

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

LAND ACT

KCFNS 69/2022



This law enacted on November 21, 2022

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<u>Marcy Boyd</u> Signature of Clerk

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PREAMBLE

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assert that we have occupied, benefited from and governed our 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 the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and we honour our connection to the lands, waters and resources of our traditional territories which provide for our physical and spiritual needs.

Through our inherent right to self-government, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have preserved and protected our traditional territories and we accept the obligations and responsibilities inherent in governing Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and we pledge to protect Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for future generations of our citizens.

It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that we promote a healthy and prosperous future that ensures the continued existence of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as strong political, social and cultural communities that aspire to grow as organized, determined, successful and self-reliant peoples.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations value the need to respect, protect and promote our heritage, culture and traditions which form the basis of our success and our destiny while understanding that these practices may change and require contemporary expression.

It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that our Ka:'yu:'k't'h'/Che:k'tles7et'h' lands 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 to provide a home for our Ka:'yu:'k't'h'/Che:k'tles7et'h' peoples forever.

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

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Land 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.

Application

1.3 Unless otherwise provided in this Act, this Act applies to all Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Definitions

1.4 In this Act,

“acquire” means obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

“applicant” means a person applying for a disposition under section 4.16;

“approving officer” means the director;

“appurtenant lands” or “lands appurtenant to” means, in relation to an existing or proposed interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are or are proposed to be subject to the interest or licence and includes any part of those lands less than the whole;

“community lands” means Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are not

(a) Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, the owner of which is a person other than the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or

(b) subject to a lease;

“community purpose” means a purpose the achievement of which will directly or indirectly benefit the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens or persons residing on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;

“community works” means works the establishment or continuation of which will directly or indirectly benefit the Ka:’yu:’k’t’h’/Che:k’tles7et’h’ First Nations, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ citizens or persons residing on Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands;

“construction purpose” includes the building of a road, berm, foundation or wall;

“conventional boundary” means a boundary consisting of a straight line or a series of straight lines of fixed direction and length conforming as nearly as possible to the natural boundary, but eliminating minor sinuosities;

“director” means the director of lands and resources;

“dispose” and “disposition” mean to grant an interest in, or licence in relation to, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands as contemplated in Part 4;

“equity” means, when used in the phrase “law or equity”, the system of law designed to furnish remedies for wrongs which were not legally recognized under the common law of England or for which no adequate remedy was provided by the common law as inherited and modified by the Supreme Court;

“expropriate” means, in relation to an interest in, or licence in relation to, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands, to take without the consent of the holder;

“fee simple grant” means a grant of an estate in fee simple in Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands;

“holder” means, in relation to an interest in, or licence in relation to, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands, the person registered in the lands register or under the Land Title Act (British Columbia) as the holder of the interest in, or licence in relation to, Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands;

“immediate family” means, in relation to an individual, the spouse, sons, daughters, siblings and parents of the individual;

“information meeting” means a meeting referred to in section 6.2 of the Referendum Act;

“instrument” means any written document, certificate, conveyance, deed, mortgage, encumbrance or plan relating to the transfer, charging or otherwise dealing with or affecting an interest in, or licence in relation to, land or evidencing ownership to it, including a will, grant of probate or administration, and an enactment;

“interest” includes, in relation to Ka:’yu:’k’t’h’/Che:k’tles7et’h’ lands, a privilege, right, title or estate in that land;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands” means Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, the indefeasible title to which is registered under the Land Title Act (British Columbia) in accordance with Chapter 3 Land Title of the Maa-nulth Treaty;

“land authority” means a public institution established, or entity incorporated, as referred to in section 2.7;

“lands register” means the lands register maintained by the director under section 3.1;

“licence” means, in relation to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, a licence of occupation, natural resource licence or utility licence;

“licence of occupation” means a licence for a primary purpose other than extracting or harvesting a natural resource or providing utility services;

“natural resource licence” means a licence for the primary purpose of extracting or harvesting a natural resource;

“public utility” means a person who owns or operates equipment or facilities for utility services;

“railway corporation” means a corporation authorized to construct or operate a railway under federal or provincial law;

“ratification meeting” means a meeting referred to in section 6.3 of the Referendum Act;

“referendum” means a referendum held in accordance with the Referendum Act;

“road” means land designated or indicated as a road or lane in an instrument, map or plan made under this Act, whether or not a road or lane is constructed, and includes land dedicated as a highway under section 9.5;

“statutory right of way” means an easement without a dominant tenement, necessary for the operation and maintenance of the grantee's undertaking;

“utility licence” means a licence for the primary purpose of providing utility services to owners or occupiers of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;

“utility services” means services relating to

- (a) the production, gathering, processing, generation, storage, transmission, sale, supply, distribution, delivery or provision of petroleum (including petroleum products and bi-products), gas (including natural gas, natural gas liquids and propane), electricity, steam or any other agent for the production of light, heat, cold or power,

- (b) the emission, transmission, or reception of information, messages or communication by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications,
- (c) the collection, disposal or treatment of garbage, solid waste, sewage or waste water, or
- (d) the diversion, development, pumping, impoundment, distribution or furnishing of water.

Conflict between Land Act and other Ka:'yu:'k't'h'/Che:k'tles7et'h' law

- 1.5**
- (a) Subject to the Constitution, in the event of any inconsistency or conflict between this Act and any other Ka:'yu:'k't'h'/Che:k'tles7et'h' law, this Act prevails to the extent of the inconsistency or conflict.
 - (b) For the purposes of subsection (a), a Ka:'yu:'k't'h'/Che:k'tles7et'h' law is not inconsistent with this Act merely because it addresses a subject also addressed in this Act.

PART 2 - ADMINISTRATION OF KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' LANDS

Department of Lands and Resources established

2.1 The Department of Lands and Resources is continued as a division of the Ka:'yu:'k't'h'/Che:k'tles7et'h' administration.

Mandate

- 2.2 (a) The mandate of the Department of Lands and Resources is to perform the following duties and exercise the following powers:
- (i) manage and administer Ka:'yu:'k't'h'/Che:k'tles7et'h' lands as required
 - (A) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
 - (B) by the chief administrative officer;
 - (ii) maintain and protect records relating to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and Ka:'yu:'k't'h'/Che:k'tles7et'h' land enactments;
 - (iii) prepare forms and instruments to be used in relation to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and Ka:'yu:'k't'h'/Che:k'tles7et'h' land enactments;
 - (iv) provide administrative support to the Executive, the chief administrative officer, other departments and land authorities as required
 - (A) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
 - (B) by the chief administrative officer; and
 - (v) any additional functions assigned to the Department of Lands and Resources
 - (A) in accordance with this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
 - (B) by the chief administrative officer.
- (b) The chief administrative officer may
- (i) establish and fill such positions within the Ka:'yu:'k't'h'/Che:k'tles7et'h' administration, in addition to the position of director, as the chief

administrative officer considers advisable to manage and administer Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and money derived from Ka:'yu:'k't'h'/Che:k'tles7et'h' lands or to otherwise give effect to this Act or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' land enactment,

- (ii) assign to a member of the Ka:'yu:'k't'h'/Che:k'tles7et'h' administration or a land authority duties and powers in addition to those assigned in accordance with this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' land enactment, and
- (iii) subject to section 5.1 of the Integrity Act, appoint the same person to, or designate the same person to act in, two or more positions within the Department of Lands and Resources.

Director of Lands and Resources

- 2.3**
- (a) The office of the director of lands and resources is continued.
 - (b) The Executive must appoint an individual to hold the office of director.
 - (c) The director reports to the chief administrative officer.

Duties of the director

- 2.4** The director must perform the following duties and may exercise the following powers:
- (a) manage the Department of Lands and Resources;
 - (b) ensure that Ka:'yu:'k't'h'/Che:k'tles7et'h' government employees within the Department of Lands and Resources perform the duties assigned to them
 - (i) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment,
 - (ii) by the chief administrative officer, or
 - (iii) by the director;
 - (c) report, as required by the chief administrative officer, to the Executive on the Department of Lands and Resources and its activities;
 - (d) act as the approving officer under this Act and section 77.21 of the Land Title Act (British Columbia);
 - (e) perform any additional duties or exercise any additional powers assigned to the director

- (i) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
- (ii) by the chief administrative officer.

Delegation authority

- 2.5** (a) 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.
- (b) Despite the delegation of any duties or powers under subsection (a), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Powers retained by the Executive

- 2.6** (a) Except as otherwise specifically provided in this or another Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, the Executive retains for itself all power to dispose of or approve an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.
- (b) The Executive may only exercise the powers and perform the duties referred to in subsection (a) in accordance with this Act and all other applicable laws.
- (c) Subject to this Act, the Executive retains for itself all power for and in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to, and the Executive may,
- (i) enter into any agreement it considers necessary or advisable for the purpose of
 - (A) managing or administering Ka:'yu:'k't'h'/Che:k'tles7et'h' lands or money derived from Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, and
 - (B) otherwise giving effect to this Act or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' land enactment,
 - (ii) authorize a Ka:'yu:'k't'h'/Che:k'tles7et'h' official to enter into any such agreement or class of such agreements for or in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and

- (iii) establish restrictions or conditions on any authority to enter into agreements or classes of agreements given under paragraph (ii).

Land authorities

2.7 The Executive may

- (a) establish Ka:'yu:'k't'h'/Che:k'tles7et'h' public institutions under Ka:'yu:'k't'h'/Che:k'tles7et'h' law, and
- (b) incorporate entities under federal or provincial laws,

to manage or administer, or assist the Department of Lands and Resources in the management or administration of, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Delegation authority

- 2.8**
- (a) Subject to subsection (b), the Executive may, by regulation, delegate to any body or persons, including a land authority, any duty or power of the Department of Lands and Resources relating to the management or administration of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.
 - (b) Despite subsection (a), the Executive may not delegate to any body or person any of the following duties or powers of the Executive:
 - (i) to dispose of or approve an interest in, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
 - (ii) to call an information meeting, ratification meeting or referendum;
 - (iii) to enact a Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment;
 - (iv) to delegate a duty or power of the Executive under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment.
 - (c) For certainty,
 - (i) a delegation by the Executive to a body or person under subsection (a)
 - (A) may include all or any part of a duty or power of the Department of Lands and Resources relating to the management or administration of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (B) may pertain to all or a specified area of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,

- (C) is subject to any terms or conditions established by the Executive under the regulation making the delegation, and
 - (D) does not restrict the Executive from delegating any additional duties or powers of the Department of Lands and Resources to the body or person under another regulation, and
- (d) a body or person to which the Executive delegates a duty or power under subsection (a) may only perform the duty or exercise the power in accordance with this Act, the regulation making the delegation and all other applicable laws.

PART 3 - LANDS REGISTER

Lands register

- 3.1** (a) The director must maintain a lands register containing
- (i) an inventory of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, and
 - (ii) a record of any disposition or transfer of a licence in relation to community lands.
- (b) The director may record in the lands register other information relating to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Registration of interests in land

- 3.2** For certainty, the Land Title Act (British Columbia) applies in respect of registration of
- (a) fee simple title to,
 - (b) a lease of, and
 - (c) any other interest in,
- Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Registration of licences

- 3.3** The director must record in the lands register a disposition or transfer of a licence in relation to community lands if the disposition or transfer
- (a) is in the prescribed form,
 - (b) has been authorized by the Executive in accordance with this Act, and
 - (c) has been executed by both parties, with each execution witnessed by a third-party, to the satisfaction of the director.

Effect of registration

- 3.4** (a) A holder of a licence in relation to community lands is entitled to the licence regardless of whether the licence is registered in the lands register.
- (b) If two or more licences affect the same community lands, the priority of those licences, as between or among themselves, is not affected by registration in the lands register.

- (c) Registration in the lands register of a licence in relation to community lands is not a determination by the director that the licence is enforceable or otherwise creates or evidences a licence in relation to community lands.

Accuracy

- 3.5** The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations make no representation as to the accuracy or completeness of the records of the lands register and a person may not recover from the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations any loss or damage that the person suffers by reliance on the records of the lands register.

Inspection

- 3.6** During regular business hours, any person may examine and inspect the records of the lands register
- (a) after completing an application in the form that the director requires, and
- (b) on the conditions that the director imposes.

Transition

- 3.7** A licence in relation to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands referred to in section 4.2(a) is deemed to be registered in the lands register as of the Maa-nulth Treaty effective date on the terms provided for in the Maa-nulth Treaty.

PART 4 - DISPOSITIONS

Acquisition of interests

- 4.1 (a) No person may acquire an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands except under this or another Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment.
- (b) A disposition under this Act is not binding on the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations until the instrument is executed by the Executive under this Act.
- (c) Negotiations or arrangements, whether in writing or otherwise, before the execution of an instrument by the Executive under this Act, are not binding on and do not commit the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to perform or complete a disposition.

Existing interests and licences

- 4.2 (a) Despite section 4.1 and subject to subsection (c), interests in, and licences in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are listed in
- (i) Appendices E-2 and E-8 of the Maa-nulth Treaty, or
- (ii) Appendix E-12 of the Maa-nulth Treaty,
- continue in accordance with their terms and conditions until they expire, terminate, are surrendered or otherwise come to an end in accordance with their terms and conditions or otherwise in accordance with law or equity.
- (b) An existing and valid interest in Ka:'yu:'k't'h'/Che:k'tles7et'h' lands referred to in section (a) must be registered concurrently when title to the applicable parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands is raised under the Land Title Act (British Columbia) in accordance with section 10.2.
- (c) As of the Maa-nulth Treaty effective date, the Executive may exercise any power and carry out any function in relation to the interests and licences referred to in subsections (a)(i) and (a)(ii) that, prior to the Maa-nulth Treaty effective date, was a power or function of Canada or British Columbia as grantor.

Dispositions by the Executive

- 4.3 (a) Subject to this Act, the Executive may make a disposition to an applicant who satisfies the eligibility requirements in section 4.16 if the Executive considers the disposition to be in the interest of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

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- (b) For purposes of subsection (a), the Executive may
- (i) make a fee simple grant in accordance with section 5.1,
 - (ii) grant a lease for up to 99 years,
 - (iii) grant a statutory right of way for so long as required,
 - (iv) grant an easement for so long as required,
 - (v) grant a utility licence for so long as required,
 - (vi) grant a licence of occupation for up to 10 years,
 - (vii) grant a public purpose licence of occupation for as long as required,
 - (viii) grant a natural resource licence for up to 50 years,
 - (ix) grant a mortgage of lease for the term of the lease, and
 - (x) grant a mortgage of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands registered in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for up to 35 years.
- (c) In a disposition under this section, the Executive may impose the terms, covenants and stipulations it considers advisable, including the following:
- (i) payment by the applicant of the cost of a survey of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands completed under the direction of the director;
 - (ii) personal residence on the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands by the applicant for a period set by the Executive; or
 - (iii) permanent improvement of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands by and at the cost of the applicant on the conditions specified by the Executive.
- (d) A disposition under this section must be made in the applicant's name only.

No transfer of estate in fee simple

- 4.4** For certainty, no estate in fee simple or indefeasible title to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands may be granted except in accordance with this Act.

Dispositions must be in writing

- 4.5 An interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands may only be disposed of by an instrument in writing and in accordance with this Act.

Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as a party

- 4.6 If the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in its own name is proposed to be a party to an instrument referred to in section 4.5, the instrument must not be executed on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations without the prior approval of the Executive.

Amendment of area under application

- 4.7 The Executive may under section 4.3 make a disposition with
- (a) a surface area reduced or expanded from the surface area stated in the application, and
 - (b) boundaries varied from the boundaries described in the application.

Amendments to instruments

- 4.8 (a) This section applies to an instrument disposing of an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands
- (i) if the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is a party to the instrument and the interest or licence has been granted under this Act, or
 - (ii) if the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is proposed to be a party to the instrument, the interest or licence is proposed to be granted under this Act and the proposed disposition has been publicized at an information meeting and approved by vote at a ratification meeting or by referendum.
- (b) Subject to subsection (c), the Executive may approve an amendment to an instrument referred to in subsection (a) without holding an information meeting, ratification meeting or a referendum only if
- (i) under Part 7 the Executive could grant the interest or licence on the amended terms without holding an information meeting, ratification meeting or a referendum, or
 - (ii) the Executive considers that the amendment is
 - (A) necessary to rectify an error or omission in the instrument, or

- (B) advisable to better protect or advance the interests of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (c) The Executive may not approve an amendment to an instrument referred to in subsection (a) if the amendment would extend the term of the interest or licence granted by the instrument, unless
- (i) under Part 7 the Executive could grant the interest or licence with that extended term without the disposition being first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, or
 - (ii) the proposed amendment is first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, as the case may be, as would be required under Part 7 before the Executive could grant the interest or licence with that extended term.

Conditions, provisos, restrictions, exceptions and reservations

- 4.9** (a) A disposition under this or another Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment
- (i) excepts and reserves a right in the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or any person acting for it or under its authority,
 - (A) to resume any part of the land that is deemed to be necessary by the Executive for making roads, canals, bridges or other public works, but not more than one-twentieth part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden,
 - (B) to enter any part of the land, and to raise and get out of it any mineral resources that may be found in, on or under the land, and to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them, paying reasonable compensation for the raising and getting,
 - (C) to enter any part of the land, and to harvest, replenish or protect forest resources that may from time to time be found on, in or under the land, and to use and enjoy any part of the land for any purpose connected with the harvesting, replenishing or protecting of forest resources, and to provide access on and through the land for the harvesting, replenishing or protecting of forest resources on or off the land,

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- (D) to take and occupy water privileges and to have and enjoy the rights of carrying water over, through or under any part of the land, as may be reasonably required for mining or agricultural purposes in the vicinity of the land, paying a reasonable compensation to the grantee, the grantee's successors and assigns, and
 - (E) to take from any part of the land, without compensation, gravel, sand, stone, lime, timber or other material that may be required in the construction, maintenance or repair of a road, ferry, bridge or other public work, and
- (ii) conveys no interest in
- (A) mineral resources that may be found in, on or under the land,
 - (B) forest resources that may from time to time be found in, on or under the land, or
 - (C) roads on, over or through the land,
- except as otherwise specifically provided in the instrument.
- (b) Subsection (a) applies whether or not express words are used in the instrument, but is subject to subsection (c).
 - (c) A disposition under another Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment that expressly authorizes a disposition on terms different from those referred to in subsection (a) may be made on those terms.
 - (d) A disposition may, by express words, except or reserve to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations interests more extensive than those referred to in subsection (a).
 - (e) For all purposes, every disposition is conclusively deemed to contain express words making the exceptions and reservations referred to in subsection (a), except to the extent that the disposition is made on different terms under subsection (c).
 - (f) The power under subsection (d) to except and reserve interests includes a power to create a statutory right of way, and if this is done
 - (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is, in relation to the statutory right of way, a grantee, and

- (ii) the statutory right of way is conclusively deemed to be necessary for the operation and maintenance of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations' undertaking.

Deletion of conditions

- 4.10** (a) If, after a disposition, other than a fee simple grant, has been made under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, the Executive finds that a condition, proviso, restriction, exception or reservation in the disposition is no longer required in the interest of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, the Executive may, by directive, direct that the condition, proviso, restriction, exception or reservation be deleted from the disposition.
- (b) If, under subsection (a), the Executive directs the deletion of a condition, proviso, restriction, exception or reservation in a licence that is registered under Part 3,
- (i) the Executive must deliver a copy of the directive to the director, and
 - (ii) the director must amend the registration on receipt of the directive.

Bodies of water

- 4.11** If Ka:'yu:'k't'h'/Che:k'tles7et'h' lands bordering on a lake, river, stream or other body of water are the subject of a disposition under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, no interest in the bed or shore of the body of water below its natural boundary passes to the person receiving the disposition.

Roads

- 4.12** Unless a contrary intention is expressly stated in an instrument, map or plan made under this Act, a road is deemed to be 20 m in width, being 10 m on each side of the centre line of the traveled portion of the road.

Date of disposition

- 4.13** A disposition of a licence, or a lease or rental agreement not exceeding three years, under section 4.3 is effective as against the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations
- (a) if a survey is not required, on the date that the instrument states, which must not be more than 30 days after the date on which the Executive executes the instrument, or
 - (b) if a survey is required, on the later of
 - (i) the date on which the Executive executes the instrument, and
 - (ii) the date on which the director confirms the survey.

Withdrawal from availability

- 4.14** (a) The Executive may, by Order, for any purpose it considers advisable
- (i) withdraw Ka:'yu:'k't'h'/Che:k'tles7et'h' lands from availability for disposition under this Act, and
 - (ii) amend or cancel a withdrawal made under paragraph (i).
- (b) Land withdrawn from availability for disposition under subsection (a) may not be the subject of a disposition under this Act.

Designation for use or purpose

- 4.15** (a) The Executive may, by Order, for any purpose it considers advisable
- (i) designate Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for a particular use or for the conservation of natural or heritage resources, and
 - (ii) amend or cancel a designation made under paragraph (i).
- (b) Ka:'yu:'k't'h'/Che:k'tles7et'h' lands designated under subsection (a) may not be the subject of a disposition under this Act if, in the opinion of the Executive, the disposition is not compatible with the use or purpose for which the land has been designated.

Applications for disposition

- 4.16** (a) Subject to this Act, an individual who is at least 18 years old, a corporation, treaty first nation, Canada or British Columbia may apply for a disposition described in section 4.3(b) but excluding section 4.3(b)(x).
- (b) Nothing in this Act obliges the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to consider an application for a disposition, or to make a disposition on an application.
- (c) An applicant does not obtain an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or a priority to acquire an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, by applying for a disposition.

Application procedure for dispositions

- 4.17** (a) An application under section 4.16(a) must
- (i) be made to the director in the form specified by the director, and

- (ii) be accompanied by any prescribed application fee.
- (b) If the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are the subject of an application under section 4.16(a) are unsurveyed or if no evidence of survey is available, the applicant must, along with the application and at the applicant's expense, provide a map indicating the location of the proposed interest in the form required by the director.

Public notice

- 4.18** (a) The director must, at the applicant's expense, post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice of an application under section 4.16(a).
- (b) The notice under subsection (a) must
- (i) be headed "Land Act: Notice of Intention to Apply for a Disposition",
 - (ii) state the applicant's name, address and occupation,
 - (iii) state whether the application is for a fee simple grant, lease, right of way, easement, or licence,
 - (iv) state the location and approximate surface area of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are the subject of the application,
 - (v) state the purpose for which the interest is required, and
 - (vi) be signed by the applicant or their agent.
- (c) The director must provide to the Executive proof of posting the notice satisfactory to the Executive.

Register of applications

- 4.19** (a) The director must keep a register of applications for a disposition under section 4.16(a), including, for each application, a copy of the notice posted in accordance with section 4.18.
- (b) During regular business hours, any person may examine and inspect the register of applications
- (i) after completing an application in the form that the director requires, and
 - (ii) on the conditions that the director imposes.

- (c) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations makes no representation as to the accuracy or completeness of the register of applications and a person may not recover from the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations any loss or damage that the person suffers by reliance on the register of applications.

Feasibility studies and costs

- 4.20** (a) The director may require an applicant to obtain and file with the director, at the applicant's expense,
- (i) feasibility studies,
 - (ii) environmental assessments,
 - (iii) timber cruises,
 - (iv) land valuation appraisals, or
 - (v) any other information about the application required by the director or the Executive.
- (b) If an application is made under section 4.16(a), the director may
- (i) estimate the cost
 - (A) to assess the impact of the disposition, or
 - (B) to monitor compliance with terms of the disposition, and
 - (ii) require the applicant to pay to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations all or part of that estimated cost before the application is considered or the disposition made.

Security may be required

- 4.21** (a) The director may require an applicant to deposit with the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations a bond or other form of security for the performance and completion by the applicant of all the obligations and requirements specified by the director under this Act.
- (b) The bond or other form of security required under subsection (a) must be payable to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the amount and on the terms required by the director.

Affidavit may be required

- 4.22** The director may require an applicant to provide proof, by affidavit or otherwise, of any matter connected with the application, including the applicant's financial capacity.

Disposition of interest or licence

- 4.23** (a) A person who acquires an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, other than Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, by a disposition under section 4.3 or by an allowable disposition under this section, must not dispose of or otherwise deal with that interest or licence, unless the disposing or other dealing is expressly allowed or approved by
- (i) this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment,
 - (ii) the instrument, or
 - (iii) the Executive.
- (b) An intended disposition of or other dealing with an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, other than Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, in contravention of this section is void.
- (c) As a condition precedent to an approval under subsection (a), the Executive may require the person to agree to and observe or perform, in relation to the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, additional terms, covenants or stipulations.

Certificate of transfer under the Land Title Act (British Columbia)

- 4.24** (a) Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands must not be registered in a name other than the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations without a certificate of transfer in the prescribed form issued by the Executive on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in accordance with this section.
- (b) For certainty, a transfer of the ownership of a parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands in contravention of this section is void.
- (c) The registered owner of an indefeasible title to a parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands may apply to the Executive for a certificate of transfer.
- (d) An application made under subsection (c) must
- (i) be made to the Executive in the prescribed form,
 - (ii) set out
 - (A) the parcel's land title office parcel identification number and legal description,
 - (B) the parcel's civic address, if any,

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- (C) the full legal name and occupation of the applicant,
 - (D) the full legal name and occupation of the proposed transferee,
 - (E) the intended use of the parcel by the proposed transferee, and
- (iii) be accompanied by any prescribed application fee.
- (e) Nothing in this Act obliges the Executive to consider an application made under subsection (c) or to make any decision on that application and, for certainty, the Executive may refuse to consider or decide an application made under subsection (c) for any reason it decides.
- (f) In considering an application made under subsection (c), the Executive may consider, among other things, the following matters in reaching a decision on the application:
- (i) the current use of the parcel identified in the application;
 - (ii) the proposed use of that parcel;
 - (iii) the stated use of that parcel, if any, that was indicated in the application under section 4.16(a) for the fee simple grant of that parcel;
 - (iv) whether or not the proposed transferee is
 - (A) a person listed in section 5.1(b)(i) to (v), or
 - (B) a person or within a category of persons prescribed under section 5.1(b)(vi);
 - (v) any matters relating to the proposed transferee the Executive decides are relevant; or
 - (vi) any other matters the Executive decides are relevant.
- (g) If an application made under subsection (c) is approved, the Executive must issue to the applicant a certificate of transfer stating
- (i) the certificate of transfer is issued in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, and
 - (ii) the person named in the certificate as transferee of the parcel is a permitted transferee under Ka:'yu:'k't'h'/Che:k'tles7et'h' law.

PART 5 - COMMUNITY LANDS

Fee simple grants

- 5.1** (a) The Executive may only grant or transfer an estate in fee simple to community lands in accordance with this section.
- (b) The Executive may grant or transfer an estate in fee simple to Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands to
- (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations,
 - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee,
 - (iii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' public corporation,
 - (iv) a Ka:'yu:'k't'h'/Che:k'tles7et'h' public institution,
 - (v) a Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation, or
 - (vi) a prescribed person or category of persons, if the proposed grant is first publicized at two information meetings and approved by a referendum.
- (c) For certainty, the registered owner of an indefeasible title to a parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands may only transfer his or her estate in fee simple in accordance with section 4.24 and the Land Title Act (British Columbia).

Appraisals

- 5.2** (a) Despite any other provision of this Act, the Executive may not grant
- (i) an estate in fee simple to Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands under section 5.1,
 - (ii) a lease under section 5.4 or 5.5, or
 - (iii) a natural resource licence under section 5.9 or 5.10
- unless the Executive first obtains one or more appraisals of the fair market value of the appurtenant lands.
- (b) If the Legislature enacts a law that requires that the Executive first obtain one or more appraisals of the fair market value of the appurtenant lands before granting an interest in, or a licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands

under sections 5.3, 5.6, 5.7, 5.8, 5.11 and 5.12, the Executive must comply with that requirement before making such a grant.

Leases of 10 years or less

- 5.3** The Executive may grant a lease of community lands for a term or possible term of 10 years or less only if
- (a) the Executive has not previously granted a lease of those community lands to the grantee or a member of the grantee's immediate family,
 - (b) the term or possible term of the proposed lease, when added to the term of all previous leases of those community lands granted by the Executive to the grantee or a member of the grantee's immediate family since the last occasion, if any, on which such a grant was publicized at an information meeting and approved by vote at a ratification meeting, totals 10 years or less, or
 - (c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 10 and 25 years

- 5.4** The Executive may grant a lease of community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 25 and 99 years

- 5.5** The Executive may grant a lease of community lands for a term or possible term of more than 25 years but not more than 99 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Easements and statutory rights-of-way

- 5.6**
- (a) The Executive may grant an easement over Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.
 - (b) The Executive may grant or reserve a statutory right-of-way over Ka:'yu:'k't'h'/Che:k'tles7et'h' lands in accordance with the Land Title Act (British Columbia).
 - (c) The holder of an interest in Ka:'yu:'k't'h'/Che:k'tles7et'h' lands may, by grant or otherwise, only encumber that interest in accordance with the Land Title Act (British Columbia).

Licences of occupation

- 5.7** (a) The Executive may grant a licence of occupation in relation to community lands for a term or possible term of 10 years or less.
- (b) The Executive may grant a licence of occupation in relation to community lands for a public purpose for a term or possible term greater than 10 years to any of the following:
- (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, an agency of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or a corporation owned by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
 - (ii) Canada, an agency of Canada or a corporation owned by Canada;
 - (iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;
 - (iv) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation; or
 - (v) a local government, an agency of a local government or a corporation owned by a local government.

Natural resource licences of 10 years or less

- 5.8** The Executive may grant a natural resource licence in relation to community lands for a term or possible term of 10 years or less only if
- (a) the Executive has not previously granted a natural resource licence in relation to those community lands to the grantee or a member of the grantee's immediate family,
 - (b) the term or possible term of the proposed natural resource licence, when added to the term of all previous natural resource licences in relation to those community lands granted by the Executive to the grantee or a member of the grantee's immediate family since the last occasion, if any, on which such a grant was publicized at information meetings and approved by vote at a ratification meeting, totals 10 years or less, or
 - (c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resource licences of between 10 and 25 years

5.9 The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resource licences of between 25 and 50 years

5.10 The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 25 years but not more than 50 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Utility licences

5.11 The Executive may grant a utility licence in relation to community lands to any of the following:

- (a) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, a Ka:'yu:'k't'h'/Che:k'tles7et'h' public institution or a Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation;
- (b) Canada, an agency of Canada or a corporation owned by Canada;
- (c) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;
- (d) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation;
- (e) a local government, an agency of a local government or a corporation owned by a local government; or
- (f) a public utility.

Registration of covenant as to use and alienation

5.12 A covenant described in section 219 of the Land Title Act (British Columbia) may be registered against an interest in Ka:'yu:'k't'h'/Che:k'tles7et'h' lands in accordance with the Land Title Act (British Columbia).

PART 6 - EXPROPRIATIONS

Expropriations for community purposes

- 6.1** (a) Subject to subsections (b) and (c) the Executive may expropriate all or part of an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that in the opinion of the Executive is necessary for community works or community purposes.
- (b) The Executive may not expropriate all or part of an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands until the following conditions, in the order listed, are satisfied:
- (i) notice of the proposed expropriation has been delivered in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law to the holder of the interest or licence;
 - (ii) the Executive has attempted in good faith to negotiate an agreement with the holder of the interest or the licence for the transfer of the interest or licence, or the part of the interest or licence, as the case may be; and
 - (iii) the proposed expropriation has been publicized at an information meeting.
- (c) The Executive may not expropriate an interest in Ka:'yu:'k't'h'/Che:k'tles7et'h' lands obtained by Canada or British Columbia.

Compensation

- 6.2** (a) If the Executive proposes to take all or a part of an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands under section 6.1, the Executive must offer to pay compensation for the proposed taking to the registered holder.
- (b) As all or part of the compensation offered under subsection (a), the Executive may offer to grant to the holder a similar interest or licence under section 4.3.
- (c) If the Executive and the holder agree on the compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations pays that compensation to the holder.
- (d) If the Executive and the holder do not agree on the compensation to be paid for the proposed taking, the Executive may apply to the director for a determination of compensation under section 6.3.

- (e) If under section 6.3 the director determines compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations pays that compensation to the holder.
- (f) The Executive is not obligated to proceed with a proposed taking of an interest or licence after the director determines compensation to be paid for the proposed taking under section 6.3.

Determination of compensation

- 6.3** (a) In this section, “estimated fair market value” means in relation to a proposed taking of an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands under section 6.1, the estimated amount that would have been paid for an interest in, or licence in relation to, Ka:'yu:'k't'h'/Che:k'tles7et'h' lands in the open market by a willing seller to a willing buyer on the date that the Executive gave written notice of the proposed taking to the holder, without any account of
- (i) the development or other purpose for which the Executive proposes the taking, or
 - (ii) the enactment or amendment by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations of a zoning or other law in anticipation of the development or other purpose.
- (b) The director must determine the compensation to be paid by the Executive for the proposed taking of the interest or licence, on application by the Executive under subsection 6.2(d).
- (c) Before making a determination of compensation under this section, the director
- (i) must invite the Executive and the holder to make a written or oral submission to the director on the determination of compensation, and
 - (ii) may require the Executive and the holder to produce any information that the director considers relevant to the determination.
- (d) In making a determination of compensation on an application under section 6.2(d), the director may take into account
- (i) the estimated fair market value of the interest or licence,
 - (ii) whether the holder is in actual occupation of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,

- (iii) whether the Executive is willing to grant another interest or licence to the holder as all or part of the compensation, and
 - (iv) the costs or expenses that would be reasonably incurred by the holder as a direct result of the proposed taking.
- (e) The director must, on making a determination of compensation under this section, provide written reasons for the determination to the Executive and the holder.
- (f) A person who is affected by a determination of the director under subsection (b) may request a review of that determination under the Administrative Review Decisions Act.

PART 7 - DISALLOWANCE, CANCELLATION, AMENDMENT AND ABANDONMENT

Application

7.1 This Part does not apply to Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, the owner of which is a person other than the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

If approval subject to survey

- 7.2 (a) If an application for a disposition of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands has been approved by the Executive subject to completion of a satisfactory survey, the Executive may disallow the application if
- (i) the survey is not completed by the date specified by the director, or
 - (ii) the Executive considers it not to be in the interest of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to make the disposition because of information
 - (A) in the completed survey,
 - (B) in a report from the land surveyor who conducted the survey, or
 - (C) received by the Executive from another source.
- (b) If the Executive disallows an application under subsection (a)(ii), the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must reimburse the applicant for the applicant's survey costs, unless the applicant made a misrepresentation that resulted in the disallowance.

If error in approval or disposition

- 7.3 (a) The Executive may, by directive,
- (i) amend or correct
 - (A) a disposition made under this Act, or
 - (B) an approval of a disposition given under this Act,
 - (ii) disallow an application for a disposition made under this Act, or
 - (iii) cancel a disposition made under this Act,
- if the Executive determines that

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- (iv) there is an error in the names or description of the applicant, the description of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or any other material part of the approval or disposition,
 - (v) the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands are not available for disposition under this Act,
 - (vi) the survey of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands is incorrect, or
 - (vii) information provided by the applicant is incorrect.
- (b) If the Executive amends or corrects a disposition or approval under this section, the amended or corrected disposition or approval is effective as of the date of the original disposition or approval.
- (c) If the Executive disallows an application under this section, the Executive may
- (i) reimburse the applicant for all or part of the money paid on the application,
 - (ii) reimburse the applicant for the applicant's survey costs, and
 - (iii) pay to the applicant any compensation that the Executive considers advisable.
- (d) If the Executive cancels a disposition under this section,
- (i) the disposition holder's interest in, or licence in relation to, the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and the interest of all persons claiming through that holder are terminated,
 - (ii) all improvements to the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands become the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
 - (iii) the Executive may
 - (A) reimburse the disposition holder for all or part of the money paid for or under the disposition,
 - (B) reimburse the disposition holder for the disposition holder's survey costs, and
 - (C) pay to the disposition holder any compensation that the Executive considers advisable.

- (e) If a licence that is amended or cancelled under this section is registered under Part 3,
 - (i) the Executive must deliver a copy of the directive to the director, and
 - (ii) the director must amend or cancel the registration in the lands register on receipt of the directive.
- (f) A person who is affected by a directive under subsection (a) may request a review of that directive under the Administrative Decisions Review Act.

If non-compliance with disposition

- 7.4**
- (a) If a person who holds a disposition under this Act fails or neglects to comply with a term, covenant or stipulation set out in the instrument of disposition or imposed by the Executive in the disposition, the director may deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice to the person requiring the person to comply with the term, covenant or stipulation within 60 days after the date the notice is delivered.
 - (b) If the failure or neglect referred to in subsection (a) continues after the 60 day period, the Executive may, by directive, cancel the disposition.
 - (c) If the Executive cancels a disposition under subsection (b),
 - (i) the disposition holder's interest in, or licence in relation to, the land and the interest of all persons claiming through that holder are terminated,
 - (ii) all improvements to the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands become the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
 - (iii) any money paid for or under the terms of the disposition is forfeited to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
 - (d) If a licence that is cancelled under subsection (b) is registered under Part 3,
 - (i) the Executive must deliver a copy of the directive to the director, and
 - (ii) the director must cancel the registration in the lands register on receipt of the directive.
 - (e) A person who is affected by a directive under subsection (b) may request a review of that directive under the Administrative Decisions Review Act.

Abandonment of disposition

- 7.5** (a) A person holding a disposition under this Act may abandon and terminate the disposition by giving written notice to the director.
- (b) On abandonment and termination of a disposition under subsection (a),
- (i) all improvements to the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands become the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
- (ii) all money paid for or under the terms of the disposition is forfeited to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (c) If a licence that is abandoned and terminated under subsection (a) is registered under Part 3, the director must cancel the registration on receipt of the written notice.

Debts payable on cancelled disposition

- 7.6** (a) Unless the Executive otherwise directs, the holder of a disposition that is cancelled under section 7.4(b) or abandoned and terminated under section 7.5(a) must pay all money remaining due under the disposition and observe or perform all terms, covenants and stipulations of the disposition.
- (b) Money remaining due to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations on a cancelled or abandoned and terminated disposition is recoverable by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as a debt due to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

PART 8 - TRESPASS ON KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' LANDS**Trespass on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands**

- 8.1** (a) If a person does anything described in section 8.2 on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, the Executive may, on notice delivered in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law to that person, do one or more of the following:
- (i) require the person to cease the unauthorized activity and restore the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands to a condition satisfactory to the director;
 - (ii) require the person to pay to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations a sum of money considered by the Executive reasonable for the unauthorized activity set out in section 8.2 or for the restoration of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;
 - (iii) instruct the director to seize, on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, any goods, chattels or other materials on the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands; or
 - (iv) require the person to remove, to the satisfaction of the director, any improvements made by or on behalf of the person on the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and, if the person fails to comply within the required time, instruct the director to remove the improvements at the person's cost.
- (b) A notice under subsection (a) must include the following:
- (i) details, including the time and place, of the unauthorized activity;
 - (ii) the requirement or instruction of the Executive under subsection (a); and
 - (iii) if applicable, the date by which the person must comply with a requirement of the Executive under subsection (a).
- (c) If the identity or the address of the person is unknown to the Executive, the notice under subsection (a) may be given by posting it on the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands where the offence occurred.
- (d) A notice under subsection (a) may be issued more than once in relation to the same matter if a person does not comply with the first notice issued in relation to that matter.

- (e) Money required to be paid to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations by a person under this section is recoverable by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as a debt due to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (f) Any improvements removed or goods, chattels or other materials seized under this section become the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and the Executive may authorize the improvements, goods, chattels or other materials to be sold, rented, removed or destroyed by the director.
- (g) A person who is affected by a requirement or instruction set out in a notice under subsection (a) may request a review of that requirement or instruction under the Administrative Decisions Review Act.

Offences

8.2 A person who

- (a) without lawful authority
 - (i) occupies or possesses Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (ii) damages Ka:'yu:'k't'h'/Che:k'tles7et'h' lands or improvements on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (iii) harvests, extracts or damages forest resources, mineral resources, fish or wildlife on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (iv) interferes with the lawfully authorized use, occupation or possession of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (v) constructs a building, structure, enclosure or other works on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (vi) excavates Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
 - (vii) throws, deposits, dumps or in any way causes to be placed on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands any glass, metal, garbage, soil or other material,
 - (viii) abandons on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands any vehicle or vessel, or
 - (ix) interferes with or removes a sign erected by, on behalf of or with the authority of the Executive on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,

- (b) uses a designated area of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands contrary to a Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
- (c) fails to comply with a requirement set out in a notice given to that person under section 8.1(a)

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.

Liability for activities under section 8.2

- 8.3** A person who does, or causes another person to do, anything described in section 8.2 is liable for loss and damages suffered by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or any other person as a result of that activity.

PART 9 - SURVEYS

Application of Part

- 9.1** This Part applies to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands only to the extent it does not conflict with the Land Title Act (British Columbia), which prevails to the extent of an inconsistency between it and this Act.

Duties and powers under the Land Title Act (British Columbia)

- 9.2** (a) For purposes of interpreting the application of the Land Title Act (British Columbia) to Ka:'yu:'k't'h'/Che:k'tles7et'h' lands,
- (i) the director is the approving officer and the proper officer for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations under the Land Title Act (British Columbia), and
 - (ii) the Executive may request a special survey of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands in accordance with the Land Title Act (British Columbia).
- (b) For certainty, the director or Executive, as the case may be, may perform the duties and exercise the powers under the Land Title Act (British Columbia) in relation to their roles referred to in subsection (a).

Power to require survey

- 9.3** The Executive may require a survey to be made of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands.

Surveyor to act under director

- 9.4** A British Columbia land surveyor in charge of a survey under this Part must make the survey and plan under the guidance and instruction of the director.

Dedications

- 9.5** The Executive may authorize the director to deposit a subdivision, reference or explanatory plan in accordance with the Land Title Act (British Columbia)
- (a) for the purpose of dedicating to the public a portion of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands as a park, public square or highway, or
 - (b) for any other purpose.

Principles guiding approving officer

- 9.6** (a) In considering an application for approval of a subdivision under the Land Title Act (British Columbia), the approving officer must be guided by the principles and requirements set out in this Act, the Land Title Act (British Columbia) and the Planning and Land Use Management Act when reviewing the subdivision plan for that application.
- (b) An application for approval under subsection (a) must be accompanied by the prescribed fee.
- (c) If the approving officer refuses to grant approval, or if approval is not granted within two months after the date the application under subsection (a) is tendered to the approving officer for approval, the applicant may
- (i) request a review of the matter under the Administrative Decisions Review Act, or
 - (ii) make an application in the nature of an appeal to the Supreme Court of British Columbia under the Land Title Act (British Columbia).

Subdivision plan fees

- 9.7** The Executive may prescribe fees for the examination of a subdivision plan by the approving officer, which may vary with the number, size and type of parcels involved in the proposed subdivision.

Survey costs for Ka:'yu:'k't'h'/Che:k'tles7et'h' dispositions

- 9.8** Unless the Executive otherwise requires by directive or section 7.2(b) applies, an applicant under section 4.16(a) must pay the cost of any required survey of the Ka:'yu:'k't'h'/Che:k'tles7et'h' lands that are the subject of the application.

Amounts payable

- 9.9** An amount payable by a registered owner or holder under this Part is recoverable by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as a debt due to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

PART 10 - GENERAL PROVISIONS

Regulations

- 10.1** The Executive may make regulations that it considers necessary or advisable for the purposes of this Act.

Application for indefeasible title

- 10.2** (a) The Executive may apply, in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, under 3.3.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the registration of an indefeasible title to a parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for which no indefeasible title is registered at the time of the application.
- (b) Subject to section 5.1, the Executive may apply, in the name of a person contemplated in section 5.1, under 3.3.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the registration of an indefeasible title to a parcel of Ka:'yu:'k't'h'/Che:k'tles7et'h' lands for which no indefeasible title is registered at the time of the application.

Cancellation of Ka:'yu:'k't'h'/Che:k'tles7et'h' title

- 10.3** (a) If there are no charges registered against Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, except charges in favour of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
- (i) the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is the registered owner of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands, or
- (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation is the registered owner of Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands and that Ka:'yu:'k't'h'/Che:k'tles7et'h' corporation has given its consent,
- the Executive may apply under 3.7.1 of the Maa-nulth Treaty for the cancellation of the registration of the indefeasible title to that land under the Land Title Act (British Columbia).
- (b) On cancellation of the registration of an indefeasible title to that Ka:'yu:'k't'h'/Che:k'tles7et'h' land, the land is deemed to no longer be Ka:'yu:'k't'h'/Che:k'tles7et'h' titled lands under this Act.

Right of entry

- 10.4** For the purpose of performing their duties under this Act, the following individuals may, at reasonable times, enter any Ka:'yu:'k't'h'/Che:k'tles7et'h' lands and premises:

- (a) the director;
- (b) an authorized Ka:'yu:'k't'h'/Che:k'tles7et'h' employee who has identification from the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the purpose.

Repeal

10.5 The Land Act KFCNS 12/2011 is repealed.

Consequential amendments

- 10.6** (a) The Building and Development Authorization Act KCFNS 34/2014 is amended as follows:
- (i) section 2.2(a)(iii) is amended by striking out the words “land registry office provided under section 3.21 of the Land Act” and substituting “Executive provided under section 4.24 of the Land Act”;
 - (b) The Housing Authority Act KCFNS 33/2014 is amended by repealing section 5.2;
 - (c) The Interpretation Act KCFNS 17/2011 is amended as follows:
 - (i) section 3.3 is amended:
 - (A) by replacing the definition of “lands register” with the following:

“lands register” means the register maintained by the director of lands and resources in accordance with the Land Act”;
 - (B) by striking out the definition of “lands registrar”;
 - (C) by striking out the definition of “lands registry office”;
 - (d) The Planning and Land Use Management Act KCFNS 13/2011 is amended as follows:
 - (i) section 4.5(d)(iv) is amended by striking out “7.13” and substituting “5.12”;
 - (ii) section 4.14(f)(iii) is amended by striking out “7.13” and substituting “5.12”;
 - (iii) section 7.3(c)(i) is amended by striking out “7.13” and substituting “5.12”;
 - (e) The Real Property Tax Act KCFNS 19/2011 is amended as follows:

- (i) section 4.3(c)(ii)(C) is amended by striking out “7.13” and substituting “5.12”;
- (ii) section 4.3(c)(iii)(B) is amended by striking out “7.13” and substituting “5.12”;
- (iii) section 4.3(e)(i) is amended by striking out “7.13” and substituting “5.12”;
and
- (iv) section 4.3(e)(ii)(B) is amended by striking out “7.13” and substituting “5.12”.

Commencement

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

LEGISLATIVE HISTORY

Land Act KCFNS 69/2022 enacted November 21, 2022