

**TOQUAHT NATION GOVERNMENT**

**RESOURCES HARVESTING ACT**

**TNS 14/2011**



**OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014**

This is a certified true copy of the consolidated Resources Harvesting Act TNS 14/2011, Current to June 10, 2014

Date: August 22, 2014

*Kristen Johnson*

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

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---

---

## TABLE OF CONTENTS

<b>PART 1 - INTRODUCTORY PROVISIONS .....</b>	<b>7</b>
Short Title .....	7
Executive oversight .....	7
Application .....	7
Definitions .....	7
Purposes of this Act .....	11
Values .....	11
Conservation principles .....	12
<b>PART 2 - COMPLIANCE, DOCUMENTING, SUSPENSION AND REVOCATION .....</b>	<b>15</b>
Compliance .....	15
Fishing documentation required .....	16
Hunting documentation required .....	16
Park harvesting documentation required .....	17
Right to documentation.....	17
Issuance of documentation.....	17
Documentation requirements.....	18
Obligation to produce documentation.....	18
Documentation suspension and revocation.....	19
Notice of documentation suspension or revocation .....	19
Prohibition against harvesting during documentation suspension .....	20
<b>PART 3 - SALE AND TRANSPORT .....</b>	<b>21</b>
Sale of fish or aquatic plants.....	21
Sale of wildlife.....	22
Sale of migratory birds .....	23
Transport of plants and other renewable resources.....	23
<b>PART 4 - TRADE AND BARTER.....</b>	<b>25</b>
Trade and barter of fish or aquatic plants .....	25
Trade and barter of wildlife and migratory birds.....	25
Trade or barter of renewable resources.....	26
Exchange of regalia or traditional or artistic objects made from renewable resources.....	27
<b>PART 5 - ADMINISTRATION AND MANAGEMENT .....</b>	<b>29</b>
Director’s authority.....	29
Director’s duties .....	29
Director’s administrative duties and powers.....	30
Necessary actions after consulting Executive .....	30
Appointment and authority of resource management officers .....	31
<b>PART 6 - HARVESTING OPPORTUNITIES .....</b>	<b>33</b>
Regulations respecting harvesting opportunities .....	33
Advisory committee.....	33
Director’s responsibilities respecting harvesting opportunities .....	34
Allocation of salmon.....	34
Agreements with other governments .....	35
Agreements with first nations .....	36
Request for species designation .....	37
Treaty harvesting rights outside of Toquaht territory .....	37

**PART 7 - JOINT MANAGEMENT .....39**

Representation on joint fisheries committee .....39

Representation on wildlife council.....39

Fish harvest plans.....39

Wildlife harvest plans .....40

Delivery of harvest plans .....40

Federal and provincial protected area gathering and management plans .....40

**PART 8 - OFFENCES AND RIGHT OF REVIEW .....41**

Offences and penalties .....41

Repeat offences .....41

Offences created by regulation.....41

Right of review .....41

**PART 9 - GENERAL PROVISIONS.....43**

Regulations .....43

Commencement .....47

## PREAMBLE

The Toquaht Nation asserts that we have occupied, benefited from and governed our Hahoulthee (traditional territory), lands, waters and resources since time immemorial. The traditional territory of the Toquaht Nation has in the past provided the resources necessary to sustain us and we honour our connection to the lands, waters and resources of our traditional territories which provide for our physical and spiritual needs.

The Toquaht Nation acknowledges that all life forms are Hishuk-ish-tsawalk (interconnected) and that all humanity must have Iisaak (respect for the earth and all life forms on it). Iisaak and Hishuk-ish-tsawalk are important to the management of fish, wildlife and migratory birds and their habitat as well as to the management of aquatic plant life and land based plant life and affirm that all should be recognized as intrinsically valuable.

Through our inherent right to self-government, and our responsibility given by Naas (the creator) to look after our traditional territory, the Toquaht Nation has continuously taken steps to preserve and protect our lands. We assert that resource harvesting requires an effective management system that enhances our Maa-nulth Treaty harvesting rights and contributes to the conservation of natural resources and protection of habitat. The Toquaht Nation also recognizes the need for an effective role for Toquaht enrollees in all aspects of natural resource management.

It is the desire of the Toquaht Nation that our traditional territory continues to provide the resources necessary to sustain the Toquaht Nation, preserve our traditional ways and culture, encourage self-sufficiency and security through economic development and growth and provide a home for future generations.

The Toquaht Nation adopts this Act based on these values.

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---

## PART 1 - INTRODUCTORY PROVISIONS

### Short Title

- 1.1 This Act may be cited as the Resources Harvesting Act.

### Executive oversight

- 1.2 The member of the Executive holding the resource harvesting portfolio is responsible for the executive oversight of this Act.

### Application

- 1.3 This Act applies to all treaty harvesting rights and Toquaht commercial fisheries, including a Toquaht allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement.

### Definitions

- 1.4 In this Act,

“director” means the director of lands, public works and resources;

“federal protected area” means a national marine conservation area or a national park;

“federal protected area harvesting permit” means the “Maa-nulth Permit” for the Toquaht Nation contemplated in and issued in accordance with 23.6.4, 23.6.5 and 23.7.2 of Chapter 23 Federal Parks and Protected Areas of the Maa-nulth Treaty;

“federal protected area management plan” means the management plan contemplated in 23.6.6 of Chapter 23 Federal Parks and Protected Areas of the Maa-nulth Treaty;

“fishing” means fishing for, catching or attempting to catch fish by any method, and includes harvesting aquatic plants;

“fishing vessel” means any vessel used, outfitted or designed for the purpose of fishing, processing or transporting fish or aquatic plants;

“harvest” or “harvesting” includes picking, collecting, fishing, gathering and hunting, as applicable;

“harvest plan” means any of the fishing plan, Maa-nulth Harvest Agreement, Maa-nulth harvest document, migratory bird agreement, wildlife harvest plan, federal protected area harvesting permit, federal protected area management plan or provincial protected area gathering plan, as applicable in the circumstances;

“hunting” means shooting at, trapping, attracting, searching for, chasing, pursuing, following after or on the trail of, stalking or lying in wait for wildlife or migratory birds, or attempting to do any of those things, whether or not the wildlife or migratory bird is then or subsequently wounded, killed or captured,

- (a) with intention to capture the wildlife or migratory bird, or
- (b) while in possession of a firearm or other harvesting implement or equipment;

“hunting season” means the period from April 1 in any year to March 31 of the following year;

“inter-tidal bivalve harvest area” means the “Inter-tidal Bivalve Harvest Area” shown in Appendix P Part 1 Plan 1 of the Maa-nulth Treaty;

“Maa-nulth fisheries committee” means the representatives of the Maa-nulth First Nations on the joint fisheries committee;

“manager” means an individual appointed under section 5.1;

“migratory bird agreement” means an agreement contemplated in 12.1.8 of Chapter 12 Migratory Birds of the Maa-nulth Treaty;

“provincial protected area gathering plan” means one or more of

- (a) the “Gathering Plan” contemplated in 24.6.7 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty and approved as contemplated in 24.6.8 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty, or
- (b) an applicable “Provincial Protected Area management plan” contemplated in 24.6.9 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty;

“renewable resources” means

- (a) traditional foods gathered for domestic purposes other than fish and aquatic plants
- (b) plants and timber resources used for medicinal, ceremonial or artistic purposes,
- (c) fur-bearing land mammals, and
- (d) birds and land mammals hunted for domestic purposes;

“resource management officer” means an individual designated under section 5.5(a);

“right to gather plants” means the right of the Toquaht Nation to gather plants and the boughs, burls and roots of timber referred to in 24.6.0 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty;



“right to harvest fish and aquatic plants” means the right of the Toquaht Nation to harvest fish and aquatic plants referred to in 10.1.1 of Chapter 10 Fisheries of the Maa-nulth Treaty;

“right to harvest migratory birds” means the right of the Toquaht Nation to harvest migratory birds referred to in 12.1.1 of Chapter 12 Migratory Birds of the Maa-nulth Treaty;

“right to harvest renewable resources” means the right of the Toquaht Nation to harvest renewable resources referred to in 23.1.1 of Chapter 23 Federal Parks and Protected Areas of the Maa-nulth Treaty;

“right to harvest wildlife” means the right of the Toquaht Nation to harvest wildlife referred to in 11.1.1 of Chapter 11 Wildlife of the Maa-nulth Treaty;

“Toquaht allocation” means

- (a) in relation to a designated wildlife species,
  - (i) a defined harvest quantity or quota, or
  - (ii) a harvest quantity or quota determined by the use of a formula, for the Toquaht Nation, and
- (b) in relation to fish and aquatic plants,
  - (i) a defined harvest quantity or quota,
  - (ii) a harvest quantity determined by the use of a formula,
  - (iii) a defined harvest area, or
  - (iv) any other definition of quantity or opportunity as the parties to the Maa-nulth Treaty may agree for the Toquaht Nation;

“Toquaht commercial fishing documentation” means documentation issued in accordance with this Act identifying a person who is authorized by the Toquaht Nation to harvest fish and aquatic plants in accordance with a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement or in accordance with any other Toquaht commercial fishing licence and which may authorize the transport of such harvest;

“Toquaht commercial fishing licence” means a commercial fishing licence, other than a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement but including any other commercial fishing licence issued as part of an aboriginal commercial fisheries program, issued by the minister in accordance with federal law to

- (a) the Toquaht Nation,
- (b) a Toquaht corporation, or
- (c) any person who is designated by regulation as a purchaser on behalf of the Toquaht Nation;

“Toquaht fisheries” means

- (a) the harvesting of fish or aquatic plants in accordance with the right to harvest fish and aquatic plants, and
- (b) the harvesting of fish under
  - (i) a Toquaht allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement, or
  - (ii) any other Toquaht commercial fishing licence;

“Toquaht fishing documentation” means documentation issued in accordance with this Act identifying an individual who is authorized by the Toquaht Nation to exercise the right to harvest fish and aquatic plants under the Maa-nulth Treaty and which may authorize the transport of such harvest;

“Toquaht harvesting documentation” means Toquaht fishing documentation, Toquaht hunting documentation or Toquaht park harvesting documentation, as applicable;

“Toquaht hunting documentation” means documentation in accordance with under this Act identifying an individual who is authorized by the Toquaht Nation to exercise the right to harvest wildlife or to exercise the right to harvest migratory birds under the Maa-nulth Treaty;

“Toquaht individual” means an individual who is eligible to be enrolled as a Toquaht enrollee in accordance with Chapter 26 Eligibility and Enrolment of the Maa-nulth Treaty;

“Toquaht park harvesting documentation” means documentation issued in accordance with this Act identifying an individual who is authorized by the Toquaht Nation to exercise the right to harvest renewable resources or the right to gather plants;

“treaty harvesting right” means any one or more of

- (a) the right to harvest fish and aquatic plants,
- (b) the right to harvest wildlife,
- (c) the right to harvest migratory birds,
- (d) the right to harvest renewable resources; and
- (e) the right to gather plants.

### **Purposes of this Act**

- 1.5** The purpose of this Act is to establish a comprehensive regime for the management of natural resources in Toquaht territory, including the conservation, protection and recovery of species at risk or a species for which there is a conservation concern, in a manner that implements provisions of the Maa-nulth Treaty respecting fish, wildlife and migratory birds and their habitat and the rights of Toquaht enrollees in relation to fish, wildlife and migratory birds and their habitat.

### **Values**

- 1.6** To fulfill its purpose, this Act is intended to uphold the following values:
- (a) fish, wildlife and migratory birds and their habitat should be managed as one, since humans, animals and plants in Toquaht territory are all interconnected;
  - (b) to be managed as one, the management of fish, wildlife and migratory birds and their habitat should include research, education, regulation, conservation, protection, restoration and revitalization;
  - (c) Toquaht enrollees are traditional and current users of fish, wildlife and migratory birds and their rights under the Maa-nulth Treaty in relation to fish, wildlife and migratory birds and their habitat, which flow from that use, should be given full force and effect;
  - (d) the management of fish, wildlife and migratory birds and their habitat and the exercise of treaty harvesting rights should be governed by the conservation principles set out in section 1.7;
  - (e) the precautionary principle should govern decision making this Act;
  - (f) the guiding principles and concepts of Iisaak and Hishuk-ish-tsawalk are important to the management of fish, wildlife and migratory birds and their habitat and are an integral part of this Act;

- (g) all fish, wildlife and migratory birds and their habitat and all aquatic plant life and land based plant life should be recognized as intrinsically valuable and worth more than just the benefits derived from harvesting and commercial activities;
- (h) the biological diversity and abundance of plant and animal species in Toquaht territory should be restored to historical levels and thereafter maintained and utilized in a sustainable manner;
- (i) the management of fish, wildlife and migratory birds and their habitat should provide optimum protection to the natural resource economy;
- (j) no species native to Toquaht territory should become extinct in the Toquaht territory as a consequence of human activities;
- (k) the Department of Lands, Public Works and Resources, as the main instrument of natural resource management in Toquaht territory, should be enabled and empowered to fulfill its responsibilities and uphold the Toquaht Nation's resource management values and conservation principles;
- (l) natural resource management should be an effective system that complements Toquaht harvesting rights and priorities, recognizes Toquaht systems of natural resource management that contribute to the conservation of natural resources and protection of habitat, and recognizes the need for an effective role for Toquaht enrollees in all aspects of natural resource management;
- (m) Toquaht public institutions and Toquaht corporations have an important role in the management of natural resources; and
- (n) the Toquaht government, which retains ultimate responsibility for natural resource management on Toquaht lands, should be enabled and empowered to fulfill its responsibilities and uphold the Toquaht Nation's resource management values and conservation principles.

### **Conservation principles**

**1.7** The following conservation principles apply under this Act:

- (a) the acknowledgement that all life forms are interconnected (Hishuk-ish-tsawalk);
- (b) that all humanity must have respect for the earth and all life forms on it (Iisaak);
- (c) the Toquaht Nation has the responsibility given by Naas (the creator) to look after the Hahoulthee;
- (d) the maintenance of the natural balance of ecological systems;
- (e) the protection of habitat;

- (f) the maintenance of vital and healthy fish, aquatic plants, wildlife and migratory birds populations capable of sustaining harvesting;
- (g) the restoration and revitalization of depleted populations of aquatic plants, fish, plants, shellfish, wildlife and migratory birds and their habitat; and
- (h) that humanity must only take from the earth that which it needs.

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---

## **PART 2 - COMPLIANCE, DOCUMENTING, SUSPENSION AND REVOCATION**

### **Compliance**

#### **2.1** A person may only

- (a) exercise a treaty harvesting right,
- (b) sell, trade or barter anything harvested under a treaty harvesting right, including the inedible byproducts, including down, of migratory birds,
- (c) exchange regalia or traditional or artistic objects made from or containing
  - (i) renewable resources or parts of renewable resources harvested under the right to harvest renewable resources,
  - (ii) plants or the boughs, burls and roots of timber harvested or their parts under the right to gather plants,
- (d) transport any
  - (i) fish or aquatic plants,
  - (ii) renewable resources or parts of renewable resources harvested under the right to harvest renewable resources, or
  - (iii) plants or the boughs, burls and roots of timber or their parts harvested under the right to gather plants, and
- (e) conduct any fishing operations under Toquaht commercial fishing documentation in accordance with the applicable provisions of
- (f) the Maa-nulth Treaty,
- (g) this Act,
- (h) the applicable harvest plan,
- (i) any conditions or restrictions contained in the Toquaht harvesting documentation held by that person,
- (j) any conditions or restrictions contained in the Toquaht commercial fishing documentation held by that person, and
- (k) any Order made, or a direction given, by the director.

**Fishing documentation required**

- 2.2** (a) An individual may only exercise the right to harvest fish and aquatic plants if the person is in possession of valid Toquaht fishing documentation issued in the name of that person.
- (b) A person may only fish under a commercial fishing licence issued to the Toquaht Nation under the Maa-nulth Harvest Agreement or under any other Toquaht commercial fishing licence if the person is in possession of valid Toquaht commercial fishing documentation issued in the name of that person.
- (c) A Toquaht enrollee may only transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants outside of the domestic fishing area if the person is in possession of valid authorization issued in accordance with this Act, in the name of that Toquaht enrollee, permitting him or her to transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants outside of the domestic fishing area.
- (d) A person who is not a Toquaht enrollee may only transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants if the person is in possession of valid authorization issued in accordance with this Act in the name of that person permitting that person to transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants.

**Hunting documentation required**

- 2.3** (a) An individual at least 18 years of age may only exercise the right to harvest wildlife or the right to harvest migratory birds if the person is in possession of valid Toquaht hunting documentation issued in the name of that individual.
- (b) An individual who is under 18 years of age may only exercise the right to harvest wildlife or the right to harvest migratory birds if that individual
- (i) is in possession of valid Toquaht hunting documentation issued in the name of that individual, and
  - (ii) is accompanied by another individual who is at least 18 years of age and is in possession of
    - (A) valid Toquaht hunting documentation issued in the name of that individual, or
    - (B) valid documentation to hunt issued in the name of that individual under federal law or provincial law.



---

### **Park harvesting documentation required**

- 2.4** (a) An individual may only exercise the right to harvest renewable resources in federal protected areas if the individual is in possession of valid Toquaht park harvesting documentation issued in the name of that individual.
- (b) An individual may only exercise the right to gather plants in a provincial protected area if the individual is in possession of valid Toquaht park harvesting documentation issued in the name of that individual.

### **Right to documentation**

- 2.5** (a) Except in prescribed circumstances and subject to the Act, every Toquaht enrollee is entitled to be issued Toquaht harvesting documentation in his or her name.
- (b) A person who is not a Toquaht enrollee is not entitled to be issued Toquaht harvesting documentation.
- (c) Despite subsection (b), a person who is not a Toquaht enrollee may, in prescribed circumstances, be issued
- (i) Toquaht fishing documentation in accordance with 10.1.47 to 10.1.50 of Chapter 10 Fisheries of the Maa-nulth Treaty if that person is
    - (A) an agent or contractor of the Toquaht Nation, or
    - (B) an individual designated by the director, or
  - (ii) Toquaht hunting documentation to exercise the right to harvest wildlife in accordance with 11.1.14 to 11.1.23 of Chapter 11 Wildlife of the Maa-nulth Treaty if that person is
    - (A) an acknowledged member or citizen of a first nation, and
    - (B) the Toquaht Nation has entered into an agreement contemplated in 11.1.14 of Chapter 11 Wildlife of the Maa-nulth Treaty with that first nation.

### **Issuance of documentation**

- 2.6** (a) A person may apply to the director for Toquaht harvesting documentation or Toquaht commercial fishing documentation by submitting to the director
- (i) an application in the prescribed form and with the prescribed content,
  - (ii) the prescribed application fee, and

- (iii) any prescribed supporting documentation.
- (b) On receipt of an application under subsection (a) and if satisfied that the relevant requirements of this Act have been met, the director may issue to the applicant the documentation for which the applicant has applied.
- (c) The director may attach conditions to any documentation issued in accordance with this section.
- (d) If an applicant under this section applies for more than one type of Toquaht harvesting documentation under subsection (a), the director may issue the documentation as combined documentation or as separate documentation, as the director considers appropriate in the circumstances.

### **Documentation requirements**

#### **2.7** Documentation provided in accordance with section 2.6 must

- (a) be written in English and, at the discretion of the director, may also be in the Nuu-chah-nulth language,
- (b) include the name and address of the person to whom the documentation is issued, and
- (c) all other prescribed information.

### **Obligation to produce documentation**

- #### **2.8**
- (a) In this section “enforcement officer” means an individual authorized to enforce federal law, provincial law or Toquaht law in relation to fish, aquatic plants, wildlife, migratory birds, renewable resources, federal protected areas and provincial protected areas.
  - (b) An enforcement officer who believes on reasonable grounds that a person is or has been harvesting or is likely to begin harvesting under a treaty harvesting right may request that person to produce for inspection by the enforcement officer valid Toquaht harvesting documentation under this Act authorizing the harvesting by that person.
  - (c) If asked for identification by the person to whom the request is made, the enforcement officer must show appropriate identification confirming his or her credentials as an enforcement officer.
  - (d) At the request of an enforcement officer made in accordance with subsection (b) but subject to subsection (c), the person to whom the request is made must produce to the enforcement officer for his or her inspection valid documentation

issued in accordance with under this Act to and in the name of that person authorizing the harvesting by that person.

### **Documentation suspension and revocation**

- 2.9** (a) If the director believes that a person who is the holder of Toquaht harvesting documentation has contravened or repeatedly contravened
- (i) section 2.1, or
  - (ii) whichever of section 2.2, 2.3 or 2.4 is applicable to the particular Toquaht harvesting documentation,
- the director must deliver in accordance with Toquaht law and section 2.10 a notice to the Toquaht harvesting documentation holder of the director's intention to suspend the Toquaht harvesting documentation for the period specified in the notice or, in the case of a repeated contravention, to revoke the Toquaht harvesting documentation.
- (b) After providing an opportunity for the person referred to in this section to be heard as contemplated in section 2.10, the director, for any cause he or she considers sufficient, may suspend the person's Toquaht harvesting documentation or, in the case of a repeated contravention, to revoke the Toquaht harvesting documentation.
  - (c) On notice of an intended suspension or revocation under subsection (a), the person must within the prescribed time deliver the Toquaht harvesting documentation to the director.
  - (d) After considering any response as contemplated in section 2.10, if the director does not suspend or revoke the person's Toquaht harvesting documentation, that documentation must promptly be returned by the director to that person.
  - (e) Promptly after the expiry of the period of suspension of Toquaht harvesting documentation suspended in accordance with this section, the director must return the Toquaht harvesting documentation to its holder or issue replacement Toquaht harvesting documentation to its holder.
  - (f) The director must not issue any Toquaht harvesting documentation in accordance with this Act to a person who has had Toquaht harvesting documentation revoked in accordance with this section for up to a period of five years commencing on the date of that revocation.

### **Notice of documentation suspension or revocation**

- 2.10** A notice under section 2.9 must

- (a) set out the reasons for the intended suspension, and
- (b) state that the person who is the holder of the Toquaht harvesting documentation is entitled to make representations as to why the Toquaht harvesting documentation should not be suspended and may do so by giving the director a response within 15 days after the earlier of the date the notice was received or deemed to have been received under the Interpretation Act.

**Prohibition against harvesting during documentation suspension**

**2.11** A person whose Toquaht harvesting documentation is suspended or revoked must not exercise the applicable treaty harvesting right associated with the suspended or revoked Toquaht harvesting documentation during the period of

- (a) the suspension, or
- (b) immediately upon the revocation and thereafter.

---

## PART 3 - SALE AND TRANSPORT

### Sale of fish or aquatic plants

- 3.1** (a) A person may transport fish or aquatic plants harvested in Toquaht fisheries both within the domestic fishing area and outside the domestic fishing area, but must not sell fish or aquatic plants harvested under the right to harvest fish and aquatic plants unless authorized to do so in accordance with this Act.
- (b) A person who is in possession of valid Toquaht commercial fishing documentation issued in that person's name may transport and sell fish or aquatic plants harvested only in accordance with
- (i) the Toquaht commercial fishing documentation, and
  - (ii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement, or
  - (iii) any other Toquaht commercial fishing licence.
- (c) Transport and sale of fish or aquatic plants authorized under subsection (b) is subject to any applicable restrictions in any of the following:
- (i) the Maa-nulth Harvest Agreement;
  - (ii) any Toquaht commercial fishing documentation;
  - (iii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
  - (iv) the Toquaht commercial fishing licence; and
  - (v) the regulations.
- (d) An agent or contractor of the Toquaht Nation who
- (i) is in possession of valid Toquaht commercial fishing documentation, and
  - (ii) is permitted under a contract with the Toquaht Nation to sell fish or aquatic plants on its behalf
- may transport and sell fish or aquatic plants harvested in accordance with that documentation.
- (e) Transport and sale of fish or aquatic plants authorized under subsection (d)
- (i) must be consistent with the conditions of the agent's or contractor's contract with the Toquaht Nation, and

- (ii) is subject to any applicable restrictions in any of the following:
  - (A) the Maa-nulth Harvest Agreement;
  - (B) any Toquaht commercial fishing documentation;
  - (C) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
  - (D) a Toquaht commercial fishing licence and;
  - (E) the regulations.
  
- (f) Either
  - (i) the Toquaht Nation, or
  - (ii) a Toquaht corporation, authorized by regulation,may transport and sell fish or aquatic plants harvested in accordance with Toquaht commercial fishing documentation.
  
- (g) Transport and sale of fish or aquatic plants authorized under subsection (f) is subject to any applicable restrictions in any of the following:
  - (i) the Maa-nulth Harvest Agreement;
  - (ii) a Toquaht commercial fishing documentation;
  - (iii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
  - (iv) a Toquaht commercial fishing licence; and
  - (v) the regulations.

### **Sale of wildlife**

- 3.2**
- (a) A person may only sell wildlife or wildlife parts, including meat and furs, harvested under the right to harvest wildlife if
    - (i) permitted by and in accordance with federal law or provincial law, and
    - (ii) that person has first been issued documentation to do so by the director.
  
  - (b) The director may issue documentation to a Toquaht enrollee to sell wildlife and wildlife parts, including meat and furs, harvested under the Toquaht right to harvest wildlife in the prescribed manner and form.

### **Sale of migratory birds**

- 3.3** (a) A person may only sell migratory birds harvested under the right to harvest migratory birds if
- (i) permitted by and in accordance with federal law or provincial law, and
  - (ii) that person has first been issued documentation to do so by the director.
- (b) A person may only sell inedible byproducts, including down, of migratory birds harvested under the right to harvest migratory birds if that person has first been issued documentation to do so by the director.
- (c) The director may issue documentation to a Toquaht enrollee to sell migratory birds and inedible byproducts, including down, of migratory birds harvested under the right to harvest migratory birds, in the prescribed manner and form.

### **Transport of plants and other renewable resources**

- 3.4** The Toquaht Nation and every Toquaht enrollee may transport plants or the boughs, burls and roots of timber or renewable resources harvested under
- (a) the right to harvest renewable resources, or
  - (b) the right to gather plants,
- but such transport must be in accordance with federal law and provincial law.

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---



---

## PART 4 - TRADE AND BARTER

### Trade and barter of fish or aquatic plants

- 4.1** (a) The Toquaht Nation and every Toquaht enrollee may trade or barter fish or aquatic plants harvested under the right to harvest fish and aquatic plants if the trade or barter is between
- (i) a Toquaht enrollee and another Toquaht enrollee,
  - (ii) a Toquaht enrollee and the Toquaht Nation, or
  - (iii) either
    - (A) the Toquaht Nation, or
    - (B) a Toquaht enrolleeand aboriginal people.
- (b) A Toquaht enrollee may only trade or barter the fish or aquatic plants referred to in subsection (a) as permitted under subsection (a)(i), (a)(ii) or (a)(iii).
- (c) A person who, for the purpose of trade or barter, transports fish or aquatic plants harvested under the right to harvest fish and aquatic plants,
- (i) must first ensure that those fish or aquatic plants are prescribed as being fish or aquatic plants that are available for trade or barter, and
  - (ii) may only transport those fish or aquatic plants if they are so prescribed and that person has been issued documentation in that person's name authorizing that transport.

### Trade and barter of wildlife and migratory birds

- 4.2** (a) In this section, "wildlife or migratory birds" means
- (i) wildlife and wildlife parts, including meat and furs, harvested under the right to harvest wildlife, and
  - (ii) migratory birds and the inedible byproducts of migratory birds, including down, harvested under the right to harvest migratory birds.
- (b) The Toquaht Nation and every Toquaht enrollee may trade and barter wildlife or migratory birds if the trade or barter is between
- (i) a Toquaht enrollee and another Toquaht enrollee,

- (ii) a Toquaht enrollee and Toquaht Nation, or
- (iii) either
  - (A) the Toquaht Nation, or
  - (B) a Toquaht enrolleeand aboriginal people resident in British Columbia.
- (c) A Toquaht enrollee may only trade or barter the wildlife or migratory birds contemplated in subsection (b) as permitted under that subsection.
- (d) A person who, for the purpose of trade or barter, transports any wildlife or migratory birds
  - (i) must first ensure that the wildlife or migratory birds are prescribed as being wildlife or migratory birds that are available for trade or barter, and
  - (ii) may only transport the wildlife or migratory birds if they are so prescribed.

#### **Trade or barter of renewable resources**

- 4.3** (a) In this section, “plants and renewable resources” means
- (i) renewable resources harvested under the right to harvest renewable resources, and
  - (ii) plants and the boughs, burls and roots of timber harvested under the right to gather plants.
- (b) The Toquaht Nation and every Toquaht enrollee may trade and barter plants and renewable resources if the trade or barter is between
- (i) a Toquaht enrollee and another Toquaht enrollee,
  - (ii) a Toquaht enrollee and Toquaht Nation, or
  - (iii) either
    - (A) the Toquaht Nation, or
    - (B) a Toquaht enrolleeand aboriginal people resident in British Columbia.

- (c) A Toquaht enrollee may only trade or barter the plants and renewable resources contemplated in subsection (b) as permitted under that subsection.
- (d) A person who, for the purpose of trade or barter, transports any plants and renewable resources
  - (i) must first ensure that the plants and renewable resources are prescribed as being plants and renewable resources that are available for trade or barter, and
  - (ii) may only transport the plants and renewable resources if they are so prescribed.

**Exchange of regalia or traditional or artistic objects made from renewable resources**

- 4.4**
- (a) In this section, “plants and renewable resources” means
    - (i) renewable resources harvested under the right to harvest renewable resources, and
    - (ii) plants and the boughs, burls and roots of timber harvested under the right to gather plants.
  - (b) The Toquaht Nation and every Toquaht enrollee may exchange regalia or traditional or artistic objects made from plants and renewable resources,
    - (i) in the case of Toquaht Nation, with Toquaht enrollees or one or more other Nuu-chah-nulth individuals, or
    - (ii) in the case of Toquaht enrollees, with one or more other Nuu-chah-nulth individuals.
  - (c) A Toquaht enrollee may only exchange the regalia or traditional or artistic objects referred to in subsection (b) as permitted under that subsection and in accordance with Toquaht law.

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---

## PART 5 - ADMINISTRATION AND MANAGEMENT

### Director's authority

- 5.1** (a) The director of operations may, by Order, appoint managers.
- (b) Upon the approval of the director of operations, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to
- (i) another Toquaht director,
  - (ii) a Toquaht government employee, or
  - (iii) an independent contractor of the Toquaht Nation.
- (c) Despite the delegation of any duties or powers under subsection (b), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

### Director's duties

- 5.2** The director is responsible for
- (a) managing Toquaht fisheries, including, for certainty, fishing under
    - (i) the right to harvest fish and aquatic plants,
    - (ii) a Toquaht allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement, and
    - (iii) any other Toquaht commercial fishing licence,
  - (b) managing all harvesting carried out under any treaty harvesting right,
  - (c) exercising the director's authority, and
  - (d) performing the director's duties in a manner consistent with
    - (i) the Maa-nulth Treaty,
    - (ii) this Act,
    - (iii) any applicable harvest plan, and
    - (iv) policies adopted by the director.

## Director's administrative duties and powers

### 5.3 The director

- (a) may issue
  - (i) Toquaht fishing documentation,
  - (ii) Toquaht commercial fishing documentation,
  - (iii) Toquaht hunting documentation, and
  - (iv) Toquaht park harvesting documentation,
- (b) must direct the annual accounting of fish harvesting required by the Maa-nulth Treaty,
- (c) may propose enhancement initiatives, including seeking recommendations of the joint fisheries committee or wildlife council and the approval of the Executive and the minister concerning those enhancement initiatives,
- (d) must carry out enhancement initiatives approved by the Executive and the minister,
- (e) must direct studies or other activities approved by the Executive,
- (f) must oversee the process of the development and implementation of any harvest plans, and
- (g) may establish a hunter training program for Toquaht enrollees.

### Necessary actions after consulting Executive

- 5.4 (a) The director may, by Order after consultation with the Executive, take any action that is reasonably necessary for the purpose of carrying out the director's responsibilities including
  - (i) opening or closing any areas or locations for harvesting all or any species of fish, aquatic plants, wildlife or migratory birds harvested under a treaty harvesting right,
  - (ii) establishing, increasing or decreasing the age, size or weight restrictions or restrictions on the sex of any species of fish, aquatic plants, wildlife or migratory birds harvested under a treaty harvesting right,

- (iii) permitting or prohibiting the harvesting or sale of any species of fish, aquatic plants, wildlife or migratory birds harvested under a treaty harvesting right,
  - (iv) cooperating with federal and provincial officials to fulfill the Toquaht Nation obligations under the Maa-nulth Treaty in accordance with any agreements reached between the Toquaht Nation and Canada or British Columbia,
  - (v) enforcing the provisions of this Act and the Maa-nulth Treaty in relation to harvesting under a treaty harvesting right.
- (b) The director may, by directive if reasonably necessary in the circumstances, prohibit any person from harvesting, transporting, selling or engaging in trade or barter of anything harvested under a treaty harvesting right until the person satisfies the director that the person has the right to do so.

#### **Appointment and authority of resource management officers**

- 5.5**
- (a) For the purposes of this Act, the Executive may, by Order, designate individuals as resource management officers.
  - (b) The Executive may limit and define, in any manner the Executive considers appropriate, the powers that resource management officers may exercise under this Act.
  - (c) The director may assign duties to resource management officers, including
    - (i) ensuring that any individual who is harvesting under a treaty harvesting right in Toquaht territory is properly documented and authorized to carry out that activity,
    - (ii) ensuring that any harvesting under a treaty harvesting right that takes place in Toquaht territory is in compliance with this Act, the applicable harvest plan and the Maa-nulth Treaty,
    - (iii) the monitoring of harvesting activities, including the verification of what is harvested under a treaty harvesting right or harvested under Toquaht commercial fishing documentation,
    - (iv) the examination and measurement of fishing or hunting gear, the recording of scientific data and observations and the taking of samples,
    - (v) the monitoring of the landing of fish and the verification of the species and the size or weight of fish caught and retained, and

- (vi) conducting biological examination and sampling of what is harvested under a treaty harvesting right.
- (d) The director must provide each resource management officer with a document in the form approved by the director
  - (i) certifying the resource management officer's designation, and
  - (ii) if the resource management officer's powers are limited under subsection (b), specifying the powers that the he or she may exercise.
- (e) On entering any place as permitted under this or any other Toquaht enactment, a resource management officer, on request, must show the certificate of designation to the person in charge of the place.



---

## PART 6 - HARVESTING OPPORTUNITIES

### Regulations respecting harvesting opportunities

- 6.1** (a) In addition to the authority provided under section 9.1, the Executive may, by regulation,
- (i) provide for the distribution among Toquaht enrollees of harvesting opportunities under the treaty harvesting rights and under the Maa-nulth Harvest Agreement, and
  - (ii) specify
    - (A) particular individuals or classes of individuals that may harvest fish and aquatic plants, and
    - (B) particular vessels or classes of vessels to be used for that harvest by those individuals or classes of individuals under Toquaht commercial fishing documentation.
- (b) In a regulation under this section, the Executive must take into account
- (i) the collective interests of the Toquaht Nation,
  - (ii) what may be available for harvest by the Toquaht Nation under a treaty harvesting right,
  - (iii) the estimated requirements for what is harvested under a treaty harvesting right for both
    - (A) Toquaht enrollees who are ordinarily resident on Toquaht lands, and
    - (B) Toquaht enrollees who are not ordinarily resident on Toquaht lands,
  - (iv) available information about the annual harvest of what is harvested under a treaty harvesting right by Toquaht enrollees, and
  - (v) any other matter the Executive considers to be relevant.

### Advisory committee

- 6.2** (a) The Executive may appoint a committee of persons responsible for providing advice and recommendations to the Executive regarding harvesting under a treaty harvesting right or harvesting under Toquaht commercial fishing documentation.

- (b) A committee appointed under subsection (a) may include persons who are not members of the Executive.

### **Director's responsibilities respecting harvesting opportunities**

**6.3** The director, taking into account sections 1.6 and 1.7, must manage the methods, timing and locations of harvesting under a treaty harvesting right, the applicable harvest plan and a Toquaht commercial fishing licence in a way that, to the extent practicable,

- (a) provides fair and reasonable opportunities for Toquaht enrollees to harvest
  - (i) fish and aquatic plants at locations within the domestic fishing area or inter-tidal bivalve harvest area,
  - (ii) at locations within the wildlife harvest area,
    - (A) wildlife of any designated wildlife species, and
    - (B) migratory birds in any designated migratory bird population,
  - (iii) renewable resources at locations within federal protected areas, and
  - (iv) plants and the boughs, burls and roots of timber in provincial protected areas within Toquaht territory, and
- (b) achieves the distribution of harvesting opportunities provided for by the Executive under section 6.1.

### **Allocation of salmon**

- 6.4**
- (a) The Executive may from time to time, subject to federal law and provincial law, by written direction to the director determine for each year or portion of a year
    - (i) the portion of that year's harvest under Toquaht commercial fishing documentation that is to be used for food, social or ceremonial purposes,
    - (ii) the portion of that year's harvest under Toquaht commercial fishing documentation that is to be available for sale, and
    - (iii) the percentage of the portion referred to in paragraph (ii) that may be harvested and sold on behalf of the Toquaht Nation.
  - (b) The director must manage the methods, timing and locations of harvesting in Toquaht fisheries in a way that, to the extent it is practicable to do so, achieves the apportionment of each year's Toquaht fish allocations as determined by the Executive under subsection (a).

### Agreements with other governments

- 6.5** (a) The Executive may negotiate agreements which are necessary or advisable for the purposes of this Act, including
- (i) with the other Maa-nulth First Nations respecting
    - (A) the joint fisheries committee,
    - (B) allocation of harvests under their joint right to harvest fish and aquatic plants,
    - (C) allocation of licences issued under the Maa-nulth Harvest Agreement,
    - (D) stock assessment activities,
    - (E) ocean management,
    - (F) enhancement initiatives, and
    - (G) joint monitoring or enforcement of fisheries related matters,
  - (ii) with the minister
    - (A) to adjust the species composition of the harvest under Toquaht fisheries in any given year,
    - (B) in relation to harvesting outside the domestic fishing area,
    - (C) in relation to new emerging commercial fisheries as contemplated in 10.2.5 and 10.2.6 of Chapter 10 Fisheries of the Maa-nulth Treaty,
    - (D) in relation to the harvest of surplus fish in any given year, and
    - (E) in relation to the harvest of fish by the Toquaht Nation that result from enhancement initiatives,
  - (iii) with Canada or British Columbia in relation to
    - (A) the enforcement of federal, provincial or Toquaht law in relation to fisheries, wildlife, migratory birds, federal protected areas and provincial protected areas,
    - (B) Toquaht fish allocations of other fish species or aquatic plants,

- (C) consultations by either or both of those governments with, and advice to them by, the Toquaht government on matters affecting the Toquaht Nation in relation to
    - (I) federal protected areas, or
    - (II) a provincial protected area,that is in or partly in Toquaht territory,
  - (D) developing cooperative working relationships in relation to fisheries and wildlife management,
  - (E) developing cooperative working relationships in relation to co-management of federal protected areas and provincial protected areas wholly or partially within Toquaht territory, and
  - (F) harvesting, conserving and managing wildlife and migratory birds,
- (iv) with British Columbia in relation to
- (A) Toquaht Nation contributions to any provincial fund dedicated to
    - (I) conservation of fish, wildlife and migratory birds, or
    - (II) habitat protection, and
  - (B) the development of cooperative working relationships in Toquaht territory, or
- (v) with Canada in relation to access to migratory birds and their conservation and harvesting by Toquaht enrollees on land owned or in use by a federal department or agency.
- (b) An agreement negotiated under subsection (a) must be ratified by Council for it to be a valid and binding agreement on the Toquaht Nation.

### **Agreements with first nations**

- 6.6** (a) The Executive may negotiate agreements that are necessary or advisable with first nations, other than another Maa-nulth First Nation, or other aboriginal people
- (i) in relation to
    - (A) harvesting fish or aquatic plants in the domestic fishing area,

- (B) the harvesting of wildlife in the wildlife harvest area under the right to harvest wildlife by the members of that first nation or other aboriginal people in accordance with a wildlife sharing agreement,
  - (C) the harvesting, conservation and management of fish, wildlife, migratory birds, renewable resources, plants and the boughs, burls and roots of timber, or
  - (D) Toquaht allocation of a designated wildlife species or of a designated migratory bird population, or
- (ii) for the purposes of managing habitat critical for the conservation of fish, wildlife, migratory birds, threatened and endangered species.
- (b) An agreement negotiated under subsection (a) must be ratified by Council for it to be a valid and binding agreement on the Toquaht Nation.

#### **Request for species designation**

**6.7** The Executive may

- (a) request a review by the minister of the Toquaht allocation of a designated species,
- (b) request that any species of wildlife or migratory bird be designated under the Maa-nulth Treaty, and
- (c) propose any Toquaht allocation of a designated wildlife species or designated migratory bird population.

#### **Treaty harvesting rights outside of Toquaht territory**

- 6.8**
- (a) The Executive may negotiate protocol agreements with neighbouring Maa-nulth First Nations regarding the allocation of wildlife harvesting opportunities for Toquaht enrollees in locations outside of Toquaht territory so that Toquaht enrollees may exercise the Toquaht right to harvest wildlife in those locations.
  - (b) A protocol agreement negotiated under subsection (a) must be ratified by Council for it to be a valid and binding agreement on the Toquaht Nation.

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---

## **PART 7 - JOINT MANAGEMENT**

### **Representation on joint fisheries committee**

- 7.1**
- (a) The Executive must, by Order, appoint one individual to act as the Toquaht Nation's representative on the joint fisheries committee.
  - (b) The Executive may assign additional individuals to participate in meetings of the joint fisheries committee in order to support or assist the Toquaht representative to the joint fisheries committee.
  - (c) The Executive may, by Order, appoint an alternate Toquaht enrollee to represent the Toquaht Nation on the joint fisheries committee where the Toquaht representative appointed under subsection (a) is unable to attend a meeting of the joint fisheries committee.
  - (d) Any Toquaht representative to the joint fisheries committee must represent the Toquaht Nation in accordance with the direction of the Executive.

### **Representation on wildlife council**

- 7.2**
- (a) The Executive must, by Order, appoint one individual to act as the Toquaht Nation's representative on the wildlife council.
  - (b) The Executive may assign additional individuals to participate in meetings of the wildlife council in order to support or assist the Toquaht representative to the wildlife council.
  - (c) The Executive or director may, by Order, appoint an alternate Toquaht enrollee to represent the Toquaht Nation on the wildlife council where the Toquaht representative appointed under subsection (a), is unable to attend a meeting of the wildlife council.
  - (d) Any Toquaht representative to the wildlife council must represent the Toquaht Nation in accordance with the direction of the Executive.

### **Fish harvest plans**

- 7.3** Each year, before the date specified in the Maa-nulth fisheries operational guidelines, the director must prepare for approval and adoption by the Executive recommendations in relation to those matters contemplated in 10.4.29 of Chapter 10 Fisheries of the Maa-nulth Treaty to be made on behalf of the Toquaht Nation to be included in the annual fishing plan for harvesting carried out by designated Toquaht individuals under the right to harvest fish and aquatic plants.

**Wildlife harvest plans**

**7.4** Each year, before the prescribed date, the director must prepare for approval and adoption by the Executive recommendations in relation to those matters contemplated in 11.9.2 and 11.9.3 of Chapter 11 Wildlife of the Maa-nulth Treaty to be made on behalf of the Toquaht Nation to be included in the wildlife harvest plan for harvesting under the right to harvest wildlife.

**Delivery of harvest plans**

- 7.5** By the prescribed date, the director must forward
- (a) the recommendations on behalf of the Toquaht Nation to be included in the proposed annual fishing plan contemplated in section 7.3, adopted by the Executive, to the Maa-nulth fisheries committee, and
  - (b) the proposed wildlife harvest plan contemplated in section 7.4, adopted by the Executive, to the wildlife council.

**Federal and provincial protected area gathering and management plans**

- 7.6** If the minister requests a federal protected area management plan under 23.6.6 of Chapter 23 Federal Protected Areas of the Maa-nulth Treaty or the minister requests a gathering plan in accordance with 24.6.6 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty,
- (a) the director must prepare a draft plan according to the requirements of the Maa-nulth Treaty for consideration by the Executive, and
  - (b) the Executive must consider the plan prepared by the director and, if acceptable to the Executive, approve the plan by resolution and forward that gathering plan to the minister for approval.



---

## PART 8 - OFFENCES AND RIGHT OF REVIEW

### Offences and penalties

#### 8.1 A person who

- (a) obstructs a resource management officer in the discharge or performance of a duty or the exercise of a power or authority under this Act,
- (b) fails or refuses to comply with an Order made by the director under section 5.4,
- (c) fails or refuses to comply with a condition of documentation issued in accordance with this Act, or
- (d) contravenes section 2.1, 2.2, 2.3, 2.4, 2.8, 2.11, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.3 or 4.4

commits an offence and is liable, on summary conviction, to a fine not exceeding \$5,000.

### Repeat offences

#### 8.2 The maximum fine to which a person is liable on a second or subsequent conviction for the same offence is double the amount set out in section 8.1.

### Offences created by regulation

#### 8.3 (a) The Executive may, by regulation, provide that

- (i) a contravention of a regulation is an offence, and
  - (ii) a person convicted of an offence for a contravention of a regulation is liable to a fine not exceeding \$10,000.
- (b) If the maximum fine prescribed under a regulation referred to in subsection (a) is less than that provided by a provision of this Act, then the regulation prevails.

### Right of review

#### 8.4 (a) A person whose application under section 2.6 for Toquaht harvesting documentation is refused by the director or whose documentation is suspended or revoked under section 2.9 by the director may apply to the Administrative Decisions Review Board for a review of that decision.

- (b) The Administrative Decisions Review Board must conduct the review and, by order, may
  - (i) confirm the director's decision to refuse the application or to suspend or revoke the documentation, or

- (ii) require the director
  - (A) in the case of a refusal, to accept the application and issue the documentation that was the subject of the application, or
  - (B) in the case of a suspension or revocation, to end the suspension or reverse the revocation and return the documentation to the person.

---

## PART 9 - GENERAL PROVISIONS

### Regulations

- 9.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) For certainty, the powers of the Executive under subsection (a) include the power to make regulations
- (i) for any purpose in relation to which regulations are provided for in this Act,
  - (ii) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
  - (iii) respecting the form and content of applications, notices and reports that are required or permitted under this Act,
  - (iv) defining words and expressions that are used but not defined in this Act, and
  - (v) generally for the purpose of giving effect to this Act.
- (c) For certainty, the powers of the Executive under subsections (a) also include the power to make regulations as follows:
- (i) respecting Toquaht harvesting documentation and Toquaht commercial fishing documentation, including regulations
    - (A) prescribing fees for applications for harvesting documentation or Toquaht commercial fishing documentation or for their issuance,
    - (B) respecting the form and content of
      - (I) applications for harvesting documentation and Toquaht commercial fishing documentation, and
      - (II) harvesting documentation and Toquaht commercial fishing documentation,
    - (C) requiring applicants for harvesting documentation and Toquaht commercial fishing documentation to provide, at the time of application or before issuance of them, specified information or documentation pertaining to them,

- (D) prescribing conditions and restrictions applicable in relation to harvesting documentation and Toquaht commercial fishing documentation,
- (E) specifying the terms of harvesting documentation and Toquaht commercial fishing documentation,
- (F) respecting the suspension of harvesting documentation and Toquaht commercial fishing documentation,
- (G) prescribing the procedure for suspending harvesting documentation and Toquaht commercial fishing documentation and the effect of suspensions,
- (H) respecting the issuance of Toquaht fishing documentation to persons who are not Toquaht enrollees, and
- (I) respecting the amendment or correction of harvesting documentation or Toquaht commercial fishing documentation;
- (ii) prescribing requirements respecting the methods, timing and locations of
  - (A) harvesting in Toquaht fisheries, and
  - (B) harvesting of wildlife and migratory birds;
- (iii) delegating to the director the discretion to vary the requirements prescribed under paragraph (ii) to suit the circumstances of a particular case;
- (iv) respecting the distribution among Toquaht enrollees of
  - (A) fish and aquatic plants harvested under the right to harvest fish and aquatic plants or under the Maa-nulth Harvest Agreement or any other Toquaht commercial fishing licence, and
  - (B) wildlife harvested under the right to harvest wildlife;
- (v) the designation of individuals and vessels to harvest
  - (A) fish and aquatic plants under the right to harvest fish and aquatic plants or under the Maa-nulth Harvest Agreement, or
  - (B) wildlife under the right to harvest wildlife;
- (vi) the designation of individuals to harvest fish and aquatic plants under

- (A) Toquaht fishing documentation, or
  - (B) Maa-nulth harvest documents
- that are issued to the Toquaht Nation by the minister;
- (vii) respecting the documenting of
    - (A) individuals and vessels designated by the Toquaht Nation to harvest fish and aquatic plants under the right to harvest fish and aquatic plants, and
    - (B) Toquaht enrollees designated by the Toquaht Nation to harvest wildlife under the right to harvest wildlife;
  - (viii) respecting the management of wildlife habitat on Toquaht lands;
  - (ix) respecting how wildlife, including wildlife parts, harvested under the right to harvest wildlife, may be
    - (A) identified as to type, and
    - (B) transported by a person who is not a Toquaht enrollee;
  - (x) respecting
    - (A) the trade or barter of fish, aquatic plants, wildlife, migratory birds, renewable resources, plants and the boughs, burls and roots of timber, and
    - (B) their identification and the identification of their parts;
  - (xi) respecting the sale of
    - (A) fish and aquatic plants harvested under Toquaht commercial fishing documentation, and
    - (B) harvested wildlife and migratory birds;
  - (xii) respecting the registration of fishing vessels that may be used for harvesting, for the purposes of sale, in Toquaht fisheries including regulations
    - (A) prescribing fees for registration applications or for the registration of vessels,
    - (B) respecting the form and content of

- (I) registration applications, and
- (II) registrations under this Act,
- (C) requiring applicants for registration to provide, at the time of application or before the registrations applied for, specified information or documentation pertaining to the registrations,
- (D) prescribing conditions and restrictions applicable in relation to registrations,
- (E) specifying terms and conditions of registrations,
- (F) respecting suspension of registrations,
- (G) the procedure for suspending registrations under this Act,
- (H) the effect of suspensions, amendment or correction of registrations,
- (I) the identification of registered fishing vessels, and
- (J) the change of ownership of a registered fishing vessel;
- (xiii) specifying the type of fishing gear and identification of fishing gear that may be used for harvesting in Toquaht fisheries;
- (xiv) respecting the dumping and wasting of fish;
- (xv) respecting the release of incidental catch;
- (xvi) respecting the cleaning of fishing gear and authority to permit the cleaning of fishing gear;
- (xvii) respecting the carrying out of inspections and examinations of harvesting activities;
- (xviii) respecting the alteration of aquatic habitat and activities conducted in aquatic habitat;
- (xix) prescribing landing and reporting requirements for harvesting fish and requirements related to the identification of harvested fish;
- (xx) respecting the designation of landing sites for fish harvested under authority of this Act and permitting the director to make those designations;
- (xxi) respecting the exchange of regalia or traditional or artistic objects, made from renewable resources, including plants and the boughs, burls and roots

of timber, harvested under the right to harvest renewable resources or the right to gather plants; and

- (xxii) the taxation of, or levies associated with, the sale of fish harvested in Toquaht fisheries.

### **Commencement**

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

TOQUAHT NATION GOVERNMENT  
RESOURCES HARVESTING ACT TNS 14/2011  
OFFICIAL CONSOLIDATION – CURRENT TO JUNE 10, 2014

---



## LEGISLATIVE HISTORY

Resources Harvesting Act TNS 14/2011 enacted April 1, 2011

### Amendments

Section	Amendment	In Force
1.2	TNS 3/2012, s.6.4(f)	July 10, 2012
2.1(k)	TNS 8/2014, s.4.16(a)	June 10, 2014
5.1(a)	TNS 8/2014, s.4.16(a)	June 10, 2014
5.4(a)	TNS 8/2014, s.4.16(a)	June 10, 2014
5.5(a)	TNS 8/2014, s.4.16(a)	June 10, 2014
7.1(a)	TNS 8/2014, s.4.16(a)	June 10, 2014
7.1(c)	TNS 8/2014, s.4.16(a)	June 10, 2014
7.2(c)	TNS 8/2014, s.4.16(a)	June 10, 2014
8.1(b)	TNS 8/2014, s.4.16(a)	June 10, 2014
5.4(b)	TNS 8/2014, s.4.16(b)	June 10, 2014

### Amending Acts:

TNS 3/2012 Economic Development Act enacted July 10, 2012

TNS 8/2014 Enforcement Framework Amendment Act No. 2 enacted June 10, 2014

### Regulations:

TNR 5/2011 Fisheries Regulation enacted April 1, 2011

TNR 7/2011 Wildlife and Migratory Birds Regulation enacted April 1, 2011

TNR 3/2013 High Capacity Fisher Forms Amending Regulation enacted April 9, 2013