

LANDS ACT**PART ONE
GENERAL****Title**

1. This Act shall be cited as the *Lands Act*.

Definitions

2. In this Act,

‘agricultural use’ means land used for the production of agricultural products;

‘cabin or recreational use’ means land used on a seasonal basis, including occupancy, for recreational purposes;

‘commercial use’ means land used for the purpose of buying, selling or trading of merchandise or services and storage associated with these uses;

‘committee’ means the Lands Committee established under section 3;

‘disposition’ means an allocation, lease, certificate of improvements, license of occupation, right of way or easement made in accordance with this Act;

‘document’ means a lease, certificate of allocation or other document approving, transferring, revoking or changing a disposition;

‘file’ means a file established as set out in subsection 10(1);

‘improvements’ means buildings, fixtures, and improvements affixed or attached to land, but does not include wells, septic systems, driveways, lawns, gardens or trees;

‘industrial use’ means land used for the purpose of operating public facilities or conducting industrial manufacturing or assembly processes and their related uses;

‘instrument’ means an instrument purporting to charge, deal with or affect a disposition;

‘land’ means Category A Settlement Land, Category B Settlement Land and fee simple Settlement Land as defined in the final agreement;

‘residential use’ means land used on a permanent basis, including occupancy, for residential purposes; and

‘traditional use’ means land used for traditional activities including hunting, fishing, trapping and berry picking.

PART TWO
LANDS COMMITTEE

Establishment

3. The First Nations Council shall establish a committee to be called the Lands Committee.

Purpose and Powers

4. (1) The purpose of the committee is to encourage responsible and respectful land use and management.

(2) Without restricting the generality of subsection (1), the committee shall make recommendations to the First Nations Council on all applications for dispositions and shall provide advice on any other matters relating to land use and management as may be directed by the First Nations Council.

PART THREE
LAND REGISTRY

Establishment

5. There is hereby established a land registry which shall contain
- (a) duplicate originals of certificates of allocations issued under this Act;
 - (b) duplicate originals of leases, licenses of occupations and other similar instruments issued under this Act to convey an interest in land;
 - (c) copies of permits or any license or other authorizations issued under any other enactment; and
 - (d) any other document required by this Act or another enactment to be placed in the registry.

Administration of the Registry

6. (1) A clerk of the registry shall be appointed by the First Nations Council who shall be responsible for maintaining the registry.
- (2) The registry shall be located at the head administrative offices of the First Nations and be accessible by any person during normal business hours.
- (3) Fees, as may be established by regulations, may be collected for costs incurred for copying documents contained in the registry.

Registration of Dispositions and Interests Required

7. (1) No disposition or revocation, transfer or change to a disposition shall be considered valid unless and until the document describing the disposition or the revocation, transfer or change to the disposition is filed in the registry as set out in this Act.
- (2) No instrument shall be considered to create an interest, either at law or in equity, in a parcel of land unless and until the instrument is filed in the registry as set out in this Act.

Registration

8. A person applying to register a document or instrument shall provide the clerk of the registry with the following information
- (a) a copy of the document or instrument, with original signatures by duly authorized officials and persons;
 - (b) a description of the parcel of land sufficient to enable the clerk to determine the location of the parcel;
 - (c) a survey of the parcel, if a survey has been completed in relation to the disposition or interest to be created;
 - (d) payment of the fees described in the regulations, unless waived by the First Nations Council; and
 - (e) any other information that may be requested by the clerk.

Daybook

9. The clerk of the registry shall keep a book, to be called the daybook, in which shall be entered a short description of every document or instrument given in for registration, and the day, hour and minute that the document or instrument was submitted for registration.

Files and Records

10. (1) The clerk of the registry shall establish and maintain a file for each parcel of land for which a disposition has been made and shall assign a unique file number to each file and shall deposit all documents and instruments relating to that parcel in the file.

(2) For each file, the clerk shall maintain a record detailing the nature of any instruments or documents received for registration relating to the parcel and the day, hour and minute of the registration and the names of the parties involved. The clerk shall authorize each entry in the record with their signature.

(3) If a parcel is subdivided, as set out in section 30, the clerk shall close the original file for that parcel and assign new numbers to the subdivided parcel.

(4) The clerk shall keep every document and instrument applying to the parcel in the registry.

What constitutes registration

11. (1) Every disposition shall be deemed and taken to be registered for the purposes of this Act as soon as a file has been created and a file number assigned by the clerk of the registry.

(2) Every instrument or document shall be deemed to be registered as soon as the information set out in subsection 10(2) is entered into the record in the file.

Time of Registration

12. (1) The time entered in the daybook shall be taken as the time of registration for all purposes including determining priority between mortgagees, transferees and others.

(2) Instruments registered in respect of or affecting the same parcel of land are entitled to priority the one over the other according to the time of registration and not according to the date of execution.

Restriction on registration of instruments

13. If the clerk of the registry believes that an instrument submitted for registration

- (a) granting a lease of only part of a parcel of land to which a disposition applies;
- (b) charging, mortgaging or otherwise encumbering only part of a parcel of land to which a disposition other than an allocation applies; or
- (c) providing for the transfer of part of a parcel of land to which a disposition applies;

has the effect of subdividing the parcel, the clerk must refuse to register the instrument until the subdivision has been approved of as set out in subsection 30.

PART FOUR
LAND USE

Land Held for citizens

14. All land shall be held in trust by the First Nations Council for the use and benefit of present and future generations of citizens.

Consideration of Committee Recommendations

15. The First Nations Council shall consider the recommendations of the committee before making any dispositions.

Allocations

16. (1) The First Nations Council may allocate land to a citizen who is 18 years of age or older and who resides in the Yukon for residential use, cabin or recreational use or traditional use.

(2) The First Nations Council may allocate land to a citizen who is 18 years of age or older but does not reside in the Yukon for cabin or recreational use or traditional use.

(3) The First Nations Council may allocate land on a temporary basis if the First Nations Council is of the view that an allocation made under subsections (1) or (2) should only be made if specified improvements to the land are made by the applicant.

(4) Allocations shall be subject to the following terms and conditions

- (a) the allocation holder has the right to exclusive occupation and use of the allocated land, subject to any restrictions as may be provided in the allocation and in the regulations;
- (b) the allocation holder has the obligation to pay all property taxes or fees levied by the First Nations for the allocated land;
- (c) the allocation holder has the obligation to abide by all applicable laws;
- (d) the allocation holder has the obligation to conserve and treat the allocated land in a manner that protects its value and importance to citizens;

- (e) the allocation is subject to the exceptions and reservations described in section 29;
- (f) the allocation is subject to any encumbering rights, as defined in paragraph 5.4.2 of the final agreement, that may apply to the allocated land; and
- (g) any other terms and conditions that may be determined by the First Nations Council.

(5) Where the First Nations Council makes a temporary allocation, as set out in subsection (3), the temporary allocation is subject to the terms and conditions established in subsection (4) except that the right to exclusive occupation and use of the land is restricted to those activities required to undertake the improvements specified by the First Nations Council.

(6) Allocations may be for a specified period of time or an unspecified period of time, at the discretion of the First Nations Council.

(7) In the event of an inconsistency or conflict between the terms and conditions of an allocation and the final agreement or this Act, the final agreement or this Act, as the case may be, prevails to the extent of the inconsistency or conflict.

(8) Allocations may not be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other instrument of obtaining credit that may be entered into by a citizen.

(9) Allocations may not be transferred to a person who is not a citizen.

(10) Allocations may be transferred by a citizen to another citizen if the citizen to whom the allocation will be transferred possesses the qualifications described in subsections 16(1) or (2) and if the transfer is approved by the First Nations Council.

(11) For greater certainty, subsection (9) does not prevent a citizen from providing in a will that a non-citizen may have a life estate in the allocation as long as the transfer of the allocation remains between two citizens and is conducted in accordance with subsection (10) and the regulations.

Certificate of Allocation

17. (1) A certificate of allocation shall be issued for each allocation made under subsections 16(1) and (2) and for each transfer made in accordance with subsection 16(10) and a duplicate original of every certificate shall be filed in the registry.

- (2) The certificate of allocation must include
- (a) the name of the person to whom the allocation is made;
 - (b) a description of the parcel of land allocated;
 - (c) the term for which the allocation is made, if the allocation is for a limited time;
 - (d) any terms and conditions specific to the allocation;
 - (e) a reference to the obligations provided in subsection 16(4).

Temporary Certificate of Allocation

18. (1) A temporary certificate of allocation shall be issued for each temporary allocation made under subsection 16(3) and a duplicate original of the certificate filed in the registry.

- (2) A temporary certificate of allocation must include
- (a) the name of the person to whom the allocation is made;
 - (b) a description of the parcel of land allocated;
 - (c) a description of the improvements to be made to the land and the time within which such improvements must be made; and
 - (d) a reference to the obligations provided in subsection 16(4).

Revocation of an Allocation

19. (1) The First Nations Council may, in accordance with the regulations, revoke an allocation or a temporary allocation where the citizen to whom the land was allocated fails to meet the terms and conditions provided in the allocation or as set out in subsection 16(4) or 16(5).

- (2) If the First Nations Council revokes an allocation pursuant to subsection (1) it shall file a notice of revocation in the register and provide a copy of the notice to the person who held the allocation.

Conversion of Allocation to Lease

20. (1) A citizen who has been granted an allocation may apply to First Nations Council to convert the allocation into a lease for the same parcel of land.

(2) Applications for conversion of an allocation to a lease shall be made using a form provided by First Nations Council and shall include the following information

- (a) the name and mailing address of the person holding the allocation;
- (b) a copy of the certificate of allocation for the land;
- (c) the reasons for the transfer from an allocation to a lease;
- (d) the length of lease sought; and
- (e) any other information as determined by the First Nations Council.

(3) The First Nations Council may, subject to any terms and conditions that they consider appropriate, agree to enter into a lease for the parcel of land or may refuse to enter into a lease for the parcel.

Leases

21. (1) The First Nations Council may lease land to

- (a) any citizen for residential use, cabin or recreational use, commercial use, industrial use or agricultural use; and
- (b) to any other person for residential use, commercial use, industrial use or agricultural use.

(2) Prior to executing any lease, the First Nations Council must provide fourteen days notice of the proposed lease to citizens and invite their comments on the proposed lease.

(3) All leases shall be subject to the following terms and conditions

- (a) the leasehold cannot be used for any other purpose than that which is described in the lease;
- (b) all property taxes or fees levied by the First Nations for the leasehold are the responsibility of the lessee;
- (c) the lessee has the obligation to abide by all applicable laws;
- (d) the lessee has the obligation to conserve and treat the leased land in a manner that protects its value and importance to citizens;
- (e) the leasehold is subject to the exceptions and reservations described in section 29;

- (f) the leasehold is subject to any certificate of improvements;
- (g) all leaseholds are subject to any encumbering rights, as defined in paragraph 5.4.2 of the final agreement, that may apply to the leasehold;
- (h) leases may be renewed, subject to the approval of the First Nations Council;
- (i) no lease may be transferred or assigned unless the First Nations Council has agreed, in writing, to the transfer or assignment; and
- (j) any other terms and conditions that may be determined by the First Nations Council.

(4) In the event of an inconsistency or conflict between the terms and conditions of a lease and the final agreement or this Act, the final agreement or this Act, as the case may be, prevails to the extent of the inconsistency or conflict.

(5) Subject to the regulations, leases may be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other instrument of obtaining credit that may be entered into by a lessee.

(6) A duplicate original of a lease shall be filed in the register.

Mortgages and other forms of security

22. (1) When any lease is intended to be used to warranty, guarantee or otherwise act as security or collateral for any investment, loan, advance, mortgage or other means of obtaining credit, the document describing the warranty, guarantee or other form of security or collateral shall

- (a) for the description of the parcel intended to be dealt with, refer to the disposition in which the interest is to be held or give such other description as is necessary to identify the parcel in question; and
- (b) identify all other interests pertaining to the parcel that are registered in the register, if any.

(2) A mortgage or any other means of obtaining credit has the effect of security, but does not operate as a transfer of the ownership or control of a parcel of land or a disposition thereby charged.

Certificates of Improvements

23. (1) Any person may apply to the First Nations Council for a certificate of improvements located on leased land.

(2) Upon being satisfied that the applicant has built, paid for, or is or will be entitled to the improvements, the First Nations Council may issue a certificate of improvements to the applicant and file it in the registry.

(3) When a certificate of improvements is issued to a person and filed in the registry, that person is, in the absence of fraud, the legal owner of all existing and future improvements on the disposition with the right to transfer, mortgage, and remove the improvements in accordance with this Act and the regulations.

(4) Despite the filing of a certificate of improvements in the registry, interests in improvements continue as interests in land and are not interests in personal property.

(5) Nothing in a certificate of improvements constitutes a representation or warranty to the recipient as to:

- (a) the condition of any improvements nor their fitness for any purpose, or
- (b) the absence of any equitable right, claim, or interest in or to the improvements by any person.

Dealing with Improvements

24. (1) An owner of improvements may transfer existing and future improvements to the holder of the disposition where the improvements are located.

(2) A transfer of improvements located on a lease to a person other than the lessee is not valid, unless the improvements have been removed before the transfer.

(3) An owner of improvements may mortgage the improvements, but the rights of a mortgagee of improvements, including any right to foreclose, sell, or remove improvements, are subject to this Act and the regulations.

(4) Upon filing of a valid transfer or mortgage in the registry, a bona fide purchaser or mortgagee of improvement for value without notice has priority over the right, claim or interest of any other person unless that person has first filed notice thereof in the registry.

(5) An owner of improvements has the right to remove the improvements from the disposition where the improvements are located, but the removal of the improvements does not affect the right, title or interest of any person in the improvements acquired before removal.

Other Dispositions

25. The First Nations Council may grant a license of occupation, an easement or right of way to land subject to any terms and conditions it considers appropriate.

Negotiations on Dispositions

26. (1) A disposition of land is not binding on the First Nations Council or the First Nations until the certificate of allocation, the temporary certificate of allocation, lease, license of occupation, easement or right of way is executed in accordance with this Act.

(2) Negotiations or arrangements, whether in writing or otherwise, made prior to the execution of documents concerning a disposition of land are not binding and do not commit the First Nations Council or the First Nations to perform or complete the disposition.

Payments

27. Dispositions may provide for royalty or other payments to the First Nations for the use of land or for the removal of resources from land at rates to be set out in regulations.

Surveys and Studies

28. (1) The First Nations Council may require, before issuing a disposition, that an applicant for a disposition obtain and file with them, at the applicant's expense

- (a) a survey of the land;
- (b) feasibility studies;
- (c) environmental assessments;
- (d) timber cruises;
- (e) land valuation appraisals; and
- (f) any other information the First Nations Council may require.

(2) Any surveys conducted for the purposes of the Act must be undertaken in accordance with the standards of accuracy, techniques and specifications for such surveys as specified in the *Manual of Instructions for the Survey of Canada Lands*, as amended from time to time.

Security

29. (1) The First Nations Council may require, before issuing a disposition, that an applicant for a disposition provide financial security for the performance and completion by the applicant of all of the obligations and requirements specified by the First Nations Council, including the performance of any remedial or preventative action required to protect and conserve the land or to restore and rehabilitate the land.

(2) This section does not affect the liability of a person holding a disposition for any damage to land in excess of the amount of the financial security provided in accordance with subsection (1).

Amendment and Cancellation of dispositions

30. (1) If the First Nations Council considers it advisable, a disposition may be cancelled or amended if they find any of the following

- (a) a clerical error in the names or descriptions of the applicant, the description of the land or any other material part of the disposition has occurred;
- (b) that the land is not available for disposition;
- (c) that a survey completed for the land is incorrect; or
- (d) that the information provided by the applicant is incorrect.

(2) If the First Nations Council revokes a disposition pursuant to subsection (1), it shall file a notice of revocation in the register and provide a copy of the notice to the person who held the disposition.

Exceptions and Reservations

31. Unless otherwise provided for in a disposition, a disposition under this Act excepts and reserves the following interests, rights and privileges

- (a) the right of the First Nations, or any person acting for it, to resume control over any part of the land that is deemed by the First Nations Council to be necessary;
- (b) the right of the First Nations Council, or any person acting under the authority of the First Nations Council, to enter any part of the land and explore and remove any minerals or other resources; and,
- (c) all timber that may be on the land.

Subdivision of Land

32. Subject to the approval of the First Nations Council, a parcel of land for which a disposition has been made may be subdivided, unless the original disposition was granted on the basis that the parcel would not be subdivided.

Application for Subdivision

33. (1) A holder of a disposition who proposes to subdivide the parcel of land to which the disposition applies may apply to First Nations Council by submitting an application on a form provided by First Nations Council and shall include the following

- (a) the name and mailing address of the holder of the disposition;
- (b) a plan of survey for the subdivision that is capable of being registered in the register;
- (c) the reasons for the subdivision;
- (d) the names of any other persons who may benefit from or be affected by the subdivision; and
- (e) any other information as may be determined by the First Nations Council.

(2) The First Nations Council may approve, in writing and subject to any terms and conditions it considers appropriate, or may refuse to approve the proposal to subdivide.

(3) There shall be no right of appeal to a decision made under subsection (2) by the First Nations Council.

Time limits

34. If the First Nations Council approves a proposal to subdivide a parcel of land, the First Nations Council shall specify the period of time, not to exceed twelve months, within which the holder of the disposition must take all necessary steps to enable the clerk of the register to register the subdivision.

Public Use Lands

35. The First Nations Council may require the holder of a disposition who proposes to subdivide to provide from the parcel of land, without compensation

- (a) highways and lands for public utilities, for the purpose of providing suitable access and services to the subdivided land; and
- (b) areas for public use of the land.

Land Allocation and Occupation Plans

36. (1) The First Nations Council may establish, amend or revoke plans for the purpose of facilitating the siting and control of land for residential use, cabin or recreational use, commercial use, agricultural use, and industrial use.

(2) To the extent practicable, plans prepared under the authority of subsection (1) shall be coordinated with regional land use plans prepared as a result of chapter 11 of the final agreement to minimize any overlap or redundancy between the land use planning process required under the chapter 11 and subsection (1).

PART FIVE
REGULATIONS

Regulations

37. The First Nations Council may make regulations respecting
- (a) fees to be paid under the Act;
 - (b) restrictions on land use for a disposition or land use category;
 - (c) procedures for applying, amending, transferring or revoking an allocation;
 - (d) procedures for applying for a certificate of improvements, for issuing a certificate of improvements and for transferring and mortgaging improvements, and for the removal and sale by the owner or the First Nations Council of improvements from the disposition where the improvements are located;
 - (e) restrictions on using dispositions, other than allocations, as security or collateral;
 - (f) rates for royalty payments; and
 - (g) any matters which they consider necessary to bring the purposes and provisions of this Act into effect.