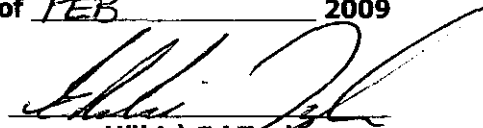




TR'ONDËK HWËCH'IN

Fish and Wildlife Act

Enacted on this 13 day of FEB 2009



Hähkè Ed Taylor

Tr'ondëk Hwëch'in Council hereby enacts as follows:

INTERPRETATION AND PURPOSE

Short title

1. This Act may be referred to as the *Fish and Wildlife Act*.

Definitions

2. In this Act,

"another final agreement" means a land claims agreement of another Yukon First Nation that is given effect by the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c. 34, and, in relation to the secondary use area, includes Appendix C of the Gwich'in Agreement;

"Citizen" means a person enrolled under the *Final Agreement*;

"Council" means the Chief and Council;

"Director" means the Director of the Tr'ondëk Hwëch'in Natural Resources Department;

"*Final Agreement*" means the land claims agreement between Tr'ondëk Hwëch'in, Her Majesty the Queen in right of Canada and the Government of Yukon, signed on July 16, 1998 and given effect by the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c. 34, as amended from time to time in accordance with its provisions;

"fish" has the same meaning as in the *Final Agreement*;

"guide" has the same meaning as in the *Wildlife Act* (Yukon);

"Gwich'in Agreement" means the Gwich'in Comprehensive Land Claim Agreement between Her Majesty the Queen in right of Canada and the Gwich'in as represented by the Gwich'in Tribal Council, signed on April 22, 1992 and given effect by the *Gwich'in Land Claim Settlement Act*, S.C. 1992, c. 53;

"harvest" and "harvesting" includes fishing, hunting, or trapping or attempting to fish, hunt, or trap, whether or not fish or wildlife is then or subsequently killed, wounded or captured;

"hunt" and "hunting" includes to shoot at, attract, search for, chase, flush, pursue, follow after or on the trail of, stalk or lie in wait for wildlife, or to attempt to do any of those things, whether or not wildlife is then or subsequently wounded, killed or captured

(a) with the intention to wound, kill or capture wildlife; or

(b) while in the possession of a firearm or other weapon;

"outfitter" has the same meaning as in the *Wildlife Act* (Yukon);

"primary use area" means the area described as the primary use area in Appendix C of the Gwich'in Agreement;

"proof of enrollment" means a document prescribed under paragraph 75(f), or designated under section 78, as proof of enrollment;

"secondary use area" means the area described as the secondary use area in Appendix C of the Gwich'in Agreement;

"steward" means a person designated as a steward under subsection 39(1);

"subsistence" has the same meaning as in the *Final Agreement*;

"wildlife" has the same meaning as in the *Final Agreement*.

Purposes

3. The purposes of this Act are

(a) to show respect for Mother Earth and all the fish and wildlife that it provides for human beings;

(b) to protect the right of Tr'ondëk Hwëch'in citizens to harvest all species of fish and wildlife for subsistence in the traditional territory in all seasons and in any numbers;

(c) to protect the right of Tr'ondëk Hwëch'in citizens to employ traditional and current methods of and equipment for subsistence harvesting within the traditional territory;

(d) to manage and conserve fish and wildlife species and populations in the traditional territory for future generations;

(e) to ensure that Tr'ondëk Hwëch'in has the power to investigate any wrongful killing of fish and wildlife to ensure that responsibility is directed fairly; and

(f) to ensure through ethical management practices that fish and wildlife harvesting in the traditional territory is conducted in a respectful way.

PART 1
SUBSISTENCE HARVESTING BY
TR'ONDËK HWËCH'IN CITIZENS

Application

4. This Part only applies to citizens harvesting fish or wildlife for subsistence within the traditional territory.

Proof of enrollment

5. (1) A citizen harvesting fish or wildlife for subsistence within the traditional territory shall carry on their person proof of enrollment under the *Final Agreement* and shall produce and show it to a steward on request.

(2) A citizen born before September 15, 1943, is not required to carry or produce proof of enrollment, but shall provide their name and address to a steward if requested.

Harvest allocation

6. (1) If a limitation is established in accordance with the *Final Agreement* or this Act on the type, population, or number of a species of fish or wildlife that may be harvested for subsistence, a citizen shall not harvest that type, population or species for subsistence without a harvest allocation issued in writing under this Act.

(2) The eligibility criteria and process for issuing harvest allocations to citizens shall be prescribed by the regulations.

(3) A harvest allocation is subject to the conditions prescribed by the regulations.

Carry proof of harvest allocation

7. A citizen harvesting fish or wildlife under a harvest allocation shall carry the written allocation on their person, and shall produce and show it to a steward on request.

Comply with conditions

8. A citizen to whom a harvest allocation is issued shall comply with any conditions to which the allocation is subject under this Act.

Council must consult

9. Subject to section 10, Council shall consult citizens before establishing a limitation under this Act on subsistence harvesting of fish or wildlife by citizens.

Exception for urgent circumstances

10. (1) Where Council is satisfied that there are urgent circumstances affecting the well-being of a species or population of fish or wildlife that require Council to establish a limitation on subsistence harvesting by citizens, and where time does not permit consultation, Council may establish the limitation without consulting citizens.

(2) Any limitation established under subsection (1) must be reasonably required to address the urgent circumstances and may only limit the subsistence harvesting rights of citizens to the extent necessary to address those circumstances.

(3) As soon as practicable after establishing a limitation under subsection (1) Council shall consult citizens respecting the limitation and after the consultation either affirm, amend or repeal the limitation.

PART 2 HARVESTING BY PERSONS ENROLLED UNDER ANOTHER FINAL AGREEMENT

Application

11. This Part only applies to persons enrolled under another final agreement.

Consent required

12. Subject to section 18, a person enrolled under another final agreement shall not harvest fish or wildlife for subsistence within the traditional territory without a consent in writing issued under this Act.

Director may issue consent

13. The Director may, in accordance with the regulations, issue a consent in writing to a person enrolled under another final agreement authorizing the person to harvest fish or wildlife for subsistence within the traditional territory.

Conditions

14. (1) A consent issued under this Part is subject to the conditions prescribed by the regulations.

(2) At any time Council may, by order, impose written conditions on a consent that do not conflict with this Act or the regulations.

(3) A person to whom a consent is issued shall comply with any conditions to which the consent is subject under this Act.

Refuse to issue

15. The Director may refuse to issue a consent to a person if the Director is of the opinion that the person previously failed to comply with this Act, regardless of whether a prosecution has been initiated.

Carry and produce consent

16. A person enrolled under another final agreement who is harvesting fish or wildlife for subsistence within the traditional territory shall carry on their person the consent issued under this Part, and shall produce and show it to a steward on request.

Harvest allocation

17. (1) If a limitation is established in accordance with the *Final Agreement* or this Act on the type, population, or number of a species of fish or wildlife that may be harvested for subsistence, a person enrolled under another final agreement shall not harvest that type, population, or species within the traditional territory without a harvest allocation in writing issued under this Act.

(2) A person enrolled under another final agreement who is harvesting fish or wildlife under a harvest allocation shall carry the written allocation on their person, and shall produce and show it to a steward on request.

Exceptions

18. Persons enrolled under the Vuntut Gwich'in First Nation Final Agreement, the Selkirk First Nation Final Agreement or the First Nation of Nacho Nyak Dun Final Agreement do not require consent under this Act to harvest fish or wildlife for subsistence in that portion of the traditional territory of their respective first nation that is overlapped with the Tr'ondëk Hwëch'in traditional territory.

Tetlit Gwich'in in primary use area

19. This Part does not apply to Tetlit Gwich'in beneficiaries harvesting for subsistence in the primary use area, or to persons enrolled under another final agreement that are harvesting for subsistence in the primary use area with consent from the Tetlit Gwich'in.

Tetlit Gwich'in in secondary use area

20. For greater certainty, this Part applies to Tetlit Gwich'in beneficiaries harvesting for subsistence in the portion of the secondary use area that is located within the Tr'ondëk Hwëch'in traditional territory.

PART 3
ACCESS TO SETTLEMENT LAND FOR HARVESTING

Application

21. This Part does not apply to citizens.

Harvesting on settlement land

22. (1) Subject to subsection (4), no person shall enter or stay upon Category A settlement land, developed Category B settlement land or fee simple settlement land, for the purpose of harvesting fish or wildlife unless authorized by a licence or a consent issued under this Act.

(2) No person shall, for the purpose of harvesting fish or wildlife, enter or stay upon undeveloped Category B settlement land for which the right of public access for fish and wildlife harvesting has been released or discharged under 16.12.4 of the *Final Agreement*, unless authorized by a licence or a consent issued under this Act.

(3) Except as provided in the *Final Agreement*, no person shall enter or stay upon undeveloped Category B settlement land for the purpose of harvesting fish or wildlife unless authorized by a licence or a consent issued under this Act.

(4) A person does not require a licence or a consent issued under this Act to use a waterfront right-of-way on settlement land for the purposes of sport fishing or hunting migratory game birds, if the fishing or hunting is permitted by and undertaken in accordance with the *Final Agreement* and laws of general application.

(5) Subsections (1) to (3) do not apply to a person with a right of access under the *Final Agreement* allowing the person to trap furbearers on settlement land.

(6) In subsection (4) "waterfront right-of-way" has the same meaning as in the *Final Agreement*.

Conditions of access

23. (1) A person authorized under this Act or the *Final Agreement* to access settlement land for the purpose of harvesting fish or wildlife shall not

(a) cause significant damage to settlement land or to improvements on settlement land;

(b) commit mischief on settlement land; or

(c) cause significant interference with the use and peaceful enjoyment of settlement land by Tr'ondëk Hwëch'in or citizens.

(2) A person authorized under this Act or the *Final Agreement* to access settlement land for the purpose of harvesting fish or wildlife shall comply with any terms and conditions established under 6.6.0 of the *Final Agreement* that apply to that access.

PART 4
YUKON RESIDENT AND OUTFITTER ACCESS TO
SETTLEMENT LAND FOR HUNTING WILDLIFE

Application

24. This Part does not apply to a person with a right of access under the *Final Agreement* allowing the person to trap furbearers on settlement land.

Director may issue licence

25. (1) The Director may, in accordance with the regulations, issue a licence to a Yukon resident granting the resident access to category A settlement land for non-commercial hunting of wildlife if such hunting is permitted by laws of general application.

(2) In this section "Yukon resident" has the same meaning as in the *Wildlife Act* (Yukon).

Outfitter

26. An outfitter shall not provide a guide to a person for the purpose of hunting wildlife on settlement land unless the hunting is authorized by a licence issued to the outfitter under this Act.

Guide

27. (1) A guide shall not enter or stay upon settlement land for the purpose of hunting wildlife on settlement land, or allow any person they are guiding to enter or stay upon settlement land for the purposes of hunting wildlife on settlement land, except as authorized by a licence issued to an outfitter under this Act.

(2) A guide authorized under a licence issued to an outfitter to enter or stay upon settlement land for the purposes of hunting or guiding, shall carry on their person a copy of the licence that has been certified by the Director as a true copy, and shall produce and show the certified copy to a steward on request.

Outfitter access licence

28. The Director may issue a licence to an outfitter allowing the outfitter, and guides, clients and employees of the outfitter, to enter and stay upon settlement land within the outfitter's concession area for the purpose of hunting wildlife on settlement land if such hunting is permitted by laws of general application.

Make reasonable efforts to prevent offence

29. A guide shall, without using force, make every reasonable effort to prevent a person they are guiding from committing a contravention of this Act.

Guide's duty to report

30. (1) If a guide has reasonable grounds to believe that a contravention of this Act has been committed by a person accompanied by the guide, the guide shall mark the place and report the contravention as soon as practicable to the outfitter or to a steward.

(2) A guide's report shall include sufficient particulars to enable a steward to readily locate the place where the contravention is believed to have occurred.

(3) A guide required to report a contravention under subsection (1) shall provide a steward with information relating to the contravention as the steward reasonably may require.

Outfitter's duty to report

31. (1) If an outfitter has reasonable grounds to believe that a contravention of this Act may have been committed by a guide or other person employed or acting on behalf of the outfitter, or by a client of the outfitter, the outfitter shall report the contravention to a steward as soon as practicable.

(2) An outfitter required to report a contravention under subsection (1) shall provide the steward with information relating to the contravention as the steward reasonably may require.

Guided party

32. A person accompanied by a guide does not need a separate licence under this Act to enter or stay upon settlement land for the purposes of hunting wildlife on settlement land, if the guide accompanying them is authorized to enter and stay upon settlement land for the purposes of guiding that person while hunting wildlife.

Licence subject to conditions

33. (1) A licence issued under this Part is subject to the conditions prescribed by the regulations.

(2) At any time Council may, by order, impose written conditions on a licence that do not conflict with this Act or the regulations.

(3) A person to whom a licence is issued shall comply with any conditions to which the licence is subject under this Act.

Produce licence

34. A person doing or purporting to do anything under the authority of a licence shall carry the licence on their person, and shall produce and show it to a steward on request.

PART 5 EMERGENCY AND DEFENCE OF PERSON AND PROPERTY

Emergency harvesting

35. (1) Despite any other provision of this Act, a person may harvest fish or wildlife on settlement land if it is necessary in order to prevent the loss of their life or the life of another person through starvation.

(2) A person shall take reasonable precautions to ensure that it does not become necessary for fish or wildlife to be harvested under subsection (1).

Defence of life

36. Despite any other provision of this Act, a person may kill wildlife on settlement land in defence of their life or the life of another person if

(a) there is an imminent or immediate threat of grievous bodily harm; and

(b) all other practical means of averting the threat of harm have been exhausted.

Defence of property

37. (1) Subject to subsection (2), a person may kill wildlife on settlement land in defence of property if

(a) there is an imminent or immediate threat of substantial damage to property; and

(b) all other practical means of averting the threat of damage have been exhausted.

(2) Subsection (1) does not authorize the killing of any herbivore or bird.

Duty to report

38. (1) A person who harvests fish or wildlife under subsection 35(1) shall as soon as is reasonably practical report the harvest to a steward.

(2) A person who kills wildlife under section 36 or subsection 37(1), or wounds an animal while attempting to kill it under those provisions, shall as soon as is reasonably practical report the killing or wounding to a steward and advise the steward of where the wildlife was last seen by the person.

(3) A report made in accordance with the *Wildlife Act* (Yukon) or 16.3.13 of the *Final Agreement* respecting an emergency kill or the killing of wildlife in defence of life or property shall be considered a report under subsections (1) and (2).

(4) A steward may attempt to locate on settlement land any wildlife killed or wounded under section 36 or subsection 37(1) and, if located, shall dispose of the wildlife in accordance with the regulations.

PART 6 STEWARDS

Stewards

39. (1) The Council may designate a person or class of persons as stewards for the purposes of this Act.

(2) Subject to subsection (3), every steward has the authority to enforce provisions of this Act.

(3) The Council may place terms and conditions on a designation under subsection (1).

(4) An oath, affidavit, affirmation or statutory declaration may be administered, sworn, affirmed or made before a steward.

Posting signs

40. (1) A steward may post signs or notices the steward considers necessary or advisable in order to carry out the provisions of this Act.

(2) A person shall not, without lawful authority, remove, alter, destroy or deface a sign or notice posted by a steward under this Act.

Killing dangerous, destructive wildlife, etc.

41. Despite any other provisions of this Act, a steward may, at any time and at any place on settlement land, harvest wildlife that he or she believes on reasonable grounds is dangerous, destructive, wounded or diseased.

PART 7 ENFORCEMENT

Show identification

42. Upon request a steward acting under this Act shall produce and show their badge or other identification.

False statements, obstruction, etc.

43. A person shall not knowingly make a false or misleading statement to, or obstruct or interfere with, a steward who is acting under this Act.

No transfer of licence, etc.

44. No person shall have physical possession of a licence, consent, proof of enrollment, or harvest allocation issued to another person and claim to be that other person or exercise or attempt to exercise any rights or privileges associated with that licence, consent, proof of enrollment, or harvest allocation.

Stopping vehicles and boats

45. (1) For the purposes of ensuring compliance with this Act or to enforce any provision of this Act, a steward may signal or otherwise direct the operator of a vehicle or boat to stop it or move it to a place and stop it and the operator shall immediately comply with the steward's signal or direction and shall not proceed for the time that is reasonably necessary for the steward to conduct any lawful inquiries.

(2) The operator and any occupants of a vehicle or boat stopped under subsection (1) shall promptly produce for inspection any fish, wildlife, firearm, licence, consent, proof of enrollment, harvest allocation or other thing requested by the steward relating to this Act.

(3) For the purposes of subsection (1) signals to stop include intermittent flashes of red or blue light, a hand signal, an audible request, a siren or other sign to stop.

(4) In this section, "vehicle" means a vehicle that is designed to be self-propelled in any manner except solely by muscular power.

Stopping persons on pack animals, carrying pack, or firearm

46. (1) For the purposes of ensuring compliance with this Act or to enforce any provision of this Act, a steward may signal or otherwise direct a person

(a) riding or leading a pack animal in an area usually inhabited by wildlife; or

(b) carrying a pack or firearm in plain view in an area usually inhabited by wildlife

to stop, or move to a place and then stop, and the person shall immediately comply with the signal or direction and shall not proceed for the time that is reasonably necessary for the steward to conduct any lawful inquiries.

(2) A person stopped under subsection (1) shall promptly produce for inspection any wildlife, firearm, licence, consent, proof of enrollment, harvest allocation or other thing requested by the steward relating to this Act.

Inspecting buildings and other places

47. (1) For the purposes of ensuring compliance with the Act, a steward and any person assisting the steward may, subject to subsection (2), at any reasonable time enter and inspect any building or other place in which the steward believes on reasonable grounds there is any thing to which this Act applies or any document relating to the administration of this Act.

(2) A steward shall not enter a dwelling house except with the consent of the occupant or person in charge of the dwelling house or under the authority of a warrant.

(3) In carrying out an inspection under this section a steward may

(a) open or cause to be opened any container or receptacle that the steward believes on reasonable grounds contains any thing or document referred to in subsection (1);

(b) inspect the thing and take samples free of charge;

(c) require any person to produce the document for inspection or copying, in whole or in part;

(d) ask questions relevant to the inspection;

(e) inspect any other thing that is in the building or place to which this Act applies;

(f) use or cause to be used any computer system for the purpose of examining information contained in or available to the system, and reproduce any record or cause it to be reproduced from the data in the form of a printout or other intelligible output;

(g) remove any documents or things for the purpose of making copies or further inspection, but the copying or further inspection shall be carried out with reasonable dispatch and the documents or things shall be returned promptly to the person from whom they were taken;

(h) use or cause to be used any copying equipment at the place to make copies of any documents or records inspected or produced during the inspection; and

(i) seize any thing or document by means of or in relation to which the steward believes, on reasonable grounds, this Act has been contravened or that the steward believes on reasonable grounds will provide evidence of a contravention.

(4) A person shall during the inspection provide information requested by the steward that is relevant to the inspection.

(5) Every person who is in possession or control of a building or other place being inspected under this section must permit the steward to do anything referred to in subsection (3).

(6) On an application without notice, a justice may issue a warrant in the prescribed form, subject to any conditions specified in it, authorizing a steward and any other persons or class of persons named in it to enter a dwelling house, if the justice is satisfied by information on oath in the prescribed form that

(a) the conditions for entry described in subsection (1) exist in relation to the dwelling house;

(b) entry into the dwelling house is necessary for the purposes of administering this Act; and

(c) entry into the dwelling house has been refused or there are reasonable grounds for believing that entry will be refused.

(7) In executing a warrant issued under subsection (6), a steward may not use force unless the use of force is specifically authorized in the warrant.

Entry upon land

48. In the performance of their duties under this Act, a steward, and any person assisting them, may enter upon any land, and while doing so, they are liable only for any actual damage willfully or negligently caused by them.

Searches with a warrant

49. (1) On an application without notice, if a justice is satisfied by information on oath in the prescribed form that there are reasonable grounds to believe that there is in a building, receptacle, or other place

(a) anything on or in respect of which an offence against this Act has been or is suspected to have been committed;

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence against this Act; or

(c) anything that will reveal the whereabouts of a person who is believed to have committed an offence against this Act,

the justice may issue a warrant in the prescribed form subject to any terms or conditions the justice considers necessary, authorizing a steward and any other persons or class of persons named therein to search the building, receptacle or place for any thing and to seize it.

(2) A search warrant issued under this section shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

(3) A search warrant issued under this section shall be executed by day, unless

(a) the justice is satisfied that there are reasonable grounds for it to be executed by night;

(b) the reasonable grounds are included in the information; and

(c) the warrant authorizes that it be executed by night.

(4) A person authorized under this section to search a computer in a building or place for data may

(a) use or cause to be used any computer system at the building or place to search any data contained in or available to the computer system;

(b) reproduce or cause to be reproduced any data in the form of a printout or other intelligible output;

(c) seize the printout or other intelligible output; and

(d) use or cause to be used any computing equipment at the place to make copies of the data.

(5) Every person who is in possession or control of any building or place in respect of which a search is carried out under this section shall, on presentation of the warrant or on the request of a steward acting under subsection 50(1), permit the person carrying out the search

(a) to use or cause to be used any computer system at the building or place in order to search any data contained in or available to the computer system for data that the person is authorized by this section to search for;

(b) to obtain a hard copy of the data and to seize it; and

(c) to use or cause to be used any copying equipment at the place to make copies of the data.

Searches without a warrant

50. (1) A steward may exercise the powers of search and seizure described in subsection 49(1) without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be feasible to obtain a warrant.

(2) Subsection (1) does not apply to a dwelling house.

Telewarrant

51. When a steward believes it would be impractical to appear in person to make an application for a warrant under sections 47 or 49, a warrant may be issued under those sections on an information submitted by telephone or other means of telecommunication in the manner provided for under section 487.1 of the *Criminal Code* with such modifications as the circumstances require.

Use of force

52. A steward may use as much force as is necessary to execute a search warrant issued under section 49, or to exercise any authority given by section 50.

Seizures without a warrant

53. (1) A steward who is lawfully in a building or other place may, without a warrant, seize any thing that he or she believes on reasonable grounds

(a) has been obtained by or used in the commission of an offence under this Act;

(b) will afford evidence of the commission of an offence under this Act; or

(c) is intermixed with a thing referred to in paragraphs (a) or (b).

(2) If a steward is in a building or other place pursuant to a warrant, subsection (1) applies to any thing, whether or not it is specified in the warrant.

Report to a justice

54. (1) When a steward seizes a thing in the execution of a warrant issued under this Act, the steward shall, as soon as practicable, bring the thing seized before a justice, or report to a justice that the thing has been seized.

(2) When a steward in the execution of duties under this Act seizes a thing without a warrant, other than fish or wildlife, the steward shall, as soon as practicable, bring the thing seized before a justice, or report to a justice that the thing has been seized.

Application for return of fish or wildlife

55. (1) If a steward in the execution of duties under this Act seizes fish or wildlife without a warrant, the person from whom the fish or wildlife was seized or any person claiming lawful entitlement to possession of the fish or wildlife may apply to a justice in the prescribed form within thirty days after the seizure for return or release of the fish or wildlife.

(2) If no application is made under subsection (1) within 30 days of the seizure, the fish or wildlife is forfeited in accordance with the regulations.

If owner unknown

56. If the lawful ownership of or the identity of the person from whom a thing was seized, with or without a warrant, has not been ascertained within 30 days after the seizure, the thing is forfeited to the Tr'ondëk Hwëch'in, except if the thing is fish or wildlife it is forfeited in accordance with the regulations.

Samples of seized fish or wildlife

57. A steward may at any time take, for examination or testing, samples of any fish or wildlife seized under this Act, and such samples are forfeited to the Tr'ondëk Hwëch'in.

Forfeiture of dead fish or wildlife

58. Despite subsections 54(1), 55(1) and section 56, any dead fish or wildlife that is seized is forfeited in accordance with the regulations if, in the opinion of the steward, it is not practicable to maintain the fish or wildlife in custody or it is likely to spoil or otherwise perish.

Forfeiture if use or possession is an offence

59. (1) Despite sections 54, 55 and 56 and section 7 of the *Summary Convictions Act* (Yukon), a thing seized shall not be ordered or otherwise returned to any person if the use or possession of the thing is an offence under this Act, and the thing is forfeited to the Tr'ondëk Hwëch'in, except if the thing is fish or wildlife it is forfeited in accordance with the regulations.

(2) Subsection (1) applies whether or not a charge is laid in respect of the thing seized, and if a charge is laid, subsection (1) applies even if the defendant is acquitted or the charge is withdrawn or stayed.

Disposal of things forfeited

60. A thing forfeited to the Tr'ondëk Hwëch'in under this Act shall be disposed of in accordance with the regulations.

Owner liable for costs

61. The lawful owner and any person lawfully entitled to possession of any thing seized or forfeited under this Act are jointly and severally liable for all costs of inspection, seizure, forfeiture or disposition incurred by the Tr'ondëk Hwëch'in that exceed any proceeds from the disposition of the thing that was forfeited to the Tr'ondëk Hwëch'in under this Act.

Exempt from liability

62. No liability attaches to the Tr'ondëk Hwëch'in, Council or any Councilor or steward for loss or damage arising from the seizure, disposal or return in accordance with this Act of anything that has been seized, or from the deterioration of anything while it is being held under seizure, other than loss or damage resulting from negligence or willful neglect in its care, custody or return.

PART 8 OFFENCES

Offences

63. A person who contravenes any provision of this Act is guilty of an offence.

Penalties

64. A person convicted of an offence under this Act is liable to a fine of not more than \$5,000.00, to imprisonment for a term of not more than 6 months, or to both.

Continuing offences

65. If an offence under this Act is committed on more than one day or is continued for more than one day, the offence is considered to be an offence for each day on which the offence is committed or continued.

Unpaid fines

66. If a person is convicted of an offence and a fine is imposed,

(a) a thing seized in connection with the offence and not forfeited to the Tr'ondëk Hwëch'in under this Act shall not be returned until the fine has been paid; and

(b) if the fine is not paid and is considered a debt due under the *Summary Convictions Act* (Yukon), a justice may order that the thing be forfeited to the Tr'ondëk Hwëch'in.

Forfeiture after conviction

67. (1) If a person is convicted of an offence under this Act, the justice may order that any thing seized in connection with the offence be forfeited to the Tr'ondëk Hwëch'in.

(2) Subsection (1) applies in addition to any other penalty.

Limitation period

68. (1) A prosecution for an offence under this Act shall not be commenced after the earlier of

(a) two years after evidence sufficient to proceed with prosecution of the offence first came to the attention of a steward; or

(b) three years after the offence was committed.

(2) Despite subsection 12(1) of the *Summary Convictions Act* (Yukon), a ticket may be served within the period for commencing the prosecution of an offence as determined under subsection (1).

Proof of licence, permit, etc.

69. If holding a licence, consent or harvest allocation is a defence to a prosecution of an offence under this Act, the defendant has the burden of proving that at the material times the defendant had the required licence, consent or harvest allocation.

Proof of place of killing

70. (1) In a prosecution under this Act, any wildlife found dead on settlement land shall be presumed, in the absence of evidence to the contrary, to have been killed on settlement land.

(2) Subject to subsection (3), if a person is in possession of wildlife on settlement land, the person shall be deemed, in the absence of evidence to the contrary, to have harvested the wildlife on settlement land.

(3) If a person is in possession of wildlife on category A settlement land, the person shall be deemed, in the absence of evidence to the contrary, to have harvested the wildlife on category A settlement land.

Content of ticket

71. No exception, exemption, excuse or qualification under this Act is required to be set out or negated in any ticket commencing proceedings in respect of an offence under this Act.

Defect in form

72. A conviction or order made in any matter under this Act, either originally or on appeal, shall not be quashed for any defect in form.

PART 9 ADMINISTRATION

Agreements with other governments

73. Council may, on behalf of Tr'ondëk Hwëch'in, enter into an agreement with another government or any person for the purposes of this Act.

Exempt from liability

74. Council, a steward or employee of Tr'ondëk Hwëch'in and their agents, representatives and persons acting on their behalf are not liable for anything done in good faith in the exercise or purported exercise of any duty or power under this Act.

PART 10 REGULATIONS

Regulations

75. Council may make regulations

- (a) prescribing age or other eligibility requirements for subsistence harvesting, including training courses established or approved by Council;
- (b) designating certain geographic areas or seasons closed to subsistence harvesting;
- (c) prescribing prohibitions, quotas or other limitations on the type, population, or number of a species of fish or wildlife that may be harvested for subsistence;
- (d) prescribing methods of or equipment for subsistence harvesting;
- (e) establishing requirements to report fish or wildlife subsistence harvesting activities, including harvest information;

- (f) prescribing the form of any document to be issued, produced or used in the administration of this Act;
- (g) prescribing the eligibility criteria and process for issuing harvest allocations, consents and licences;
- (h) respecting conditions applicable to subsistence harvesting, including conditions applicable to a harvest allocation or a consent issued under the Act;
- (i) respecting conditions applicable to a licence issued under this Act;
- (j) respecting the forfeiture of fish, wildlife or other thing under this Act, and the disposal of any thing forfeited;
- (k) respecting the disposal of wildlife killed or located pursuant to Part 5;
- (l) requiring the payment of fees for licences, consents or harvest allocations;
- (m) generally to manage, administer, allocate or otherwise regulate the exercise of rights of citizens or persons enrolled under another final agreement harvesting for subsistence in the traditional territory; and
- (n) generally for carrying any of the purposes or provisions of this Act into effect.

Power to prohibit

- 76.** Every power of Council under this Act to make regulations respecting an activity includes the power to make regulations regulating or prohibiting the activity in whole or in part.

Regulations

- 77.** Council may make regulations establishing terms and conditions in accordance with 6.6.0 of the *Final Agreement* applicable to persons, other than citizens, who are accessing settlement land for the purpose of harvesting fish or wildlife.

Proof of enrollment

- 78.** Council may for the purposes of this Act designate a document issued under another Act or regulation of Tr'ondëk Hwëch'in to be proof of enrollment under the *Final Agreement*.

Coming into force

- 79.** The provisions of this Act come into force on a day or days to be fixed by order of Council.