

TOQUAHT NATION GOVERNMENT

**APPLICATION OF LAWS
TO FORESHORE ACT**

TNS 6/2014



This law enacted on April 15th, 2014

Signed *Anne Mack*
Anne Mack, ḥaʔwił of the Toquaht Nation

DEPOSITED IN THE
REGISTRY OF LAWS
ON 2014-05-01
Kristen Johnson
Signature of Law Clerk

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PREAMBLE

The Toquaht Nation and British Columbia entered into an amended Toquaht Nation Foreshore Agreement. The Amended Foreshore Agreement expands the law making authority of the Toquaht Nation over Toquaht foreshore and alters the enactment and enforcement process required by the former Foreshore Agreement to enact and enforce Toquaht law applicable to Toquaht foreshore.

It is the desire of the Toquaht Nation that there be certainty as to the applicability of existing Toquaht law to Toquaht foreshore. Certainty concerning the applicability of Toquaht law to Toquaht foreshore is desirable for transparent and accountable government processes and for the better governance of the Toquaht Nation.

The Toquaht Nation adopt this Act based on these values.

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PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Application of Laws to Foreshore Act.

Executive oversight

1.2 The chairperson of Council is responsible for the executive oversight of this Act.

Application

- 1.3 (a) This Act is enacted as contemplated in 14.5.0 of Chapter 14 Regional Government of the Maa-nulth Treaty and under the Amended Foreshore Agreement.
- (b) Unless otherwise provided in this Act or another Toquaht enactment, this Act applies to all Toquaht foreshore.

Definitions

1.4 In this Act,

“Amended Foreshore Agreement” means the agreement entered into between the Toquaht Nation and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference December 3, 2013;

“Foreshore Agreement” means the agreement entered into between the Toquaht Nation and British Columbia in accordance with 14.5.1 of Chapter 14 Regional Government of the Maa-nulth Treaty and dated for reference April 1, 2011.

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PART 2 - APPLICATION OF LAWS TO FORESHORE

Applicability of certain enactments

- 2.1 (a) The following Toquaht enactments apply to Toquaht foreshore with the necessary changes required and so far as applicable:
- (i) the Planning and Land Use Management Act;
 - (ii) the provisions of the Environmental Protection Act applicable to those matters referred to section 3.8(b) of the Amended Foreshore Agreement;
 - (iii) the Environmental Protection Act other than the provisions referred to in paragraph (ii);
 - (iv) the Enforcement Act; and
 - (v) the Building and Development Authorization Act.
- (b) A reference to Toquaht lands in the enactments listed in subsection (a) is deemed to include a reference to Toquaht foreshore unless the context requires otherwise or it is otherwise indicated.

Applicability of other enactments

- 2.2 Nothing in this Act restricts the application of a Toquaht enactment to a person or activity on Toquaht foreshore to which that enactment would otherwise apply.

Penalties

- 2.3 A penalty under the enactments listed in section 2.1(a) must not exceed the limits referred to in section 3.11 of the Amended Foreshore Agreement.

Interpretation of enactments

- 2.4 For certainty, except in this Act, where the context requires otherwise or is otherwise indicated, a reference in a Toquaht enactment to the Foreshore Agreement is a reference to the Amended Foreshore Agreement.

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PART 3 - GENERAL PROVISIONS

Regulations

- 3.1** The Executive may make regulations which it considers necessary or advisable for the purposes of this Act, including regulations setting out necessary amendments to an enactment listed in section 2.1(a) for that enactment to apply to Toquaht foreshore in accordance with this Act.

Enactment or amendment of laws applicable to foreshore

- 3.2** (a) In accordance with the Amended Foreshore Agreement, before an amendment is made to this Act or an enactment listed in section 2.1(a), the Toquaht government must first
- (i) discuss that amendment with any person, including local governments and other authorities and organizations, and
 - (ii) consult with individuals ordinarily resident in the Toquaht foreshore concerning the amendment,
- if they may be directly and significantly affected by that amendment.
- (b) In accordance with the Amended Foreshore Agreement, before enacting a Toquaht enactment in relation to Toquaht foreshore or any subsequent amendment to that enactment, the Toquaht government must first
- (i) discuss that enactment or amendment with any person, including local governments and other authorities and organizations, and
 - (ii) consult with individuals ordinarily resident on Toquaht foreshore concerning that enactment or amendment,
- if they may be directly and significantly affected by that enactment or amendment.
- (c) For certainty, despite subsections (a) and (b) and in accordance with the Amended Foreshore Agreement, the law-making authority of the Toquaht government under the Amended Foreshore Agreement in relation to Toquaht foreshore is subject to the same conditions, requirements and restrictions as a municipality in exercising law-making authority under provincial law including
- (i) providing notice and an opportunity to make representations to persons affected by a proposed Toquaht enactment or a decision made under a Toquaht enactment in relation to Toquaht foreshore, and

- (ii) when applicable, seeking the approval of Toquaht citizens and non-members ordinarily resident on Toquaht foreshore to a proposed Toquaht enactment or a decision made under a Toquaht enactment in relation to Toquaht foreshore.

Commencement

- 3.3**
- (a) Subject to subsections (b) to (e), this Act comes into force by Order of the Executive.
 - (b) An Order of the Executive under subsection (a) must not be made until
 - (i) notice of that Order and a copy of this Act has been posted in accordance with Toquaht law for at least 30 days,
 - (ii) notice of that Order has been published in accordance with Toquaht law, and
 - (iii) notice of that Order and a copy of this Act has been delivered in accordance with Toquaht law to British Columbia and the Alberni-Clayoquot Regional District.
 - (c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.
 - (d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to an enactment listed in section 2.1(a) in relation to Toquaht foreshore to address any concern raised by a representation received in accordance with subsection (c).
 - (e) Section 2.1(a)(iii) comes into force on the date the responsible minister referred to in section 3.8(a) of the Amended Foreshore Agreement gives approval to the application of those provisions of the Environmental Protection Act to Toquaht foreshore.