
CHAPTER 11 NISGA'A GOVERNMENT

SELF-GOVERNMENT

1. The Nisga'a Nation has the right to self-government, and the authority to make laws, as set out in this Agreement.

RECOGNITION OF NISGA'A LISIMS GOVERNMENT AND NISGA'A VILLAGE GOVERNMENTS

2. Nisga'a Lisims Government and Nisga'a Village Governments, as provided for under the Nisga'a Constitution, are the governments of the Nisga'a Nation and the Nisga'a Villages, respectively.
3. Except as may otherwise be agreed to by the relevant Parties in respect of particular matters, Nisga'a Lisims Government is responsible for intergovernmental relations between the Nisga'a Nation on the one hand, and Canada or British Columbia, or both, on the other hand.
4. The exercise of Nisga'a Government jurisdiction and authority set out in this Agreement will evolve over time.

LEGAL STATUS AND CAPACITY

5. The Nisga'a Nation, and each Nisga'a Village, is a separate and distinct legal entity, with the capacity, rights, powers, and privileges of a natural person, including to:
 - a. enter into contracts and agreements;
 - b. acquire and hold property or an interest in property, and sell or otherwise dispose of that property or interest;
 - c. raise, spend, invest, or borrow money;
 - d. sue and be sued; and
 - e. do other things ancillary to the exercise of its rights, powers and privileges.
 6. The rights, powers, and privileges of the Nisga'a Nation, and of each Nisga'a Village, will be exercised in accordance with:
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- a. this Agreement;
 - b. the Nisga'a Constitution; and
 - c. Nisga'a laws.
7. The Nisga'a Nation will act through Nisga'a Lisims Government in exercising its rights, powers, and privileges and in carrying out its duties, functions, and obligations.
 8. Each Nisga'a Village will act through its Nisga'a Village Government in exercising its rights, powers, and privileges and in carrying out its duties, functions, and obligations.

NISGA'A CONSTITUTION

9. The Nisga'a Nation will have a Nisga'a Constitution, consistent with this Agreement, which will:
 - a. provide for Nisga'a Lisims Government and Nisga'a Village Governments, including their duties, composition, and membership;
 - b. provide that this Agreement sets out the authority of Nisga'a Government to make laws;
 - c. assign to Nisga'a Lisims Government and Nisga'a Village Governments the rights, powers, privileges, and responsibilities under this Agreement that are not specifically assigned to Nisga'a Lisims Government;
 - d. provide for the enactment of laws by Nisga'a Government;
 - e. provide for challenging the validity of Nisga'a laws;
 - f. provide for the creation, continuation, amalgamation, dissolution, naming, or renaming of:
 - i. Nisga'a Villages on Nisga'a Lands, and
 - ii. Nisga'a Urban Locals;
 - g. provide for Nisga'a Urban Locals, or other means by which Nisga'a citizens residing outside of the Nass Area may participate in Nisga'a Lisims Government;
 - h. provide for the establishment of Nisga'a Public Institutions;
 - i. provide for the role of the Nisga'a elders, *Simgigat* and *Sigidimhaanak*, in providing
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- guidance and interpretation of the *Ayuuk* to Nisga'a Government;
- j. provide that in the event of an inconsistency or conflict between the Nisga'a Constitution and the provisions of any Nisga'a law, the Nisga'a law is, to the extent of the inconsistency or conflict, of no force or effect;
 - k. require that Nisga'a Government be democratically accountable to Nisga'a citizens, and, in particular:
 - i. that elections for Nisga'a Lisims Government and each Nisga'a Village Government be held at least every five years, and
 - ii. that, subject to residency, age, and other requirements set out in the Nisga'a Constitution or Nisga'a law, all Nisga'a citizens are eligible to vote in Nisga'a elections and to hold office in Nisga'a Government;
 - l. require a system of financial administration comparable to standards generally accepted for governments in Canada, through which Nisga'a Lisims Government will be financially accountable to Nisga'a citizens, and Nisga'a Village Governments will be financially accountable to Nisga'a citizens of those Nisga'a Villages;
 - m. require conflict of interest rules that are comparable to standards generally accepted for governments in Canada;
 - n. provide conditions under which the Nisga'a Nation or a Nisga'a Village may:
 - i. dispose of the whole of its estate or interest in any parcel of Nisga'a Lands or Nisga'a Fee Simple Lands, and
 - ii. from the whole of its estate or interest, create or dispose of any lesser estate or interest in any parcel of Nisga'a Lands or Nisga'a Fee Simple Lands;
 - o. recognize and protect rights and freedoms of Nisga'a citizens;
 - p. provide that every Nisga'a participant who is a Canadian citizen or permanent resident of Canada is entitled to be a Nisga'a citizen;
 - q. provide for Nisga'a Government during the period from the effective date until the date on which the office holders elected in the first Nisga'a elections take office;
 - r. provide for amendment of the Nisga'a Constitution; and
 - s. include other provisions, as determined by the Nisga'a Nation.
10. The Nisga'a Constitution, as approved in accordance with the Ratification Chapter, comes
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into force on the effective date.

11. The Nisga'a Constitution will initially include an amending procedure requiring that an amendment be approved by at least 70% of Nisga'a citizens voting in a referendum.

NISGA'A GOVERNMENT STRUCTURE

12. Each Nisga'a Village Government consists of elected members as set out in the Nisga'a Constitution.
13. On the effective date, there are three Nisga'a Urban Locals, as set out in the Nisga'a Constitution, known as:
 - a. Greater Vancouver Urban Local;
 - b. Terrace Urban Local; and
 - c. Prince Rupert/Port Edward Urban Local.
14. Nisga'a Lisims Government consists of the following members, as set out in the Nisga'a Constitution:
 - a. at least three officers elected by the Nisga'a Nation in a general election;
 - b. the elected members of the Nisga'a Village Governments; and
 - c. at least one representative elected by the Nisga'a citizens of each Nisga'a Urban Local.

ELECTIONS

15. Elections for Nisga'a Government will be held in accordance with the Nisga'a Constitution and Nisga'a laws.

APPEAL AND REVIEW OF ADMINISTRATIVE DECISIONS

16. Nisga'a Government will provide appropriate procedures for the appeal or review of administrative decisions of Nisga'a Public Institutions.
 17. The Supreme Court of British Columbia has jurisdiction in respect of applications for judicial review of administrative decisions of Nisga'a Institutions exercising a statutory power of decision under Nisga'a law, but no application for judicial review of those decisions may
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be brought until all procedures for appeal or review provided by Nisga'a Government and applicable to that decision have been exhausted.

REGISTER OF LAWS

18. Nisga'a Lisims Government will:
- a. maintain a public registry of Nisga'a laws in the English language and, at the discretion of Nisga'a Lisims Government, in the Nisga'a language;
 - b. provide Canada and British Columbia with a copy of a Nisga'a law as soon as practicable after that law is enacted; and
 - c. establish procedures for the coming into force and publication of Nisga'a laws.

RELATIONS WITH INDIVIDUALS WHO ARE NOT NISGA'A CITIZENS

19. Nisga'a Government will consult with individuals who are ordinarily resident within Nisga'a Lands and who are not Nisga'a citizens about Nisga'a Government decisions that directly and significantly affect them.
20. Nisga'a Government will provide that individuals who are ordinarily resident within Nisga'a Lands and who are not Nisga'a citizens may participate in a Nisga'a Public Institution, if the activities of that Nisga'a Public Institution directly and significantly affect them.
21. The means of participation under paragraph 20 will be:
- a. a reasonable opportunity to make representations to the Nisga'a Public Institution in respect of activities that significantly and directly affect them;
 - b. if the members of a Nisga'a Public Institution are elected:
 - i. the ability to vote for or become members of the Nisga'a Public Institution, or
 - ii. a guaranteed number of members, with the right to vote, on the Nisga'a Public Institution; or
 - c. other comparable measures.
22. Nisga'a Government will provide that individuals who are ordinarily resident within Nisga'a Lands and who are not Nisga'a citizens may avail themselves of the appeal or review procedures referred to in paragraph 16.

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23. Nisga'a Government may appoint individuals who are not Nisga'a citizens as members of Nisga'a Public Institutions.

TRANSITIONAL PROVISIONS

24. From the effective date until the office holders elected in the first Nisga'a elections take office:
- a. the members and officers of the General Executive Council of the Nisga'a Tribal Council on the day immediately before the effective date are the members of Nisga'a Lisims Government, in accordance with the transition provisions of the Nisga'a Constitution; and
 - b. the Chief Councillor and councillors of each of the Nisga'a band councils under the *Indian Act* on the day immediately before the effective date are the elected members of the respective successor Nisga'a Village Governments.
25. The first elections for the officers of Nisga'a Lisims Government, the members of each of the Nisga'a Village Governments, and the Nisga'a Urban Local representatives to Nisga'a Lisims Government, will be held no later than six months after the effective date.
26. The Parties acknowledge that it is desirable that the exercise of Nisga'a Government authority be introduced in an effective and orderly manner.
27. Before Nisga'a Lisims Government first exercises law making authority in respect of social services, health services, child and family services, adoption, or pre-school to Grade 12 education, Nisga'a Lisims Government will give notice to Canada and British Columbia of the intended exercise of authority.
28. After Nisga'a Lisims Government has given notice under paragraph 27, at the request of Canada or British Columbia, Nisga'a Lisims Government will consult or otherwise discuss with Canada or British Columbia, as the case may be, in respect of:
- a. any transfer of cases and related documentation from federal or provincial institutions to Nisga'a Institutions, including any confidentiality and privacy considerations;
 - b. any transfer of assets from federal or provincial institutions to Nisga'a Institutions;
 - c. immunity of Nisga'a Government employees providing services or exercising authority under Nisga'a laws;
 - d. any appropriate amendments to federal or provincial laws; and
 - e. other matters agreed to by the Parties.
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29. The Parties may negotiate agreements regarding any of the matters set out in paragraph 28, but an agreement under this paragraph is not a condition precedent to the exercise of law making authority by Nisga'a Government.

Amendment of Provincial Legislation

30. British Columbia will consult with Nisga'a Lisims Government before amending a provincial law if:
- a. this Agreement provides for Nisga'a Government law making authority in respect of the subject matter of the provincial law being amended;
 - b. Nisga'a Government has made a law in respect of that subject matter;
 - c. the validity of the Nisga'a law depends upon a comparison with the provincial law being amended; and
 - d. the proposed amendment would result in the Nisga'a law ceasing to be valid.
31. Consultations under paragraph 30 may include:
- a. the nature and purpose of the proposed amendment to the provincial law;
 - b. the anticipated date the proposed amendment will take effect;
 - c. any necessary changes to Nisga'a law as a result of the amendment; and
 - d. other matters agreed to by the Parties.

LEGISLATIVE JURISDICTION AND AUTHORITY

General

32. In the event of an inconsistency or conflict between this Agreement and the provisions of any Nisga'a law, this Agreement prevails to the extent of the inconsistency or conflict.
33. Nisga'a Lisims Government and Nisga'a Village Governments, respectively, have the principal authority, as set out in, and in accordance with, this Agreement, in respect of Nisga'a Government, Nisga'a citizenship, Nisga'a culture, Nisga'a language, Nisga'a Lands, and Nisga'a assets.

Nisga'a Government

34. Nisga'a Lisims Government may make laws in respect of the administration, management and operation of Nisga'a Government, including:
- a. the establishment of Nisga'a Public Institutions, including their respective powers, duties, composition, and membership;
 - b. powers, duties, responsibilities, remuneration, and indemnification of members, officials, employees, and appointees of Nisga'a Institutions;
 - c. the establishment of Nisga'a Corporations, but the registration or incorporation of the Nisga'a Corporations must be under federal or provincial laws;
 - d. the delegation of Nisga'a Government authority, but the authority to make laws may be delegated only to a Nisga'a Institution;
 - e. financial administration of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Institutions; and
 - f. elections, by-elections, and referenda.
35. Each Nisga'a Village Government may make laws in respect of the administration, management, and operation of that Nisga'a Village Government, including:
- a. the establishment of Nisga'a Public Institutions of that Nisga'a Village Government, including their respective powers, duties, composition, and membership;
 - b. powers, duties, responsibilities, remuneration, and indemnification of members, officials, employees, and appointees of Nisga'a Public Institutions referred to in subparagraph (a); and
 - c. the delegation of the Nisga'a Village Government's authority, but the authority to make laws may be delegated only to a Nisga'a Institution.
36. In the event of an inconsistency or conflict between a Nisga'a law under paragraphs 34 or 35 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
37. Nisga'a Lisims Government may make laws in respect of the creation, continuation, amalgamation, dissolution, naming, or renaming of:
- a. Nisga'a Villages on Nisga'a Lands; and
 - b. Nisga'a Urban Locals.
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38. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 37 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.

Nisga'a Citizenship

39. Nisga'a Lisims Government may make laws in respect of Nisga'a citizenship. The conferring of Nisga'a citizenship does not:
- a. confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or
 - b. except as set out in this Agreement or in any federal or provincial law, impose any obligation on Canada or British Columbia to provide rights or benefits.
40. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 39 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.

Culture and Language

41. Nisga'a Lisims Government may make laws to preserve, promote, and develop Nisga'a culture and Nisga'a language, including laws to authorize or accredit the use, reproduction, and representation of Nisga'a cultural symbols and practices, and the teaching of Nisga'a language.
42. Except as provided for by federal or provincial law, Nisga'a Lisims Government jurisdiction under paragraph 41 to make laws in respect of Nisga'a culture and Nisga'a language does not include jurisdiction to make laws in respect of intellectual property, the official languages of Canada or the prohibition of activities outside of Nisga'a Lands.
43. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 41 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.

Nisga'a Property in Nisga'a Lands

44. Nisga'a Lisims Government may make laws in respect of:
- a. the use and management of Nisga'a Lands owned by the Nisga'a Nation, a Nisga'a Village, or a Nisga'a Corporation;
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- b. the possession of Nisga'a Lands owned by the Nisga'a Nation, a Nisga'a Village, or a Nisga'a Corporation, including the granting of rights of possession in Nisga'a Lands and any conditions or restrictions on those rights;
 - c. the disposition of an estate or interest of the Nisga'a Nation, a Nisga'a Village or a Nisga'a Corporation, in any parcel of Nisga'a Lands, including:
 - i. the disposition of the whole of an estate or interest,
 - ii. from the whole of its estate or interest, the creation or disposition of any lesser estate or interest, and
 - iii. the creation of rights of way and covenants similar to those in sections 218 and 219 of the *Land Title Act*;
 - d. the conditions on, and restrictions subject to which, the Nisga'a Nation, a Nisga'a Village or a Nisga'a Corporation may create or dispose of its estates or interests in any parcel of Nisga'a Lands;
 - e. the conditions or restrictions, to be established at the time of the creation or disposition of an estate or interest of the Nisga'a Nation, a Nisga'a Village or a Nisga'a Corporation in any parcel of Nisga'a Lands, in respect of that and any subsequent disposition;
 - f. the reservation or exception of interests, rights, privileges, and titles from any creation or disposition of an estate or interest of the Nisga'a Nation, a Nisga'a Village, or Nisga'a Corporation in Nisga'a Lands; and
 - g. other similar matters relating to the property interests of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Corporations in Nisga'a Lands.
45. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 44 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
46. Nisga'a laws under paragraph 44(c) in respect of estates or interests that are recognized and permitted by federal or provincial laws of general application will be consistent with federal and provincial laws of general application in respect of those estates or interests, other than the provincial Torrens system and any federal land title or land registry laws.

Regulation, Administration and Expropriation of Nisga'a Lands

47. Nisga'a Lisims Government may make laws in respect of:

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- a. the use, management, planning, zoning, and development of Nisga'a Lands;
 - b. regulation, licensing, and prohibition of the operation on Nisga'a Lands of businesses, professions, and trades, including the imposition of licence fees or other fees, other than laws in respect of the accreditation, certification, or professional conduct of professions and trades; and
 - c. other similar matters related to the regulation and administration of Nisga'a Lands.
48. Each Nisga'a Village Government may make laws in respect of the matters referred to in paragraph 47, to apply on their respective Nisga'a Village Lands.
49. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 47 or 48 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
50. Nisga'a Lisims Government may make laws in respect of:
- a. subject to paragraphs 2, 3, and 4 of the Land Title Chapter, the establishment and operation of a land title or land registry system, in respect of estates, interests, charges, encumbrances, conditions, provisos, restrictions, exceptions, and reservations on or in Nisga'a Lands, including the establishment of a requirement similar to subsection 20(1) of the *Land Title Act*;
 - b. designation of any parcel of Nisga'a Lands as Nisga'a Private Lands or Nisga'a Village Lands;
 - c. expropriation by Nisga'a Government for public purposes and public works, of estates, or interests in Nisga'a Lands other than:
 - i. interests referred to in paragraphs 30 and 41 of the Lands Chapter to which Nisga'a Lands are subject on the effective date,
 - ii. subject to paragraphs 35 and 36 of the Lands Chapter, interests referred to in paragraphs 33 and 34 of the Lands Chapter to which Nisga'a Lands are subject on the effective date,
 - iii. estates or interests expropriated by Canada in accordance with the Lands Chapter, and
 - iv. rights of way acquired by British Columbia or a public utility in accordance with the Roads and Rights of Way Chapter; and
 - d. other similar matters related to the regulation and administration of Nisga'a Lands.
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51. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 50 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
 52. Notwithstanding paragraphs 45, 49 and 51, in the event of a conflict between a Nisga'a law and a federal law of general application in respect of prospecting for, production of, refining, and handling of uranium or other products capable of releasing atomic energy, the federal law prevails to the extent of the conflict. Nothing in this paragraph is intended to require the production of uranium or other products capable of releasing atomic energy.

Nisga'a Assets

53. Nisga'a Lisims Government may make laws in respect of:
 - a. the use, possession, and management of the assets, other than real property, on Nisga'a Lands of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Corporations;
 - b. the imposition of conditions on, and restrictions subject to which, Nisga'a Government, and Nisga'a Corporations may authorize the disposition of the assets, other than real property, within Nisga'a Lands of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Corporations; and
 - c. other similar matters relating to the property interests of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Corporations in their assets, other than real property, on Nisga'a Lands.
 54. A Nisga'a Village Government may make laws in respect of the matters referred to in paragraph 53, to apply to its assets, other than real property, on its Nisga'a Village Lands.
 55. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 53 or 54 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
 56. Nisga'a Lisims Government may make laws in respect of the use, possession, and management of assets, located off of Nisga'a Lands, of the Nisga'a Nation, a Nisga'a Village, or a Nisga'a Corporation.
 57. A Nisga'a Village Government may make laws in respect of the use, possession, and management of assets of that Nisga'a Village, located off of Nisga'a Lands.
 58. In the event of a conflict between a Nisga'a law under paragraphs 56 or 57 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
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Public Order, Peace, and Safety

59. Nisga'a Lisims Government may make laws in respect of the regulation, control, or prohibition of any actions, activities, or undertakings on Nisga'a Lands, or on submerged lands within Nisga'a Lands, other than actions, activities, or undertakings on submerged lands that are authorized by the Crown, that constitute, or may constitute, a nuisance, a trespass, a danger to public health, or a threat to public order, peace, or safety.
60. A Nisga'a Village Government may make laws in respect of the regulation, control, or prohibition of any actions, activities, or undertakings on the Nisga'a Village Lands of that Nisga'a Village, or on submerged lands within those Nisga'a Village Lands, other than actions, activities, or undertakings on those submerged lands that are authorized by the Crown, that constitute, or may constitute, a nuisance, a trespass, a danger to public health, or a threat to public order, peace, or safety.
61. For greater certainty, Nisga'a Government authority does not include authority in respect of criminal law.
62. In the event of a conflict between a Nisga'a law under paragraph 59 or 60 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.

Duty to Accommodate

63. Nisga'a Lisims Government may make laws prescribing the aspects of Nisga'a culture, including aspects such as cultural leave from employment, to be accommodated in accordance with federal and provincial laws of general application by employers and employees' organizations that have the duty to accommodate employees under those federal and provincial laws.

Industrial Relations

64. If, in any industrial relations matter or industrial relations proceeding involving individuals employed on Nisga'a Lands, other than a matter or proceeding arising from a collective agreement, an issue arises in respect of this Agreement or Nisga'a culture, the matter or proceeding will not be concluded until notice has been served on Nisga'a Lisims Government in accordance with the rules for giving notice that govern that matter or proceeding.
 65. In any industrial relations matter or industrial relations proceeding to which paragraph 64 applies, Nisga'a Lisims Government may make representations concerning this Agreement or the effect of the matter or proceeding on Nisga'a culture.
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66. Any representations of Nisga'a Lisims Government in an industrial relations matter or industrial relations proceeding before a board, commission, or other tribunal under paragraph 65 will be in accordance with the rules in respect of the industrial relations matter or proceeding and will not affect the ability of the board, commission, or other tribunal to control its process.
67. For greater certainty, paragraphs 64 to 66 do not affect federal or provincial jurisdiction in respect of industrial relations, employment standards, and occupational health and safety.

Human Resource Development

68. At the request of any Party, the Parties will negotiate and attempt to reach agreements for Nisga'a Lisims Government delivery and administration of federal or provincial services or programs that are intended to:
- a. improve the employability or skill level of the labour force and persons destined for the labour force; or
 - b. create new employment or work experience opportunities.

Buildings, Structures, and Public Works

69. Subject to the Roads and Rights of Way Chapter, Nisga'a Lisims Government may make laws in respect of the design, construction, maintenance, repair, and demolition of buildings, structures, and public works on Nisga'a Lands.
70. Subject to the Roads and Rights of Way Chapter, a Nisga'a Village Government may make laws in respect of the matters referred to in paragraph 69, to apply on the Nisga'a Village Lands of that Nisga'a Village.
71. In the event of a conflict between a Nisga'a law under paragraph 69 or 70 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.

Traffic and Transportation

72. A Nisga'a Village Government may make laws in respect of the regulation of traffic and transportation on Nisga'a Roads within its village, to the same extent as municipal governments have authority in respect of the regulation of traffic and transportation in municipalities in British Columbia.
73. Nisga'a Lisims Government may make laws in respect of the regulation of traffic and
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transportation on Nisga'a Roads, other than Nisga'a Roads within Nisga'a villages, to the same extent as municipal governments have authority in respect of the regulation of traffic and transportation in municipalities in British Columbia.

74. In the event of a conflict between a Nisga'a law under paragraphs 72 or 73 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.

Solemnization of Marriages

75. Nisga'a Lisims Government may make laws in respect of solemnization of marriages within British Columbia, including prescribing conditions under which individuals appointed by Nisga'a Lisims Government may solemnize marriages.
76. In the event of a conflict between a Nisga'a law under paragraph 75 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
77. Individuals appointed by Nisga'a Lisims Government to solemnize marriages:
- a. will be registered by British Columbia as persons authorized to solemnize marriages; and
 - b. have the authority to solemnize marriages under British Columbia law and Nisga'a law, and have all the associated rights, duties and responsibilities of a marriage commissioner under the provincial *Marriage Act*.

Social Services

78. Nisga'a Lisims Government may make laws in respect of the provision of social services by Nisga'a Government to Nisga'a citizens, other than the licensing and regulation of facility-based services off Nisga'a Lands.
79. In the event of a conflict between a Nisga'a law under paragraph 78 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
80. If Nisga'a Lisims Government makes laws under paragraph 78, at the request of any Party, the Parties will negotiate and attempt to reach agreements in respect of exchange of information, avoidance of double payments, and related matters.
81. At the request of any Party, the Parties will negotiate and attempt to reach agreements for administration and delivery by Nisga'a Government of federal and provincial social services
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and programs for all individuals residing within Nisga'a Lands. Those agreements will include a requirement that Nisga'a citizens and individuals who are not Nisga'a citizens be treated equally in the provision of those social services and programs.

Health Services

82. Nisga'a Lisims Government may make laws in respect of health services on Nisga'a Lands.
83. In the event of a conflict between a Nisga'a law under paragraph 82 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
84. Notwithstanding paragraph 83, in the event of an inconsistency or conflict between a Nisga'a law determining the organization and structure for the delivery of health services on Nisga'a Lands, and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
85. At the request of any Party, the Parties will negotiate and attempt to reach agreements for Nisga'a Lisims Government delivery and administration of federal and provincial health services and programs for all individuals residing within Nisga'a Lands. Those agreements will include a requirement that Nisga'a citizens and individuals who are not Nisga'a citizens be treated equally in the provision of those health services and programs.

Aboriginal Healers

86. Nisga'a Lisims Government may make laws in respect of the authorization or licensing of individuals who practice as aboriginal healers on Nisga'a Lands, but, this authority to make laws does not include the authority to regulate products or substances that are regulated under federal or provincial laws of general application.
87. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 86 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
88. Any Nisga'a law under paragraph 86 will include measures in respect of competence, ethics and quality of practice that are reasonably required to protect the public.

Child and Family Services

89. Nisga'a Lisims Government may make laws in respect of child and family services on Nisga'a Lands, provided that those laws include standards comparable to provincial standards intended to ensure the safety and well-being of children and families.
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90. Notwithstanding any laws made under paragraph 89, if there is an emergency in which a child on Nisga'a Lands is at risk, British Columbia may act to protect the child and, in those circumstances, unless British Columbia and Nisga'a Lisims Government otherwise agree, British Columbia will refer the matter back to Nisga'a Lisims Government after the emergency.
91. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 89 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
92. At the request of Nisga'a Lisims Government, Nisga'a Lisims Government and British Columbia will negotiate and attempt to reach agreements in respect of child and family services for Nisga'a children who do not reside on Nisga'a Lands.
93. Laws of general application in respect of reporting of child abuse apply on Nisga'a Lands.

Child Custody

94. Nisga'a Government has standing in any judicial proceedings in which custody of a Nisga'a child is in dispute, and the court will consider any evidence and representations in respect of Nisga'a laws and customs in addition to any other matters it is required by law to consider.
95. The participation of Nisga'a Government in proceedings referred to in paragraph 94 will be in accordance with the applicable rules of court and will not affect the court's ability to control its process.

Adoption

96. Nisga'a Lisims Government may make laws in respect of the adoption of Nisga'a children, provided that those laws:
- a. expressly provide that the best interests of the child be the paramount consideration in determining whether an adoption will take place; and
 - b. require Nisga'a Lisims Government to provide British Columbia and Canada with records of all adoptions occurring under Nisga'a laws.
97. Nisga'a law applies to the adoption of a Nisga'a child residing off Nisga'a Lands if:
- a. the parent, parents, or guardian of the child consent to the application of Nisga'a law to the adoption; or
 - b. a court dispenses with the requirement for the consent referred to in

subparagraph (a), in accordance with the criteria that would be used by that court in an application to dispense with the requirement for a parent or guardian's consent to an adoption.

98. If the Director of Child Protection, or a successor to that position, becomes the guardian of a Nisga'a child, the Director will:
- a. provide notice to Nisga'a Lisims Government that the Director is the guardian of the Nisga'a child;
 - b. provide notice to Nisga'a Lisims Government of any plan for the Nisga'a child's care that could result in an application to adopt the Nisga'a child; and
 - c. consent to the application of Nisga'a law to the adoption of that child, unless it is determined under provincial law that there are good reasons to believe it is in the best interests of the child to withhold consent.
99. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 96 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.

Pre-school to Grade 12 Education

100. Nisga'a Lisims Government may make laws in respect of pre-school to grade 12 education on Nisga'a Lands of Nisga'a citizens, including the teaching of Nisga'a language and culture, provided that those laws include provisions for:
- a. curriculum, examination, and other standards that permit transfers of students between school systems at a similar level of achievement and permit admission of students to the provincial post-secondary education systems;
 - b. certification of teachers, other than for the teaching of Nisga'a language and culture, by:
 - i. a Nisga'a Institution, in accordance with standards comparable to standards applicable to individuals who teach in public or independent schools in British Columbia, or
 - ii. a provincial body having the responsibility to certify individuals who teach in public or independent schools in British Columbia; and
 - c. certification of teachers, for the teaching of Nisga'a language and culture, by a Nisga'a Institution, in accordance with standards established under Nisga'a law.

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101. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 100 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
 102. If Nisga'a Lisims Government makes laws under paragraph 100, at the request of Nisga'a Lisims Government or British Columbia, those Parties will negotiate and attempt to reach agreements concerning the provision of Kindergarten to Grade 12 education to:
 - a. persons other than Nisga'a citizens residing within Nisga'a Lands; and
 - b. Nisga'a citizens residing off Nisga'a Lands.

Post-Secondary Education

103. Nisga'a Lisims Government may make laws in respect of post-secondary education within Nisga'a Lands, including:
 - a. the establishment of post-secondary institutions that have the ability to grant degrees, diplomas or certificates;
 - b. the determination of the curriculum for post-secondary institutions established under Nisga'a law;
 - c. the accreditation and certification of individuals who teach or research Nisga'a language and culture; and
 - d. the provision for and coordination of all adult education programs.
 104. Nisga'a laws in respect of post-secondary education will include standards comparable to provincial standards in respect of:
 - a. institutional organizational structure and accountability;
 - b. admission standards and policies;
 - c. instructors' qualifications and certification;
 - d. curriculum standards sufficient to permit transfers of students between provincial post-secondary institutions; and
 - e. requirements for degrees, diplomas, or certificates.
 105. In the event of an inconsistency or conflict between a Nisga'a law under paragraph 103 and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or
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conflict.

106. Nisga'a Lisims Government may operate and provide post-secondary education services outside Nisga'a Lands in accordance with federal and provincial laws.
107. Nisga'a Lisims Government may prescribe the terms and conditions under which Nisga'a post-secondary institutions may enter into arrangements with other institutions or British Columbia to provide post-secondary education outside Nisga'a Lands.

Gambling and Gaming

108. British Columbia will not licence or approve gambling or gaming facilities on Nisga'a Lands other than in accordance with any terms and conditions established by Nisga'a Government that are not inconsistent with federal and provincial laws of general application.
109. Any change in federal or provincial legislation or policy that permits the involvement of aboriginal peoples in the regulation of gambling and gaming will, with the consent of Nisga'a Lisims Government, apply to Nisga'a Government.

Intoxicants

110. Nisga'a Government may make laws in respect of the prohibition of, and the terms and conditions for, the sale, exchange, possession, or consumption of intoxicants on Nisga'a Lands.
111. In the event of a conflict between a Nisga'a law under paragraph 110 and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
112. The Nisga'a Nation, its agents and assignees have:
 - a. the exclusive right to sell liquor on Nisga'a Lands in accordance with laws of general application; and
 - b. the right to purchase liquor from the British Columbia Liquor Distribution Branch, or its successors, in accordance with federal and provincial laws of general application.
113. British Columbia will approve an application made by or with the consent of Nisga'a Lisims Government for a license, permit, or other authority to sell liquor on Nisga'a Lands, if the application meets provincial regulatory requirements.
114. British Columbia will authorize persons designated by Nisga'a Government, in accordance

with provincial laws of general application, to approve or deny applications for special occasion or temporary permits to sell liquor.

Devolution of Cultural Property

115. In paragraphs 116 to 119, "cultural property" means:
- a. ceremonial regalia and similar personal property associated with a Nisga'a chief or clan; and
 - b. other personal property that has cultural significance to the Nisga'a Nation.
116. Nisga'a Lisims Government may make laws in respect of devolution of the cultural property of a Nisga'a citizen who dies intestate. In the event of an inconsistency or conflict between a Nisga'a law under this paragraph and a federal or provincial law, the Nisga'a law prevails to the extent of the inconsistency or conflict.
117. Nisga'a Lisims Government has standing in any judicial proceeding in which:
- a. the validity of the will of a Nisga'a citizen; or
 - b. the devolution of the cultural property of a Nisga'a citizen
- is at issue, including any proceedings under wills variation legislation.
118. Nisga'a Lisims Government may commence an action under wills variation legislation in British Columbia in respect of the will of a Nisga'a citizen that provides for a devolution of cultural property.
119. In a proceeding to which paragraph 116, 117 or 118 applies, the court will consider, among other matters, any evidence or representations in respect of Nisga'a laws and customs dealing with the devolution of cultural property.
120. The participation of Nisga'a Lisims Government in proceedings referred to in paragraphs 116 to 118 will be in accordance with the applicable rules of court and will not affect the court's ability to control its process.

Other Areas of Legislative Jurisdiction

121. In addition to the laws that Nisga'a Government may make under this Chapter, Nisga'a Government may make laws in respect of matters within Nisga'a Government jurisdiction as set out in, and in accordance with, this Agreement.

EMERGENCY PREPAREDNESS

122. Nisga'a Lisims Government, with respect to Nisga'a Lands, has the rights, powers, duties, and obligations of a local authority under federal and provincial legislation in respect of emergency preparedness and emergency measures.
123. Nisga'a Lisims Government may make laws in respect of its rights, powers, duties, and obligations under paragraph 122. In the event of a conflict between a Nisga'a law under this paragraph and a federal or provincial law of general application, the federal or provincial law prevails to the extent of the conflict.
124. For greater certainty, Nisga'a Lisims Government may declare a state of local emergency, and exercise the powers of a local authority in respect of local emergencies in accordance with federal and provincial laws in respect of emergency measures, but any declaration and any exercise of those powers is subject to the authority of Canada and British Columbia set out in those federal and provincial laws.
125. Nothing in this Agreement affects the authority of:
- a. Canada to declare a national emergency; or
 - b. British Columbia to declare a provincial emergency
- in accordance with federal and provincial laws of general application.

OTHER MATTERS

126. For greater certainty, the authority of Nisga'a Government to make laws in respect of a subject matter as set out in this Agreement includes the authority to make laws and to do other things as may be necessarily incidental to exercising its authority.
127. Nisga'a Government may make laws and do other things that may be necessary to enable each of the Nisga'a Nation, a Nisga'a Village, and Nisga'a Government to exercise its rights, or to carry out its responsibilities, under this Agreement.
128. Nisga'a Government may provide for the imposition of penalties, including fines, restitution, and imprisonment for the violation of Nisga'a laws, within the limits set out for summary conviction offences in the *Criminal Code of Canada* or the *British Columbia Offence Act*.
129. Nisga'a Government may adopt federal or provincial laws in respect of matters within Nisga'a Government jurisdiction as set out in this Agreement.

NISGA'A GOVERNMENT LIABILITY**Elected Members of Nisga'a Government**

130. No action for damages lies, or may be instituted against, an elected member, or former elected member, of Nisga'a Lisims Government or of a Nisga'a Village Government:
- a. for anything said or done, or omitted to be said or done, by or on behalf of the Nisga'a Nation, Nisga'a Lisims Government, a Nisga'a Village, or a Nisga'a Village Government, while that person is, or was, an elected member;
 - b. for any alleged neglect or default in the performance, or intended performance, of a duty, or the exercise of a power, of the Nisga'a Nation, Nisga'a Lisims Government, a Nisga'a Village, or a Nisga'a Village Government, while that person is, or was, an elected member;
 - c. 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 power; or
 - d. for any alleged neglect or default in the performance, or intended performance, of that person's duty or exercise of that person's power.
131. Subparagraphs 130(c) and (d) do not provide a defence if:
- a. the person has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - b. the cause of action is libel or slander.
132. Subparagraphs 130(c) and (d) do not absolve the Nisga'a Nation or a Nisga'a Village from vicarious liability arising out of a tort committed by an elected member or former elected member of Nisga'a Lisims Government, or the Nisga'a Village Government for which the Nisga'a Nation or the Nisga'a Village would have been liable had those subparagraphs not been in effect.

Nisga'a Nation and Nisga'a Villages

133. The Nisga'a Nation, and each Nisga'a Village, has the protections, immunities, limitations in respect of liability, remedies over, and rights provided to a municipality under Part 7 of the *Municipal Act*.
134. Subject to paragraph 1 of the Access Chapter, the Nisga'a Nation and each Nisga'a Village has the protections, immunities, limitations in respect of liability, remedies over, and rights

provided to a municipality under the *Occupiers Liability Act*, and, for greater certainty, has those protections, immunities, limitations in respect of liability, remedies over, and rights, in respect of a road on Nisga'a Lands used by the public, or by industrial or resource users, if the Nisga'a Nation or the Nisga'a Village is the occupier of that road.

Nisga'a Governments

135. Nisga'a Lisims Government, and each Nisga'a Village Government, has the protections, immunities, limitations in respect of liability, remedies over, and rights provided to the council of a municipality under Part 7 of the *Municipal Act*.

Writ of Execution Against Nisga'a Nation or Nisga'a Village

136. Notwithstanding paragraphs 133 and 135, a writ of execution against the Nisga'a Nation or a Nisga'a Village must not be issued without leave of the Supreme Court of British Columbia, which may:
- a. permit the issue of the writ at a time and on conditions the court considers proper; or
 - b. refuse to permit the writ to be issued, or suspend action under the writ, on terms and conditions the court thinks proper or expedient.
137. In determining how it will proceed under paragraph 136, the court must have regard to:
- a. any reputed insolvency of the Nisga'a Nation or Nisga'a Village;
 - b. any security afforded to the person entitled to the judgment by the registration of the judgment;
 - c. the delivery of programs or services by the Nisga'a Nation or the Nisga'a Village that are not provided by municipalities in British Columbia, and the funding of those programs or services; and
 - d. the immunities from seizure of assets of the Nisga'a Nation or the Nisga'a Village as set out in this Agreement.

Nisga'a Public Officers

138. A Nisga'a public officer has the protections, immunities, limitations in respect of liability, and rights provided to a municipal public officer under Part 7 of the *Municipal Act*.
139. Notwithstanding paragraph 138, except as may be otherwise provided under federal or

provincial law, a Nisga'a public officer does not have protections, immunities, or limitations in respect of liability, in respect of the provision of:

- a. a service, if no persons delivering reasonably similar programs or services under federal or provincial laws have protections, immunities, limitations in respect of liability, or rights under federal or provincial laws; or
 - b. a program or service of the Nisga'a Court, Nisga'a Police Board, or Nisga'a Police Service, except as provided for in the Administration of Justice Chapter.
140. The Inspector of Municipalities for British Columbia will not unreasonably withhold consent to the approval of the documents of incorporation of a Nisga'a Corporation if the principal function of the Nisga'a Corporation is to provide public programs or services reasonably similar to those provided by federal, provincial, or municipal governments, rather than to engage in commercial activities.
141. British Columbia will consult with Nisga'a Lisims Government in respect of any change to provincial law that would affect the protections, immunities, limitations in respect of liability, remedies over, and rights referred to in paragraphs 133, 134, 135, or 138 to the extent and in the manner that it consults with municipalities.

OTHER PROVINCES AND TERRITORIES

142. Notwithstanding paragraph 4 of the General Provisions Chapter, this Agreement is not intended to bind provinces, other than British Columbia, or territories, on matters within their jurisdiction without their consent.