

HUU-AY-AHT FIRST NATIONS



EFFECTIVE DATE PROCEDURES ACT

The Huu-ay-aht Legislature enacts this law to provide for effective and efficient processes to establish government on Effective Date of the Treaty.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Effective Date Procedures Act* passed Third Reading in the Legislature on:

April 1, 2011



Chief Councillor Robert Dennis Sr.

Certified True Copy

I certify that the *Effective Date Procedures Act* is enacted as law on:

April 1, 2011



Ta'yii Hawilth Derek Peters

I certify that the *Effective Date Procedures Act* came into force on:

April 1, 2011



Law Clerk Connie Waddell

EFFECTIVE DATE PROCEDURES ACT

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The Legislature enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

Application

- 1 (1) This Act applies to the procedures of government on Effective Date for
 - (a) enacting and bringing into force certain Huu-ay-aht enactments,
 - (b) executing by an authorized signatory certain agreements and understandings to which the Huu-ay-aht are a party, and
 - (c) other matters specified in this Act.

- (2) This Act applies to every other Huu-ay-aht enactment enacted on Effective Date, whether enacted before or after this Act, unless a contrary intention appears in this Act or in the other Huu-ay-aht enactment, and if there is any inconsistency or conflict between this Act and the provisions of another Huu-ay-aht enactment enacted on Effective Date, this Act prevails to the extent of the inconsistency or conflict.

Definitions

2 In this Act:

- “**appoint**” has the same meaning as appoint as defined in Schedule 1 of the *Interpretation Act*;
- “**authorized signatory**” means an individual who is the Chief Councillor or a Councillor of the Huu-ay-aht First Nations Indian Band immediately before Effective Date and becomes a member of government in accordance with 13.7.1 of Chapter 13 Governance of the Treaty or is authorized to be a signatory by the Huu-ay-aht First Nations Indian Band, Executive Council or by a Huu-ay-aht Act;
- “**closing letter of understanding**” means the Letter Of Understanding for Closing the Maa-nulth First Nations Final Agreement among the Maa-nulth First Nations, Canada and British Columbia;
- “**delivery agreement**” means the delivery agreement among the Maa-nulth First Nations, Canada, and British Columbia concerning the delivery of documents held in escrow under the escrow agreement;
- “**Effective Date**” means the date upon which the Treaty takes effect [*April 1, 2011*];
- “**escrow agreement**” means the escrow agreement among the Maa-nulth First Nations, Canada, British Columbia and Stikeman Elliot LLP, dated as of April 1, 2010;
- “**instrument of disposition** ” has the same meaning as “instrument of disposition” under the *Land Act*;
- “**public officer**” has the same meaning as public officer under the *Code of Conduct and Conflict of Interest Act*;
- “**Treaty**” means the Maa-nulth First Nations Final Agreement among the Maa-nulth First Nations, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, and includes amendments to that agreement made in accordance with it.

PART 2 –EFFECTIVE DATE ENACTMENTS

Huu-ay-aht Acts

- 3 Each proposed Huu-ay-aht Act
- (a) introduced in the Legislature by a member of the Legislature in a motion for adoption,
 - (b) seconded on that motion by another member of the Legislature, and
 - (c) adopted on that motion by resolution of the Legislature in a vote of its members in accordance with section 36 of the *Government Act*

is deemed to have passed third reading and is enacted as a Huu-ay-aht Act and has the same force and effect as if it had been developed, introduced and enacted in accordance with Division 1 of Part 9 of the *Government Act*.

Huu-ay-aht regulations

- 4** Each proposed regulation
- (a) introduced at Executive Council by a member of Executive Council in a motion for adoption,
 - (b) seconded on that motion by another member of Executive Council, and
 - (c) adopted on that motion by resolution of Executive Council in a vote of its members in accordance with section 53 of the *Government Act*
- is deemed to have passed and is enacted as a regulation and has the same force and effect as if it had been developed, introduced and enacted in accordance with Division 2 of Part 9 of the *Government Act*.

Validity of Huu-ay-aht Acts and regulations

- 5** Each Huu-ay-aht Act enacted under section 3 and each regulation enacted under section 4
- (a) is of the same force and effect as if it had been made or adopted in the manner and form provided for in the *Government Act* and other applicable Huu-ay-aht law, and
 - (b) is validly enacted under the *Government Act*, other applicable Huu-ay-aht law, despite not fulfilling requirements of the *Government Act* or other applicable Huu-ay-aht law under which it is enacted.

PART 3 – EFFECTIVE DATE AUTHORIZATIONS

Authorized signatory

- 6** An authorized signatory may sign for or on behalf of the Huu-ay-aht all of the following agreements or amendments to those agreements before or after Effective Date:
- (a) the escrow agreement;
 - (b) the delivery agreement;
 - (c) the closing letter of understanding;
 - (d) each document that has been given to, or held by, the escrow holder under the escrow agreement and that provides for execution by or on behalf of the Huu-ay-aht;
 - (e) each agreement referred to in section 17;
 - (f) any other document or agreement that the Huu-ay-aht and one or more other parties to the Treaty have agreed is to be executed to take effect on or about Effective Date.

Authorized signatory's signature

- 7 A document that an authorized signatory may sign under this Act is deemed to be validly signed if the authorized signatory
- (a) signs the document in his or her own handwriting, or
 - (b) uses his or her individual signature stamp on the document.

Validity of authorizations

- 8 Each authorized signature made under section 6
- (a) has the same force and effect as if it had been made in the manner and form provided for in the *Government Act* and other applicable Huu-ay-aht law, and
 - (b) is validly made under the *Government Act* and other applicable Huu-ay-aht law, despite not fulfilling requirements of the *Government Act* or other applicable Huu-ay-aht law under which it is made.

PART 4 –EFFECTIVE DATE APPOINTMENTS**Committee and board appointments**

- 9 The following committees and boards are established or continued under the referenced section of a Huu-ay-aht Act or referenced paragraph of the Treaty, as applicable, with the following membership appointments:

Name of Committee or Board	Treaty, Huu-ay-aht enactment or other reference	Individual(s) Appointed
Enrolment Appeal Board	26.6.3 Chapter 26 of the Treaty [Eligibility and Enrolment]	Sherry Cook
Implementation Committee	27.3.1 Chapter 27 of Treaty [Implementation]	Angela Wesley
Joint Fisheries Committee	10.4.3 Chapter 10 of Treaty [Fisheries]	Larry Johnson
Economic Development Committee	Section 8 of the <i>Financial Administration Act</i>	Committee members as at March 31, 2011
Finance Committee	Section 6 of the <i>Financial Administration Act</i>	Committee members as at March 31, 2011
Fisheries Committee	Section 58 of the <i>Government Act</i>	Committee members as at March 31, 2011
Lands and Natural Resources Committee (formerly Lands and Resources Committee)	Section 58 of the <i>Government Act</i>	Committee members as at March 31, 2011

Citizenship Committee (formerly Eligibility and Enrolment Committee)	Section 45 of the <i>Citizenship and Treaty Enrolment Act</i>	Committee members as at March 31, 2011
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Other committees and boards

- 10** Other government committees are dissolved as of Effective Date.

Administrative appointments

- 11** Each individual listed in the following table opposite the name of an office is appointed to that position on Effective Date:

Name of Office	Act Reference	Person appointed
Executive Director	Section 86 of the <i>Financial Administration Act</i>	Connie Waddell
Director of Finance & Government Services	Section 88 of the <i>Financial Administration Act & the Human Resources Policy Regulation</i>	Alan Legg
Director of Human Resources	Section 88 of the <i>Financial Administration Act & the Human Resources Policy Regulation</i>	Kathy Waddell
Director of Lands and Natural Resources	Section 5 of the <i>Community Planning and Development Act & the Human Resources Policy Regulation</i>	Larry Johnson
Director of Public Works & Community Infrastructure	Section 88 of the <i>Financial Administration Act & the Human Resources Policy Regulation</i>	Rodney Murray
Law Clerk	Section 102 of the <i>Government Act</i>	Connie Waddell
Huu-ay-aht Land Registrar	Section 47 (1) of the <i>Land Act</i>	Larry Johnson
Approving Officer	Section 28 of the <i>Community Planning and Development Act</i>	Larry Johnson
Citizenship and Enrolment Registrar	Section 40 of the <i>Citizenship and Treaty Enrolment Act</i>	Tina Charles
Election Commissioner	Section 15 (1) (a) of the	Fred Schiffner

Name of Office	Act Reference	Person appointed
	<i>Election Act</i>	
Interim Chair of Tribunal	Section 40 of the <i>Tribunal Act</i>	John Rich

Transitional – Continuation of public officer

- 12** (1) An appointment of a public officer made before Effective Date continues, if the appointment does not specify a termination date or specifies a termination date after Effective Date.
- (2) An appointment continued under subsection (1) is subject to the terms and conditions of the appointment including those terms and conditions established by Huu-ay-aht law, including Huu-ay-aht enactments.

Other appointments

- 13** A person who, immediately before Effective Date, held an appointment from, or was a delegate of, the Huu-ay-aht Indian Band to any entity or body, is appointed as the appointee or delegate of the Huu-ay-aht to that entity or body as of Effective Date, at the pleasure of Executive Council.

Validity of appointments

- 14** Each appointment made under sections 9, 11, 12, and 13 is
- (a) of the same force and effect as if it had been made in the manner and form provided for in a Huu-ay-aht enactment, in the Treaty or under Huu-ay-aht law, as applicable, authorizing the appointment,
 - (b) valid despite not fulfilling requirements in the Huu-ay-aht enactment, in the Treaty or under Huu-ay-aht law, as applicable, to authorize the appointment,
 - (c) effective on Effective Date.

PART 5 – HUU-AY-AHT LANDS

Effective date dispositions

- 15** (1) Executive Council disposes of the interests set out in the instruments of disposition held in escrow under the escrow agreement to the grantees identified in those instruments of disposition, effective on the release from escrow of those instruments of disposition.
- (2) Executive Council may dispose of interests under sections 10 and 11 of the *Land Act* which are directly required for Effective Date implementation of the Treaty until April 30, 2011, despite not fulfilling one or more requirements under sections 18 to 28 of the *Land Act*.
- (3) Unless specifically stated otherwise in the instrument of disposition, a disposition under subsection (1) or (2) is subject to the conditions, provisos, exceptions, restrictions and reservations set out in sections 13 and 14 of the *Land Act*.

Validity of disposition

- 16** Each disposition made under section 15 is
- (a) of the same force and effect as if it had been made in the manner and form provided for in the *Land Act*, in the Treaty, or under HUU-ay-aht law, as applicable, authorizing the disposition,
 - (b) valid despite not fulfilling requirements in the *Land Act* and other HUU-ay-aht law, as applicable, to authorize the disposition, and
 - (c) effective on the date specified in the instrument of disposition or otherwise by law.

PART 6 – AGREEMENTS**Agreements with other governments**

- 17** All of the following agreements are ratified and entered into by the HUU-ay-aht:
- (a) Fiscal Financing Agreement;
 - (b) Foreshore Agreement;
 - (c) Maa-nulth Harvest Agreement;
 - (d) Maa-nulth Side Agreement, made as of Effective Date between Canada, British Columbia and the Maa-nulth First Nations concerning the *Ahousaht et al.* fisheries litigation (Supreme Court action S033335);
 - (e) Monumental Cedar and Cypress Harvest Agreement;
 - (f) Own Source Revenue Agreement;
 - (g) Real Property Tax Co-ordination Agreement;
 - (h) Resource Revenue Sharing Agreement;
 - (i) Maa-nulth First Nations Tax Treatment Agreement;
 - (j) Wildfire Suppression Agreement;
 - (k) HUU-ay-aht First Nations Artifact Identification Agreement;
 - (l) Wildfire Suppression Agreement;
 - (m) Pacific Rim National Park Agreement;
 - (n) Geographical Features Agreement.

Commencement

- 18** This Act comes into force on the date of its enactment by the Legislature.