

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

INTEGRITY ACT

KCFNS 4/2011



This law enacted on April 1, 2011

Signed Christina Cox
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Therese Smith, Legislative Chief,
Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations

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Marilyn Droot
Signature of Clerk

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PREAMBLE

As a treaty first nation, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assumes the responsibility of providing transparent and accountable government, blending hereditary and modern-day governing institutions. This requires Ka:'yu:'k't'h'/Che:k'tles7et'h' officials to perform their duties and exercise their powers with honesty, integrity, impartiality and regard to the common good of all Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens.

To assist with realizing these goals, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations wish to establish rules of conduct that all Ka:'yu:'k't'h'/Che:k'tles7et'h' officials must abide by, as well as disclosure and enforcement processes aimed at ensuring Ka:'yu:'k't'h'/Che:k'tles7et'h' officials abide by those rules and, if they do not, they are sanctioned appropriately.

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 Integrity Act.

Oversight

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

Application

1.3 This Act applies to all Ka:'yu:'k't'h'/Che:k'tles7et'h' officials.

Definitions

1.4 In this Act,

“clerk” means the office established under section 2.17 of the Government Act or the individual appointed to hold that office;

“immediate family” means, when used in reference to a Ka:'yu:'k't'h'/Che:k'tles7et'h' official, the Ka:'yu:'k't'h'/Che:k'tles7et'h' official's spouse, son, daughter, parent, sibling or grandparent;

“Ka:'yu:'k't'h'/Che:k'tles7et'h' official” includes, for the purposes of this Act,

- (a) a member of a committee as defined in the Legislature Rules of Order and Procedure Act, and
- (b) a volunteer who participates in the delivery of programs or services by a Ka:'yu:'k't'h'/Che:k'tles7et'h' institution;

“private interests” includes, when used in reference to a Ka:'yu:'k't'h'/Che:k'tles7et'h' official, the interests of the Ka:'yu:'k't'h'/Che:k'tles7et'h' official's immediate family;

“public office” means the office of a Ka:'yu:'k't'h'/Che:k'tles7et'h' public employee.

PART 2 - RULES OF CONDUCT

General duties

- 2.1** (a) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must exercise his or her official powers and perform his or her official duties in such a manner as to maintain public confidence and trust in the integrity of the Ka:'yu:'k't'h'/Che:k'tles7et'h' official.
- (b) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must act honestly and in good faith with a view towards the best interests of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must demonstrate high ethical standards in personal and professional dealings.

Conflict of interest

- 2.2** A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must not exercise an official power or perform an official duty knowing that in doing so there is an opportunity to further his or her private interests.

Insider information

- 2.3** (a) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must not use information that is obtained in the execution of his or her position as a Ka:'yu:'k't'h'/Che:k'tles7et'h' official and is not available to the general public to further or seek to further the Ka:'yu:'k't'h'/Che:k'tles7et'h' official's private interests.
- (b) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must not communicate information referred to in subsection (a) to another person if the Ka:'yu:'k't'h'/Che:k'tles7et'h' official knows, or reasonably ought to know, that the information may be used to further or seek to further the Ka:'yu:'k't'h'/Che:k'tles7et'h' official's private interests.

Influence

- 2.4** A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must not use his or her position as a Ka:'yu:'k't'h'/Che:k'tles7et'h' official to influence or seek to influence a decision of another person so as to further the Ka:'yu:'k't'h'/Che:k'tles7et'h' official's private interests.

Acceptance of gifts or personal benefits

- 2.5** (a) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official must not accept a gift or personal benefit that might reasonably be seen to have been given to influence the

Ka:'yu:'k't'h'/Che:k'tles7et'h' official in the exercise of his or her official powers or the performance of his or her official duties.

- (b) Despite subsection (a), a Ka:'yu:'k't'h'/Che:k'tles7et'h' official may accept a gift or personal benefit that is received
- (i) in his or her personal capacity, or
 - (ii) as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of his or her position.

PART 3 - PROCEDURE ON CONFLICT OF INTEREST

Disclosure and withdrawal

- 3.1** (a) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official who has reasonable grounds to believe that he or she has a conflict of interest in any matter must, if present at a meeting considering the matter,
- (i) disclose the general nature of the conflict of interest, and
 - (ii) withdraw from the meeting without participating in the discussion or voting on the matter.
- (b) The absence of a Ka:'yu:'k't'h'/Che:k'tles7et'h' official from a meeting because of the requirement under subsection (a)(ii) must not be taken into account in determining whether a quorum is present for that meeting and, for the purposes of this subsection, the Ka:'yu:'k't'h'/Che:k'tles7et'h' official must be counted as being present even though he or she is absent from all or a portion of the meeting.
- (c) Despite subsection (a)(ii), if a Ka:'yu:'k't'h'/Che:k'tles7et'h' official who discloses a conflict of interest under subsection (a)(i) is the only person present at the meeting with the information necessary to make a decision on the matter, then the Ka:'yu:'k't'h'/Che:k'tles7et'h' official may participate in the discussion but must not vote on the matter.
- (d) Despite subsections (a)(ii) and (c), if the operation of those subsections would result in there being fewer than three Ka:'yu:'k't'h'/Che:k'tles7et'h' officials present at the meeting who can vote on the matter, then so long as they have complied with subsection (a)(i), all Ka:'yu:'k't'h'/Che:k'tles7et'h' officials present at the meeting may participate in the discussion and vote on the matter.

Invitation to disclose and withdraw

- 3.2** A person who has reasonable grounds to believe that a Ka:'yu:'k't'h'/Che:k'tles7et'h' official has a conflict of interest in any matter may, if present at a meeting considering the matter, invite the Ka:'yu:'k't'h'/Che:k'tles7et'h' official to disclose his or her conflict of interest and to withdraw from the meeting.

Record of disclosure and withdrawal

- 3.3** (a) If a Ka:'yu:'k't'h'/Che:k'tles7et'h' official has complied with section 3.1, the secretary of the meeting must record both
- (i) the disclosure, and
 - (ii) the withdrawal.

- (b) If the meeting referred to in section 3.1 is a meeting of the Legislature, the Executive or a committee of either of them, the secretary of the meeting must file the information referred to in subsection (a) with the clerk as soon as practicable after the meeting.

Access to disclosure and withdrawal records

3.4 The clerk must

- (a) make a copy of any information filed under section 3.3(b) available to any person for inspection at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices during regular business hours, and
- (b) provide a copy of the information described in subsection (a) to the chief administrative officer.

PART 4 - DISCLOSURE AND DIVESTMENT REQUIREMENTS

Private interests disclosure statement

- 4.1** Each Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative must file with the clerk a private interests disclosure statement in the prescribed form
- (a) as soon as practicable and no later than 14 days after the earlier of the date on which he or she was elected, appointed or sworn into office, and
 - (b) within 14 days of each anniversary of the date referred to in subsection (a).

Content of private interests disclosure statement

- 4.2** The private interests disclosure statement required under section 4.1 must identify
- (a) the name of each for-profit corporation, partnership, proprietorship or other business entity in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or his or her immediate family has an interest,
 - (b) the name of each not-for-profit organization or charity in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or his or her immediate family holds a membership, and
 - (c) the name of each for-profit corporation, not-for-profit organization or charity of which the Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or his or her immediate family is an officer or director.

Divestment of interests

- 4.3**
- (a) Each Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative must, within 90 days after the date on which he or she was elected, divest his or her interest in any for-profit corporation, partnership, proprietorship or other business entity by
 - (i) selling them in an arms length transaction, or
 - (ii) placing them in a blind trust for as long as he or she continues to hold office.
 - (b) Each Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative must, within 90 days after the date on which he or she receives an interest in any for-profit corporation, partnership, proprietorship or other business entity by way of a gift or inheritance, divest such shares in the manner required under subsection (a).

Resignation from boards

- 4.4** Each Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative must, within 30 days after the date on which he or she was elected, resign from the board of directors of any for-profit corporation.

Supplemental disclosure statement

- 4.5** Each Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative must file with the clerk a supplemental disclosure statement in the prescribed form within 30 days after a change in the circumstances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or his or her immediate family occurs which results in the private interests disclosure statement filed under section 4.1 no longer being complete or accurate.

Access to disclosure statements

- 4.6** The clerk must make a copy of
- (a) private interests disclosure statements filed under section 4.1, and
 - (b) supplemental disclosure statements filed under section 4.5
- available to any person for inspection at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices during regular business hours.

Divestment of gifts or personal benefits

- 4.7**
- (a) Any gift or personal benefit received by a member of the Legislature as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of his or her office is the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
 - (b) A member of the Legislature who receives a gift or personal benefit described in subsection (a) must deliver the gift or personal benefit to the chief administrative officer within 30 days after the receipt of such gift or personal benefit.
 - (c) Despite subsections (a) and (b), the Legislature may, by resolution, direct that
 - (i) the member of the Legislature who received the gift or personal benefit, or
 - (ii) a Ha'wilth,is entitled to retain a gift or personal benefit described in subsection (a).

PART 5 - INCOMPATIBLE OFFICES

Incompatible offices

- 5.1**
- (a) Subject to this section, the Government Personnel Act and any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, an individual may simultaneously hold more than one public office.
 - (b) An individual must not simultaneously hold two public offices that are incompatible unless the simultaneous holding of those public offices is compelled or expressly authorized by Ka:'yu:'k't'h'/Che:k'tles7et'h' law.
 - (c) Public offices are incompatible when any of the following circumstances are present:
 - (i) one public office may remove or exercises supervisory powers over the other;
 - (ii) based on the powers and duties of the public offices, there is a possibility of a significant clash of duties or loyalties between the public offices; or
 - (iii) public policy considerations make it improper for one individual to hold both public offices.
 - (d) Despite this section, the offices of the chief administrative officer and the director of finance may be held by the same individual and, if such offices are held by the same individual, the director of finance reports to the Executive and the Financial Administration Act is deemed to be amended to the extent necessary to reflect this reporting requirement.

PART 6 - ENFORCEMENT

Definitions

- 6.1** (a) In this Part,
- “respondent” means the individual whose conduct is the subject of a review request;
- “review request” means a request referred to in section 6.2.
- (b) Despite section 1.4 of the Administrative Decisions Review Act, the respondent is deemed to be a party to the review under the Administrative Decisions Review Act.

Review request

- 6.2** (a) Subject to subsection (b), any person who has reason to believe that a Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or a Ka:'yu:'k't'h'/Che:k'tles7et'h' director has engaged in conduct contrary to this Act may request a review of that individual's conduct by the Administrative Decisions Review Board.
- (b) Any Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative who has reason to believe that another Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative or a Ka:'yu:'k't'h'/Che:k'tles7et'h' director has engaged in conduct contrary to this Act must request a review of that individual's conduct by the Administrative Decisions Review Board.

Determination

- 6.3** Despite section 4.8(a) of the Administrative Decisions Review Act, the Administrative Decisions Review Board must determine whether, beyond a reasonable doubt, the respondent engaged in conduct contrary to this Act.

No contravention found

- 6.4** If the Administrative Decisions Review Board determines that the respondent has not engaged in conduct contrary to this Act, the Administrative Decisions Review Board must make an order dismissing the review request.

Contravention found

- 6.5** (a) Subject to subsection (b), if the Administrative Decisions Review Board determines that the respondent has engaged in conduct contrary to this Act, the

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- Administrative Decisions Review Board may make an order directing one or more of the following:
- (i) that no sanction be imposed on the respondent;
 - (ii) that the respondent be reprimanded;
 - (iii) that the respondent publically acknowledge his or her wrongful conduct;
 - (iv) that the respondent pay the Ka:'yu:'k't'h'/Che:k'tles7et'h' government the amount of any gains realized as a result of the contravention;
 - (v) that the respondent be ordered to pay a fine not exceeding \$5,000;
 - (vi) that the respondent be removed from office;
 - (vii) that the respondent be disqualified from holding office for a period of up to 10 years; or
 - (viii) that any other sanction the Administrative Decisions Review Board considers appropriate be imposed on the respondent.
- (b) If the Administrative Decisions Review Board determines that the respondent has engaged in conduct contrary to this Act but
- (i) the respondent took all reasonable measures to prevent the contravention, or
 - (ii) the contravention was trivial, committed through inadvertence or an error of judgment made in good faith,
- the Administrative Decisions Review Board must make an order directing that no sanction be imposed on the respondent.
- (c) Despite subsection (a)(vi), if the respondent is a member of the Legislature, the Administrative Decisions Review Board may only recommend to the Legislature that the respondent be removed from Legislature.

PART 7 - GENERAL PROVISIONS

Regulations

- 7.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Limitation on actions

- 7.2 (a) For certainty and pursuant to 13.35.1 and 13.35.4 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against any Ka:'yu:'k't'h'/Che:k'tles7et'h' official or former Ka:'yu:'k't'h'/Che:k'tles7et'h' official for anything done or omitted to be done under this Act.
- (b) Despite 13.35.2, 13.35.3, 13.35.5 and 13.35.6 of Chapter 13 Governance of the Maa-nulth Treaty, no action for damages lies or may be commenced against a Ka:'yu:'k't'h'/Che:k'tles7et'h' institution, Ka:'yu:'k't'h'/Che:k'tles7et'h' official or former Ka:'yu:'k't'h'/Che:k'tles7et'h' official for anything done or omitted to be done under this Act if they acted in good faith in the performance of their duties or the exercise of their powers.

Commencement

- 7.3 This Act comes into force on the Maa-nulth Treaty effective