

TOQUAHT NATION GOVERNMENT

ENFORCEMENT FRAMEWORK  
AMENDMENT ACT NO. 1

TNS 7/2014



This law enacted on April 15, 2014

Signed Anne Mack  
Anne Mack, ḥaʔwił of the Toquaht Nation

DEPOSITED IN THE  
REGISTRY OF LAWS

ON 2014/05/01

Kristen O'Neil  
Signature of Law Clerk

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## PART 1 - INTRODUCTORY PROVISIONS

### Short title

1.1 This Act may be cited as the Enforcement Framework Amendment Act No. 1.

### Executive oversight

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

### Application

1.3 This Act amends

- (a) the Interpretation Act TNS 17/2011,
- (b) the Administrative Decisions Review Act TNS 7/2011, and
- (c) the Freedom of Information and Protection of Privacy Act TNS 11/2011.



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## PART 2 - INTERPRETATION ACT AMENDMENTS

### Interpretation Act amendments

- 2.1 Section 1.4 of the Interpretation Act TNS 17/2011 is amended by adding the following definitions:

“external enforcement agency” means, in relation to an external enforcement officer, the federal, provincial or other department or agency that the enforcement officer represents in his or her enforcement of Toquaht law under an agreement with that department or agency;

“external enforcement officer” means an enforcement officer who is not a Toquaht public employee or an independent contractor of a Toquaht institution;





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## PART 3 - ADMINISTRATIVE DECISIONS REVIEW ACT AMENDMENTS

### Administrative Decisions Review Act amendments

3.1 The Administrative Decisions Review Act TNS 7/2011 is amended as follows:

- (a) section 1.4 is amended by deleting the definition of “parties to the review” and replacing it with the following:  
“parties to the review” means
  - (a) the applicant,
  - (b) the Toquaht institution responsible for the determination that is the subject of a review under this Act, and
  - (c) for a review request in relation to an alleged act or omission of an external enforcement officer,
    - (i) that enforcement officer, and
    - (ii) the external enforcement agency that the enforcement officer represents in his or her enforcement of Toquaht law under an agreement with that department or agency;
- (b) section 2.1(a) is amended by deleting the comma after “13.3.1o”;
- (c) section 2.2(b)(vi) is amended by deleting the word “panel” and replacing it with the word “chairperson”;
- (d) section 2.2(c) is amended by deleting the words “making a report under section 3.5 in relation to a review request” and replacing it with the words “making a review report under section 3.5”;
- (e) section 3.1 is amended by adding the following subsection:
  - (b.1) Despite subsections (a) and (b), the Executive may, by Order,
    - (i) require complaints against a particular class of external enforcement officers to be pursued and completed under any policies or procedures of the applicable external enforcement agency, or any federal or provincial laws governing complaints against that class of external enforcement officers, before a review request may be filed in relation to an alleged act or omission of a member of that class of external enforcement officers, and

- (ii) establish the time limit in which a review request must be filed in relation to an alleged act or omission of a member of that class of external enforcement officers.
- (f) section 3.1 is amended by deleting subsection (g) and replacing it with the following:
  - (g) The review officer
    - (i) must, within seven days after receiving a review request, deliver a copy of the review request to the parties to the review, excluding the applicant, and
    - (ii) may, subject to the Freedom of Information and Protection of Privacy Act or applicable federal or provincial law, require the Toquaht institution or external enforcement agency responsible for the determination that is the subject of the review request to provide the review officer copies of all records in its custody or under its control respecting the determination.
- (g) section 3.2(b) is amended by deleting the words “the Toquaht institution responsible for the determination that is subject of the review” and replacing it with the words “the parties to the review”;
- (h) section 3.2(d) is amended by deleting “section 3.5(a)” and replacing it with “section 3.5”;
- (i) section 3.2(f) is amended by adding the words “to the review” immediately following the word “party”;
- (j) section 3.3(c) is amended by deleting the words “the Toquaht institution responsible for the determination that is the subject of the review request” and replacing it with the words “the parties to the review”;
- (k) section 3.4(c) is amended by deleting the words “filed under section 3.1”;
- (l) section 3.5(b)(ii) is amended by deleting the word “the” and replacing it with the word “any”;
- (m) section 4.5 is amended by deleting subsection (a) and replacing it with the following:
  - (a) On a review, the chairperson may, by reasonable written notice, require the applicant, a Toquaht public employee or a representative of an external enforcement agency

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- (i) to attend as a witness before the panel, at a place and time specified in the notice, and
    - (ii) to bring and produce before the panel, subject to subsection (b), all records in the person's custody or under the person's control relevant to the subject matter of the review.
  - (n) section 4.5 is amended by deleting subsection (b) and replacing it with the following:
    - (b) A person's obligation to bring and produce records under subsection (a)(ii) is subject to the Freedom of Information and Protection of Privacy Act or applicable federal or provincial law.
  - (o) section 4.5(d)(i) is amended by deleting the words "the Toquaht institution responsible for the determination that is subject of the review" and replacing them with the words "the other parties to the review";
  - (p) section 4.5(e) is amended by deleting the word "and" and the end of paragraph (i) and replacing it with the word "or";
  - (q) section 4.5 is amended by adding the following subsection:
    - (f) If a representative of an external enforcement agency fails or refuses to attend, take an oath or affirmation, answer questions or produce the records required in the notice under subsection (a), the panel may make
      - (i) an order setting aside the determination or declaring invalid the Toquaht law that is subject of the review, or
      - (ii) a recommendation to the Executive that the agreement with the external enforcement agency for the enforcement of Toquaht law be terminated.
  - (r) section 4.7(c) is amended by deleting the words "the applicant and the Toquaht institution responsible for the determination that is subject of the review" and replacing it with the words "the parties to the review"; and
  - (s) section 4.7 is amended by adding the following subsection:
    - (e.1) If the review request is one to which section 1.3(b) applies and is in relation to an external enforcement officer, the panel may also recommend to the Executive that the agreement with the applicable external enforcement agency for the enforcement of Toquaht law be terminated.



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## PART 4 - FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT AMENDMENTS

### Freedom of Information and Protection of Privacy Act amendments

- 4.1** The Freedom of Information and Protection of Privacy Act TNS 11/2011 is amended as follows:
- (a) section 2.8(a)(ii) is amended by adding the words “including law enforcement by an external enforcement agency,” after the words “harm a law enforcement matter,”;
  - (b) section 2.9(a) is amended by adding the words “and, if required under section 2.10, after consulting with the applicable external enforcement agency in accordance with section 2.10” after the words “without delay”; and
  - (c) Part 2 is amended by adding the following section:

#### **Consultation with external enforcement agencies**

- 2.10 If the disclosure of information is about a law enforcement matter involving an external enforcement agency, the director must, before determining whether or not to disclose all or any portion of that information under this Act,
- (a) provide notice of the applicable request under section 2.2 or proposed disclosure under section 2.9 to that external enforcement agency in sufficient detail to permit that external enforcement agency to prepare their views on the request or proposed disclosure, and
  - (b) give full and fair consideration to any comments or recommendations provided by that external enforcement agency in relation to the request or proposed disclosure.



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## PART 5 - GENERAL PROVISIONS

### Commencement

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

