists of
- (a) a set of standard charge terms filed under section 125, Part 1 of the general instrument must contain a statement that Part 2 consists of the set of standard charge terms contained in the filed set of standard charge terms along with a reference to the filing number assigned by the registrar under section 125, or
  - (b) terms referred to in subsection (6)(b)(ii), Part 1 of the general instrument must contain a statement that Part 2 consists of express charge terms that are annexed to Part 1 as Part 2.
- (9) The registrar must not register a general instrument that incorporates, as Part 2 of that general instrument, more than one set of standard charge terms.

**Modification of standard terms**

- 124.** (1) If Part 2 of a general instrument consists of a set of standard charge terms filed under section 125, the set may be modified by making additions, amendments or deletions.
- (2) If a modification is made under subsection (1),

## NISGA'A LAND TITLE ACT

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- (a) Part 1 of the general instrument must contain a statement that a modification has been made, and
    - (b) the modification must be included in Part 2 of the general instrument and attached as a schedule to Part 1.
  - (3) If, as a result of a modification permitted under subsection (1), there is an inconsistency between a term contained in the set of standard charge terms and a modified term, the modified term prevails.

**Filed standard terms**

- 125.**
- (1) A person, other than the director, who wishes to file a set of standard charge terms for purposes of adoption under section 123(6), must apply to the registrar, accompanying the application with the proposed set of standard charge terms.
  - (2) The director may prepare one or more sets of standard charge terms and deliver them for filing under subsection (3).
  - (3) If the registrar
    - (a) considers the set of standard charge terms received under subsection (1) to be appropriate for filing under this section, or
    - (b) receives a set of standard charge terms from the director under subsection (2),  
the registrar must
      - (c) file the set,
      - (d) assign a filing number to the set, and
      - (e) advise the applicant or the director, as the case may be, when the set was filed and of the filing number assigned to it.
  - (4) A set of standard charge terms filed under this section
    - (a) must not contain a reference to any other set of standard charge terms for the purpose of incorporating a term contained in the other set, and
    - (b) must set out the charge terms in numbered paragraphs.
  - (5) A set of standard charge terms must not be added to, varied or deleted except as permitted under section 124.

## NISGA'A LAND TITLE ACT

**Effect of general instrument**

- 126.** Subject to other applicable provisions of this Act being complied with, a general instrument that complies with this Division has effect in accordance with its terms.

**Release of registered charge**

- 127.** (1) Part 1 of the prescribed form of a general instrument must be used to release a charge from land.
- (2) A general instrument that releases a charge from land does so whether or not
- (a) the charge was created by a registered mortgage, or
  - (b) the charge affects land other than the land from which the charge is being released.

**Division 5 – Cancellations****Cancellation of registration of charge**

- 128.** (1) If a registered charge has been surrendered, released or discharged in whole or in part, the registrar must, on application in the prescribed form and on proof of the surrender, release or discharge satisfactory to the registrar, cancel the registration of the charge in whole or in part, as the case may be.
- (2) If a charge described in subsection (1) was registered by an endorsement on the register, the registrar must cancel the charge by endorsing the register with a note of the cancellation.
- (3) Section 96 applies to an application made under this section.

**Cancellation on effluxion of time**

- 129.** If, by the terms of an instrument creating or evidencing the charge, a registered charge is determined by the effluxion of time or the happening of an event, the registrar, on application and after giving such notice as the registrar considers necessary or advisable, may cancel the registration of the charge on the effluxion of the time or the happening of the event.

**Effect of cancellation**

- 130.** If a reconveyance, surrender or transfer would otherwise have been necessary, the cancellation of the registration of a charge operates as and must for all purposes be deemed to be a reconveyance, surrender or transfer in favour of the person entitled to the interest against which the charge was registered, and the charge no longer affects that interest.

**Division 6 – Transmissions****Definitions**

- 131.** In this Division "certified copy" means a copy certified by the signature of the registrar of the court and sealed with the seal of the court.

**Registration of transmission before subsequent dealing**

- 132.** (1) If a charge is the subject of a transmission, the person claiming under the transmission must,
- (a) before applying to register an instrument dealing with the charge, or
  - (b) before taking or continuing a proceeding to enforce the charge,
- apply to the registrar to be registered as the holder of the charge.
- (2) On being satisfied that a good safe holding and marketable title has been established by an applicant, the registrar may register the charge claimed by the applicant.

**Effect on personal representative of registration**

- 133.** If an applicant becomes registered as personal representative of a deceased holder of a charge,
- (a) the applicant is invested with all the rights and powers of the deceased holder, and
  - (b) the title to the charge of the applicant relates back to and takes effect as and from the date of the death of the deceased.

**Transmission on death**

## NISGA'A LAND TITLE ACT

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- 134.** (1) Subject to subsection (3), the registrar must not consider an application to register a transmission of a charge resulting from the death of a testator or intestate, unless the application is accompanied by
- (a) a certified copy of the grant of letters probate or letters of administration issued from the court in the province that made or resealed the grant, and
  - (b) if application for grant or reseal of letters probate or letters of administration was filed with the registrar of the court in British Columbia, an office copy of that portion of the declaration and disclosure document required by section 111 of the British Columbia *Estate Administration Act* that correctly describes the charge affected.
- (2) The registrar may dispense with the filing of the document required in subsection (1) (b).
- (3) The registrar may consider an application to register a transmission of a charge resulting from the death of a testator or intestate, unaccompanied by the documents referred to in subsection (1), if the application is accompanied by a certified copy of
- (a) an approval of will and grant of probate,
  - (b) a grant of letters of administration, or
  - (c) an approval of will and grant of letters of administration with will annexed
- issued on behalf of the Minister of Indian Affairs and Northern Development under the *Indian Act*, R.S.C. 1985, c. I-5 and confirming that the deceased was a member of the Gitlakdamix Indian Band, the Gitwinksihlkw Indian Band, the Lakalzap Indian Band or the Gingolx Indian Band who died before May 11, 2000.

**Discharge of mortgage**

- 135.** Section 134 applies to an application to register a discharge of a mortgage executed by the personal representative of a deceased mortgagee.

**Death of joint tenant**

- 136.** The registrar must not consider an application to register a transmission of a charge resulting from the death of a joint tenant unless the application is accompanied by
- (a) a certified copy of the grant of letters probate or letters of administration issued from the court in the province that made or resealed the grant, or
  - (b) a certificate of death issued by the appropriate public officer.

**Discharge of mortgage by surviving joint tenant**

**137.** Section 129 applies to an application to register a discharge by a surviving joint tenant of a mortgage of which the surviving and deceased joint tenants were the registered holders.

**Presumption as to regularity of foreclosure and cancellation proceedings**

**138.** In an application based on a final order of foreclosure, the registrar is entitled to presume the regularity of all intervening proceedings, on production of a certified copy of

- (a) any order nisi, and
- (b) the final order for foreclosure in which the defendants are all the parties appearing in the records as the holders of the charge that is claimed by the applicant.

## NISGA'A LAND TITLE ACT

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**PART 10 – REVIEW OF REGISTRAR'S DECISIONS****Review of registrar's decisions**

- 139.** (1) If the registrar refuses an application under this Act, the registrar must serve a written notice on the applicant, stating the refusal and briefly stating the reasons for the refusal.
- (2) If a person is dissatisfied with
- (a) a summary rejection of an application under this Act by the registrar, or
  - (b) an act, omission, decision, direction or order of the registrar under this Act in respect of an application, other than a refusal of an application,
- the registrar must, on written request by that person in the prescribed form, provide written reasons to that person for the summary rejection, act, omission, decision, direction or order.
- (3) A person
- (a) on whom the registrar has served a written notice under subsection (1), or
  - (b) to whom the registrar has provided written reasons under subsection (2)
- may request a review of the registrar's refusal, rejection, act, omission, decision, direction or order under the *Nisga'a Administrative Decisions Review Act*.

## NISGA'A LAND TITLE ACT

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**PART 11 – NOTICES****Registrar's discretion**

- 140.** (1) If notice is required or permitted to be served under this Act, service may be effected
- (a) as allowed under another Nisga'a Lisims enactment, or
  - (b) at the discretion of the registrar,
    - (i) personally,
    - (ii) by mail,
    - (iii) by publishing a notice in accordance with Nisga'a law,
    - (iv) by leaving the notice at the usual or last known place of residence of the person to be served,
    - (v) by posting the notice at places and for periods the registrar considers sufficient, or
    - (vi) in the manner specified for giving notice to a party to be served in the instrument under which the rights of the party are derived.
- (2) If the registrar is required to serve notice under this Act, the registrar may
- (a) prepare the notice, or
  - (b) direct the notice's preparation in a form approved by the registrar.
- (3) The registrar may direct that the service of a notice described in subsection (2) be effected by
- (a) the applicant,
  - (b) a person interested in the proceedings before the registrar, or
  - (c) the agent of the applicant or of a person referred to in paragraph (b).

**Service if person is dead**

- 141.** (1) If a person to be served a notice under this Act is dead, service may be effected on the personal representative of the deceased person.

## NISGA'A LAND TITLE ACT

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- (2) If the deceased person has been dead for at least one year and
- (a) the will of the deceased person has not been proved and letters of administration have not been granted for the deceased person's estate, or
  - (b) the personal representative of the deceased person has died and no successor has been appointed,

a notice under this Act may, with the approval of the registrar, be served on the persons who are beneficially entitled to the estate of the deceased person.

- (3) If
- (a) the registrar has been informed of the provisions of the will of the deceased person, and
  - (b) the will has not been probated,

a notice under this Act may, with the approval of the registrar, be served on the persons claiming under a devise in the will.

- (4) If
- (a) the will of the deceased person has not been probated, or
  - (b) the deceased person has died intestate,

the registrar may name one or more of the persons beneficially entitled to the estate of the deceased person as the persons on whom a notice under this Act may be served as representatives of all the beneficiaries of the estate.

- (5) A notice served under subsection (2), (3) or (4) has the same effect on the estate of the deceased person and on all persons claiming under the deceased person as if the notice had been served on the personal representative of the deceased person.

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**PART 12 – SPECIAL SURVEYS****Executive may order**

- 142.** (1) In the circumstances set out in subsection (2), the executive may,
- (a) on the request of the Nisga'a Village whose Nisga'a Village Lands are affected,
  - (b) on the request of the registrar, or
  - (c) without a request if the executive thinks it proper,
- order a special survey of registered Nisga'a Lands to be made by a British Columbia land surveyor, on such terms, including apportionment of survey costs and expenses, as the executive may determine.
- (2) A special survey may be ordered under subsection (1) if
- (a) an error appears in, or doubt exists as to the accuracy of, an existing survey or plan,
  - (b) a discrepancy exists, or is thought to exist, between the occupation of a parcel and a registered subdivision plan or other plan or description,
  - (c) doubt exists as to the true location of a road or as to a boundary line between parcels which it is desirable to remove by defining it without dealing with the other boundary lines of contiguous parcels, or
  - (d) the executive otherwise considers it advisable.
- (3) The executive must transmit a copy of an order made under subsection (1) to the registrar.

**Notice of special survey**

- 143.** (1) On receipt of an order for a special survey under section 142, the registrar must give notice that the special survey has been ordered to all
- (a) registered owners of an estate in fee simple in, and
  - (b) registered holders of a charge on
- the land within the limits of the special survey.
- (2) The notice given under subsection (1) must

NISGA'A LAND TITLE ACT

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- (a) state that an order has been made under section 142,
- (b) describe the land within the limits of the special survey, and
- (c) identify the surveyor appointed to make the special survey.

**Surveyor to act under registrar**

**144.** The British Columbia land surveyor in charge of a special survey under section 142 must make the survey and plan

- (a) under the guidance and instruction of the registrar, and
- (b) within the period of time required by the registrar.

**Guiding principles**

- 145.** (1) Subject to subsection (2), in making a special survey under section 142, the British Columbia land surveyor must re-establish as nearly as possible the existing boundaries.
- (2) The surveyor in subsection (1) may
- (a) depart from existing boundaries in order to establish boundaries in agreement with occupation and improvements, and
  - (b) distribute any shortage in area within a block or group of parcels, having regard to occupation and improvements.

**Substitute surveyor**

- 146.** After a special survey has been ordered under section 142, the executive may by order
- (a) appoint a substitute British Columbia land surveyor in place of the surveyor previously appointed to make the survey,
  - (b) direct the substitute surveyor to adopt and make use of as much of the survey as the previously appointed surveyor has completed, and
  - (c) determine how the work of the previously appointed surveyor is to be certified or authenticated.

**Plan and report of surveyor**

- 147.** (1) On completion of a special survey under section 142, the British Columbia land surveyor must prepare and apply to file with the registrar
- (a) the special survey plan, and
  - (b) a report that sets out
    - (i) any difficulties encountered during the survey,
    - (ii) the evidence concerning the re-establishment of original and lost monuments,
    - (iii) the system of survey employed,
    - (iv) the degree of accuracy obtained,
    - (v) the nature of all monuments erected, and
    - (vi) other information bearing on the survey as may be of service in the consideration of the report and plan.
- (2) The surveyor must include in a report under subsection (1), in concise and tabulated form,
- (a) a list of all parcels comprised within the limits of the survey,
  - (b) a list of all parcels the boundaries of which appear as altered by the plan, with a statement showing how they are altered, and
  - (c) a statement of the costs and expenses of the survey.

**Further work by surveyor**

- 148.** If, for any reason, the registrar is not satisfied with a special survey plan or report that a British Columbia land surveyor has applied to file under section 147, the registrar may
- (a) refuse to file the plan and the report, and
  - (b) instruct the surveyor
    - (i) to complete further or remedial work, and
    - (ii) to prepare and apply to file under section 147 a plan and report that includes that further or remedial work.

NISGA'A LAND TITLE ACT

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**Notice of plan and report**

- 149.** On the filing of a special survey plan and report under section 147, the registrar must
- (a) transmit a copy of the plan and the report to the executive, and
  - (b) give notice to all registered owners of an estate in fee simple in, and registered holders of a charge on, the land within the limits of the special survey
    - (i) that the special survey has been completed,
    - (ii) that the plan and the report may be inspected at the Nisga'a land title office, and
    - (iii) of a date and place at which submissions may be made to the registrar on the plan and the report.

**Hearing of submissions**

- 150.** At the time and place specified in the notice given under section 149 (b), the registrar must receive the written or oral submission on the special survey plan and report of any
- (a) registered owner of an estate in fee simple in, or
  - (b) registered holder of a charge on
- the land within the limits of the special survey.

**Report to executive**

- 151.** After receiving any submissions under section 150, the registrar must prepare and transmit to the executive a report on the submissions received.

**Approval of plan**

- 152.** (1) On receipt of the report of the registrar prepared under section 151, the executive may, by order,
- (a) approve the special survey and the special survey plan, or any part of it, or
  - (b) reject the survey and plan.

## NISGA'A LAND TITLE ACT

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- (2) If the executive approves the survey and plan, or any part of it, under subsection (1)(a), the executive may by order
- (a) declare the survey and plan, or the approved part of it, to be the true and correct survey and plan of the land affected,
  - (b) declare that all boundaries and lines fixed by the survey and plan, or the approved part of it, are the true boundaries and lines, and
  - (c) declare, with any reservations that the executive considers expedient, that the survey and plan, or the approved part of it, must be substituted for all former surveys and plans of the land affected which have previously been registered, or for the corresponding portions of those former surveys or plans,
  - (d) set the amount of any compensation payable to any person because of the approval of the survey and plan, or the part of it,
  - (e) determine the amount of
    - (i) any compensation set under paragraph (d), or
    - (ii) the costs and expenses of the surveythat must be paid by any registered owner of an estate in fee simple in, or registered holder of a charge on, the land within the limits of the survey, and
  - (f) vest any interest necessary to implement the survey and plan, or the approved part of it.
- (3) An amount of compensation ordered to be paid by any person
- (a) under subsection (2)(e)(i) is recoverable by the person to whom the amount is required to be paid as a debt due to that person, and
  - (b) under subsection (2)(e)(ii) is recoverable by the Nisga'a Nation as a debt due to the Nisga'a Nation.
- (4) The executive must transmit to
- (a) the registrar, and
  - (b) the British Columbia surveyor who completed the survey
- a copy of an order made under this section.

## NISGA'A LAND TITLE ACT

**Registration of order**

- 153.** (1) On receipt of an order made under section 152 approving a special survey and special survey plan, or a part of it, the registrar must register the order and the approved plan or part of the plan.
- (2) An approved plan or part of a plan that is registered under subsection (1) is the official plan of the land comprised within the limits of the plan or the approved part of it, and is binding on all persons.

**Conflicting monuments**

- 154.** On receipt of an order made under section 152 approving a special survey and special survey plan, or a part of it, the British Columbia land surveyor who completed the survey must
- (a) remove all survey posts, stakes or monuments that
    - (i) were on the land within the limits of the survey prior to the survey, and
    - (ii) are liable to lead to confusion in connection with the approved survey or part of the survey, and
  - (b) obliterate all marks on any post, stake or monument that
    - (i) was on the land within the limits of the survey prior to the survey, and
    - (ii) has been used or adopted by the surveyor as a post, stake or monument of the survey,
- except the marks placed on it or adopted by the surveyor in the survey.

**PART 13 – SURVEYS UNDER ROADS AND RIGHTS OF WAY CHAPTER****Effective date right of way areas****155. If**

- (a) registered Nisga'a Lands are subject to an unsurveyed right of way granted by the Nisga'a Nation on the effective date under the Roads and Rights of Way Chapter of the Nisga'a Treaty, and
- (b) under paragraph 5 of the Roads and Rights of Way Chapter, the detailed location and dimensions of any part of that right of way area are deemed to be described conclusively in a survey plan,

the executive must order

- (c) the substitution of that survey plan for all former plans of that part of the right of way area which have previously been registered, and
- (d) the vesting of any interest in Nisga'a Lands necessary to implement the survey plan.

**Nisga'a Highway corridor boundaries****156. If**

- (a) an unsurveyed part of the Nisga'a Highway corridor is located within registered Nisga'a Lands, and
- (b) under paragraph 9 of the Roads and Rights of Way Chapter, the detailed location and dimensions of that part of the Nisga'a Highway corridor are deemed to be described conclusively in a survey plan,

the executive must order

- (c) the substitution of that survey plan for all former plans of the boundaries of that part of the Nisga'a Highway corridor which have previously been registered, and
- (d) the vesting of any interest in Nisga'a Lands necessary to implement the survey plan.

**Transmission of plan and order**

NISGA'A LAND TITLE ACT

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- 157.** The executive must transmit to the registrar a copy of a survey plan described in, and an order made under, section 155 or 156.

**Registration of plan and order**

- 158.** On receipt of a survey plan described in, and an order made under, section 155 or 156, the registrar must register the plan and the order.

**Official plan**

- 159.** A plan that is registered under section 158 is the official plan of the part of the right of way area or the boundaries of the part of the Nisga'a Highway corridor, as the case may be, and is binding on all persons.

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**PART 14 – MISCELLANEOUS****Regulations**

- 160.** (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 as follows:
- (a) establishing fees for applications, deposits, filings, registrations, examinations, approvals, searches, and other functions under this Act;
  - (b) exempting the Nisga'a Nation and any Nisga'a Village from payment of any or all fees;
  - (c) respecting procedure and practice under this Act in so far as any other Nisga'a Lisims enactment relates to or affects the title to registered Nisga'a Lands;
  - (d) respecting the form of and the manner in which
    - (i) the register and certificates relating to titles are kept or provided, or
    - (ii) applications under this Act are made and dealt with;
  - (e) prescribing the forms for instruments, documents or notices to be registered, deposited, filed or given under this Act;
  - (f) limiting the number of persons who may be named as
    - (i) registered owners of one estate in fee simple, or
    - (ii) registered holders of one charge;
  - (g) authorizing the use of a master form of instrument to reduce the volume of paper received by the registrar;
  - (h) varying the regular business hours of the Nisga'a land title office;
  - (i) providing for or facilitating the computerization of the Nisga'a land title office;
  - (j) determining the manner of completion, execution and witnessing of any instrument, document or notice to be registered, deposited, filed or given under this Act;
  - (k) determining the effect of a form of instrument;

## NISGA'A LAND TITLE ACT

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- (l) determining the manner in which statements in a prescribed form are to be made;
  - (m) determining the type of seal that may be used on an instrument to be registered under this Act;
  - (n) permitting or requiring the registration of, and governing the procedure for registration of, the title to and dealings with an interest that may be granted or created under an Nisga'a Lisims enactment.
- (3) A regulation under subsection (2)(n) may
- (a) classify interests in any manner,
  - (b) make different requirements for different classes of interests, and
  - (c) extend all or part of this Act to the registration an interest.

**Fees**

**161.** Fees required to be paid under this Act or the regulations must be paid at the time

- (a) an instrument is tendered for deposit, filing, registration, examination or approval, or
- (b) a request or application is made for the performance of any other function.

**Offences**

**162.** (1) A person who

- (a) wilfully makes a false declaration or a false acknowledgment or certification under Part Four, or
- (b) procures, or assists in procuring, a fraudulent entry on the register, or a fraudulent alteration or erasure of an entry on the register

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

- (2) An entry on the register, or an alteration or erasure of an entry on the register, made as a consequence of fraud is void.
- (3) A person who, as principal or agent in a transaction relating to registered Nisga'a Lands, knowingly and with intent to deceive,

NISGA'A LAND TITLE ACT

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- (a) makes a material false statement or representation,
  - (b) suppresses or conceals from the registrar, or the staff of the Nisga'a land title office, a material document, fact, matter or information, or
  - (c) is a party to anything mentioned in paragraph (a) or (b)
- commits an offence punishable under the *Nisga'a Offence Act*.
- (4) An act or thing done or obtained by means of anything mentioned in subsection (3)(a) or (b) is void.

**Conviction not to affect liability**

- 163.** No proceeding or conviction in respect of an act declared to be an offence under this Act or the regulations affects a right or remedy to which a person may be entitled against the person who committed the act.

**Transitional**

- 164.** (1) Section 2 of this Act comes into force by regulation of the executive.
- (2) Until the effective date of the regulation made under subsection (1), no application may be made or instrument registered, deposited or filed under this Act.
- (3) Subsections (1) and (2) do not affect the operation of Part 3 of the *Nisga'a Effective Date Procedures Act*.

## NISGA'A LAND TITLE ACT

## LEGISLATIVE HISTORY

*Nisga'a Land Title Act*, NLGSR 2000/11, in force May 11, 2000.

Amendments

Section	Amendment	In Force
6	(2) amended [2001/02, s. 6]	December 5, 2000
10	(1), (3) and (6) amended [2000/31, s. 2]	September 13, 2000
71	(1) and (2) amended [2005/04, s. 7]	March 31, 2005
116	(3) and (4) repealed and replaced [2007/03, s. 1]	February 2, 2007
117	(2) repealed and replaced [2007/03, s. 2]	February 2, 2007
122	(2) amended [2007/03, s. 3]	February 2, 2007
123	(3), (4) and (5) repealed and replaced [2007/03, s. 4]	February 2, 2007
124	(2) repealed and replaced [2007/03, s. 5]	February 2, 2007
127	(2) repealed and replaced [2007/03, s. 6] (3) repealed [2007/03, s. 6]s	February 2, 2007
134	(1) amended [2003/14, s. 1(a)] (3) added [2003/14, s. 1(b)]	October 9, 2003

**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 2003/14	<i>Nisga'a Statute Amendment Act #11</i>
NLGSR 2005/04	<i>Nisga'a Village Entitlement and Nisga'a Nation Entitlement Amendment Act, 2005</i>
NLGSR 2007/03	<i>Nisga'a Land Title Amendment Act, 2007</i>

**Regulations:**

NLGSR 2000/29	<i>Nisga'a Land Title Regulation</i>
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