

**TA'AN KWÄCH'ÄN COUNCIL**

**COMMUNITY LANDS ACT**

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## PREAMBLE

1. The Ta'an Kwäch'än Council seeks to uphold the fundamental importance of
  - (a) protecting and enhancing the cultural identity, traditional values and lifestyle; and
  - (b) balancing the protection of natural resources and the inherent right and socio-economic interests of citizens while making use of settlement lands.

## SHORT TITLE

2. This Act may be cited as the *Community Lands Act*.

## DEFINITIONS

3. In this Act

**"beneficiary"** means a person enrolled as a beneficiary under Chapter 2 of the Final Agreement;

**"citizen"** means a person enrolled as a citizen in accordance with the Ta'an Kwäch'än Council citizenship code that forms part of the Constitution of the Ta'an Kwäch'än Council;

**"Council"** means the body established in section 8 of the Constitution of the Ta'an Kwäch'än Council;

**"Court"** means the Supreme Court of the Yukon Territory, the Territorial Court of Yukon, the Judicial Council or other court, as appropriate;

**"Department"** means the department of the Ta'an Kwäch'än Council responsible for management and administration of land, resources and heritage matters;

**"Final Agreement"** means the comprehensive land claim agreement entered into by the Ta'an Kwäch'än Council, Her Majesty the Queen in Right of Canada and Government of Yukon which was brought into legal effect on April 1, 2002;

**"Judicial Council"** means the body established in section 11 of the Constitution of the Ta'an Kwäch'än Council;

**"lessee"** means a person who has a leasehold interest pursuant to this Act with respect to a parcel of settlement land;

**"Manager"** means the manager of the Department or other official of the Department if the Manager has delegated in writing a power, responsibility or function of the Manager to that official in accordance with this Act;

**"Self-Government Agreement"** means the self-government agreement entered into by Ta'an Kwäch'än Council, Her Majesty the Queen in Right of Canada and Government of Yukon which was brought into legal effect on April 1, 2002;

“**settlement land**” means settlement land, as defined by the Final Agreement, located within the area of the City of Whitehorse that is listed in Schedule I; and

“**Yukon First Nation Land Titles Registry**” means the land title registry established under a law made by the Ta’an Kwäch’än Council relating to administration and management of interests granted with respect to settlement land.

## **GENERAL PROVISIONS**

### **Purpose**

4. (1) The purpose of this Act is to ensure
- (a) the responsible management of and sustainable development on settlement land; and
  - (b) that settlement land will be held in trust by the Ta’an Kwäch’än Council for the use and benefit of present and future generations of beneficiaries.

### **Application**

5. This Act applies to
- (a) the administration and management of settlement land; and
  - (b) any person, including the Ta’an Kwäch’än Council and the Council, who wishes to obtain a lease for the use and occupation of settlement land.

### **Traditional activities**

6. (1) Nothing in this Act is intended to annul, repeal or extinguish a right of any beneficiary recognized in the Final Agreement.
- (2) A beneficiary will have the right to use, occupy and access settlement land to exercise a traditional activity of the Ta’an Kwäch’än Council, including
- (a) the harvesting of fish and wildlife;
  - (b) the gathering of flora for subsistence, ceremonial, cultural or medicinal purposes; and
  - (c) such other rights of a beneficiary recognized in the Final Agreement.
- (3) The rights described in subsection (2)
- (a) may be exercised without the issuance of a lease under this Act;
  - (b) are subject to any leasehold interests issued by the Ta’an Kwäch’än Council; and
  - (c) will be exercised in accordance with the Final Agreement and this Act and any other law made by the Ta’an Kwäch’än Council.

### **Security interests and forced sale**

7. (1) The Ta'an Kwäch'än Council's right, title and interest in settlement land will not be used by the Ta'an Kwäch'än Council as security or collateral for any debt or obligation.
- (2) Any mortgage, charge or lien of the Ta'an Kwäch'än Council's right, title and interest in settlement land will not be enforceable against the Ta'an Kwäch'än Council.
- (3) Despite subsections (1) and (2), a lessee may use his or her interest in that lease as security or collateral for any debt or obligation and any mortgage or charge of any interest in a lease will be enforceable against that lease.
- (4) The Ta'an Kwäch'än Council's right, titles and interest in settlement land is exempt from forced seizure or sale by any process of law and any law of the Yukon that would otherwise authorize forced seizure or sale will not apply to the Ta'an Kwäch'än Council's right, title or interest in settlement land.
- (5) Despite subsection (4), the interest of a lessee in that lease is subject to forced seizure or sale by any process of law.
- (6) No consent will be given by the Council or any other person to the Ta'an Kwäch'än Council's right, title and interest in settlement land being subject to a lien established by a law made by the Yukon.

### **Adverse possession and prescription**

8. (1) No person will acquire an interest in settlement land as a result of such use or enjoyment over a long period of time.
- (2) No interest in settlement land will be extinguished or affected by virtue of a failure to claim or exercise it over a long period of time.

## **LAND MANAGEMENT COMMISSION**

### **Establishment of commission**

9. The land management commission is hereby established.

### **Powers of commission**

10. (1) The land management commission will review the recommendations made by the Manager regarding an application for a lease of settlement land and may authorize the Department to enter into that lease in accordance with this Act.
- (2) The land management commission may advise and make recommendations to the Department and the Council, as appropriate, on matters relating to
  - (a) the management of settlement land;
  - (b) the establishment of land use plans for parcels of settlement land;

- (c) the establishment or amendment of land use plans; and
- (d) such other matters as may be directed by the Council.

### **Composition of commission**

11. (1) The land management commission established under section 9 will be comprised of the following six members
- (a) one Council member;
  - (b) two citizens appointed by Council;
  - (c) two elders appointed by the Elders Council; and
  - (d) the Manager as an ex-officio member.
- (2) The Council will approve terms of reference for the land management commission that, among other matters, establish the members' terms of appointment.

### **Procedures of commission**

12. (1) The land management commission will meet as required, but not less often than once each calendar quarter.
- (2) The quorum of the land management commission will be a majority of the six members of the commission.
- (3) Other technical support staff of the Ta'an Kwäch'än Council may participate in the discussions of the land management commission as appropriate.
- (4) The land management commission will submit an annual written report to the Council.
- (5) The Department will provide administrative and secretarial services to the land management commission.

### **Funding**

13. The Council may provide funding to the Department for the purpose of allowing the land management commission to fulfill its responsibilities and carry out its functions under this Act.

## **LAND USE PLANS**

### **Land use plans**

14. The Council may establish, amend or revoke a land use plan with respect to a certain areas of settlement land to
- (a) guide and direct the management and use of those lands;
  - (b) protect and conserve land; or

(c) restrict the issuance of certain interests to lands.

15. To that extent practicable, plans established under section 14 will be consistent and coordinated with the regional land use plans developed under the Final Agreement in order to minimize any overlap, redundancy or inconsistency.

### **Planning and zoning**

16. The land use permitted under this Act, whether by a land use plan or in a lease, must comply at all times with the Final Agreement and Self-Government Agreement.
17. Unless otherwise agreed by the Ta'an Kwäch'än Council and the Yukon or the City of Whitehorse, whichever has responsibility for the matter in question, the planning and zoning with respect to settlement land described in Part 1 of Appendix B of the Self-Government Agreement will be determined by the applicable law of general application.

### **Existing non-conforming use or occupation**

18. Subject to section 19, where
- (a) a person uses or occupies a portion of settlement land before the date that a land use plan comes into effect; and
  - (b) that person does so in a manner that is not consistent with the applicable land use plan,

he or she may continue that non-conforming use or occupation, but only to the extent of his or her use or occupancy of that date, and otherwise that person, after that date, will use and occupy the settlement land in a manner consistent with the plan so long as he or she possesses that settlement land.

### **Non-conforming building or other structure**

19. (1) A non-conforming building or other structure existing at the date of the adoption of a land use plan, or amendments to an existing plan, may continue to be used, but the building or other structure may not be enlarged, added to, rebuilt or structurally altered except to enhance its conformity with the plan.
- (2) The lawful use of a part of a building or other structure existing at the time of the adoption of a land use plan that does not conform to the plan may be extended throughout the rest of the building or structure, but no structural alterations or construction of other buildings or other structures, except those required by law, will be made while the non-conforming use is continued.
- (3) For purposes of subsections (1) and (2), repairs, maintenance or installations that do not alter the size of the building or other structure or involve the rearrangement or replacement of structural supporting elements will not be considered to be structural alterations.
- (4) If a building or other structure that does not conform to a land use plan is destroyed by fire or is otherwise damaged to an extent of seventy-five percent or more of the



assessed value of the building or other structure, or other structure, it may not be rebuilt or repaired except in conformity with the land use plan.

## **LEASE OF SETTLEMENT LAND**

### **Requirement for a lease**

20. (1) Subject to subsection (2), no person may use or occupy a portion of settlement land for residential or commercial purposes unless the Ta'an Kwäch'än Council has issued a lease under this Act in relation to that use or occupancy.
- (2) A person is not required to obtain a lease for use and occupancy of settlement land if
- (a) the person is a beneficiary exercising a traditional activity as recognized in section 6;
  - (b) the person is involved in the delivery of emergency services or actions to protect public health, welfare or safety or to prevent irreparable harm to settlement land;
  - (c) the use or occupancy by the person is authorized under any other law made by the Ta'an Kwäch'än Council; or
  - (d) the person is exercising use or occupancy or accessing settlement land as authorized under the Final Agreement.
- (3) Any person using or occupying a portion of settlement land pursuant to a lease issued under this Act must use or occupy that settlement land in accordance with this Act and any terms and conditions set out in the lease.
- (a) In the event that a person's use and occupation of a portion of settlement land is not complying with the terms and conditions set out of the lease, the provisions of that lease will address that non-compliance.
- (4) The Ta'an Kwäch'än Council is required to obtain a lease under this Act for the use and occupancy of settlement land.

### **Rights under a lease**

21. Subject to this Act, a lessee of settlement land will have
- (a) an exclusive right to use and occupation of the land described in the lease for the purpose stated in the lease and in accordance with any laws made by the Ta'an Kwäch'än Council;
  - (b) a right of access to enter and cross any adjacent settlement land, other than settlement land designated as developed settlement land under the Final Agreement, for the purpose of exercising access to the land described in the lease; and

- (c) a right to transfer or assign the lease in accordance with this Act and applicable provision of the lease.

## **APPLICATION FOR LEASE**

### **Application for a lease**

- 22. A person, who is at least 19 years of age, may complete and submit an application for a lease or renewal of a lease on settlement land to the Manager or any person authorized by the Manager or and provide any information requested by the Manager.

### **Incomplete applications**

- 23. (1) If the Manager determines that an application for lease or renewal of a lease is incomplete whereby it does not provide the information required by regulation or other information necessary to make a proper assessment, the Manager will notify the applicant in writing to provide the additional information required.
- (2) The Manager will not have an obligation to deal further with the application until the applicant provides the additional information requested by the Manager under subsection (1).

### **Application fee**

- 24. (1) The Department may establish a fee that is payable to the Ta'an Kwäch'än Council upon the submission of an application for a lease.
- (2) The Department may require an applicant to reimburse the Ta'an Kwäch'än Council for its reasonable legal and professional fees and costs relating to the processing of his or her application.

### **Expressions of interest**

- 25. (1) A beneficiary may notify the Department in writing that he or she wishes to acquire a leasehold interest in respect of all or a portion of that parcel and the Manager will record the name and proposed land use of that person and the time and date at which the notice was received.
- (2) The Council may require the approval of a land use plan with respect to all or a portion of a parcel of settlement land before any lease is issued under this Act with respect to that settlement land.
- (3) The Department will exercise best efforts to give priority to each expression of interest in a parcel of settlement land in accordance to the time and date at which it was received providing that an expression of interest conforms and is consistent with
  - (a) this Act; and
  - (b) any land use plan approved by the Ta'an Kwäch'än Council.

- (4) Every written expression of interest made in good faith and received by the Ta'an Kwäch'än Council before the coming into force of this Act will be deemed to have been received under this Act and will have effect in the order in which it was received in the first instance.
- (5) An expression of interest by a citizen since deceased will remain in effect for the benefit of his or her heir or heirs.

## **ISSUANCE OF LEASE**

### **Determination of application**

- 26. (1) In reviewing an application for a lease, the Manager will
  - (a) ensure that the application is complete and contains all required information;
  - (b) provide written recommendations to the land management commission, and the reasons for the recommendations, to
    - (i) reject the application,
    - (ii) approve the application, or
    - (iii) vary the application;
  - (c) provide written recommendations to the land management commission on how to mitigate impacts on settlement land and improvements located on settlement land;
  - (d) consult citizens and other affected persons, as appropriate, in relation to the applications reviewed by the land management commission; and
  - (e) give full consideration to
    - (i) any comments submitted by citizens and other affected persons,
    - (ii) any regulation or policy under this Act,
    - (iii) any land use and resource plans established under this Act.
- (2) The land management commission will make a final decision, subject to section 37, and forward it, including the reasons for the decision and the terms and conditions, to the applicant in a timely manner.
- (3) If the land management commission does not exercise its powers to make a final decision with respect to an application for lease subsection (2) within forty-five days, that application will be deemed to have been rejected and the applicant may seek reconsideration of that decision under section 37.

- (4) The land management commission may defer consideration of an application until such time as a land use plan for the area applicable to the application is approved in accordance with this Act.
- (5) A decision made by the land management commission will be consistent with
  - (a) any regulation or policy under this Act; and
  - (b) any land use plans established under this Act.

## **TERMS AND CONDITIONS**

### **Terms and conditions**

27. Each lease will set out the terms and conditions consistent with this Act, including
- (a) the term of the lease and any right of renewal;
  - (b) the boundaries of the parcel of settlement land subject to the lease;
  - (c) the permitted uses of the settlement land;
  - (d) the payment of property taxes and other fees, including occupation rent;
  - (e) the right to terminate the lease;
  - (f) the right of the lessee to quiet enjoyment of the settlement land subject to the lease;
  - (g) the right of the lessee to mortgage his or her leasehold interest in the settlement land; and
  - (h) any other term that may be agreed to by the Ta'an Kwäch'än Council and the lessee.

### **Income tax**

28. Every lease will provide that every person who is resident on settlement land on December 31 in any year will
- (a) file a return under the *Income Tax Act* (Canada) for the year ending December 31 and indicate on that return that he or she was resident on settlement land; and
  - (b) file with the Department on or before June 30, a copy of the page of the filed return indicating that his or her residency on settlement land on December 31.

## **Compliance with terms and conditions**

29. (1) A Manager may issue a notice of non-compliance to a person when the Manager believes that the person, or an activity under the person's control, is not in compliance with this Act or the lease issued by the Ta'an Kwäch'än Council relating to the use or occupation.
- (2) A notice under subsection (1) will state
- (a) the nature of the non-compliance;
  - (b) a request for compliance;
  - (c) the steps which should be taken to achieve compliance; and
  - (d) the date by which compliance should be effected.
- (3) The Council may establish a public register of notices of non-compliance and, when such a register is established, the Manager will cause a copy of every active notice of non-compliance to be placed on the register.
- (4) If the Manager is satisfied that the person to whom a notice of non-compliance was issued under subsection (1) has effected compliance pursuant to the notice, Manager will withdraw the notice of non-compliance and cause the copy of the notice to be removed from the register of land.
- (5) A register established under subsection (5) will be accessible to the public without charge during normal business hours at the principal administrative offices of Ta'an Kwäch'än Council.

## **ADMINISTRATION OF LEASES**

### **Lease will be filed in land register**

30. All leases will be filed in the Ta'an Kwäch'än land information system referred to in section 38.

### **Subdivision and consolidation**

31. (1) Upon the application of any person who holds a leasehold interest in a parcel of settlement land or upon his or her own initiative, the land management commission may subdivide a parcel of settlement land or consolidate two or more parcels of settlement land.
- (2) Every application will include a description of the proposed parcel or parcels of settlement land that is satisfactory to the land management commission and any other information requested by the land management commission.
- (3) Any subdivision or consolidation approved by the land management commission will be consistent with any land use plan adopted by the Council.

- (4) Any subdivision or consolidation will take effect when the approved application is recorded in the Ta'an Kwäch'än Council land information system referred to in section 38.
- (5) The parcels created from a subdivision of a parcel of settlement land will have the same zoning as the original parcel.
- (6) When two or more parcels of settlement land with different zoning are consolidated, the land management commission may determine the zoning of the consolidated parcel of settlement land.

### **Transfer**

32. (1) If any lease is transferred or assigned, the terms and conditions of that lease will continue to apply unless the land management commission and lessee agree to amend it.
- (2) Any transfer or assignment of a lease will not have effect until it is filed in the Ta'an Kwäch'än land information system.

### **Transfer by will and escheat**

33. A natural person
  - (a) may transfer his or her interest in the lease by will to any person;
  - (b) if he or she dies without a will, his or her interest in the lease will pass to the heir or heirs of that person; or
  - (c) if a lessee dies without an heir, the interest contained in that lease will be deemed to be surrendered to the Ta'an Kwäch'än Council.

### **Duplication of leases**

34. No person will alter, imitate or duplicate a lease. Only copies certified with an original signature, initialed on each page and marked duplicate by the Manager or any person authorized by the Manager will be considered as a valid copy.

## **TRESPASS**

### **Notice**

35. (1) Any person, who is using or occupying settlement land without a lease issued under this Act, will vacate settlement land upon notice from the Department and will be liable for occupation rent for the period that the trespasser has occupied settlement land.
- (2) The notice will inform the trespasser of
  - (a) his or her actions that constitute a trespass;
  - (b) the settlement land being unlawfully used or occupied by the trespasser;

- (c) the steps he or she must take to remedy the trespass; and
  - (d) the Ta'an Kwäch'än Council's intention to pursue a legal remedy within thirty days should the trespasser fail to undertake steps referred to in paragraph (c).
- (3) The notice will be issued at the earlier of
- (a) the date when the notice is affixed to the entrance of any structure being occupied by the trespasser;
  - (b) the notice is received by the trespasser by way of registered mail; or
  - (c) the notice is personally served to the trespasser.
- (4) The trespasser may be liable to the Ta'an Kwäch'än Council for compensation with respect to any forest resources, minerals or other resources located on or in settlement land that were used, harvested or extracted unlawfully.

### **Trespass orders**

36. (1) If the trespasser does not fulfill the steps referred to in section 35(2)(c) within thirty days of the issuance of the notice set out in section 35(1) the Manager may issue one or more of the following orders
- (a) the trespasser is evicted and must vacate that settlement land by a specified date;
  - (b) the trespasser must pay occupation rent in the amount specified together with reasonable interest; and
  - (c) the trespasser must remove any improvements or personal property on settlement land as specified by the order.
- (2) The Manager may cause any improvements or personal property on settlement land described in an order under subsection (1) to be removed from that settlement land and may dispose of and recover the costs of that removal from the trespasser as a debt due to the Ta'an Kwäch'än Council.
- (3) The Manager and any person acting under his or her authority will have no liability for removing and disposing of any improvements or personal property from settlement land under subsection (2).
- (4) The Manager may cause any contamination or environmental damage to settlement land occupied by the trespasser to be remediated and may recover the costs of that remediation from the trespasser as a debt due to the Ta'an Kwäch'än Council.

## RECONSIDERATION AND REVIEW

### Reconsideration of decision or order

37. (1) Subject to subsection (2), decisions and orders of the land management commission under this Act will be final and binding and not subject to appeal or judicial review in a Court.
- (2) An applicant, a citizen or the Ta'an Kwäch'än Council may make an application to the Judicial Council with respect to
- (a) a decision made with respect to an application for a lease under section 26 of this Act; or
  - (b) the issuance of a notice of non-compliance under section 28.
- (3) An application to the Judicial Council in subsection 2 must be based on the grounds that the land management commission
- (i) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
  - (ii) erred in law in making its decision or order, whether or not the error appears on the face of the record; or
  - (iii) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- (4) An application to the Judicial Council for an appeal must be made within 30 days of the issuance of the decision or order.
- (5) The Judicial Council will adopt procedures to ensure a fair and timely process for the review and determination of appeals made under this section.
- (6) The Judicial Council will deny or accept the application for appeal or refer the matter back to the land management commission with direction and guidance. If the Judicial Council accepts an application for appeal, the Judicial Council will affirm vary, substitute or rescind the decision or order which is the subject of the application and provide written reasons.
- (7) A decision or order will remain in full force and effect pending the decision of the Judicial Council unless the Judicial Council decides otherwise.

## MANAGEMENT OF SETTLEMENT LAND

### Ta'an Kwäch'än land information system

38. The Department will establish a land information system and file the following in it



- (a) original documents of all leases and each renewal, replacement, transfer, or cancellation of such document made under this Act or any other law made by the Ta'an Kwäch'än Council;
- (b) a copy of each order or notice made by the Manager, including each active notice of non-compliance;
- (c) all surveys of settlement land;
- (d) a copy of any law or regulation of the Ta'an Kwäch'än Council which is relevant to matters under this Act; and
- (e) any other document required under this Act or any other law made by the Ta'an Kwäch'än Council to be placed in the register of land.

#### **Administration of land register**

- 39. (1) A clerk of the land information system will be appointed by the Council who will be responsible for the administration and maintenance of the land register.
- (2) The land information system will be located at the office of the Department and will be accessible to any person during normal business hours of the Ta'an Kwäch'än Council.
- (3) A person will pay any prescribed fee for the registration of documents and for the costs of copying documents in the register of land.

#### **Yukon First Nation Land Titles Registry**

- 40. A lessee may register a lease issued by the Ta'an Kwäch'än Council in the Yukon First Nation Land Titles Registry in accordance with the law made by the Ta'an Kwäch'än Council.

### **REMEDIES AND PENALTIES**

#### **Penalties**

- 41. Every person who contravenes subsections 20(1) is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months, or to both.

#### **Continuing offences**

- 42. 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.

#### **Other penalties**

- 43. On a conviction for a contravention of this Act, in addition to or instead of a fine or other penalty, a Court may require a convicted person

- (a) to take any action as may be necessary to refrain from causing any further adverse effect;
- (b) to take any action as may be necessary to restore or rehabilitate the natural environment affected by the commission of the offence;
- (c) to make restitution to any person who suffered damages as a result of the commission of the offence as the judge may consider appropriate; or
- (d) to undertake any other actions as may be necessary to achieve compliance.

#### **Punishment not otherwise provided for**

44. Except as otherwise provided in this Act, every person who contravenes this Act or the regulations is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$5,000 and, or, to imprisonment for a term not exceeding six months, or to both.

#### **Offences by corporations**

45. Where a corporation commits an offence under this Act, any officer, manager or agent of that corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is a party 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 employees or agents**

46. 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**

47. No person will be convicted of an offence under this Act if the person establishes that he or she
- (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 his or her conduct innocent.

#### **Procedure**

48. Any offence or administrative penalty created under this Act will be prosecuted as an offence or ticket against an enactment pursuant to the *Summary Conviction Act* (Yukon), with any modifications that are necessary.

#### **Sentencing principles**

49. (1) The fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a safe and healthy environment by imposing just sanctions that have one or more of the following objectives

- (a) to denounce unlawful conduct;
  - (b) to deter the offender and other persons from committing offences;
  - (c) to provide reparations for harm done to the community;
  - (d) to promote a sense of responsibility in offenders and acknowledgment of the harm done to the community;
  - (e) to protect the special relationship between citizens and the environment; and
  - (f) to protect the cultures, traditions, health and lifestyle of citizens and other residents of the Yukon Territory.
- (2) A Court will take into account the purposes identified in subsection (1) and the following objectives when imposing a sentence for an offence
- (a) a sentence should be proportionate to the gravity of the offence and the degree of responsibility of the offender;
  - (b) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender; and
  - (c) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.

### **Disposition of fines and property**

50. Any fine paid by a person convicted of an offence under this Act, and property forfeited pursuant to such a conviction, will be paid or transferred to the Ta'an Kwäch'än Council.

### **Recovery of fines**

51. (1) When a fine, or any part of a fine, imposed on a person under this Act is not paid within 15 days after its imposition, or within any other time that may be allowed for its payment, the fine will be deemed to be a debt due to the Ta'an Kwäch'än Council, and on the proof of the non-payment of the fine, a judge will grant default judgment in favour of the Ta'an Kwäch'än Council.
- (2) If a default judgment is granted under subsection (1), the Court will complete a default judgment in the prescribed form, and on the filing of the default judgment with a Court, it will be deemed to be a judgment of that Court for all purposes.
- (3) A default judgment will not be granted under this section more than two years after the day on which the fine was to be paid in full.

## MISCELLANEOUS

### Delegation

52. (1) The Manager may delegate in writing any power, responsibility or function under this Act to any employee, agent, representative, committee or other entity of the Ta'an Kwäch'än Council.
- (2) The Manager is authorized to enter into agreements on behalf of the Ta'an Kwäch'än Council relating to the designation of undeveloped settlement land to be developed settlement land and developed settlement land to be undeveloped settlement land pursuant to section 6.1.8 of the Final Agreement.

### Liability

53. (1) A person will be liable to the Ta'an Kwäch'än Council for his or her wilful or negligent acts or omissions that cause harm, injury, loss or damage to settlement land or to any improvement located on settlement land.
- (2) Notwithstanding the suspension, cancellation, revocation, expiry or termination of a lease, the lessee will be solely responsible for any liability, loss or damage related to activities carried out or omissions made with respect to that portion of settlement land during the term of that lease.
- (3) The Ta'an Kwäch'än Council and its employees, agents and contractors will not be liable for anything done or omitted in good faith execution of any duty or power under this Act or any regulation made under this Act.

### Judicial notice

54. A copy of a Ta'an Kwäch'än Council law deposited in the register of the laws enacted by Ta'an Kwäch'än Council and maintained by the Ta'an Kwäch'än Council at its principal administrative offices is evidence of that law and of its contents, unless the contrary is shown.

### Conflict and inconsistency

55. Where there is any inconsistency or conflict between the provisions of this Act and
- (a) any other law made by Ta'an Kwäch'än Council or any other government, the provisions of this Act will prevail to the extent of the inconsistency or conflict; and
- (b) the Final Agreement or Self-Government Agreement, the provisions of the Final Agreement or Self-Government Agreement will prevail to the extent of the inconsistency or conflict.

### Remedies preserved

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

## **Regulations**

57. The Council may establish any regulation it deems necessary to carry out the provisions and purposes of this Act and, without limiting the generality of the foregoing, may make regulations with respect to the
- (a) closure or withdrawal of portions of settlement land for certain uses and purposes;
  - (b) expropriation of settlement land;
  - (c) establishment of parcel sizes for certain uses of settlement land;
  - (d) requirement of licences and permits for certain activities and actions on settlement land;
  - (e) subdivision of settlement land; and
  - (f) form of any prescribed forms, notices or documents.

## **Review**

58. The Department will commence a comprehensive review of this Act and its regulations no later than five years after its enactment.

## **Act in force**

59. This Act comes into force on a day to be fixed by the Council.

**SCHEDULE 1**  
**PARCELS OF SETTLEMENT LAND SUBJECT TO THE COMMUNITY LANDS ACT**

C-3B

C-5B

C-6B

C-8B

C-9B

C-10B

C-14B

C-16B

C-17B

C-19B

C-20B

C-23B

C-25B/D

C-28B

C-30B

C-37B

C- 38B

C-51B

C-59B

C-64B/D

C-67B/D

C-68B/D

C-70B/D

C-71B/D

C-73B

C-74B

C-77B

C-80FS

C-81B

C-83B

C-84B

C-85FS

C-86B

C-88B

C-89B

C-90B

C-91B/D

C-92B

C-93B

C-94B

C-95FS/D

C-96B/D