



huu ay aht

ANCIENT SPIRIT, MODERN MIND

TRIBUNAL ACT

OFFICIAL CONSOLIDATION
Current to April 14, 2021

The Huu-ay-aht Legislature enacts this law to establish an independent tribunal to provide for effective Huu-ay-aht dispute resolution.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Tribunal Act* passed Third Reading in the Legislature on:

April 1, 2011


Chief Councillor Robert Dennis Sr.

I certify that the *Tribunal Act* is enacted as law on:

April 1, 2011

Certified True Copy


Ta'yii Hawilth Derek Peters

I certify that the *Tribunal Act* came into force on:

April 1, 2011


Law Clerk Connie Waddell

REGISTRY OF LAWS CERTIFICATION

I certify that the *Tribunal Act Amendment Act, 2018* was passed by Executive Council on:

March 29, 2018



Chief Councillor, Robert Dennis

I certify that the *Tribunal Act Amendment Act, 2018* is enacted as law on:

March 29, 2018



Ta'yii Hawilth, Derek Peters

I certify that the *Tribunal Act Amendment Act, 2018* came into force on:

March 29, 2018



Law Clerk, Coraleah Johnson

REGISTRY OF LAWS CERTIFICATION

I certify that the *Enforcement Framework Amendment Act, 2021* passed Third Reading in the Legislature on:

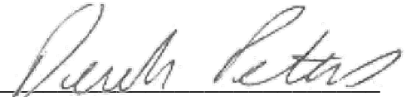
March 30, 2021



Chief Councillor, Robert Dennis

I certify that the *Enforcement Framework Amendment Act, 2021* is enacted as law on:

March 30, 2021



Ta'yii Hawilth, Derek Peters

I certify that the *Enforcement Framework Amendment Act, 2021* came into force on:

April 14, 2021



Law Clerk, Coraleah Bauer

TRIBUNAL ACT

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SCHEDULE

Note to Reader

The *Tribunal Act* establishes the Huu-ay-aht Tribunal with members appointed by Executive Council, the Ha'wiih Council and the People's Assembly to

- decide appeals from administrative decisions,
- determine the validity of Huu-ay-aht laws,
- conduct investigations,
- resolve disputes between Huu-ay-aht citizens if the parties request resolution,
- lay an information under the *Offence Act* (British Columbia) for an offence under Huu-ay-aht law,
- provide information and recommendations on sentencing to a court, and
- perform other duties assigned to the tribunal by Executive Council or by Huu-ay-aht law.

Tribunal members must have demonstrated ability to impartially decide matters of fact and law and be able to provide well-defined reasons for their decisions. The chair and vice-chair must be experienced lawyers or judges. Before beginning their duties, members must make the oath of office in the schedule. Conflict of interest provisions restrict the activities of members during and after their term as tribunal members.

This Act adopts specified provisions of the *Administrative Tribunals Act* (British Columbia) which allow, for example, the chair to establish panels of 1 to 3 members to decide matters in place of the full 5 members of the tribunal.

The Legislature enacts as follows:

PART 1 – PURPOSE AND DEFINITIONS

Purpose

- 1 The purpose of this Act is to establish an independent tribunal to
- (a) ensure government decision-making is lawful and in the best interests of the Huu-ay-aht, and
 - (b) provide for the just, timely, cost-effective and final resolution of Huu-ay-aht disputes.

Definitions

- 2 In this Act:
- “**administrative decision**” means the exercise, refusal to exercise, or proposed or purported exercise of a statutory power under Huu-ay-aht law, but excludes
- (a) decisions made under the human resource policy regulation under the *Financial Administration Act*,
 - (b) any decisions made by the tribunal under this Act, and
 - (c) the making of any regulations under Huu-ay-aht Acts;
- “**another authority**” means another authority as defined in the *Offence and Law Enforcement Act*;
- “**chair**” means the chair of the tribunal appointed under section 3 (2) (a);
- “**dispute resolution process**” means dispute resolution process as defined in the *Administrative Tribunals Act* (British Columbia);
- “**government member**” means government member as defined in the *Government Act*;
- “**member**” means a tribunal member;
- “**panel**” means one or more members of the tribunal as organized by the chair;
- “**public officer**” means public officer as defined in the *Code of Conduct and Conflict of Interest Act*;
- “**statutory power**” means a power or right conferred by Huu-ay-aht legislation to do any of the following:
- (a) determine the rights, powers, privileges, immunities, duties or liabilities of a person;
 - (b) determine the eligibility of a person to receive, or continue to receive, a benefit or license;
 - (c) require a person to do or refrain from doing an act or thing that, but for that requirement, the person would not be required by law to do or refrain from doing;
 - (d) do an action or a thing that would, but for that power or right, be a breach of a legal right of any person;

- (e) make an investigation or inquiry into a person's legal right, power, privilege, immunity, duty or liability;

“**tribunal**” means the Huu-ay-aht Tribunal established under section 3.

PART 2 –TRIBUNAL ADMINISTRATION

Tribunal established

- 3** (1) Subject to section 41, the Huu-ay-aht Tribunal is established.
- (2) The tribunal consists of the following members, appointed after a merit based selection process:
- (a) the chair appointed by the elected members of Executive Council;
 - (b) the vice-chair appointed by the elected members of Executive Council, after consultation with the chair;
 - (c) two members appointed by the Ha'wiih Council, after consultation with the chair;
 - (d) one member appointed by the People's Assembly.
- (3) In addition to the member appointed under subsection (2) (d), the People's Assembly may appoint as an alternate member another individual who is otherwise qualified for appointment as a member.
- (4) Despite section 5 (1) of the *Administrative Tribunals Act* (British Columbia), the alternate member appointed under subsection (3) of this section assumes all of the powers, duties and functions of the member appointed under subsection (2) (d) if that member is unable to perform his or her duties because of incapacity, resignation, removal or death.

Appointments to tribunal

- 4** (1) The appointing authorities under section 3 (2) must appoint the first members to the tribunal before November 30, 2011.
- (2) If a vacancy occurs on the tribunal, or a member's term ends, the applicable appointing authority under section 3 (2) must, as soon as practicable, make another appointment to the tribunal.

Eligibility and qualifications

- 5** (1) An individual appointed to the tribunal under section 3 must have
- (a) demonstrable ability and experience to carefully and impartially deliberate and make decisions on points of fact and law, and
 - (b) demonstrable ability to provide clear and precise reasons for decisions.
- (2) The chair and vice-chair of the tribunal must each have at least 10 years of experience as a practising lawyer or judge.

HFNA 2/2018, s. 1.

Term of office

- 6** (1) The term of office of a member is as follows:

- (a) 5 years for the chair;
 - (b) 4 years for the vice-chair;
 - (c) 3 years for all other members.
- (2) Members may be re-appointed without limit.
- (3) If an alternate member appointed under section 3 (3) replaces a member, the alternate member holds office until the member returns to duty, another member is appointed by the People's Assembly or the member's term expires, whichever occurs first.

Tribunal duties

- 7 Members must faithfully, honestly and impartially perform their duties to the best of their judgment, skill and abilities, and must not, except in the proper performance of those duties, disclose to any person any information obtained in the course of their duties.

Oath

- 8 Members must make the oath set out in the Schedule before assuming their duties as members.

Conflict of interest

- 9
- (1) Members must not be government members.
 - (2) The chair must not hold any public officer position other than the position of chair.
 - (3) Members other than the chair may hold other public officer positions but they may not participate in tribunal proceedings that directly or indirectly result from, or may affect their role or responsibilities in, the performance of their other public officer duties.
 - (4) If an individual, including a member, believes that a member's assignment to a panel may
 - (a) violate subsection (3), or
 - (b) cause a member to be in a conflict of interest for any reason,the individual or member must notify the chair in writing and provide reasons.
 - (5) The chair must determine whether a member's assignment to a panel would violate subsection (3) or cause a member to be in conflict of interest for any reason, and if so, must not assign the member to that panel.
 - (6) For at least 2 years after ceasing to be members, former members must not hold public officer positions in which their role or responsibilities may be, or may have been, affected by any tribunal proceeding in which they participated.
 - (7) Without restricting subsection (6), a former chair must not hold a public officer position for at least one year after ceasing to be chair.
 - (8) The *Code of Conduct and Conflict of Interest Act* does not apply to the tribunal or its members in their capacities under this Act.

Remedy

- 10** (1) A member's failure to comply with sections 7 or 9 is cause for termination.
- (2) A member who is terminated under subsection (1) may be ordered by the tribunal or a court to do one or more of the following:
- (a) make restitution in an amount determined by the tribunal or a court;
 - (b) pay a fine not exceeding \$ 5 000;
 - (c) pay damages;
 - (d) fulfill any other order the tribunal or a court considers appropriate in the circumstances.
- (3) Executive Council may apply to the tribunal or the Supreme Court of British Columbia for an order under subsection (2).

Termination for cause

- 11** (1) Subject to subsection (2), Executive Council may terminate a member's appointment for cause.
- (2) Before terminating a member's appointment, Executive Council must do the following:
- (a) retain a lawyer or judge with at least 25 years of relevant experience as a practising lawyer or judge in British Columbia to investigate the matter and prepare a report with recommendations to Executive Council;
 - (b) consult with
 - (i) the People's Assembly, if the member was appointed by the People's Assembly, or
 - (ii) the Ha'wiih Council, if the member was appointed by the Ha'wiih Council;
 - (c) review the report and recommendations prepared under paragraph (a) at a special meeting of Executive Council.
- (3) If a member's appointment is terminated under subsection (1), Executive Council must
- (a) give public notice of the termination, and
 - (b) provide a written report of the termination to
 - (i) the People's Assembly, at the next session of the People's Assembly, and
 - (ii) the Ha'wiih Council, at the next meeting of the Ha'wiih Council.

Remuneration

- 12** (1) Executive Council must provide for remuneration of members that is
- (a) comparable to the remuneration received by members of similar administrative tribunals in British Columbia, taking into account
 - (i) the qualifications and experience of individual members, and
 - (ii) the frequency with which they perform their duties as members, and

- (b) determined under an independent process similar to the process for determining the salaries of federally appointed judges.
- (2) Members must be reimbursed for travel, accommodation and other expenses if
 - (a) the expenses are necessarily incurred in carrying out their duties,
 - (b) the claim is made in accordance with the expense regulation under the *Financial Administration Act*, and
 - (c) the claim is certified as true by the member.

Tribunal counsel

- 13**
- (1) The tribunal may engage general legal counsel to the tribunal and may determine the remuneration and other terms and conditions of that tribunal counsel's retainer.
 - (2) Without limiting the terms and conditions of the retainer under subsection (1), the tribunal counsel may
 - (a) provide information to the public about tribunal roles, responsibilities, powers and procedure,
 - (b) advise parties or prospective parties of technical or procedural deficiencies in the completion of any prescribed form, and
 - (c) when directed to do so by the chair,
 - (i) conduct a dispute resolution process in any proceeding before the tribunal,
 - (ii) represent the tribunal before any court where relevant information, including recommendations, on sentencing may be submitted, and
 - (iii) act as tribunal counsel in any judicial review, or appeal from a decision of the tribunal in accordance with Huu-ay-aht law.

Other staff of tribunal

- 14**
- (1) The Executive Director, in consultation with the chair, may designate or appoint Huu-ay-aht employees or contractors necessary to assist the tribunal to exercise its powers and carry out its functions and duties.
 - (2) In addition to a tribunal counsel under section 13, the tribunal may, in consultation with the Executive Director,
 - (a) engage consultants, investigators, expert witnesses, or other persons necessary to exercise the powers and carry out the duties and functions of the tribunal, and
 - (b) establish the remuneration and other terms and conditions of the retainers of persons engaged under paragraph (a).

Independent advocate

- 15**
- (1) If the chair reasonably believes that a matter before the tribunal is unusually complex or has significant implications for the Huu-ay-aht, the chair may recommend to Executive Council that an individual be provided with independent legal advice and representation for the matter.

- (2) Executive Council must take the steps necessary to pay the cost of independent legal advice for an individual under subsection (1).

Annual report

- 16** The tribunal must provide an annual report on its activities and decisions to Executive Council, the Ha'wiih Council and the People's Assembly.

PART 3 – TRIBUNAL JURISDICTION AND PRACTICE

Tribunal jurisdiction

- 17** (1) Subject to this Act, the tribunal has jurisdiction to inquire into and
- (a) hear and decide appeals from administrative decisions made under Huu-ay-aht law,
 - (b) hear and decide challenges to the validity of and references regarding Huu-ay-aht law,
 - (c) conduct investigations, hearings, and make determinations as provided for under Huu-ay-aht law,
 - (d) provide relevant information to courts on sentencing, including recommendations, in accordance with Huu-ay-aht law,
 - (e) resolve disputes involving Huu-ay-aht citizens, or arising upon Huu-ay-aht Lands, if requested to do so by the parties to the dispute,
 - (f) lay an information under the *Offence Act* (British Columbia) for an offence under Huu-ay-aht law, and
 - (g) perform other duties or exercise other powers assigned to the tribunal by Executive Council or by Huu-ay-aht law.
- (2) The tribunal has exclusive jurisdiction over matters under subsection (1) (a), (b) and (c), and, for greater certainty and for the purpose of section 13.4.2 of the Treaty,
- (a) any application for judicial review of an administrative decision other than a decision made by the tribunal is premature, and the decision is subject first to appeal to the tribunal, and
 - (b) the decision of the tribunal is the final decision of the government or public body whose administrative decision is the subject of the tribunal proceeding, except when a matter is sent back to the decision maker under section 23 (c) (ii).
- (3) A decision or order of the tribunal under this section is final and binding and not open to review in any court.

Tribunal general jurisdiction

- 18** (1) The tribunal has jurisdiction to determine all questions of fact, law or discretion that arise in a matter before it, including questions involving the *Constitution Act* or the Constitution of Canada.

- (2) The chair may establish a special panel to determine any question of law that arises in a proceeding and that determination will be binding on the panel appointed for the proceeding.

Dispute resolution process

- 19** (1) The chair may consider the use of a dispute resolution process for proceedings commenced under section 17 (1) (a), (c), or (e).
- (2) If a proceeding of the tribunal is adjourned for the purposes of a dispute resolution process, any time limit applicable to the proceeding is suspended.
- (3) Without restricting section 40 (3) of the *Administrative Tribunals Act* (British Columbia), a person must not disclose, or be compelled to disclose, information obtained in a dispute resolution process, except
 - (a) with the written consent of everyone who participated in the dispute resolution process, or
 - (b) if the disclosure is necessary for a person's safety.

Appeal of administrative decision

- 20** (1) Unless another Huu-ay-aht Act sets out the process for an appeal, a person whose interest is affected may appeal an administrative decision made under Huu-ay-aht law by filing a notice of appeal with the tribunal.
- (2) Subsection (1) applies whether or not an appeal under this Part is expressly provided for under other Huu-ay-aht legislation.
- (3) A notice of appeal under subsection (1) must
 - (a) be in writing or in another form authorized by the tribunal's rules,
 - (b) identify the decision being appealed, including the date of the decision and, if applicable, the identification number of the compliance notice, ticket or seizure record,
 - (c) state the reason why the decision should be changed,
 - (d) state the outcome requested,
 - (e) contain the name and contact information of the appellant, and if the appellant has an agent to act on his or her behalf for the appeal, the name and contact information of the agent,
 - (f) include an address for delivery of any notices in relation to the appeal,
 - (g) be signed by the appellant or appellant's agent, and
 - (h) be accompanied by the prescribed fee.
- (4) Despite subsection (2), if a notice of appeal is deficient or if the prescribed fee is outstanding, the chair may allow a reasonable period of time within which the notice may be corrected or the fee paid.

HFNA 3/2021, s. 2(a).

Time limit for appeals

- 21** (1) A notice of appeal respecting an administrative decision must be submitted to the tribunal within 60 days of the decision appealed, unless HUU-AY-AHT legislation provides otherwise.
- (2) Despite subsection (1) and any provision in another law, the tribunal may extend the time to submit a notice of appeal, even if the time has expired, if the tribunal is satisfied that special circumstances exist.

Review on merits

- 22** In addition to section 23, for the purposes of an appeal under section 17 (1) (a), the tribunal may exercise all of the powers and discretion conferred by HUU-AY-AHT law on the person who made the decision.

Tribunal decisions

- 23** For the purposes of an appeal under section 17 (1) (a), and subject to the legislation from which the appeal is brought, the tribunal may do any one of the following with respect to an administrative decision:
- (a) affirm the decision;
 - (b) vary the decision;
 - (c) set aside the decision, and
 - (i) substitute its own decision on the matter, or
 - (ii) send the matter back to the decision maker for reconsideration in accordance with any directions or recommendations of the tribunal.

Additional orders

- 24** In addition to the powers and discretion under sections 22, 23 and 27, the tribunal may, with respect to proceedings under section 17 (1) (a) and (b), grant any relief that the applicant would be entitled to in any one or more of the following proceedings for:
- (a) a declaration;
 - (b) an injunction;
 - (c) relief in the nature of mandamus, prohibition or certiorari.

Role of administrative decision maker

- 25** Except for an appeal from a compliance notice, ticket or seizure record, the person who made the decision appealed from under section 17 (1) (a) must make every reasonable effort to assist the tribunal in making its decision on the appeal.

HFNA 3/2021, s. 2(b).

Challenge to validity of HUU-AY-AHT law

- 26** (1) For the purposes of section 17 (1) (b), a person who is, or is likely to be, affected by a HUU-AY-AHT law may challenge the validity of that HUU-AY-AHT law by applying to the the tribunal.
- (2) An application under subsection (1) must
- (a) be in writing or in another form authorized by the tribunal's rules,

- (b) identify the Huu-ay-aht law being challenged,
 - (c) state that the Huu-ay-aht law is invalid either because
 - (i) the Huu-ay-aht do not have the power to make the law, or
 - (ii) the law was not validly made,
 - (d) state the outcome requested,
 - (e) contain the name and contact information of the applicant, and if the applicant has an agent to act on his or her behalf for the application, the name and contact information of the agent,
 - (f) include an address for delivery of any notices in relation to the application,
 - (g) be signed by the applicant or the applicant's agent, and
 - (h) be accompanied by the prescribed fee.
- (3) Despite subsection (2), if an application is deficient or if the prescribed fee is outstanding, the chair may allow a reasonable period of time within which the notice may be corrected or the fee paid.

Tribunal decision on challenge to Huu-ay-aht law

- 27** (1) On an application under section 17 (1) (b), the tribunal may decide to
- (a) dismiss the challenge to the validity of the Huu-ay-aht law, or
 - (b) declare the Huu-ay-aht law or any portion of it invalid.
- (2) The tribunal may suspend the effect of a declaration under subsection (1) (b) for a reasonable time to allow government sufficient time to remedy the defect in the Huu-ay-aht law.

Referral on question of law

- 28** In a proceeding under section 17 (1) (b), Executive Council may refer questions of law to the tribunal regarding
- (a) the interpretation of the *Constitution Act*,
 - (b) the constitutionality or interpretation of a proposed or enacted Huu-ay-aht law, and
 - (c) the powers of government or a Huu-ay-aht public body, whether or not those powers have been exercised.

Investigation, hearing or determination

- 29** A proceeding under section 17 (1) (c) must
- (a) begin in accordance with the procedure set out in the Huu-ay-aht law that establishes the tribunal's authority in the proceeding, and
 - (b) be investigated, heard or determined by the tribunal in accordance with the applicable Huu-ay-aht law and this Act.

Sentencing recommendations

- 30** (1) For the purposes of section 17 (1) (d), the tribunal may hold a hearing in order to determine appropriate relevant information to provide to a court on sentencing, including recommendations, for offences, including criminal offences.

- (2) The tribunal may apply to a court for leave to provide relevant information on sentencing, including recommendations, on behalf of the Huu-ay-aht.
- (3) The following persons or entities may request that the tribunal hold a hearing under subsection (1):
 - (a) Executive Council;
 - (b) an individual who is the subject of a prosecution or proceeding, or that individual's agent;
 - (c) a prosecutor;
 - (d) a provincial or superior court.
- (4) After receiving a request under subsection (3), the tribunal may
 - (a) hold a hearing and provide the relevant information, including recommendations, on sentencing, or
 - (b) decline to hold a hearing and not provide any information or recommendations on sentencing.

Dispute resolution

- 31**
- (1) Parties to a dispute may apply to have the tribunal hear and decide the dispute under section 17 (1) (e).
 - (2) The application under subsection (1) must be
 - (a) in writing or in another form authorized by the tribunal's rules and include the following:
 - (i) the consent of both parties to submit to the jurisdiction of the tribunal under section 17 (1) (e);
 - (ii) the nature of the dispute;
 - (iii) the agreement of both parties to accept as binding the final decision made by the tribunal;
 - (iv) the agreement or non-agreement of both parties to any preliminary alternative dispute resolution process, and
 - (b) accompanied by the prescribed fee.
 - (3) After receiving an application under subsection (2), the tribunal may
 - (a) hear the parties to the dispute and make a determination, or
 - (b) decline to hear and decide a dispute.

Lay an information

- 32**
- (1) For the purpose of section 17 (1) (f) the tribunal may, upon receiving the necessary information from Executive Council, a peace officer or another authority of an offence under Huu-ay-aht law, lay an information in the manner and form prescribed under the Offence Act (British Columbia).
 - (2) Subject to subsection (3), all provisions of the Offence Act (British Columbia) relating to laying an information apply in respect of the laying of an information by the tribunal under subsection (1).

- (3) The provisions referred to in subsection (2) apply to the extent that they are not inconsistent with this Act and the regulations made under it.

HFNA 3/2021, s. 2(c).

Considerations when laying an information

32.1 In determining whether or not to lay an information, and if the tribunal decides to do so, the content of that information, the tribunal must consider

- (a) all relevant information and documents relating to the offence,
- (b) whether there is a substantial likelihood of conviction of the offence,
- (c) the seriousness of the offence,
- (d) the vision, values and sacred principles of the Huu-ay-aht,
- (e) the integrity and independence of the Huu-ay-aht enforcement system,
- (f) any recommendation of Executive Council relating to the offence,
- (g) the public interest, and
- (h) any other factors the tribunal considers relevant.

HFNA 3/2021, s. 2(d).

Limitation period for prosecutions

32.2 An information must not be laid under section 32 more than three years after the day on which the alleged offence in relation to which the information is laid has been discovered by the Huu-ay-aht government.

Application of *Administrative Tribunals Act* (British Columbia)

- 33** (1) Sections 1, 4, 5, 7 (1) and (2), 9, 11 to 21, 25, 26, 28, 29, 31 to 42, 46.1 (1) and (2), 47 to 58 and 60 of the *Administrative Tribunals Act* (British Columbia) and no others are adopted and apply, with the necessary changes, to the tribunal.
- (2) For the purpose of applying the sections of the *Administrative Tribunals Act* (British Columbia) set out in subsection (1), a reference to a word or phrase in that Act listed in Column 1 of the following table is to be read as a reference to the word or phrase in this Act listed opposite in Column 2:

Column 1	Column 2
appointing authority	elected members of Executive Council [for a member appointed pursuant to section 3 (2) (a) or (b)] Ha'wiih Council [for a member appointed pursuant to section 3 (2) (c)] People's Assembly [for a member appointed pursuant to section 3 (2) (d) and (3)]
tribunal	Huu-ay-aht Tribunal
tribunal's enabling Act	this Act
Lieutenant Governor in Council	Executive Council

government	government [as defined in the <i>Government Act</i>]
the prescribed fee	the fee [if a fee is prescribed]
regulation	regulation made by Executive Council

Interest

- 34** For the purpose of section 50 of the *Administrative Tribunals Act* (British Columbia) and in proceedings under section 17 (1) (e), the tribunal has the power to award interest.

PART 4 – GENERAL**Tribunal spending authority**

- 35** Statutory spending authority is established for all spending by the tribunal.

Tribunal decisions

- 36** The tribunal must file a certified true copy of each decision, with written reasons, in the Registry of Laws and Official Records within 5 days of the decision's release by the tribunal.

Power to make regulations

- 37** (1) Executive Council may make regulations referred to in section 39 of the *Interpretation Act*.
- (2) Without limiting subsection (1) or section 60 of the *Administrative Tribunals Act* (British Columbia), Executive Council may make regulations prescribing
- (a) the fee payable for a notice of appeal under section 20,
 - (b) the fee payable for an application under section 26, and
 - (c) the form of, and the fee payable for, an application under section 31.

No further effect

- 38** 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

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

PART 5 – TRANSITIONAL

Interim chair

- 40** (1) On Effective Date, Executive Council must appoint an individual with the same qualifications as a chair to act as interim chair.
- (2) Executive Council must, under section 12, provide for remuneration and expenses to the interim chair.
- (3) The appointment of an interim chair may be terminated under section 11.
- (4) Unless section 11 applies, an interim chair's term ends upon the appointment of a chair.
- (5) If there is a vacancy in the office of interim chair, Executive Council must appoint another qualified interim chair.
- (6) An interim chair has all of the powers, duties and functions of a chair.
- (7) An interim chair may be appointed chair.

Transitional tribunal

- 41** (1) On Effective Date, a transitional tribunal is established, consisting of the interim chair.
- (2) The transitional tribunal has all of the powers, duties and functions of the tribunal and is deemed to be the tribunal for the purposes of this Act.
- (3) On the establishment of a tribunal and appointment of members under sections 3 and 4, the transitional tribunal
- (a) is terminated, and
- (b) may no longer exercise the powers, duties and functions of a tribunal unless the chair authorizes the transitional tribunal to continue exercising its powers as a tribunal in any proceeding over which the transitional tribunal had jurisdiction immediately before its termination under paragraph (a).
- (4) The former interim chair must provide a report on the transitional tribunal's activities and decisions to Executive Council, the Ha-wiih Council, the People's Assembly and the tribunal, as soon as practicable after the termination of the transitional tribunal.

Transitional tribunal spending authority

- 42** Statutory spending authority is established for all spending by the transitional tribunal.

Commencement

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

SCHEDULE

Huu-ay-aht Tribunal Oath of Office

I, _____, do solemnly affirm (or swear) that:

I will exercise my duties as a member of the Huu-ay-aht Tribunal in an impartial manner, without bias, and in accordance with procedural fairness and the rules of natural justice.

I will make each decision on the merits and justice of the case, based on thorough preparation, the assessment of evidence before me, and the application of relevant law.

I will approach every proceeding with a mind that is genuinely open to persuasion by convincing evidence and argument on every issue.

I will ensure that the conduct of the proceedings and my decisions are transparent.

I will ensure that each person who appears before me is treated with dignity and respect.

I will exercise my duties in an independent manner and will not be subject to any improper restrictions, influences, inducements, or pressure either direct or indirect in any capacity from any source.

If I believe in good faith that I or another member is in breach of this Oath or this Act, then I will so advise the chair and the Speaker.

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