



huu ay aht

ANCIENT SPIRIT, MODERN MIND

**OFFENCE AND LAW
ENFORCEMENT ACT**

OFFICIAL CONSOLIDATION
Current to April 14, 2021

The Huu-ay-aht Legislature enacts this law to amend various enactments relating to the enforcement of Huu-ay-aht laws

REGISTRY OF LAWS CERTIFICATION

I certify that the *Offence and Law Enforcement Act* passed Third Reading in the Legislature on:

April 1, 2011



Chief Councillor Robert Dennis Sr.

Certified True Copy

I certify that the *Offence and Law Enforcement Act* is enacted as law on:

April 1, 2011



Ta'yii Hawilth Derek Peters

I certify that the *Offence and Law Enforcement Act* came into force on:

April 1, 2011



Law Clerk Connie Waddell

REGISTRY OF LAWS CERTIFICATION

I certify that the *Enforcement Framework Amendment Act, 2015* passed Third Reading in the Legislature on:

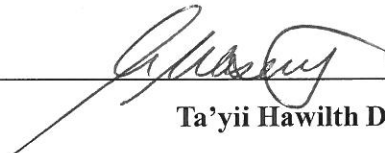
March 30, 2015



Chief Councillor Jeffrey Cook

I certify that the *Enforcement Framework Amendment Act, 2015* is enacted as law on:

March 30, 2015



Ta'yii Hawilth Derek Peters

I certify that the *Enforcement Framework Amendment Act, 2015* came into force on:

March 30, 2015



Deputy Law Clerk Deborah Smith

REGISTRY OF LAWS CERTIFICATION

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

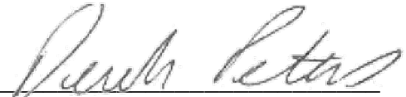
March 30, 2021



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

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Note to Reader

The *Offence and Law Enforcement Act* sets out the framework for the enforcement of HUU-ay-aht law by peace officers appointed under this Act. Peace officers have the powers granted to peace officers under the *Criminal Code* (Canada) as well as the powers to enforce summary conviction offences on HUU-ay-aht Lands under the *Offence Act* (British Columbia). In addition, peace officers may issue

- compliance notices requiring a person to obey a HUU-ay-aht law, and
- tickets for contravening a HUU-ay-aht law

provided that the HUU-ay-aht law allows for enforcement by a compliance notice or a ticket.

A person who receives a compliance notice must comply or appeal to the HUU-ay-aht Tribunal. If a person does not appeal or comply with the compliance notice in the required time, the contravention may, in some cases, be remedied at that person's expense. In addition the person may be ticketed or subject to prosecution for an offence.

A person who receives a ticket must pay the fine or appeal the ticket within 30 days. The failure to pay or appeal a ticket results in the full amount of the ticket penalty becoming a debt due and owing to the HUU-ay-aht and that debt may be recovered by government.

Peace officers may seize anything they reasonably believe was obtained through, used in or provides evidence of the commission of an offence. Seized items will be held until the matter is resolved by a court, at which point they may be ordered to be forfeited to the HUU-ay-aht or they may be returned. If the person lawfully entitled to the seized item is not brought to court in respect of the related offence within the required time frame, the seized item will be returned to that person.

Peace officers may provide the HUU-ay-aht Tribunal with the information necessary for the HUU-ay-aht Tribunal to lay an information against a person for an offence under HUU-ay-aht law. The offender in that case would be prosecuted in provincial court.

This Act also allows for the review of a complaint against a peace officer by the HUU-ay-aht Tribunal and for discipline which may include discharging a peace officer.

HFNA 3/2021, s. 1(a).

The Legislature enacts as follows:

PART 1 – PURPOSE AND DEFINITIONS

Purpose

- 1 The purpose of this Act is to provide a framework for the enforcement of HUU-AY-AHT law and the preservation of public peace on HUU-AY-AHT Lands.

Definitions

- 2 In this Act:

“**another authority**” includes Executive Council, a person authorized in writing by Executive Council, or another person authorized under HUU-AY-AHT legislation to carry out the enforcement of that HUU-AY-AHT legislation;

“**applicable government**” means the government of British Columbia, another provincial government, the government of Canada, or an extraterritorial government;

“**appoint**” includes employ, retain under contract or designate in writing;

“**compliance notice**” means a compliance notice under Division 2 of Part 3;

“**contravention**” means, in relation to an act or omission that is not an offence as defined in this Act or an administrative decision as defined in the *Tribunal Act*,

(a) doing an act forbidden by HUU-AY-AHT law, or

(b) omitting to do an act required by HUU-AY-AHT law;

“**entity**” includes a corporation, trust, partnership, fund or other unincorporated association or organization, the Crown in right of Canada or of a province, a Crown agency, a foreign government and an agency of a foreign government, but does not include an individual;

“**Maa-nulth First Nation**” has the same meaning as under the Treaty;

HFNA 3/2021, s. 1(b).

“**named person**” means a person or entity to whom a compliance notice, ticket or seizure record is issued;

HFNA 3/2021, s. 1(c).

“**offence**” means an offence designated under HUU-AY-AHT legislation;

“**peace officer**” means a peace officer appointed under section 3;

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

“**seizure record**” means the document prepared by a peace officer under section 32.2 to record a seizure;

HFNA 3/2021, s. 1(d).

“**ticket**” means a ticket under Division 3 of Part 3;

“**tribunal**” means the HUU-AY-AHT Tribunal.

PART 2 – PEACE OFFICERS

Appointment of peace officers

- 3 (1) Subject to this Act, the Executive Director may appoint individuals as peace officers to enforce Huu-ay-aht law, preserve and maintain public peace, and carry out other duties and responsibilities assigned to peace officers under Huu-ay-aht law.
- (2) The terms of an appointment under subsection (1) may limit the authority of a peace officer to one or more of the following:
- (a) specified Huu-ay-aht Acts;
 - (b) specified Huu-ay-aht regulations;
 - (c) fisheries and other enforcement agreements;
 - (d) specified Huu-ay-aht Lands;
 - (e) other prescribed Huu-ay-aht laws.

Authority of peace officers

- 4 (1) Subject to any limits established by the terms of appointment under section 3 (2), and without restricting or limiting the powers of peace officers at law, peace officers are authorized to do any or all of the following to enforce Huu-ay-aht law:
- (a) issue tickets;
 - (b) issue compliance notices;
 - (c) provide the tribunal with information sufficient for the tribunal to lay an information to charge a person with one or more offences;
 - (d) remove trespassers from Huu-ay-aht Lands;
 - (e) arrest without warrant a person whom the peace officer finds committing a criminal offence on or in relation to Huu-ay-aht Lands;
 - (f) exercise the powers and rights and carry out the duties of a peace officer under the *Offence Act* (British Columbia);
 - (g) arrest without warrant a person whom the peace officer finds committing an offence under Huu-ay-aht law where the Huu-ay-aht law expressly provides for arrest without warrant;
 - (g.1) upon an arrest authorized by this subsection, search that person and his or her belongings if there is a reasonable prospect of securing evidence of that offence, and seize anything found during that search that the peace officer believes on reasonable grounds
 - (i) was obtained in the commission of an offence,
 - (ii) was or is being used in the commission of an offence, or
 - (iii) may provide evidence of the commission of an offence;
 - (h) take the action directed by Executive Council under section 22.
- (2) Peace officers must show their identification, upon request, in the course of performing their duties.

Regulatory inspection by peace officers

- 5 (1) A peace officer who does not have reasonable grounds to believe that a contravention of Huu-ay-aht legislation has occurred may, for the purpose of ensuring compliance with Huu-ay-aht legislation, make any reasonable inspection of any person, place or thing involved in an activity that is regulated by Huu-ay-aht legislation.
- (2) In exercising the powers under subsection (1), a peace officer may enter any place or thing
- (a) at any reasonable time, if it is not a dwelling house, or
 - (b) with the consent of the owner or occupant, if it is a dwelling house.
- (3) In addition to exercising powers under subsection (1), a peace officer may at any time during an inquiry or inspection
- (a) require to be produced any licences, books, bills, records or other documents, and
 - (b) take a sample of any substance
- related to an activity that is regulated by Huu-ay-aht legislation.

HFNA 3/2021, s. 1(f).

Seizure of evidence by peace officers

- 6 During an inspection under section 5, a peace officer may seize anything that he or she believes on reasonable grounds
- (a) was obtained in the commission of an offence,
 - (b) was or is being used in the commission of an offence, or
 - (c) may provide evidence of the commission of an offence.

HFNA 3/2021, s. 1(g).

Application of *Offence Act* (British Columbia) and *Criminal Code* (Canada)

- 7 (1) Subject to subsection (2), all provisions of the *Offence Act* (British Columbia) relating to offences punishable on summary conviction apply in respect of offences under Huu-ay-aht law, including, for greater certainty, section 133 of that Act [Application of Criminal Code (Canada)].
- (2) The provisions referred to in subsection (1) apply to the extent that they are not inconsistent with this Act and the regulations made under it.
- (3) For greater certainty, the provisions of the *Offence Act* (British Columbia) relating to the issuance of tickets by enforcement officers under that Act do not apply to contraventions or offences under Huu-ay-aht law.

HFNA 3/2021, s. 1(h), (i).

Conduct of peace officers

- 8 Executive Council may make regulations as follows:
- (a) prescribing the duties and responsibilities of peace officers;

- (b) respecting or adopting protocols for the manner in which peace officers carry out their duties and responsibilities and the manner in which they are to conduct themselves as peace officers;
- (c) respecting uniforms to be worn or a dress code to be observed by peace officers when they are on duty;
- (d) prescribing conditions for the appointment of peace officers and the terms and conditions of retaining those appointments;
- (e) respecting the training, certification and periodic recertification, retraining or new training requirements for peace officers;
- (f) respecting reports and record-keeping by peace officers and privacy of, and access to records;
- (g) respecting the issue, use, production, revocation, and periodic renewal of items of identification for peace officers and restrictions or prohibition on use of those items;
- (h) respecting the weapons, other than the carriage or use of firearms, that peace officers may carry and rules respecting the use and reporting of use of weapons;
- (i) respecting the use and marking of peace officers' vehicles and equipment and the use, identification and restrictions on use of those vehicles and that equipment.

PART 3 – CONTRAVENTIONS AND OFFENCES

Division 1 – Framework

Enforcement of laws

- 9** (1) A peace officer or another authority may issue one, or both, of the following to a person for a contravention of a Huu-ay-aht law:
- (a) a compliance notice in accordance with Division 2;
 - (b) a ticket in accordance with Division 3.
- (2) If a peace officer or another authority believes a person has committed an offence under Huu-ay-aht law, the peace officer or another authority may provide the tribunal with the information necessary for the tribunal to lay an information against the person in accordance with Division 4 and the *Offence Act* (British Columbia).

Contravention or offence by directors and officers

- 10** If a corporation or entity contravenes or commits an offence under Huu-ay-aht law, any director or officer of the corporation or entity who authorizes, permits or acquiesces in the contravention or offence also commits the contravention or offence and is liable to penalty.

Parties to contravention or offence

- 11** (1) A person who is a party to a contravention or an offence also commits the contravention or offence and is liable to penalty.
- (2) A person is a party to a contravention or an offence who
- (a) commits the contravention or offence,
 - (b) does or omits to do anything for the purpose of aiding a person to commit the contravention or offence, or
 - (c) abets a person in committing the contravention or offence
- (3) If a person counsels or procures another person to be a party to a contravention or an offence and that other person is afterwards a party to that contravention or offence, the person who counseled or procured is a party to that contravention or offence, even if the contravention or offence was committed in a way different from that which was counseled or procured.
- (4) A person who counsels or procures another person to be a party to a contravention or an offence is a party to every contravention or offence that the other person commits as a consequence of the counseling or procuring if the person who counseled or procured knew or ought to have known that the contravention or offence was likely to be committed as a consequence of the counseling or procuring.

Division 2 – Compliance Notices**Application**

- 12** This Division applies where Huu-ay-aht legislation specifies that a compliance notice may be issued under this Division for a contravention of a Huu-ay-aht law, and is subject to that legislation.

Definition

- 13** In this Part, “**comply**” means
- (a) to stop doing something, to do something, or to change the way something is being done, or
 - (b) to do whatever is necessary to rectify a contravention of Huu-ay-aht law.

Issuing compliance notice

- 14** A peace officer or another authority may issue a compliance notice in the prescribed form to a person that is contravening, or has contravened Huu-ay-aht law, requiring that person to comply with Huu-ay-aht law within a specified period of time.

Contents of compliance notice

- 15** (1) A compliance notice must contain the following information:
- (a) the particulars of the contravention of Huu-ay-aht law in sufficient detail to permit the named person to identify that contravention;
 - (b) the date the compliance notice is issued;

- (c) the action the named person is required to take to comply with HUU-ay-aht law;
 - (d) the date, and if appropriate, the time, by which the named person must comply with the requirements of the compliance notice;
 - (e) the name and signature of the peace officer or another authority issuing the compliance notice;
 - (f) how to appeal the compliance notice;
 - (g) the consequences of failure to comply with the compliance notice under sections 21 and 22;
 - (h) if applicable, the Executive Council resolution authorizing the issuance of the compliance notice;
 - (i) any other prescribed information.
- (2) Executive Council may, at any time, amend
- (a) the action required under subsection (1) (c), or
 - (b) the time period under subsection (1) (d)
- in a compliance notice provided that the amended compliance notice is served on the named person in accordance with this Act.

Serving compliance notice

- 16** (1) A compliance notice may be served as follows:
- (a) by a peace officer or another authority on the named person;
 - (b) by mailing a copy of the compliance notice
 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;
 - (c) orally, by the peace officer or another authority reading the applicable section of the HUU-ay-aht legislation that regulates, controls or prohibits the action or activity
 - (i) on HUU-ay-aht Lands, or
 - (ii) on Submerged Lands wholly contained within those HUU-ay-aht Lands,to the named person if the contravention is, or may be, a nuisance, a trespass, a danger to public health or a threat to public order, peace or safety that requires immediate compliance and personal service is not reasonably possible;
 - (c.1) by delivering a copy of the compliance notice
 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;
 - (d) by another prescribed method.

- (2) A compliance notice served under subsection (1) (c.1) is deemed to have been received by the named person on the day following the day on which it is delivered to the address.
- (3) A compliance notice served under subsection (1) (d) is deemed to have been received by the named person within the prescribed period.

HFNA 3/2021, s. 1(j), (k), (l).

Compliance notice for motor vehicle

- 17**
- (1) A compliance notice must be issued to a named person unless it is issued for a contravention involving a vehicle, in which case it may be issued to
 - (a) the vehicle's licence plate, or
 - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia).
 - (2) If a compliance notice is issued under subsection (1) (a) or (b), the compliance notice is deemed to have been issued to each registered owner of the vehicle as contained in the records of the applicable government.
 - (3) A compliance notice under this section may be served by
 - (a) leaving the compliance notice on the vehicle in a prominent location,
 - (b) mailing the compliance notice to the address of each registered owner of the vehicle as shown in the records of the applicable government, or

(b.1) by delivering a copy of the compliance notice

 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;

(c) another prescribed method.
 - (4) A compliance notice served under subsection (3) (b.1) is deemed to have been received by each registered owner on the day following the day on which it is delivered to the address.
 - (5) A compliance notice served under subsection (3) (c) is deemed to have been received by each registered owner within the prescribed period.

HFNA 3/2021, s. 1(m), (n).

Process if compliance notice not received

- 18**
- (1) If the Executive Director believes that a named person has not been served with a compliance notice, the Executive Director may require a copy of the compliance notice be served on the named person by any means the Executive Director considers advisable.
 - (2) A named person who becomes aware of an outstanding compliance notice but has not received it must
 - (a) notify the Executive Director as soon as practicable after they become aware of the outstanding compliance notice, and

- (b) request a copy of it.
- (3) If a named person who acts in good faith establishes that, through absence, accident, illness or other cause beyond the person's control, they did not receive
 - (a) the compliance notice, or
 - (b) a copy of the compliance noticeuntil after the date provided under section 16 or 17, then the time period in section 20 does not begin until the compliance notice is served on the named person.
- (4) The time period under section 20 begins when the copy of the compliance notice under subsection (1) or (2) of this section is served on the named person in accordance with section 16 or 17 or as directed by the Executive Director, as applicable.

When failure to serve compliance notice does not invalidate proceeding

- 19** If a compliance notice is not served in accordance with section 16, 17 or 18, a proceeding or an action in relation to the compliance notice is not invalidated if
- (a) the contents of the compliance notice were known by the named person within the time allowed for service,
 - (b) the named person consents, or
 - (c) the failure to serve the compliance notice does not result in prejudice to the named person, or any resulting prejudice can be satisfactorily addressed.

Appealing compliance notice

- 20** (1) In this section, “**receiving a compliance notice**”, in relation to a named person, means
- (a) being served, or being deemed to be served, with a compliance notice under section 16, 17 or 18, or
 - (b) not being served, but the proceeding or action in relation to the compliance notice is not invalidated under section 19.
- (2) Subject to the time period for compliance set out in the compliance notice or other Huu-ay-aht law, the named person must, within 14 days of receiving a compliance notice,
- (a) comply with the compliance notice, or
 - (b) appeal the compliance notice by filing a notice of appeal with the tribunal in accordance with Part 3 of the *Tribunal Act*.
- (3) If the tribunal varies or sets aside a compliance notice on an appeal under subsection (2) (b), the tribunal may, in addition to its powers under the *Tribunal Act*,
- (a) determine that section 22 (3) or section 22 (4), or both, do not apply, and
 - (b) order that the named person be compensated by the Huu-ay-aht in relation to any actions taken under section 22.

Enforcement of compliance notice

- 21** Unless otherwise provided for by HUU-ay-aht legislation, a person who fails to comply with a compliance notice within the time specified commits, as determined by the Executive Director,
- (a) a contravention subject to issuance of a ticket under Division 3, or
 - (b) an offence subject to a proceeding under Division 4.

Executive Council may authorize measures

- 22** (1) In addition to any penalty issued pursuant to section 21, Executive Council may direct or authorize that some or all of the actions set out in the compliance notice issued under section 14 be taken if
- (a) the named person has been served with the compliance notice in accordance with section 16, 17 or 18,
 - (b) the period for compliance under section 15 (1) (d) has expired and has not been stayed by the tribunal,
 - (c) the person has not complied with the compliance notice, and
 - (d) the actions are reasonably required to rectify the contravention or to prevent a re-occurrence of the contravention.
- (2) If a named person under subsection (1) has not put or maintained business or public premises in a sanitary or safe condition as required in a compliance notice, Executive Council may authorize the closure of those premises.
- (3) Any cost incurred by the HUU-ay-aht under this section is due and payable by the named person to the HUU-ay-aht within 14 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with HUU-ay-aht law to that named person, and may be collected by the HUU-ay-aht in accordance with sections 64.1 to 66.4 of the *Financial Administration Act*.
- (4) If Executive Council is authorized by HUU-ay-aht law to sell all or a part of any property removed under this section, the proceeds of the sale must be used to pay the expenses and costs of
- (a) the removal, and
 - (b) any actions authorized by Executive Council
- with any excess proceeds paid to the person entitled to them payable on demand within 14 days, if that demand is delivered to the Executive Director in accordance with HUU-ay-aht law.

HFNA 1/2015, s. 1(a), HFNA 3/2021, s. 1(o).

Authority of Executive Council agent

- 23** (1) Executive Council may authorize a person to take the actions directed under section 22.
- (2) At any reasonable time, a person authorized under subsection (1) in the performance of their duties may enter
- (a) land, including enclosed land,

- (b) foreshore and land covered by water where authorized by law or by agreement with British Columbia,
 - (c) unoccupied premises,
 - (d) business premises, or
 - (e) a dwelling,
 - (i) with the consent of the occupier or
 - (ii) if authorized by Huu-ay-aht law.
- (3) Service of a compliance notice in accordance with this Act is sufficient authorization for entry under subsection (2) (e) (ii) for the purposes of carrying out the actions directed under section 22.

Limitation period for compliance notice

- 24 A compliance notice must not be issued more than 12 months after the contravention in respect of which it is issued is alleged to have occurred.

Division 3 – Tickets

Application

- 25 This Division applies where Huu-ay-aht legislation specifies that a ticket may be issued under this Division for a contravention of a Huu-ay-aht law, and is subject to that legislation.

Issuing ticket

- 26 (1) A peace officer or another authority may issue a ticket in the prescribed form to a person that is contravening or has contravened Huu-ay-aht law.
- (2) A ticket must be issued to a named person unless it is issued for a contravention involving a vehicle, in which case it may be issued to
- (a) the vehicle's licence plate, or
 - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia).
- (3) A ticket issued under subsection (2) is deemed to have been issued to each registered owner of the vehicle as shown in the records of the applicable government.

Contents of ticket

- 27 A ticket issued under section 26 must contain the following information:
- (a) the particulars of the contravention of Huu-ay-aht law in sufficient detail to permit the named person to identify it;
 - (b) the date the ticket is issued;
 - (c) the name and signature of the peace officer or another authority issuing the ticket;
 - (d) the amount of the penalty, the discounted penalty and any prescribed surcharge penalty;

- (e) the methods of paying the penalty;
- (f) how to appeal the ticket;
- (g) if applicable, the Executive Council resolution authorizing the issuance of the ticket;
- (h) any other prescribed information.

HFNA 3/2021, s. 1(p).

Serving ticket

- 28** (1) A ticket may be served as follows:
- (a) by a peace officer or another authority on the named person;
 - (b) by mailing a copy of the ticket
 - (i) to the last known residential or business address of the named person,
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government, or
 - (iii) if the ticket is for a contravention involving a vehicle, to the address of each registered owner of the vehicle as shown in the records of the applicable government;
 - (c) by leaving a ticket on the vehicle, if the ticket is for a contravention involving the vehicle, and service under paragraph (b) (iii) is not reasonably possible;
 - (c.1) by delivering a copy of the ticket
 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;
 - (d) by another prescribed method.
- (2) A ticket served under subsection (1) (c.1) is deemed to have been received by the named person on the day following the day on which it is delivered to the address.
- (3) A ticket served under subsection (1) (d) is deemed to have been received by the named person within the prescribed time period.

HFNA 3/2021, s. 1(q), (r).

Paying or disputing ticket

- 29** (1) A named person who is served with a ticket under section 28 must do one of the following:
- (a) pay the discounted penalty amount within the time specified in the ticket;
 - (b) pay the full penalty amount, as set out in the ticket, within 30 days;
 - (c) file a notice of appeal from the ticket within 30 days, in accordance with Part 3 of the *Tribunal Act*.
- (2) A named person may pay a ticket penalty in person at, or by mail to, a Huu-ay-aht government office.

Failure to respond to ticket

- 30** If the named person does not comply with section 29(1), the full penalty amount indicated on the ticket is immediately due and payable by the named person to the Huu-ay-aht, and may be collected by the Huu-ay-aht in accordance with sections 64.1 to 66.4 of the *Financial Administration Act*.

HFNA 1/2015, s. 1(b).

Ticket provisions

- 31** (1) If a ticket may be issued for a contravention of Huu-ay-aht law, Executive Council may, by regulation, establish the amount of
- (a) a penalty for the contravention up to a maximum fine of \$5 000,
 - (b) a discounted penalty payable if payment is received on or before a prescribed time after the ticket is served under section 28, and
 - (c) a surcharge penalty if the penalty is not paid within the period set out in section 29 (1) (b).
- (2) A regulation under subsection (1) may provide for a range of penalty amounts taking into consideration one or more of the following:
- (a) prior contraventions of the same or similar provisions of Huu-ay-aht law by the named person;
 - (b) the seriousness of the contravention;
 - (c) other prescribed considerations.

HFNA 3/2013, s. 2; HFNA 3/2021, s. 1(s).

Limitation period for ticket

- 32** A ticket must not be issued more than 6 months after the contravention in respect of which it is issued is alleged to have occurred.

Division 3.1 – Seizures**Definition**

- 32.1** In this Division, “**responsible authority**” means the person responsible for administering and enforcing the Huu-ay-aht legislation under which the offence related to the seizure occurred.

Seizure record

- 32.2** The peace officer that conducts a seizure under section 4 or 6 must prepare a seizure record in the prescribed form as soon as possible after the seizure has been conducted, which specifies
- (a) the thing seized,
 - (b) the grounds for the seizure,
 - (c) the time and place that the seizure occurred,
 - (d) the name of the person from whom the thing was seized,
 - (e) the name and signature of the peace officer who conducted the seizure,

- (f) how to appeal the seizure, and
- (g) any other prescribed information.

Serving seizure record

- 32.3** (1) A seizure record prepared under section 32.2 must be served
- (a) on the person from whom the thing was seized, and
 - (b) any other person whom the peace officer has reason to believe may have an interest in the thing seized,
- all of whom are “**named persons**” in relation to that seizure record.
- (2) A seizure record prepared under section 32.2 may be served as follows:
- (a) by a peace officer or another authority on the named person,
 - (b) by mailing a copy of the seizure record
 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;
 - (c) by delivering a copy of the seizure record
 - (i) to the last known residential or business address of the named person, or
 - (ii) if the named person is a corporation, to the registered office shown in the records of the applicable government;
 - (d) by another prescribed method.
- (3) A seizure record served under subsection 2(c) is deemed to have been received by the named person on the day following the day on which it is delivered to the address.

If seizure record not served

- 32.4** If a seizure record is not served under section 32.3, a proceeding or action in relation to the seizure is not invalidated if
- (a) the content of the seizure record was known by the named persons within the time allowed for service,
 - (b) the named person consents, or
 - (c) the failure to serve under section 32.3 does not result in any substantial injustice.

Appealing a seizure

- 32.5** (1) In this section, “**receiving a seizure record**” in relation to a named person, means
- (a) being served, or being deemed to be served, with a seizure record under section 32.3, or
 - (b) not being served, but the proceeding or action in relation to the seizure record is not invalidated under section 32.4.

- (2) A named person may, within 30 days of receiving a seizure record or becoming aware of the content of the seizure record, appeal the seizure by filing a notice of appeal with the tribunal in accordance with Part 3 of the *Tribunal Act*.
- (3) If the tribunal varies or sets aside a seizure on an appeal under subsection (2), the tribunal may order a named person to be compensated by the Huu-ay-aht for any action taken in relation to that seizure.

Custody

- 32.6**
- (1) The peace officer that conducts a seizure under section 4 or 6 must deliver the seized thing to the responsible authority.
 - (2) The responsible authority must retain custody and ensure the safekeeping of anything seized under section 4 or 6.
 - (3) The responsible authority may deliver the seized thing into the custody of any person he or she considers appropriate, prior to the conclusion of the proceedings for the offence related to that seizure, subject to an undertaking by that person to ensure the safekeeping of that thing.
 - (4) The responsible authority may require the person given custody under subsection (2) to do one or both of the following:
 - (a) provide the responsible authority with security for the seized thing in a manner and form that is satisfactory to the responsible authority; or
 - (b) make the seized thing available for inspection by or deliver it into the custody of the responsible authority at any reasonable time.

Special items

- 32.7**
- (1) A peace officer or responsible authority may make copies of any documents seized under section 4 or 6.
 - (2) A peace officer or responsible authority may release any wild animal seized under section 4 or 6.
 - (3) The responsible authority who has custody of any perishable thing seized under section 4 or 6 may dispose of it in any manner he or she considers appropriate and any proceeds realized from its disposition shall be held in place of that thing.

Return of seized property

- 32.8**
- (1) The responsible authority must deliver a seized thing to the person lawfully entitled to be in possession of that thing if
 - (a) an information is not laid for the offence related to the seizure within the time period specified in section 32.2 of the *Tribunal Act*, or
 - (b) that person is not named in the information that is laid for the offence related to the seizure of that thing and the proceedings for that offence are concluded.
 - (2) The responsible authority must deliver a seized thing to the person lawfully entitled to be in possession of the thing, if that person is named in the information laid for the offence related to the seizure and is found not guilty of that offence.

Forfeiture

- 32.9** (1) If the person lawfully entitled to be in possession of a seized thing is convicted of the offence related to the seizure, the court may order that person to forfeit that thing to the Huu-ay-aht.
- (2) If the person lawfully entitled to be in possession of the seized thing is convicted of the offence related to the seizure, and the court imposes a fine to be paid to the Huu-ay-aht but does not order forfeiture, the responsible authority may retain custody of the thing until the fine is paid.
- (3) If the person lawfully entitled to be in possession of the seized thing is convicted of the offence related to the seizure, and the court does not order forfeiture or a fine to be paid to the Huu-ay-aht, the responsible authority must return the thing to that person.

Recovery of costs

- 32.10** If a person is convicted of an offence related to a seizure, the court may order that person to compensate the Huu-ay-aht for any costs incurred by the Huu-ay-aht for the seizure, storage, maintenance or disposition of that thing.

Application for possession

- 32.11** Any person at any time may apply to court to have a seized thing delivered into their possession, notwithstanding the right to appeal a seizure to the tribunal.

If owner of thing unknown

- 32.12** (1) If the responsible authority cannot identify any person who is lawfully entitled to possession of a seized thing by the date on which he or she is required to deliver that thing to a person under this Division, the responsible authority may dispose of that thing and provide the Huu-ay-aht with the proceeds.
- (2) If a seized thing is disposed under subsection (1) and a person subsequently proves that he or she is lawfully entitled to possession of that thing, the Huu-ay-aht shall pay that person the proceeds of sale of the thing.

HFNA 3/2021, s. 1(t).

Division 4 – Offences**Offences generally**

- 33** (1) Offences must be designated under Huu-ay-aht legislation.
- (2) Offences under subsection (1) are punishable on summary conviction under the *Offence Act* (British Columbia).

Obstructing a peace officer

- 34** A person who obstructs, impedes or refuses to admit a peace officer or another authority acting under this Act or under other Huu-ay-aht legislation commits an offence.

Penalties generally

- 35** (1) Unless otherwise specifically provided for in Huu-ay-aht legislation, a person who is convicted of an offence is liable to one or both of the following:
- (a) a fine of not more than \$10 000;
 - (b) imprisonment of not more than 6 months.
- (2) In a prosecution for an offence under Huu-ay-aht legislation, the justice or court may impose all or part of the penalties applicable for the offence, together with the costs of prosecution.
- (3) Each day an offence continues is a separate offence for the purposes of subsection (1).
- (4) Any penalty under this section is in addition to any other penalty provided under law.

Application for forfeiture

- 36** In addition to the penalties provided for under section 35, the Executive Director may apply to the Supreme Court of British Columbia for an order forfeiting to the Huu-ay-aht
- (a) the whole of an interest in property that is proceeds of an offence,
 - (b) the portion of an interest in property that is proceeds of an offence, or
 - (c) property that is an instrument of an offence.

Forfeiture order

- 37** If proceedings are commenced under section 36, the Supreme Court of British Columbia may make an order forfeiting to the Huu-ay-aht the whole or a portion of an interest in property that the Court finds is proceeds of an offence, or is an instrument of an offence.

Application of *Civil Forfeiture Act* (British Columbia)

- 38** Subject to this Act, the provisions of the *Civil Forfeiture Act* (British Columbia) apply to applications made under section 36.

PART 4 – EMERGENCIES**Executive Council emergency authority**

- 39** (1) Subject to subsection (4), if an emergency within the meaning of a Provincial Law or Federal Law arises on Treaty Lands, Executive Council has the
- (a) rights, powers, duties, and obligations, and
 - (b) protections, immunities and limitations in respect of liability,
- of a local authority under those Laws in respect of emergency preparedness and emergency measures on Treaty Lands.
- (2) If another form of emergency arises on Treaty Lands, Executive Council may, by resolution, declare an emergency exists and provide for the necessary powers to deal with the emergency.

- (3) If an emergency is declared under subsection (2), Executive Council has all the protections, immunities and limitations in respect of liability described in subsection (1).
- (4) Federal Law or Provincial Law prevails to the extent of any conflict with HUU-AY-AHT law under this section and nothing in this section affects the authority of Canada or British Columbia to declare emergencies in accordance with their respective laws.

PART 5 – COMPLAINTS AGAINST PEACE OFFICERS

Complaints and disciplining peace officers

- 40** (1) In this section,
- “**another authority**” includes a person authorized by Executive Council under section 23;
- “**external enforcement agency**” means, in relation to an external enforcement officer, the federal, provincial or other department or agency that the enforcement officer represents in his or her enforcement of HUU-AY-AHT law under an agreement with that department or agency;
- “**external enforcement officer**” means a peace officer or another authority other than
- (a) a HUU-AY-AHT employee,
 - (b) an independent contractor of a HUU-AY-AHT body, or
 - (c) Executive Council.
- (2) A person may complain to the tribunal about the conduct of a peace officer or another authority under section 17 (1) (c) of the *Tribunal Act*.
 - (3) A complaint under subsection (2) must include the following information:
 - (a) the complainant’s name and contact information;
 - (b) the name or identity number of the peace officer or another authority against whom the complaint is made;
 - (c) the nature of the complaint, including the conduct complained of and the date upon which the conduct occurred;
 - (d) other prescribed information.
 - (4) A complaint under subsection (2) must be brought within 60 days of the conduct or event complained of, unless the tribunal determines there is good reason to extend that time period.
 - (5) The tribunal must provide the peace officer or another authority, as applicable, with notice of an application under this section within 5 days of receipt of the complainant’s complete application.
 - (6) Executive Council must make regulations respecting
 - (a) the standard of conduct for peace officers,
 - (b) the tribunal’s jurisdiction on complaint applications, and

- (c) the consequences of the tribunal's determinations, including making recommendations to the Executive Director regarding suspension, revocation of the peace officer's appointment or other discipline that may be imposed on the peace officer.
- (7) Another authority carrying out the provisions of this Act is subject to the standards of conduct set for peace officers under subsection 6 (a) and subject to the same consequences provided for under subsection 6 (c).
- (8) The tribunal must deliver to Executive Council a copy of any recommendations it makes to the Executive Director under subsection 6 (c).
- (9) Despite this section and sections 17, 20 and 21 of the *Tribunal Act*, Executive Council may, by regulation,
 - (a) require complaints against a particular class of external enforcement officers to be pursued and completed under any policies or procedures of the applicable external enforcement agency, or any federal or provincial laws governing complaints against that class of external enforcement officers, before a notice of appeal may be filed with the tribunal or a complaint may be made to the tribunal in relation to the conduct of a member of that class of external enforcement officers, and
 - (b) establish the time limit in which a notice of appeal must be filed with or a complaint must be made to the tribunal in relation to the conduct of a member of that class of external enforcement officers.

HFNA 1/2015, s. 1(c), (d).

PART 6 – GENERAL

Recovery of amounts owing by civil action

- 41** (1) In addition to any prescribed measures for the collection of debts owed to the Huu-ay-aht under this Act or other Huu-ay-aht legislation, the Executive Director is authorized to commence court proceedings on behalf of the Huu-ay-aht
- (a) for the enforcement of sections 22 (3) and 30, and
 - (b) to recover the costs incurred by the Huu-ay-aht in the enforcement of sections 22 (3) and 30.
- (2) Without restricting the remedies available at law, the justice or court may, by order, authorize all or part of any penalty, compensation or costs payable to be levied by distress and sale of the named person's goods and chattels.

Liability

- 42** (1) In this section, “**another authority**” includes a person authorized by Executive Council under section 23.
- (2) No action for damages lies against a peace officer or another authority for anything said or done or omitted to be said or done by him or her in the performance or intended performance of his or her duty or in the exercise of his or her power or for any alleged neglect or default in the performance or intended performance of his or her duty or exercise of his or her power.

- (3) Subsection (2) does not provide a defence if
 - (a) the peace officer or another authority has, in relation to the conduct that is the subject matter of action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or
 - (b) the cause of action is libel or slander.
- (4) Subsection (2) does not absolve the HUU-ay-aht, if the HUU-ay-aht would have been liable had this section not been in force, from vicarious liability arising out of a tort committed by the peace officer or another authority referred to in that subsection.

Power to make regulations

- 43** (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 a method of service for compliance notices, tickets and seizure records in addition to the methods described in this Act and prescribing a period within which a person is deemed to have received documents served in that way;
 - (b) prescribing laws applicable under section 3 (2) to a peace officer's authority;
 - (c) respecting the form and content of tickets and compliance notices under sections 14, 15 and 26;
 - (d) respecting the form and content of complaints under section 40 (2) and (3);
 - (e) providing for recovery of debts owed to the HUU-ay-aht under this Act;
 - (f) providing for the process for complaints against external enforcement officers under section 40(9).
 - (g) for any other purpose for which regulations are contemplated by this Act.
- (3) Executive Council may, by regulation, prescribe forms used and fees payable for applications made under this Act.

HFNA 1/2015, s. 1(e), (f); HFNA 3/2021, s. 1(u).

HUU-ay-aht representatives

- 43.1** (1) Subject to subsection (2), if the HUU-ay-aht enter into an agreement with an external enforcement agency for the enforcement of HUU-ay-aht law, Executive Council must appoint at least one but not more than three individuals to represent the HUU-ay-aht under that agreement.
- (2) If the HUU-ay-aht and one or more other Maa-nulth First Nations enter into an agreement with an external enforcement agency for the enforcement of Maa-nulth First Nation laws, and those Maa-nulth First Nations establish a joint enforcement advisory committee to represent them under that agreement, Executive Council must appoint at least one but not more than two individuals to represent the HUU-ay-aht on that committee.

- (3) An individual appointed under subsection (1) or (2)
- (a) has the power to make any decision on behalf of the HUU-ay-aht in relation to the agreement with the applicable external enforcement agency, except a decision to amend or terminate that agreement, and
 - (b) must report to Executive Council at least quarterly on any compliance activities of the applicable external enforcement agency within HUU-ay-aht lands and any concerns regarding the applicable external enforcement agency's enforcement of HUU-ay-aht law.

HFNA 3/2021, s. 1(v).

No further effect

- 44** 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

- 45** 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

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