

CONSULTATION DRAFT

TR'ONDĚK HWĚCH'IN
NINĀNKĀK HQZQ WĚK'ĀTR'ĚNÒCHA ACT
(SETTLEMENT LAND USE ACT)

CONSULTATION DRAFT

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WE ARE DĚNEZHU. WE LIVE TR'ĚHUDÈ.

We are DĚnezhu, the people of this land
We are Tr'ondĕk Hwĕch'in, the people of this river
following the ways Tsà' Wĕzhè traveled
and remembering his journey and the living inheritance he left us –
Tr'ĕhudè, our way of life and our law.

We are DĚnezhu, the people of this land
salmon people and caribou people
weather-watchers and story people.
Ours is a constitution of stories and promises –
a promise to listen to the land
a promise to act humbly and show gratitude for the gifts that sustain us
a promise to take care of each other.

The promises Tsà' Wĕzhè made in the long-ago times are the core of our identity as DĚnezhu
the source of our wealth, the reason we endure
and the root of our kinship with the land and our animal relatives
those with fur or fins or feathers
leaves or needles or berries or flowers
two legs or four legs, more legs or none
who taught us how to survive, but also how to live.
These promises are happy obligations
because when we look after our relatives, they look after us.

Tsà' Wĕzhè used his wits to make the world safe for us
so we live Tr'ĕhudè to protect the balance he made
still telling the stories that bind us to this land
and keeping our promises so the animals keep theirs –
for all the generations yet to be born.

That is what we mean when we say we are DĚnezhu, the people of this land
That is what it means to be Tr'ondĕk Hwĕch'in, the people of this river.

PREAMBLE TR'ONDĚK HWĚCH'IN VALUES¹

DRAFT

¹ Drafting Note: Preamble drafting is ongoing.

**TR'ONDĚK HWĚCH'IN
NINĀNKĀK HQZQ WĚK'ĀTR'ĚNÒCHA ACT
(SETTLEMENT LAND USE ACT)**

**PART I
GENERAL PROVISIONS**

Citation

1. This Act may be cited as the *Ninānkāk hqzq wĕk'ātr'ĕnòcha Act* or the *Settlement Land Use Act*.

Land and Resources Act (2004)

2. This Act replaces and repeals the *Land and Resources Act (2004)*, as amended.

Application

3. This Act applies to settlement land.

Binding on Tr'ondĕk Hwĕch'in

4. This Act is binding on Tr'ondĕk Hwĕch'in.

Binding on citizens and non-citizens

5. For greater certainty, and unless specified otherwise in this Act, another applicable law, or the Final Agreement, this Act binds citizens and non-citizens.

Purpose

6. The purposes of this Act are to:
 - (a) protect the cultures, traditions, lifestyles, health and treaty rights and interests under the Final Agreement of citizens;
 - (b) administer settlement land for the use and benefit of present and future generations of citizens;
 - (c) provide for decision-making about the use, management and disposition of interests in settlement land in a fair, transparent and efficient manner and in a manner that fully considers Dēnezhu values;
 - (d) provide for responsible exercise of powers under section 13 of the Self-Government Agreement;

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- (e) provide for the sustainable use of settlement land;
- (f) protect the peaceful enjoyment of settlement land by citizens; and
- (g) protect the economic, cultural and spiritual relationship between citizens and the land.

Definitions

7. In this Act, and in any regulations made under this Act:

“Act” means this Act and includes the regulations made under this Act, each as amended from time to time;

“allocation” means an allocation of settlement land made under section 39;

“applicant” means, in respect of an application for an authorization or an interest under this Act, the person who makes the application;

“applicable law” means the applicable laws of TH, Yukon, Canada and local governments;

“assessment” means the assessment of a development, use or occupation of settlement land in accordance with this Act;

“authorization” means a licence, permit or other permission or approval granted under this Act to access, use or develop a specified area of settlement land, but which does not grant an interest in settlement land;

“beds” has the same meaning as in Section 1 of the Final Agreement;

“Canada” means the Government of Canada;

“certificate of allocation” means a certificate referred to in section 43;

“Committee” means the Natural Resources Advisory Committee established by section 116;

“citizen” has the same meaning as given to the term “Tr’ondëk Hwëch’in Citizen” in the Constitution;

“community lands” means, in respect of settlement land, the lands described in section 28.3 of the Self-Government Agreement;

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“community purpose” means, for the purpose of Part IX, a public work, building or space of TH;

“community work” means, for the purpose of Part IX, a development that is financed by TH funds or constructed by (or on behalf of) TH, each for the benefit or use of citizens;

“Constitution” means the *Constitution of the Tr’ondëk Hwëch’in* adopted by the Tr’ondëk Hwëch’in General Assembly on August 22, 1998, as amended from time to time;

“Council” has the same meaning as it does in the Constitution;

“decision body” has the same meaning as in YESAA;

“decision document” means a decision document issued by any decision body in accordance with YESAA;

“department” means the Tr’ondëk Hwëch’in Natural Resources Department;

“degrade” means to physically, aesthetically or biologically damage, erode, alter or reduce in quality;

“deputy registrar” means the person appointed by Council under section 145 as the deputy registrar of the registry;

“development” means any project, industry, undertaking, enterprise, operation or activity or any alteration, expansion, removal or decommissioning of the same that involves construction on, or the altering or disturbing of, settlement land or natural resources on settlement land, and, for clarity, includes a subdivision but does not include traditional activities or activities incidental to the purpose of undertaking traditional activities;

“director” means the Tr’ondëk Hwëch’in official hired by TH under section 153;

“disposition” means the granting, assignment or transfer of all or part of an interest in settlement land in accordance with this Act;

“dwelling-place” means a house, apartment or other place of residence of a person;

“easement” means a non-exclusive interest in settlement land granted under this Act, giving one person (the grantee) the right to use or control the land of another (the grantor) for a specific limited purpose;

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“fee simple interest” means, as the context requires, fee simple title or a right, obligation or liability equivalent to fee simple title;

“Final Agreement” means the land claims agreement entered into by the Tr’ondëk Hwëch’in, Her Majesty the Queen in Right of Canada and Government of Yukon that was brought into legal effect on September 15, 1998;

“General Assembly” has the same meaning given to it in the Constitution;

“Governance Act” means the *Tr’ondëk Hwëch’in Governance Act* enacted by the General Assembly on May 1, 2022 and in force on January 1, 2023, as amended from time to time;

“Government” means Canada, Yukon, the government of a Yukon First Nation other than the Tr’ondëk Hwëch’in, or the government of a municipality, whichever has responsibility from time to time for the matter in question;

“immediate family member” has the same meaning given to in the Constitution;

“interest” means, for the purposes of this Act, an allocation, easement, lease or fee simple interest granted in accordance with this Act but, for greater certainty, does not include the fee simple title or rights, obligations and liabilities equivalent to fee simple to that land;

“intestate” means a person who has died without having prepared or made a will;

“instrument” means, in respect of an interest, a document purporting to create, grant, convey, transfer, charge, dispose of, or otherwise affect an interest in settlement land;

“land use plan” means a plan adopted under section 109(1);

“leasehold” means an interest granted under this Act giving a person the exclusive right of use and possession of an area of settlement land, upon agreed conditions, for a specified time, calculated by including any renewal or extension period, and includes a sub-lease;

“minerals” has the same meaning as in Chapter 1 of the Final Agreement;

“mines” has the same meaning as in Chapter 1 of the Final Agreement;

“minor” has the same meaning as given to the term “Minor” in the Constitution;

“oil” has the same meaning as in Chapter 1 of the Final Agreement;

“person” means a natural person and any entity which has the rights, powers and privileges of a natural person;

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“personal information” means recorded information about an identifiable individual, including:

- (a) their name;
- (b) their home, mailing or email address or phone number;
- (c) their race, nationality or ethnic origin, or religious or political beliefs or associations;
- (d) their age, sex, gender identify or expression, sexual orientation, marital status or family status;
- (e) their fingerprints, blood type, or any other genetic characteristic or biometric information;
- (f) information about their health care history, including a physical or mental disability;
- (g) information about their educational, financial, criminal or employment history;
- (h) any other person’s opinion about them; and
- (i) their personal views or opinions, except if they are about someone else.

“planned development parcel” means, in respect of settlement land, a parcel of settlement land for which monies have been expended to determine parcel boundaries, road access, provision of utilities or other similar types of costs related to the development of that parcel;

“project” has the same meaning as in section 2(1) of YESAA;

“registrar” means the person appointed by Council under section 145 as the registrar of the registry;

“registry” means the registry continued under this Act pursuant to section 138;

“Self-Government Agreement” means the self-government agreement entered into by the Tr’ondëk Hwëch’in, Her Majesty the Queen in Right of Canada and Government of Yukon that was brought into legal effect on September 15, 1998;

“security” means the financial measures and resources required under Part VI in respect of a development, use or activity on settlement land;

“settlement land” means those lands identified in the Final Agreement as “Settlement Land” for Tr’ondëk Hwëch’in;

“specified substances” has the same meaning as in Chapter 1 of the Final Agreement;

“spouse” has the same meaning given to it in the Constitution;

“subdivision” or “subdivide” means, in respect of settlement land, the division of a lot, parcel, or tract of land into two or more lots, tracts, parcels, legal descriptions or other divisions of land for the purpose of development or for creating or granting separate interests in land;

“sub-lease” means a lease executed by a lessee in an area of settlement land to a third person, conveying the same interest that the lessee enjoys in all or a portion of that area, but for a shorter term than that for which the lessee holds;

“traditional activity” means a non-commercial activity, other than trapping, undertaken by a citizen for subsistence or a ceremonial, spiritual or cultural purpose, and any incidental activity to such purpose;

“TH” means Tr’ondëk Hwëch’in;

“Tribunal” has the same meaning as in the *Tr’ondëk Hwëch’in Administrative Appeals Act* enacted by the General Assembly on March 11, 2023;

“YESAA” means the *Yukon Environmental and Socio-economic Assessment Act*, S.C. 2003, c. 7;

“YLTA” means the *Yukon Land Titles Act, 2015*, S.Y. 2015, c. 10;

“YLTO” means the Yukon Land Title Office established under the YTLA;

“Yukon” means the Government of Yukon;

“water” has the same meaning given to the term “Water” in Chapter 14 of the Final Agreement; and

“website” means the website maintained by TH.

Interpretation

8. In this Act:

- (a) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to,” and the use of the word “includes” means “includes, but is not limited to”;

- (c) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (d) the table of the contents and the headings to a part, division or section do not form part of this Act and must be considered to have been added only for convenience of reference only;
- (e) the title, the purposes under section 6 and the preamble form part of this Act and are intended to assist in explaining the meaning and object of the Act;
- (f) a reference to another enactment means that enactment as amended or replaced from time to time;
- (g) where the time limit for doing a thing expires or falls on a Saturday, Sunday or a day when TH offices are closed, the thing may be done on the next following day that is not a Saturday, Sunday or a day when TH offices are closed;
- (h) where there is a reference to a number of days or a number of days between two events, the days on which the events happen are excluded in calculating the number of days; and
- (i) where time is expressed to begin or end at, on or with a specified day, or to continue to or until a specified day, the time includes that day.

Final Agreement and Self-Government Agreement

- 9. If a provision of this Act or the regulations is inconsistent or conflicts with a provision of the Final Agreement, the Self-Government Agreement or the Constitution, the provision of the Final Agreement, the Self-Government Agreement or the Constitution, as applicable, will prevail to the extent of the inconsistency or conflict.
- 10. A right provided to a person under the Final Agreement in respect of access to, occupation of, or use of settlement land shall be exercised in accordance with the Final Agreement and any applicable laws, including this Act.
- 11. For greater certainty, nothing in this Act and the regulations is intended to annul, repeal, restrict or extinguish a right provided to a person under the Final Agreement.

PART II

RESERVATIONS AND PROHIBITIONS

DIVISION I

RESERVATIONS AND FINAL AGREEMENT RIGHTS

Reservations

12. Unless otherwise expressly provided for in a disposition, no disposition under this Act conveys any right, title, use or privilege with respect to settlement land subject to that disposition that is not expressed conferred by that disposition, including but not limited to:
- (a) mines and minerals on, within or under the land;
 - (b) the right to work the mines and minerals referred to in paragraph (a);
 - (c) an encumbering right as defined in paragraph 5.4.2 of the Final Agreement;
 - (d) oil and gas situated on, within or under the land;
 - (e) timber situated on the land; and
 - (f) beds of bodies of water.

No water rights

13. Unless otherwise provided for in a disposition, no disposition under this Act conveys any exclusive right, privilege, property, or interest with respect to any lake, river, stream, or other body of water, within, bordering on, or passing through settlement land subject to the disposition.

**DIVISION II
PROHIBITIONS**

No access, use or occupation of settlement land

14. No person shall access, occupy, or use settlement land except in accordance with:
- (a) a right of access, as described in the Final Agreement;
 - (b) an authorization or other approval issued or granted under this Act or another applicable law that authorizes access and use of settlement land; or
 - (c) an interest granted in accordance with this Act.

Authorizations and interests

15. A person authorized to access, occupy or use settlement land in accordance with section 14 must comply with:
- (a) the Final Agreement and any applicable laws, including this Act; and

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- (b) the terms of any instrument or authorization issued or granted under this Act in respect of such access, occupation or use of settlement land.

Citizens

- 16. (1) Notwithstanding section 14, a citizen may access or use settlement land for the purpose of carrying out a traditional activity.
- (2) Any traditional activity must be carried out in accordance with this Act, the Final Agreement, any other applicable TH laws and customs and Dä'òlè (traditional laws) of TH.

Settlement Land Administered for Citizens

- 17. (1) Settlement land shall be administered for the use and benefit of present and future generations of citizens.
- (2) Nothing in subsection (1) precludes TH from granting, in accordance with this Act:
 - (a) interests in settlement land; and
 - (b) authorizations to use, occupy or develop settlement land, to citizens and non-citizens.

Emergencies

- 18. (1) Section 14 does not apply to persons employed or contracted by a government while they are involved in the delivery of emergency services or actions undertaken to protect public health, welfare or safety or to prevent irreparable harm to the environment.

Access to settlement land during emergency

- 19. (1) Notwithstanding section 14, a person may enter upon and use settlement land in an emergency and, if required, may kindle or otherwise start a fire for the sole purpose of cooking or preparing food or for obtaining warmth.
- (2) Any damage caused to settlement land during an emergency must be reported as soon as practicable to the director.
- (3) A person causing damage to settlement land or to any improvements on settlement land during an emergency shall be liable for the damaged caused.

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Specified substances

20. Except in accordance with this Act or an interest or authorization, no person shall use a specified substance for commercial purposes.

No littering

21. Except in accordance with this Act or an interest or authorization, no person shall abandon or discard litter on settlement land.

Damage and degradation to settlement land

22. Except in accordance with this Act or an interest or authorization, no person shall:
- (a) cause significant damage to settlement land or to improvements on settlement land;
 - (b) cause mischief to be committed on settlement land;
 - (c) cause significant interference with the use and peaceful enjoyment of settlement land by citizens; or
 - (d) do a thing or allow a thing to be done that degrades or that might reasonably be expected to degrade settlement land.

PART III GRANTS OF INTERESTS IN SETTLEMENT LAND

DIVISION I GENERAL

Interests in settlement land

23. An interest in settlement land may only be created, granted, disposed of, assigned or transferred by an instrument issued in accordance with this Act.

Improper transactions void

24. A deed, lease, contract, document, agreement or any other instrument of any kind by which TH, a citizen or any other person purports to create, grant, dispose of, assign, or transfer an interest in settlement land is void if it contravenes this Act.

Interests granted in error or by fraud

25. Council or the director may cancel or correct any interest in land issued or allowed in error, by mistake or by fraud.

Withdrawal of lands

26. Council may withdraw settlement land from disposition under this Act for any reason that is, in Council's reasonable opinion, consistent with the purposes and objectives of this Act, including for the use and benefit of that land by TH and citizens.

Instrument required

27. Except as otherwise provided in this Act, a person who has the authority under this Act to grant, dispose of, assign or transfer an interest by means of creating or producing an instrument may only do so if:
- (a) the instrument is in writing; and
 - (b) the instrument is created or produced in accordance with this Act and, in respect of a parcel of settlement land that is registered in the YLTO, the YLTA.

Common law principles

28. (1) For certainty,
- (a) the common law doctrine of adverse possession does not apply to settlement land; and
 - (b) any existing method of acquiring a right or interest in or over land by prescription, including the common law doctrine of prescription and the doctrine of the lost modern grant, does not apply to settlement land.
- (2) Subsection (1) is retroactive and is deemed to have come into force on July 16, 1998.

Limitation period

29. Notwithstanding the *Limitation of Actions Act, 2002* (Yukon) and for greater certainty:
- (a) TH, in accordance with this Act and any other applicable TH law, may commence proceedings at any time to recover settlement land; and
 - (b) the expiry of the limitation period under the *Limitation of Actions Act, 2002* (Yukon) for taking proceedings to recover settlement land does not extinguish TH's title, as described in the Final Agreement, to such settlement land.

DIVISION II RESTRICTIONS AND LIMITS ON INTERESTS

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No priority

30. Unless otherwise indicated in a regulation, a person who submits an application for an interest under this Act does not have priority in respect of that interest by virtue of the submission of that application.

Fee simple interest

31. (1) Except in accordance with section 9.6.1 of the Final Agreement, TH shall not grant, convey or otherwise dispose of the entire fee simple, or the rights, obligations and liabilities equivalent to fee simple, in settlement land to any person other than TH.
- (2) Except as provided in subsection (1), any grant of fee simple title or the rights, obligations and liabilities equivalent to fee simple in settlement land is void.

Long-term interests require Council approval

32. (1) Where a land use plan has not been adopted under this Act in respect of all or any area of settlement land, the following dispositions require the approval of Council prior to the director granting, transferring or amending the following interests in accordance with this Act:
- (a) a lease for residential purposes with a proposed term greater than 99 years; and
 - (b) any other interest, other than an allocation, with a proposed term of 10 years or more.
- (2) For greater certainty, subsection (1) does not apply to the granting of allocations.

Mortgage

33. Council may, by regulation, enact rules and limitations in respect of mortgaging interests on settlement land.

Limitations on grants to non-citizens

34. A person who is not a citizen may, in accordance with this Act and unless otherwise indicated under this Act, hold a lease or other time-limited interest in, or authorization related to, settlement land.

Permanent interest not available to non-citizens

35. A person who is not a citizen may not hold a permanent interest in settlement land.

DIVISION III ALLOCATIONS

Purpose

36. (1) An allocation may only be granted for the purposes of supporting the undertaking of traditional activities within settlement land.
- (2) Unless otherwise prescribed by regulations, a citizen may hold no more than one allocation for the purposes referred to in subsection (1).

Application for allocation

37. A TH citizen may apply for an allocation if the citizen meets the requirements referred to in section 39.

Non-citizens

38. For certainty, and subject to sections 51 and 54(1), a person who is not a citizen may not hold an allocation.

Granting of allocation

39. The director may, in accordance with this Act, grant an allocation to an area of settlement land to a citizen:
- (a) who is 18 years of age or older; and
 - (b) who meets all prescribed requirements under this Act.

Allocation holder rights

40. A citizen who holds an allocation to an area of settlement land has the right to, subject to this Act:
- (a) for the purpose referred to under section 36(1), exclusive use and occupation of the area described in the allocation;
 - (b) reasonable access to enter and cross any adjoining land for the purpose of having access to the land described in the allocation;
 - (c) subject to sections 49, 51 and 54(1), transfer, devise, or otherwise dispose of the allocation rights to another citizen who meets the requirements referred to under section 39.

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Term

41. A grant of an allocation to a citizen may be permanent or for a specified period of time and may be made subject to conditions.

Maximum size of allocation

42. An allocation granted under section 39 shall not exceed 0.5 hectares in size.

Certificate of allocation

43. (1) If the director grants an allocation under section 39, the director shall issue to the holder a certificate of allocation in the form prescribed in the regulations to evidence the allocation interest.
- (2) In the certificate of allocation referred to under subsection (1), the director, in accordance with the regulations, shall specify:
- (a) the name of the person to whom the allocation is made;
 - (b) a description of the area of land to which the allocation applies;
 - (c) the term of the allocation; and
 - (d) any conditions to which the allocation is subject.

Subsurface rights

44. For greater certainty, an allocation does not confer on the holder subsurface rights.

Restrictions

45. An allocation does not, of itself and in respect of the area of settlement land described in the allocation, entitle the holder of such allocation to:
- (a) develop and benefit from the natural resources of that land;
 - (b) subdivide that land;
 - (c) grant subsidiary interests in that land, including leases, easements or rights of way;
 - (d) grant licences to use the land or take natural resources from that land, including cutting timber or removing minerals; or
 - (e) to undertake a development, other than as permitted under this Act.

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Allocation holder obligations

46. A citizen who holds an allocation must:

- (a) abide by all applicable laws, including this Act; and
- (b) conserve and treat the allocated land in a manner that protects its value and importance to citizens.

Revocation of allocations

47. (1) The director may, in accordance with the regulations, revoke an allocation if the holder of the allocation fails to meet the requirements set out in this Act or in the certificate of allocation.
- (2) The director must provide written reasons for the director's decision under subsection (1) to the person whose certificate of allocation was revoked.

Designation form

48. (1) A citizen that submits an application for an allocation under section 37 must provide, with that application, a completed form prescribed by the regulation, identifying the citizen, or non-citizen spouse or other immediate family member in accordance with section 51, that will inherit that citizen's allocation, if issued, upon their death.
- (2) A citizen may, in accordance with the regulations, replace or amend a designation under subsection (1) at any time during that citizen's life.

Allocation held in trust

49. An allocation may be held in trust only if:

- (a) the trustee is:
 - (i) a citizen,
 - (ii) the legal guardian of the person holding the beneficial interest, or
 - (iii) the executor or administrator of a deceased citizen;
- (b) the person holding the beneficial interest is a citizen; and
- (c) the trust agreement, or other document which appoints the trustee, is registered in the registry.

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50. An allocation which passes to a trustee in trust for a minor citizen shall be deemed to be made to and held by that citizen at the date that citizen meets the age requirements set out under section 39.

Life Estate

51. Section 39 does not preclude a non-citizen spouse or other immediate family member from obtaining a life estate or other time-limited interest in an allocation through testamentary disposition, by operation of any applicable law concerning the division of spousal property or any other applicable law, or in accordance with this Act, provided that the allocation reverts to a citizen or TH at the end of the life estate or other time-limited interest, as the case may be, in accordance with sections 52, 53, and 54.

Life Estate or Other Time-Limited Conditions

52. (1) For greater certainty, a life estate or other time-limited interest in an allocation referred to under section 51:
- (a) gives the holder no greater interest in the area of settlement land than the interest held by the allocation holder from whom the interest was received;
 - (b) remains subject to all of the terms, conditions, exceptions and reservations to which the allocation was subject; and
 - (c) subject to the approval of the director, may be transferred, devised or otherwise disposed of to a citizen in accordance with this Act.
- (2) For greater certainty, if holder of a life estate or other time-limited interest in an allocation transfers, devises or otherwise disposes of such life estate or interest in the allocation contrary to subsection (1)(c), such transfer, devise or disposition shall be null and void and section 54(2) shall apply.
53. If a life estate or other time-limited interest in an allocation is transferred, devised or otherwise disposed of to a citizen, the citizen acquires the rights under this Act as if the interest being transferred, devised or otherwise disposed of had been an allocation.

Transfer of allocation by will to non-citizen

54. (1) Where an allocation passes by testamentary disposition to a non-citizen referred to in 51, the non-citizen devisee shall be deemed to have received a life estate in the allocation.
- (2) Where an allocation passes to a non-citizen referred to in section 51 by other means than testamentary disposition in accordance with this Act, subject to

section 52(c), the non-citizen shall be deemed to have received an interest in such allocation for the duration of their life.

- (3) On the determination of the life estate described in subsection (1) or upon the death of the non-citizen holder of an allocation in subsection (2), and each subject to section 52(c), the allocation shall revert to Tr'ondëk Hwëch'in, free of any claim of the holder of the life estate or the former allocation holder.
- (4) If an allocation reverts to Tr'ondëk Hwëch'in under subsection (3), the director may transfer the allocation to another citizen.

Transfer upon death with will

55. Where an allocation is devised to a citizen or non-citizen under section 54(1), upon proof of the death of the holder and the will, the director must transfer the allocation to that citizen or non-citizen by granting a certificate of allocation.

Transfer upon death intestate

56. (1) Subject to section 49, if an allocation holder dies intestate, the director shall, subject to the regulation, transfer the allocation to the person identified in the designation form provided under section 48.
- (2) Subsection (1) does not apply unless:
- (a) if the form referred to under subsection (1) identifies a citizen, that citizen meets the requirements under section 39; and
 - (b) if the form referred to under subsection (1) identifies a non-citizen, that non-citizen is the spouse or immediate family member of the deceased allocation holder in accordance with section 51.
- (3) Subject to subsections (4) and (5), and if subsection (2) applies, the allocation shall revert to Tr'ondëk Hwëch'in, free from any claim of the allocation holder.
- (4) If subsection (2) applies, and if the deceased holds the allocation in common with one or more other citizens, those citizens shall be offered the right of first refusal to acquire the deceased's interest in the allocation, with the deceased's share to be divided equally between those citizens as agreed.
- (5) If an allocation reverts to Tr'ondëk Hwëch'in under subsection (3) and subsection (4) does not apply, the director may transfer the allocation to another citizen.

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Procedures upon death of holder

57. Council may, by regulation, enact rules setting out the processes and procedures for the transfer of allocations upon the death of the holders of such allocations.

Registration in registry

58. (1) The holder of an allocation in settlement land must register the certification of allocation in the registry.
- (2) The granting, transfer, disposition or testamentary disposition of an allocation will not have effect until it is entered in the registry.

No pledge of allocation

59. The rights of a holder of an allocation cannot be pledged or otherwise stand as security.

Conversion to lease

60. (1) Subject to subsection (2), the director may, upon application of an allocation holder and in accordance with the regulations, grant a leasehold interest in the allocated area of settlement land to that allocation holder.
- (2) Any conversion under subsection (1) is subject to the allocation holder entering into a lease with TH in respect of the allocated area.

DIVISION IV OTHER INTERESTS AND INSTRUMENTS

Definition of interest

61. For the purpose of this Part IV, Division IV only, the term “**interest**” does not include an allocation granted under Part IV, Division III.

Priority for citizens

62. Unless otherwise prescribed by regulation, the director must offer citizens the opportunity to apply for:
- (a) an interest in respect of a planned development parcel identified in a regulation; and
- (b) without limiting paragraph (a), leases on settlement land for residential purposes, prior to offering the opportunity to non-citizens.

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Application generally

63. A person may apply for an interest or an amendment, renewal, transfer or cancellation of an interest in settlement land in accordance with this Act.

Director may grant an interest

64. Upon receipt of an application that meets the applicable requirements set out in the regulations, the director may, in accordance with the regulations, issue, amend, renew, transfer or cancel an interest.

Settlement land restrictions

65. Council may limit in a land use plan the number, area or class of settlement land parcels where interests may be granted.

Category of leases

66. (1) Council may, by regulation, establish different classes or categories of leases and establish requirements or restrictions in respect of each such class or category.
- (2) Without limiting subsection (1), Council may designate classes of leases that may only be granted to citizens.

Registration of interest in registry

67. The holder of an interest in settlement land must register the instrument in the registry.

Registration of interest in YLTO

68. The holder of an interest in an area of settlement land that is registered in the YLTO must register the instrument in that registry.

Interest not effective until registered

69. The grant, amendment, renewal, transfer or cancellation of an interest granted under section 64 is not effective until the date on which such interest is registered in the registry and, if section 68 applies, the YLTO.

Termination of interest

70. (1) The director may terminate an interest in settlement land that is registered under this Act in accordance with the regulations.
- (2) The director must provide written reasons for the director's decision under subsection (1) to the person whose interest in settlement land was terminated.

Taxes and fees

71. The holder of an interest in settlement land must pay all property taxes and fees lawfully imposed by TH under this Act.

**PART IV
ACCESS, USE AND DEVELOPMENT**

**DIVISION I
ACCESS TO AND USE OF SETTLEMENT LAND**

Application for authorization

72. A person may apply for an authorization or an amendment, renewal, transfer or cancellation of an authorization to access or use settlement land in accordance with this Act.

Director may issue authorization

73. Upon receipt of an application that meets the applicable requirements set out in the regulations, the director may, in accordance with the regulations, issue, amend, renew, transfer or cancel an authorization to access or use settlement land in accordance with this Act.

Access rights under the Final Agreement

74. (1) For greater certainty, a person may not exercise a right of access under the Final Agreement without TH's consent evidenced by an authorization issued under section 73.
- (2) Subsection (1) does not apply to a person exercising a right of access under the Final Agreement where the Final Agreement expressly provides that TH's consent is not required.

Maximum term of authorization and conditions

75. (1) Unless otherwise prescribed by regulations, an authorization issued under this Act shall be for a maximum term of 5 years and may be made subject to conditions.
- (2) Without limiting subsection (1), the director may require, as a condition of an authorization referred to in subsection (1), that the applicant enter into a compensation agreement for any actual or potential loss or damage that may result to settlement land or any person's rights in and to settlement land.
- (3) For greater certainty, any conditions or agreement referred to in subsections (1) and (2) must be consistent with the Final Agreement.

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Registration in registry

76. (1) An authorization holder must register an authorization or an amendment, renewal, transfer or cancellation issued under section 73 in the registry.
- (2) An authorization or an amendment, renewal, transfer or cancellation referred to under subsection (1), does not become effective until it has been registered in the registry.

Priority

77. A person who submits an application under section 72 or 86 does not have priority in respect of that authorization by virtue of the submission of that application.

No interest

78. Unless this Act or an authorization provides otherwise, an authorization to access, use, or develop settlement land issued under this Act does not confer on the holder any interest in land.

Benefit and cooperation agreements

79. (1) If the director issues an authorization to an applicant issued under this Act, the director may, as a condition to the issuance of the authorization, require the applicant to enter into agreements that address the impacts, benefit sharing and areas of cooperation with TH.
- (2) For greater certainty, an authorization to which the agreement relates is not effective until the agreement has been executed by the applicant, TH and any other person as determined by the director.
- (3) The terms of an agreement referred to in subsection (1) are implied terms and conditions of the authorization, if issued, to which the agreement relates.

Administration of authorizations generally

80. (1) The director may amend, suspend or cancel an authorization issued under this Act, or an exemption referred to under section 88, on the director's own initiative, in accordance with the regulations.
- (2) An authorization referred to under subsection (1) is void if it is issued, granted or amended based upon a false statement or false information given either orally or in writing by the holder of that authorization or a person acting on behalf of that holder.

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- (3) A person must not exercise a right or privilege conferred by an authorization referred to in subsection (1) that is issued in the name of another person.

Abandonment and effect

81. Unless Council determines otherwise, if the holder of an authorization issued under this Act abandons an authorization, all structures, fixtures or chattels situated on settlement land become the property of TH.

Security

82. (1) In accordance with Part VI, the director may require, before granting an authorization under this Act, that an applicant provide financial security for the performance and completion of all of the obligations and requirements specified in the authorization, including the performance of any remedial or preventative action required to protect and conserve, or restore and rehabilitate, settlement land.
- (2) This section does not affect the liability of a person holding a licence for any damage to settlement land in excess of the amount of the financial security provided in accordance with subsection (1).

Royalties and payments

83. The director may, in accordance with the regulations, provide for in an authorization issued under this Act royalty or other payments to TH for the access to and use of (including, for greater certainty, development of) settlement land, including for the removal of natural resources from settlement land.

DIVISION II DEVELOPMENT

No development without authorization

84. Subject to section 88, no person shall undertake a development on settlement land unless authorized to do so by an authorization issued in accordance with this Act or another applicable TH law.

Authorization requirement applies to interest and authorization holders

85. For greater certainty, and subject to section 88, the requirement set out in section 84 applies to holders of interests and authorizations granted or issued under this Act or another applicable TH law.

Application for development

86. A person may apply for an authorization or an amendment, renewal, transfer or cancellation of an authorization to undertake a development on settlement land in accordance with this Act.

Director authority to issue development authorization

87. Upon receipt of an application that meets the applicable requirements set out in the regulations, the director may, in accordance with the regulations, issue, amend, renew, transfer or cancel an authorization to undertake a development on settlement land.

No duplication

88. The director may exempt the holder of a valid interest or authorization under this Act or any other applicable TH law from the requirement to obtain an authorization to undertake a development under section 85 if all of the holder's proposed activities and uses in respect of the proposed development are within the scope of the instrument granting such interest or the terms and conditions of the authorization, as the case may be.

Requirement for other authorizations

89. For greater certainty, the issuance of an authorization to undertake a development under section 87, or the granting of an exemption under section 88, under this Act does not relieve the holder from any requirements to obtain a building or other permit under any law of general application.

Final Agreement rights

90. For greater certainty, nothing in this Part IV shall be construed to prevent any person from exercising a right to engage in a development pursuant to the Final Agreement.

DIVISION III SUBDIVISION

Interest or authorization to subdivide

91. A person must not subdivide settlement land unless:
- (a) the person has an interest registered in accordance with Part IV of this Act and, where applicable, in the YLTO; or
 - (b) the person has an approval from Council to subdivide in accordance with this Part IV, Division III.

Approval to subdivide

92. (1) Upon receipt of an application that meets the applicable requirements set out in the regulations, Council may, in accordance with the regulations, approve a request to subdivide settlement land.
- (2) For greater certainty, an approval to subdivide does not authorize the holder of that approval to develop the area of settlement land to which the approval applies unless the instrument describing the interest expressly allows such development to be undertaken in accordance with section 88.

Subdivision

93. A subdivision of settlement land is not valid unless:
- (a) it is made in accordance with this Act;
 - (b) it is registered in the registry; and
 - (c) if the portion of settlement land to which the approval to subdivide applies is registered in the YLTO, it is registered in the YLTO.

Revocation

94. In accordance with the regulations, Council may revoke an approval to subdivide settlement land granted under section 92(1).

PART V ENVIRONMENTAL AND IMPACT ASSESSMENTS

Application of YESAA and other laws

95. (1) For greater certainty, this Act shall not limit the requirements under YESAA.
- (2) For greater certainty, this Part V does not displace a TH law or law of general application that has as its objects the maintenance, preservation and management of the environment.

Decision body under YESAA

96. If TH is a decision body under YESAA, the director must, on behalf of TH, exercise all of the duties and carry out all of the functions of the decision body.

Decision document

97. An authorization issued under this Act, or any other instrument or approval granted or issued under this Act or any other TH law, shall include conditions as required to implement any applicable decision document, in accordance with YESAA.

Implied terms

98. A requirement to comply with any applicable decision document is deemed to be a term of every authorization, instrument or approval issued or granted under this Act.

No project approval without decision document

99. For any project on settlement land to which YESAA applies, no approval, interest or authorization may be granted or issued under this Act or any other TH law until TH has first issued a decision document in respect of the project.

Assessment required

100. (1) In accordance with the regulations, and prior to determining whether to issue or grant an authorization or interest under this Act, the director must assess the potential effects of the proposed access, use, occupation, development or other activity on settlement land on the environment, TH treaty rights and interests under the Final Agreement, and settlement land.
- (2) For the purposes of subsection (1), the director may require the applicant to provide further information to the director that the director determines is necessary for undertaking an assessment referred to in subsection (1).
- (3) The director must consider, in an assessment under subsection (1), the matters set out in the regulations.
- (4) Council, by regulation, may exempt from the requirement under subsection (1):
- (a) a category or type of access, use, occupation, development or other activity on settlement land; and
 - (b) a category or type of instrument, authorization or approval under this Act.

Projects

101. (1) For greater certainty, the requirements under this Part in respect of a project subject to YESAA shall be in addition to any proceedings which may be required under YESAA.

- (2) The director may provide, in relation to a proposed project on settlement land referred to in subsection (1), that the assessment under YESAA for that project be deemed, in whole or in part, to be the assessment required under section 100(1).

PART VI SECURITY

Requirement for security

102. (1) The director may, in accordance with the regulations, require an applicant, or an authorization holder, to provide financial security:
- (a) for the performance or completion of the obligations and requirements set out in this Act, another TH law, or in an authorization, including for the performance of any remedial or preventative action or work required, to protect, conserve, restore or rehabilitate, settlement land, TH treaty rights and interests set out under the Final Agreement, or the environment; or
 - (b) if there is a risk of adverse environmental effects or adverse effects to settlement land or TH treaty rights and interest set out under the Final Agreement as a result of the issuance of an authorization.
- (2) Security provided under subsection (1) may be applied by the director to reimburse TH, either wholly or partially, for reasonable costs incurred by TH to carry out remedial or preventative action or work to protect, conserve, restore or rehabilitate settlement land, TH treaty rights and interests set out under the Final Agreement, and the environment.
- (3) If the director, in their reasonable opinion, is satisfied that a person has performed or completed all of the obligations set out in an authorization, the director must return the portion of security that will not be required under subsection (2).
- (4) If the director, in their reasonable opinion, is satisfied that the risks referred to in subsection (1)(b) no longer exists, the director must return the portion of security that will not be required under subsection (2).

Form of security

103. Security must be provided in a form approved by the director in accordance with the regulations.

Amount of security

104. The director must determine the amount of security required under section 102 in accordance with the regulations.

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Amendment of security

105. In accordance with the regulations, the director may amend the amount of security to be provided under section 102 on the director's own initiative or on written application by the holder of the authorization.

Additional security

106. If security paid under section 102 is insufficient to reimburse TH for reasonable costs incurred by TH to carry out remedial or preventative work or action to protect, conserve, restore or rehabilitate settlement land, TH treaty rights and interests set out under the Final Agreement, or the environment, the director may require an interest or authorization holder to pay additional security.

Suspension or revocation

107. Without limiting anything in this Act, the director may revoke or suspend an authorization if the authorization holder has not provided financial security required under section 102 or amended under section 106.

Assignment or transfer

108. Without limiting anything in this Act, a transfer of an authorization is not effective until the transferee has provided the security required under section 102, or as amended under section 106, in respect of that authorization.

PART VII LAND AND RESOURCE PLANNING DIVISION I DESIGNATED AREAS AND PLANS

Land uses and plans

109. Council may, by regulation and in accordance with this Part, establish land use plans in respect of all or any part of settlement land for any of the following purposes:
- (a) facilitating the siting and control of residential, commercial, agricultural, institutional and industrial land uses on settlement land;
 - (b) designating settlement land for certain uses and purposes consistent with the purposes of this Act; and
 - (c) prohibiting, regulating and controlling the use of, and development of land and buildings situated on or within, settlement land.

Withholding of land prior to disposition

110. Without limiting section 26, Council may, by regulation, require that a land use plan be adopted for an area of settlement land prior to any disposition being made in respect of such land.

**DIVISION II
RESOURCE MANAGEMENT PLANS**

Resource management plans

111. (1) Council may, by regulation, establish resources management plans for the purpose of managing and facilitating the use and conservation of natural resources on settlement land.
- (2) Resource management plans made under subsection (1) must be consistent with any land use plan made under Division I that applies to settlement land that is proposed to be subject to that resource management plan.

**DIVISION III
PLANS DEVELOPMENT PROCESS**

Development, review or amendment of land use plans

112. (1) For the purpose of Part VII, Divisions I and II, the director must establish a process to be approved by Council for the development, review or amendment of land use plans and resource management plans.
- (2) Council may only adopt a land use plan under section 109(1) or a resource management plan under section 111(1), or an amendment to any such plan, if, in Council's reasonable opinion, the process established under subsection (1) has been followed.
- (3) For greater certainty, Council may, at any time, repeal a regulation that establishes a land use plan land or a resource management plan.

**DIVISION IV
NON-CONFORMING USES**

Conformity to land use plans and resource management plans

113. Where Council has established a plan under section 109(1) or 111(1), as applicable, all new interests, authorizations or approvals issued or made under this Act after such plan is established must comply with that plan.

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Non-conforming uses

114. (1) Where, in respect of settlement land subject to a plan established under section 109(1) or 111(1),
- (a) a person occupies or uses settlement land in accordance with an authorization or interest issued or granted to that person under this Act prior to the date that the plan for such area of settlement land is established; and
 - (b) such occupation or use of settlement does not conform with that plan;
- that person, after the date the plan is established, may continue that non-conforming use or occupation, in accordance with the terms of the authorization or interest referred to under subsection (1), until the expiry or cancellation of that authorization or interest.
- (2) For certainty, no authorization or interest may be issued, granted, disposed of, or renewed under this Act if the use or occupation authorized or enabled under such authorization or interest does not conform with a plan.

Conformity with Chapter 11 of the Final Agreement

115. Plans established under section 109(1) or 111(1), as applicable, must be, to the extent applicable, coordinated with regional land use plans prepared pursuant to Chapter 11 of the Final Agreement to minimize any overlap or redundancy between the land use planning process required under Chapter 11 of the Final Agreement and this Act.

PART VIII COMMITTEE

Committee established

116. The Committee is hereby established.

Purpose of the Committee

117. The purpose of the Committee is to:
- (a) advise, through recommendations, the director or Council on any matter relating to the management, use and protection of settlement land that is referred to it by the director or Council under this Act; and

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- (b) to perform such other related duties and functions as the director or Council may direct.

Duties and powers

118. (1) Without limiting the generality of section 117, the powers and responsibilities of the Committee include to, at the request of Council or the director, as applicable:
- (a) review and make recommendations to the director with respect to the approval or amendment of a land use plan or resource management plan prior to them being referred to Council for approval;
 - (b) review and make recommendations to Council with respect to any regulation proposed to be made or amended under this Act;
 - (c) review and make recommendations to Council with respect to any matter under this Act as requested in writing by Council; and
 - (d) perform any other duties as may be assigned to it by Council or under this Act.
- (2) Nothing in this Part VII shall be construed to prevent, in any way, Council or the director, as the case may be, to exercise a power or authority under this Act in respect of any matter referred to the Committee under sections 117 or 118, if, in the opinion of Council or the director, as the case may be:
- (a) any or all of the extraordinary circumstances identified in the regulation are present; and
 - (b) an extraordinary circumstance referred to in paragraph (a) will prevent the Committee from exercising any power or responsibility referred to in sections 117 or 118 within the time period prescribed by regulation.

Terms of reference

119. For certainty, Council must enact terms of reference for the Committee in accordance with the Governance Act, including:
- (a) the membership and eligibility of the Committee;
 - (b) the term of office for members of the Committee;
 - (c) quorum of the Committee; and
 - (d) the manner in which recommendations of the Committee are made.

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Restrictions on membership

120. (1) Subject to subsection (2), any citizen who is 19 years or older, whether or not resident on settlement land, is eligible to be appointed to the Committee.
- (2) A citizen who is a member of Council, the department or the Tribunal, or otherwise prohibited by Tr'ondëk Hwëch'in law, is not eligible to be appointed to the Committee.

Recommendations of the Committee

121. (1) All business of the Committee must be conducted by consensus, where possible.
- (2) If the Committee is required to make a recommendation to the director or Council in accordance with this Part VIII, and consensus cannot be reached, the matter will be decided by a majority vote.
- (3) For the purpose of subsection (2), when referring the recommendation to the director or Council, as applicable, the Committee must indicate in writing that the Committee did not reach consensus in respect of the recommendation.

Meetings

122. The Committee shall meet as required to perform its duties under this Act.

Reporting

123. The Committee shall report any recommendations made in respect of matters referred to under section 121 to the director and Council.
124. Following each meeting, the Committee shall provide a copy of its minutes of that meeting to Council and the director.

Support

125. Council shall coordinate the provision of administrative support to the Committee as needed, including in respect of maintaining a record of minutes, preparing an agenda prior to the meeting, and advertising and informing citizens and delegations of the date, time and place of each meeting.

PART IX
EXPROPRIATION OF INTERESTS IN SETTLEMENT LAND

Authority to expropriate

126. An interest, or a portion of an interest, in settlement land may be expropriate by TH in accordance with the Constitution, the Final Agreement and this Act.

Rights that cannot be expropriated

127. For certainty, encumbering rights pursuant to section 5.4.2 of the Final Agreement are not subject to expropriation by TH.

Community purposes

128. Council may only expropriate an interest:

- (a) for a necessary community purpose or community work; and
- (b) after Council has determined that the purpose is sufficiently compelling to justify expropriation.

Notice

129. (1) Before TH expropriates an interest, Council must prepare a notice setting out:

- (a) a description of the land subject to the interest to be expropriated;
- (b) the nature of the interest intended to be expropriated;
- (c) an indication of the community purpose or community work for which the interest or right is required;
- (d) a statement that it is intended that the interest be expropriated by TH; and
- (e) a statement that indicates that a person has a right to object to the intended expropriation.

(2) TH must, in respect of a notice prepared under subsection (1):

- (a) register the notice in the registry and, if the area of settlement land to which the notice applies is registered in the YLTO, the YLTO; and
- (b) within 30 days of registration under paragraph (a),

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- (i) post a copy of the notice on the website and in TH's administration offices;
- (ii) post a copy of the notice in at least one issue of a publication, if any, in general circulation within the area in which the interest subject to the notice is situated; and
- (iii) mail or email a copy of the notice to each affected holder of an interest subject to the notice at their last known address.

Registration

130. (1) On receiving from Council a notice under section 129(1), the registrar must register the notice in the registry.
- (2) A notice registered under subsection (1) is not invalid by reason only that it does not set out the nature of the interest intended to be expropriated and, in that case, the interest intended to be expropriated includes all the interests in the land or rights to which the notice relates.

Acquisition by mutual agreement

131. TH may expropriate an interest only after a good faith effort to acquire, by mutual agreement, the interest.

Compensation for interests

132. In accordance with this Part IX, and within the time period prescribed in the regulations, Council must pay fair and reasonable compensation to the holder of the interest or authorization to be expropriated.

Compensation calculations

133. The total value of compensation payable under section 132 must be determined by Council and based on:
- (a) the fair market value of the interest being expropriated;
 - (b) the replacement value of any improvement to the land being expropriated;
 - (c) the damages attributable to any disturbance; and
 - (d) damages for reduction in the value of any remaining interest or other right.

Fair market value

84. The fair market value of an expropriated interest shall be deemed to be equivalent to the amount that would have been paid for the interest if it had been sold on settlement land, with all of the rights, limitations and restrictions that apply to interests and transactions on settlement land, by a willing seller to a willing buyer.

Dispute resolution

134. A person who objects to the intended expropriation of an interest in land to which a notice of intention relates, the entitlement of the holder of an expropriated interest to compensation, or the amount of compensation owed, may, within the time period prescribed by regulation, file with the director an objection in writing setting out:
- (a) the name and address of that person;
 - (b) the nature of the objection;
 - (c) the nature of the interest of that person in the matter of the intended expropriation
 - (d) the grounds on which the objection is based; and
 - (e) the relief that is sought.

Dispute resolution process

135. Council may establish, by regulation, a process for resolving objections referred to under section 134 with the assistance of an independent evaluator appointed in accordance with such regulation.

Determination after objection

136. (1) Prior to making a determination in respect of an objection received under section 134, Council must:
- (a) consider such objection; and
 - (b) follow any process established under section 135, if any.
- (2) Council must, after following the processes referred to in subsection (1), and if effect was not given to the objection, send a copy of the reasons that the director had for not giving it effect to the person.

Permanent preservation

137. The registrar must permanently preserve in the registry any notices registered pursuant to this Part and must note on the notices the day, hour and minute when they were received as the time of registration and make entries in the records or register that will make their registration public.

**PART X
LANDS AND RESOURCES REGISTER**

**DIVISION I
REGISTER**

Continuance of registry

138. The lands and resources register established under the *Land and Resources Act, 2004* is continued under this Act.

Registration in register

139. Council may establish regulations in respect of the registration and recording of interests, authorizations or any other documents in the register, including:
- (a) the interests, authorizations and documents that must be registered or recorded in the register; and
 - (b) the process and procedures related to the registration of the interests, authorizations, approvals and documents referred to in paragraph (a).

Registration in Yukon Land Title Office

140. Council may establish regulations requiring the registration of interests or authorizations issued under this Act or documents in relation to such interests or authorizations in the YLTO.

Effect of registration

141. Subject to this Act:
- (a) an instrument or authorization becomes operative according to its terms when it is registered in the registry in accordance with the regulations; and
 - (b) in respect of an interest, on registration in the registry it creates, transfers or surrenders as the case may be, the interest mentioned in the instrument.

Interests not Enforceable Unless Registered

142. (1) An interest is not enforceable against registered interests unless and until it is registered in the register and, if applicable, the YLTO in a manner that complies with all applicable laws.
- (2) For greater certainty, interests in effect prior to the establishment of the register and, if applicable, the YLTO that are not registered in that registry are not enforceable as against registered interests.
- (3) No instrument that requires the consent or approval of TH under this or any other law may be registered in the registry or, if applicable, the YLTO, unless:
- (a) a certified copy of the document that records the consent or approval; or
 - (b) an affidavit of execution,
- is attached to the instrument.

Yukon Land Title Office

143. To the extent of any inconsistency or conflict between documents registered or recorded in the register and documents registered in the YLTO in respect of a parcel registered in the YLTO under section 144, the YLTO prevails.

Settlement land

144. Subject to the written approval of Council, the director may apply to have a parcel of Category A or Category B settlement land brought under the YLTO.

**DIVISION II
ADMINISTRATION OF REGISTER**

Registrar and deputy registrar

145. (1) Council may appoint a registrar and a deputy registrar of the registry.
- (2) The deputy registrar will have all the functions and powers of the registrar in the absence of the registrar or in the event of the registrar's inability to act.
- (3) Subject to Council's approval and this Part X, Division II, the registrar may delegate some or all of her powers and responsibilities under this Act to a person or class of persons.

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146. The registrar or the deputy registrar must not directly or indirectly act as the agent of any person investing money in settlement land or taking securities on settlement land.

Registrar responsibilities

147. The registrar must perform the following duties:

- (a) maintain the registry;
- (b) register and record documents in accordance with this Act; and
- (c) take reasonable steps to provide for the security of the information contained in the registry.

Inventory of documents

148. The registrar must keep an inventory of all instruments and documents required to be registered in the register under the regulations.

Public information

149. Subject to section 151, an instrument or authorization registered or document recorded in the registry is public information.

150. Subject to section 151, the registrar must provide a copy of or make available for viewing an instrument or authorization registered or document recorded in the registry within 5 business days of receipt of:

- (a) a request made to the registrar in the prescribed form; and
- (b) payment of the applicable fees.

Confidential information

151. The registrar must refuse to disclose personal information or information that, in the registrar's reasonable opinion, may be harmful to the financial interests of a person.

PART XI ADMINISTRATION

Department

152. The department of natural resources, established under the *Land and Resources Act (2004)* is continued under this Act.

Appointment of director

153. Council must hire a person to be the director of the department and to exercise the powers granted to and perform the duties required of the director by this Act.

Responsibilities

154. (1) The director is the head of the department and is responsible for the administration of this Act, regulations and policies made under this Act or the regulations.
- (2) The director may, subject to terms and conditions that the director considers appropriate, delegate in writing any of their powers, duties or functions to:
- (a) a manager of the department;
 - (b) an employee of the department; or
 - (c) any other employee of Tr'ondëk Hwëch'in, as approved by Council.

Waiver of fees or rent

155. In accordance with the regulations, the director may waive a prescribed fee or rent under this Act.

Other governments and persons

156. Without limiting anything in this Act, and subject to the approval of Council, the director may enter into an agreement with another government related to:
- (a) planning;
 - (b) development;
 - (c) subdivision;
 - (d) local government services;
 - (e) managing natural resources, including minerals;
 - (f) any other land or resources measures.
157. Subject to the approval of Council, the director may enter into a land development agreement with another person.

Delegation to Council and director

158. (1) Council, in writing, may delegate the exercise of any power, duty or authority of Council under this Act, other than the power to make regulations and policies, to the director on any such term as Council may deem appropriate.
- (2) Subject to the regulations, the director may request that Council exercise any power, duty or authority of the director under this Act.

PART XII
MONITORING, COMPLIANCE AND ENFORCEMENT

DIVISION I
MONITORING AND COMPLIANCE

Stewards

159. (1) Council may designate any person who is an employee of TH as a steward for the purposes of the administration and enforcement of this Act.
- (2) Council may designate such number of stewards as it deems necessary for the purposes of this Act.

Stewards under the *Land and Resources Act (2004)*

160. Designations of stewards made under the authority of the *Land and Resources Act (2004)* shall continue as if the designations had been made under this Act.

Agreements with other jurisdictions

161. (1) Council may enter into agreements with other government to:
- (a) enable stewards designated under this Act to enforce legislation of the other government identified in such agreements; or
 - (b) enable designation or any person or class of persons employed by the other government to act as a steward for the purposes of this Act.
- (2) Subject to the provisions of an agreement referred to in subsection (1)(b), every person or class of persons designated as stewards in an agreement referred to under paragraph (1)(b) shall be deemed a steward for the purposes of enforcing this Act.

Powers of stewards

162. (1) A steward designated under section 159(1) or an agreement made under section

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161(1)(b) shall have any and all of the powers, protections and duties given to a steward under this Act, any other TH law or an agreement made with another government under section 161.

- (2) For greater certainty, a steward designated under section 159(1) or an agreement made under section 161(1)(b), subject to the provisions of that agreement, has the authority to monitor and inspect a person's compliance with, and enforce the provisions of, this Act.

Identification

163. (1) A steward designated under section 159(1) and any person or class of persons designated in accordance with an agreement made under section 161(1)(b) shall be provided with an identification card or document by the director stating the name of the person and attesting to the steward's designation under this Act or an agreement made under section 161(1)(b).
- (2) A steward shall identify himself or herself as a steward when engaged in the performance of the duties of a steward, including by showing the identification card or document referred to under subsection (1).

Assistance to stewards

164. A steward may be assisted in the performance of his or her duties by a peace officer, an officer appointed under any other TH law, or an officer appointed under any law of another government.
165. The owner of, and every person found in, any place in respect of which a steward is exercising powers or duties under this Act shall:
 - (a) give the steward all reasonable assistance to enable the steward to exercise their powers and carry out their duties and functions under this Act; and
 - (b) provide all reasonable information required by, and necessary to, the steward to enable the steward to exercise their powers and carry out their duties and functions under this Act.

Obstruction

166. (1) No person shall hinder or obstruct a steward or any person who has been appointed by Council to enforce or administer this Act, where such person is exercising their powers or carrying out their duties and functions under this Act.
- (2) No person shall ignore, disobey or disregard the order or the reasonable request of a steward or a person referred to under subsection (1).

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Production of authorization or instrument

167. No person who is the holder of an authorization or instrument, or that is attempting to exercise any rights or privileges granted by the authorization or instrument, shall refuse to show the authorization or instrument to a steward upon request.

False statements

168. (1) No person shall knowingly make any false or misleading statement, either orally or in writing, to a steward or the director.
- (2) An authorization or any other approval is void where it is issued or granted, or otherwise amended, renewed, transferred, or cancelled, based upon a false statement or false information given orally or in writing.

Transfer of authorizations

169. (1) No person shall have physical possession of an authorization issued to another person and claim to be that person or exercise or attempt to exercise any rights or privileges carried by the authorization which the person would not otherwise have.
- (2) For greater certainty, a person may not transfer an authorization to another person unless approved by the director in accordance with this Act.
- (3) If a person transfers an authorization to another person contrary to this Act, the transfer of that authorization is of no effect.

Duplication of authorizations

170. No person shall alter, imitate or duplicate an authorization.

Requirement to stop

171. (1) The operator of a vehicle shall stop the vehicle when requested to do so by a steward who is readily identifiable as such.
- (2) Upon request, a steward who exercises a power under subsection (1) shall identify themselves as a steward either by production of a copy of their identification card, document or by some other means and shall explain the purposes of the stop and inspection.

Posting of signs and notices

172. (1) Where considered necessary or advisable to ensure compliance with this Act or

in order to carry out the provisions of this Act, a steward may post signs or notices on settlement land.

- (2) No person shall, without lawful authority, remove, alter, destroy or damage a sign or notice placed under the authority of this Act.

Inspection of premises and records

173. (1) For the purposes of ensuring compliance with any provision of this Act, a steward may, subject to subsection (3), at any reasonable time, enter and inspect any place in which the steward believes that, on reasonable grounds, there is anything to which the provision of this Act applies or any document relating to its administration and the steward may:
- (a) open or cause to be opened any container that the steward believes, on reasonable grounds, contains any such thing or document and
 - (i) inspect the thing and take samples free of charge; and
 - (ii) copy the document, in whole or in part, free of charge;
 - (b) require any person to produce documents for inspection or copying, in whole or in part;
 - (c) conduct any tests or analysis and take any measurements;
 - (d) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system and reproduce any data record from the computer in any form of output for copying; and
 - (e) use any copying equipment at the place to make copies of any record or document.
- (2) A steward may, without a warrant, seize any thing that is produced to the steward or that is in plain view during an inspection under subsection (1) if the steward reasonably believes that there has been a contravention of this Act and that the thing will afford evidence of the contravention.
- (3) If a place mentioned in subsection (1) is a dwelling-place, a steward may not enter that dwelling-place without the consent of the occupant or person in charge of the dwelling-place except under the authority of a warrant issued under subsection (4).
- (4) On application by a steward only, without notice to the person to be affected by the warrant, a justice of the peace may issue a warrant authorizing the steward to enter a dwelling-place subject to any conditions that may be specified in the warrant, if the justice is satisfied by an information on oath that:

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- (a) the conditions for entry described in subsection (1) exist in relation to a dwelling-place;
 - (b) entry to the dwelling-place is necessary for any purpose relating to the administration or enforcement of this Act;
 - (c) entry to the dwelling-place has been refused or there are reasonable grounds for believing that entry to the dwelling-place will be refused.
- (5) For the purposes of carrying out an inspection, the steward may stop a vehicle or direct that it be moved by its operator to a place where the inspection can be carried out.

Search

174. (1) A steward with a warrant issued under subsection (2) may enter and search any place, including any premises, dwelling-place or vehicle in which the steward believes on reasonable grounds there is:
- (a) evidence that a development is being or has been carried out in contravention of this Act;
 - (b) evidence that any activity which requires an authorization is being or has been carried out in contravention of this Act; or
 - (c) any thing in the place that will afford evidence of a contravention of this Act.
- (2) Where on application by a steward only, without notice to the person to be affected by the warrant, a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any place referred to in subsection (1), any thing referred to in subsection (1), the justice may issue a warrant authorizing the steward named in the warrant to enter and search the place for the thing subject to any conditions that may be specified in the warrant.
- (3) In carrying out a search under this section, the steward may exercise any power mentioned in section 173(1).

Search without a warrant

175. (1) Notwithstanding sections 173 and 174, a steward may, without a search warrant, search any place other than a dwelling-place if the steward has reasonable grounds to believe:
- (a) that an offence has been committed;

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- (b) that there is in the place any thing that will afford evidence as to the commission of the offence; and
 - (c) that there are exigent circumstances that make it impractical to obtain a search warrant.
- (2) For the purposes of subsection (1)(c), exigent circumstances include circumstances in which the delay necessary to obtain the search warrant would result in danger to human life or safety, irreparable harm to the environment or loss or destruction of evidence.
- (3) A steward may seize any thing that is found by the steward during the search under subsection (1), if the steward reasonably believes that the thing will afford evidence of the commission of the offence.

Custody of seized things

176. (1) If a steward seizes any thing in accordance with this Part XII, Division I, the steward may retain custody of the thing for a maximum of 30 days.
- (2) If proper storage facilities are not available or if it appears that storage will be necessary for longer than 30 days or for any other reason the steward cannot properly store the thing, the steward shall appear before a justice of the peace for direction regarding the disposition of the thing seized.
- (3) Where any thing is seized and brought before a justice of the peace, the justice shall, by order:
- (a) detain it or direct it to be detained in the care of a person named in the order, or
 - (b) direct it to be returned,
- and the justice may, in the order, authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.
- (4) Nothing shall be detained under an order made under subsection (3) for more than 4 months after the time of seizure unless, before the expiration of that time period,
- (a) upon motion, a justice of the peace is satisfied that having regard to the nature of the investigation, its further detention for a specific period is warranted and the justice so orders; or
 - (b) a proceeding is instituted in which the thing may be required.

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- (5) Upon the motion of a person having an interest in a thing detained under subsection (3), and upon notice to the defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and the prosecutor, a justice of the peace may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

Perishable items seized

177. Notwithstanding section 176, if the seized thing is perishable, the steward may dispose of it or destroy it, and any proceeds of its disposition must be:
- (a) paid to the lawful owner or person lawfully entitled to possession of the thing, unless proceedings under this Act are commenced within 90 days after its seizure; or
 - (b) retained by the steward pending the outcome of the proceedings.

Forfeiture

178. (1) Notwithstanding section 176, if the lawful ownership of or entitlement to a seized thing cannot be ascertained within 30 days after its seizure, the thing, or any proceeds from its disposition, are forfeited to TH.
- (2) The owner of any seized thing may abandon it to TH.
 - (3) Any thing that has been forfeited or abandoned under this Act is to be dealt with and disposed of as Council may direct.
 - (4) Where a person is convicted of an offence under this Act, the convicting court may, in addition to any punishment imposed, order that any thing detained or seized, or any proceeds realized from their disposition, be forfeited to TH.

No right of action

179. No right of action lies and no right of compensation exists against TH, Council, a steward, the director or any other person authorized to enforce this Act for loss or damage occurring from the disposal of any thing under this Act or from the deterioration of any thing during the period when it is under seizure, unless the steward, the director or other authorized person was negligent in the care of the thing.

Protection of stewards and others

180. No steward or person authorized by Council to enforce this Act, or any other person assisting a steward or a person authorized by Council to enforce this Act, is liable for

anything done or omitted in connection with the good faith execution of any duty or power under this Act.

DIVISION II NOTICES AND ORDERS

Notice of non-compliance

181. (1) A steward may issue a notice of non-compliance to an authorization holder where the steward believes that the holder, or the use, occupation, development or other activity under the control of the holder, is not in compliance with this Act or an authorization.
- (2) The notice under subsection (1) shall state:
- (a) the nature of the non-compliance;
 - (b) a request for voluntary compliance;
 - (c) the steps which should be taken to achieve compliance; and
 - (d) the date by which compliance must be effected.
- (3) Where the steward is satisfied that a person to whom a notice of non-compliance was issued has effected compliance as set out in the notice, the steward shall withdraw the notice.
- (4) No person shall ignore, disobey or disregard a notice of non-compliance issued under subsection (1).
- (5) For greater certainty, if a person to whom a notice of non-compliance is given under this section does not comply with the notice, a steward may take the measures set out in the notice and may for that purpose enter a place, subject to section 173(3).

Notice of unauthorized access, use or occupation

182. (1) If a steward reasonably believes that a person is in contravention of subsection 14, the steward may issue a notice to the person directing that they:
- (a) cease the unauthorized use, access or occupation of settlement land;
 - (b) give up possession of settlement land and remove any improvements made by the person to settlement land; and
 - (c) restore settlement land to a condition satisfactory to the steward.

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- (2) A notice given under subsection (1) must state:
 - (a) the time and place of the unauthorized use, access or occupation;
 - (b) a description of the activities occurring as a part of the unauthorized use, access or occupation;
 - (c) the action required to be taken by the person; and
 - (d) the time period within which the person must take the action referred to in paragraph (c).
- (3) Section 181(3), (4) and (5) each apply to notices issued under this section.

Order of a steward

183. (1) In addition to any other applicable fine, penalty or remedy, a steward may by written order, do any or all of the following:
- (a) order the temporary suspension of an authorization where the steward is of the opinion that any of the terms and conditions of the authorization have not been complied with by the authorization holder;
 - (b) order that a person stop carrying out an activity, use or development if that person has not received full and proper authorization or approval under this Act to carryout that activity, use or development;
 - (c) order any structures, works or installations carried out in violation of this Act to be removed within 30 days, failing which the director may order them to be removed or may have them removed at the expense of the interest or authorization holder or the person who constructed or installed the structures, works or installations without proper authorization or approval under this Act;
 - (d) seize and detain any natural resource or product manufactured from natural resources where the steward has reasonable grounds to believe it was not obtained in accordance with the terms of this Act or the terms of any authorization under this Act; and
 - (e) order that a person give up possession of the land and any resource originally forming part of the land and remove any improvements made by that person on or to the land if such possession or improvements are in contravention of this Act.
- (2) Where the steward is satisfied that adequate steps have been taken by the authorization holder to remedy the conditions which led to the making of the

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order under subsection (1)(a), the steward shall revoke the order and reinstate the suspended authorization.

- (3) An order made under subsection (1)(a) expires 30 days from the date of issue or after such shorter period as is specified in the order.
- (4) The director may extend the expiry date of an order made under section (1)(a).
- (5) If materials are seized under subsection (1)(d):
 - (a) they may be removed to a place that is appropriate for their protection and, if in the care of a carrier at the time of seizure, the carrier may be directed to move the materials to the place so designated;
 - (b) the costs of transportation and other charges incurred in the event of a seizure will be included in the costs of seizure and are chargeable to a party found in breach of this Act; and
 - (c) seizure shall not prejudice or affect any lien to which a carrier may be entitled in respect of the materials to the time of such seizure.

Immunity for steward order

184. No right of action lies and no right of compensation exists against a steward for loss or damage occurring from the temporary suspension of an authorization under section 183(1)(a).

Non-degradation order

185. (1) If a steward is satisfied on reasonable grounds that a substance is degrading settlement land, the steward may order the following persons to do the things referred to in subsection (2):
- (a) a person who had possession, charge or control of a substance at the time it was introduced or escaped onto settlement land;
 - (b) a person who owns or occupies the land on which the substance is located or on which the substance was located immediately before it was introduced onto settlement land; or
 - (c) a person who caused or authorized the degradation.
- (2) An order under subsection (1) must be served on the person to whom it applies and may require that person, at their expense, to do one or more of the following:

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- (a) provide to the steward information that the steward requests relating to the degradation;
 - (b) undertake investigations, tests, surveys and another action the steward considers necessary to determine the extent and effects of the degradation and to report the results to the steward;
 - (c) acquire, construct or carry out any works or measures that are reasonably necessary to control, abate or stop the degradation;
 - (d) adjust, repair or alter a structure, facility, building, or installation to the extent reasonably necessary to control, abate or stop the degradation;
 - (e) abate the degradation; or
 - (f) carry out remediation in accordance with criteria established by the director.
- (2) An order under subsection (1) may authorize a person designated by the steward to enter land for the purpose of controlling, abating or stopping the degradation or to carry out remediation.
- (3) Where the steward is satisfied that adequate steps have been taken by the person subject to the order to remedy the conditions which led to the making of the order under subsection (1)(a), the steward shall revoke the order.

Amendment or cancellation of steward order

186. A steward may amend or cancel an order made under section 183 or 185.

Orders by the director

187. (1) The director may, after giving the authorization holder reasonable notice and an opportunity to be heard, order the suspension or cancellation of an authorization, where the director is of the opinion that the holder:
- (a) has failed to comply with any of the terms and conditions of their authorization;
 - (b) is carrying on an activity, use or development that fails to comply with this Act; or
 - (c) has undertaken the development, use or activity subject to an authorization in a manner that is detrimental to the health, welfare, safety or environment of citizens on settlement land.

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- (2) The director shall immediately upon ordering the suspension or cancellation of an authorization give notice of the order of suspension or cancellation to the holder with reasons for the suspension or cancellation.
- (3) Where the director is satisfied that adequate steps have been taken by the holder to remedy the conditions which led to the suspension or revocation of the authorization, the director shall reinstate any suspended authorization or issue a new authorization.

Amendment or cancellation of director order

188. The director may amend or cancel an order made under section 187.

Immunity for director order

189. No right of action lies and no right of compensation exists against the director for loss or damage occurring from the cancellation, suspension, or revocation of an authorization under section 187.

Form of order

190. An order given under this Part XII, Division II shall be in the form prescribed by the regulations.

Compliance

191. A person to whom an order under this Part XII, Division II is issued shall comply with that order within the time period specified in the Act or the order, as applicable.

Enforcement by court

192. An order imposed under this Part XII, Division II:

- (a) may be registered in court and enforced as a court order; and
- (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the order receives an authorization or approval authorizing the activity, use or development that is identified in that order, unless cancelled or revoked in accordance with this Act.

Application to court

193. If a person to whom an order under this Part II, Division II is directed fails to comply with its terms, the steward or director, as applicable, may apply to the Supreme Court of Yukon for:

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- (a) an injunction ordering that person to comply with the order under any terms and conditions the court may determine; or
- (b) any other order that the court sees fit to make, including a writ of possession.

Action to restore damage

194. (1) If a holder of an authorization fails to comply with any terms and conditions of an authorization and has been notified of this failure in an order or notice of non-compliance issued under this Part XII, Division II, the director may take whatever action they consider necessary to effect compliance with the authorization, the order or notice of non-compliance.
- (2) The costs of any action taken by the director under subsection (1) may be recovered from the holder of the authorization as a debt due to the Tr'ondëk Hwëch'in.

DIVISION III OFFENCES

Offences

195. A person commits an offence if that person contravenes this Act and, without limiting the foregoing:
- (a) contravenes a prohibiting arising from this Act;
 - (b) contravenes a condition of a permission granted under this Act;
 - (c) contravene or fails to comply with an order, direction or notice given under this Act;
 - (d) negligently or knowingly, with respect to a matter related to this Act, provides a person with false or misleading information, results or samples; or
 - (e) negligently or knowingly, with respect to a matter related to this Act, files a document that contains false or misleading information.

Continuing offence

196. Where any contravention of this Act is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

Offences by corporations

197. Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the penalty provided under this Act, whether or not the corporation has been prosecuted.

Offences by employers or agents

198. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused and the accused knew or ought to have known of the offence, whether or not the employee or agent is identified or has been prosecuted for the offence.

Due diligence

199. No person shall be convicted of an offence under this Act if the person establishes that the person:
- (a) exercised all due diligence to prevent the commission of the offence; or
 - (b) reasonably and honestly believed in the existence of facts that, if true, would render the person's conduct innocent.

**DIVISION IV
PENALTIES**

Penalties

200. A person who commits an offence under section 195 is liable on summary conviction:
- (a) for a first offence, to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 6 months, or to both; and
 - (b) for a second or subsequent offence, to a fine not exceeding \$300,000 or to imprisonment for a term of not more than 6 months, or to both.

Orders upon conviction

201. On conviction for a contravention of this Act, in addition to or instead of a fine or other penalty, the court may make an order that the court considers appropriate in the circumstances and, without limiting the foregoing, may be directed at:
- (a) achieving compliance or avoiding further non-compliance;
 - (b) avoiding further adverse effects;

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- (c) making restitution; or
- (d) rehabilitation or restoration.

Tickets

202. If a steward believes on reasonable grounds that a person has committed an offence under this Act, then the steward may, in accordance with the regulations, issue a ticket against the alleged offender in the following amount:

- (a) for a first offence, up to \$500 and, in the case of a continuing offence, to a further penalty of up to \$500 for each day or part of a day during which the offence continues after the first day; and
- (b) for a second offence, up to \$1,000 and, in the case of a continuing offence, to a further penalty of up to \$1,000 for each day or part of a day during which the offence continues after the first day.

Ticket endorsement

203. A ticket issued in respect of an offence under this Act must bear the following endorsement: “A conviction arising from the issuance of this ticket may constitute a prior conviction for the purposes of imposing a higher penalty for any subsequent conviction under the *Ninànkāk hqzq wëk'àtr'ènòcha Act (Settlement Land Use Act)*.”

Limitation period

204. (1) Proceedings under this Act relating to an offence must not be commenced later than 2 years after the later of:
- (a) the day on which the offence was committed;
 - (b) the day on which evidence of the offence sufficient to justify a prosecution for the offence first came to the knowledge of the steward or the director.
- (2) Only Council, on behalf of TH, may institute proceedings in respect of any offence under this Act.

Judicial notice

205. In a proceeding taken under this Act, judicial notice must be taken of:

- (a) a notice of non-compliance issued by a steward under sections 181 and 182;
- (b) an order made by a steward or director under Part VII, Division II; and

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- (c) a ticket issued by a steward under section 202.

Remedies preserved

206. A proceeding, conviction or penalty for an offence under this Act does not relieve a person from other liability.

Injunctions

207. Council may apply to a judge of the Supreme Court of Yukon for, and the judge may grant, an injunction enjoining any person from continuing conduct that is in contravention of this Act.

Fines and penalties paid to TH

208. Any fines or penalties paid into court under this Part shall be paid to TH.

Recovery of fines

209. (1) When a fine, or any part of a fine, imposed on a person under this Act is not paid within 30 days after its imposition, or within any other time that may be allowed for its payment, the fine shall be deemed to be a debt due to Tr'ondëk Hwëch'in and on the proof of the non-payment of the fine, a justice shall grant default judgment in favour of the Tr'ondëk Hwëch'in.
- (2) If a default judgment is granted under subsection (1), the justice shall complete a default judgment in the prescribed form, and on the filing of the default judgment with the Small Claims Court, if the unpaid amount is within that court's jurisdiction, or the Supreme Court, it shall be deemed to be a judgment of that court for all purposes.
- (3) A default judgment shall not be granted under this section more than 2 years after the day on which the fine was to be paid in full.

PART XIII

RECONSIDERATION AND REVIEW

DIVISION I

ORDERS

Application of Part XIII, Division I

210. This Part XIII, Division I applies to orders made under Part XII, Division II.

Reconsideration of order

211. A person who is the subject of an order made under Part XII, Division II, may seek reconsideration of that order by written application to the director delivered within 7 days of the date on which that order was issued.

Director reconsideration

212. Upon receiving a reconsideration request under section 211, the director shall affirm, vary, substitute for or rescind the order which is the subject of that request, as the director may deem appropriate, within 10 days of the date on which the request for reconsideration was received.

Request for review by Council

213. A person may seek review of a decision made by the director under section 212 by written application to Council within 15 days of the date of the director's decision under that section.

Review by Council

214. (1) Upon receipt of a request for review under section 213, Council shall affirm, vary, substitute for or rescind the order subject of that review, as Council may deem appropriate, within a reasonable time after the request for review is received.
- (2) The determination by Council in the matter referred to in subsection (1) shall be final and binding.
- (3) Council shall provide its written determination under subsection (1) to the person seeking the review and the director.

Opportunity to be heard before director

215. A person affected by the order of a steward or director and the steward that issued the order, as applicable, shall have an opportunity to be heard by the director in a proceeding for reconsideration under section 212.

Opportunity to be heard before Council

216. The person affected by the order, the steward that issued the order, as applicable, and the director shall have an opportunity to be heard by Council in a proceeding for review under section 214.

Effect of reconsideration or review

217. Unless otherwise provided by Council, a person affected by the order of a steward or director shall comply with that order or decision, pending the outcome of any application for reconsideration or review which may be filed under this Part XIII, Division I.

**DIVISION II
DECISIONS**

Application of Part XIII, Division II

218. This Part XIII, Division II does not apply to orders made under Part XII, Division II.

Request for reconsideration

219. A person directly affected by a director's decision under this Act (other than, for greater certainty, under Part XII, Division II) may, within 30 days from the date of the decision, request that the director reconsider the decision.

Content of request

220. A request made under section 219 must include:
- (a) a written statement setting out the grounds on which the request is based;
 - (b) the information or documents that support the request; and
 - (c) further information that the director determines is necessary for making a decision about the request.

Reconsideration by director

221. (1) Upon a request for reconsideration, the director shall, as the director deems appropriate and within a reasonable time after the request is made, affirm, vary, substitute for or rescind a decision which is the subject to a request for reconsideration.
- (2) If the director reconsiders a decision and issues a new decision under section 219, the director may exercise the powers and must perform the duties that the director has in relation to applications.

Request for review by Council

222. (1) A person may, within 15 days of the date of the director's decision under section 221, request that Council review the director's decision.

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- (2) A request made under subsection (1) must include the information set out under section 220.

Review by Council

223. (1) Upon a review, Council shall, at it deems appropriate and within a reasonable time frame after the request for review is made, affirm, vary, substitute for or rescind the decision which is the subject of the request for review.
- (2) The determination by Council in the matter referred to in subsection (1) shall be final and binding.
- (3) Council shall provide its written determination to the person seeking the review and the director.
- (4) Council shall direct the director to exercise the powers and perform the duties that the director has in relation to applications to give effect to Council's determination under subsection (1).

Opportunity to be heard before director

224. A person seeking reconsideration of a decision under section 219 shall have an opportunity to be heard by the director in a proceeding for reconsideration.

Opportunity to be heard before Council

225. A person seeking review of a decision under section 222 and the director shall have an opportunity to be heard by Council in a proceeding for review.

Effect of request

226. If a request for reconsideration or review is made under this Part XIII, Division II, no person may take any action in reliance on the decision that is the subject of the request.

DIVISION III TRIBUNAL

Review by Tribunal

227. (1) Subject to subsections (2) and (3), on application, the tribunal may:
- (a) order the registrar or the director to do an act or thing that the registrar or director has unlawfully failed or refused to do or has unreasonably delayed in doing;

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- (b) order Council to do an act or thing that Council has unlawfully failed or refused to do or has unreasonably delayed in doing; or
 - (c) prohibit, restrain, declare invalid or unlawful, quash, set aside and refer back for determination in accordance with directions it considers appropriate, any decision, order, act or proceeding of the registrar, steward, director or Council.
- (2) A person may not make an application under subsection (1) unless that person has first exhausted the process under Division I and II of this Part.
- (3) For certainty, this section does not apply to a decision made by Council under Division I and II of this Part.
- (4) This section 227 shall become operative on the date that:
 - (a) this Act comes into force; and
 - (b) the *Tr'ondëk Hwëch'in Administrative Appeals Act* comes into force.

PART XIV MISCELLANEOUS

DIVISION I GENERAL

Immunity

228. No action for damages lies or may be instituted against TH, Council or a manager, officer, employee, servant or agent of TH:
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

No immunity

229. Section 228 does not provide a defence if:
- (a) Council or a manager, member, employee, servant or agent of TH, has, in relation to the conduct that is the subject matter of the action, been found guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.

Limitation of liability

230. TH, Council or a manager, member, employee, servant or agent of TH is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions of this Act or any other TH law, or from the neglect or failure, for any reason or in any manner, to enforce this Act or any other TH law.

Limitation period

231. An action against TH for the unlawful doing of a thing that:
- (a) is purported to have been done by TH under the powers conferred by this Act, and
 - (b) might have been lawfully done by TH if acting in the manner established by law,
- must be commenced within 6 months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

Non-citizens

232. Except as provided in this Act, a person who is not a citizen may not acquire or hold, directly or indirectly, or by virtue of any proceedings, a right or interest which only may be acquired or held under this Act by a person who is a citizen.
233. Except as provided in this Act, where the right or interest of a holder depends upon the holder being a citizen, the interest or authorization shall terminate and all rights, titles or interests of the holder thereunder shall revert to TH, without compensation, upon the termination of the holders' status as a citizen of TH.

Severability

234. In the event that all or any part of any part, division, section, subsection or paragraph of this Act are found by a court of competent jurisdiction to be invalid, such portions or sections shall be severable, and the remaining portions or sections shall remain in full force and effect.

Occupier's liability

235. TH owes no greater duty of care to a person exercising a right of access on undeveloped settlement land pursuant to the Final Agreement than the Crown owes to a person on unoccupied Crown land.

Proceedings

236. Council, in the name of TH:

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- (a) may initiate or defend (and, if not the initiator or defendant, shall have standing in) any proceeding in which a right, title or interest in or to settlement land, including a right of access to the land, is in issue;
- (b) settle or compromise on such terms as Council may deem appropriate any dispute described in subsection (a) to which TH is a party; and
- (c) seek or respond to an application for an order of the surface rights board established under section 8.1.1 of the Final Agreement concerning, or settle or compromise on such terms as Council may deem appropriate, the terms and conditions to apply to the exercise of a right of access, including a right of access described in section 6.6 of the Final Agreement.

Notice

237. Any order, a notice or other document to be given or delivered under this Act may be given or delivered effectively:
- (a) by personal delivery to the person to whom it is directed;
 - (b) by registered mail addressed to the person to whom it is directed at the address for that person last known to the sender; or
 - (c) if the person is unknown, by posting the order, notice or other document in a conspicuous location where the activity of concern is occurring or has occurred.

Regulations

238. (1) Council may make regulations it considers necessary or advisable for the purposes of this Act.
- (2) Without limiting subsection (1), Council may make regulations respecting:
- (a) the form and content of applications for interests and authorizations;
 - (b) the requirements and procedures for granting and issuing interests and authorizations;
 - (c) criteria that Council or the director, as applicable, must consider prior to granting or issuing an interest or authorization;
 - (d) pre-conditions to the granting and issuance of interests and authorizations, including engineering requirements and heritage, environmental assessment, timber harvesting and mineral extraction requirements;

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- (e) the terms and conditions of interests and authorizations;
- (f) the registration of interests, authorizations and other documents in the register and the management of the register;
- (g) the standards and requirements for land surveys or plan preparation in respect of plan development parcels and other settlement land parcels;
- (h) fees and the criteria for the waiver of fees under this Act;
- (i) the matters to be referred to the Committee for review and recommendation;
- (j) the minimum engagement requirements, including the form, with citizens prior to the director making a decision in respect of an authorization or interest;
- (k) where financial security is required, procedures respecting the financial security to be provided and its terms;
- (l) the procedures and other matters as required to implement land use plans and resource management plans;
- (m) rates, or principles to be applied in setting rates, for royalties or other payments to TH for the use or removal of natural resources from settlement land;
- (n) the assessment process referred to in Part V; and
- (o) any other matter necessary to implement this Act.

DIVISION II TRANSITION AND COMING INTO FORCE

Existing interests to be registered

239. An interest in settlement land that is in effect on the day that this Act is commenced and is not registered must be registered in the registry within 1 year of the day that this Act is commenced.

Existing interests and authorizations

240. (1) Any grant, authorization or interest issued or granted under the *Land and Resources Act (2004)* shall be treated as if they were authorizations or interests issued under this Act for the term of that authorization or interest.

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- (2) For greater certainty, a person holding an authorization or interest issued or granted under the *Land and Resources Act (2004)* or its predecessors may apply for a renewal of the authorization or interest as if it were an authorization or interest issued or granted under this Act.

Coming into force

241. This Act shall come into force and have effect as a whole or in part or parts at a day or days to be fixed by Council.