?AQ̈́AM MATRIMONIAL REAL PROPERTY LAW, 2015

TABLE OF CONTENTS

PART I	8
SHORT TITLE	8
Short Title	8
PART II	9
DEFINITIONS, INTERPRETATION AND APPLICATION	9
Definitions	9
Interpretation12	2
Application12	2
PART III	3
?AŧAQAŧTITMU ?A·KITŧA?NAM (FAMILY HOME)1	3
qawsaqa ni?s ha‡a‡itit (Occupation during Conjugal Relationship)13	3
qawsaqa ni?s (Occupation after Death)13	3
Consent Required for Disposal of ?aŧaqaŧtitmu ?a·kitŧa?nam (Family Home)1	3
Disposal of ʔaŧaqaŧtitmu ʔa·kitŧaʔnam (Family Home) without Consent13	3
Application for Damages14	4
Burden to Prove Consent14	4
Order Allowing Disposal of ʔaɨaqaɨtitmu ʔa·kitɨaʔnam (Family Home) without Consen	
PART IV14	4
, KITNUMU¢TIŁ K¢AKIKTI?TIŁ (EMERGENCY PROTECTION ORDERS)14	4
Application for kitnumugtił kgakikti?tił (Emergency Protection Order)14	4
, kitnumugʻti‡ kgakikti?ti‡ (Emergency Protection Order)1	5
Considerations1	5
, kitnumugʻti‡ kgakikti?ti‡ (Emergency Protection Order) Binding1	7
Notice of kitnumugʻti‡ kgakikti?ti‡ (Emergency Protection Order)1	7
Application to Vary or Revoke kitnumugtił kgakikti?tił (Emergency Protection Order) 1	7
Notice of Application1	7
Confirm, Vary or Revoke Order18	8
Evidence at Hearing	Q
	0

Notice of kitnumugʻti‡ kgakikti?ti‡ (Emergency Protection Order)18
Exclusion of Public from kitnumu¢tił k¢akikti?tił (Emergency Protection Order) Hearing
PART V19
PISNIŁ SAWSAQA?NI ØXAŁ PISNIŁ QAWSAQA (EXCLUSIVE OCCUPATION ORDER) AT BREAKDOWN OF HAŁIŁITIT (CONJUGAL RELATIONSHIP)19
Application for ʔisni‡ sawsaqaʔni øxa‡ ʔisni‡ qawsaqa (Exclusive Occupation Order)19
Copy of an Application19
?isniŧ sawsaqa?ni ∉xaŧ ?isniŧ qawsaqa (Exclusive Occupation Order)20
Content of ?isni‡ sawsaqa?ni øxa‡ ?isni‡ qawsaqa (Exclusive Occupation Order)20
Considerations
, kitnumu¢tił k¢akikti?tił (Emergency Protection Order) Revoked22
Notice of ʔisni‡ sawsaqaʔni ɐ̯xa‡ ʔisni‡ qawsaqa (Exclusive Occupation Order)22
Application to Vary or Revoke ?isni‡ sawsaqa?ni øxa‡ ?isni‡ qawsaqa (Exclusive Occupation Order)23
Notice of Application23
Court Order23
Evidence at Hearing23
Notice of Order24
PART VI24
?ISNIŁ SAWSAQA?NI ¢XAŁ ?ISNIŁ QAWSAQA (EXCLUSIVE OCCUPATION ORDER) AFTER DEATH OF A ?akinmałka?nam (SPOUSE) OR TIŁNAMU?TMU (COMMON LAW PARTNER)24
Application For a ?isni‡ sawsaqa?ni ɛxa‡ ?isni‡ qawsaqa (Exclusive Occupation Order) After Death of a ?akinma‡ka?nam (Spouse) or ti‡namu?tmu (Common-Law) Partner.24
Notice of Application24
Court Order25
Content of Order25
Considerations
Notice of Order27
Application to Vary or Revoke ?isni‡ sawsaqa?ni ɛxa‡ ?isni‡ qawsaqa (Exclusive Occupation Order) after Death of a ?akinma‡ka?nam (Spouse) or ti‡namu?tmu (Common-Law) Partner27

Copy of Application	.27
Court Order	.27
Evidence at Hearing	.27
Notice of Order	.28
PART VII	.28
gxałyaqał yankin ʔákłtitʔis niʔs yanqa∙g	.28
(DIVISION OF THE VALUE OF A FAMILY HOME UPON BREAKDOWN OF CONJUCTIONSHIP)	
Notice of Applications Made Under This Part	.28
Application by ?akinmaŧka?nam (Spouse) or tiŧnamu?tmu (Common-Law) Partner	.28
Court Order	.28
Valuation Date	.29
Division of Value on Breakdown of haŧiŧitit (Conjugal Relationship)	.29
Assessing Value	.29
Variation Order	.30
Interim Order to Protect and Preserve an Interest	.31
Enforcement of kitnumugtił kałałitit (Interspousal Contracts)	.31
PART VIII	.31
gxał yaqał pa·gnint ʔa·kłtitnam	.31
(DIVISION OF THE VALUE OF A FAMILY HOME UPON DEATH OF A SPOUSE COMMON-LAW PARTNER)	
Notice of Application Made Under This Part	.31
Notice to Beneficiaries	.32
Application by ŧaxŧuʔmaŧ (Survivor)	.32
Court Order	.32
Valuation Date	.32
Entitlement of ŧaxŧuʔmaŧ (Survivor)	.33
Assessing Value	.33
Variation of Order	.33
Variation of Trust	.34
Final Settlement	.34

Distribution of ?aŧaqaŧtitmu ?a·kitŧa?nam (Family Home)	34
Two łaxłu?mał (Survivors)	35
Interim Order to Protect and Preserve an Interest	.35
Enforcement of Agreements	35
PART IX	35
ÇIN QAPI QAPSIN (GENERAL)	35
Representations by ʔiŧwaṫnaʔis ʔaḍam (Council of ʔaḍam)	.35
Notice of Order to ʔiŧwaṫnaʔis ʔaḍam (Council of ʔaḍam)	35
Liability of kadanxu (Peace Officer) Limited	.36
Interest or Right Not Affected	.36
Effect of Order on Obligations under a Lease	36
Offence	36
PART X	37
YISINQAŁ ?ITNUMU¢TIŁIŁ (JURISDICTION OF COURTS)	37
kłamatamnam (Divorce) Proceeding Pending	37
Other ʔaŧaqaŧtitmu (Family) Proceedings Pending	37
No Pending ?aŧaqaŧtitmu (Family) Proceedings	37
Proceedings on Death Pending	37
No Proceedings on Death Pending	37
Possibility of Joinder	37
Right of Appeal — k+amatamnam (Divorce) Proceeding	38
Right of Appeal — Other Proceeding	38
PART XI	38
KITNUMULTIŁ (RULES) OF PRACTICE AND PROCEDURE	38
Definitions	38
, kitnumu¢ti‡ (Rules)	38
Exercise of Power to Make kitnumuøti‡ (Rules)	39
Provincial Laws of Evidence	39
Continuation of Proceedings on Death of Party	39
Continuation of Application by †ax†u?ma‡ (Survivor) after Death of Party	39
Continuation of Application by Executor or Administrator after Death of Party	39

2AQAM MATRIMONIAL REAL PROPERTY LAW

iŧwaṫnaʔis ʔaḍam (Council of ʔaḍam) Power to Make Regulations	39	
Regulations Prevail	40	
PART XII	40	
AMENDMENTS	40	
Power to Make Amendments	40	
Non-Substantive Amendments	40	
Other Amendments	40	
PART XIII EFFECTIVE DATE	40	

WHEREAS

- **A.** ?aqam has an inherent right to self-government that emanates from our people, culture and ?amak (land) and that is recognized and affirmed by section 35(1) of the *Constitution Act*, 1982;
- **B.** Pursuant to the subsection 6(3) of the *First Nations Land Management Act* and clause 6.1 of the *Framework Agreement*, a First Nation may enter into an Individual Transfer Agreement with the ?ilqahak Nasu?kin (Minister) describing the ?amak (land) that must be subject to a land code, providing for the transfer and administration of that ?amak (land) and a description of the interests or rights and licences that have been granted by Canada to the First Nation in relation to that ?amak (land), and the date and other terms of the transfer to the First Nation of Canada's rights and obligations as grantor of those interests or rights and licences, and setting out the environmental assessment process that must apply to projects on that ?amak (land) until the enactment of a First Nations law in relation to that subject;
 - C. ?aqam signed an *Individual Agreement* with Canada on June 18, 2014;
- **D.** Pursuant to section 6 of the *First Nations Land Management Act* a First Nation that wishes to establish a ?amak (land) management regime in accordance with the Framework Agreement and the *First Nations Land Management Act* must adopt a land code applicable to all ?amak (land) in a reserve of the First Nation;
- **E.** The members of ?aqam voted in favour of the *St. Mary's Indian Band Land Code* at a ratification vote held on April 14-16, 2014 and the *St. Mary's Indian Band Land Code* came into effect on July 1, 2014;
- **F.** Pursuant to section 38.1 of the *St. Mary's Indian Band Land Code* the ?iłwatna?is ?aqam (Council of ?aqam) must enact a tiłnamu?tmu ?a·kłitit?is (spousal property) law providing kitnumu¢tił (rules) and procedures applicable on the breakdown of a kałałtitnam (marriage) of a member to the use, occupancy and possession of an interest in ?aqam ?amak (lands) held by the member, and the division of interests in those ?amak (lands):
- **G.** ?aqam is a member community of the Ktunaxa Nation and has traditionally traced its lineage matrilineally;
- **H.** Consistent with ka kniłwitiyała (our thinking) and qanikit¢i (our values and principles) it is our tradition that:
 - we put ?alaqaltitmu (family) first, and recognize the importance of our roles in the ?alaqaltitmu (family);
 - we share responsibility in raising ?aqam łkamnintik (children);
 - we honour our kułakłinintik (elders) and łkamnintik (children); and
 - our łkamnintik (children) and our ?amak (lands) are not to be fought over

because they are a gift from yaqasinknawaski (the creator);

- I. ?aqam intends to respect the following procedural principles with respect to the use, occupancy and possession of a ?alaqaltitmu ?a·kitla?nam (family home) and the division of interests in a ?alaqaltitmu ?a·kitla?nam (family home), on the breakdown of a kalaltitnam (marriage) or the death of a ?akinmalka?nam (spouse) or tilnamu?tmu (common-law partner):
 - our łkamnintik (children) should have a right to reside in the ?alaqaltitmu ?a·kitla?nam (family home) until the age of majority or until other arrangements have been made in the best interests of our łkamnintik (children);
 - each ?akinmałka?nam (spouse) should have an equal right to possession of the ?alaqaltitmu ?a·kitla?nam (family home);
 - the kitnumu¢tił (rules) and procedures shall not discriminate on the basis of sex:
 - a mortgage or lease of a ?ałaqałtitmu ?a·kitła?nam (family home) shall not be set aside if the mortgagee acquired it for value and in good faith; and
 - only members are entitled to hold a permanent interest in ?aqam ?amak (lands) or a charge against a permanent interest in ?aqam ?amak (lands);
 - the right of ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law partner) to make their own agreement as to the disposition of the ?ałaqałtitmu ?a·kitła?nam (family home) in the event that their hałilitit (conjugal relationship) does, or has, broken down; and
 - the right of a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law partner) to have access to a court of competent jurisdiction to deal with all of their property rights, entitlements and obligations on the breakdown of their hałiłitit (conjugal relationship), subject to ?aqam law where their property includes an interest in ?aqam ?amak (lands); and
- **J.** The ?iłwałna?is ?aqam (Council of ?aqam) has held a community land code meeting regarding this law in accordance with sections 7.6 to 7.9 of the *St. Mary's Indian Band Land Code*, and has considered any objections raised by ?aqam members;

NOW THEREFORE the ?iłwatna?is ?aqam (Council of ?aqam) duly enacts as follows:

PART I SHORT TITLE

Short Title

1. This Law may be cited as the *?aqam Matrimonial Real Property Law*, 2015.

PART II DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

2. The following definitions apply in this Law:

"?akinmałka?nam" means a person who:

- (a) is married to another person, whether by a traditional, religious or civil ceremony; or,
- (b) has entered into a kałałtitnam (marriage) that is voidable or void, in good faith on the part of a person relying on this clause to assert any right under this Law;

"?amak" means lands;

"?aqam" means ?aqam, formerly known as the St. Mary's Indian Band, within the meaning of the *Indian Act* for whose use and benefit in common ?aqam lands have been set apart by Canada;

"?aqam ?amak" means:

- (a) St. Mary's Indian Reserve No. 1;
- (b) Kootenay Indian Reserve No. 1 (07422);
- (c) kankak (Isidore's Ranch No. 4 (07423);
- (d) qałsan mayuk (Cassimayooks No. 5 (07424);
- (e) kałkakaqma?nam (Bummer's Flat No. 6 (07425); and
- (f) Pamak (lands) set apart by Canada in the future as Paqam Pamak (lands) reserved for the use and benefit of Paqam within the meaning of subsection 91(24) of the *Constitution Act*, 1867 and section 2(1) of the *Indian Act*;
- "?aqam-owned" means registered in the name of ?aqam or having a mortgage that names ?aqam as a guarantor;
- "?ałaqałtitmu ?a·kitła?nam" means a structure that is the family home that need not be affixed but that must be situated on ?aqam ?amak (lands) where the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners habitually reside or, if they have ceased to cohabit or one of them has died, where they habitually resided on the day on which they ceased to cohabit or the death occurred. If the structure is normally used for a purpose in addition to a residential purpose, this definition includes only the portion of the structure that may reasonably be regarded as necessary for the residential purpose;

- "?ilqahak Nasu?kin" means the Minister of Aboriginal Affairs and Northern Development Canada;
- "?ilwaina?is ?aqam" means the Chief and Councillors of ?aqam or any successor elected government of ?aqam;
- "court" means a court that has jurisdiction under Part X of this Law;
- "ex parte" means without having to give notice or an opportunity for argument to the other party;
- "hałiłitit" means a conjugal relationship between ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners;
- "k¢akiktił ʔałaqałtitmu" means family violence and includes any of the following acts or omissions committed by a ʔakinmałkaʔnam (spouse) or tiłnamuʔtmu (common-law) partner against the other ʔakinmałkaʔnam (spouse) or tiłnamuʔtmu (common-law) partner, any łkamnintik (child) in the charge of either ʔakinmałkaʔnam (spouse) or tiłnamuʔtmu (common-law) partner, or any other person who habitually resides in the ʔałaqałtitmu ʔa·kitłaʔnam (family home):
 - (a) physical abuse, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm:
 - (b) sexual abuse;
 - (c) attempts to physically or sexually abuse a ?alaqaltitmu (family) member;
 - (d) psychological or emotional abuse, including
 - (i) intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property,
 - (ii) unreasonable restrictions on, or prevention of financial or personal autonomy,
 - (iii) stalking or following of the ?ałaqałtitmu (family) member, and
 - (iv) intentional damage to property;
 - (e) forcible confinement without lawful authority; and
 - (f) in the case of a łkamnintik (child), direct or indirect exposure to k¢akiktił ?ałaqałtitmu (family violence);
- "kałałtitnam" means marriage;
- "kaqanxu" means a person referred to in paragraph (c) of the definition "peace officer" in section 2 of the *Criminal Code*;
- "kitaklikinil" means an adoptee;
- "kułakłinintik" means elder;
- "kitnumu¢tił kałałitit" means an interspousal contract that is:

- (a) a written agreement entered into between ?akinmałka?nam (spouses), two persons who intend to marry, or tiłnamu?tmu (common-law) partners that is signed by the parties in front of a witness, setting out their respective rights and obligations under the kałałtitnam (marriage) or tiłnamu?tmu (common-law) relationship, or on separation, with respect to the possession or division of a ?ałaqałtitmu ?a·kitła?nam (family home); or
- (b) a written agreement entered into between ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners whose hałiłitit (conjugal relationship) has ended and who are living separate and apart, that is signed by the parties in front of a witness, setting out their respective rights and obligations under the separation, with respect to the possession or division of a ?ałaqałtitmu ?a·kitła?nam (family home);
- "Hamnintik" means a child or children who is or are under 19 years of age;
- "tkamnintik of the hatilitit" means a child or children who is or are under 19 years of age and who:
 - (a) was or were born in or out of wedlock;
 - (b) is or are a legal kitaklikinil (adoptee); or
 - (c) is or are a kitaklikinil (adoptee) in accordance with ?aqam custom;
- "taxtu?mat" means the person who is still alive after the death of their ?akinmatka?nam (spouse) or titnamu?tmu (common-law) partner;
- "member" means a person whose name appears on the ?aqam membership list;
- "non-substantive amendment" means an amendment to this Law that does nothing more than:
 - (a) correct typographical or other editorial errors that were not caught during the initial drafting process;
 - (b) clarifies the meaning of a Ktunaxa term; or
 - (c) bring this Law into compliance with changes in the laws of ?aqam, Canada or the Province; and
- "tilnamu?tmu" means two (2) persons in a common-law relationship who are not married to each other and:
 - (a) who have lived together in a kałałtitnam-like (marriage-like) relationship for a period of not less than five (5) years;
 - (b) who live together in a kałałtitnam-like (marriage-like) relationship and have a łkamnintik (child) together; or
 - (c) who live together in a kałałtitnam-like (marriage-like) relationship where one of the partners has a łkamnintik (child) and the other partner regularly cares for that łkamnintik (child) and stands in the place of a ʔakiniknam (parent) for that łkamnintik (child).

Interpretation

3. In this Law:

- (a) the use of the word "must" denotes an obligation that, unless this Law provides to the contrary, must be carried out as soon as practicable after this Law comes into effect or the event that gives rise to the obligation;
- (b) unless it is otherwise clear from the context, the use of the word "including" means "including, but not limited to" and the use of the word "includes" means "includes, but is not limited to";
- (c) headings and subheadings are for convenience only, do not form a part of this Law and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Law;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
- (e) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of the plural includes the singular; and
- (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine and the use of the feminine includes the masculine.
- **4.** For greater certainty, for the purposes of this Law, a kitnumu¢tił kałałitit (interspousal contract) includes a kitnumu¢tił kałałitit (interspousal contract) reached through the use of traditional dispute resolution, mediation or negotiation.

Application

- 5. This Law only applies to ?akinmałka?nam (spouses) or tiłnamu?tmu (commonlaw) partners if at least one of them is a member.
 - **6.** This Law only applies to ?aqam ?amak (lands).
- 7. Where any law or regulation of Canada or the Province or any other ?aqam law applies to any matter covered by this Law, compliance with this Law does not relieve the person from also complying with the provisions of the other applicable laws or regulations.
- **8.** This Law does not limit or preclude any right or remedy otherwise available to persons who are or may be affected by it pursuant to any other law applicable on the breakdown of a halilitit (conjugal relationship) with respect to property other than the ?alaqaltitmu ?a kitla?nam (family home), or other entitlements or obligations of ?akinmalka?nam (spouses) or tilnamu?tmu (common-law) partners.

- **9.** This Law does not limit or preclude the use of any method of alternative dispute resolution by ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners.
- 10. If any provision of this Law is held invalid by a court of competent jurisdiction, the invalid provision must be severed from and must not affect the remaining provisions of this Law.

PART III ?AŁAQAŁTITMU ?A·KITŁA?NAM (FAMILY HOME)

qawsaqa ni?s hałałitit (Occupation during Conjugal Relationship)

11. Subject to any ?aqam laws regulating the use and occupation of ?aqam ?amak (lands), each ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner has a right to occupy the ?ałaqałtitmu ?a·kitła?nam (family home) during the hałiłitit (conjugal relationship), whether or not that person is a member.

qawsaqa ni?s (Occupation after Death)

12. When a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner dies, a łaxłu?mał (survivor) who does not hold an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) has a right to occupy the ?ałaqałtitmu ?a·kitła?nam (family home) for a period of 180 days after the day on which the death occurs, whether or not the łaxłu?mał (survivor) is a member.

Consent Required for Disposal of ?alaqaltitmu ?a·kitla?nam (Family Home)

13. A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who holds an interest in or to a ?ałaqałtitmu ?a·kitła?nam (family home) must not dispose of or encumber that interest during their hałilitit (conjugal relationship) without the free and informed written consent of their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner whether or not that person is a member.

Disposal of ?alaqaltitmu ?a·kitla?nam (Family Home) without Consent

- 14. (1) If a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner disposes of or encumbers their interest in or to a ?ałaqałtitmu ?a·kitła?nam (family home) without the free and informed written consent of their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner a court may, on application by the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who did not provide consent, grant an order:
 - (a) setting aside the transaction; and
 - (b) setting conditions on any future disposition or encumbrance of that interest by the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner to whom the interest reverts.

(2) The court may not set aside a disposition or encumbrance if the other contracting party to that disposition or encumbrance acquired it for value and acted in good faith.

Application for Damages

15. A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who has not provided free and informed written consent to a transaction for which such consent is required may, without prejudice to any other right, claim damages from the other ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner.

Burden to Prove Consent

16. A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who disposes of or encumbers the interest in or to a ?ałaqałtitmu ?a·kitła?nam (family home) has the burden of proving that the other ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner provided free and informed written consent to the disposition or encumbrance.

Order Allowing Disposal of ?alaqaltitmu ?a·kitla?nam (Family Home) without Consent

- 17. (1) A court may, on application by a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who holds an interest in or to a ?ałaqałtitmu ?a·kitła?nam (family home), grant an order authorizing that person to dispose of or encumber the ?ałaqałtitmu ?a·kitła?nam (family home) without the required consent of their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner subject to any conditions the court considers appropriate.
- (2) A court may only make an order under subsection (1) if it is satisfied that the other ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner:
 - (a) cannot be found;
 - (b) is not capable of consenting; or
 - (c) is unreasonably withholding consent.

PART IV KITNUMU¢TIŁ K¢AKIKTI?TIŁ (EMERGENCY PROTECTION ORDERS)

Application for kitnumu¢tił k¢akikti?tił (Emergency Protection Order)

- **18.** A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner may make an *ex parte* application for a kitnumu¢tił k¢akikti?tił (Emergency Protection Order) and may do so even if that person has been forced to vacate the ?ałaqałtitmu ?a·kitła?nam (family home) as a result of k¢akiktił ?ałaqałtitmu (family violence).
- 19. A kadanxu (peace officer) or other person may apply for a kitnumuctił kcakikti?tił (Emergency Protection Order) on behalf of a ?akinmałka?nam (spouse) or

tiłnamu?tmu (common-law) partner with that person's consent, or if that person does not consent, with leave of the court.

, kitnumu¢tił k¢akikti?tił (Emergency Protection Order)

- **20.** A court may make a kitnumu¢tił k¢akikti?tił (Emergency Protection Order) for a period of up to 90 days if the court is satisfied that:
 - (a) k¢akiktił ?ałaqałtitmu (family violence) has occurred; and
 - (b) the order should be made without delay because of the seriousness or urgency of the situation to ensure the immediate protection of the person who is at risk of harm or property that is at risk of damage.
- **21.** A kitnumu¢tił k¢akikti?tił (Emergency Protection Order) made under section 20 may include any of the following conditions:
 - (a) a provision granting the applicant exclusive occupation of the ?ałaqałtitmu ?a·kitła?nam (family home) and reasonable access to that ?ałaqałtitmu ?a·kitła?nam (family home);
 - (b) a provision requiring the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner and any specified person who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home) whether or not they are members to vacate the ?ałaqałtitmu ?a·kitła?nam (family home) immediately or within a specified period and prohibiting them from re-entering the home;
 - (c) a provision directing a kaqanxu (peace officer), immediately or within a specified period, to remove the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner and any specified person who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home) whether or not they are members from the ?ałaqałtitmu ?a·kitła?nam (family home);
 - (d) a provision prohibiting any person who is required to vacate the ?ałaqałtitmu ?a·kitła?nam (family home) under a provision referred to in paragraph (b) from attending near the ?ałaqałtitmu ?a·kitła?nam (family home);
 - (e) a provision directing a kaqanxu (peace officer), within a specified period, to accompany the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner or any specified person to the ?ałaqałtitmu ?a·kitła?nam (family home) or other location in order to supervise the removal of personal belongings; and
 - (f) any other provision that the court considers necessary for the immediate protection of the person who is at risk of harm or property that is at risk of damage.

Considerations

- **22.** (1) In making an order under section 20, the best interests of any łkamnintik of the hałiłitit (child of the conjugal relationship) who may be affected by the order must be the paramount consideration.
- (2) To determine what is in the best interests of a łkamnintik (child), all of the łkamnintik (child's) rights, needs and circumstances must be considered, including the following:
 - (a) the łkamnintik (child's) health and emotional well-being;
 - (b) the łkamnintik (child's) views, unless it would be inappropriate to consider them;
 - (c) the nature and strength of the relationships between the łkamnintik (child) and significant persons in the łkamnintik (child's) life;
 - (d) the history of łkamnintik (child's) care;
 - (e) the łkamnintik (child's) right to stability, given the łkamnintik's (child's) age and stage of development;
 - (f) the łkamnintik (child's) right to reside on ʔaqam ʔamak (lands) and not to be removed or relocated from ʔaqam ʔamak (lands) without their free, prior and informed consent;
 - (g) the impact of any k¢akiktił ?ałaqałtitmu (family violence) on the łkamnintik (child's) right to safety, security or well-being, whether the k¢akiktił ?ałaqałtitmu (family violence) is directed toward the łkamnintik (child) or another ?ałaqałtitmu (family) member;
 - (h) whether the actions of a person responsible for the k¢akiktił ?ałaqałtitmu (family violence) indicate that the person may be impaired in his or her ability to care for the łkamnintik (child) and meet the łkamnintik (child's) needs; and
 - (i) the łkamnintik (child's) right to recover, use, enjoy, preserve and pass on to future generations ʔaqam histories and language, oral traditions and culture.
 - (3) In making an order under section 20, the court must also consider:
 - (a) the best interests of any łkamnintik (child) who is not a łkamnintik of the hałiłitit (child of the conjugal relationship) but who is in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner;
 - (b) the history and nature of the k¢akiktił ?ałagałtitmu (family violence);
 - (c) the existence of immediate danger to the person who is at risk of harm or property that is at risk of damage;
 - (d) the interests of any kułakłinintik (elder) or person with a disability who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home) and for whom either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner is the caregiver;
 - (e) the fact that a person, other than the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners, holds an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home);

- (f) the period during which the applicant has habitually resided on ?aqam ?amak (lands); and
- (g) the existence of exceptional circumstances that necessitate the removal of a person other than the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner from the ?ałaqałtitmu ?a·kitła?nam (family home) in order to give effect to the granting to the applicant of exclusive occupation of that home, including the fact that the person has committed k¢akiktił ?ałaqałtitmu (family violence) against the applicant, any łkamnintik (child) in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, or any other person who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home).

kitnumu¢tił k¢akikti?tił (Emergency Protection Order) Binding

23. Any person against whom an order is made under section 20 and any person specified in an order made under section 20 are bound by it on receiving notice of it.

Notice of kitnumu¢tił k¢akikti?tił (Emergency Protection Order)

- **24.** (1) A kaqanxu (peace officer) must serve a copy of an order made under section 20 on the person against whom the order is made and any other person named in the order.
- (2) Service under subsection (1) must be by personal service unless the court authorizes service in another manner.
- (3) The kaqanxu (peace officer) who serves a notice under subsection (1) must, without delay, after such service is effected inform the person in whose favour the kitnumu¢tił k¢akikti?tił (Emergency Protection Order) is made that the person against whom the order is made, and any other person named in the order, has been served.

Application to Vary or Revoke kitnumuçtił kçakikti?tił (Emergency Protection Order)

- **25.** Any person in whose favour, or against whom, an order is made under section 20, or any person specified in an order under section 20 may apply to the court to have the order varied or revoked:
 - (a) within 21 days after the day on which notice under section 24 is served or with leave of the court; and
 - (b) only if there has been a material change in circumstances.

Notice of Application

26. (1) An applicant under section 25 must, without delay, serve a copy of the application:

- (a) if the applicant is a person in whose favor the order under section 20 is made, to the person against whom the order is made and any other person named in the order; and
- (b) if the applicant is a person against whom the order under section 20 is made, to the person in whose favor the order is made and any other person named in the order.
- (2) Any person who is entitled to be served a copy of an application under subsection (1) has a right to appear before the court and make submissions with regard to their interests or rights in or to the ?ałaqałtitmu ?a·kitła?nam (family home).

Confirm, Vary or Revoke Order

27. The court may confirm, vary or revoke an order made under section 20 and may extend the duration of the order beyond the period of ninety (90) days.

Evidence at Hearing

- **28.** In confirming, varying or revoking an order made under section 20, the court must consider:
 - (a) all evidence that was relied on at the hearing in which the order was made under section 20;
 - (b) all evidence regarding a change in material circumstances; and
 - (c) the considerations set out in section 22.

Order Binding

29. Any person against whom an order under section 27 is made, and any person named in an order under section 27, is bound by it on receiving notice of it.

Notice of kitnumu¢tił k¢akikti?tił (Emergency Protection Order)

- **30.** (1) If a person against whom an order under section 27 is made, or another person named in an order under section 27, is not present at the hearing, a kaġanxu (peace officer) must serve a copy of the order made under section 27 on that person.
- (2) Service under subsection (1) must be by personal service unless the court authorizes service in another manner.
- (3) The kaqanxu (peace officer) who serves a notice under subsection (1) must, without delay, after such service is effected inform the person in whose favour the order is made that the person against whom the order is made, and any person who is affected by the order, has been served.

Exclusion of Public from kitnumu¢tił k¢akikti?tił (Emergency Protection Order) Hearing

- **31.** (1) Subject to subsection (2), on application by the parties or on its own motion, a court may make one or more of the following orders, subject to any conditions that the court specifies:
 - (a) an order excluding members of the public, other than the parties, from all or part of a hearing to grant an order under section 20 or 27;
 - (b) an order prohibiting the publication or broadcasting of any information from a hearing to grant an order under section 20 or 27, including the name of a party, witness or łkamnintik (child) in the charge of either party or any information likely to identify any of those persons; or
 - (c) an order prohibiting disclosure to the public of any information in a court document or record related to a hearing to grant an order under section 20 or 27.
 - (2) The court may only make an order under subsection (1) if it is satisfied that:
 - (a) the order is necessary for the safety of a party or witness;
 - (b) the order is necessary for the safety, physical or emotional well-being of a łkamnintik (child); or
 - (c) protecting a party, witness or łkamnintik (child) from an undue hardship or adverse effect that could be caused by making the information public outweighs the public's right to the information.

PART V

PISNIŁ SAWSAQA?NI ØXAŁ PISNIŁ QAWSAQA (EXCLUSIVE OCCUPATION ORDER) AT BREAKDOWN OF HAŁIŁITIT (CONJUGAL RELATIONSHIP)

Application for ?isnit sawsaqa?ni ¢xat ?isnit qawsaqa (Exclusive Occupation Order)

32. A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner may apply to the court for an order granting that person exclusive occupation of a ?ałaqałtitmu ?a·kitła?nam (family home) that is not ?aqam-owned, whether or not that person is a member.

Copy of an Application

- **33.** (1) An applicant under section 32 must, without delay, serve a copy of the application on:
 - (a) ?itwatna?is ?aqam (Council of ?aqam);

- (b) any person who is of the age of majority or over, whom the applicant is seeking to have vacated from the ?ałaqałtitmu ?a·kitła?nam (family home); and
- (c) any person who holds an interest in or to the ?alaqaltitmu ?a·kitla?nam (family home).
- (2) Any person who has been served a copy of an application under subsection (1) has a right to appear before the court and make submissions with regard to their interests or rights in or to the ?ałaqałtitmu ?a·kitła?nam (family home).

?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order)

- **34.** (1) A court may make an order that grants the applicant exclusive occupation of a ?ałaqałtitmu ?a·kitła?nam (family home) that is not ?aḍam-owned, and reasonable access to that home, subject to any conditions set out in section 35, and for any period of time that the court determines is reasonable in the circumstances.
- (2) Pending the determination of an application under subsection (1), the court may make an interim order to the same effect as an order under subsection (1).

Content of ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order)

- **35.** An order under section 34 may contain a provision requiring any or all of the following:
 - (a) the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner and any specified person whether or not they are members to vacate the ?ałaqałtitmu ?a·kitła?nam (family home), immediately or within a specified period of time, and prohibiting them from re-entering the home;
 - (b) the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner to preserve the condition of the ?ałaqałtitmu ?a·kitła?nam (family home) until that person vacates it;
 - (c) the applicant to make payments to their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner toward the cost of other accommodation; or
 - (d) either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner to pay for all or part of the repair and maintenance of the ?ałaqałtitmu ?a·kitła?nam (family home) and of other liabilities arising in respect of the ?ałaqałtitmu ?a·kitła?nam (family home), or to make payments to the other ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner for those purposes.

Considerations

36. (1) In making a ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order) under section 34, the best interests of any łkamnintik of the halilitit (child of the conjugal relationship) who may be affected by the order must be the paramount consideration.

- (2) To determine what is in the best interests of a łkamnintik (child), all of łkamnintik (child's) rights, needs and circumstances must be considered, including the following:
 - (a) the łkamnintik (child's) health and emotional well-being;
 - (b) the łkamnintik (child's) views, unless it would be inappropriate to consider them;
 - (c) the nature and strength of the relationships between a łkamnintik (child) and significant persons in the łkamnintik (child's) life;
 - (d) the history of łkamnintik (child's) care;
 - (e) the łkamnintik (child's) right to stability, given the łkamnintik (child's) age and stage of development;
 - (f) the łkamnintik (child's) right to reside on ʔaqam ʔamak (lands) and not to be removed or relocated from ʔaqam ʔamak (lands) without their free, prior and informed consent;
 - (g) the impact of any k¢akiktił ?ałaqałtitmu (family violence) on the łkamnintik (child's) right to safety, security or well-being, whether the k¢akiktił ?ałaqałtitmu (family violence) is directed toward the łkamnintik (child) or another ?ałaqałtitmu (family) member;
 - (h) whether the actions of a person responsible for k¢akiktił ?ałaqałtitmu (family violence) indicate that the person may be impaired in his or her ability to care for the łkamnintik (child) and meet the łkamnintik (child's) needs; and
 - (i) the łkamnintik (child's) right to recover, use, enjoy, preserve and pass on to future generations ?aqam histories and language, oral traditions and culture.
- (3) In making a ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order), the court must also consider:
 - (a) the best interests of any łkamnintik (child) who is not a łkamnintik of the hałiłitit (child of the conjugal relationship) but who is in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner;
 - (b) the terms of any kitnumu¢tił kałałitit (interspousal contract);
 - (c) the collective interests of members in their ?aqam ?amak (lands);
 - (d) any representations made by ?iłwaina?is ?aqam (Council of ?aqam) with respect to the cultural, social and legal context that pertains to the application;
 - (e) the period during which the applicant has habitually resided on ?aqam ?amak (lands);
 - (f) the financial situations and the medical conditions of the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners;
 - (g) the availability of other suitable accommodation that is situated on ?aqam ?amak (lands);
 - (h) any existing order made on a matter related to the consequences of the breakdown of the halilitit (conjugal relationship);

- (i) any k¢akiktił ?ałaqałtitmu (family violence);
- (j) any acts or omissions by one of the ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners that reasonably constitute psychological abuse against the other ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, any łkamnintik (child) in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, or any other ?ałaqałtitmu (family) member who habitually resides in the ?ałaqałtitmu ?a·kitla?nam (family home);
- (k) the existence of exceptional circumstances that necessitate the removal of a person other than the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner from the ?ałaqałtitmu ?a·kitła?nam (family home) in order to give effect to the granting to the applicant of exclusive occupation of that home, including the fact that the person has committed acts or omissions that constitute k¢akiktił ?ałaqałtitmu (family violence) against the applicant, any łkamnintik (child) in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, or any other ?ałaqałtitmu (family) member who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home);
- (1) the interests of any kułakłinintik (elder) or person with a disability who habitually resides in the ?ałaqałtitmu ?a·kitla?nam (family home) and for whom either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner is the caregiver;
- (m)the fact that a person, other than the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners, holds an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home); and
- (n) the views of any person who received a copy of the application, presented to the court in any form that the court allows.

kitnumu¢tił k¢akikti?tił (Emergency Protection Order) Revoked

37. An existing kitnumu¢tił k¢akikti?tił (Emergency Protection Order) in favour of or against one of the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partners is revoked when the court makes an order under section 34, except to the extent specified by the court in either order.

Notice of ?isnit sawsaqa?ni ¢xat ?isnit qawsaqa (Exclusive Occupation Order)

- **38.** (1) Subject to subsection (2), a person who is granted an order under section 34 must, without delay serve a copy of the order on those persons who are entitled to receive a copy of the application pursuant to section 33.
- (2) If directed by the court, a kaqanxu (peace officer) must serve a copy of an order made under section 34 on those persons who are entitled to receive a copy of the application pursuant to section 33.

Application to Vary or Revoke ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order)

- **39.** If there has been a material change in circumstances, any of the following persons may apply to a court to have an order made under section 34 varied or revoked:
 - (a) any person in whose favour or against whom an order made under section 34 is made;
 - (b) any person specified in order made under section 34; or
 - (c) the holder of an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) to which an order made under section 34 relates.

Notice of Application

- **40.** (1) An applicant under section 39 must, without delay, send a copy of the application to:
 - (a) ?iłwatna?is ?aqam (Council of ?aqam);
 - (b) if the applicant is a person in whose favour an order was made under section 34, to the person against whom the order was made;
 - (c) if the applicant is a person against whom an order was made under section 34, to the person in whose favour the order was made;
 - (d) any person who is named in the order made under section 34; and
 - (e) any person who holds an interest in or to the ?alaqaltitmu ?a·kitla?nam (family home) to which the order made under section 34 relates.
- (2) Any person who is entitled to be served a copy of an application under subsection (1) has a right to appear before the court and make submissions with regard to their interests or rights in or to the ?ałaqałtitmu ?a·kitła?nam (family home).

Court Order

41. The court may, by order, confirm, vary or revoke an order made under section 34.

Evidence at Hearing

- **42.** In confirming, varying or revoking an order made under section 34, the court must consider:
 - (a) all evidence that was relied on at the hearing in which the order was made under section 34;
 - (b) all evidence regarding a change in material circumstances; and

(c) the considerations set out in section 36.

Notice of Order

- **43.** (1) Subject to subsection (2), a person who is granted an order under section 41 must, without delay serve a copy of the order on those persons who are entitled to receive a copy of the application pursuant to section 40.
- (2) If directed by the court, a kaqanxu (peace officer) must serve a copy of an order made under section 41 on those persons who are entitled to receive a copy of the application pursuant to section 40.

PART VI

PISNIŁ SAWSAQA?NI ¢XAŁ PISNIŁ QAWSAQA (EXCLUSIVE OCCUPATION ORDER) AFTER DEATH OF A PAKINMAłKA?NAM (SPOUSE) OR TIŁNAMU?TMU (COMMON LAW PARTNER)

Application For a 7isnił sawsaqa?ni ¢xał 7isnił qawsaqa (Exclusive Occupation Order) After Death of a 7akinmałka?nam (Spouse) or tiłnamu?tmu (Common-Law) Partner

44. A łaxłu?mał (survivor) may apply to the court for an order granting the łaxłu?mał (survivor) exclusive occupation of a ʔałaqałtitmu ʔa·kitła?nam (family home) that is not ʔaḍam-owned, whether or not that person is a member.

Notice of Application

- **45.** (1) An applicant under section 44 must, without delay serve a copy of the application on:
 - (a) ?iłwatna?is ?aqam (Council of ?aqam);
 - (b) the executor of the will or the administrator of the estate, if the applicant knows who those persons are;
 - (c) the ?ilqahak Nasu?kin (Minister);
 - (d) any person who is of the age of majority or over, whom the applicant is seeking to have the court order to vacate the ?ałaqałtitmu ?a·kitła?nam (family home); and
 - (e) any person who holds an interest in or to the ?alaqaltitmu ?a·kitla?nam (family home).
- (2) Any person who has a right to be served a copy of the application has a right to appear before the court and make submissions with regard to their interests or rights in or to the ?alaqaltitmu ?a kitla?nam (family home).

Court Order

- **46.** (1) A court may make an order granting a łaxłu?mał (survivor) exclusive occupation of a ʔałaqałtitmu ʔa·kitła?nam (family home) that is not ʔaḍam-owned, and reasonable access to that home, subject to any conditions set out in section 47, and for any period that the court determines is reasonable in the circumstances.
- (2) Pending the determination of an application under subsection (1), the court may make an interim order to the same effect as an order under subsection (1).

Content of Order

- **47.** An order under section 46 may contain provisions requiring any or all of the following:
 - (a) the \text{\tanharmat} (survivor) to preserve the condition of the \text{\tanharmat} a\text{\tanharmat} kit\tanharman (family home);
 - (b) any specified person, whether or not that person holds an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) to vacate it immediately, or within a specified period, and prohibiting them from re-entering the home;
 - (c) the executor of the will, the administrator of the estate, or the holder of an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) to pay for all or part of the repair and maintenance of the ?ałaqałtitmu ?a·kitła?nam (family home) and of other liabilities arising in respect of it; or
 - (d) any other condition the court considers is just and appropriate in the circumstances.

Considerations

- **48.** (1) In making an order under section 46, the best interests of any łkamnintik of the hałiłitit (child of the conjugal relationship) who may be affected by the order must be the paramount consideration.
- (2) To determine what is in the best interests of a łkamnintik (child), all of the łkamnintik (child's) rights, needs and circumstances must be considered, including the following:
 - (a) the łkamnintik (child's) health and emotional well-being;
 - (b) the łkamnintik (child's) views, unless it would be inappropriate to consider them;
 - (c) the nature and strength of the relationships between the łkamnintik (child) and significant persons in the łkamnintik (child's) life;
 - (d) the history of the łkamnintik (child's) care;

- (e) the łkamnintik (child's) right to stability, given the łkamnintik (child's) age and stage of development;
- (f) the łkamnintik (child's) right to reside on ʔaqam ʔamak (lands) and not to be removed or relocated from ʔaqam ʔamak (lands) without their free, prior and informed consent;
- (g) the impact of any k¢akiktił ?ałaqałtitmu (family violence) on the łkamnintik (child's) right to safety, security or well-being, whether the k¢akiktił ?ałaqałtitmu (family violence) is directed toward the łkamnintik (child) or another ?ałaqałtitmu (family) member;
- (h) whether the actions of a person responsible for k¢akiktił ?ałaqałtitmu (family violence) indicate that the person may be impaired in his or her ability to care for the łkamnintik (child) and meet the łkamnintik (child's) needs; and
- (i) the łkamnintik (child's) right to recover, use, enjoy, preserve and pass on to future generations ?aqam histories and language, oral traditions and culture;
- (3) In making a ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order), the court must also consider:
 - (a) the best interests of any łkamnintik (child) who is not a łkamnintik of the hałiłitit (child of the conjugal relationship) but who is in the charge of either ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner;
 - (b) the terms of a will;
 - (c) the terms of a kitnumu¢tił kałałitit (interspousal contract);
 - (d) the collective interests of members in ?aqam ?amak (lands);
 - (e) any representations made by ?iłwatna?is ?aqam (Council of ?aqam) with respect to the cultural, social and legal context that pertains to the application;
 - (f) the financial and medical condition of the taxtu?mat (survivor);
 - (g) the period during which the łaxłu?mał (survivor) has habitually resided on ?aqam ?amak (lands);
 - (h) the fact that the ?ałaqałtitmu ?a·kitła?nam (family home) is the only property of significant value in the estate;
 - (i) the interests of any person who holds or may have a right to an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home);
 - (j) the interests of any kułakłinintik (elder) or person with a disability who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home) and for whom the łaxłu?mał (survivor) is the caregiver;
 - (k) the existence of exceptional circumstances that necessitate the removal of a person from the ?ałaqałtitmu ?a·kitła?nam (family home) in order to give effect to the granting to the łaxłu?mał (survivor) of exclusive occupation of that home, including the fact that the person has committed acts or omissions that constitute k¢akiktił ?ałaqałtitmu (family violence) against the łaxłu?mał (survivor), any łkamnintik

- (child) in the charge of the łaxłu?mał (survivor), or any other ?ałaqałtitmu (family) member who habitually resides in the ?ałaqałtitmu ?a·kitła?nam (family home); and
- (l) the views of any person who received a copy of the application, that were presented to the court in any form that the court allows.

Notice of Order

- **49.** (1) Subject to subsection (2), a taxtu?mat (survivor) who is granted an order under section 46 must, without delay, serve notice of the order on those persons who are entitled to receive a copy of the application pursuant to section 45.
- (2) If directed by the court, a kaqanxu (peace officer) must serve a copy of an order under section 46 on those persons who are entitled to receive a copy of the application pursuant to section 45.

Application to Vary or Revoke ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order) after Death of a ?akinmałka?nam (Spouse) or tiłnamu?tmu (Common-Law) Partner

- **50.** If there has been a material change in circumstances, the following persons may apply to the court to have an order granted under section 46 varied or revoked:
 - (a) the \text{\tangenty} mat (survivor) to whom the order under section 46 is granted;
 - (b) the executor of the will or administrator of the estate;
 - (c) any person specified in an order made under section 46; or
 - (d) the holder of an interest in or to the ?ałaqałtitmu ?a kitła?nam (family home).

Copy of Application

- **51.** (1) An applicant under section 50 must, without delay send a copy of the application to every person who is entitled to receive an application under section 45.
- (2) Any person who is entitled to be served a copy of the application has a right to appear before the court and make submissions with regard to their interests or rights in or to the ?alaqaltitmu ?a kitla?nam (family home).

Court Order

52. The court may make an order that confirms, varies or revokes an order made under section 46 and may include in such order any provisions set out in section 47.

Evidence at Hearing

53. In confirming, varying or revoking an order made under section 46, the court must consider:

- (a) all evidence that was relied on at the hearing in which the order was made under section 46;
- (b) all evidence regarding a change in material circumstances; and
- (c) the considerations set out in section 48.

Notice of Order

- **54.** (1) Subject to subsection (2), a person who is granted an order under section 52 must, without delay serve a copy of the order on those who are entitled to receive a copy of an application under section 45.
- (2) If directed by the court, a kaqanxu (peace officer) must serve a copy of an order made under section 52 on those persons who are entitled to receive a copy of an application under section 45.

PAŖT VII

CXAłYAQAł YANKIN ?ÅKłTIT?IS NI?S YANQA·C (DIVISION OF THE VALUE OF A FAMILY HOME UPON BREAKDOWN OF CONJUGAL RELATIONSHIP)

Notice of Applications Made Under This Part

55. An applicant under this Part must, without delay, serve a copy of the application they are making on their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner.

Application by ?akinmałka?nam (Spouse) or tiłnamu?tmu (Common-Law) Partner

- **56.** A ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner may apply to the court for a determination of each ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner's entitlements under sections 60 to 62.
- **57.** An application under section 56 must be made within three (3) years after the day on which the halilitit (conjugal relationship) ended.

Court Order

- **58.** A court may make an order to determine any matter in respect of each ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner's entitlements under section 60, including:
 - (a) the amount payable by one ?akinmałka?nam (spouse) or tiłnamu?tmu (commonlaw) partner to the other; and
 - (b) that the amount payable be settled by
 - (i) payment of the amount in a lump sum,

- (ii) payment of the amount by installments,
- (iii) the set-off or compensation of any amounts owed by one ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner to the other, or
- (iv) any combination of the methods referred to in subparagraphs (i) to (iii).

Valuation Date

- **59.** For the purposes of section 60, "valuation date" means
- (a) in the case of ?akinmałka?nam (spouses), the earliest of the following days:
 - (i) the day on which they separated with no reasonable prospect of reconciliation,
 - (ii) the day on which a judgment granting their klamatamnam (divorce) is rendered,
 - (iii) the day on which their kałałtitnam (marriage) is declared a nullity,
 - (iv) the day on which one of the ?akinmałka?nam (spouses) made an application related to the consequences of the breakdown of the kałałtitnam (marriage), and
 - (v) the day on which one of the ?akinmałka?nam (spouses) is granted an order under section 63; or
- (b) in the case of tilnamu?tmu (common-law) partners, the earliest of the following days:
 - (i) the day on which one of the tilnamu?tmu (common-law) partners manifested the intention not to continue the halilitit (conjugal relationship),
 - (ii) the day on which one of the tiłnamu?tmu (common-law) partners made an application related to the consequences of the breakdown of the hałiłitit (conjugal relationship), and
 - (iii) the day on which one of the tilnamu?tmu (common-law) partners is granted an order under section 63.

Division of Value on Breakdown of halilitit (Conjugal Relationship)

60. When a halilitit (conjugal relationship) breaks down, each ?akinmałka?nam (spouse) or tilnamu?tmu (common-law) partner is entitled to an amount equal to one half of the value, on the valuation date, of the appreciation to a ?alaqaltitmu ?a·kitla?nam (family home) that is not ?aqam-owned from the date that the ?akinmałka?nam (spouses) or tilnamu?tmu (common-law) partners became ?akinmałka?nam (spouses) or tilnamu?tmu (common-law) partners.

Assessing Value

61. (1) Subject to subsection (2), an assessment of the value of a ?ałaqałtitmu ?a·kitła?nam (family home) is the difference between:

- (a) the amount that a buyer would reasonably be expected to pay for a ?ałaqałtitmu ?a·kitła?nam (family home) that is comparable to the ?ałaqałtitmu ?a·kitła?nam (family home) in question, and
- (b) the amount of any outstanding debts or other liabilities assumed for acquiring the ?ałaqałtitmu ?a·kitła?nam (family home) or for improving or maintaining the ?ałaqałtitmu ?a·kitła?nam (family home).
- (2) Despite subsection (1), ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners may enter an kitnumu¢tił kałałitit (interspousal contract) determining the value of a ?ałaqałtitmu ?a·kitla?nam (family home) on any basis that they desire to make such determination.
- (3) A party to a kitnumu¢tił kałałitit (interspousal contract) made under subsection (2) has a right to register that kitnumu¢tił kałałitit (interspousal contract) in the First Nations Land Registry.

Variation Order

- **62.** On application by a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, a court may, by order, vary the amount owed to or by the applicant under section 58 if that amount would be unconscionable, having regard to, among other things,
 - (a) the applicant's financial responsibility related to the care and upbringing of a łkamnintik (child) in the applicant's charge;
 - (b) the amount of debts or other liabilities referred to in that section incurred by each ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner;
 - (c) any significant change in the value of the ?ałaqałtitmu ?a·kitła?nam (family home) in question between the valuation date and the day on which the order is made, inclusive;
 - (d) the fact that one of the ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners may obtain exclusive occupation of the ?ałaqałtitmu ?a·kitła?nam (family home) on agreement or under an order under sections 34 or 41;
 - (e) the availability of accommodation comparable to the ?ałaqałtitmu ?a·kitła?nam (family home) situated on the same reserve as the ?ałaqałtitmu ?a·kitła?nam (family home);
 - (f) the duration of the halilitit (conjugal relationship);
 - (g) the terms of any kitnumu¢tił kałałitit (interspousal contract);
 - (h) the reduction of the value of the ?ałaqałtitmu ?a·kitła?nam (family home) in question as a result of acts or omissions by the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner including:
 - (i) the disposition of any such interest for less than its fair value,

- (ii) the improvident depletion of any such interest,
- (iii) the disposition or encumbrance of the interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) without the applicant's required consent, and
- (iv) the encumbrance of that interest after the valuation date; or
- (i) any other fact that the court considers is reasonably related to the consequences of the breakdown of the halilitit (conjugal relationship).

Interim Order to Protect and Preserve an Interest

63. On application by a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who has initiated an application under this Part, a court may make any order it considers necessary to protect and preserve an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) until a final determination is made under this Part.

Enforcement of kitnumu¢tił kałałitit (Interspousal Contracts)

- **64.** (1) If ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners enter into an kitnumu¢tił kałałitit (interspousal contract) after they cease to cohabit that sets out the amount to which each is entitled with respect to the ?ałaqałtitmu ?a·kitła?nam (family home) and how to settle the amount payable by one of the methods referred to in subparagraphs 58(b)(i), (ii) or (iii) or any combination of those methods, a court may, on application by one of them, make an order to enforce that kitnumu¢tił kałałitit (interspousal contract) if the court is satisfied that the consent of both parties to the kitnumu¢tił kałałitit (interspousal contract) is free and informed, and that the kitnumu¢tił kałałitit (interspousal contract) is not unconscionable, having regard to the factors listed in section 62.
- (2) A court may on application by a party to a kitnumu¢tił kałałitit (interspousal contract), set aside a provision in a kitnumu¢tił kałałitit (interspousal contract) with respect to a ?ałaqałtitmu ?a·kitła?nam (family home):
 - (a) if a party to that contract failed to disclose to the other party all of their interests in ?aqam ?amak (lands), or any material information in respect of those interests;
 - (b) if a party did not understand the nature or consequences of the provision; or
 - (c) otherwise in accordance with the law of contract.
- (3) A party to a kitnumu¢tił kałałitit (interspousal contract) made under subsection (1) has a right to register that kitnumu¢tił kałałitit (interspousal contract) in the First Nations land Registry.

Notice of Application Made Under This Part

- **65.** An applicant under this Part must, without delay, serve a copy of the application they are making on the following persons:
 - (a) the ?itqahak Nasu?kin (Minister);
 - (b) in the case where the applicant is the łaxłu?mał (survivor), to the executor of the will or the administrator of the estate, if the applicant knows who those persons are; and

Notice to Beneficiaries

66. On receipt of the copy of an application under section 65, the executor of the will or the administrator of the estate or, if neither has been appointed, the ?ilqahak Nasu?kin (Minister) must, without delay, serve a copy of the application on the named beneficiaries under the will and the beneficiaries on intestacy.

Application by łaxłu?mał (Survivor)

- **67.** A laxlu?mal (survivor) may apply to the court for a determination of their entitlements under section 71.
- **68.** (1) An application under section 67 must be made within ten (10) months after the day on which the death of the applicant's ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner occurs.
- (2) On application by a taxtu?mat (survivor), a court may extend the period of ten (10) months by any amount of time that it considers appropriate, if the court is satisfied that the applicant failed to apply within that period for one (1) of the following reasons:
 - (a) the łaxłu?mał (survivor) did not know of the death of their ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner until after the period expired; or
 - (b) circumstances existed that were beyond the control of the laxlu?mal (survivor).

Court Order

- - (a) determining the amount payable to the \text{\tax\tau\tau\tau\tau} and (survivor); and
 - (b) providing that the amount payable to the \frac{1}{4}ax\frac{1}{4}u\gamma\frac{1}{4}ma\frac{1}{4}(survivor) be settled by
 - (i) payment of the amount in a lump sum,
 - (ii) payment of the amount by installments, or
 - (iii) a combination of the methods referred to in subparagraphs (i) and (ii).

Valuation Date

70. For the purpose of section 71, "valuation date" means

- (a) in the case of ?akinmałka?nam (spouses), the earliest of the following days:
 - (i) the day before the day on which the death occurred,
 - (ii) the day on which the ?akinmałka?nam (spouses) ceased to cohabit as a result of the breakdown of the kałałtitnam (marriage), and
 - (iii) the day on which the ?akinmałka?nam (spouse) who is now the łaxłu?mał (survivor) is granted an order under section 78; or
- (b) in the case of tilnamu?tmu (common-law) partners, the earlier of the following days:
 - (i) the day before the day on which the death occurred, and
 - (ii) the day on which the tilnamu?tmu (common-law) partner who is now the taxtu?mat (survivor) is granted an order under section 78.

Entitlement of laxlu?mal (Survivor)

71. On the death of a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, the łaxłu?mał (survivor) is entitled to an amount equal to one half of the value, on the valuation date, of the appreciation to a ?ałaqałtitmu ?a·kitła?nam (family home) that is not ?aq́am-owned from the date that the ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners became ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners.

Assessing Value

- **72.** (1) Subject to subsection (2), an assessment of the value of a ?ałaqałtitmu ?a·kitła?nam (family home) is the difference between:
 - (a) the amount that a buyer would reasonably be expected to pay for a ?ałaqałtitmu ?a·kitła?nam (family home) that is comparable to the ?ałaqałtitmu ?a·kitła?nam (family home) in question, and
 - (b) the amount of any outstanding debts or other liabilities assumed for acquiring the ?alaqaltitmu ?a·kitla?nam (family home) or for improving or maintaining the ?alaqaltitmu ?a·kitla?nam (family home).
- (2) Despite subsection (1), the ?akinmałka?nam (spouses) or tiłnamu?tmu (commonlaw) partners may enter a kitnumu¢tił kałałitit (interspousal contract) determining the value of a ?ałaqałtitmu ?a·kitła?nam (family home) any basis they desire to make such determination.
- (3) A party to a kitnumu¢tił kałałitit (interspousal contract) made under subsection (2) has a right to register that kitnumu¢tił kałałitit (interspousal contract) in the First Nations Land Registry.

Variation of Order

- 73. (1) On application by an executor of a will or an administrator of an estate, a court may, by order, vary the amount granted to the laxlu?mal (survivor) under 69 if that amount would be unconscionable, having regard to, among other things, the fact that any lkamnintik (child) of the deceased individual would not be adequately provided for.
- (2) A party to a kitnumu¢tił kałałitit (interspousal contract) made under subsection (1) has a right to register that kitnumu¢tił kałałitit (interspousal contract) in the First Nations land Registry.

Variation of Trust

- **74.** On application by:
- (a) a taxtu?mat (survivor);
- (b) an executor of a will; or
- (c) an administrator of an estate,

the court may, by order, vary the terms of a trust that is established under the terms of the deceased individual's will so that the amount that is payable to the łaxłu?mał (survivor) may be paid.

Final Settlement

- 75. If a court decides, after the death of a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner, that an amount is payable to the łaxlu?mał (survivor) under section 58 or 72, the ?akinmałka?nam (spouse), tiłnamu?tmu (common-law) partner, or łaxlu?mał (survivor) may not, in respect of the interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home), benefit from:
 - (a) the deceased individual's will;
 - (b) section 48, subsections (50)(1) to (3) of the *Indian Act*, or
 - (c) regulations made under section 50.1 of the *Indian Act*.

Distribution of ?alaqaltitmu ?a·kitla?nam (Family Home)

- **76.** (1) Subject to subsection (2), an executor of a will or an administrator of an estate must not proceed with the distribution of a ?ałaqałtitmu ?a·kitła?nam (family home) that is not ?aqam-owned until one of the following occurs:
 - (a) the \frac{1}{4}x\frac{1}{4}u\frac{2}{mat} (survivor) consents in writing to the proposed distribution;
 - (b) the period of 10 months referred to in section 68(1) and any extended period the court may have granted under section 68(2) have expired and no application has been made under section 67 within those periods; or
 - (c) an application made under subsection 67 is disposed of.

Two taxtu?mat (Survivors)

77. When there are two łaxłu?mał (survivors) — a tiłnamu?tmu (common-law) partner and a ?akinmałka?nam (spouse) with whom the deceased individual is no longer cohabiting — and an amount is payable to both under an order referred to in section 69, the executor of the will or the administrator of the estate must pay the łaxłu?mał (survivor) who is the tiłnamu?tmu (common-law) partner before paying the łaxłu?mał (survivor) who is the ?akinmałka?nam (spouse).

Interim Order to Protect and Preserve an Interest

78. On application by a łaxłu?mał (survivor) who has initiated proceedings under section 67, a court may make any order that it considers necessary to protect and preserve an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) until a determination is made under section 69.

Enforcement of Agreements

- **79.** (1) If a łaxłu?mał (survivor) and the executor of the will or the administrator of the estate enter into a written agreement that sets out the amount to which the łaxłu?mał (survivor) is entitled with respect to a ʔałaqałtitmu ʔa·kitla?nam (family home) and how to settle the amount payable by one or both of the methods referred to in subparagraphs 69(b)(i), (ii) or (iii), a court may, on application by one of them, make an order to enforce that agreement if the court is satisfied that the consent of the łaxłu?mał (survivor) to the agreement is free and informed and that the agreement is not unconscionable.
- (2) A party to an agreement made under subsection (1) has a right to register that agreement in the First Nations Land Registry.

PART IX ¢IN QAPI QAPSIN (GENERAL)

Representations by ?iłwałna?is ?aqam (Council of ?aqam)

- **80.** (1) On the request of ?iłwatna?is ?aqam (Council of ?aqam), the court that is seized of any application must allow the ?iłwatna?is ?aqam (Council of ?aqam) to make representations with respect to the cultural, social and legal context that pertains to the application and to present its views about whether or not the order should be made.
- (2) Where ?iłwatna?is ?aqam (Council of ?aqam) makes representations under subsection (1), the Court must consider such representations in making an order under this Law.

Notice of Order to ?ilwatna?is ?aqam (Council of ?aqam)

81. Unless otherwise required by this Law, when the court makes an order under this Law that is not an order under section 31, the person in whose favour the order is made must send, without delay, a copy of the order to the ?iłwałna?is ?aqam (Council of ?aqam).

Liability of kaqanxu (Peace Officer) Limited

82. An action or other proceeding must not be instituted against a kaqanxu (peace officer) for any act or omission done in good faith in the execution or intended execution of the kaqanxu (peace officer)'s duties under this Law.

Interest or Right Not Affected

- **83.** An order made under any of Parts III to VI will not:
- (a) change who holds an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home); or
- (b) prevent an executor of a will or an administrator of an estate from transferring an interest in or to the ?ałaqałtitmu ?a·kitła?nam (family home) to a named beneficiary under the will or to a beneficiary on intestacy.

Effect of Order on Obligations under a Lease

84. When an order made under any of Parts IV to VI grants exclusive occupation of the ?ałaqałtitmu ?a·kitła?nam (family home) to a ?akinmałka?nam (spouse), tiłnamu?tmu (common-law) partner or łaxłu?mał (survivor) who is not a lessee under the lease for the ?ałaqałtitmu ?a·kitła?nam (family home), the ?akinmałka?nam (spouse), tiłnamu?tmu (common-law) partner or łaxłu?mał (survivor) is bound by the lease during the period of the order and is responsible to the lessor for the obligations under the lease of the lessee.

Offence

- **85.** Any person who contravenes one of the following orders is guilty of an offence:
- (a) an kitnumu¢tił k¢akikti?tił (Emergency Protection Order) made section 20 or 27;
- (b) a provision referred to in paragraph 35(a) contained in an ?isnił sawsaqa?ni ¢xał ?isnił qawsaqa (Exclusive Occupation Order) made under section 34 or 41; or
- (c) a provision referred to in paragraph 47(b) contained in an order made under section 46 or 52.
- **86.** (1) A person who is found guilty of an offence under section 85 is punishable on summary conviction and liable:
 - (a) in the case of a first offence, to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding three (3) months, or to both; or

- (b) in the case of a subsequent offence, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one (1) year, or to both.
- (2) A fine imposed under subsection (1) is payable directly to ?aqam.

PART X YISINOAŁ ?ITNUMU¢TIŁIŁ (JURISDICTION OF COURTS)

kłamatamnam (Divorce) Proceeding Pending

87. When a kłamatamnam (divorce) proceeding — as defined in subsection 2(1) of the *Divorce Act* — between ?akinmałka?nam (spouses) is pending, the court that has jurisdiction to hear and determine the matter has jurisdiction to hear and determine an application by one of the ?akinmałka?nam (spouses) under this Law.

Other ?alaqaltitmu (Family) Proceedings Pending

88. When a proceeding, other than a kłamatamnam (divorce) proceeding, related to the consequences of the breakdown of a hałiłitit (conjugal relationship) is pending, the court that is seized of the matter has jurisdiction to hear and determine an application by the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner.

No Pending ?ataqattitmu (Family) Proceedings

89. If no kłamatamnam (divorce) proceeding is pending and no court is seized of a matter related to the consequences of the breakdown of a hałiłitit (conjugal relationship), the court that has jurisdiction to hear and determine an application by a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner under this Law is the Supreme Court of British Columbia.

Proceedings on Death Pending

90. A court that is seized of a matter related to the distribution of property on the death of a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner has jurisdiction to hear and determine an application made under this Law by the łaxłu?mał (survivor), the executor of the will or the administrator of the estate.

No Proceedings on Death Pending

91. If no court is seized of a matter referred to in section 90, the court that has jurisdiction to hear and determine an application made under this Law by the łaxłu?mał (survivor), the executor of the will or the administrator of the estate is the Supreme Court of British Columbia.

Possibility of Joinder

92. An application made under this Law, except under sections 20 or 27, may be heard in the same proceeding as another application related to the consequences of the breakdown of the halilitit (conjugal relationship) or the death of one of the ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners.

Right of Appeal — klamatamnam (Divorce) Proceeding

93. An order made under this Law in a kłamatamnam (divorce) proceeding as defined in subsection 2(1) of the *Divorce Act* is deemed, for the purposes of section 21 of that Act, to be an order made under that Law.

Right of Appeal — Other Proceeding

94. Any other order made under this Law, except under Part IV, may be appealed to the court exercising appellate jurisdiction over the court that made the order.

PART XI KITNUMU¢TIŁ (RULES) OF PRACTICE AND PROCEDURE

Definitions

- **95.** The following definitions apply in this Part:
- "appellate court", in respect of an appeal from a court, means the court exercising appellate jurisdiction with respect to that appeal; and
- "competent authority" means the body, person or group of persons ordinarily competent under the laws of British Columbia to make kitnumu¢tił (rules) regulating the practice and procedure in the court that is hearing a proceeding under this Law.

, kitnumu¢til (Rules)

- **96.** Subject to sections 98 to 103, a competent authority may make kitnumu¢tił (rules) applicable to any proceedings under this Law, including kitnumu¢tił (rules):
 - (a) regulating the practice and procedure in the court, including the addition of persons as parties to the proceedings;
 - (b) respecting the conduct and disposition of any proceedings under this Law without an oral hearing;
 - (c) regulating the sittings of the court;
 - (d) respecting the fixing and awarding of costs;
 - (e) prescribing and regulating the duties of officers of the court;

- (f) respecting the transfer of proceedings under this Law to or from the court; and
- (g) prescribing and regulating any other matter considered expedient to attain the ends of justice and carry into effect the purposes and provisions of this Law.

Exercise of Power to Make kitnumu¢tił (Rules)

97. The power to make kitnumu¢tił (rules) conferred by section 96 on a competent authority must be exercised in the like manner and subject to the like terms and conditions, if any, as the power to make kitnumu¢tił (rules) conferred on that authority by the laws of British Columbia.

Provincial Laws of Evidence

98. The laws of evidence of British Columbia, including the laws of proof of service of any document, apply to proceedings under this Law.

Continuation of Proceedings on Death of Party

99. When a ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner makes an application under Part V or VII and both ?akinmałka?nam (spouses) or tiłnamu?tmu (common-law) partners or one of them dies before the application is disposed of, the application may be continued by or against the executor of the will or the administrator of the estate of the ?akinmałka?nam (spouse) or tiłnamu?tmu (common-law) partner who dies.

Continuation of Application by taxtu?mat (Survivor) after Death of Party

100. When a taxtu?mat (survivor) makes an application under Part VIII and the taxtu?mat (survivor) dies before the application is disposed of, the application may be continued by the executor of the will or the administrator of the estate of the taxtu?mat (survivor).

Continuation of Application by Executor or Administrator after Death of Party

101. When an executor of a will or an administrator of an estate makes an application under Part VIII and the laxlu?mal (survivor) dies before the application is disposed of, the application may be continued against the executor of the will or the administrator of the estate of the laxlu?mal (survivor).

?ilwaina?is ?aqam (Council of ?aqam) Power to Make Regulations

102. The ?iłwałna?is ?aqam (Council of ?aqam) may make regulations that the ?iłwałna?is ?aqam (Council of ?aqam) considers necessary for carrying out the purposes and provisions of this Law, including regulations making kitnumu¢tił (rules) that are

applicable to any proceedings under this Law and prescribing anything that by this Law is to be prescribed.

Regulations Prevail

103. Any regulations that may be made under section 102 to provide for uniformity in the kitnumu¢tił (rules) made under section 96 prevail over those kitnumu¢tił (rules).

PART XII AMENDMENTS

Power to Make Amendments

104. Council may, in accordance with this Part, make amendments to this Law.

Non-Substantive Amendments

105. Non-substantive amendments to this Law may be made by band council resolution.

Other Amendments

106. Amendments other than non-substantive amendments may be made upon approval by a quorum of eligible voters at a meeting of members pursuant to section 13 the *St. Mary's Indian Band Land Code*.

PART XIII EFFECTIVE DATE

107. This Law comes into force on June 30, 2015 upon approval by a quorum of eligible voters at a meeting of members pursuant to sections 7.15 and 13 of the *St. Mary's Indian Band Land Code*.