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MATRIMONIAL REAL PROPERTY LAW, 2015

Enacted by Membership on June 30, 2015

<i>Copy of Application.....</i>	<i>27</i>
<i>Court Order.....</i>	<i>27</i>
<i>Evidence at Hearing</i>	<i>27</i>
<i>Notice of Order</i>	<i>27</i>
<i>PART VII.....</i>	<i>28</i>
<i>ᑭᓂᐱᐃᐅᐊᐅ ᙰᐱᓕᓂ ᐱᓄᓈᓂ ᙰᐱᓕᐅᓄᓇ.....</i>	<i>28</i>
<i>(DIVISION OF THE VALUE OF A FAMILY HOME UPON BREAKDOWN OF CONJUGAL RELATIONSHIP)</i>	<i>28</i>
<i>Notice of Applications Made Under This Part.....</i>	<i>28</i>
<i>Application by ᐱᓕᓂᓄᐱᐅᐊᐅ (Spouse) or ᓂᓄᓂᓄᐱᐅᓄᓇ (Common-Law) Partner....</i>	<i>28</i>
<i>Court Order.....</i>	<i>28</i>
<i>Valuation Date</i>	<i>28</i>
<i>Division of Value on Breakdown of ᓂᓄᓂᓄᐱᐅᓄᓇ (Conjugal Relationship).....</i>	<i>29</i>
<i>Assessing Value</i>	<i>29</i>
<i>Variation Order.....</i>	<i>30</i>
<i>Interim Order to Protect and Preserve an Interest</i>	<i>31</i>
<i>Enforcement of ᓕᓂᓂᓄᓄᓂᓄᓂᓄᓇ ᓕᐱᐅᐅᓄᓇ (Interspousal Contracts).....</i>	<i>31</i>
<i>PART VIII.....</i>	<i>31</i>
<i>ᑭᓂᐱᐅ ᙰᐱᓕᐅ ᙰᐱᓕᓂᓄᓂᓄᓇ.....</i>	<i>31</i>
<i>(DIVISION OF THE VALUE OF A FAMILY HOME UPON DEATH OF A SPOUSE OR COMMON-LAW PARTNER)</i>	<i>31</i>
<i>Notice of Application Made Under This Part.....</i>	<i>31</i>
<i>Notice to Beneficiaries</i>	<i>32</i>
<i>Application by ᓂᐱᓂᓄᓄᓇᐅᓄᓇ (Survivor)</i>	<i>32</i>
<i>Court Order.....</i>	<i>32</i>
<i>Valuation Date</i>	<i>32</i>
<i>Entitlement of ᓂᐱᓂᓄᓄᓇᐅᓄᓇ (Survivor)</i>	<i>33</i>
<i>Assessing Value</i>	<i>33</i>
<i>Variation of Order.....</i>	<i>33</i>
<i>Variation of Trust.....</i>	<i>34</i>
<i>Final Settlement.....</i>	<i>34</i>

<i>Distribution of ʔaʔaqaʔtitmu ʔa-kitʔaʔnam (Family Home)</i>	34
<i>Two ʔaxʔuʔmaʔ (Survivors)</i>	35
<i>Interim Order to Protect and Preserve an Interest</i>	35
<i>Enforcement of Agreements</i>	35
<i>PART IX</i>	35
<i>ǂIN QAPI QAPSIN (GENERAL)</i>	35
<i>Representations by ʔiʔwaʔnaʔis ʔaǂam (Council of ʔaǂam)</i>	35
<i>Notice of Order to ʔiʔwaʔnaʔis ʔaǂam (Council of ʔaǂam)</i>	36
<i>Liability of kaǂanxu (Peace Officer) Limited</i>	36
<i>Interest or Right Not Affected</i>	36
<i>Effect of Order on Obligations under a Lease</i>	36
<i>Offence</i>	36
<i>PART X</i>	37
<i>YISINQAǂ ʔITNUMUǂTIǂ (JURISDICTION OF COURTS)</i>	37
<i>kʔamatamnam (Divorce) Proceeding Pending</i>	37
<i>Other ʔaʔaqaʔtitmu (Family) Proceedings Pending</i>	37
<i>No Pending ʔaʔaqaʔtitmu (Family) Proceedings</i>	37
<i>Proceedings on Death Pending</i>	37
<i>No Proceedings on Death Pending</i>	38
<i>Possibility of Joinder</i>	38
<i>Right of Appeal — kʔamatamnam (Divorce) Proceeding</i>	38
<i>Right of Appeal — Other Proceeding</i>	38
<i>PART XI</i>	38
<i>ǂITNUMUǂTIǂ (RULES) OF PRACTICE AND PROCEDURE</i>	38
<i>Definitions</i>	38
<i>ǂitnumuǂtiǂ (Rules)</i>	38
<i>Exercise of Power to Make ǂitnumuǂtiǂ (Rules)</i>	39
<i>Provincial Laws of Evidence</i>	39
<i>Continuation of Proceedings on Death of Party</i>	39
<i>Continuation of Application by ʔaxʔuʔmaʔ (Survivor) after Death of Party</i>	39
<i>Continuation of Application by Executor or Administrator after Death of Party</i>	40

- [illegible]

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

I. ʔaǰam intends to respect the following procedural principles with respect to the use, occupancy and possession of a ʔaʔaǰaʔitmu ʔa·kitʔaʔnam (family home) and the division of interests in a ʔaʔaǰaʔitmu ʔa·kitʔaʔnam (family home), on the breakdown of a kaʔaʔitnam (marriage) or the death of a ʔakinmaʔkaʔnam (spouse) or tiʔnamuʔtmu (common-law partner):

- our *tkamnintik* (children) should have a right to reside in the *?a?aqatitmu ?a-kitla?nam* (family home) until the age of majority or until other arrangements have been made in the best interests of our *tkamnintik* (children);
- each *?akinmatka?nam* (spouse) should have an equal right to possession of the *?a?aqatitmu ?a-kitla?nam* (family home);
- the *kitnumu?tit* (rules) and procedures shall not discriminate on the basis of sex;
- a mortgage or lease of a *?a?aqatitmu ?a-kitla?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 *?akinmatka?nam* (spouse) or *ti?namu?tmu* (common-law partner) to make their own agreement as to the disposition of the *?a?aqatitmu ?a-kitla?nam* (family home) in the event that their *ha?i?itit* (conjugal relationship) does, or has, broken down; and
- the right of a *?akinmatka?nam* (spouse) or *ti?namu?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 *ha?i?itit* (conjugal relationship), subject to *?aqam* law where their property includes an interest in *?aqam ?amak* (lands); and

J. The ȞitwatnaȞis Ȟaqam (Council of Ȟaqam) 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 Ȟaqam members;

NOW THEREFORE the ʔitwatnaʔis ʔaqam (Council of ʔaqam) duly enacts as follows:

PART I
SHORT TITLE

Short Title

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

“Pitqahak Nasu?kin” means the Minister of Aboriginal Affairs and Northern Development Canada;

“ŦiŦwatnaŦis ŦaŦam” means the Chief and Councillors of ŦaŦam or any successor elected government of ŦaŦam;

“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;

“hahilitit” means a conjugal relationship between ?akinmalka?nam (spouses) or ti?namu?tmu (common-law) partners;

“k̓çakikiṭ ʔaṭaq̓aṭitmu” means family violence and includes any of the following acts or omissions committed by a ʔakinmaṭkaʔnam (spouse) or tiṭnamuʔtmu (common-law) partner against the other ʔakinmaṭkaʔnam (spouse) or tiṭnamuʔtmu (common-law) partner, any ṭkamnintik (child) in the charge of either ʔakinmaṭkaʔnam (spouse) or tiṭnamuʔtmu (common-law) partner, or any other person who habitually resides in the ʔaṭaq̓aṭitmu ʔa·kitṭaʔnam (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 ᑭᓐᓐᓐᓐᓐᓐᓐᓐ (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 ᑭᓐᓐᓐᓐᓐᓐᓐᓐ (family) member, and
 - (iv) intentional damage to property;
- (e) forcible confinement without lawful authority; and
- (f) in the case of a ᓐᓐᓐᓐᓐᓐᓐᓐ (child), direct or indirect exposure to ᓐᓐᓐᓐᓐᓐᓐᓐᓐ ᓐᓐᓐᓐᓐᓐᓐᓐᓐ (family violence);

“kalāṭitnam” means marriage;

“kaqanxu” means a person referred to in paragraph (c) of the definition “peace officer” in section 2 of the *Criminal Code*;

“kitaklikini!” means an adoptee;

“kulaklinintik” means elder;

“kitnumu^çtił kałaliti^ç” means an interspousal contract that is:

- (a) a written agreement entered into between ?akinma?ka?nam (spouses), two persons who intend to marry, or ti?namu?tmu (common-law) partners that is signed by the parties in front of a witness, setting out their respective rights and obligations under the ka?alitnam (marriage) or ti?namu?tmu (common-law) relationship, or on separation, with respect to the possession or division of a ?alaqa?titmu ?a·kitla?nam (family home); or
- (b) a written agreement entered into between ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partners whose ha?itit (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 ?alaqa?titmu ?a·kitla?nam (family home);

“Ikamnintik” means a child or children who is or are under 19 years of age;

“Ikamnintik of the halilitit” 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 kitaktikiniᑭ (adoptive); or
(c) is or are a kitaktikiniᑭ (adoptive) in accordance with ᑭᑭᑭᑭ custom;

“*faxtu?mał*” means the person who is still alive after the death of their *?akinmalka?nam* (spouse) or *tiłnamu?tmu* (common-law) partner;

“member” means a person whose name appears on the ʔaḡam 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 ʔaąąam, Canada or the Province; and

“tīnamu?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 *katałtitnam*-like (marriage-like) relationship for a period of not less than five (5) years;
- (b) who live together in a *katałtitnam*-like (marriage-like) relationship and have a *łkamnintik* (child) together; or
- (c) who live together in a *katałtitnam*-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 *ᐅᐅᐅᐅᐅᐅᐅᐅ ᐅᐅᐅᐅᐅᐅᐅᐅ* (interspousal contract) includes a *ᐅᐅᐅᐅᐅᐅᐅᐅ ᐅᐅᐅᐅᐅᐅᐅᐅ* (interspousal contract) reached through the use of traditional dispute resolution, mediation or negotiation.

Application

5. This Law only applies to *ᐅᐅᐅᐅᐅᐅᐅᐅᐅᐅ* (spouses) or *ᐅᐅᐅᐅᐅᐅᐅᐅᐅᐅ* (common-law) partners if at least one of them is a member.

6. This Law only applies to *ᐅᐅᐅᐅ ᐅᐅᐅᐅ* (lands).

7. Where any law or regulation of Canada or the Province or any other *ᐅᐅᐅᐅ* 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 *ᐅᐅᐅᐅᐅᐅᐅᐅ* (conjugal relationship) with respect to property other than the *ᐅᐅᐅᐅᐅᐅᐅᐅ ᐅᐅᐅᐅᐅᐅᐅᐅᐅᐅ* (family home), or other entitlements or obligations of *ᐅᐅᐅᐅᐅᐅᐅᐅᐅᐅ* (spouses) or *ᐅᐅᐅᐅᐅᐅᐅᐅᐅᐅ* (common-law) partners.

(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 ?akinmatka?nam (spouse) or ti?namu?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 ?akinmatka?nam (spouse) or ti?namu?tmu (common-law) partner.

Burden to Prove Consent

16. A ʔakinmaʔkaʔnam (spouse) or tiʔnamuʔtmu (common-law) partner who disposes of or encumbers the interest in or to a ʔaʔaqaʔtitmu ʔa-kitʔaʔnam (family home) has the burden of proving that the other ʔakinmaʔkaʔnam (spouse) or tiʔnamuʔtmu (common-law) partner provided free and informed written consent to the disposition or encumbrance.

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

17. (1) A court may, on application by a ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner who holds an interest in or to a ?alaqa?titmu ?a·kitla?nam (family home), grant an order authorizing that person to dispose of or encumber the ?alaqa?titmu ?a·kitla?nam (family home) without the required consent of their ?akinma?ka?nam (spouse) or ti?namu?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 ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner:

- (a) cannot be found;
- (b) is not capable of consenting; or
- (c) is unreasonably withholding consent.

PART IV
K'ITNUMUĆTIŁ KČAKIKTI?TIŁ (EMERGENCY PROTECTION ORDERS)

Application for kitnumu'til k'akikti?til (Emergency Protection Order)

18. A ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner may make an *ex parte* application for a kitnumu?ti? k?akikti?ti? (Emergency Protection Order) and may do so even if that person has been forced to vacate the ?a?aqa?titmu ?a·kitla?nam (family home) as a result of k?akikti? ?a?aqa?titmu (family violence).

19. A kaqanxu (peace officer) or other person may apply for a kitnumu?tił k?akikti?tił (Emergency Protection Order) on behalf of a ?akinmałka?nam (spouse) or

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

kitnumu'çtił kçakikti?tił (Emergency Protection Order)

20. A court may make a *kitnumuṭiṭ kḥakiktiṭiṭ* (Emergency Protection Order) for a period of up to 90 days if the court is satisfied that:

- (a) k̓akik̓iṭ ʔaṭaqaṭitmu (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 kitnumuᑕtiᑭ kᑭakiktiᑭtiᑭ (Emergency Protection Order) made under section 20 may include any of the following conditions:

- (a) a provision granting the applicant exclusive occupation of the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home) and reasonable access to that ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home);
- (b) a provision requiring the applicant's ᐱᓕᓴᓴᓂᓄᓐᓃᓂᓐ (spouse) or ᓯᓴᓂᓄᓐᓃᓂᓐ (common-law) partner and any specified person who habitually resides in the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home) — whether or not they are members — to vacate the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home) immediately or within a specified period and prohibiting them from re-entering the home;
- (c) a provision directing a ᓕᓕᓇᓂᓄᓐ (peace officer), immediately or within a specified period, to remove the applicant's ᐱᓕᓴᓴᓂᓄᓐᓃᓂᓐ (spouse) or ᓯᓴᓂᓄᓐᓃᓂᓐ (common-law) partner and any specified person who habitually resides in the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home) — whether or not they are members — from the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home);
- (d) a provision prohibiting any person who is required to vacate the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home) under a provision referred to in paragraph (b) from attending near the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (family home);
- (e) a provision directing a ᓕᓕᓇᓂᓄᓐ (peace officer), within a specified period, to accompany the applicant's ᐱᓕᓴᓴᓂᓄᓐᓃᓂᓐ (spouse) or ᓯᓴᓂᓄᓐᓃᓂᓐ (common-law) partner or any specified person to the ᐱᓗᓕᑦᑐᓂᓄᓐ ᐱᓪᓕᓴᓴᓐᓃᓂᓐ (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

(2) To determine what is in the best interests of a ḥkamnintik (child), all of the ḥkamnintik (child's) rights, needs and circumstances must be considered, including the following:

- [illegible]

(f) the period during which the applicant has habitually resided on ᐃᐱᐱ ᐃᐱᐱ (lands); and

(g) the existence of exceptional circumstances that necessitate the removal of a person other than the applicant's ᐃᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner from the ᐃᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (family violence) against the applicant, any ᐱᐱᐱᐱᐱᐱᐱ (child) in the charge of either ᐃᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner, or any other person who habitually resides in the ᐃᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (family home).

ᐱᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱᐱ (Emergency Protection Order)

24. (1) A ᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱ (peace officer) who serves a notice under subsection (1) must, without delay, after such service is effected inform the person in whose favour the ᐱᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (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 kitnumuʔtił kʷakiktiʔtił (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 kaqanxu (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.

(c) any person who holds an interest in or to the ʔaḷaqaḷitmu ʔa·kitḷaʔnam (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 ᑭᐱᐱᐱᐱᐱᐱᐱ ᑭᐱᐱᐱᐱᐱᐱᐱ (family home).

ʔisnii sawsaqaʔni c̣xal ʔisnii qawsaqa (Exclusive Occupation Order)

34. (1) A court may make an order that grants the applicant exclusive occupation of a ?a?aqatitmu ?a-kitla?nam (family home) that is not ?aqam-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 exat ?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 ᐃᓕᓂᓄᓐᓂᓄᓐ (spouse) or ᓂᓄᓂᓄᓐᓂᓄᓐ (common-law) partner and any specified person — whether or not they are members — to vacate the ᐃᓄᓄᓄᓂᓄᓐ ᐃᓐᓕᓂᓄᓐᓂᓄᓐ (family home), immediately or within a specified period of time, and prohibiting them from re-entering the home;
- (b) the applicant's ᐃᓕᓂᓄᓐᓂᓄᓐ (spouse) or ᓂᓄᓂᓄᓐᓂᓄᓐ (common-law) partner to preserve the condition of the ᐃᓄᓄᓄᓂᓄᓐ ᐃᓐᓕᓂᓄᓐᓂᓄᓐ (family home) until that person vacates it;
- (c) the applicant to make payments to their ᐃᓕᓂᓄᓐᓂᓄᓐ (spouse) or ᓂᓄᓂᓄᓐᓂᓄᓐ (common-law) partner toward the cost of other accommodation; or
- (d) either ᐃᓕᓂᓄᓐᓂᓄᓐ (spouse) or ᓂᓄᓂᓄᓐᓂᓄᓐ (common-law) partner to pay for all or part of the repair and maintenance of the ᐃᓄᓄᓄᓂᓄᓐ ᐃᓐᓕᓂᓄᓐᓂᓄᓐ (family home) and of other liabilities arising in respect of the ᐃᓄᓄᓄᓂᓄᓐ ᐃᓐᓕᓂᓄᓐᓂᓄᓐ (family home), or to make payments to the other ᐃᓕᓂᓄᓐᓂᓄᓐ (spouse) or ᓂᓄᓂᓄᓐᓂᓄᓐ (common-law) partner for those purposes.

Considerations

36. (1) In making a ʔisnił sawsaqaʔni ɕxał ʔisnił qawsaqa (Exclusive Occupation Order) under section 34, the best interests of any Ɂkamniłtik of the hałitiłtik (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 kamnintik (child), all of kamnintik (child's) rights, needs and circumstances must be considered, including the following:

- (2) In making a *kitnumu?tił k'akikti?tił* (Emergency Protection Order), the court must also consider:

- Page 21

- (j) any acts or omissions by one of the ?akinma?ka?nam (spouses) or ti?namu?tmu (common-law) partners that reasonably constitute psychological abuse against the other ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner, any ?kamnintik (child) in the charge of either ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner, or any other ?alaqa?titmu (family) member who habitually resides in the ?alaqa?titmu ?a·kitla?nam (family home);
- (k) the existence of exceptional circumstances that necessitate the removal of a person other than the applicant's ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner from the ?alaqa?titmu ?a·kitla?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?akikiti? ?alaqa?titmu (family violence) against the applicant, any ?kamnintik (child) in the charge of either ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner, or any other ?alaqa?titmu (family) member who habitually resides in the ?alaqa?titmu ?a·kitla?nam (family home);
- (l) the interests of any ku?aktinintik (elder) or person with a disability who habitually resides in the ?alaqa?titmu ?a·kitla?nam (family home) and for whom either ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner is the caregiver;
- (m) the fact that a person, other than the ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partners, holds an interest in or to the ?alaqa?titmu ?a·kitla?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'ṭil k'cakikti?ṭil (Emergency Protection Order) Revoked

37. An existing *k̓itnumuʔtił k̓çakiktiʔtił* (Emergency Protection Order) in favour of or against one of the *ʔakinmałkaʔnam* (spouse) or *tiłnamuʔtmu* (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 ʔisnɪl sawsaqaʔni c̥xal ʔisnɪl 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 ʔisnił sawsaqaʔni c̕axł ʔisnił 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 ᐃᐱᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (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) ᐃᐱᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (Council of ᐃᐱᐱᐱᐱᐱᐱ);
- (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 ᐃᐱᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (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

?ISNĪL SAWSAQA?NI CXAL ?ISNĪL QAWSAQA (EXCLUSIVE OCCUPATION ORDER) AFTER DEATH OF A ?AKINMAIKA?NAM (SPOUSE) OR TILNAMU?TMU (COMMON LAW PARTNER)

Application For a ?isnił sawsaqa?ni c̣xał ?isnił qawsaqa (Exclusive Occupation Order) After Death of a ?akinmałka?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 ?ałaqałtitmu ?a-kitła?nam (family home) that is not ?aąqam-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) ʔiṭwaṭnaʔis ʔaḳam (Council of ʔaḳam);
- (b) the executor of the will or the administrator of the estate, if the applicant knows who those persons are;
- (c) the ʔiṭqahak Nasuʔkin (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 ʔaṭaḳaṭitmu ʔa·kitṭaʔnam (family home); and
- (e) any person who holds an interest in or to the ʔaṭaḳaṭitmu ʔa·kitṭaʔnam (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 ʔaḷaqaltitmu ʔa-kitḷaʔnam (family home).

Court Order

46. (1) A court may make an order granting a ʔaxʔuʔmaʔ (survivor) exclusive occupation of a ʔaʔaqaʔtitmu ʔa-kitʔaʔnam (family home) that is not ʔaʔam-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.

49. (1) Subject to subsection (2), a ᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱ (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 ᐃisnīl sawsaqaᐅni ᑭᐱᐱ ᐃisnīl qawsaqa (Exclusive Occupation Order) after Death of a ᐃakinmaᐱkaᐅnam (Spouse) or tiᐱnamuᐅtmu (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 ᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱ (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.

PART VII
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(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 ?akinmatka?nam (spouse) or titnamu?tmu (common-law) partner.

Application by ?akinma?ka?nam (Spouse) or ti?namu?tmu (Common-Law) Partner

56. A ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner may apply to the court for a determination of each ?akinma?ka?nam (spouse) or ti?namu?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 halititit (conjugal relationship) ended.

Court Order

58. A court may make an order to determine any matter in respect of each ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner's entitlements under section 60, including:

- (a) the amount payable by one ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) 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 ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner to the other, or
 - (iv) any combination of the methods referred to in subparagraphs (i) to (iii).

Valuation Date

(a) in the case of ?akinma?ka?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 k?amatamnam (divorce) is rendered,
- (iii) the day on which their ka?atitnam (marriage) is declared a nullity,
- (iv) the day on which one of the ?akinma?ka?nam (spouses) made an application related to the consequences of the breakdown of the ka?atitnam (marriage), and
- (v) the day on which one of the ?akinma?ka?nam (spouses) is granted an order under section 63; or

(b) in the case of ti?namu?tmu (common-law) partners, the earliest of the following days:

- (i) the day on which one of the ti?namu?tmu (common-law) partners manifested the intention not to continue the ha?itit (conjugal relationship),
- (ii) the day on which one of the ti?namu?tmu (common-law) partners made an application related to the consequences of the breakdown of the ha?itit (conjugal relationship), and
- (iii) the day on which one of the ti?namu?tmu (common-law) partners is granted an order under section 63.

60. When a halilitit (conjugal relationship) breaks down, each ?akinma?ka?nam (spouse) or ti?namu?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 ?alaqa?titmu ?a·kitla?nam (family home) that is not ?aqam-owned from the date that the ?akinma?ka?nam (spouses) or ti?namu?tmu (common-law) partners became ?akinma?ka?nam (spouses) or ti?namu?tmu (common-law) partners.

61. (1) Subject to subsection (2), an assessment of the value of a ?ataqattitmu ?a:kittanam (family home) is the difference between:

- Page 29

(2) Despite subsection (1), ?akinma?ka?nam (spouses) or ti?namu?tmu (common-law) partners may enter an kitnumu?ti? ka?alitit (interspousal contract) determining the value of a ?alaqalititmu ?a·kit?a?nam (family home) on any basis that they desire to make such determination.

(3) A party to a kitnumuᑕtiᑭ kaᑭaᑭitiᑭ (interspousal contract) made under subsection (2) has a right to register that kitnumuᑕtiᑭ kaᑭaᑭitiᑭ (interspousal contract) in the First Nations Land Registry.

Variation Order

62. On application by a ?akinma?ka?nam (spouse) or ti?namu?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 *ḥkamnintik* (child) in the applicant's charge;
- (b) the amount of debts or other liabilities referred to in that section incurred by each *ʔakinmaḥkaʔnam* (spouse) or *tiḥnamuʔtmu* (common-law) partner;
- (c) any significant change in the value of the *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (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 *ʔakinmaḥkaʔnam* (spouses) or *tiḥnamuʔtmu* (common-law) partners may obtain exclusive occupation of the *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (family home) on agreement or under an order under sections 34 or 41;
- (e) the availability of accommodation comparable to the *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (family home) situated on the same reserve as the *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (family home);
- (f) the duration of the *ḥaḥitit* (conjugal relationship);
- (g) the terms of any *kitnumuḥtiḥ kaḥaḥitit* (interspousal contract);
- (h) the reduction of the value of the *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (family home) in question as a result of acts or omissions by the applicant's *ʔakinmaḥkaʔnam* (spouse) or *tiḥnamuʔtmu* (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 *ʔaḥaqaḥtitmu ʔa·kitḥaʔnam* (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 *ḥaḥitit* (conjugal relationship).

(c) in the case where the applicant is the executor of a will or an administrator of an estate, to the *taxlu?mał* (survivor).

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 ʔitqahak Nasuʔkin (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 łaxlu?mał (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 ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner occurs.

(2) On application by a łaxłu?mał (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 ɬaxɬuʔmaɬ (survivor) did not know of the death of their ʔakinmaɬkaʔnam (spouse) or tiɬnamuʔtmu (common-law) partner until after the period expired; or
- (b) circumstances existed that were beyond the control of the ɬaxɬuʔmaɬ (survivor).

Court Order

69. A court may make an order to determine any matter in respect of a taxidermist (survivor)'s entitlements under section 71 including:

- (a) determining the amount payable to the ʔaxʔuʔmaʔ (survivor); and
- (b) providing that the amount payable to the ʔaxʔuʔmaʔ (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 ṭakinmaṭkaṭnam (spouses), the earliest of the following days:
- (i) the day before the day on which the death occurred,
 - (ii) the day on which the ṭakinmaṭkaṭnam (spouses) ceased to cohabit as a result of the breakdown of the kaṭaṭitnam (marriage), and

- (iii) the day on which the ʔakinmaʔkaʔnam (spouse) who is now the ʔaxʔuʔmaʔ (survivor) is granted an order under section 78; or
- (b) in the case of tiʔnamuʔtmu (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 tiʔnamuʔtmu (common-law) partner who is now the ʔaxʔuʔmaʔ (survivor) is granted an order under section 78.

Entitlement of laxlu?mał (Survivor)

71. On the death of a ʔakinmaʔkaʔnam (spouse) or tiʔnamuʔtmu (common-law) partner, the ʔaxʔuʔmaʔ (survivor) is entitled to an amount equal to one half of the value, on the valuation date, of the appreciation to a ʔaʔaqaʔtitmu ʔa-kitʔaʔnam (family home) that is not ʔaqam-owned from the date that the ʔakinmaʔkaʔnam (spouses) or tiʔnamuʔtmu (common-law) partners became ʔakinmaʔkaʔnam (spouses) or tiʔnamuʔtmu (common-law) partners.

Assessing Value

72. (1) Subject to subsection (2), an assessment of the value of a ʔaṭaqaṭitmu ʔa·kitḷaʔnam (family home) is the difference between:

- (a) the amount that a buyer would reasonably be expected to pay for a ?a?aqaltitmu ?a·kitla?nam (family home) that is comparable to the ?a?aqaltitmu ?a·kitla?nam (family home) in question, and
- (b) the amount of any outstanding debts or other liabilities assumed for acquiring the ?a?aqaltitmu ?a·kitla?nam (family home) or for improving or maintaining the ?a?aqaltitmu ?a·kitla?nam (family home).

(2) Despite subsection (1), the ʔakinmaʔkaʔnam (spouses) or tiʔnamuʔtmu (common-law) partners may enter a kitnumuʔtiʔ kaʔaʔitit (interspousal contract) determining the value of a ʔaʔaʔititmu ʔa-kitʔaʔnam (family home) any basis they desire to make such determination.

(3) A party to a kitnumuḱtiḱ kaḱahitiḱ (interspousal contract) made under subsection (2) has a right to register that kitnumuḱtiḱ kaḱahitiḱ (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 *taxtumał* (survivor) under 69 if:

- (a) the ʔakinmaʔkaʔnam (spouses) or tiʔnamuʔtmu (common-law) partners had previously resolved the consequences of the breakdown of the haʔiʔiʔit (conjugal relationship) by kitnumuʔtiʔ kaʔaʔiʔit (interspousal contract) or judicial decision, or

(b) that amount would be unconscionable, having regard to, among other things, the fact that any Ikamintik (child) of the deceased individual would not be adequately provided for.

(2) A party to a kitnumuḱtiḱ kaḱalitit (interspousal contract) made under subsection (1) has a right to register that kitnumuḱtiḱ kaḱalitit (interspousal contract) in the First Nations land Registry.

Variation of Trust

74. On application by:

- (a) a *faxtu?mał* (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 taxtumar (survivor) may be paid.

Final Settlement

75. If a court decides, after the death of a ?akinma?ka?nam (spouse) or ti?namu?tmu (common-law) partner, that an amount is payable to the ?ax?u?ma? (survivor) under section 58 or 72, the ?akinma?ka?nam (spouse) , ti?namu?tmu (common-law) partner, or ?ax?u?ma? (survivor) may not, in respect of the interest in or to the ?alaqatitmu ?a?kitla?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 ʔalaqaʔitmu ʔa·kitʔaʔnam (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 ᑭᓐᓐᓐᓐᓐᓐ ᓐᓐᓐᓐᓐᓐᓐᓐᓐ (family home) that is not ᓐᓐᓐᓐᓐᓐᓐᓐᓐᓐᓐ-owned until one of the following occurs:

- (a) the last?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 łaxłu?mał (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 ?alaqałtitmu ?a-kitla?nam (family home) until a determination is made under section 69.

Enforcement of Agreements

79. (1) If a ʔaxʔuʔmaʔ (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 ʔaxʔuʔmaʔ (survivor) is entitled with respect to a ʔaʔaqaʔtitmu ʔa·kitʔaʔnam (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 ʔaxʔuʔmaʔ (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

CIN QAPI QAPSIN (GENERAL)

Representations by ȩilwatnaȩis ȩaqam (Council of ȩaqam)

80. (1) On the request of ʔitwatnaʔis ʔaqam (Council of ʔaqam), the court that is seized of any application must allow the ʔitwatnaʔis ʔaqam (Council of ʔaqam) 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 ʔı́łwatnaʔis ʔaǰam (Council of ʔaǰam) makes representations under subsection (1), the Court must consider such representations in making an order under this Law.

Notice of Order to ȩłwatnaȩis ȩaqam (Council of ȩaqam)

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 ?itwatna?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 ʔaḷaqaḷtitmu ʔa·kitḷaʔnam (family home); or
- (b) prevent an executor of a will or an administrator of an estate from transferring an interest in or to the ʔaḷaqaḷtitmu ʔa·kitḷaʔnam (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 ʔaʔaqaʔtitmu ʔa·kitʔaʔnam (family home) to a ʔakinmaʔkaʔnam (spouse), tiʔnamuʔtmu (common-law) partner or ʔaxʔuʔmaʔ (survivor) who is not a lessee under the lease for the ʔaʔaqaʔtitmu ʔa·kitʔaʔnam (family home), the ʔakinmaʔkaʔnam (spouse), tiʔnamuʔtmu (common-law) partner or ʔaxʔuʔmaʔ (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 *kitnumuḱtiḱ kḱakiktiḱtiḱ* (Emergency Protection Order) made section 20 or 27;

(b) a provision referred to in paragraph 35(a) contained in an ᐃᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱ.

PART X ᐃᐱᐱᐱᐱ ᐃᐱᐱᐱᐱᐱᐱᐱ (JURISDICTION OF COURTS)

ᐱᐱᐱᐱᐱᐱ (Divorce) Proceeding Pending

87. When a ᐱᐱᐱᐱᐱᐱ (divorce) proceeding — as defined in subsection 2(1) of the *Divorce Act* — between ᐃᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱ (spouses) under this Law.

Other ᐃᐱᐱᐱᐱᐱᐱ (Family) Proceedings Pending

88. When a proceeding, other than a ᐱᐱᐱᐱᐱᐱ (divorce) proceeding, related to the consequences of the breakdown of a ᐱᐱᐱᐱᐱᐱ (conjugal relationship) is pending, the court that is seized of the matter has jurisdiction to hear and determine an application by the ᐃᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner.

No Pending ᐃᐱᐱᐱᐱᐱᐱ (Family) Proceedings

89. If no ᐱᐱᐱᐱᐱᐱ (divorce) proceeding is pending and no court is seized of a matter related to the consequences of the breakdown of a ᐱᐱᐱᐱᐱᐱ (conjugal relationship), the court that has jurisdiction to hear and determine an application by a ᐃᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner has

96. Subject to sections 98 to 103, a competent authority may make ᐱᐱᐱᐱᐱᐱᐱᐱ (rules) applicable to any proceedings under this Law, including ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱᐱᐱ (Rules)

97. The power to make ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner makes an application under Part V or VII and both ᐃᐱᐱᐱᐱᐱᐱᐱᐱ (spouses) or ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐃᐱᐱᐱᐱᐱᐱᐱᐱ (spouse) or ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (common-law) partner who dies.

Continuation of Application by ᐱᐱᐱᐱᐱᐱᐱᐱ (Survivor) after Death of Party

100. When a ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (survivor) makes an application under Part VIII and the ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ (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 ᑭᑭᑭᑭᑭᑭ (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 ᑭᑭᑭᑭᑭᑭ (survivor).

ᑭᑭᑭᑭᑭᑭᑭ ᑭᑭᑭᑭ (Council of ᑭᑭᑭᑭ) Power to Make Regulations

102. The ᑭᑭᑭᑭᑭᑭᑭ ᑭᑭᑭᑭ (Council of ᑭᑭᑭᑭ) may make regulations that the ᑭᑭᑭᑭᑭᑭᑭ ᑭᑭᑭᑭ (Council of ᑭᑭᑭᑭ) considers necessary for carrying out the purposes and provisions of this Law, including regulations making ᑭᑭᑭᑭᑭᑭᑭ (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 ᑭᑭᑭᑭᑭᑭᑭ (rules) made under section 96 prevail over those ᑭᑭᑭᑭᑭᑭᑭ (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*.