

**TOQUAHT NATION GOVERNMENT**

**INTERPRETATION ACT**

**TNS 17/2011**



**OFFICIAL CONSOLIDATION – CURRENT TO SEPTEMBER 16, 2015**

This is a certified true copy of the consolidated Interpretation Act TNS 17/2011, Current to September 16, 2015

Date: October 8<sup>th</sup>, 2015

*Kristen Johnson*

Signed: \_\_\_\_\_  
Law Clerk



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## **PART 1 - INTRODUCTORY PROVISIONS**

### **Short title**

**1.1** This Act may be cited as the Interpretation Act.

### **Executive oversight**

**1.2** The chairperson of Council is responsible for the executive oversight of this Act.

### **Application**

- 1.3**
- (a) Every provision of this Act applies to every other Toquaht enactment, whether enacted before or after this Act, unless a contrary intention appears in this Act or in the other Toquaht enactment.
  - (b) The provisions of this Act apply to this Act.
  - (c) This Act does not exclude the application to a Toquaht enactment of a rule of construction that is applicable to that Toquaht enactment and not inconsistent with this Act.

### **Government bound by Toquaht enactments and exception**

- 1.4**
- (a) Unless otherwise provided in the Toquaht enactment, all Toquaht enactments are binding on the Toquaht government.
  - (b) Despite subsection (a), a Toquaht enactment that would bind or affect the Toquaht government in the use or development of land, or in the planning, construction, alteration, servicing, maintenance or use of building and other structures does not bind or affect the Toquaht government.



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## PART 2 - GENERAL RULES OF INTERPRETATION

### Enactment always speaking

- 2.1 (a) Every Toquaht enactment must be construed as always speaking.
- (b) If a provision in a Toquaht enactment is expressed in the present tense, the provision applies to the circumstances as they arise.

### Enactment remedial

- 2.2 Every Toquaht enactment must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

### Title, preamble and reference aids

- 2.3 (a) The title and the preamble, if any, of a Toquaht enactment are part of the Toquaht enactment and are intended to assist in explaining its meaning and objectives.
- (b) In a Toquaht enactment, an explanatory memorandum, table of contents, heading to a part, section or other portion, reference after a part, section or other portion, footnote or endnote is not part of the Toquaht enactment and must be considered to have been added only for convenience of reference.

### Subdivisions of sections

- 2.4 A section of a Toquaht enactment is divided into subdivisions known in descending order as subsections, paragraphs, subparagraphs and clauses.

### Citation

- 2.5 A Toquaht enactment may be cited by reference to
- (a) its document number in the registry of laws and official records, or
- (b) its title, with or without reference to its document number.

### References within Toquaht enactments

- 2.6 (a) A reference in a Toquaht enactment to a series of numbers or letters by the first and last numbers or letters of the series includes the number or letter first and last mentioned.
- (b) A reference in a Toquaht enactment to a part, section, schedule, appendix or form is a reference to the part, section, schedule, appendix or form of the Toquaht enactment in which the reference occurs.

- (c) A reference in a Toquaht enactment to a subsection, paragraph, subparagraph or clause is a reference to the subsection, paragraph, subparagraph or clause of the section, subsection, paragraph or subparagraph in which the reference occurs.
- (d) A reference in a Toquaht enactment to a part number, section number or subsection number is a reference to the paragraphs under the part, section or subsection, as applicable.
- (e) The Executive may make regulations amending a Toquaht enactment for the purpose of changing a reference to
  - (i) a specific executive portfolio,
  - (ii) a specific department, or
  - (iii) a specific Toquaht directorto
  - (iv) the executive portfolio,
  - (v) the department, or
  - (vi) the Toquaht director,as applicable, currently assigned responsibility in relation to the matter.

### References to other enactments

- 2.7**
- (a) A reference in an enactment to regulations is a reference to regulations made under the enactment in which the reference occurs.
  - (b) A reference in a Toquaht enactment to another Toquaht enactment is a reference to that other Toquaht enactment as deposited in the registry of laws and official records.
  - (c) In a Toquaht enactment, a reference to another Toquaht enactment, or to an enactment of Canada, British Columbia or another jurisdiction, is a reference to that other enactment as amended, whether amended before or after the commencement of the Toquaht enactment in which the reference occurs.
  - (d) If all or part of an enactment (“the former enactment”) is repealed and all or part of another enactment (“the new enactment”) is substituted for it, and there is a reference to the former enactment in an unrepealed Toquaht enactment,
    - (i) that reference must be construed as a reference to the provision of the new enactment relating to the same subject matter, if any, or



- (ii) if there is no provision of the new enactment relating to the same subject matter, the former enactment must be construed as being unrepealed so far as is necessary to give effect to the unrepealed Toquaht enactment.

### **Necessary changes**

- 2.8** If a Toquaht enactment provides that another enactment applies, that other enactment applies with the necessary changes and so far as it is applicable.



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## PART 3 - WORDS AND EXPRESSIONS DEFINED

### Application of definitions and interpretation provisions

- 3.1 (a) A definition or interpretation provision in a Toquaht enactment, unless a contrary intention appears in the Toquaht enactment, applies to the whole Toquaht enactment, including the section containing the definition or interpretation provision, and to all other Toquaht enactments relating to the same subject matter.
- (b) A word or expression used in a Toquaht regulation or Order has the same meaning as in the Toquaht legislation authorizing the Toquaht regulation or Order.

### Incorporated definitions

- 3.2 (a) Words or expressions defined in Chapter 29 Definitions of the Maa-nulth Treaty that are also used in a Toquaht enactment will, except where the context requires otherwise or is otherwise indicated, have the same meaning as those words or expressions defined in Chapter 29 Definitions of the Maa-nulth Treaty.
- (b) For certainty, capitalized words or expressions defined in Chapter 29 Definitions of the Maa-nulth Treaty that are used in a Toquaht enactment need not be capitalized in the Toquaht enactment in order for those words or expressions in the Toquaht enactment to have the same meaning as the capitalized words or expressions in Chapter 29 Definitions of the Maa-nulth Treaty.

### Words and expressions defined

- 3.3 In a Toquaht enactment, unless otherwise expressly provided for or unless otherwise clear from the context:

“aboriginal people” includes the Indian, Inuit and Métis peoples of Canada;

“acquire” means obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

“Act” means an Act of Council, parliament, a legislature or any other similar legislative body of government, whether referred to as a statute, code, legislation or by any other name;

“Administrative Decisions Review Board” means the review board established under section 2.1 of the Administrative Decisions Review Act;

“affidavit” or “oath” includes an affirmation, a statutory declaration or a solemn declaration made under the Evidence Act (British Columbia) or under the Canada Evidence Act (Canada);

“and” is used in its joint sense, meaning (A) and (B), but not either alone;

“bank” or “chartered bank” means a bank to which the Bank Act (Canada) applies;

“barrister” or “solicitor” or “barrister and solicitor” means a lawyer or legal counsel;

“British Columbia” means, as applicable,

- (a) Her Majesty the Queen in right of British Columbia, or
- (b) the geographic area within the jurisdiction of Her Majesty the Queen in right of British Columbia;

“British Columbia land surveyor” means a person entitled to practice as a land surveyor under the Land Surveyors Act (British Columbia);

“calendar month” means January, February, March, April, May, June, July, August, September, October, November or December, beginning on the first day of the month and ending on the last day of the month;

“calendar year” means a period of 12 consecutive calendar months beginning on January 1 and ending on December 31;

“Canada” means, as applicable,

- (a) Her Majesty the Queen in right of Canada, or
- (b) the geographic area within the jurisdiction of Her Majesty the Queen in right of Canada;

“Canada Post office” has the meaning given to that term in the Canada Post Corporation Act (Canada);

“Chaa-maa-taa” means the second hereditary chief as referred to in section 2.4(c) of the Constitution;

“chairperson of Council” means the member of Council chosen under section 2.1(c)(ii) of the Government Act in accordance with section 2.9 of the Constitution;

“citizenship and enrolment registrar” means the office established under section 3.1 of the Citizenship Act or the individual appointed to hold that office;

“citizenship committee” means the standing committee on citizenship established under the Citizenship Act;

“commencement” means, in relation to a Toquaht enactment, the date on which that Toquaht enactment comes into force;

“Constitution” means the constitution of the Toquaht Nation, adopted in accordance with the Maa-nulth Treaty, and includes any amendments to the Constitution made from time to time in accordance with its terms;

“contravene” includes fail to comply with;

“corporation” means an incorporated association, company, society or other incorporated body, wherever and however incorporated, and includes a corporation sole other than Her Majesty or the Lieutenant Governor;

“correctional centre” has the meaning given to that term under the Correction Act (British Columbia);

“Council” means the legislative branch of the Toquaht government, as referred to in the Constitution;

“Court of Appeal” means the British Columbia Court of Appeal;

“credit union” means a credit union authorized to carry on business under the Financial Institutions Act (British Columbia);

“deliver” includes, in relation to a notice or other information delivered by hand, leaving the notice or other information in a person’s mailbox or receptacle at the person’s residence or place of business;

“department” means a division of the Toquaht administration established by a Toquaht enactment for the administration, application or enforcement of a particular Toquaht law or administrative function as referred to in the applicable Toquaht enactment and presided over by a Toquaht director;

“directive” means a written command, decision, direction, instruction or ruling made under a Toquaht enactment;

“director of community services” means the office established under section 6.3 of the Government Personnel Act or the individual appointed to hold that office;

“director of finance” means the office established under section 2.3 of the Financial Administration Act or the individual appointed to hold that office;

“director of lands, public works and resources” means the office established under section 2.3 of the Land Act or the individual appointed to hold that office;

“director of operations” means the office established under section 3.1 of the Government Personnel Act or the individual appointed to hold that office;

“doctor” means a medical practitioner;

“economic development committee” means the standing committee on economic development established under section 2.3 of the Economic Development Act;

“enact” includes to issue, make, establish or prescribe;

“enactment” means an Act, legislation, regulation or Order or a portion of any Act, legislation, regulation or Order;

“enforcement officer” means an inspector, enforcement officer, conservation officer, peace officer, park officer, forest officer or other person designated under a Toquaht enactment to enforce Toquaht law;

“Executive” means the executive branch of the Toquaht government, as referred to in the Constitution;

“executive oversight” means, within the context of a member of the Executive, the overseeing of the administration, application or enforcement of a particular Toquaht enactment by that member of the Executive in accordance with the terms of reference established by the Executive from time to time;

“executive portfolio” means a portfolio established under section 14.2 of the Council Rules of Order and Procedure Act;

“external enforcement agency” means, in relation to an external enforcement officer, the federal, provincial or other department or agency that the enforcement officer represents in his or her enforcement of Toquaht law under an agreement with that department or agency;

“external enforcement officer” means an enforcement officer who is not a Toquaht public employee or an independent contractor of a Toquaht institution;

[Note to reader: Despite section 2.1 of the Enforcement Framework Amendment Act No. 1, the intention was for the above two definitions to be added to this section, not section 1.4. Amending legislation will be introduced in due course to correct this error.]

“federal” refers to Canada;

“finance committee” means the standing committee on finance established under the Financial Administration Act;

“first nation” means any “band” within the meaning of section 2(1) of the Indian Act (Canada) and any tribe, nation or community in Canada with aboriginal or treaty rights recognized and affirmed under section 35 of the Constitution Act, 1982 (Canada) or a self-government agreement with Canada or one of its provinces or territories;

“fiscal agreement with Canada or British Columbia” means

- 
- (a) a Fiscal Financing Agreement,
  - (b) an agreement referred to in a Fiscal Financing Agreement in relation to programs or services,
  - (c) an Own Source Revenue Agreement,
  - (d) a taxation agreement, or
  - (e) any agreement, other than an agreement referred to in subsections (a) to (d), between the Toquaht Nation and Canada or British Columbia, that is likely to substantially affect the finances of the Toquaht Nation;

“Fiscal Financing Agreement” means an agreement entered into between the Toquaht Nation, Canada and British Columbia in accordance with 18.1.2 Chapter 18 Fiscal Relations of the Maa-nulth Treaty;

“Foreshore Agreement” means an agreement entered into between the Toquaht Nation and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty;

“government of British Columbia” means Her Majesty the Queen in right of British Columbia;

“government of Canada” means Her Majesty the Queen in right of Canada;

“Hahoulthee” means the Toquaht territory;

“Ha’wiih” means the hereditary chiefs of the Toquaht Nation who hold their positions in accordance with Toquaht custom and “Ha’wilt’h” means an individual hereditary chief;

“Her Majesty”, “His Majesty”, “the Queen”, “the King”, “the Crown” or “the Sovereign” means the Sovereign of the United Kingdom, Canada and Her Other Realms and Territories and Head of the Commonwealth;

“herein” when used in a section or part of a Toquaht enactment must be construed as referring to the whole Toquaht enactment and not to that section or part only;

“highway” includes a public street, path, walkway, trail, lane, bridge, road, thoroughfare and any other public way;

“holiday” means

- (a) Toquaht Day,
- (b) Sunday,

- (c) Good Friday, Easter Monday, Aboriginal Day, Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Christmas Day, Boxing Day and New Year's Day,
- (d) a day set by Council for the commemoration of significant events in the life of the Toquaht Nation, for the celebration of Nuu-chah-nulth customs, for the observation of Nuu-chah-nulth cultural events or as a public holiday, and
- (e) a day set by Canada or British Columbia, or appointed by proclamation of the Governor General of Canada or the Lieutenant Governor of British Columbia, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign or as a public holiday;

“implementation committee” means the standing committee on treaty implementation established under the Council Rules of Order and Procedures Act;

“includes” means includes, but is not limited to;

“including” means including, but not limited to;

“individual” means a natural person;

“insurance company” means

- (a) an insurance company, or
- (b) an extraprovincial insurance corporation,

authorized to carry on insurance business in British Columbia under the Financial Institutions Act (British Columbia);

“interest” includes, in relation to Toquaht lands, estates, interests, charges, mineral claims and encumbrances;

“justice” means a justice of the peace and includes a judicial justice or a judge of the Provincial Court;

“land” includes any interest in land, including any right, title or estate in it of any tenure, with all buildings and other structures, unless there are words to exclude buildings and other structures, or to restrict the meaning;

“land claims agreement” means

- (a) a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982 (Canada), or



(b) a treaty within the meaning of sections 25 and 35 of the Constitution Act, 1982 (Canada);

“lands register” means the register maintained in the lands registry office in accordance with the Land Act containing a record of all dispositions under the Land Act and any transfers of an interest in, or licence in relation to, Toquaht lands;

“lands registrar” means the office established under section 2.11 of the Land Act or the individual appointed to hold that office;

“lands registry office” means the office established under section 2.9 of the Land Act;

“land title office” means the applicable land title office established under British Columbia law;

“law” includes legislation, Acts, ordinances, regulations, orders in council, bylaws and common law, but, for certainty, does not include traditional laws of the Toquaht Nation;

“law clerk” means the office established under section 2.17 of the Government Act or the individual appointed to hold that office;

“lawyer” or “legal counsel” means a person who, under the Legal Profession Act (British Columbia), is permitted to engage in the practice of law in British Columbia;

“legislation” means any instrument whether named an Act, a Code, a Charter or otherwise, enacted as a law by Council, parliament, a legislature or any other similar legislative body of government, but does not include a regulation or Order;

“local government” has the meaning given to that term in the Local Government Act (British Columbia);

“Maa-nulth Treaty” means the Maa-nulth First Nations Final Agreement between the Huu-ay-aht First Nations, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations, Toquaht Nation, Uchucklesaht Tribe, Ucluelet First Nation, Canada and British Columbia, which took effect on April 1, 2011, and includes any amendments made to it from time to time in accordance with its provisions;

“Maa-nulth Treaty effective date” means April 1, 2011, the date on which the Maa-nulth Treaty took effect;

“mail” means, in relation to a notice or other information delivered by mail, depositing the notice or other information at a Canada Post office anywhere in Canada, postage prepaid, for transmission by post;

“may” is to be construed as permissive and empowering, but “may not” is to be construed as disempowering;

“medical practitioner” means a person entitled to practice in British Columbia under the Medical Practitioners Act (British Columbia);

“member of Council” means an individual elected or appointed to Council in accordance with the Elections Act and, for certainty, “member of Council” includes a “Councillor” as referred to in the Constitution;

“member of the Executive” means an individual elected or appointed to the Executive by Council in accordance with the Council Rules of Order and Procedure Act;

“mineral resources” includes minerals, placer minerals and geothermal resources;

“month” means a period calculated from a day in one month to a day numerically corresponding to that day in the following month, less one day;

“municipality” has the meaning given to that term in the Local Government Act (British Columbia); “must” is to be construed as imperative;

“natural boundary” means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself,

“natural resources” includes aquatic plants, fish, forest resources, gravel, groundwater, migratory birds, mineral resources and wildlife;

“newspaper” means a publication that is intended for general circulation, published regularly at intervals of not longer than a week and contains items of news and advertising;

“now” must be construed as referring to the time of commencement of the Toquaht enactment containing the word;

“oath” includes a solemn affirmation or declaration when the context applies to any individual by whom, and to any case in which, a solemn affirmation or declaration may be made instead of an oath, and in the same cases the expression “sworn” includes the expression “affirmed” or “declared”;

“obligation” includes a duty and a liability;

“opening words”, when referring to words in a section, subsection, paragraph or subparagraph of a Toquaht enactment, means all of the words of that section, subsection, paragraph or subparagraph before any enumerated portions of that section, subsection, paragraph or subparagraph;

“or” is used in its inclusive sense, meaning A or B, or both A and B;

“Order” means an order enacted under the authority of legislation or by or under the authority of the Governor General of Canada or the Lieutenant Governor of a province of Canada, but does not include an order made by a judicial or quasi-judicial body;

“ordinarily resident” means, when referring to the place where a person is ordinarily resident, the place where, for at least 180 days in a calendar year, an individual usually lives and sleeps, and to which, when away, he or she intends to return, without regard to where the individual takes his or her meals or is employed, and, for certainty, an individual cannot be ordinarily resident in two places at the same time;

“Own Source Revenue Agreement” means an agreement entered into between the Toquaht Nation, Canada and British Columbia in accordance with 18.1.4 of Chapter 18 Fiscal Relations of the Maa-nulth Treaty;

“peace officer” has the meaning given to that term in the Interpretation Act (British Columbia);

“People’s Assembly” means the People’s Assembly, as referred to in the Constitution;

“person” includes a corporation, partnership or party and the personal or other legal representatives of a person to whom the context can apply according to law;

“personal representative” includes an executor of a will and an administrator, with or without will annexed, of an estate and, if a personal representative is also a trustee of part or all of the estate, includes the personal representative and trustee;

“prescribed” means prescribed by regulation;

“professional engineer”, “civil engineer” or “mining engineer” or words implying recognition of any person as a professional engineer or member of the engineering profession means a person registered or licensed under the Engineers and Geoscientists Act (British Columbia);

“property” includes any right, title, interest, estate or claim to or in property;

“Provincial Court” means the Provincial Court of British Columbia;

“Real Property Tax Co-ordination Agreement” means an agreement respecting real property taxation entered into between the Toquaht Nation and British Columbia in accordance with 19.2.1 of Chapter 19 Taxation of the Maa-nulth Treaty;

“record” includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“registry of laws and official records” means the registry of laws and official records established under the Government Act;

“regulation” means a law enacted by the Executive, or any other similar executive body of government, under the authority of legislation in which the word “regulation”, “regulations”, “prescribe”, “prescribes” or “prescribed” is used in the provision conferring the authority;

“repeal” includes to revoke, cancel or rescind;

“right” includes a power, authority, privilege and licence;

“savings institution” means

- (a) a bank,
- (b) a credit union,
- (c) an extraprovincial trust corporation authorized to carry on deposit business under the Financial Institutions Act (British Columbia), or
- (d) a corporation that is a subsidiary of a bank and is a loan company to which the Trust and Loan Companies Act (Canada) applies;

“shall” is to be construed as the imperative “will” or “must”;

“spouse” means

- (a) an individual who is united to another individual by marriage under traditional laws of the Toquaht Nation,
- (b) an individual who is united to another individual by marriage under the laws of Canada or British Columbia or of the jurisdiction within which they were married, if that marriage is recognized under the laws of Canada and British Columbia,
- (c) an individual who is united to another individual by a marriage that, although not a legal marriage, is valid by common law, or
- (d) an individual who has lived and cohabited with another individual in a marriage-like relationship, including a marriage-like relationship between individuals of the same gender, for a period of at least two years;

“statutory declaration” means a solemn declaration made pursuant to section 41 of the Canada Evidence Act (Canada);

“Supreme Court” means the Supreme Court of British Columbia;

“surface resources” means natural resources other than mineral resources;

“swear” includes solemnly declare or affirm;

“taxation agreement” means

- (a) a Tax Treatment Agreement;
- (b) a Real Property Tax Co-ordination Agreement, or
- (c) any agreement respecting taxation entered into between the Toquaht Nation, Canada and British Columbia in accordance with Chapter 19 Taxation of the Maa-nulth Treaty;

“Tax Treatment Agreement” means an agreement entered into between the Maa-nulth First Nations, Canada and British Columbia in accordance with 19.6.1 of Chapter 19 Taxation of the Maa-nulth Treaty;

“Toquaht administration” means the public service of the Toquaht Nation, comprised of

- (a) all departments or similar divisions of the Toquaht administration,
- (b) all Toquaht public institutions,
- (c) all Toquaht public corporations, and
- (d) all Toquaht public employees;

“Toquaht administrative office” means the principal administrative office of the Toquaht Nation;

“Toquaht citizen” means an individual who is on the Toquaht citizenship register;

“Toquaht citizenship register” means the register maintained by the citizenship and enrolment registrar in accordance with the Citizenship Act containing the names of all individuals who are Toquaht citizens;

“Toquaht corporation” means a corporation incorporated under federal or provincial law, all the shares or interests of which are owned legally and beneficially by the Toquaht Nation, a Toquaht settlement trust, another Toquaht corporation or any combination of those entities;

“Toquaht Day” means April 1 of every year;

“Toquaht director” means a director of a department or similar division of the Toquaht administration and, for certainty, includes the director of operations, the director of finance, the director of community services and the director of lands, public works and resources, but does not include

- (a) a director of a Toquaht public institution, or
- (b) a director of a Toquaht corporation;

“Toquaht enactment” means Toquaht legislation, a Toquaht regulation or a Toquaht order;

“Toquaht enrollee” means an individual who is on the Toquaht enrolment register;

“Toquaht enrolment register” means

- (a) during the initial enrolment period, the register maintained by the enrolment committee in accordance with Chapter 26 Eligibility and Enrolment of the Maa-nulth Treaty, and
- (b) after the initial enrolment period, the register maintained by the citizenship and enrolment registrar in accordance with the Citizenship Act

containing the names of all individuals who are Toquaht enrollees;

“Toquaht foreshore” means the “Foreshore Area” within the meaning of the Foreshore Agreement;

“Toquaht government” means the government of the Toquaht Nation, as referred to in 13.1.2 of Chapter 13 Governance of the Maa-nulth Treaty;

“Toquaht government employee” means a person employed by the Toquaht government, regardless of the method of employment, and, for certainty, does not include

- (a) an independent contractor of the Toquaht government,
- (b) a person employed by a Toquaht public institution, or
- (c) a person employed by a Toquaht corporation;

“Toquaht government representative” means

- (a) a member of Council, or
- (b) a member of the Executive;

“Toquaht institution” means:

- (a) the Toquaht government,
- (b) a Toquaht public institution, or
- (c) a Toquaht public corporation;

“Toquaht land enactment” means a Toquaht enactment, the primary purpose of which pertains to Toquaht lands;

“Toquaht lands” means

- (a) the lands described in Part 1, Part 2 and Part 3 of Appendix B-3 of the Maa-nulth, Treaty, and
- (b) any other lands that become “Maa-nulth First Nation Lands” of the Toquaht Nation in accordance with the Maa-nulth Treaty;

“Toquaht law” includes the Constitution;

“Toquaht legislation” means legislation enacted by Council;

“Toquaht official” means

- (a) a Toquaht government representative, or
- (b) a Toquaht public employee;

“Toquaht order” means an Order enacted under the authority of Toquaht legislation and, for certainty, does not include an order made by the Administrative Decisions Review Board;

“Toquaht public corporation” means a Toquaht corporation whose principal function is to provide public programs or services reasonably similar to those provided by federal, provincial or municipal governments, rather than to engage in commercial activities;

“Toquaht public employee” means

- (a) a Toquaht director,
- (b) a Toquaht government employee,
- (c) a member, commissioner, director, trustee or employee of a Toquaht public institution, or
- (d) a director, officer or employee of a Toquaht public corporation;

“Toquaht public institution” means a body, board, commission or any other similar entity established under a Toquaht law made under 13.11.1a. of Chapter 13 Governance of the Maa-nulth Treaty, including a school board or a health board;

“Toquaht regulation” means a regulation enacted under the authority of Toquaht legislation.

“Toquaht territory” means that area described as the “Maa-nulth First Nation Area of Toquaht Nation” in Appendix A-3 of the Maa-nulth Treaty;

“treaty first nation” means a first nation that has entered into a land claims agreement;

“treaty implementation committee” means the standing committee on treaty implementation established under the Council Rules of Order and Procedures Act;

“trust company” means

- (a) a trust company authorized under the Financial Institutions Act (British Columbia) to carry on trust business, or
- (b) an extraprovincial trust corporation authorized under the Financial Institutions Act (British Columbia) to carry on trust business or deposit business;

“Tye Ha’wilt” means the Tye Ha’wilt, as referred to in the Constitution;

“Wildfire Suppression Agreement” means an agreement entered into between the Toquaht Nation, Canada and British Columbia in accordance with 9.6.2 of Chapter 9 Forest Resources of the Maa-nulth Treaty;

“will”, when referring to a testamentary instrument, has the meaning given to that term in the Wills Act (British Columbia);

“will”, when referring to an obligation imposed by a Toquaht enactment, unless the Toquaht enactment provides to the contrary, is to be construed as imperative and must be carried out as soon as practicable after the applicable provision of the Toquaht enactment comes into force or the event that gives rise to the obligation;

“words” includes figures, punctuation marks and typographical, monetary and mathematical symbols;

“writing”, “written” or a term of similar import, includes words printed, typewritten, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in visible form;

“year” means any period of 12 consecutive months, but a reference to a “calendar year” means a period of 12 consecutive months beginning on January 1, and a reference by number to a dominical year means a period of 12 consecutive months beginning on January 1 of that dominical year.

### **Common names**

- 3.4** In a Toquaht enactment, a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name



is commonly applied, regardless of whether a more formal or extended name could also be applied to the country, place, body, corporation, society, officer, functionary, person, party or thing.

### **Included and corresponding meanings**

**3.5** In a Toquaht enactment,

- (a) words in the singular include the plural and words in the plural include the singular,
- (b) gender-specific terms include both genders and include corporations, and
- (c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings.

### **Use of forms**

**3.6** If a form is prescribed by or under a Toquaht enactment, deviations from the prescribed form do not invalidate the form used, unless they

- (a) affect the substance of the form, or
- (b) are calculated to mislead.

### **Calculation of time or age**

**3.7** (a) This section applies to a Toquaht enactment and to a deed, conveyance or other legal instrument unless specifically provided otherwise in the deed, conveyance or other legal instrument.

- (b) If the time stated for doing something falls or expires on a holiday, the time is extended to the next day that is not a holiday.
- (c) If the time stated for doing something in a business office falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open.
- (d) Subject to subsection (e), if a period of time is expressed
  - (i) as a specified number of days after or before a particular day or the occurrence of a particular event, the period
    - (A) is determined by excluding that particular day or the day on which that particular event occurs, and then counting forward or backward, as the case may be, the specified number of days, and

- (B) includes and ends on the last day counted under subparagraph (A);
- (ii) as a specified number of weeks after or before a particular day or the occurrence of a particular event, the period
  - (A) is determined by excluding that particular day or the day on which that particular event occurs, and then counting forward or backward, as the case may be, the number of days calculated by multiplying the specified number of weeks by seven, and
  - (B) includes and ends on the last day counted under subparagraph (A),
- (iii) as a specified number of months after or before a particular day or the occurrence of a particular event, the period
  - (A) is determined by excluding the calendar month in which that particular day or that particular event occurs, and then counting forward or backward, as the case may be, the specified number of months in calendar months, and
  - (B) in the last calendar month counted under subparagraph (A), includes and ends on
    - (I) the day that has the same calendar number as the particular day or the day on which the particular event occurs, or
    - (II) the last day of the month, if that last counted month has no day with the same calendar number as the particular day or the day on which the particular event occurs, and
- (iv) as a specified number of years after or before a particular day or the occurrence of a particular event, the period
  - (A) is determined by excluding the calendar year in which the particular day or the particular event occurs, and then counting forward or backward, as the case may be, the specified number of years in calendar years, and
  - (B) in the last calendar year counted under subparagraph (A), includes and ends on
    - (I) the day that has the same calendar date as the particular day or the day on which the particular event occurs, or
    - (II) February 28, if the particular day or the day on which the particular event occurs is February 29 and that last counted calendar year is not a leap year.

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- (e) If a period of time is expressed as a specified number of clear days, weeks, months or years, or as “at least” or “not less than” a specified number of days, weeks, months or years, after or before a particular day or the occurrence of a particular event, the period
    - (i) is determined in the manner set out in the applicable paragraph of subsection (d), but
    - (ii) rather than ending on the day determined under that paragraph, includes and ends on the next consecutive day in the direction being counted.
  - (f) If a period of time is expressed as from one specific date to another specific date, the period includes both the first and last date specified.
  - (g) When calculating time, a day begins and ends at 12:00 midnight.
  - (h) Subject to subsection (i), an individual reaches a particular age expressed in years at the beginning of the day on the relevant anniversary of his or her birth.
  - (i) If an individual was born on February 29, that individual reaches a particular age expressed in years at the beginning of
    - (i) February 29, if the relevant anniversary of his or her birth falls in a leap year, or
    - (ii) February 28, if the relevant anniversary of his or her birth occurs in any other year.
  - (j) A specified time of day is a reference to
    - (i) Pacific Standard time, or eight hours behind Greenwich Mean Time, unless Daylight Saving time is being used or observed in British Columbia on the day on which the specified time is applicable, or
    - (ii) Daylight Saving time, or seven hours behind Greenwich Mean Time, if Daylight Saving time is being used or observed in British Columbia on the day on which the specified time is applicable.
  - (k) If a provision of a Toquaht enactment sets out a date or event by which, or a period by the end of which, Council is to perform an act, that provision is satisfied if Council performs that act before the end of the first sitting of Council to commence following that date or event, or the end of that period, as the case may be.

**Metric expressions**

- 3.8** In a Toquaht enactment, metric expressions and symbols have the meanings given to them in the Weights and Measures Act (Canada) and if not mentioned in that Act, have the meanings given to them in the International System of Units established by the General Conference of Weights and Measures.

**Notices to Toquaht officials**

- 3.9** (a) To satisfy a requirement in a Toquaht enactment that a notice or other information be delivered to a Toquaht official, that notice or other information must be delivered by hand, mail or facsimile to that Toquaht official at the Toquaht administrative office.
- (b) A notice or other information delivered under subsection (a) is not effective until it is received by the Toquaht official.

**Notices delivered in accordance with Toquaht law**

- 3.10** (a) To satisfy a requirement in a Toquaht enactment to “deliver in accordance with Toquaht law” a notice or other information or that a notice or other information be “delivered in accordance with Toquaht law” to a person, that notice or other information must be in writing and delivered
- (i) by hand to that person,
  - (ii) by mail to the last known address of that person or, in the case of a corporation, to the registered office of the corporation shown in the records of the applicable government, or
  - (iii) by facsimile to the last known facsimile number of that person.
- (b) A notice or other information delivered under subsection (a) is deemed to have been received
- (i) on the date on which it was delivered, if delivered by hand,
  - (ii) seven days after the date on which it was deposited at a Canada Post office, if delivered by mail, or
  - (iii) on the date on which the sender obtained written confirmation that the facsimile has been transmitted, if delivered by facsimile.
- (c) If the Toquaht official responsible for delivering the notice or other information has reason to believe that a notice or other information delivered under subsection (a) has not been received by the person to whom it was addressed, the Toquaht official must make reasonable attempts to deliver the notice or other

information to that person through one or more of the following alternative means:

- (i) leaving the notice or other information with an adult at that person’s residence or place of business or any other place thought to be frequented by that person;
  - (ii) publishing the notice in one or more newspapers of general circulation in the area where the person was last known or is thought to be; or
  - (iii) any other means the Toquaht official considers appropriate.
- (d) A notice or other information delivered under subsection (c) is deemed to have been received on the date the notice or other information was first delivered and, for certainty, if the notice or other information was first delivered by mail or facsimile, the notice or other information is deemed to have been received on the date contemplated in subsection (b).

#### **Notices posted in accordance with Toquaht law**

**3.11** To satisfy a requirement in a Toquaht enactment to “post in accordance with Toquaht law” a notice or other information or that a notice or other information be “posted in accordance with Toquaht law”, that notice or other information must be

- (a) headed “NOTICE IN ACCORDANCE WITH TOQUAHT LAW”, and
- (b) posted in a conspicuous place accessible to the public at the Toquaht administrative office.

#### **Notices published in accordance with Toquaht law**

**3.12** To satisfy a requirement in a Toquaht enactment to “publish in accordance with Toquaht law” a notice or other information or that a notice or other information be “published in accordance with Toquaht law”, that notice or other information must be

- (a) headed “NOTICE IN ACCORDANCE WITH TOQUAHT LAW”, and
- (b) published
  - (i) in at least one newspaper of general circulation on Toquaht lands, or
  - (ii) if there is no newspaper of general circulation on Toquaht lands at the time the notice or other information is required to be published, in at least one newspaper of general circulation on land adjacent to Toquaht lands.

## **Reports to Council**

- 3.13** Where a Toquaht enactment requires a report or other document to be laid before Council and, in compliance with the Toquaht enactment, a particular report or document has been laid before Council at a particular session, nothing in the Toquaht enactment will be construed as requiring the same report or document to be laid before Council at any subsequent session.

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## PART 4 - RESERVED AND INCLUDED POWERS

### Power of repeal and amendment

- 4.1** Each Toquaht enactment must be construed so as to reserve to the body enacting the Toquaht enactment the power
- (a) to amend, repeal or replace the Toquaht enactment, and
  - (b) to revoke, restrict or modify a power, privilege or advantage that the Toquaht enactment vests in or grants to any person.

### Amending or repealing Act in same session

- 4.2** A Toquaht Act may be amended or repealed by an Act passed in the same session of Council.

### Power to make regulations

- 4.3** (a) In Toquaht legislation, a power to make regulations includes, for the purpose of carrying out the Toquaht legislation according to its intent, the authority
- (i) to make regulations that are ancillary to the Toquaht legislation and not inconsistent with it,
  - (ii) to provide for administrative and procedural matters for which no express, or only partial, provision has been made,
  - (iii) to limit the application of the regulation in time or place or both,
  - (iv) to prescribe the amount of a fee authorized by the Toquaht legislation,
  - (v) to provide that the contravention of the regulation is an offence, and
  - (vi) to provide that a person who commits an offence under the regulation is liable, on summary conviction, to a penalty within the limits set out in 13.31.0 of Chapter 13 Governance of the Maa-nulth Treaty.
- (b) A Toquaht regulation has the force of law.

### Power to appoint or delegate

- 4.4** (a) An authority under a Toquaht enactment to appoint a person is authority to appoint at pleasure.
- (b) An authority under a Toquaht enactment to appoint a person includes the authority

- (i) to set the duration of the person's term of appointment,
  - (ii) to terminate the appointment or remove or suspend the person from office,
  - (iii) to reappoint or reinstate the person to office,
  - (iv) to set the person's remuneration and vary or terminate it,
  - (v) to appoint another person to replace the person or to act in the place of the person, and
  - (vi) to appoint another person as the deputy of the person.
- (c) A power under a Toquaht enactment to delegate a duty or power includes the power
- (i) to establish, change or revoke conditions, standards or requirements for the performance of that duty or the exercise of that power by the person to whom the duty or power is delegated, and
  - (ii) to revoke a delegation of the duty or power.
- (d) If a person is appointed to an office by or under a Toquaht enactment effective on a specified day, the appointment is effective at the beginning of that day.
- (e) If a person's appointment to an office by or under a Toquaht enactment expires on a specified day, the appointment expires at the end of that day.
- (f) If a person is appointed to an office by or under a Toquaht enactment for a specified term, that term expires at the end of the last day of the term.

### **Power to act for others**

- 4.5**
- (a) Words in a Toquaht enactment that direct or empower a Toquaht official to do something, or that otherwise apply to that Toquaht official by name of office, include a person authorized under Toquaht law to act in that office.
  - (b) Where a power is conferred or a duty is imposed on a Toquaht public employee, the power may be exercised and the duty must be performed by the individual appointed to that office.
  - (c) Words directing or empowering a Toquaht public employee to do any act or thing, or otherwise applying to a Toquaht public employee by name of office, apply to any successors in the office.
  - (d) This section applies whether or not the office of a Toquaht official is vacant.



- (e) Subsection (d) does not authorize a person authorized under Toquaht law to act in the office of a member of the Executive, other than the member of the Executive, to exercise an authority conferred on the Executive to enact a regulation.

### **Ancillary power**

- 4.6**
- (a) If in a Toquaht enactment
    - (i) the power to do or enforce the doing of an act or thing is conferred on a person, that power includes any power necessary to enable that person to do or enforce the doing of that act or thing,
    - (ii) the power to inspect or to require the production of records is conferred on a person, that power includes the power to make copies or extracts of those records, or
    - (iii) a power is conferred or a duty is imposed on a person, that power may be exercised and that duty must be performed from time to time as occasion requires.
  - (b) Power given to a person in a Toquaht enactment to enter into an agreement includes the power to enter into the agreement and to carry out its terms, subject to any conditions that apply to that person in the exercise of the power.
  - (c) If in a Toquaht enactment the doing of an act or thing is dependent on the doing of another act or thing by a Toquaht institution or a Toquaht official, that Toquaht institution or Toquaht official, as the case may be, has the power to do that other act or thing.

### **Majority and quorum**

- 4.7**
- (a) If in a Toquaht enactment an act or thing is required or authorized to be done by more than two persons, a majority then may do it.
  - (b) If a Toquaht enactment establishes a Toquaht public institution consisting of three or more members, the following rules apply unless the Toquaht enactment provides otherwise:
    - (i) if the number of members of the Toquaht public institution provided for by the Toquaht enactment is a fixed number, at least one-half of that number of members constitutes a quorum at a meeting of the Toquaht public institution;
    - (ii) if the number of members of the Toquaht public institution provided for by the Toquaht enactment is not a fixed number, at least one-half of the number of members in office constitutes a quorum at a meeting of the Toquaht public institution, as long as the number of members is within the

maximum or minimum number, if any, authorized by the Toquaht enactment;

- (iii) an act or thing done by a majority of the members of the Toquaht public institution present at a meeting, if the members present constitute a quorum, is deemed to have been done by the Toquaht public institution; and
- (iv) a vacancy in the membership of the Toquaht public institution does not invalidate the constitution of the Toquaht public institution or impair the right of the members in office to act, if the number of members in office is not less than a quorum.

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## PART 5 - COMMENCEMENT, AMENDMENT AND REPEAL OF ENACTMENTS

### Effect only if deposited

- 5.1 (a) A Toquaht enactment has no effect unless it, or a copy of it, is deposited with the law clerk.
- (b) The law clerk must not accept a Toquaht enactment for deposit until the law clerk is satisfied that
- (i) it has been duly enacted by Council, the Executive, the Tye Ha'wilt or a Toquaht director, as the case may be, and
  - (ii) has been signed by the Tye Ha'wilt or Toquaht director, as the case may be.
- (c) The law clerk must maintain an index of all enactments deposited under subsection (a).
- (d) If, in the reasonable opinion of the Tye Ha'wilt, it is in the interest of the Toquaht Nation to do so, the Tye Ha'wilt may, by Order, direct that a Toquaht enactment is deemed to have been deposited or filed on a specified date on or after its enactment but before its actual date of deposit with the law clerk and if the Tye Ha'wilt so orders, the Toquaht enactment is deemed to have been deposited or filed on the specified date.
- (e) A certificate that purports to be signed by the law clerk to the effect that a Toquaht enactment was deposited with the law clerk on a specified date is evidence that it was deposited on the date specified.

### Notice of deposit and inspection

- 5.2 (a) The law clerk must post in accordance with Toquaht law a notice when a Toquaht enactment is deposited with the law clerk and that notice must set out the enactment deposited, a brief description of the enactment and when the enactment will come into force.
- (b) A person must not be convicted of an offence against a Toquaht enactment for which notice has not been given in accordance with subsection (a) unless it is shown that reasonable steps had been taken by the time of the offence to bring the substance of the enactment to the notice of the public or the persons likely to be affected by it.
- (c) Toquaht enactments deposited with the law clerk must be made available for inspection at the Toquaht administrative office during regular business hours.

**Numbering Toquaht enactments**

- 5.3** (a) The law clerk must assign a number to each enactment that is accepted for deposit under section 5.1(b) and must mark on the enactment that number, the word "Deposited" and the day, month and year of deposit.
- (b) Toquaht legislation that is deposited under section 5.1(a) may be cited as "TNS" followed by the number assigned to it and the year in which it was enacted, for example TNS 1/2011.
- (c) A regulation that is deposited under section 5.1(a) may be cited as "TNR" followed by the number assigned to it and the year in which it was enacted, for example TNR 1/2011.
- (d) An Order that is deposited under section 5.1(a) may be cited as "TNO" followed by the number assigned to it and the year in which it was enacted, for example TNO 1/2011.

**Coming into force of Toquaht legislation**

- 5.4** (a) Subject to subsections (b) to (e), Toquaht legislation comes into force on the day on which it is enacted.
- (b) If the resolution enacting Toquaht legislation provides
- (i) that that Toquaht legislation comes into force on a specified date other than the day on which the Toquaht legislation is enacted, the Toquaht legislation comes into force on that specified date,
- (ii) that a portion of the Toquaht legislation comes into force on a specified date other than the day on which the Toquaht legislation is enacted,
- (A) that portion of the Toquaht legislation comes into force on that specified date, and
- (B) the remainder of the Toquaht legislation comes into force on the day on which the Toquaht legislation is enacted,
- (iii) for the Toquaht legislation to be brought into force by Toquaht regulation, the Toquaht legislation comes into force on the day on which the relevant Toquaht regulation is enacted, or on any later date specified in that regulation, or
- (iv) for a portion of the Toquaht legislation to be brought into force by Toquaht regulation,

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- (A) that portion of the Toquaht legislation comes into force on the day on which the relevant Toquaht regulation is enacted, or on any later date specified in that regulation, and
    - (B) the remainder of the Toquaht legislation comes into force on the day on which the Toquaht legislation is enacted.
  - (c) If a provision of Toquaht legislation provides that that Toquaht legislation comes into force on a specified date other than the day on which the Toquaht legislation is enacted, that provision and the title of the Toquaht legislation are deemed to have come into force on the day on which the Toquaht legislation is enacted.
  - (d) If a provision of Toquaht legislation provides
    - (i) that that Toquaht legislation comes into force on a specified date other than the day on which the Toquaht legislation is enacted,
      - (A) that provision of the Toquaht legislation comes into force on the day on which the Toquaht legislation is enacted, and
      - (B) the remainder of the Toquaht legislation comes into force on that specified date,
    - (ii) that a portion of the Toquaht legislation comes into force on a date other than the day on which the Toquaht legislation is enacted,
      - (A) that portion of the Toquaht legislation comes into force on that specified date, and
      - (B) the remainder of the Toquaht legislation comes into force on the day on which the Toquaht legislation is enacted,
    - (iii) for the Toquaht legislation to be brought into force by Toquaht regulation,
      - (A) that provision of the Toquaht legislation comes into force on the date on which the Toquaht legislation is enacted, and
      - (B) the remainder of the Toquaht legislation comes into force on the day on which the relevant Toquaht regulation is enacted, or on any later date specified in that regulation, or
    - (iv) for a portion of the Toquaht legislation to be brought into force by Toquaht regulation,
      - (A) that portion of the Toquaht legislation comes into force on the day on which the relevant Toquaht regulation is enacted, or on any later date specified in that regulation, and

- (B) the remainder of the Toquaht legislation comes into force on the date on which the Toquaht legislation is enacted.
- (e) If Toquaht legislation contains a provision to the effect that the Toquaht legislation, or a portion of it, comes into force on a date that is earlier than the date on which the Toquaht legislation is enacted, the Toquaht legislation or portion referred to in the provision
  - (i) comes into force in accordance with the terms of the provision, and
  - (ii) on coming into force, is deemed to have come into force on the earlier date referred to in the provision and is retroactive to the extent necessary to give it force and effect on and after that earlier date.

### **Coming into force of Toquaht regulations**

- 5.5** (a) Subject to subsections (b) to (e), a Toquaht regulation comes into force on the day on which it is enacted.
- (b) If the resolution enacting a Toquaht regulation provides that
- (i) that regulation comes into force
    - (A) on a specified date later than the day on which the regulation is enacted, or
    - (B) on a specified date earlier than the day on which the regulation is enacted and the Toquaht legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,the regulation comes into force on that specified date, or
  - (ii) a portion of that regulation comes into force
    - (A) on a specified date later than the day on which the regulation is enacted, or
    - (B) on a specified date earlier than the day on which the regulation is enacted and the Toquaht legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,that portion of the regulation comes into force on that specified date and the remainder of the regulation comes into force on the date on which the regulation is enacted.

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- (c) If a provision of a Toquaht regulation provides that the Toquaht regulation or a portion of it is to come into force on a day other than the day on which the Toquaht regulation is enacted, that provision and the title of the Toquaht regulation are deemed to have come into force on the day on which the Toquaht regulation is enacted.
- (d) If a provision of a Toquaht regulation provides that
- (i) that regulation comes into force
    - (A) on a specified date later than the day on which the regulation is enacted, or
    - (B) on a specified date earlier than the day on which the regulation is enacted and the Toquaht legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

that provision of the regulation comes into force on the date the regulation is enacted and the remainder of the regulation comes into force on that specified date, or
  - (ii) a portion of that regulation comes into force
    - (A) on a later date than the day on which the regulation is enacted or
    - (B) on an earlier date than the day on which the regulation is enacted and the Toquaht legislation under which the regulation is made authorizes the regulation to come into force on an earlier date,

that portion of the regulation comes into force on that specified date and the remainder of the regulation comes into force on the date on which the regulation is enacted.
- (e) If a Toquaht regulation contains a provision to the effect that the Toquaht regulation, or a portion of it, comes into force on a date that is earlier than the date on which the Toquaht regulation is enacted, the Toquaht regulation or portion referred to in the provision
- (i) comes into force in accordance with the terms of the provision, and
  - (ii) on coming into force, is deemed to have come into force on the earlier date referred to in the provision and is retroactive to the extent necessary to give it force and effect on and after that earlier date.

**Commencement of effect of Toquaht enactments**

- 5.6** (a) A Toquaht enactment, or a portion of a Toquaht enactment, commences to have effect at the beginning of the day on which it comes into force.
- (b) A Toquaht enactment, or a portion of a Toquaht enactment, that is repealed and replaced ceases to have effect at the time the replacing Toquaht enactment commences to have effect.
- (c) A Toquaht enactment, or a portion of a Toquaht enactment, that is repealed but not replaced ceases to have effect at the end of the day on which it ceases to be in force.
- (d) A Toquaht enactment, or a portion of a Toquaht enactment, that provides that it ceases to be in force on a specified day, or on the occurrence of a specified circumstance, ceases to have effect
- (i) at the beginning of that specified day, or
- (ii) at the end of the day on which that specified circumstance occurs.
- (e) A Toquaht enactment, or a portion of a Toquaht enactment, that has been replaced is repealed and a Toquaht enactment that has expired, lapsed or has otherwise ceased to be in force or have effect is deemed to have been repealed.

**Preliminary proceedings and staggered commencement**

- 5.7** (a) If Toquaht legislation that is not in force confers a power to make regulations, or do any other thing, to make that Toquaht legislation operative when it comes into force, that power may be exercised before the Toquaht legislation comes into force, but the regulation made or the thing done has no force until the Toquaht legislation comes into force, except in so far as is necessary to make the Toquaht legislation operative when it comes into force.
- (b) If Toquaht legislation provides for that Toquaht legislation, or a portion of the Toquaht legislation, to come into force or be repealed by Toquaht regulation, such a Toquaht regulation may
- (i) apply to the coming into force or repeal of any provision of the Toquaht legislation or portion of the Toquaht legislation, and
- (ii) be made at different times for different provisions of the Toquaht legislation.



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### **Amending enactment part of enactment amended**

**5.8** An amending Toquaht enactment must be construed as part of the Toquaht enactment that it amends.

### **Territorial operation**

- 5.9** (a) Every Toquaht enactment applies to the whole of Toquaht lands, unless a contrary intention is expressed in the Toquaht enactment.
- (b) Where a Toquaht enactment that does not apply to the whole of Toquaht lands is amended, no provision in the amending Toquaht enactment applies to any part of Toquaht lands to which the amended Toquaht enactment does not apply, unless it is provided in the amending Toquaht enactment that it applies to that part of Toquaht lands or to the whole of Toquaht lands.

### **Repeal**

- 5.10** (a) If all or a portion of a Toquaht enactment is repealed, the repeal
- (i) does not revive a Toquaht enactment or thing not in effect or not existing immediately before the time when the repeal takes effect,
  - (ii) does not affect the previous operation of the Toquaht enactment so repealed or anything done or suffered under it,
  - (iii) does not affect a right or obligation acquired, accrued, accruing or incurred under the Toquaht enactment so repealed,
  - (iv) subject to section 5.11, does not affect an offence committed against, or a contravention of, the repealed Toquaht enactment, or a penalty, forfeiture or punishment incurred under it, or
  - (v) does not affect an investigation, proceeding or remedy for
    - (A) a right or obligation referred to in paragraph (iii), or
    - (B) a penalty, forfeiture or punishment referred to in paragraph (iv).
- (b) Subject to section 5.11, an investigation, proceeding or remedy described in subsection (a)(v) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the Toquaht enactment or the part of the Toquaht enactment had not been repealed.

## Repeal and replacement

- 5.11** If a Toquaht enactment (the “former enactment”) is repealed and another Toquaht enactment (the “new enactment”) is substituted for it,
- (a) every person acting under the former enactment must continue to act as if appointed or elected under the new enactment until another person is appointed or elected in their place,
  - (b) every bond and security given by a person appointed under the former enactment remains in force, and all books, papers, forms and things made or used under the former enactment shall continue to be used as before the repeal in so far as they are consistent with the new enactment,
  - (c) every proceeding commenced under the former enactment must be continued under and in conformity with the new enactment in so far as it may be done consistently with the new enactment,
  - (d) the procedure established by the new enactment must be followed as far as it can be adapted
    - (i) in the recovery or enforcement of penalties and forfeitures incurred under the former enactment,
    - (ii) in the enforcement of rights existing or accruing under the former enactment, and
    - (iii) in a proceeding relating to matters that happened before the repeal,
  - (e) except to the extent that the provisions of the new enactment are not in substance the same as those of the former enactment, the new enactment shall not be held to operate as new law, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the former enactment,
  - (f) when a penalty, forfeiture or punishment is reduced or mitigated by the new enactment, the penalty, forfeiture or punishment, if imposed or adjusted after the repeal, must be reduced or mitigated accordingly, and
  - (g) all Toquaht regulations made under the former enactment remain in force and are deemed to have been made under the new enactment, in so far as they are consistent with the new enactment, until they are repealed or others are made in their place.

### **No implications from repeal or amendment**

- 5.12** (a) The repeal of all or part of a Toquaht enactment, or the repeal of a Toquaht enactment and the substitution for it of another Toquaht enactment, must not be construed to be or to involve either
- (i) a declaration that the repealed Toquaht enactment was or was considered by the body that enacted it to have been previously in force, or
  - (ii) a declaration about the previous state of the law.
- (b) The amendment of a Toquaht enactment must not be construed to be or to involve either
- (i) a declaration that the law under the Toquaht enactment prior to the amendment was or was considered by the body that enacted it to have been different from the law under the Toquaht enactment as amended, or
  - (ii) a declaration about the previous state of the law.
- (c) An amendment, consolidation, re-enactment or revision of a Toquaht enactment must not be construed to be or to involve an adoption of the construction that has by judicial decision or otherwise been placed on the language used in the Toquaht enactment or on similar language.



## **PART 6 - GENERAL PROVISIONS**

### **Commencement**

**6.1** This Act comes into force on the Maa-nulth Treaty effective date.



## LEGISLATIVE HISTORY

Interpretation Act TNS 17/2011 enacted April 1, 2011

### Amendments

Section	Amendment	In Force
3.3	TNS 3/2012, s.6.4(g)	July 10, 2012
3.3	TNS 3/2012, s.6.4(h)	July 10, 2012
2.5(a)	TNS 3/2014, s.2.1(a)	March 11, 2014
2.7(b)	TNS 3/2014, s.2.1(b)	March 11, 2014
3.3	TNS 3/2014, s.2.1(c)	March 11, 2014
3.3	TNS 7/2014, s.2.1	April 15, 2014
3.3	TNS 8/2014, s.4.11(a)	June 10, 2014
5.1(d)	TNS 8/2014, s.4.11(b)	June 10, 2014
5.3(d)	TNS 8/2014, s.4.11(c)	June 10, 2014
3.1(b)	TNS 4/2015, s.4.5	September 16, 2015

### Amending Acts:

TNS 3/2012 Economic Development Act enacted July 10, 2012  
TNS 3/2014 Miscellaneous Amendments Act enacted March 11, 2014  
TNS 7/2014 Enforcement Framework Amendment Act No. 1 enacted April 15, 2014  
TNS 8/2014 Enforcement Framework Amendment Act No. 2 enacted June 10, 2014  
TNS 4/2015 Miscellaneous Amendments Act No. 2 enacted September 16, 2015

### Regulations enacted under this Act: