



# CITIZENSHIP AND ENROLMENT LAW

TNL 03/2016

Enacted on April 5, 2016.

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Hegus [SIGNATURE]

Clint Williams

Hegus [NAME]

DEPOSITED IN THE TLA'AMIN  
REGISTRY

ON 12 / 04 / 16  
(day/month/year)

A handwritten signature in blue ink, appearing to be "Judith King", written over a horizontal line.

Signature of Law Clerk

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## PREAMBLE

### WHEREAS:

- A. Tla'amin Ta'ow (*teachings*) are our traditional teachings and unwritten laws that our Ancestors lived by. In creating written laws, we continue to honour and uphold our Ancestral practices, teachings and core values. Through our laws, we reinforce the principles of respect, unity and connection to our lands and resources. We vow to keep these teachings and principles in mind in all that we do as Tla'amin people;
- B. Through this Law and other Tla'amin enactments, we are continuing to exercise our inherent right of self-determination. The Tla'amin Government will govern in an accessible, accountable and transparent manner;
- C. As we have always done, we continue to occupy our lands and carry out our Ta'ow (*teachings*) that require us to be stewards of our lands and resources today and always, and we are committed to the responsible, sustainable stewardship of lands, waters, air and other resources. In upholding our responsibilities, we will continue to seek the guidance of the Creator, our Ancestors and the knowledge of Tla'amin Elders as we protect and make decisions about managing our lands and resources;
- D. Our vision of self-government and of a healthy, self-sufficient Tla'amin Nation began long ago with our Ancestors and our leadership of the past. Many of those who were involved in shaping and advancing our vision have passed on and we acknowledge their contributions and sacrifice. They put in place the foundation that we have built upon today. Those respected ones have cleared the path so that we, the Tla'amin Nation, could achieve our vision; of "one heart, one mind, one Nation";
- E. It is on this basis that we accept the obligations and responsibilities inherent in governing and work to blend our traditional and modern-day governing approaches, including the development of citizenship and enrolment laws;
- F. Through our written *Constitution* and this *Citizenship and Enrolment Law*, we reinforce our Nation's objectives including Tla'amin unity, good faith engagement among ourselves and with our neighbours and maintaining enduring connections to our lands and resources;
- G. Further, we are committed to pursuing the economic, social and cultural wellbeing of our Nation with the aim of sustaining and improving the quality of life for present and future Tla'amin generations;
- H. It is our intention to accomplish this through a fair, efficient, accessible and transparent process by which an individual may become enrolled as a Tla'amin Citizen;
- I. We vow to keep our Ta'ow (*teachings*) and these principles in mind in all that we do as Tla'amin people. The Tla'amin Nation adopts this Law based on these values and principles;
- J. Under section 31 of the *Constitution*, the Tla'amin Government may exercise any right, power, privilege or authority, and may carry out any duty, function or obligation, of the Tla'amin Nation or Tla'amin Government in accordance with Tla'amin law, the

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*Constitution* and the Final Agreement including making any law within the authority of the Tla'amin Government;

- K. Under paragraph 1 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the right to self-government, and the authority to make laws, as set out in the Final Agreement;
- L. Under paragraph 53 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the authority to make laws in relation to Tla'amin Citizenship; and
- M. Under paragraph 3 of Chapter 15 [*Governance*] of the Final Agreement, the authority of the Tla'amin Nation to make laws in relation to a subject matter under the Final Agreement includes the authority to make laws and do other things as may be necessarily incidental to exercising its authority.

**NOW THEREFORE** the Legislative Assembly enacts as follows:

## PART 1 - INTRODUCTORY PROVISIONS

### Citation

1. This Law may be called the *Citizenship and Enrolment Law*.

### Oversight

2. The Speaker of the Legislative Assembly is responsible for the oversight of this Law.

### Application

3. This Law applies to the process by which an individual may become enrolled as, or cease to be, a Tla'amin Citizen.

### Registered Indian status

4. This Law does not affect the status of any individual as a registered Indian under the *Indian Act* (Canada).

### Definitions

5. In this Law,

“Citizenship Committee” means the citizenship committee established under section 39;

“Citizenship Register” means the register setting out the names of all Tla'amin Citizens;

“Citizenship Registrar” means the individual appointed in accordance with section 14;

“Enrolment Appeal Board” means the enrolment appeal board established before the Effective Date in accordance with paragraph 21 of Chapter 22 [*Eligibility and Enrolment*] of the Final Agreement; and

“Enrolment Committee” means the enrolment committee established before the Effective Date in accordance with paragraph 12 of Chapter 22 [*Eligibility and Enrolment*] of the Final Agreement.

### Interpretation

6. (1) In addition to the terms defined in this Law, terms used in this Law may be defined in the *Interpretation Law*.
- (2) Only those defined terms that are capitalized in section 5 or in the *Interpretation Law* are presented capitalized in the text of this Law, and all other defined terms are presented in lower case.
- (3) References to “this Law” include any regulations made under this Law.

**Severability**

7. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

**Validity**

8. Nothing under this Law must be rendered void or invalid by
- (a) an error or omission in a notice, form or other document given or authorized under this Law; or
  - (b) a failure of the Tla'amin Nation or a Tla'amin official to do something within the required time.

**PART 2 - CITIZENSHIP REGISTER AND CRITERIA**

**Citizenship Register**

9. (1) The Citizenship Register established by the Sliammon First Nation under paragraph 14(f) of Chapter 22 [*Eligibility and Enrolment*] of the Final Agreement becomes the responsibility of the Tla'amin Nation on the Effective Date and must be maintained by the Citizenship Registrar in accordance with this Law.
- (2) For greater certainty, an individual whose name was entered on the Citizenship Register and has not been removed prior to the Effective Date is a Tla'amin Citizen, unless their name is subsequently removed from the Citizenship Register in accordance with this Law.
- (3) The Citizenship Register may only be amended by adding or removing the names of Tla'amin Citizens or individuals, as applicable, as provided by this Law.

**Eligibility criteria**

10. (1) An individual is entitled to be enrolled as a Tla'amin Citizen, subject to subsection (2), if that individual
- (a) is of Tla'amin ancestry, as determined in accordance with section 11;
  - (b) is registered, or is eligible to be registered, on the Sliammon Indian Band list as of the day before the Effective Date;
  - (c) was adopted as a minor child under the laws recognized in Canada or by Tla'amin custom by an individual eligible for enrolment under paragraph (a), (b) or (d); or
  - (d) is a descendant of an individual eligible for enrolment under paragraph (a), (b) or (c) in accordance with section 12.



- (2) Despite paragraph (1)(d), where an individual having no aboriginal ancestry became a member of the Sliammon Indian Band prior to April 17, 1985 because of marriage to a Sliammon Indian Band member, and that individual subsequently has a child with another individual having no Tla'amin ancestry, that child will not be entitled to be enrolled.

#### **Determination of ancestry**

11. In making a determination under section 10(1)(a) regarding an applicant's eligibility for enrolment on the basis of Tla'amin ancestry, the Citizenship Committee will take into account evidence satisfactory to the Citizenship Committee of the applicant's direct matrilineal or patrilineal descent from an individual eligible to be a Tla'amin Citizen under section 10(1), including documentation such as a birth certificate or a statutory declaration.

#### **Descendant**

12. In making a determination under section 10(1)(d) regarding an applicant's eligibility for enrolment on the basis of being a descendant of an individual eligible for enrolment, the Citizenship Committee must take into account evidence provided by the applicant, including evidence

- (a) showing direct biological descent from an individual eligible to be enrolled as a Tla'amin Citizen; and
- (b) from a birth certificate or statutory declaration.

#### **No entitlement to citizenship**

13. An individual is not entitled to be enrolled and entered on the Citizenship Register as a Tla'amin Citizen, except as provided for in this Law.

### **PART 3 - CITIZENSHIP REGISTRAR**

#### **Citizenship Registrar**

14. The Executive Council must appoint a Citizenship Registrar whose responsibilities include
- (a) entering and removing the names of individuals on the Citizenship Register at the direction of the Citizenship Committee; and
  - (b) other responsibilities as prescribed by regulations under this Law.

### **PART 4 - ENROLMENT OR RE-ENROLMENT APPLICATION**

#### **Application for enrolment**

15. An individual may submit an application to the Citizenship Committee for enrolment or re-enrolment as a Tla'amin Citizen by fully completing an application in the prescribed form as required by regulations under this Law, including submitting any required information and records.

### **Enrolment process**

- 16.** An applicant, on their own behalf, or on behalf of an individual whose affairs the applicant has the legal authority to manage, may
- (a) apply to the Enrolment Committee to be enrolled or re-enrolled;
  - (b) appeal a decision of the Enrolment Committee to the Enrolment Appeal Board;
  - (c) appeal a decision of the Citizenship Committee to the Review and Appeal Panel;  
or
  - (d) seek judicial review of a decision of the Enrolment Appeal Board or the Review and Appeal Panel.

### **Decision on application**

- 17.** The Citizenship Committee must instruct the Citizenship Registrar to enter the name of an applicant on the Citizenship Register if the Citizenship Committee determines that the applicant has provided it with satisfactory evidence that the applicant meets the eligibility criteria under section 10(1).

### **Refusal notice**

- 18.** (1) If the Citizenship Committee determines that an applicant has not provided it with satisfactory evidence that the applicant meets the eligibility criteria under section 10(1), the Citizenship Committee must refuse to enroll or re-enroll the applicant and deliver to the applicant a written notice of its decision including reasons for the refusal.
- (2) Written notice of a decision under subsection (1) is sufficiently delivered to an applicant if it is
- (a) personally given to the applicant; or
  - (b) sent by registered mail to the applicant's address shown in the application for enrolment or re-enrolment.

### **New information**

- 19.** (1) An applicant whose application for enrolment or re-enrolment has been refused under section 18(1) may submit new information to the Citizenship Committee for its consideration at any time within the prescribed time limits before the applicant requests an appeal under section 50, or requests a review of the decision under section 55.
- (2) If, based on the new information submitted under subsection (1), the Citizenship Committee determines that the applicant should be enrolled or re-enrolled, it must direct the Citizenship Registrar to enroll or re-enroll that applicant.

**PART 5 - REMOVAL, REVOCATION AND RE-ENROLMENT**

**Removal only in accordance with this Law**

20. The name of an individual may not be removed from the Citizenship Register except in accordance with this Law.

**Request for removal**

21. On receipt of notice in the prescribed form requesting removal from the Citizenship Register, from an individual

- (a) who is a Tla'amin Citizen, or
- (b) on behalf of a Tla'amin Citizen for whom that individual has legal authority to manage the Tla'amin Citizen's affairs

the Citizenship Committee must instruct the Citizenship Registrar to remove the name of that Tla'amin Citizen from the Citizenship Register.

**Deceased**

22. The Citizenship Registrar must remove the name of a Tla'amin Citizen from the Citizenship Register on receiving satisfactory evidence that the Tla'amin Citizen is deceased.

**Revocation of enrolment**

23. If the Citizenship Committee has reason to believe that an individual's enrolment as a Tla'amin Citizen should be revoked because they

- (a) were enrolled as a Tla'amin Citizen on the basis of false representation, fraud or by knowingly concealing material facts or circumstances, or
- (b) were not entitled to be enrolled,

the Citizenship Committee must send a written notice in accordance with section 24 to that individual advising that it intends to make an order removing the name of the individual from the Citizenship Register.

**Notice**

24. A notice under section 23 must

- (a) set out the reasons for the intended order; and
- (b) state that the individual is entitled to make representations as to why the order should not be made by filing an answer with the Citizenship Committee within 20 business days of the date the individual receives the notice.

### **Order**

25. After considering the matter, including any response received from an individual described under section 23(b), if the Citizenship Committee determines that individual's enrolment as a Tla'amin Citizen should be revoked for the reasons described in section 23(a) or (b), the Citizenship Committee
- (a) must, by order, instruct the Citizenship Registrar to remove the individual's name from the Citizenship Register; and
  - (b) must, if it makes an order under paragraph (a), deliver a copy of that order to the Executive Council.

### **Order takes effect**

26. An order under section 25 takes effect 20 business days after it is delivered to the Executive Council, unless within that 20 business day period the Executive Council disallows the order.

### **Delivery**

27. A copy of an effective order made under section 25 must be delivered in the same manner as provided in sections 18(1) and 18(2) to the individual whose name has been removed from the Citizenship Register.

### **New information**

28. An individual whose name has been removed from the Citizenship Register under section 25 may submit new information to the Citizenship Committee for its consideration at any time before the applicant requests an appeal under section 50.

### **Withdrawal and reinstatement**

29. If, based on the new information submitted under section 28, the Citizenship Committee determines that the applicant should be enrolled or re-enrolled, it must
- (a) withdraw its removal order; and
  - (b) reinstate that individual's enrolment on the Citizenship Register.

### **Reinstatement takes effect**

30. A reinstatement under section 29 is effective on the date the removal order is withdrawn.

### **Hardship considerations**

31. On the application of an individual whose enrolment on the Citizenship Register has been reinstated under section 29, the Executive Council may make any order it considers necessary and advisable to address any hardship considerations demonstrated by the individual as a result of the removal order made under section 25.

**Decision is final**

32. If an individual referred to in section 28 does not

- (a) submit new information, or
- (b) commence an appeal

within the prescribed time limits, the removal of their name from the Citizenship Register is final.

**Request for removal**

33. An applicant may request to have their name, or the name of an individual on whose behalf the applicant submitted the application for enrolment, removed from the Citizenship Register.

**Limits on re-enrolment**

34. An applicant may only re-enroll once.

**PART 6 - OTHER AGREEMENTS**

**No entitlement**

35. Despite any other provision in this Law, an applicant is not entitled to be enrolled and to have their name entered on the Citizenship Register if the applicant is also

- (a) receiving benefits as a member of an aboriginal group that is a signatory to another treaty or land claims agreement in Canada,
- (b) enrolled under another treaty or land claims agreement in Canada, or
- (c) registered on an Indian Band list, other than that of the Sliammon Indian Band,

and the applicant must inform the Citizenship Committee if that is the case.

**Satisfactory evidence**

36. The Citizenship Committee must instruct the Citizenship Registrar to enter the name of an applicant referred to in section 35 on the Citizenship Register if

- (a) the applicant provides evidence satisfactory to the Citizenship Committee that
  - (i) in the case of an applicant referred to in section 35(a) or 35(b), they have ceased receiving benefits or withdrawn from enrolment under the other treaty or land claims agreement or, if there is no enrolment procedure or registry under the other treaty or land claims agreement, they will not exercise or assert rights as a beneficiary under the other treaty or land claims agreement, or

- (ii) in the case of an applicant referred to in section 35(c), they have requested that they be removed from the First Nation band list on which they were registered;
- (b) the applicant meets the eligibility criteria under section 10(1); and
- (c) the Citizenship Committee determines that all other requirements are met.

## **PART 7 - ENROLMENT AND CITIZENSHIP COMMITTEES**

### **Enrolment applications prior to Effective Date**

**37.** The Enrolment Committee continues to be responsible for making determinations, and addressing unresolved matters, in respect of any enrolment application commenced before the Effective Date.

### **Dissolution of Enrolment Committee**

**38.** The Enrolment Committee will be dissolved after it has rendered its final decision in respect of those enrolment applications commenced before the Effective Date.

### **Citizenship Committee**

**39.** The Citizenship Committee is established to make determinations in respect of enrolment applications commenced after the Effective Date.

### **Citizenship Committee responsibilities**

- 40.** The Citizenship Committee is responsible for
- (a) discharging its obligations under this Law, or any regulations made under this Law, under the Final Agreement and under any procedures that the Citizenship Committee may establish;
  - (b) publishing the eligibility criteria and the procedures to apply for enrolment or re-enrolment;
  - (c) keeping confidential all information provided by and about applicants for enrolment or re-enrolment and complying with any confidentiality requirements set out in regulations under this Law or in any other Tla'amin enactment;
  - (d) determining whether an applicant is eligible to have their name entered on the Citizenship Register; and
  - (e) overseeing the Citizenship Registrar and directing the Registrar to enter names on, or remove names from, the Citizenship Register, as required under this Law.

### **Composition of the Citizenship Committee**

**41.** The Citizenship Committee consists of a minimum of three members appointed by order of the Executive Council.

**Citizenship Committee member eligibility**

42. (1) To be eligible to be appointed as a member of the Citizenship Committee an individual must
- (a) be eligible to be a Tla'amin Citizen; and
  - (b) have a good understanding of Tla'amin culture, ancestry and Tla'amin Institutions.
- (2) An individual who served as a member of the Enrolment Committee prior to the Effective Date may be appointed to the Citizenship Committee by order of the Executive Council.

**Holding position**

43. A member of the Citizenship Committee appointed under section 41 holds their position for a four year term, consistent with the term of the elected government or until the member
- (a) resigns;
  - (b) dies; or
  - (c) is removed from office by order of the Executive Council.

**Proceedings**

44. Subject to this Law and the regulations, the Citizenship Committee may determine its own schedule, location and procedures for its meetings.

**Quorum**

45. The quorum for the Citizenship Committee is a majority of its members.

**Chair**

46. The members of the Citizenship Committee must appoint a chair from among themselves who is responsible for
- (a) chairing all meetings;
  - (b) giving directions to the personnel assisting the Citizenship Committee to perform its responsibilities; and
  - (c) signing all decisions and orders of the Citizenship Committee.

**Decision-making**

47. The Citizenship Committee must attempt to reach its decisions by consensus, but if consensus is not possible, a decision must be made by a motion passed by a majority of its members.

## **PART 8 - ENROLMENT APPEALS AND REVIEW AND APPEAL PANEL**

### **Appeal of applications submitted prior to Effective Date**

48. The Enrolment Appeal Board continues to be responsible for making determinations on an appeal of any decision made by the Enrolment Committee in relation to an enrolment application commenced before the Effective Date.

### **Dissolution of Enrolment Appeal Board**

49. The Enrolment Appeal Board will be dissolved after it has rendered its final decision in respect of those enrolment application appeals commenced before the Effective Date.

### **Appeal of applications submitted after Effective Date**

50. An applicant, by written notice within the prescribed time limits, may appeal a decision made by the Citizenship Committee to refuse an individual's application for enrolment or re-enrolment under section 18(1) or to revoke an individual's enrolment as a Tla'amin Citizen under section 25 to the Review and Appeal Panel.

### **No member to be the same**

51. A member of the Citizenship Committee may not concurrently serve as a member of the Review and Appeal Panel.

### **Duties**

52. The Review and Appeal Panel will

- (a) hear and determine appeals of decisions made by the Citizenship Committee as set out in section 50;
- (b) conduct hearings in public, unless it determines in a particular case that there are reasons for confidentiality that outweigh the public interest in having an open hearing;
- (c) provide written reasons for each decision to each appellant and, if applicable, to the parties who directly participated in the appeal;
- (d) maintain a record of decisions and
  - (i) provide decisions to the Citizenship Committee, and
  - (ii) deposit a copy of decisions in the Tla'amin Registry;
- (e) if requested, provide to Executive Council a report on the appeal process, and that report may be provided to the Legislative Assembly.

### **Representation**

53. An applicant, or a witness appearing before the Review and Appeal Panel may be represented by an agent.



**Action upon appeal**

**54.** The Review and Appeal Panel may

- (a) require by summons, any individual to appear before the board as a witness and to produce any relevant document in their possession;
- (b) direct a witness to answer, on oath or by solemn affirmation, any relevant question posed to the witness; and
- (c) re-hear an appeal that was completed before the Effective Date.

**Decision pending final review**

**55.** All decisions of the Review and Appeal Panel are final and binding, subject to an applicant making an application for judicial review of a decision made by the Review and Appeal Panel to the Supreme Court of British Columbia on the grounds that the panel

- (a) acted without or beyond jurisdiction or refused to exercise its jurisdiction;
- (b) failed to observe procedural fairness;
- (c) erred in law; or
- (d) based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the evidentiary material before it.

**PART 9 - ANCILLARY MATTERS**

**General**

**56.** In addition to those matters set out in Part 7, the Citizenship Committee may also provide for any other matters it considers necessary and advisable for purposes of this Law, including

- (a) the making of any application under this Law, including information to be included in applications, and records that must be submitted with applications;
- (b) the maintenance of the Citizenship Register;
- (c) the administration of any oath, solemn affirmation or declaration;
- (d) forms and notices;
- (e) fees;
- (f) documentation or other evidence respecting eligibility criteria;
- (g) the procedures of the Citizenship Committee; and
- (h) transitional matters.

**Good faith performance**

**57.** No action lies against the Citizenship Registrar, the Citizenship Committee, the Enrolment Committee, the Review and Appeal Panel, the Enrolment Appeal Board or any of their members for anything done or omitted to be done in good faith in the performance or intended performance of a duty under this Law.

**Offence**

- 58.** (1) An individual commits an offence under this Law if that individual, by false representation, fraud, or knowingly concealing material facts or circumstances
- (a) becomes a Tla'amin Citizen;
  - (b) attempts to become a Tla'amin Citizen; or
  - (c) assists another individual in becoming or attempting to become a Tla'amin Citizen.
- (2) An individual who commits an offence under subsection (1) is liable on conviction to a fine of up to \$5,000 or to imprisonment for up to six months.

**Regulations**

- 59.** The Executive Council may make any regulations required for the operation of this Law, including
- (a) the removal of members of the Citizenship Committee;
  - (b) appointments that may be made under this Law;
  - (c) timelines and any other matters that must be prescribed under this Law; and
  - (d) any other matters that may be required.

**Coming into force**

**60.** This Law comes into force on the date of its enactment by the Legislative Assembly.

**THIS LAW IS HEREBY DULY ENACTED by the Legislative Assembly on the 5<sup>th</sup> day of April, 2016, at the Tla'amin Governance House, in the Province of British Columbia.**



## ORDER OF THE LEGISLATIVE ASSEMBLY OF THE TLA'AMIN NATION

**Legislative Assembly Order No.:** TNO-LA 05 /2016

**Approved and Ordered:** April 5, 2016

### **Order**

The Legislative Assembly hereby enacts the *Citizenship and Enrolment Law* to take effect on the Effective Date.

### **Authority**

This Legislative Assembly Order is made under the authority of the Final Agreement and the Constitution and in accordance with the *Order of the Legislative Assembly of the Tla'amin Nation* TNO-LA 01/2016 (respecting the Tla'amin Nation Effective Date Period Procedures).

Signed by the Hegus on behalf of the  
Legislative Assembly of the Tla'amin Nation

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*(Note: This portion is for administrative purposes only and is not part of the Order)*

**Authority under which the Order is made:**

**Law:** *Constitution*

**Other (please specify):** Final Agreement and the *Order of the Legislative Assembly of the Tla'amin Nation* TNO-LA 01/2016 (respecting the Tla'amin Nation Effective Date Period Procedures).

DEPOSITED IN THE TLA'AMIN  
REGISTRY

ON 12/04/16  
(day/month/year)

  
Signature of Law Clerk