

NISGA'A HOME OWNER GRANT ACT

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

NISGA'A HOME OWNER GRANT ACT

Wilp Si'ayuukhl Nisga'a enacted this legislation on December 4, 2014

Signed H. Mitchell Stevens
H. Mitchell Stevens, President of the Nisga'a Nation

NISGA'A HOME OWNER GRANT ACT

TABLE OF CONTENTS

PART 1 – DEFINITIONS AND INTERPRETATION	3
1. Definitions and interpretation	3
PART 2 – ADMINISTRATION	7
2. Grant administrator duties and functions	7
PART 3 – GRANTS AND SUPPLEMENTS	8
3. Grant for eligible residences	8
4. Supplement for eligible residences	10
5. Extended absence from principal residence	10
6. Additional requirements – extended absences	12
7. Repayment – failure to resume occupancy of principal residence	13
8. Limitations	14
9. Subdivision apportionment	15
10. Application for grant or supplement	15
11. Extension of time to apply for grant	17
12. Approval of grant or supplement	18
13. Confirmation of eligibility for grants and supplements	18
14. Repayment of grants or supplements by persons not entitled	19
15. Waiver or cancellation of amount payable under notice of disentitlement	22
PART 4 – MISCELLANEOUS	24
16. Notice of grant amounts.....	24
17. Chief Financial Officer approvals.....	24
18. Offence and penalty	24
19. Power to make regulations.....	24
20. Commencement	26

NISGA'A HOME OWNER GRANT ACT

PART 1 – DEFINITIONS AND INTERPRETATION**Definitions and interpretation**

1. (1) In this Act:

“**building**” includes a manufactured home;

“**current taxation year**” means the taxation year in respect of which an application is made for a grant or supplement;

“**current year taxes**” means taxes, other than taxes collected to meet the Nisga’a Nation’s obligations under Article 5.0 of the tax co-ordination agreement, levied for the current taxation year against property that

(a) is classified under the *Assessment Act* (British Columbia) as Class 1 – residential or Class 9 – farm property, and

(b) comprises all or part of an eligible residence,

but does not include arrears, penalties, delinquent taxes or interest on them;

“**eligible residence**” means

(a) land shown as a separate taxable parcel on the tax roll for the current taxation year that has as an improvement a building that is

(i) assessed and taxed as an improvement in the current taxation year, and

(ii) occupied as residential accommodation, or

(b) a manufactured home shown on the tax roll for the current taxation year that is

(i) assessed under section 3 of the *Manufactured Home Tax Act* (British Columbia) and taxed as an improvement in the current taxation year, and

(ii) occupied as residential accommodation;

“**farm outbuildings**” means improvements, other than a residence, that are on land classified as a farm under the *Assessment Act* (British Columbia) and that are used in connection with the farm operation;

“grant”, except in section 8(9)(a), means a Schedule 1 grant or a Schedule 2 grant;

“grant administrator” means

- (a) the person appointed under section 2(1) to administer this Act, or
- (b) any other person to whom any of the duties or functions of the grant administrator are assigned under section 2(2);

“outstanding taxes” means taxes owing;

“owner” means, in relation to an eligible residence,

- (a) an individual who is an owner as defined in the *Nisga'a Real Property Tax Act*, or
- (b) an individual who is a lessee under a lease that
 - (i) is registered in the Nisga'a land title office and has a term of at least 99 years, and
 - (ii) provides that the lessee is to pay current year taxes;

“permanent resident” has the same meaning as in the *Immigration and Refugee Protection Act (Canada)*;

“person with disabilities”, except in section 3(2)(c), means a person who

- (a) comes within the meaning given by regulation to that expression, and
- (b) is eligible under the regulations for the purposes of section 3(2)(b) of this Act;

“prescribed or approved form” means the form prescribed, or approved by the Chief Financial Officer under section 17(1), for the purposes of the section in which a reference to the form appears;

“principal residence” means the usual place where an individual makes their home;

“qualifying low-income individual” means an owner, spouse or relative referred to in section 4(1) who qualifies under the regulations as a low-income individual in relation to a taxation year;

NISGA'A HOME OWNER GRANT ACT

“relative” means,

- (a) in section 3(2)(b), a child, grandchild, brother, sister, grandparent, parent or stepparent of the person with disabilities or a person who stands in the place of a parent to the person with disabilities, and
- (b) in any other provision, a person’s child, grandchild, parent, brother or sister;

“residential value” means the value of property, other than farm outbuildings, that is classified under the *Assessment Act* (British Columbia) as Class 1 – residential property;

“Schedule 1 grant” means a reduction of indebtedness for current year taxes in an amount prescribed for the purposes of this definition;

“Schedule 2 grant” means a reduction of indebtedness for current year taxes in an amount prescribed for the purposes of this definition;

“spouse” means

- (a) a person who is married to another person, or
- (b) a person who is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, for a period of at least two years before
 - (i) the death of either of them, or
 - (ii) the filing of an application for a grant or supplement by either of them,

but does not include a person referred to in paragraph (a) who

- (c) is separated and living apart from the other person to whom they are married, and
- (d) is
 - (i) party to a written agreement with the other person under which they have agreed to live apart, or
 - (ii) subject to an order of the court recognizing the separation;

“supplement”, except in sections 3(2)(c) and 8(9)(b), means a supplementary reduction of indebtedness for current year taxes in an amount prescribed for the purposes of this definition;

“tax roll” means the tax roll prepared by the tax administrator;

“threshold amount” means the amount prescribed for the purposes of this definition.

- (2) Unless the context otherwise requires, a word or expression that is
- (a) used but not defined in this Act, and
 - (b) defined in the *Nisga'a Real Property Tax Act*

has the same meaning in this Act as in the *Nisga'a Real Property Tax Act*.

NISGA'A HOME OWNER GRANT ACT

PART 2 – ADMINISTRATION**Grant administrator duties and functions**

2. (1) The Executive must appoint a person to administer this Act and the regulations.
- (2) The Chief Executive Officer, after consulting with the Chief Financial Officer, may assign any of the duties or functions of the grant administrator to any officer, employee, contractor or agent of the Nisga'a Nation.

PART 3 – GRANTS AND SUPPLEMENTS**Grant for eligible residences**

3. (1) An owner of an eligible residence is entitled to a Schedule 1 grant for a current taxation year if the owner
- (a) is a Canadian citizen or permanent resident,
 - (b) is ordinarily resident on Nisga'a Lands, and
 - (c) subject to section 5, occupies the eligible residence as their principal residence
- during the current taxation year.
- (2) An owner of an eligible residence is entitled to a Schedule 2 grant rather than a Schedule 1 grant for a current taxation year if the owner meets all of the requirements set out in subsection (1) and
- (a) is 65 years of age or older,
 - (b) is a person with disabilities, or is the spouse or a relative of a person with disabilities who resides with the owner,
 - (c) is designated as a "person with disabilities", and receiving disability assistance, hardship assistance or a supplement, under the *Employment and Assistance for Persons with Disabilities Act* (British Columbia), or
 - (d) is receiving, is the spouse of a deceased person who is receiving, or is the spouse of a deceased person who at the time of death was receiving
 - (i) an allowance under the *War Veterans Allowance Act* (Canada), or
 - (ii) an allowance under the *Merchant Navy Veteran and Civilian War-related Benefits Act* (Canada)
- during the current taxation year.
- (3) Despite subsections (1) and (2), if
- (a) the net taxable residential value for school purposes of an eligible residence as assessed under the *Assessment Act* (British Columbia), or
 - (b) in the case of an eligible residence consisting of the owner's principal residence and one or more other residences, the amount determined in

NISGA'A HOME OWNER GRANT ACT

respect of the eligible residence for the purposes of this subsection under subsection (4)

exceeds the threshold amount, the amount of the Schedule 1 grant or Schedule 2 grant to which the owner of the eligible residence would otherwise be entitled under subsection (1) or (2) must be reduced at the rate of \$5 for every \$1 000 of residential value in excess of the threshold amount.

- (4) If an eligible residence consists of the owner's principal residence and one or more other residences, the amount determined in respect of the eligible residence for the purposes of subsection (3) is the net taxable residential value for school purposes of the eligible residence as assessed under the *Assessment Act* (British Columbia) divided by the total number of residences.
- (5) In subsection (4), "other residence" means a detached house, cottage or other self-contained residential dwelling unit that has cooking, sleeping, bathroom and living room facilities, but does not include a suite or other accommodation in the owner's principal residence.
- (6) The spouse or a relative of a deceased owner of an eligible residence is entitled to receive a Schedule 1 grant or Schedule 2 grant, as the case may be, for a current taxation year if
 - (a) during the current taxation year
 - (i) the spouse or relative is a Canadian citizen or a permanent resident and ordinarily resides on Nisga'a Lands, and
 - (ii) the eligible residence is registered in the Nisga'a land title office in the name of the deceased owner, the executor or administrator of the deceased owner's estate, or the spouse or relative,
 - (b) subject to section 5, the spouse or relative occupied the eligible residence as their principal residence on the date of the deceased owner's death and continues to occupy the eligible residence as their principal residence during the current taxation year, and
 - (c) the deceased owner met all of the requirements set out in subsection (1) or (2), as the case may be, at the time of the deceased owner's death.
- (7) The amount of the Schedule 1 grant or Schedule 2 grant that a spouse or relative of a deceased owner is entitled to receive under subsection (6) is
 - (a) for the year in which the death occurs, the amount the deceased owner would have been entitled to receive had they lived, and

NISGA'A HOME OWNER GRANT ACT

- (b) for any subsequent year during which the spouse or relative continues to occupy the eligible residence, the amount the spouse or relative would be or is entitled to receive as the owner of the eligible residence.
- (8) The entitlement of an owner, or of the spouse or relative of a deceased owner, to a Schedule 1 grant or Schedule 2 grant as referred to in subsections (1) to (7) is subject to
- (a) the owner, spouse or relative satisfying all conditions of eligibility under this Act and the regulations, and
 - (b) the grant administrator approving an application by the owner, spouse or relative under this Act and the regulations.

Supplement for eligible residences

4. (1) If an owner of an eligible residence, or the spouse or a relative of a deceased owner of an eligible residence,
- (a) is entitled under section 3 to a Schedule 2 grant in respect of the eligible residence for a current taxation year but section 3(3) operates to reduce or eliminate the amount of that grant, and
 - (b) qualifies under the regulations as a low-income individual in relation to the current taxation year,
- the owner, spouse or relative may be entitled to a supplement for the current taxation year not exceeding the amount by which the grant has been reduced or the amount of the grant that has been eliminated, as the case may be, as a result of the operation of section 3(3).
- (2) The entitlement of an owner, or of the spouse or relative of a deceased owner, to a supplement as referred to in subsection (1) is subject to
- (a) the owner, spouse or relative satisfying all conditions of eligibility under this Act and the regulations, and
 - (b) the grant administrator approving an application by the owner, spouse or relative under this Act and the regulations.

Extended absence from principal residence

5. (1) In this section and sections 6 and 7:

NISGA'A HOME OWNER GRANT ACT

“eligible person” means

- (a) an owner of an eligible residence, or
- (b) a spouse or relative, as described in section 3(6), of a deceased owner of an eligible residence;

“residential facility” means a premises or part of a premises

- (a) in which housing and daily meals are provided by or through the operator to persons who are not
 - (i) the spouse of the operator, or
 - (ii) related by blood to the operator, and
- (b) in which persons reside primarily due to family circumstances, age, disability, illness, frailty or other prescribed circumstances,

but does not include a premises or a part of a premises excluded by regulation under section 19(2)(n).

- (2) Subject to subsections (3) and (4) and section 6, an eligible person must be considered to continue to occupy their principal residence for the purposes of section 3(1)(c) or (6)(b) if
 - (a) the principal residence has been destroyed or substantially damaged by fire or a flood or other natural disaster, and the eligible person ceases to occupy the principal residence while the residence is under reconstruction or repair,
 - (b) the eligible person ceases to occupy the principal residence because the eligible person is a resident in a residential facility, or
 - (c) the eligible person ceases to occupy the principal residence for an extended period for any other reason, unless the eligible person is absent for a period of incarceration.
- (3) If an eligible person ceases to occupy their principal residence as described in subsection (2)(a) or (c), subsection (2) applies only in the following taxation years:
 - (a) in the case of an eligible person who has not applied for or received a grant or supplement for the taxation year in which the eligible person ceases to occupy the residence,

-
- (i) that taxation year, and
 - (ii) the subsequent taxation year, if the period of the eligible person's absence from the residence continues on an uninterrupted basis in that subsequent taxation year;
- (b) in the case of an eligible person who has applied for or received a grant or supplement for the taxation year in which the eligible person ceases to occupy the residence, each of the subsequent two taxation years, if the eligible person's absence from the residence continues on an uninterrupted basis in that subsequent taxation year.
- (4) If an eligible person ceases to occupy their principal residence as described in subsection (2)(b), subsection (2) applies only in the following taxation years:
- (a) in the case of an eligible person who has not applied for or received a grant or supplement for the taxation year in which the eligible person ceases to occupy the residence, that taxation year;
 - (b) in the case of an eligible person who has applied for or received a grant or supplement for the taxation year in which the eligible person ceases to occupy the residence, the subsequent taxation year,

and only if the eligible person continuously occupies a residential facility during the period between the date on which the eligible person ceases to occupy the principal residence and the date on which the eligible person applies for a grant in respect of the principal residence for the applicable taxation year.

Additional requirements – extended absences

6. (1) For the purposes of section 5(2), an eligible person must have occupied the residence in question as their principal residence immediately before the eligible person ceased to occupy the residence.
- (2) For the purposes of section 5(2)(a), during the period of an eligible person's extended absence from their principal residence, the residence must be vacant.
- (3) For the purposes of section 5(2)(b), during the period between the date on which the eligible person ceases to occupy their principal residence and the date on which the eligible person applies for a grant in respect of the residence for the applicable taxation year, the residence must not be rented or offered for rent.
- (4) For the purposes of section 5(2)(c), during the period of an eligible person's extended absence from their principal residence, if

NISGA'A HOME OWNER GRANT ACT

- (a) the eligible person is described in paragraph (a) of the definition of “eligible person” in section 5(1), and
 - (b) the spouse or a relative of the eligible person occupied the residence as their principal residence at the time the eligible person ceased to occupy the residence,
- the residence must be occupied by the spouse or relative of the eligible person.
- (5) For the purposes of section 5(2)(a) or (c),
 - (a) during the period of an eligible person’s extended absence from their principal residence, the residence must not be for sale, and
 - (b) the eligible person must intend to occupy the residence in question as their principal residence at the end of the eligible person’s extended absence from the residence.
 - (6) For the purposes of section 5(2)(b) or (c), an eligible person must, in the taxation year immediately before the taxation year in which the eligible person ceased to occupy their principal residence, have applied for and received, with respect to that residence, a grant or a supplement.

Repayment – failure to resume occupancy of principal residence

- 7. (1) Subject to subsection (2), if a person has received a grant or a supplement as a result of the application of section 5 to an eligible person, and the eligible person fails to resume occupancy of the residence in question as their principal residence,
 - (a) in the case of an absence from the residence described in section 5(2)(a), on the completion of the reconstruction or repair of the residence, or
 - (b) in the case of an absence from the residence described in section 5(2)(c), in the taxation year immediately following the last taxation year in which the eligible person was entitled, a result of the application of section 5, to receive a grant or a supplement,section 14 applies as if the grant or supplement received were an amount the person was not entitled to receive.
- (2) Subsection (1) does not apply if the eligible person referred to in that subsection fails to occupy the residence in question as their principal residence for either of the following reasons:
 - (a) the death of the eligible person;

- (b) the residence of the eligible person in a residential facility.

Limitations

8. (1) No more than one grant may be made for a taxation year in respect of a separate taxable parcel, or a manufactured home assessed under section 3 of the *Manufactured Home Tax Act* (British Columbia), on the tax roll.
- (2) No more than one supplement may be paid for a taxation year in respect of a property described in subsection (1).
- (3) If, for a taxation year, an owner of an eligible residence receives a grant, neither that owner nor the owner's spouse is entitled, for that taxation year, to receive another grant.
- (4) If, for a taxation year, an eligible person as defined in section 5(1) receives a supplement, neither the eligible person nor the eligible person's spouse is entitled, for that taxation year, to receive another supplement.
- (5) A person is not entitled to any grant or supplement in respect of taxes levied against a part of an eligible residence that is not classified under the *Assessment Act* (British Columbia) as Class 1 – residential or Class 9 – farm property.
- (6) If, for a taxation year, an owner of an eligible residence receives a supplement with respect to an eligible residence, the spouse of the owner is not entitled, for that taxation year, to
- (a) a grant with respect to the eligible residence, unless the grant is affected by a reduction under section 3(3), or
- (b) a grant with respect to another eligible residence.
- (7) If, for a taxation year, an owner of an eligible residence
- (a) is affected by a grant reduction under section 3(3), and
- (b) has not applied for or received a supplement,
- the spouse of the owner may qualify during that year for a supplement with respect to the eligible residence.
- (8) If, for a taxation year, an individual or the individual's spouse has received a grant with respect to an eligible residence, the individual is not eligible, for that taxation year, for a supplement with respect to another eligible residence.

NISGA'A HOME OWNER GRANT ACT

-
- (9) Despite any other provision of this Act, an owner, spouse or relative is not entitled under this Act to, and must not apply under this Act for, a grant or supplement for a taxation year in respect of which the owner, spouse or relative applies under the *Home Owner Grant Act* (British Columbia) for
- (a) a grant as defined in that Act, or
 - (b) a supplement as defined in that Act.

Subdivision apportionment

9. If the tax administrator has made an apportionment under section 30 of the *Nisga'a Real Property Tax Act*, an owner to whom the apportionment applies is entitled to a grant or supplement under this Act in the taxation year to which the apportionment applies so long as the owner is otherwise entitled to a grant or supplement under this Act and the regulations.

Application for grant or supplement

10. (1) At any time after the tax administrator mails the tax notice in respect of an eligible residence for a taxation year to the taxable owner and before January 1 of the next year, a person who is entitled to a grant in respect of the current year taxes on the eligible residence under section 3(1) to (7) may apply for the grant by submitting an application to the grant administrator in the prescribed or approved form and in accordance with the regulations.
- (2) At any time after the tax administrator mails the tax notice in respect of an eligible residence for a taxation year to the taxable owner and before December 31 of the next year, a person who may be entitled to a supplement in respect of the current year taxes on the eligible residence under section 4(1) may apply for the supplement by submitting an application to the grant administrator in the prescribed or approved form and in accordance with the regulations.
- (3) If a person referred to in subsection (1) or (2) is unable to submit an application, their application may be submitted by
- (a) their committee or a person appointed in writing as their attorney, or
 - (b) their representative under the *Representation Agreement Act* (British Columbia), if their representative is authorized to make decisions about their financial affairs or assets.

- (4) For the purposes of determining qualifications or eligibility for a grant or supplement applied for under subsection (1) or (2), the grant administrator may do one or more of the following:
- (a) direct the applicant to supply the grant administrator with information or documentary evidence and to do so within the time and in the manner specified by the grant administrator;
 - (b) seek verification of any information supplied by the applicant under paragraph (a), including by
 - (i) directing the applicant to supply additional information or documentary evidence and to do so within the time and in the manner specified by the grant administrator, and
 - (ii) making any inquiries that the grant administrator considers necessary.
- (5) A person to whom a direction is issued under subsection (4) must comply with the direction.
- (6) The grant administrator may
- (a) approve an application for a grant or supplement made under subsection (1) or (2) in the amount applied for if the grant administrator is satisfied that
 - (i) the application meets the requirements of this Act and the regulations,
 - (ii) the applicant has complied with any directions issued under subsection (4), and
 - (iii) the applicant meets the qualifications or eligibility requirements under this Act and the regulations for the grant or supplement in the amount applied for,
 - (b) approve an application for a grant or supplement made under subsection (1) or (2) in an amount less than that applied for if the grant administrator is satisfied that
 - (i) the application meets the requirements of this Act and the regulations,
 - (ii) the applicant has complied with any directions issued under subsection (4), and

NISGA'A HOME OWNER GRANT ACT

- (iii) the applicant does not meet the qualifications or eligibility requirements under this Act and the regulations for the grant or supplement in the amount applied for but does meet the qualifications or eligibility requirements under this Act and the regulations for the grant or supplement in the lesser amount, or
- (c) reject an application for a grant or supplement made under subsection (1) or (2) if the grant administrator is satisfied that
 - (i) the application does not meet the requirements of this Act and the regulations,
 - (ii) the applicant has not complied with a direction issued under subsection (4), or
 - (iii) the applicant does not meet the qualifications or eligibility requirements for the grant or supplement under this Act and the regulations in the amount applied for or in any lesser amount.

Extension of time to apply for grant

11. (1) If an owner of an eligible residence fails to apply for a grant in respect of a taxation year within the time limit set out in section 10(1), on the written request of the owner or the owner's agent stating the reasons for the failure of the owner to apply for a grant within the time limit, the grant administrator may extend the time by which the owner may apply for a grant in respect of that taxation year to a maximum of 12 months beyond the time limit.
- (2) If at the time a request under subsection (1) is made the taxes on the eligible residence of the owner have been paid, the owner may only be granted an extension of time if
- (a) those taxes were paid by the owner,
 - (b) the owner owned the eligible residence at the time the taxes were paid, and
 - (c) the owner was eligible for a grant on December 31 of the year in respect of which the grant is applied for.
- (3) If at the time a request under subsection (1) is made the taxes on the eligible residence of the owner have not been paid, the owner may only be granted an extension of time if the owner was eligible for a grant on December 31 of the year in respect of which the grant is applied for.

Approval of grant or supplement

12. (1) If under section 10(6)(a) or (b) the grant administrator approves an application for a grant or supplement in respect of an eligible residence for a taxation year, the tax administrator
- (a) must apply the amount of the approved grant or supplement as a payment towards the taxes levied in respect of the eligible residence for the taxation year, and
 - (b) may refund to the owner the amount by which any payments made by the owner in respect of the taxes referred to in paragraph (a) exceed the sum of
 - (i) the amount of the taxes referred to in paragraph (a) less the amount of the grant or supplement, and
 - (ii) the amount of any other outstanding taxes in respect of the eligible residence.
- (2) Within 14 days after the grant administrator
- (a) under section 10(6)(b) approves an application for a grant or supplement in an amount less than that applied for, or
 - (b) under section 10(6)(c) rejects an application for a grant or supplement,
- the grant administrator must provide the applicant with the reasons for the grant administrator's determination.

Confirmation of eligibility for grants and supplements

13. (1) At any time after a grant or supplement is approved, the tax administrator or the grant administrator may do one or more of the following for the purpose of confirming the recipient's eligibility or qualification for the grant or supplement:
- (a) direct the recipient to supply the tax administrator or the grant administrator with information or documentary evidence and to do so within the time and in the manner specified by the tax administrator or the grant administrator;
 - (b) seek verification of any information supplied by the recipient under paragraph (a), including by
 - (i) directing the recipient to supply additional information or documentary evidence and to do so within the time and in the

NISGA'A HOME OWNER GRANT ACT

- manner specified by the tax administrator or the grant administrator, and
- (ii) making any inquiries that the tax administrator or the grant administrator considers necessary.
- (2) A person to whom a direction is issued under subsection (1) must comply with the direction.

Repayment of grants or supplements by persons not entitled

14. (1) In this section:

“due date” means the due date stated on a notice of disentitlement, as referred to in subsection (2)(b);

“notice of disentitlement” means a notification provided by the tax administrator or grant administrator under subsection (2);

“notice recipient” means a person to whom a notice of disentitlement is provided under subsection (2);

“request for review” means a request for a review of a notice recipient's entitlement, as referred to in subsection (2)(c).

- (2) Within 14 days after determining that a person has received during the current year or the six preceding years an amount that the person was not entitled to receive as a grant or supplement, the tax administrator or grant administrator must notify the person that
- (a) the person is not entitled to the amount received,
- (b) the person must pay to the Nisga'a Nation, on or before the due date stated on the notice of disentitlement, the amount referred to in paragraph (a) and the interest referred to in subsection (3)(b),
- (c) the person may request the Executive Director to reconsider the person's entitlement to the grant or supplement by filing a request for review with the Executive Director not later than the due date, and
- (d) if the person does not pay the total amount by the due date or request a review by the due date, payment will be enforced by the method described in subsections (7) and (8).

NISGA'A HOME OWNER GRANT ACT

-
- (3) A notice recipient must pay to the Nisga'a Nation, on or before the due date, the total of the following:
- (a) the amount, referred to in subsection (2)(a), that the tax administrator or grant administrator determined the notice recipient was not entitled to receive;
 - (b) subject to subsection (11), interest on that amount, at the rate of interest prescribed under section 19(2)(o), from the date of approval of the grant or supplement to the date of issue of the notice of disentitlement.
- (4) A request for review must
- (a) be in writing,
 - (b) be addressed to the Executive Director at the address of the principal administrative offices of Nisga'a Lisims Government, and
 - (c) set out clearly the reasons for the review and all facts relevant to it.
- (5) On receiving a request for review, the Executive Director must
- (a) consider the request,
 - (b) confirm, vary or reverse the determination stated in the notice of disentitlement, and
 - (c) promptly notify the notice recipient in writing of the Executive Director's decision on the review under paragraph (b).
- (6) If the Executive Director decides on a review under subsection (5) that a notice recipient is entitled to all or part of the amount that the tax administrator or grant administrator determined the notice recipient was not entitled to, the Chief Financial Officer must
- (a) refund to the notice recipient any excess paid to the Nisga'a Nation by the notice recipient in respect of that amount, including any excess interest, and
 - (b) pay to the notice recipient interest on the sum refunded at the rate of interest prescribed under section 19(2)(o), calculated from the date the notice recipient paid the excess to the date of the refund.
- (7) Subject to subsection (11), if a notice recipient does not pay to the Nisga'a Nation, on or before the due date, the total referred to in subsection (3),

NISGA'A HOME OWNER GRANT ACT

-
- (a) the notice recipient must, in addition, pay to the Nisga'a Nation interest on the unpaid amount including interest, at the rate of interest prescribed under section 19(2)(o), from the date of issuance of the notice of disentitlement until the date on which the notice recipient pays the unpaid amount and the interest provided for in this paragraph, and
- (b) the tax administrator must place the sum of
- (i) the unpaid part of the total, and
 - (ii) the interest referred to in paragraph (a)
- on the tax roll against the notice recipient's property.
- (8) If, in any year, the tax administrator places a sum on the tax roll under subsection (7)(b), the total amount, including interest, is deemed for all purposes of Nisga'a law to be taxes imposed for that year under the *Nisga'a Real Property Tax Act*.
- (9) On placing an amount on the tax roll against a notice recipient's property under subsection (7)(b), the tax administrator must promptly notify the notice recipient.
- (10) The liability of a person for the payment of money under this section is not affected by the imposition on or payment by the person of a fine referred to in section 18.
- (11) If the grant administrator is satisfied that a notice recipient, in applying for a grant or supplement to which the notice recipient was not entitled, relied on incorrect information or advice provided by a person who was employed by or retained under a contract to perform services for the Nisga'a Nation, the grant administrator may, on or before the first anniversary of the date that the notice of disentitlement was issued to the notice recipient, waive or cancel all or part of the interest otherwise payable by the notice recipient under subsection (3)(b) or (7)(a).
- (12) If interest is waived or cancelled under subsection (11), the Chief Financial Officer must
- (a) refund to the notice recipient any of the waived or cancelled interest paid by the notice recipient, and
 - (b) pay to the notice recipient interest on the amount refunded, at the rate of interest prescribed under section 19(2)(o), calculated from the date the notice recipient paid that amount to the Nisga'a Nation to the date of the refund.
- (13) Payments to the Nisga'a Nation referred to in subsections (2), (3) and (7) must be made in a prescribed manner.

Waiver or cancellation of amount payable under notice of disentitlement

15. (1) In this section:

“notice of disentitlement” has the same meaning as in section 14;

“notice recipient” has the same meaning as in section 14;

“principal residence requirement” means a requirement under this Act that an eligible residence be occupied as a principal residence in order for a person to be entitled to receive a grant or supplement in respect of the residence.

- (2) In accordance with this section, the grant administrator may waive or cancel all or part of an amount payable under section 14 by a notice recipient to whom a notice of disentitlement is issued.
- (3) The grant administrator must notify a notice recipient, in writing, of a waiver or cancellation given under subsection (2).
- (4) Subject to subsections (5) and (7), the grant administrator may give a waiver or cancellation under subsection (2) if the grant administrator is satisfied that it is fair and reasonable to do so
- (a) in the circumstances set out in subsection (6), or
- (b) in circumstances established by regulation.
- (5) If the amount to be waived or cancelled under subsection (2) exceeds \$2 500, the grant administrator may give a waiver or cancellation only with the approval of the Chief Financial Officer.
- (6) The circumstances referred to in subsection (4)(a) are that
- (a) the amount payable relates to a grant or supplement received, for a taxation year, in respect of an eligible residence for which a person did not meet an applicable principal residence requirement, and
- (b) the grant administrator is satisfied that there is another residence in respect of which
- (i) the person referred to in paragraph (a) would have met the applicable principal residence requirement, and
- (ii) a grant or supplement would have been received, for that taxation year, if the person who was entitled to receive the grant or supplement had applied for the grant or supplement.

NISGA'A HOME OWNER GRANT ACT

- (7) The grant administrator may give a waiver or cancellation under subsection (2) only within one year after the date of issuance of the notice of disentitlement to which the waiver or cancellation relates.
- (8) If a waiver or cancellation is given under subsection (2) in respect of an amount already paid by a notice recipient, the grant administrator must refund to the notice recipient the waived or cancelled amount already paid by the notice recipient.

NISGA'A HOME OWNER GRANT ACT

PART 4 – MISCELLANEOUS**Notice of grant amounts**

16. The tax administrator must include or have enclosed with the tax notice mailed to a taxable owner of property for a taxation year an application for a grant for the taxation year.

Chief Financial Officer approvals

17. (1) Subject to any regulation made under section 19(2)(a), the Chief Financial Officer may approve forms for the purposes of this Act.
- (2) The Chief Financial Officer may approve the manner in which the tax administrator complies with section 16.
- (3) Deviations from a prescribed or approved form or from a manner of compliance approved under subsection (2) that do not affect the substance of the form or the substance of the compliance and are not intended to mislead do not invalidate the form used or manner of compliance adopted.

Offence and penalty

18. (1) A person who knowingly or recklessly furnishes false information in the course of applying for a grant or supplement, or in supplying information in response to a direction issued or request made by the grant administrator or tax administrator under section 10 or 13, commits an offence punishable under the *Nisga'a Offence Act* and is liable to a fine of not more than \$10 000.
- (2) A prosecution respecting an alleged offence under subsection (1) must not be instituted more than two years after the time at which the Chief Financial Officer obtains knowledge of facts from which the Chief Financial Officer can reasonably conclude that the offence was committed.

Power to make regulations

19. (1) The Executive may make regulations it considers necessary or advisable for purposes under this Act.
- (2) Without limiting subsection (1) and in addition to any other regulation making authority of the Executive under this Act, the Executive may prescribe

NISGA'A HOME OWNER GRANT ACT

-
- (a) information to be included in and the form of applications for a grant or supplement, including authorizations and verifications that must be supplied in support of an application,
 - (b) a definition for an expression used but not defined in this Act,
 - (c) an extension of the time, before or after the time has expired, in which a provision of this Act may be complied with,
 - (d) one or more amounts for the purposes of the definition of "Schedule 1 grant" in section 1(1),
 - (e) one or more amounts for the purposes of the definition of "Schedule 2 grant" in section 1(1),
 - (f) criteria that must be met to determine the eligibility of persons with disabilities for the purposes of section 3(2)(b),
 - (g) persons or categories of persons in addition to medical practitioners who may certify that a person is a person with disabilities,
 - (h) an amount for the purposes of the definition of "threshold amount" in section 1(1),
 - (i) qualifications for low-income individuals for the purposes of section 4(1)(b), including rules for determining income for those purposes,
 - (j) conditions that qualifying low-income individuals must satisfy to be eligible for a supplement,
 - (k) one or more amounts, or the manner of determining one or more amounts, for the purposes of the definition of "supplement" in section 1(1),
 - (l) the elimination of eligibility for a supplement if the amount of the supplement would be less than a specified amount, not greater than \$25,
 - (m) circumstances in which the grant administrator must not accept an application for a grant or supplement,
 - (n) for the purposes of the definition of "residential facility" in section 5(1),
 - (i) circumstances to which paragraph (b) of the definition applies or does not apply, and
 - (ii) premises, classes of premises, parts of premises, and classes of parts of premises that are excluded from the definition,

NISGA'A HOME OWNER GRANT ACT

- (o) the rate of interest payable under section 14(3)(b), (6)(b), (7)(a) and (12)(b),
 - (p) manners by which payments referred to in section 14(2), (3) and (7) must be made, and
 - (q) circumstances for the purposes of section 15(4)(b).
- (3) In making regulations under this Act, the Executive may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) establish different categories of individuals, including different categories of low-income individuals and qualifying low-income individuals;
 - (d) make different regulations for different categories of individuals.
- (4) Regulations made under this Act during a year may be made retroactive to January 1 of that year, and if made retroactive are deemed to have come into force on that date.

Commencement

20. This Act comes into force on January 1, 2015.