

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'
FIRST NATIONS GOVERNMENT**

RESOURCES HARVESTING ACT

KCFNS 14/2011



OFFICIAL CONSOLIDATION – CURRENT TO SEPTEMBER 22, 2016

This is a certified true copy of the consolidated Resources Harvesting Act KCFNS 14/2011,
Current to September 22, 2016

Date: Oct 25, 2016

Signed: [Signature]
Clerk

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TABLE OF CONTENTS

PART 1 - INTRODUCTORY PROVISIONS.....	7
Short Title.....	7
Executive oversight	7
Authority and application	7
Definitions	7
Purposes of this Act.....	11
Values.....	11
Conservation principles.....	12
PART 2 - COMPLIANCE, DOCUMENTING, SUSPENSION AND REVOCATION	15
Compliance.....	15
Fishing documentation required	15
Hunting documentation required	16
Park gathering documentation required.....	16
Right to documentation	17
Issuance of documentation	17
Documentation requirements.....	18
Obligation to produce documentation	18
Documentation suspension and revocation	19
Notice of documentation suspension or revocation.....	20
Prohibition against harvesting during documentation suspension.....	20
Harvesting documentation extension.....	20
PART 3 - SALE AND TRANSPORT	23
Sale of fish or aquatic plants.....	23
Sale of wildlife	24
Sale of migratory birds	25
Transport of plants.....	25
PART 4 - TRADE AND BARTER	27
Trade and barter of fish or aquatic plants	27
Trade and barter of wildlife and migratory birds.....	27
Trade or barter of plants	28
Exchange of regalia or traditional or artistic objects made from plants	29
PART 5 - ADMINISTRATION AND MANAGEMENT	31
Director's authority	31
Director's duties	31
Director's administrative duties and powers	32
Necessary actions after consulting Executive.....	32
Appointment and authority of resource management officers.....	33
PART 6 - HARVESTING OPPORTUNITIES.....	35
Regulations respecting harvesting opportunities	35
Advisory committee	35
Director's responsibilities respecting harvesting opportunities.....	36
Allocation of salmon	36
Agreements with other governments	37
Agreements with first nations.....	38
Request for species designation.....	39
Treaty harvesting rights outside of Ka:'yu:'k't'h'/Che:k'tles7et'h' territory	39

PART 7 - JOINT MANAGEMENT.....41

- Representation on joint fisheries committee41
- Representation on wildlife council41
- Fish harvest plans41
- Wildlife harvest plans42
- Delivery of harvest plans42
- Provincial protected area gathering and management plans42

PART 8 - OFFENCES AND RIGHT OF REVIEW.....43

- Offences and penalties43
- Repeat offences.....43
- Offences created by regulation43
- Right of review43

PART 9 - GENERAL PROVISIONS45

- Regulations45
- Commencement49

PREAMBLE

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assert that we have occupied, benefited from and governed our Hahoulthe (traditional territories), lands, waters and resources since time immemorial. The traditional territories of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have in the past provided the resources necessary to sustain us and we honour our connection to the lands, waters and resources of our traditional territories which provide for our physical and spiritual needs.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations acknowledge that all life forms are Hish-uk-ist-sawalk (interconnected) and that all humanity must have Iisaak (respect for the earth and all life forms on it). Iisaak and Hish-uk-ist-sawalk are important to the management of fish, wildlife and migratory birds and their habitat as well as to the management of aquatic plant life and land based plant life and we affirm that all should be recognized as intrinsically valuable.

Through our inherent right to self-government, and our responsibility given by Naas (the creator) to look after our traditional territories, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have continuously taken steps to preserve and protect our lands. We assert that resource harvesting requires an effective management system that enhances our Maa-nulth Treaty harvesting rights and contributes to the conservation of natural resources and protection of habitat. The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations also recognize the need for an effective role for Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees in all aspects of natural resource management.

It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that our traditional territories continue to provide the resources necessary to sustain the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, preserve our traditional ways and culture, encourage self-sufficiency and security through economic development and growth and provide a home for future generations.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.

KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' FIRST NATIONS GOVERNMENT
RESOURCES HARVESTING ACT KCFNS 14/2011
OFFICIAL CONSOLIDATION - CURRENT TO SEPTEMBER 22, 2016

PART 1 - INTRODUCTORY PROVISIONS

Short Title

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

Executive oversight

1.2 The member of the Executive holding the lands and resources portfolio is responsible for the executive oversight of this Act.

Authority and application

1.3 (a) This Act is enacted under

(i) sections 3.2(q), (r) and (s) of the Constitution, and

(ii) 10.1.41 of Chapter 10 Fisheries, 11.11.1 of Chapter 11 Wildlife, 12.5.3 of Chapter 12 Migratory Birds, 23.4.1 of Chapter 23 Federal Parks and Protected Areas and 24.6.14 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty.

(b) This Act applies to all treaty harvesting rights and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fisheries, including a Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement.

Definitions

1.4 In this Act,

“director” means the director of lands and resources;

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

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

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

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

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

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

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

“inter-tidal bivalve harvest area” means the “Inter-tidal Bivalve Harvest Area” shown in Appendix P Part 1 Plans 5, 6, 7 and 8 of the Maa-nulth Treaty;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation” means

- (a) in relation to a designated wildlife species,
 - (i) a defined harvest quantity or quota, or
 - (ii) a harvest quantity or quota determined by the use of a formula, for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
- (b) in relation to fish and aquatic plants,
 - (i) a defined harvest quantity or quota,
 - (ii) a harvest quantity determined by the use of a formula,
 - (iii) a defined harvest area, or
 - (iv) any other definition of quantity or opportunity as the parties to the Maa-nulth Treaty may agree for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation” means documentation issued in accordance with this Act identifying a person who is authorized by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest fish and aquatic plants in accordance with a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement or in accordance with any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence and which may authorize the transport of such harvest;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence” means a commercial fishing licence, other than a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement but including any other commercial fishing licence issued as part of an aboriginal commercial fisheries program, issued by the minister in accordance with federal law to

- (a) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations,
- (b) a Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation, or
- (c) any person who is designated by regulation as a purchaser on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries” means

- (a) the harvesting of fish or aquatic plants in accordance with the right to harvest fish and aquatic plants, and
- (b) the harvesting of fish under
 - (i) a Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement, or
 - (ii) any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation” means documentation issued in accordance with this Act identifying an individual who is authorized by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to exercise the right to harvest fish and aquatic plants under the Maa-nulth Treaty and which may authorize the transport of such harvest;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation” means Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation, Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation or Ka:'yu:'k't'h'/Che:k'tles7et'h' park gathering documentation, as applicable;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation” means documentation issued in accordance with this Act identifying an individual who is authorized by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to exercise the right to harvest wildlife or to exercise the right to harvest migratory birds under the Maa-nulth Treaty;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' individual” means an individual who is eligible to be enrolled as a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee in accordance with Chapter 26 Eligibility and Enrolment of the Maa-nulth Treaty;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' park gathering documentation” means documentation issued in accordance with this Act identifying an individual who is authorized by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to exercise the right to gather plants;

“manager” means an individual appointed under section 5.1;

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

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

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

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

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

“right to gather plants” means the right of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to gather plants and the boughs, burls and roots of timber referred to in 24.6.0 of Chapter 24 Provincial Protected Areas of the Maa-nulth Treaty;

“right to harvest fish and aquatic plants” means the right of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest fish and aquatic plants referred to in 10.1.1 of Chapter 10 Fisheries of the Maa-nulth Treaty;

“right to harvest migratory birds” means the right of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest migratory birds referred to in 12.1.1 of Chapter 12 Migratory Birds of the Maa-nulth Treaty;

“right to harvest wildlife” means the right of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest wildlife referred to in 11.1.1 of Chapter 11 Wildlife of the Maa-nulth Treaty;

“treaty harvesting right” means any one or more of

- (a) the right to harvest fish and aquatic plants,
- (b) the right to harvest wildlife,
- (c) the right to harvest migratory birds, and

- (d) the right to gather plants.

Purposes of this Act

- 1.5** The purpose of this Act is to establish a comprehensive regime for the management of natural resources in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory, including the conservation, protection and recovery of species at risk or a species for which there is a conservation concern, in a manner that implements provisions of the Maa-nulth Treaty respecting fish, wildlife and migratory birds and their habitat and the rights of Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees in relation to fish, wildlife and migratory birds and their habitat.

Values

- 1.6** To fulfill its purpose, this Act is intended to uphold the following values:
- (a) fish, wildlife and migratory birds and their habitat should be managed as one, since humans, animals and plants in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory are all interconnected;
 - (b) to be managed as one, the management of fish, wildlife and migratory birds and their habitat should include research, education, regulation, conservation, protection, restoration and revitalization;
 - (c) Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees are traditional and current users of fish, wildlife and migratory birds and their rights under the Maa-nulth Treaty in relation to fish, wildlife and migratory birds and their habitat, which flow from that use, should be given full force and effect;
 - (d) the management of fish, wildlife and migratory birds and their habitat and the exercise of treaty harvesting rights should be governed by the conservation principles set out in section 1.7;
 - (e) the precautionary principle should govern decision making under this Act;
 - (f) the guiding principles and concepts of Iisaak and Hishuk-ist-sawalk are important to the management of fish, wildlife and migratory birds and their habitat and are an integral part of this Act;
 - (g) all fish, wildlife and migratory birds and their habitat and all aquatic plant life and land based plant life should be recognized as intrinsically valuable and worth more than just the benefits derived from harvesting and commercial activities;
 - (h) the biological diversity and abundance of plant and animal species in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory should be restored to historical levels and thereafter maintained and utilized in a sustainable manner;

- (i) the management of fish, wildlife and migratory birds and their habitat should provide optimum protection to the natural resource economy;
- (j) no species native to Ka:'yu:'k't'h'/Che:k'tles7et'h' territory should become extinct in the Ka:'yu:'k't'h'/Che:k'tles7et'h' territory as a consequence of human activities;
- (k) the Department of Lands and Resources, as the main instrument of natural resource management in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory, should be enabled and empowered to fulfill its responsibilities and uphold the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations' resource management values and conservation principles;
- (l) natural resource management should be an effective system that complements Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting rights and priorities, recognizes Ka:'yu:'k't'h'/Che:k'tles7et'h' systems of natural resource management that contribute to the conservation of natural resources and protection of habitat, and recognizes the need for an effective role for Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees in all aspects of natural resource management;
- (m) Ka:'yu:'k't'h'/Che:k'tles7et'h' public institutions and Ka:'yu:'k't'h'/Che:k'tles7et'h' corporations have an important role in the management of natural resources; and
- (n) the Ka:'yu:'k't'h'/Che:k'tles7et'h' government, which retains ultimate responsibility for natural resource management on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, should be enabled and empowered to fulfill its responsibilities and uphold the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations' principles of resource management values and conservation principles.

Conservation principles

1.7 The following conservation principles apply under this Act:

- (a) the acknowledgement that all life forms are interconnected (Hish-uk-is-tsawalk);
- (b) that all humanity must have respect for the earth and all life forms on it (Iisaak);
- (c) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations has the responsibility given by Naas (the creator) to look after the Hahoulthee;
- (d) the maintenance of the natural balance of ecological systems;
- (e) the protection of habitat;
- (f) the maintenance of vital and healthy fish, aquatic plants, wildlife and migratory birds populations capable of sustaining harvesting;

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

PART 2 - COMPLIANCE, DOCUMENTING, SUSPENSION AND REVOCATION

Compliance

2.1 A person may only

- (a) exercise a treaty harvesting right,
- (b) sell, trade or barter anything harvested under a treaty harvesting right, including the inedible byproducts, including down, of migratory birds,
- (c) exchange regalia or traditional or artistic objects made from or containing plants or the boughs, burls and roots of timber harvested or their parts under the right to gather plants, or
- (d) transport any
 - (i) fish or aquatic plants, or
 - (ii) plants or the boughs, burls and roots of timber or their parts harvested under the right to gather plants, and
- (e) conduct any fishing operations under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation

in accordance with the applicable provisions of

- (f) the Maa-nulth Treaty,
- (g) this Act,
- (h) the applicable harvest plan,
- (i) any conditions or restrictions contained in the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation held by that person,
- (j) any conditions or restrictions contained in the Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation held by that person, and
- (k) any Order made, or a direction given, by the director.

Fishing documentation required

- #### 2.2
- (a) An individual may only exercise the right to harvest fish and aquatic plants if the person is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation issued in the name of that person.

- (b) A person may only fish under a commercial fishing licence issued to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations under the Maa-nulth Harvest Agreement or under any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence if the person is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation issued in the name of that person.
- (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants outside of the domestic fishing area if the person is in possession of valid authorization issued in accordance with this Act in the name of that Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee permitting him or her to transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants outside of the domestic fishing area.
- (d) A person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants if the person is in possession of valid authorization issued in accordance with this Act in the name of that person permitting that person to transport fish or aquatic plants harvested under the right to harvest fish and aquatic plants.

Hunting documentation required

- 2.3**
- (a) An individual at least the prescribed age may only exercise the right to harvest wildlife or the right to harvest migratory birds if the person is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation issued in the name of that individual.
 - (b) An individual who is under the prescribed age may only exercise the right to harvest wildlife or the right to harvest migratory birds if that individual
 - (i) is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation issued in the name of that individual, and
 - (ii) is accompanied by another individual who is at least the prescribed age and is in possession of
 - (A) valid Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation issued in the name of that individual, or
 - (B) valid documentation to hunt issued in the name of that individual under federal law or provincial law.

Park gathering documentation required

- 2.4** An individual may only exercise the right to gather plants in a provincial protected area if the individual is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' park gathering documentation issued in the name of that individual.

Right to documentation

- 2.5** (a) Except in prescribed circumstances and subject to this Act, every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee is entitled to be issued Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation in his or her name.
- (b) A person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee is not entitled to be issued Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation.
- (c) Despite subsection (b), a person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may, in prescribed circumstances, be issued
- (i) Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation in accordance with 10.1.47 to 10.1.50 of Chapter 10 Fisheries of the Maa-nulth Treaty if that person is
- (A) an agent or contractor of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
- (B) an individual designated by the director, or
- (ii) Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation to exercise the right to harvest wildlife in accordance with 11.1.14 to 11.1.23 of Chapter 11 Wildlife of the Maa-nulth Treaty if that person is
- (A) an acknowledged member or citizen of a first nation, and
- (B) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations has entered into an agreement contemplated in 11.1.14 of Chapter 11 Wildlife of the Maa-nulth Treaty with that first nation.

Issuance of documentation

- 2.6** (a) A person may apply to the director for Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation or Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation by submitting to the director
- (i) an application in the prescribed form and with the prescribed content,
- (ii) the prescribed application fee, and
- (iii) any prescribed supporting documentation.
- (b) On receipt of an application under subsection (a) and if satisfied that the relevant requirements of this Act have been met, the director may issue to the applicant the documentation for which the applicant has applied.

- (c) The director may attach conditions to any documentation issued in accordance with this section.
- (d) If an applicant in accordance with this section applies for more than one type of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation under subsection (a), the director may issue the documentation as combined documentation or as separate documentation, as the director considers appropriate in the circumstances.

Documentation requirements

2.7 Documentation provided in accordance with section 2.6 must

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

Obligation to produce documentation

- 2.8**
- (a) In this section “enforcement officer” means an individual authorized to enforce federal law, provincial law or Ka:'yu:'k't'h'/Che:k'tles7et'h' law in relation to fish, aquatic plants, wildlife, migratory birds and provincial protected areas.
 - (b) An enforcement officer who believes on reasonable grounds that a person is or has been harvesting or is likely to begin harvesting under a treaty harvesting right may request that person to produce for inspection by the enforcement officer valid Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation authorizing the harvesting by that person.
 - (c) If asked for identification by the person to whom the request is made, the enforcement officer must show appropriate identification confirming his or her credentials as an enforcement officer.
 - (d) At the request of an enforcement officer made in accordance with subsection (b) but subject to subsection (c), the person to whom the request is made must produce to the enforcement officer for his or her inspection valid documentation issued in accordance with this Act to and in the name of that person authorizing the harvesting by that person.

Documentation suspension and revocation

- 2.9 (a) If the director believes that a person who is the holder of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation has contravened or repeatedly contravened
- (i) section 2.1, or
 - (ii) whichever of sections 2.2, 2.3 or 2.4 is applicable to the particular Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation,
- the director must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law and section 2.10 a notice to the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation holder of the director's intention to suspend the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation for the period specified in the notice or, in the case of a repeated contravention, to revoke the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation.
- (b) After providing an opportunity for the person referred to in this section to be heard as contemplated in section 2.10, the director, for any cause he or she considers sufficient, may suspend the person's Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation or, in the case of a repeated contravention, to revoke the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation.
- (c) On notice of an intended suspension or revocation under subsection (a), the person must within the prescribed time deliver the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation to the director.
- (d) After considering any response as contemplated in section 2.10, if the director does not suspend or revoke the person's Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation, that documentation must promptly be returned by the director to that person.
- (e) Promptly after the expiry of the period of suspension of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation suspended in accordance with this section, the director must return the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation to its holder or issue replacement Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation to its holder.
- (f) The director must not issue any Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation in accordance with this Act to a person who has had Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation revoked in accordance with this section for up to a period of five years commencing on the date of that revocation.

Notice of documentation suspension or revocation

2.10 A notice under section 2.9 must

- (a) set out the reasons for the intended suspension, and
- (b) state that the person who is the holder of the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation is entitled to make representations as to why the Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation should not be suspended and may do so by giving the director a response within 15 days after the earlier of the date the notice was received or deemed to have been received under the Interpretation Act.

Prohibition against harvesting during documentation suspension

2.11 A person whose Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation is suspended or revoked must not exercise the applicable treaty harvesting right associated with the suspended or revoked Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation during the period of

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

Harvesting documentation extension

2.12 (a) Subject to subsections (b) and (c), the director may, by Order, extend the date of expiration of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation, or a class of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation, for up to one year.

- (b) An Order under subsection (a) must set out
 - (i) the effective date of the Order,
 - (ii) the class of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation for which the date of expiration is extended, and
 - (iii) the date on which that class of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation will expire.
- (c) The director must
 - (i) post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, and
 - (ii) deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law to, and in accordance with any agreement with, an external enforcement agency designated under the Enforcement Act or this Act to enforce this Act,

a copy of an Order made under subsection (a).

- (d) If an Order is made under subsection (a), each class of Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation named in that Order issued in accordance with this Act is deemed to be valid for all purposes under this Act despite the date of expiration appearing on the face of that Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation until that harvesting documentation is cancelled or suspended in accordance with this Act or expires in accordance with that Order.

PART 3 - SALE AND TRANSPORT

Sale of fish or aquatic plants

- 3.1** (a) A person may transport fish or aquatic plants harvested in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries both within the domestic fishing area and outside the domestic fishing area, but must not sell fish or aquatic plants harvested under the right to harvest fish and aquatic plants unless authorized to do so in accordance with this Act.
- (b) A person who is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation issued in that person's name may transport and sell fish or aquatic plants harvested only in accordance with
- (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation, and
 - (ii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement, or
 - (iii) any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence.
- (c) Transport and sale of fish or aquatic plants authorized under subsection (b) is subject to any applicable restrictions in any of the following:
- (i) the Maa-nulth Harvest Agreement;
 - (ii) any Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation;
 - (iii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
 - (iv) the Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence; and
 - (v) the regulations.
- (d) An agent or contractor of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations who
- (i) is in possession of valid Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation, and
 - (ii) is permitted under a contract with the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to sell fish or aquatic plants on its behalf
- may transport and sell fish or aquatic plants harvested in accordance with that documentation.

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- (e) Transport and sale of fish or aquatic plants authorized under subsection (d)
- (i) must be consistent with the conditions of the agent's or contractor's contract with the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
 - (ii) is subject to any applicable restrictions in any of the following:
 - (A) the Maa-nulth Harvest Agreement;
 - (B) any Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation;
 - (C) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
 - (D) a Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence and;
 - (E) the regulations.
- (f) Either
- (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation, authorized by regulation, may transport and sell fish or aquatic plants harvested in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation.
- (g) Transport and sale of fish or aquatic plants authorized under subsection (f) is subject to any applicable restrictions in any of the following:
- (i) the Maa-nulth Harvest Agreement;
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation;
 - (iii) a licence issued by the minister as contemplated in the Maa-nulth Harvest Agreement;
 - (iv) a Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence; and
 - (v) the regulations.

Sale of wildlife

- 3.2** (a) A person may only sell wildlife or wildlife parts, including meat and furs, harvested under the right to harvest wildlife if
- (i) permitted by and in accordance with federal law or provincial law, and

- (ii) that person has first been issued documentation to do so by the director.
- (b) The director may issue documentation to a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee to sell wildlife and wildlife parts, including meat and furs, harvested under the Ka:'yu:'k't'h'/Che:k'tles7et'h' right to harvest wildlife in the prescribed manner and form.

Sale of migratory birds

- 3.3** (a) A person may only sell migratory birds harvested under the right to harvest migratory birds if
- (i) permitted by and in accordance with federal law or provincial law, and
 - (ii) that person has first been issued documentation to do so by the director.
- (b) A person may only sell inedible byproducts, including down, of migratory birds harvested under the right to harvest migratory birds if that person has first been issued documentation to do so by the director.
- (c) The director may issue documentation to a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee to sell migratory birds and inedible byproducts, including down, of migratory birds harvested under the right to harvest migratory birds, in the prescribed manner and form.

Transport of plants

- 3.4** The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may transport plants or the boughs, burls and roots of timber harvested under the right to gather plants, but such transport must be done in accordance with federal law and provincial law.

PART 4 - TRADE AND BARTER

Trade and barter of fish or aquatic plants

- 4.1 (a) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may trade or barter fish or aquatic plants harvested under the right to harvest fish and aquatic plants if the trade or barter is between
- (i) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and another Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (iii) either
 - (A) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (B) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrolleeand aboriginal people.
- (b) A Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only trade or barter the fish or aquatic plants referred to in subsection (a) as permitted under subsection (a)(i), (a)(ii) or (a)(iii).
- (c) A person who, for the purpose of trade or barter, transports fish or aquatic plants harvested under the right to harvest fish and aquatic plants,
- (i) must first ensure that those fish or aquatic plants are prescribed as being fish or aquatic plants that are available for trade or barter, and
 - (ii) may only transport those fish or aquatic plants if they are so prescribed and that person has been issued documentation in that person's name authorizing that transport.

Trade and barter of wildlife and migratory birds

- 4.2 (a) In this section, "wildlife or migratory birds" means
- (i) wildlife and wildlife parts, including meat and furs, harvested under the right to harvest wildlife, and
 - (ii) migratory birds and the inedible byproducts of migratory birds, including down, harvested under the right to harvest migratory birds.

- (b) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may trade and barter wildlife or migratory birds if the trade or barter is between
- (i) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and another Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (iii) either
 - (A) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (B) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and aboriginal people resident in British Columbia.
- (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only trade or barter the wildlife or migratory birds contemplated in subsection (b) as permitted under that subsection.
- (d) A person who, for the purpose of trade or barter, transports any wildlife or migratory birds
- (i) must first ensure that the wildlife or migratory birds are prescribed as being wildlife or migratory birds that are available for trade or barter, and
 - (ii) may only transport the wildlife or migratory birds if they are so prescribed.

Trade or barter of plants

- 4.3** (a) In this section, “plants” means plants and the boughs, burls and roots of timber harvested under the right to gather plants.
- (b) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may trade and barter plants if the trade or barter is between
- (i) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and another Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee and Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
 - (iii) either

- (A) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
- (B) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee
and aboriginal people resident in British Columbia.
- (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only trade or barter the plants contemplated in subsection (b) as permitted under that subsection.
- (d) A person who, for the purpose of trade or barter, transports any plants
 - (i) must first ensure that the plants are prescribed as being plants that are available for trade or barter, and
 - (ii) may only transport the plants if they are so prescribed.

Exchange of regalia or traditional or artistic objects made from plants

- 4.4**
- (a) In this section, “plants” means plants and the boughs, burls and roots of timber harvested under the right to gather plants.
 - (b) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and every Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may exchange regalia or traditional or artistic objects made from plants,
 - (i) in the case of Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, with Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees or one or more other Nuu-chah-nulth individuals, or
 - (ii) in the case of Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees, with one or more other Nuu-chah-nulth individuals.
 - (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee may only exchange the regalia or traditional or artistic objects referred to in subsection (b) as permitted under that subsection and in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law.

PART 5 - ADMINISTRATION AND MANAGEMENT

Director's authority

- 5.1 (a) The chief administrative officer may, by Order, appoint managers.
- (b) Upon the approval of the chief administrative officer, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to
- (i) another Ka:'yu:'k't'h'/Che:k'tles7et'h' director,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government employee, or
 - (iii) an independent contractor of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (c) Despite the delegation of any duties or powers under subsection (b), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Director's duties

- 5.2 The director is responsible for
- (a) managing Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries, including, for certainty, fishing under
 - (i) the right to harvest fish and aquatic plants,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation authorized by a commercial fishing licence issued in accordance with the Maa-nulth Harvest Agreement, and
 - (iii) any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence,
 - (b) managing all harvesting carried out under any treaty harvesting right,
 - (c) exercising the director's authority, and
 - (d) performing the director's duties in a manner consistent with
 - (i) the Maa-nulth Treaty,
 - (ii) this Act,
 - (iii) any applicable harvest plan, and

- (iv) policies adopted by the director.

Director's administrative duties and powers

5.3 The director

- (a) may issue
 - (i) Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation,
 - (ii) Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (iii) Ka:'yu:'k't'h'/Che:k'tles7et'h' hunting documentation, and
 - (iv) Ka:'yu:'k't'h'/Che:k'tles7et'h' park gathering documentation,
- (b) must direct the annual accounting of fish harvesting required by the Maa-nulth Treaty,
- (c) may propose enhancement initiatives, including seeking recommendations of the joint fisheries committee or wildlife council and the approval of the Executive and the minister concerning those enhancement initiatives,
- (d) must carry out enhancement initiatives approved by the Executive and the minister,
- (e) must direct studies or other activities approved by the Executive,
- (f) must oversee the process of the development and implementation of any harvest plans, and
- (g) may establish a hunter training program for Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees.

Necessary actions after consulting Executive

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

- (iii) permitting or prohibiting the harvesting or sale of any species of fish, aquatic plants, wildlife or migratory birds harvested under a treaty harvesting right,
 - (iv) cooperating with federal and provincial officials to fulfill the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations obligations under the Maa-nulth Treaty in accordance with any agreements reached between the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and Canada or British Columbia,
 - (v) enforcing the provisions of this Act and the Maa-nulth Treaty in relation to harvesting under a treaty harvesting right.
- (b) The director may, by directive if reasonably necessary in the circumstances, prohibit any person from harvesting, transporting, selling or engaging in trade or barter of anything harvested under a treaty harvesting right until the person satisfies the director that the person has the right to do so.

Appointment and authority of resource management officers

- 5.5**
- (a) For the purposes of this Act, the Executive may, by Order, designate individuals, or individuals in a class of individuals, as resource management officers.
 - (b) The Executive may limit and define, in any manner the director considers appropriate, the powers that resource management officers may exercise under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment.
 - (c) The director may assign duties to resource management officers, including
 - (i) ensuring that any individual who is harvesting under a treaty harvesting right in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory is properly documented and authorized to carry out that activity,
 - (ii) ensuring that any harvesting under a treaty harvesting right that takes place in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory is in compliance with this Act, the applicable harvest plan and the Maa-nulth Treaty,
 - (iii) the monitoring of harvesting activities, including the verification of what is harvested under a treaty harvesting right or harvested under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (iv) the examination and measurement of fishing or hunting gear, the recording of scientific data and observations and the taking of samples,
 - (v) the monitoring of the landing of fish and the verification of the species and the size or weight of fish caught and retained, and

- (vi) conducting biological examination and sampling of what is harvested under a treaty harvesting right.
- (d) The director must provide each resource management officer with a document in the form approved by the director
 - (i) certifying the resource management officer's designation, and
 - (ii) if the resource management officer's powers are limited under subsection (b), specifying the powers that the he or she may exercise.
- (e) On entering any place as permitted under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, a resource management officer, on request, must show the certificate of designation to the person in charge of the place.

PART 6 - HARVESTING OPPORTUNITIES

Regulations respecting harvesting opportunities

- 6.1 (a) In addition to the authority provided under section 9.1, the Executive may, by regulation,
- (i) provide for the distribution among Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees of harvesting opportunities under the treaty harvesting rights and under the Maa-nulth Harvest Agreement, and
 - (ii) specify
 - (A) particular individuals or classes of individuals that may harvest fish and aquatic plants, and
 - (B) particular vessels or classes of vessels to be used for that harvest by those individuals or classes of individuals under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation.
- (b) In a regulation under this section, the Executive must take into account
- (i) the collective interests of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations,
 - (ii) what may be available for harvest by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations under a treaty harvesting right,
 - (iii) the estimated requirements for what is harvested under a treaty harvesting right for both
 - (A) Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees who are ordinarily resident on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, and
 - (B) Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees who are not ordinarily resident on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (iv) available information about the annual harvest of what is harvested under a treaty harvesting right by Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees, and
 - (v) any other matter the Executive considers to be relevant.

Advisory committee

- 6.2 (a) The Executive may appoint a committee of persons responsible for providing advice and recommendations to the Executive regarding harvesting under a treaty harvesting right or harvesting under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation.

- (b) A committee appointed under subsection (a) must include the director and at least one member of the Executive and may include other persons who are not members of the Executive.

Director's responsibilities respecting harvesting opportunities

6.3 The director, taking into account sections 1.6 and 1.7, must manage the methods, timing and locations of harvesting under a treaty harvesting right, the applicable harvest plan and a Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence in a way that, to the extent practicable,

- (a) provides fair and reasonable opportunities for Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees to harvest
- (i) fish and aquatic plants at locations within the domestic fishing area or inter-tidal bivalve harvest area,
 - (ii) at locations within the wildlife harvest area,
 - (A) wildlife of any designated wildlife species, and
 - (B) migratory birds in any designated migratory bird population, and
 - (iii) plants and the boughs, burls and roots of timber in provincial protected areas within Ka:'yu:'k't'h'/Che:k'tles7et'h' territory, and
- (b) achieves the distribution of harvesting opportunities provided for by the Executive under section 6.1.

Allocation of salmon

- 6.4** (a) The Executive may from time to time, subject to federal law and provincial law, by written direction to the director determine for each year or portion of a year
- (i) the portion of that year's harvest under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation that is to be used for food, social or ceremonial purposes,
 - (ii) the portion of that year's harvest under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation that is to be available for sale, and
 - (iii) the percentage of the portion referred to in paragraph (ii) that may be harvested and sold on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (b) The director must manage the methods, timing and locations of harvesting in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries in a way that, to the extent it is

practicable to do so, achieves the apportionment of each year's Ka:'yu:'k't'h'/Che:k'tles7et'h' fish allocations as determined by the Executive under subsection (a).

Agreements with other governments

- 6.5 (a) The Executive may negotiate agreements which are necessary or advisable for the purposes of this Act, including
- (i) with the other Maa-nulth First Nations respecting
 - (A) the joint fisheries committee,
 - (B) allocation of harvests under their joint right to harvest fish and aquatic plants,
 - (C) allocation of licences issued under the Maa-nulth Harvest Agreement,
 - (D) stock assessment activities,
 - (E) ocean management,
 - (F) enhancement initiatives, and
 - (G) joint monitoring or enforcement of fisheries related matters,
 - (ii) with the minister
 - (A) to adjust the species composition of the harvest under Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries in any given year,
 - (B) in relation to harvesting outside the domestic fishing area,
 - (C) in relation to new emerging commercial fisheries as contemplated in 10.2.5 and 10.2.6 of Chapter 10 Fisheries of the Maa-nulth Treaty,
 - (D) in relation to the harvest of surplus fish in any given year, or
 - (E) in relation to the harvest of fish by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that result from enhancement initiatives,
 - (iii) with Canada or British Columbia in relation to

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- (A) the enforcement of federal, provincial or Ka:'yu:'k't'h'/Che:k'tles7et'h' law in relation to fisheries, wildlife, migratory birds and provincial protected areas,
 - (B) Ka:'yu:'k't'h'/Che:k'tles7et'h' fish allocations of other fish species or aquatic plants,
 - (C) consultations by either or both of those governments with, and advice to them by, the Ka:'yu:'k't'h'/Che:k'tles7et'h' government on matters affecting the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in relation to a provincial protected area that is in or partly in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory,
 - (D) developing cooperative working relationships in relation to fisheries and wildlife management,
 - (E) developing cooperative working relationships in relation to co-management of provincial protected areas wholly or partially within Ka:'yu:'k't'h'/Che:k'tles7et'h' territory,
 - (F) harvesting, conserving and managing wildlife and migratory birds,
- (iv) with British Columbia in relation to
 - (A) Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations contributions to any provincial fund dedicated to
 - (I) conservation of fish, wildlife and migratory birds, or
 - (II) habitat protection, or
 - (B) the development of cooperative working relationships in Ka:'yu:'k't'h'/Che:k'tles7et'h' territory, or
 - (v) with Canada in relation to access to migratory birds and their conservation and harvesting by Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees on land owned or in use by a federal department or agency.
- (b) An agreement negotiated under subsection (a) must be ratified by the Legislature for it to be a valid and binding agreement on the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

Agreements with first nations

- 6.6** (a) The Executive may, in consultation with the Ha'wiih Advisory Council, negotiate agreements that are necessary or advisable with first nations, other than another Maa-nulth First Nation, or other aboriginal people

- (i) in relation to
 - (A) harvesting fish or aquatic plants in the domestic fishing area,
 - (B) the harvesting of wildlife in the wildlife harvest area under the right to harvest wildlife by the members of that first nation or other aboriginal people in accordance with a wildlife sharing agreement,
 - (C) the harvesting, conservation and management of fish, wildlife, migratory birds, plants and the boughs, burls and roots of timber, or
 - (D) a Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation of a designated wildlife species or of a designated migratory bird population, or
 - (ii) for the purposes of managing habitat critical for the conservation of fish, wildlife, migratory birds, threatened and endangered species.
- (b) An agreement negotiated under subsection (a) must be ratified by the Legislature for it to be a valid and binding agreement on the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

Request for species designation

6.7 The Executive may

- (a) request a review by the minister of the Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation of a designated species,
- (b) request that any species of wildlife or migratory bird be designated under the Maa-nulth Treaty, and
- (c) propose any Ka:'yu:'k't'h'/Che:k'tles7et'h' allocation of a designated wildlife species or designated migratory bird population.

Treaty harvesting rights outside of Ka:'yu:'k't'h'/Che:k'tles7et'h' territory

- 6.8** (a) The Executive may negotiate protocol agreements with neighbouring Maa-nulth First Nations regarding the allocation of wildlife harvesting opportunities for Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees in locations outside of Ka:'yu:'k't'h'/Che:k'tles7et'h' territory so that Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees may exercise the Ka:'yu:'k't'h'/Che:k'tles7et'h' right to harvest wildlife in those locations.
- (b) A protocol agreement negotiated under subsection (a) must be ratified by the Legislature for it to be a valid and binding agreement on the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

PART 7 - JOINT MANAGEMENT

Representation on joint fisheries committee

- 7.1 (a) The Executive must, by Order, appoint one individual to act as the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations' representative on the joint fisheries committee.
- (b) The Executive may assign additional individuals to participate in meetings of the joint fisheries committee in order to support or assist the Ka:'yu:'k't'h'/Che:k'tles7et'h' representative to the joint fisheries committee.
- (c) The Executive may, by Order, appoint an alternate Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee to represent the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations on the joint fisheries committee where the Ka:'yu:'k't'h'/Che:k'tles7et'h' representative appointed under subsection (a) is unable to attend a meeting of the joint fisheries committee.
- (d) Any Ka:'yu:'k't'h'/Che:k'tles7et'h' representative to the joint fisheries committee must represent the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in accordance with the direction of the Executive.

Representation on wildlife council

- 7.2 (a) The Executive must, by Order, appoint one individual to act as the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations' representative on the wildlife council.
- (b) The Executive may assign additional individuals to participate in meetings of the wildlife council in order to support or assist the Ka:'yu:'k't'h'/Che:k'tles7et'h' representative to the wildlife council.
- (c) The Executive may, by Order, appoint an alternate Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee to represent the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations on the wildlife council where the Ka:'yu:'k't'h'/Che:k'tles7et'h' representative appointed under subsection (a) is unable to attend a meeting of the wildlife council.
- (d) Any Ka:'yu:'k't'h'/Che:k'tles7et'h' representative to the wildlife council must represent the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in accordance with the direction of the Executive.

Fish harvest plans

- 7.3 Each year, before the date specified in the Maa-nulth fisheries operational guidelines, the director must prepare for approval and adoption by the Executive recommendations in relation to those matters contemplated in 10.4.29 of Chapter 10 Fisheries of the

Maa-nulth Treaty to be made on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to be included in the annual fishing plan for harvesting carried out by designated Ka:'yu:'k't'h'/Che:k'tles7et'h' individuals under the right to harvest fish and aquatic plants.

Wildlife harvest plans

- 7.4** Each year, before the prescribed date, the director must prepare for approval and adoption by the Executive recommendations in relation to those matters contemplated in 11.9.2 and 11.9.3 of Chapter 11 Wildlife of the Maa-nulth Treaty to be made on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to be included in the wildlife harvest plan for harvesting under the right to harvest wildlife.

Delivery of harvest plans

- 7.5** By the prescribed date, the director must forward
- (a) the recommendations on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to be included in the proposed annual fishing plan contemplated in section 7.3, adopted by the Executive, to the Maa-nulth fisheries committee, and
 - (b) the proposed wildlife harvest plan contemplated in section 7.4, adopted by the Executive, to the wildlife council.

Provincial protected area gathering and management plans

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

PART 8 - OFFENCES AND RIGHT OF REVIEW

Offences and penalties

8.1 A person who

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

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

Repeat offences

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

Offences created by regulation

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

- (i) a contravention of a regulation is an offence, and
- (ii) a person convicted of an offence for a contravention of a regulation is liable to a fine not exceeding \$10,000.

- (b) If the maximum fine prescribed under a regulation referred to in subsection (a) is less than that provided by a provision of this Act, then the regulation prevails.

Right of review

8.4 (a) A person whose application under section 2.6 for Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation is refused by the director or whose documentation is suspended or revoked under section 2.9 by the director may apply to the Administrative Decisions Review Board for a review of that decision.

- (b) The Administrative Decisions Review Board must conduct the review and, by order, may

- (i) confirm the director's decision to refuse the application or to suspend or revoke the documentation, or

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

PART 9 - GENERAL PROVISIONS

Regulations

- 9.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) For certainty, the powers of the Executive under subsection (a) include the power to make regulations
- (i) for any purpose in relation to which regulations are provided for in this Act,
 - (ii) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
 - (iii) respecting the form and content of applications, notices and reports that are required or permitted under this Act,
 - (iv) defining words and expressions that are used but not defined in this Act, and
 - (v) generally for the purpose of giving effect to this Act.
- (c) For certainty, the powers of the Executive under subsection (a) also include the power to make regulations as follows:
- (i) respecting Ka:'yu:'k't'h'/Che:k'tles7et'h' harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation, including regulations
 - (A) prescribing fees for applications for harvesting documentation or Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation or for their issuance,
 - (B) respecting the form and content of
 - (I) applications for harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation, and
 - (II) harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (C) requiring applicants for harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation

- to provide, at the time of application or before issuance of them, specified information or documentation pertaining to them,
- (D) prescribing conditions and restrictions applicable in relation to harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (E) specifying the terms of harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (F) respecting the suspension of harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation,
 - (G) prescribing the procedure for suspending harvesting documentation and Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation and the effect of suspensions,
 - (H) respecting the issuance of Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation to persons who are not Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees, and
 - (I) respecting the amendment or correction of harvesting documentation or Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation;
- (ii) prescribing requirements respecting the methods, timing and locations of
 - (A) harvesting in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries, and
 - (B) harvesting of wildlife and migratory birds;
 - (iii) delegating to the director the discretion to vary the requirements prescribed under paragraph (ii) to suit the circumstances of a particular case;
 - (iv) respecting the distribution among Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees of
 - (A) fish and aquatic plants harvested under the right to harvest fish and aquatic plants or under the Maa-nulth Harvest Agreement or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing licence, and
 - (B) wildlife harvested under the right to harvest wildlife;
 - (v) the designation of individuals and vessels to harvest

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- (A) fish and aquatic plants under the right to harvest fish and aquatic plants or under the Maa-nulth Harvest Agreement, or
 - (B) wildlife under the right to harvest wildlife;
 - (vi) the designation of individuals to harvest fish and aquatic plants under
 - (A) Ka:'yu:'k't'h'/Che:k'tles7et'h' fishing documentation, or
 - (B) Maa-nulth harvest documentsthat are issued to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations by the minister;
 - (vii) respecting the documenting of
 - (A) individuals and vessels designated by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest fish and aquatic plants under the right to harvest fish and aquatic plants, and
 - (B) Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees designated by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to harvest wildlife under the right to harvest wildlife;
 - (viii) respecting the management of wildlife habitat on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
 - (ix) respecting how wildlife, including wildlife parts, harvested under the right to harvest wildlife, may be
 - (A) identified as to type, and
 - (B) transported by a person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee;
 - (x) respecting
 - (A) the trade or barter of fish, aquatic plants, wildlife, migratory birds, plants and the boughs, burls and roots of timber, and
 - (B) their identification and the identification of their parts;
 - (xi) respecting the sale of
 - (A) fish and aquatic plants harvested under Ka:'yu:'k't'h'/Che:k'tles7et'h' commercial fishing documentation, and

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- (B) harvested wildlife and migratory birds;
- (xii) respecting the registration of fishing vessels that may be used for harvesting, for the purposes of sale, in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries including regulations
- (A) prescribing fees for registration applications or for the registration of vessels,
 - (B) respecting the form and content of
 - (I) registration applications, and
 - (II) registrations under this Act,
 - (C) requiring applicants for registration to provide, at the time of application or before the registrations applied for, specified information or documentation pertaining to the registrations,
 - (D) prescribing conditions and restrictions applicable in relation to registrations,
 - (E) specifying terms and conditions of registrations,
 - (F) respecting suspension of registrations,
 - (G) the procedure for suspending registrations under this Act,
 - (H) the effect of suspensions, amendment or correction of registrations,
 - (I) the identification of registered fishing vessels, and
 - (J) the change of ownership of a registered fishing vessel;
- (xiii) specifying the type of fishing gear and identification of fishing gear that may be used for harvesting in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries;
- (xiv) respecting the dumping and wasting of fish;
- (xv) respecting the release of incidental catch;
- (xvi) respecting the cleaning of fishing gear and authority to permit the cleaning of fishing gear;
- (xvii) respecting the carrying out of inspections and examinations of harvesting activities;

- (xviii) respecting the alteration of aquatic habitat and activities conducted in aquatic habitat;
- (xix) prescribing landing and reporting requirements for harvesting fish and requirements related to the identification of harvested fish;
- (xx) respecting the designation of landing sites for fish harvested under authority of this Act and permitting the director to make those designations;
- (xxi) respecting the exchange of regalia or traditional or artistic objects, made from plants and the boughs, burls and roots of timber, harvested under the right to gather plants;
- (xxii) the taxation of, or levies associated with, the sale of fish harvested in Ka:'yu:'k't'h'/Che:k'tles7et'h' fisheries.

Commencement

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

LEGISLATIVE HISTORY

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

Amendments

Section	Amendment	In Force
2.1(k), 5.1(a), 5.4(a), 5.5(a), 7.1(a), 7.1(c), 7.2(a), 7.2(c) and 8.1(b)	KCFNS 36/2014, s.4.11(a)	December 19, 2014
5.4(b)	KCFNS 36/2014, s.4.11(b)	December 19, 2014
1.3	KCFNS 44/2016, s.2.1	September 22, 2016
2.12	KCFNS 44/2016, s.2.1	September 22, 2016

Amending Acts:

KCFNS 36/2014	Enforcement Framework Amendment Act No. 2 enacted December 19, 2014
KCFNS 44/2016	Resources Harvesting Act (Documentation Renewal) Amendment Act enacted September 22, 2016

Regulations enacted under this Act:

KCFNR 5/2011	Fisheries Regulation
KCFNR 7/2011	Wildlife and Migratory Birds Regulation