

# HUU-AY-AHT FIRST NATIONS



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## CODE OF CONDUCT AND CONFLICT OF INTEREST ACT

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*The HUU-ay-aht Legislature enacts this law to hold HUU-ay-aht public officers to the highest ethical standards in the performance of their duties.*



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## REGISTRY OF LAWS CERTIFICATION

I certify that the *Code of Conduct and Conflict of Interest Act* passed Third Reading in the Legislature on:

*April 1, 2011*

Certified True Copy

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Chief Councillor Robert Dennis Sr.

I certify that the *Code of Conduct and Conflict of Interest Act* is enacted as law on:

*April 1, 2011*

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Ta'yii Hawilth Derek Peters

I certify that the *Code of Conduct and Conflict of Interest Act* came into force on:

*April 1, 2011*

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Law Clerk Connie Waddell



# CODE OF CONDUCT AND CONFLICT OF INTEREST ACT

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## **SCHEDULE**

### **Note to Reader**

The *Code of Conduct and Conflict of Interest Act* sets out the manner in which HUU-ay-aht public officers are expected to conduct themselves in carrying out their duties and exercising their powers.

The failure to act with the highest ethical standards or to manage a conflict of interest appropriately, could result in the removal of the public officer and other penalties ordered by the HUU-ay-aht Tribunal.

The term “public officer” includes a broad category of persons elected, appointed, contracted or hired by any branch of government including committee members, as well as employees, contractors, and directors of any HUU-ay-aht body. This Act also covers individuals who inherit their position in government and designated volunteers.

Public officers must take the HUU-ay-aht oath which includes the requirement to honour the principles of ii-saak (respect), uu-a-thluck (taking care of future generations) and hish-uk-tsawak (everything is one).

The Legislature enacts as follows:

## PART 1 - PURPOSE AND DEFINITIONS

### Purpose

- 1 The purpose of this Act is to establish a code of conduct to ensure that in carrying out their duties, Huu-ay-aht public officers
  - (a) adhere to the highest ethical standards,
  - (b) avoid conflicts of interest,
  - (c) uphold and obey Huu-ay-aht laws, and
  - (d) act in the best interests of present and future generations of Huu-ay-aht citizens.

### Definitions

- 2 In this Act:
  - “**contractor**” means a person under contract with a Huu-ay-aht body to perform work or services who is not
    - (a) a Huu-ay-aht employee, or
    - (b) exempt by regulation;
  - “**director**” means a person who holds a position as a member, commissioner, director, or trustee of a Huu-ay-aht public body or a Huu-ay-aht business enterprise;
  - “**eligible voter**” means an eligible voter as defined in the *Election Act*;
  - “**Executive Director**” means the individual appointed as Executive Director under the *Financial Administration Act*;
  - “**government**” means government as defined in the *Government Act*;
  - “**government employee**” means a Huu-ay-aht employee
    - (a) employed by government, and
    - (b) other prescribed Huu-ay-aht employees;
  - “**government member**” means government member as defined in the *Government Act*;
  - “**Huu-ay-aht body**” includes government, Huu-ay-aht public bodies, and Huu-ay-aht business enterprises;
  - “**Huu-ay-aht business enterprise**” means Huu-ay-aht business enterprise as defined in the *Financial Administration Act*;
  - “**Huu-ay-aht citizen**” means a Huu-ay-aht citizen as defined in the *Citizenship and Treaty Enrolment Act*;
  - “**Huu-ay-aht employee**” means an individual employed by a Huu-ay-aht body and who is not exempt by regulation;
  - “**Huu-ay-aht public body**” means an entity other than a Huu-ay-aht business enterprise that is owned or controlled, directly or indirectly, by government;
  - “**Law Clerk**” means Law Clerk as defined in the *Government Act*;

- “**Legislature**” means the Legislature as defined in the *Government Act*;
- “**official duty**” means the duties, responsibilities, functions and activities related to a position with a Huu-ay-aht body;
- “**official power**” means the power, authority and discretion related to a position;
- “**position**” means the position of a public officer and includes the office of the public officer;
- “**private interest**” means a direct or indirect monetary or other economic interest and includes any interest to which a monetary value may be attributed;
- “**public officer**” means a government member, Huu-ay-aht employee, contractor, director or volunteer of a Huu-ay-aht body, as set out in section 3;
- “**record**” includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing in or on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include
- (a) a computer program or any other mechanism that produces records, and
  - (b) a transitory record;
- “**Speaker**” means the Speaker as defined in the *Government Act*;
- “**tribunal**” means the Huu-ay-aht Tribunal;
- “**volunteer**” means a volunteer under section 3 (d).

## PART 2 – CODE OF CONDUCT

### Public officer

- 3** (1) A public officer includes
- (a) a government member,
  - (b) a director of a Huu-ay-aht body,
  - (c) a Huu-ay-aht employee or contractor, and
  - (d) a volunteer who holds a prescribed position with a Huu-ay-aht body.
- (2) Despite subsection (1), Huu-ay-aht legislation may exempt an individual under paragraphs (b) to (d).

### General duties

- 4** (1) Public officers must do all of the following:
- (a) fulfill the Huu-ay-aht oath;
  - (b) uphold, respect, and obey Huu-ay-aht laws;
  - (c) uphold and respect lawful decisions of Huu-ay-aht bodies;
  - (d) uphold the highest ethical standards of conduct when carrying out their official duties;
  - (e) treat Huu-ay-aht citizens, other public officers, and members of the public equitably and impartially;
  - (f) perform their official duties in a conscientious, professional and timely manner;



- (g) prepare for and attend meetings related to the performance of their duties.
- (2) Government members must make every reasonable effort to meet regularly with Huu-ay-aht citizens to respond to their questions and discuss any issues related to government raised by those citizens.
- (3) Government members must avoid making commitments under subsection (2) that exceed their authority to fulfill.
- (4) Public officers who contravene this section may be disqualified from holding their position.

#### **Huu-ay-aht oath requirement**

- 5** (1) A public officer must make the Huu-ay-aht oath set out in the Schedule before assuming the official duties of his or her position.
- (2) The Huu-ay-aht oath must be made no later than 30 days after a public officer is elected, appointed, or otherwise assumes his or her position.
- (3) A government member must retake the Huu-ay-aht oath at the first People's Assembly after taking the Huu-ay-aht oath under subsection (2).
- (4) A public officer who contravenes this section may be disqualified or dismissed from holding his or her position.

#### **Duty to attend meetings**

- 6** (1) In this section,
  - “**meetings**” include sessions of the Legislature and the People's Assembly;
  - “**excused from a meeting**” means excused in writing from a meeting under subsection (2) because of illness, injury or other cause.
- (2) Subject to this section, government members must prepare for and attend meetings related to their official duties where
  - (a) notice of the meeting has been given in accordance with the applicable law, and
  - (b) the government member is a member of the Huu-ay-aht body or organization named in the notice of meeting.
- (3) The Chief Councillor may be excused from a meeting by the Ta'yii Hawilth.
- (4) The Ta'yii Hawilth may be excused from a meeting by the Chief Councillor.
- (5) Other government members may be excused from a meeting in the following circumstances:
  - (a) for a session of the Legislature or a meeting of Executive Council, with the approval of the Chief Councillor;
  - (b) for a session of the People's Assembly or its committees, with the approval of the Speaker;
  - (c) for a meeting of the Ha'wiih Council or its committees, with the approval of the Ta'yii Hawilth;

- (d) for a meeting of a government committee not included under paragraph (b) or (c)
    - (i) if the government member is not the chair, with the approval of the chair, or
    - (ii) if the government member is the chair, with the approval of the Chief Councillor;
  - (e) for a meeting related to official duties not listed in paragraphs (a) to (d), with the approval of the Chief Councillor.
- (4) Government members who are absent from 4 meetings in any 12 month period without being excused are disqualified from holding their position.
  - (5) Government members who are, in the professional opinion of a medical practitioner, incapacitated and unable to perform their official duties, are disqualified from holding their position.
  - (6) A session of the People's Assembly is a meeting related to the official duties of a government member for the purposes of subsection (2).

#### **Employment and activities**

- 7** (1) A government member must hold no other position as a public officer, unless Executive Council, by resolution, allows the appointment of the government member to another public office.
- (2) A government member who contravenes subsection (1) may be disqualified from holding a position as a public officer.
- (3) For 3 months after the date on which they cease to hold office, former government members must not
  - (a) accept employment from, or become contractors of, Huu-ay-aht bodies, or
  - (b) solicit, or make representations on their own behalf, for such employment or contracts.
- (4) Former government members who contravene subsection (3) may be disqualified from holding a position with a Huu-ay-aht body.
- (5) Public officers must not hold other positions or undertake other activities that unreasonably interfere with their ability to fulfill their official duties or conduct themselves in accordance with this Act.
- (6) Public officers who contravene subsection (5) may be disqualified from holding a position with a Huu-ay-aht body.

#### **Qualifications of public officer**

- 8** (1) A public officer may not be any of the following:
  - (a) an undischarged bankrupt;
  - (b) in debt to the Huu-ay-aht or any other prescribed entity for more than a prescribed amount;
  - (c) in default of a prescribed contractual obligation to government or any other prescribed entity;

- (d) convicted of a prescribed category of criminal offence;
  - (e) convicted of a prescribed category of criminal offence for which 5 years has not elapsed from the date of conviction.
- (2) The tribunal may waive the 5 year limitation under subsection (1) (e).
  - (3) Except for government members, Executive Council may, by regulation, exempt a public officer or category of public officers from the application of subsection (1).

#### **Public speaking**

- 9** (1) Unless authorized by a Huu-ay-aht Act, public officers must not speak publicly on behalf of Executive Council, the Huu-ay-aht Council, the Legislature or the People's Assembly without the prior approval of the Chief Councillor.
- (2) Unless authorized by Huu-ay-aht law, public officers must not speak publicly on behalf of the Ha'wiih Council without the prior approval of the Ta'yii Hawilth.
- (3) Public officers may comment, on their own behalf, on Huu-ay-aht matters of public interest providing the comments are made in keeping with the teachings of ii-saak and their duty of loyalty as public officers.
- (4) Public officers who contravene this section may be disqualified from holding their position.

#### **Confidential government information**

- 10** (1) Public officers must not access, collect, use, disclose, reveal, retain or destroy information, deliberations and records of a Huu-ay-aht body by any means unless
  - (a) authorized to do so by Huu-ay-aht legislation or otherwise by law, or
  - (b) if paragraph (a) does not apply,
    - (i) required to do so in the performance of their duties and functions, and
    - (ii) authorized to do so by the administrative head of that Huu-ay-aht body.
- (2) Public officers who contravene this section may be disqualified from holding their position.

#### **Directing employees**

- 11** (1) Unless authorized by Huu-ay-aht legislation, government members must not give direction or instructions to government employees or contractors, by name or position, without the prior approval of the Executive Director.
- (2) Government members who contravene this section may be disqualified from holding their position.

#### **Abuse of power**

- 12** (1) In this section:
  - “ask” includes accept, demand or request, whether directly or indirectly;
  - “deny or delay” includes causing or attempting to cause a denial, interruption or delay;
  - “expedite” includes expediting or attempting to expedite;

**“intimidate”** means to do or threaten to do any of the following:

- (a) use force, violence or restraint against a person;
- (b) inflict injury, harm, damage or loss on a person or property;
- (c) take reprisal including cause the delay or denial of a benefit, service or program;
- (d) otherwise threaten a person;

**“make or influence”** includes participate in making, influencing or attempting to influence;

**“money or favours”** includes any private interest, advantage or benefit for a public officer or any other person.

- (2) Public officers must not ask for money or favours from another person in exchange for using their position to
  - (a) make or influence a decision of a Huu-ay-aht body, or
  - (b) expedite, deny or delay any service or program provided by a Huu-ay-aht body.
- (3) Public officers must not intimidate, harass, assault, or sexually harass or assault anyone.
- (4) Public officers who contravene this section are disqualified from holding their position.

## **Fraud**

- 13**
- (1) A public officer must not do any of the following:
    - (a) defraud, or attempt to defraud, a Huu-ay-aht body;
    - (b) make an expense claim for reimbursement that is
      - (i) false, or
      - (ii) for expenses not incurred when acting as a public officer;
    - (c) make a claim for any payment or financial benefit from a Huu-ay-aht body if the public officer is not lawfully entitled to the payment or financial benefit.
  - (2) A public officer who knowingly contravenes this section is disqualified from holding his or her position.

## **Liability for improper use of money**

- 14**
- (1) In this section, **“unlawful expenditure”** means an amount expended, invested or used contrary to the *Financial Administration Act*.
  - (2) A government member who knowingly votes for a resolution authorizing an unlawful expenditure is personally liable for the amount of the unlawful expenditure.
  - (3) Subsection (2) does not apply if the government member can demonstrate that he or she reasonably relied on information provided by a public officer that the expenditure was lawful.

- (4) The amount of the unlawful expenditure may be recovered by the Huu-ay-aht, or by a person who holds a security under borrowing by the Huu-ay-aht, from the government member or members under subsection (2), jointly and severally.
- (5) A public officer must not authorize an unlawful expenditure.

### PART 3 – CONFLICT OF INTEREST

#### Definitions

**15** In this Part:

**“common law”** means cohabiting in a marriage-like relationship for at least 1 year;

**“immediate family member”**, in relation to a public officer, means

- (a) spouse, including common law spouse,
- (b) parent, including biological, step- or common law parent,
- (c) child, foster child or ward,
- (d) stepchild,
- (e) sibling,
- (f) grandparent,
- (g) father-in-law or mother-in-law, including common-law father-in-law or mother-in-law,
- (h) grandchild,
- (i) biological uncle or aunt, and
- (j) any other relative who resides permanently in the public officer’s household or with whom the public officer permanently resides;

**“indirect private interest”** includes the private interest of any of the following:

- (a) an immediate family member;
- (b) an individual, other than an employee of a public officer, who is financially dependent upon the public officer or upon whom that public officer is financially dependent;
- (c) a business or entity in which a public officer alone, or in combination with individuals described in paragraph (a), (b) or (c), has a controlling interest.

#### Conflict of interest

**16** A public officer has a conflict of interest if that public officer exercises an official power or performs an official duty knowing that in doing so there is an opportunity to further his or her direct or indirect private interest.

#### Apparent conflict of interest

**17** A public officer has an apparent conflict of interest if it appears to a reasonably well-informed person, that

- (a) the public officer’s ability to objectively exercise an official power or perform an official duty may have been affected by his or her private interest, and

- (b) the public officer did not make reasonable efforts to avoid the conflict of interest.

**Conflict of interest prohibition**

- 18** A public officer must not exercise an official power or perform an official duty or function if the public officer has a conflict of interest or an apparent conflict of interest.

**Exception**

- 19** A public officer is not in a conflict of interest under section 16, or an apparent conflict of interest under section 17, if his or her direct or indirect private interest
- (a) is the same as that of a broad class of Huu-ay-aht citizens,
  - (b) relates to remuneration, benefits, or expenses payable to public officers,
  - (c) is so remote or insignificant that the interest cannot reasonably be regarded as likely to influence the public officer, or
  - (d) is a prescribed interest.

**Accepting gifts**

- 20** (1) A public officer must not, directly or indirectly, accept a fee, gift, or personal benefit that is connected to that public officer's performance of official duties.
- (2) Subsection (1) does not apply to any of the following:
- (a) a gift or personal benefit received by the public officer incidental to the protocols, exchanges and social obligations normally associated with that public officer's official duties;
  - (b) a gift or personal benefit of nominal value;
  - (c) a type of personal benefit permitted by resolution of Executive Council;
  - (d) compensation authorized by law;
  - (e) a lawful contribution made to a public officer who is a candidate under the *Election Act*;
  - (f) a gift or benefit received by the public officer incidental to a private function or cultural event which does not involve the discharge of that public officer's official duties;
- (3) If a public officer receives a gift or personal benefit under subsection (2) (a) to (c) that exceeds \$50 in value,
- (a) the public officer must deliver a disclosure statement, in the prescribed form, as soon as practicable, to the Law Clerk, and
  - (b) Executive Council may require the public officer to make the gift or benefit the property of the Huu-ay-aht.
- (4) If the gift or personal benefit under subsection (2) (a) to (c) exceeds \$500 in value, it is the property of the Huu-ay-aht unless Executive Council determines otherwise.
- (5) Disclosure statements received under subsection (3) must be filed as soon as practicable by the Law Clerk in the Registry of Laws and Official Records.

- (6) A public officer who contravenes this section may be disqualified from holding his or her position.

**Insider information**

- 21** (1) A public officer or former public officer must not, for the purpose of gaining or furthering a direct or indirect private interest, use information that
- (a) was obtained in connection with the performance of their official duties, and
  - (b) is not available to all Huu-ay-aht citizens.
- (2) A public officer who contravenes subsection (1) is disqualified from holding his or her position.
- (3) A former public officer who contravenes subsection (1) may be disqualified from holding a position with a Huu-ay-aht body.

**Duty to disclose and avoid conflict**

- 22** (1) Public officers must arrange their private affairs to prevent conflicts of interest and apparent conflicts of interest.
- (2) Public officers must not make, or participate in making, decisions related to the exercise of an official power or the performance of an official duty, if they know, or reasonably should know, that they would be in a conflict of interest.
- (3) As soon as public officers know, or reasonably should know, that they are in a conflict of interest, they must promptly
- (a) disclose particulars of the conflict of interest to the Law Clerk and if applicable, their employer, or
  - (b) if in a meeting,
    - (i) declare the conflict of interest and its general nature,
    - (ii) leave the meeting, or that part of the meeting, where the matter is being discussed and decided, and
    - (iii) not discuss the matter, or vote, or otherwise participate in any decision on the matter.
- (4) Any conflict of interest disclosed by a public officer in a meeting must be recorded in the minutes of the meeting.
- (5) Public officers in a conflict of interest must not attempt in any way, whether before, during, or after consideration of the matter, to influence any decision, recommendation, or other action in respect of that matter.
- (6) Public officers who contravene subsection (1) or (2) and who do not comply with subsection (3), are disqualified from holding their position.
- (7) Public officers who contravene subsection (5) may be disqualified from holding their position.

## PART 4 – PENALTIES AND ENFORCEMENT

### Contravention result

- 23** (1) Subject to this Act, public officers who contravene this Act may be subject to one or more of the following:
- (a) disqualification from holding their position,
  - (b) dismissal or removal from their position, or
  - (c) termination of their contract.
- (2) An individual disqualified under subsection (1) is disqualified from holding any position as a public officer.
- (3) After a prescribed period of time, an individual disqualified under subsection (1) may apply to the tribunal to be eligible to become a public officer.

### Application to disqualify a government member

- 24** (1) If a government member or former government member is, or may be, disqualified from holding a position under this Act,
- (a) the Chief Councillor,
  - (b) a member of Executive Council,
  - (c) at least 10 eligible voters,
  - (d) a public officer, or
  - (e) the Speaker,
- may apply to the tribunal for a determination under section 26.
- (2) The Speaker must apply immediately to the tribunal for a determination under section 26 if the Speaker has reasonable grounds for an application against a government member or former government member under this section.
- (3) A government member or former government member who could be the subject of an application under subsection (1) may apply to the tribunal for a determination under section 26.
- (4) An application under this section must
- (a) be in writing,
  - (b) set out the facts on which the application is based, and
  - (c) be supported by a solemn declaration of the applicants.
- (5) An application under this section may be made no later than 120 days after the facts leading to disqualification come to the attention of any applicant.

### Whistle-blower protection

- 25** (1) In this section:
- “**immediate family member**” means “immediate family member” as defined in section 15;



“**take any action in reprisal against a public officer**” includes taking any of the following actions against a public officer or a public officer’s immediate family member:

- (a) disqualifying, or threatening to disqualify, the individual;
  - (b) disciplining, including demotion, suspension or dismissal, or threatening to discipline the individual;
  - (c) carrying out any form of harassment or abuse of the individual;
  - (d) imposing any monetary or other penalty on the individual;
  - (e) intimidating or coercing the individual;
  - (f) terminating a contract with the individual;
  - (g) evicting, or threatening to evict the individual;
  - (h) discriminating against the individual.
- (2) A person or a Huu-ay-aht body must not take any action in reprisal against a public officer because the public officer, acting in good faith and on the basis of reasonable belief,
- (a) notifies the Executive Director, Executive Council, the Finance Committee or the tribunal that a person or a Huu-ay-aht body has contravened or is about to contravene Huu-ay-aht legislation or other law,
  - (b) does or states an intention of doing anything that is required to be done in order to avoid having any person or Huu-ay-aht body contravene Huu-ay-aht legislation,
  - (c) refuses to do or states an intention of refusing to do anything that is in contravention of Huu-ay-aht legislation, or
  - (d) brings a proceeding before the tribunal, gives evidence or otherwise assists in respect of a proceeding before the tribunal, or any other proceeding under Huu-ay-aht legislation or other tribunal or court proceeding.
- (3) A person or a Huu-ay-aht body must not take any action in reprisal against a public officer with the intent of deterring the public officer from doing anything described in subsection (2).

#### **Government member disqualification by tribunal**

- 26** (1) Within 5 days of receiving an application under section 24, the chair of the tribunal must decide whether the application presents prima facie evidence for disqualification of a government member or former government member.
- (2) If the chair decides there is prima facie evidence under subsection (1), the tribunal must hear the application and make a determination in accordance with section 17 (1) (c) of the *Tribunal Act*.
- (3) The determination of the chair is final and cannot be appealed.

#### **Disciplining a government member**

- 27** (1) After hearing an application for disqualification under section 26 (2), the tribunal may make one or more orders, including any of the following:
- (a) dismissing the application;

- (b) declaring that the government member is qualified to
    - (i) continue holding his or her position, or
    - (ii) continue holding his or her position, subject to any terms or conditions ordered by the tribunal;
  - (c) reprimanding the government member;
  - (d) suspending the government member from holding his or her position for a period of not more than one year, subject to any terms and conditions ordered by the tribunal;
  - (e) declaring that the government member is disqualified from holding his or her position, and that the position
    - (i) is vacant, or
    - (ii) is vacant, and despite section 23 (3), prohibiting the former government member from holding a position as a public officer for a period of not more than 8 years;
  - (f) requiring the government member to do one or more of the following:
    - (i) make restitution in an amount determined by the tribunal;
    - (ii) pay a fine not exceeding \$5 000;
    - (iii) pay damages;
  - (g) making any other order the tribunal considers appropriate in the circumstances.
- (2) The tribunal may make a decision under this section whether or not the government member has ceased acting in his or her position.

#### **Inadvertent error or error in good faith**

- 28** (1) Subject to subsection (2), if the tribunal is satisfied that the grounds for an order under section 27 (1) (c), (d), (e), or (f) occurred because of
- (a) an inadvertent contravention of this Act, or
  - (b) an error in judgment made in good faith,
- the tribunal may decide to allow the government member to continue holding his or her position subject to any conditions the tribunal considers advisable.
- (2) Subsection (1) does not apply to government members or prescribed public officers who contravene
- (a) section 8 [*Qualifications of public officer*],
  - (b) section 13 [*Fraud*], or
  - (c) section 21 [*Insider information*].

#### **Disciplining director**

- 29** (1) In this section, “director” includes a former director under section 21 (3).
- (2) A director must not contravene this Act.
- (3) If it appears that a director, is, or may be, disqualified from holding his or her position,

- (a) the Huu-ay-aht body in which the director holds a position must investigate, or
  - (b) if the disciplining authority is not specified for a Huu-ay-aht body, the tribunal may investigate.
- (4) A director who is found in contravention of this Act is subject to discipline including the penalties set out in section 23.
- (5) Despite section 23 of the *Tribunal Act*, on an appeal to the tribunal from an administrative decision by the Huu-ay-aht body under subsection (3) or (4), the tribunal may either
- (a) affirm the administrative decision, or
  - (b) send the matter back to the administrative decision maker for reconsideration in accordance with any recommendations of the tribunal.
- (6) The tribunal must provide notice of its recommendations under subsection 5 (b) to Executive Council.
- (7) If the tribunal investigates a director under subsection 3 (b), the tribunal may make a determination and discipline the director in accordance with section 17 (1) (c) of the *Tribunal Act* and the procedures set out at sections 24, 26 and 27 of this Act.

#### **Disciplining employee or contractor**

- 30** (1) In this section:
- “**dismissal**” includes the termination of a contract;
  - “**employee**” includes a Huu-ay-aht employee or a contractor, or a former employee or contractor under section 21 (3);
- (2) An employee must not contravene this Act.
- (3) The employer must investigate if it appears that an employee has contravened this Act.
- (4) An employee who is found in contravention of this Act by the employer is subject to discipline including the penalties set out in section 23.
- (5) Despite section 23 of the *Tribunal Act*, on an appeal to the tribunal from an administrative decision by the employer under subsection (3) or (4), the tribunal may either
- (a) affirm the administrative decision, or
  - (b) send the matter back to the administrative decision maker for reconsideration in accordance with any recommendations of the tribunal.
- (6) The tribunal must provide notice of its recommendations under subsection 5 (b) to Executive Council.

**Removal of volunteer**

- 31** (1) In this section a “volunteer” includes a former volunteer under section 21 (3).
- (2) A volunteer must not contravene this Act.
- (3) A supervisor of a volunteer must investigate if it appears the volunteer has contravened this Act.
- (4) A volunteer who is found in contravention of this Act by the supervisor is subject to discipline including the penalties set out in section 23.
- (5) Despite section 23 of the *Tribunal Act*, on an appeal to the tribunal from an administrative decision by the supervisor under subsection (3) or (4), the tribunal may either
- (a) affirm the administrative decision, or
  - (b) send the matter back to the administrative decision maker for reconsideration in accordance with any recommendations of the tribunal.
- (6) The tribunal must provide notice of its recommendations under subsection 5 (b) to Executive Council.

**Disqualification effect**

- 32** Disqualification, removal, or dismissal of a public officer from holding public office under this Act, is in addition to, and not in place of, any other discipline or penalty to which a public officer may be subject to, or liable, under law.

**PART 5 – GENERAL PROVISIONS****Duty of care**

- 33** Public officers must exercise their powers and duties
- (a) in good faith and in compliance with the Huu-ay-aht oath,
  - (b) with the care, diligence and skill of a reasonably prudent person, and
  - (c) with a view to the well-being and best interests of present and future generations of the Huu-ay-aht.

**Prohibition against interfering with public officers**

- 34** (1) A person must not interfere with, hinder or obstruct a public officer in the exercise or performance of his or her powers, duties or functions.
- (2) A person who contravenes (1) may be ticketed under Division 3 of Part 3 of the *Offence and Law Enforcement Act*.

**Saving provision**

- 35** The failure of a public officer to comply with this Act does not of itself invalidate any
- (a) contract or other financial transaction, or
  - (b) procedure undertaken by a Huu-ay-aht body with respect to a contract or other financial transaction

to which the failure to comply with this Act relates, but the transaction or procedure is voidable at the instance of the applicable Huu-ay-aht body before the expiration of 2 years from the date of the decision authorizing the transaction, except as against any person or organization that acted in good faith and without notice of the failure to comply with this Act.

#### **Power to make regulations**

- 36** (1) Executive Council may make regulations referred to in section 39 of the *Interpretation Act*.
- (2) Without limiting subsection (1), Executive Council may make regulations as follows:
- (a) prescribing forms for the purposes of this Act, and information that may be included in or requested on them;
  - (b) respecting the types of records that must be included in a record of a government member's notice in a meeting of a conflict of interest;
  - (c) respecting the types of records that must be retained for deposit in the Registry of Laws and Official Records;
  - (d) prescribing volunteer positions with a Huu-ay-aht body under section 3;
  - (e) prescribing entities and amounts of debt payable to those entities under section 8 (1) (b);
  - (f) prescribing categories of criminal offences under section 8 (1) (d) and (e);
  - (g) prescribing interests for the purposes of section 19;
  - (h) for any other purpose for which regulations are contemplated by this Act.

#### **No further effect**

- 37** Unless otherwise specified in the Treaty or a Huu-ay-aht Act, all motions, resolutions, bylaws, directives, policies, guidelines or other forms of decision that directly or indirectly affect the subject matter of this Act which were approved or passed before Effective Date by the band council of the Huu-ay-aht under the *Indian Act* or the membership of the Huu-ay-aht Indian Band have no further effect after the date on which this Act comes into force.

#### **Amendments to this Act**

- 38** An amendment or repeal of this Act must be approved by the People's Assembly before that amendment or repeal is brought into force.

#### **Commencement**

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

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**SCHEDULE**

**Huu-ay-aht Oath**

I, \_\_\_\_\_, do solemnly affirm (or swear) that:

I will act in the best interests of present and future generations of Huu-ay-aht citizens,

I will honour the vision, values, and sacred principles of Huu-ay-aht –

**Uu-a-thluck** (taking care of future generations), and

**Hish-uk-tsawak** (everything is one),

I will be a positive role model, following the principle of **ii-saak** (conducting myself honestly and respectfully), and

I will uphold the Constitution and obey Huu-ay-aht laws.

Affirmed/Sworn Before Me at \_\_\_\_\_  
 in the Province of British Columbia this \_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 A Commissioner for Oaths in and for the Province of British Columbia

\_\_\_\_\_  
 Name of Public Officer