

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

**EMERGENCY PREPAREDNESS ACT**

**KCFNS 60/2020**



This law enacted on April 9, 2020

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

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Signed Richard Leo  
Richard Leo, Legislative Chief,  
Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations

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ON 11e1 04, 2020  
M. Smith  
Signature of Clerk



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## PREAMBLE

The Ka:'yu:'k't'h'/Che:k'tles7et'h' government assumes the responsibility of providing measures to protect the health, safety and welfare of Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens and to protect Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for present and future generations of Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens. This includes assisting in the preparation for, response to and recovery from an emergency, health hazard or disaster on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or with present or imminent effects on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' government acknowledges that the rugged beauty of the West Coast of Vancouver Island can pose challenges to the management of emergencies, health hazards and disasters on and around Ka:'yu:'k't'h'/Che:k'tles7et'h' lands. Other governments, non-government agencies and the private sector may also have a role in preparing for, responding to and recovering from an emergency, health hazard or disaster that affects Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens or Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Under 13.26.2 of Chapter 13 Governance of the Maa-nulth Treaty, the Ka:'yu:'k't'h'/Che:k'tles7et'h' government has the rights, powers and duties of a local authority under federal or provincial law in respect of emergency preparedness and emergency measures on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, including the power to declare a state of local emergency on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Having clear lines of responsibility within the Ka:'yu:'k't'h'/Che:k'tles7et'h' government as well as an emergency plan to guide our emergency, health hazard and disaster preparedness, response and recovery measures are critical to ensuring those measures are timely, effective and coordinated.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' government adopts this Act based on these values and objectives.

PART 1 -

## INTRODUCTORY PROVISIONS

### Short title

- 1.1 This Act may be cited as the Emergency Preparedness Act.

### Executive oversight

- 1.1 The chairperson is responsible for the executive oversight of this Act.

### Authority and application

- 1.1 This Act is enacted under
- (i) 13.26.2 of Chapter 13 Governance of the Maa-nulth Treaty, and
  - (ii) section 3.2(bb) of the Constitution.
- (b) This Act applies to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and Ka:'yu:'k't'h'/Che:k'tles7et'h' foreshore.

### Definitions

- 1.1 In this Act,

“annual budget” has the meaning given to that term in the Financial Administration Act;

“disaster” means an event that

- (a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- (b) has resulted in serious harm to the health, safety or welfare of people, or in widespread damage to property;

“emergency” means a present or imminent event that

- (a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- (b) requires prompt coordination of action or special regulation of persons or property to protect the safety or welfare of people or to limit damage to property;

“emergency declaration” means a declaration of a state of local emergency made by the legislative chief under section 2.4(a) or a declaration of emergency or order made under the Emergencies Act (Canada), Public Health Act (British Columbia) or Emergency Program Act (British Columbia);

“emergency plan” means the plan approved by the Executive under section 3.1, as amended from time to time;

"health hazard" means

- (a) a condition, a thing or an activity that
  - (i) endangers, or is likely to endanger, public health, or
  - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, and
  - (iii) requires prompt coordination of action or special regulation of individuals to protect the health or welfare of individuals; or
- (c) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
  - (i) is associated with injury or illness, or
  - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

"Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration" means a declaration of a state of local emergency made by the legislative chief under section 2.4(a);

"Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency operations centre" means a centre established under section 3.4;

"Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program" means the program established under this Act;

"multi-year financial plan" has the meaning given to that term in the Financial Administration Act;

"named person" means a person named in a demand under section 3.8(a).



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## PART 2 - ADMINISTRATION

### Creation of emergency program

- 2.1** The emergency program of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is hereby established.

### Role of the Legislature

- 2.1** The Legislature must ensure that the annual budget provides sufficient financial resources for the Ka:'yu:'k't'h'/Che:k'tles7et'h' government to maintain an essential level of preparedness for emergencies, health hazards and disasters on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or with present or imminent effects on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

### Role of the Executive

- 2.1** The Executive is at all times responsible for the general direction and control of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program.
- (a) Without limiting subsection (a), the Executive must perform the following duties and may exercise the following powers from time to time where necessary or advisable:
- (i) provide strategic direction and oversight to the chief administrative officer, the director of community services and the director of lands and resources in connection with their duties and powers under this Act;
  - (ii) approve the emergency plan and any amendments to that plan;
  - (iii) enter into agreements on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to facilitate implementation of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program, including
    - (A) agreements with other governments for the purpose of emergency, health hazard or disaster assistance or the formulation of coordinated preparation for, response to or recovery from an emergency, health hazard or disaster, and
    - (B) agreements with individuals, bodies, corporations or non-government agencies for the provision of goods or services;
  - (iv) enact regulations or approve policies to facilitate implementation of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
  - (v) authorize or direct one or more of the response measures specified in section 3.5 while an emergency declaration is in effect;

- (vi) approve emergency expenditures requiring Executive approval under the Financial Administration Act; and
  - (vii) exercise any powers available to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations under federal or provincial law.
- (b) The Executive may delegate, in writing, the performance of any of the Executive's duties or the exercise of any of the Executive's powers under this Act to
- (i) a committee of the Executive,
  - (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 subsection (c), the Executive must not delegate its power to enact a regulation under this Act.
- (d) Despite the delegation of any duties or powers under subsection (c), the Executive remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

### **Role of the legislative chief**

**2.1** The legislative chief must perform the following duties and may exercise the following powers from time to time:

- (a) where necessary or advisable, make, extend or cancel a declaration of a state of local emergency on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands; and
- (b) where because of the circumstances of an emergency, health hazard or disaster, it is not possible to assemble a quorum of the Executive, and provided the legislative chief has made every effort to obtain the consent of the other members of the Executive,
  - (i) authorize or direct one or more of the response measures specified in section 3.5 while an emergency declaration is in effect, or
  - (ii) approve an emergency expenditure requiring Executive approval under the Financial Administration Act.

### **Role of the chief administrative officer**

**2.1** The chief administrative officer must perform the following duties and may exercise the following powers from time to time where necessary or advisable:

- (a) serve as director of any Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency operations centre;

- (b) approve emergency expenditures not requiring Executive approval under the Financial Administration Act; and
- (c) any other duties given, delegated or assigned under this Act or by the Executive.

### **Role of the director of community services**

**2.1** The director of community services must perform the following duties and may exercise the following powers from time to time where necessary or advisable:

- (a) provide leadership and administration for the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to health hazards, including overseeing the emergency preparedness coordinator in relation to health hazards;
- (b) in collaboration with the director of lands and resources, prepare a draft emergency plan and any proposed amendments to that plan for approval by the Executive;
- (c) maintain a current copy of the emergency plan at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative office at all times and inform the legislative chief and the chief administrative officer of the location of that copy;
- (d) provide information and recommendations to the Legislature, the Executive, the chief administrative officer and the director of finance regarding any components of the annual budget and the multi-year financial plan relating to the health hazard component of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
- (e) where necessary or advisable and subject to any direction from the Executive, negotiate and recommend arrangements or agreements to the Executive to facilitate implementation of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
- (f) where necessary or advisable, recommend actions, regulations or policies to the Executive to facilitate implementation of the health hazard component of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
- (g) coordinate implementation of any prevention or preparedness measures contemplated in the emergency plan or otherwise directed by the Executive, including
  - (i) training and exercises,
  - (ii) volunteer programs or planning,
  - (iii) information programs or sessions for the public or Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens, and
  - (iv) research regarding, and measures to eliminate or minimize, actual or potential health hazards on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;

- (h) in the event of a health hazard occurring on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or with present or imminent effects on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, regardless of whether an emergency declaration has been made,
  - (i) coordinate implementation of any response or recovery measures contemplated in the emergency plan or otherwise directed by the Executive, the legislative chief under section 2.4 or the chief administrative officer, and
  - (ii) coordinate Ka:'yu:'k't'h'/Che:k'tles7et'h' government response and recovery measures with those of other governments, non-government agencies and the private sector;
- (i) at any time upon request, report the status of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to health hazards to the Legislature, the Executive or the chief administrative officer;
- (j) at any time upon request, report the status of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to health hazards to Canada or British Columbia; and
- (k) any other duties given, delegated or assigned under this Act or by the Executive.

### **Role of the director of lands and resources**

**2.1** The director of lands and resources must perform the following duties and may exercise the following powers from time to time where necessary or advisable:

- (a) provide leadership and administration for the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to emergencies and disasters, including overseeing the emergency preparedness coordinator in relation to emergencies and disasters;
- (b) in collaboration with the director of community services, prepare a draft emergency plan and any proposed amendments to that plan for approval by the Executive;
- (c) provide information and recommendations to the Legislature, the Executive, the chief administrative officer and the director of finance regarding any components of the annual budget and the multi-year financial plan relating to the emergency and disaster components of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
- (d) where necessary or advisable and subject to any direction from the Executive, negotiate and recommend arrangements or agreements to the Executive to facilitate implementation of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;
- (e) where necessary or advisable, recommend actions, regulations or policies to the Executive to facilitate implementation of the emergency and disaster components of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program;

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- (f) coordinate implementation of any prevention or preparedness measures contemplated in the emergency plan or otherwise directed by the Executive, including
- (i) training and exercises,
  - (ii) volunteer programs or planning,
  - (iii) information programs or sessions for the public or Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens, and
  - (iv) research regarding, and measures to eliminate or minimize, actual or potential emergencies or disasters on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
- (g) in the event of an emergency, health hazard or disaster on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or with present or imminent effects on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, regardless of whether an emergency declaration has been made,
- (i) coordinate implementation of any response or recovery measures contemplated in the emergency plan or otherwise directed by the Executive, the legislative chief under section 2.4 or the chief administrative officer, and
  - (ii) coordinate Ka:'yu:'k't'h'/Che:k'tles7et'h' government response and recovery measures with those of other governments, non-government agencies and the private sector;
- (h) at any time upon request, report the status of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to emergencies and disasters to the Legislature, the Executive or the chief administrative officer;
- (i) at any time upon request, report the status of the Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency program in relation to emergencies and disasters to Canada or British Columbia; and
- (j) any other duties given, delegated or assigned under this Act or by the Executive.



## PART 3 - PREPAREDNESS, RESPONSE AND RECOVERY

### Emergency plan

- 3.1** Within one year of the coming into force of this Act, the Executive must approve a plan respecting the preparation for, response to and recovery from an emergency, health hazard or disaster on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or with present or imminent effects on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.
- (a) The Executive must annually review the emergency plan and may, from time to time, amend the emergency plan.

### Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration

- 3.1** A Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration must
- (i) only be made by the legislative chief, by Order,
- (ii) identify the nature of the emergency, and
- (iii) specify the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands on which the emergency exists or is imminent.
- (b) If the legislative chief makes a Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration, the legislative chief must as soon as practicable after making the declaration convene an Executive meeting to assist in directing the response to the emergency.
- (c) Immediately after a Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration is made, the legislative chief must ensure
- (i) a copy of the declaration is provided to Canada, British Columbia and the Strathcona Regional District, and
- (ii) the details of the declaration are posted, published or otherwise communicated by a means of communication that the legislative chief considers most likely to make the contents of the declaration known to the population of the affected area.
- (d) A Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency declaration expires fourteen days from the date it is made unless
- (i) it is earlier cancelled by the legislative chief in accordance with this Act,
- (ii) it is earlier cancelled by Canada or British Columbia in accordance with federal or provincial law,
- (iii) it earlier ceases to have force or effect under federal or provincial law, or

- (iv) it is extended by the legislative chief in accordance with this Act or federal or provincial law.
- (e) Subsections (a) and (c) apply to each extension or cancellation of an emergency declaration, with necessary changes in the details.

### **Federal and provincial states of emergency**

- 3.1** For certainty, a declaration of emergency or order made under the Emergencies Act (Canada), Public Health Act (British Columbia) or Emergency Program Act (British Columbia) applicable to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands is deemed to be an emergency declaration for the purposes of interpreting this Act.

### **Emergency operations centre**

- 3.1** If an emergency declaration has been made or if otherwise directed by the Executive, the chief administrative officer must
- (a) establish and maintain an emergency operations centre at a location specified in the declaration or direction or, if no location is specified, at a location approved by the legislative chief, and
  - (b) serve as director of that emergency operations centre.

### **Response measures**

- 3.1** While an emergency declaration is in effect, the Executive may do all acts and implement all procedures that it considers necessary or advisable to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster, including any or all of the following:
- (i) provide directions to the chief administrative officer, director of community services or the director of lands and resources regarding implementation of the emergency plan;
  - (ii) authorize or require any person to render assistance of a type that the person is qualified to provide or that otherwise is or may be required to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster;
  - (iii) control or prohibit travel to or from any area of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
  - (iv) cause the evacuation of persons and the removal of livestock, animals and personal property from any area of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that is or may be affected by an emergency or a disaster and make arrangements for the adequate care and protection of those persons, livestock, animals and personal property;



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- (v) designate a place as a quarantine facility if the Executive reasonably believes that the temporary use of the place for the purposes of isolating or detaining individuals is necessary to protect public health and, if so designated, a person who has control of a place designated as a quarantine facility must provide the place to the Ka:'yu:'k't'h'/Che:k'tles7et'h' government;
  - (vi) detain and quarantine an individual in a quarantine facility;
  - (vii) acquire or use any land or personal property considered necessary to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster;
  - (viii) provide for the restoration of essential facilities and the distribution of essential supplies and provide, maintain and coordinate emergency medical, welfare and other essential services on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
  - (ix) authorize the entry into any building or on any land, without warrant, by any person in the course of implementing the emergency plan or if otherwise considered by the Executive to be necessary to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster;
  - (x) cause the demolition or removal of any trees, structures or crops if the demolition or removal is considered by the Executive to be necessary or appropriate in order to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster;
  - (xi) construct works considered by the Executive to be necessary or appropriate to prevent, respond to or alleviate the effects of an emergency, health hazard or disaster;
  - (xii) procure, fix prices for or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources or equipment on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for the duration of the state of emergency; and
  - (xiii) enforce on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands or Ka:'yu:'k't'h'/Che:k'tles7et'h' foreshore an order made under the Emergencies Act (Canada), Public Health Act (British Columbia) or the Emergency Program Act (British Columbia).
- (b) Despite subsection (a), if in accordance with federal or provincial law, Canada or British Columbia order the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to refrain or desist from implementing a response measure,
- (i) the Executive must not authorize or direct implementation of that response measure, or

- (ii) if the Ka:'yu:'k't'h'/Che:k'tles7et'h' government has already commenced implementation of that response measure, the Executive must ensure implementation of the response measure is halted.

### **Mandatory assistance**

- 3.1** If the Executive under section 3.5 or the legislative chief under section 2.4 makes an Order requiring a person to provide assistance, the person named in the Order must provide the assistance required in the Order.

### **Compensation for loss**

- 3.1** If a person suffers a loss as a result of any action taken by or under direction of the Executive, the legislative chief, the chief administrative officer, the director of community services or the lands and resources director under this Act, the Ka:'yu:'k't'h'/Che:k'tles7et'h' government must compensate that person for the loss in accordance with applicable federal or provincial law.

### **Recovery of costs**

- 3.1** If an emergency, health hazard or disaster is threatened or caused in whole or in part by the acts or omissions of a person and expenditures are made by the Ka:'yu:'k't'h'/Che:k'tles7et'h' government to prevent, respond to or alleviate the effects of the emergency, health hazard or disaster,
- (i) the chief administrative officer may deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a demand to that person requiring him or her to pay the Ka:'yu:'k't'h'/Che:k'tles7et'h' government the portion of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government's expenditures attributable to his or her acts or omissions, and
  - (ii) that person must pay the Ka:'yu:'k't'h'/Che:k'tles7et'h' government the amount specified in the demand within the time period specified in the demand.
- (b) A demand under subsection (a) must
- (i) describe the named person's acts or omissions,
  - (ii) provide a breakdown of the portion of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government's expenditures attributable to the named person's acts or omissions, including supporting receipts or invoices, and
  - (iii) specify the time period in which the amount demanded must be paid.
- (c) No later than 14 days after receipt of a demand under subsection (a), the named person may request a review of the demand by the Administrative Decisions Review Board.

- (d) An amount demanded under subsection (a) is a debt owing by the named person to the Ka:'yu:'k't'h'/Che:k'tles7et'h' government and may be collected by the Ka:'yu:'k't'h'/Che:k'tles7et'h' government in accordance with sections 5.6 to 5.11 of the Financial Administration Act.
- (e) Nothing in subsection (a) relieves a person from any other liability.



## PART 4 - GENERAL PROVISIONS

### Regulations

- 4.1** The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (a) Without limiting subsection (a), the Executive may make regulations respecting
- (i) implementation of the emergency plan,
  - (ii) the establishment or operation of any Ka:'yu:'k't'h'/Che:k'tles7et'h' emergency operations centre, or
  - (iii) the establishment or implementation of a disaster financial assistance fund for Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens.

### Offence

- 4.1** A person who
- (a) contravenes this Act or the regulations, or
- (b) interferes with or obstructs any person in the exercise of any power or the performance of any duty conferred or imposed under this Act

commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months.

### Consequential amendments

- 4.1** The Legislature Rules of Order and Procedure Act is amended by repealing section 14.1(a) and substituting the following:
- “14.1 (a) In accordance with section 2.20 of the Constitution, the following executive portfolios are established:
- (i) the office of legislative vice-chief;
  - (ii) the finance portfolio;
  - (iii) the community services portfolio;
  - (iv) the education portfolio; and
  - (v) the lands and resources portfolio.”

- (a) The Interpretation Act is amended by adding to section 3.3, in alphabetical order, the following definitions:

““legislative chief” means the legislative vice-chief in circumstances where

- (a) the legislative chief has asked the legislative vice-chief to perform the duties and exercise the powers of the legislative chief under Ka:'yu:'k't'h'/Che:k'tles7et'h' law,
- (b) the legislative chief is unable to exercise the powers or perform the duties, or to continue to exercise the powers or perform the duties, of the legislative chief under a Ka:'yu:'k't'h'/Che:k'tles7et'h' law as determined by the legislative vice-chief, acting reasonably, and that determination is confirmed by a quorum of the Executive within 24 hours of that determination, or
- (c) the legislative chief fails to exercise a power or perform a duty, or fails to continue to exercise the powers or perform the duties, of the legislative chief under a Ka:'yu:'k't'h'/Che:k'tles7et'h' law within 24 hours of being asked by a quorum of the Executive to do so;” and

““legislative vice-chief” means the office with that name established under section 14.1(a) of the Legislature Rules of Order and Procedure Act or the individual appointed to hold that office.””

## Commencement

- 4.1** Subject to subsection (b), this Act comes into force on the date it is enacted.
- (a) Section 4.3(b) is deemed to have come in force on April 16, 2019 and is retroactive to the extent necessary to give it effect on and after that date.