

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

FINANCIAL ADMINISTRATION ACT  
AMENDMENT ACT

KCFNS 58/2020



This law enacted on Oct 7, 2020

Signed Christina Cox  
Christina Cox, Tyee Ha'wilth,  
Ka:'yu:'k't'h' First Nation

Signed Francis Gillette  
Francis Gillette, Tyee Ha'wilth,  
Che:k'tles7et'h' First Nation

Signed Kevin Jules  
Kevin Jules, Legislative Vice Chief,  
Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations

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ON 10 10 2020

[Signature]  
Signature of Clerk



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**TABLE OF CONTENTS**

**PART 1 - INTRODUCTORY PROVISIONS ..... 5**

    Short title .....5

    Executive oversight .....5

    Application .....5

**PART 2 - AMENDMENTS ..... 7**

    Amendments .....7

    Commencement .....9



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## PART 1 - INTRODUCTORY PROVISIONS

### Short title

1.1 This Act may be cited as the Financial Administration Act Amendment Act.

### Executive oversight

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

### Application

- 1.3 (a) This Act is enacted under
- (i) 13.11.1 of Chapter 13 of the Maa-nulth Treaty, and
  - (ii) sections 3.2(b) and (f) of the Constitution.
- (b) This Act amends the Financial Administration Act to enable the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to off-set money owing by any person to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.



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## PART 2 - AMENDMENTS

### Amendments

2.1 The Financial Administration Act is amended by adding the following section immediately following section 5.11:

“Off-set

5.12 (a) In this section,

“chief administrative officer’s decision” means a directive issued by the chief administrative officer under subsection (f);

“director’s decision” means a directive issued by the director under subsection (b);

“named person” means the person named in a directive under subsection (a) or subsection (f).

- (b) The director may, by directive, authorize the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to retain money, by way of off-set, out of any money due or payable by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to a person if
- (i) the person owes money to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
  - (ii) an overpayment has been made by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to the person.
- (c) The director must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a copy of the director’s decision to the named person.
- (d) A named person may, within 14 days of receipt of the director’s decision under subsection (c), apply to the chief administrative officer for a review of the director’s decision by filing an application with the chief administrative officer in the form approved by the chief administrative officer one or more of the following grounds:
- (i) the named person does not owe money to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or the amount determined to be owing is incorrect,

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- (ii) there has not been an overpayment by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to the named person or the amount determined to be overpaid is incorrect, or
    - (iii) there should be no off-set or the amount of the off-set should be reduced due to the financial hardship it would place on the named person.
  - (e) The chief administrative officer may gather the information he or she reasonably requires for the review of the director's decision.
  - (f) Upon receipt of an application under subsection (d), the chief administrative officer must expeditiously review the director's decision and must, by directive, in his or her absolute discretion,
    - (i) reverse or modify the director's decision with or without conditions, or
    - (ii) confirm the director's decision.
  - (g) The director must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a copy of the chief administrative officer's decision to the named person.
  - (h) A named person may, within 14 days of receipt of the chief administrative officer's decision under subsection (g), request a review of the chief administrative officer's decision under the Administrative Decisions Review Act one or more of the following grounds:
    - (i) the named person does not owe money to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or the amount determined to be owing is incorrect, or
    - (ii) there has not been an overpayment by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to the named person or the amount determined to be overpaid is incorrect.
  - (i) After conducting a review under subsection (h), the Administrative Decisions Review Board may
    - (i) dismiss the review request, or
    - (ii) cancel the director's decision and the chief administrative officer's decision."



## **Commencement**

**2.2** This Act comes into force on the date it is enacted.