huu ay aht

ANCIENT SPIRIT, MODERN MIND

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

OFFICIAL CONSOLIDATION
Current to April 14, 2021

The Huu-ay-aht Legislature enacts this law to establish a comprehensive financial administration system for the effective and efficient management of Huu-ay-aht resources.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Freedom of Information and Protection of Privacy Act* passed Third Reading in the Legislature on:

March 30, 2012

Chief Councillor Jeff Cook

I certify that the *Freedom of Information and Protection of Privacy Act* is enacted as law on:

March 30, 2012

Ta'yii Hawilth Derek Peters

I certify that the *Freedom of Information and Protection of Privacy Act* came into force on:

Law Clerk Connie Waddell

REGISTRY OF LAWS CERTIFICATION

I certify that the *Enforcement Framework Amendment Act, 2015* passed Third Reading in the Legislature on:

March 30, 2015

Chief Councillor Jeffrey Cook

I certify that the *Enforcement Framework Amendment Act, 2015* is enacted as law on:

March 30, 2015

Ta'yii Hawilth Derek Peters

I certify that the *Enforcement Framework Amendment Act, 2015* came into force on:

March 30, 2015

Deputy Law Clerk Deborah Smith

REGISTRY OF LAWS CERTIFICATION

I certify that the *Freedom of Information and Protection of Privacy Act Amendment Act, 2015* was passed by Executive Council on:

March 30, 2015

Chief Councillor, Jeff Cook

I certify that the *Freedom of Information and Protection of Privacy Act Amendment Act, 2015* is enacted as law on:

March 30, 2015

Ta'yii Hawilth, Derek Peters

I certify that the *Freedom of Information and Protection of Privacy Act Amendment Act, 2015* came into force on:

March 30, 2015

Deputy Law Clerk, Deborah Smith

REGISTRY OF LAWS CERTIFICATION

I certify that the *Financial Administration Act Amendment Act, 2020* was passed by Executive Council on:

March 30, 2020

Chief Councillor, Robert Dennis

I certify that the *Financial Administration Act Amendment Act, 2020* is enacted as law on:

March 30, 2020

Ta'yii Hawilth, Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2020* came into force on:

April 14, 2021

Law Clerk, Coraleah Johnson

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Contents

PART 1 – PURPOSE AND DEFINITIONS
1 Purpose of this Act
2 Definitions
3 Scope of this Act

PART 2 – HUU-AY-AHT PUBLIC RECORDS
4 Designating Huu-ay-aht public records
5 Determining benefit of public disclosure
6 Determining harm from public disclosure
7 Exceptions to invasion of personal privacy

PART 3 – PUBLIC INTEREST PARAMOUNT
8 People's Assembly resolution
9 Public interest disclosure

PART 4 – ACCESS TO HUU-AY-AHT PUBLIC RECORDS
10 Inspection and copying of Huu-ay-aht public records

PART 5 – PROTECTION OF PRIVACY
11 Purposes for which personal information may be collected
12 How personal information is to be collected
13 Accuracy of personal information
14 Right to request correction of personal information
15 Notification of unauthorized disclosure
16 Retention of personal information
17 Use of personal information
18 Disclosure of personal information
19 Definition of consistent purposes
20 Right of access to personal information
21 Power to disregard requests

PART 6 – RECORDS MANAGEMENT
22 Records and information security
23 Records and information management
24 Directory of Huu-ay-aht records
25 Retention of records

PART 7 INDEPENDENT REVIEW
26 Independent Review Commissioner

PART 8 – GENERAL PROVISIONS
27 Intergovernmental agreements
28 Protection of Huu-ay-aht body from legal suit
29 Head of Huu-ay-aht body
30 Delegation by head of Huu-ay-aht body
31 Compliance notices and tickets

32 Offences and penalties
33 Conflict of Acts
34 Power to make regulations
35 No further effect
36 Amendments to this Act
37 Commencement

Note to Reader

The *Freedom of Information and Protection of Privacy Act* provides Huu-ay-aht citizens and members of the public with access to information held by Huu-ay-aht bodies. In addition, the Act provides for protection of a person's privacy.

Huu-ay-aht public records are designated each year by Executive Council from a directory of records provided by Huu-ay-aht bodies. Huu-ay-aht public records are official records that must be made available to the public by the Law Clerk in the Registry of Laws and Official Records. The Act sets out the criteria for selecting Huu-ay-aht public records as well as the exemptions from disclosing records.

Huu-ay-aht bodies are required to ensure their records are accurate and complete if they are used to provide a benefit or service to a Huu-ay-aht citizen. Huu-ay-aht citizens may get a copy of records about themselves and may apply to correct the records.

The privacy of Huu-ay-aht citizens is protected under the Act by requiring a Huu-ay-aht body collecting information to collect the information directly from the person the information is about unless certain restricted circumstances exist such as the information is required for law enforcement.

The Act sets out how Huu-ay-aht records must be managed requiring, for example, that records held by Huu-ay-aht bodies must be kept for at least 5 years.

In 2014, the Huu-ay-aht Tribunal must appoint an Independent Review Commissioner to review the Act and make recommendations to achieve the Act's purpose of ensuring Huu-ay-aht bodies are open, accountable and transparent and the personal privacy of individuals is protected.

The Legislature enacts as follows:

PART 1 – PURPOSE AND DEFINITIONS

Purpose of this Act

1 (1) The purpose of this Act is to ensure

(a) Huu-ay-aht bodies are open, accountable and transparent, and

(b) the personal privacy of individuals is protected.

(2) This Act

(a) gives individuals

(i) a right of access to Huu-ay-aht public records, and

(ii) a right of access to, and a right to request correction of, personal information about themselves,

(b) prohibits unauthorized collection, use, retention, disclosure and disposal of personal information by Huu-ay-aht bodies, and

(c) provides for an independent review of the operation of this Act.

(3) Huu-ay-aht bodies must ensure that the purpose of this Act is effectively and efficiently achieved at reasonable cost.

(4) This Act supplements and does not replace access to information and protection of privacy provisions in other Huu-ay-aht Acts.

(5) This Act does not limit in any way access to information that is

(a) not personal information, and

(b) available to the public.

Definitions

2 In this Act:

"contact information of a public officer" means information sufficient to contact a public officer, including the public officer's name, position, business address, business telephone number and business e-mail address;

"directory of records" means the directory of records published under section 24;

"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 Huu-ay-aht law under an agreement with that department or agency;

HFNA 1/2015, s. 2(a).

"external enforcement officer" means a peace officer or another authority other than

(a) a Huu-ay-aht employee,

(b) an independent contractor of a Huu-ay-aht body, or

(c) Executive Council.

HFNA 1/2015, s. 2(a).

"general information" means recorded information which is not personal information;

"government" means government as defined in the *Government Act*;

"head of a Huu-ay-aht body" means

(a) if the Huu-ay-aht body is government, the Executive Director, and

(b) if the Huu-ay-aht body is a Huu-ay-aht business enterprise or a Huu-ay-aht public body, the person or group of persons designated under section 29 as the head of the Huu-ay-aht business enterprise or the head of the Huu-ay-aht public body;

"Huu-ay-aht body" includes government, Huu-ay-aht public bodies and Huu-ay-aht business enterprises;

"Huu-ay-aht business enterprise" means Huu-ay-aht business enterprise as defined in the *Financial Administration Act*;

"Huu-ay-aht public body" means any entity that is owned or controlled, directly or indirectly, by government except for a Huu-ay-aht business enterprise or an entity owned or controlled, directly or indirectly, by a Huu-ay-aht special investment body;

HFNA 2/2020, s. 1(3).

"Huu-ay-aht public record" means a record designated by Executive Council under section 4;

"law enforcement" means any of the following:

(a) policing, including criminal intelligence operations;

(b) investigations that lead or could lead to a penalty or sanction being imposed under an Act or otherwise by law;

(c) proceedings that lead or could lead to a penalty or sanction being imposed under an Act or otherwise by law;

"personal information" means recorded information about an identifiable individual other than contact information of a public officer;

"public disclosure" means disclosure of information to any member of the public;

"public officer" means public officer as defined in the *Code of Conduct and Conflict of Interest Act*;

"record" means a record as defined in the *Interpretation Act* but excludes a transitory record;

"third party" means

(a) in relation to general information, any person, group of persons, organization or entity, other than a Huu-ay-aht body,

(b) in relation to personal information, any person, group of persons, organization or entity other than a Huu-ay-aht body or an individual the personal information is about;

"transitory record" means a record of temporary usefulness that is needed only for a limited period of time in order to complete a routine action or prepare a substantive record.

Scope of this Act

3 (1) Subject to this section, this Act applies to all records in the custody or under the control of a Huu-ay-aht body.

(2) Executive Council may exempt any of the following from the application of all or part of this Act or the access to information and protection of privacy provisions of another Huu-ay-aht Act:

(a) specified records covered by an agreement made with another government under section 27;

(b) specified records created before April 1, 2011.

(3) This Act does not limit

(a) a Huu-ay-aht body from providing

(i) access to records in accordance with another Huu-ay-aht Act, or

(ii) access to information except for information under section 4 (b), and

(b) the information available by law to a party to a judicial or administrative proceeding under a Huu-ay-aht Act or otherwise by law.

(4) This Act does not apply to the Huu-ay-aht Tribunal or any of its records.

PART 2 – HUU-AY-AHT PUBLIC RECORDS

Designating Huu-ay-aht public records

4 Executive Council must review the directory of records by March 31 each year and designate any category of records or a defined part of a category of records as Huu-ay-aht public records if

(a) the benefit of disclosing the records to the public significantly outweighs any harm from public disclosure, and

(b) the records do not contain information the disclosure of which could reasonably be expected to

(i) invade unreasonably a third party's personal privacy, or

(ii) harm significantly the commercial or financial interests of a third party.

Determining benefit of public disclosure

5 In determining the benefit of public disclosure of part or all of a category of records under section 4, Executive Council must consider all the relevant circumstances, including whether public disclosure could reasonably be expected to contribute to any of the following:

(a) upholding and respecting the Constitution and Huu-ay-aht laws;

(b) promoting a healthy and vibrant community for all Huu-ay-aht citizens;

(c) promoting open, accountable and transparent government;

(d) making government decisions in the best interests of present and future generations of Huu-ay-aht citizens;

(e) protecting personal privacy;

(f) providing public services to Huu-ay-aht citizens impartially and equitably;

(g) promoting best governance practices;

(h) providing timely, accessible and accurate information to enable Huu-ay-aht citizens to hold government accountable for acting lawfully and in the best interests of present and future generations of Huu-ay-aht citizens;

(i) encouraging public officers to meet the highest ethical standards;

(j) establishing a fair and effective system for community planning and development;

(k) promoting fair elections;

(l) managing Huu-ay-aht financial and other resources effectively and efficiently;

(m) managing, protecting and disposing of interests in Huu-ay-aht Lands fairly and effectively;

(n) enforcing Huu-ay-aht laws and preserving peace on Huu-ay-aht Lands;

(o) conducting a referendum, a recall petition and petitions for Constitutional amendment fairly;

(p) harvesting Huu-ay-aht natural resources sustainably;

(q) resolving Huu-ay-aht disputes effectively.

Determining harm from public disclosure

6 In determining the harm from public disclosure under section 4, Executive Council must consider all the relevant circumstances, including whether public disclosure could reasonably be expected to do any of the following:

(a) harm the deliberative process of a Huu-ay-aht body;

(b) harm a law enforcement matter;

(c) reveal information subject to solicitor-client privilege;

(d) harm intergovernmental relations or negotiations of a Huu-ay-aht body;

(e) harm the financial or economic interests or negotiations of a Huu-ay-aht body;

(f) harm Huu-ay-aht language, culture or heritage;

(g) harm Huu-ay-aht spiritual or cultural practices;

(h) endanger living resources;

(i) harm individual or public safety.

Exceptions to invasion of personal privacy

7 For the purposes of section 4 (b) (i), public disclosure of a record containing personal information is not an unreasonable invasion of an individual's personal privacy in any of the following circumstances:

(a) the individual, in writing, consents to or requests the disclosure;

(b) compelling circumstances affecting the health or safety of the individual or another individual exist and notice of the disclosure is delivered to the last known address of the individual;

(c) the disclosure is for a research or statistical purpose under section 18 (3);

(d) the disclosure is about a public officer's position, functions or remuneration;

(e) the disclosure reveals financial or other details of a contract to supply goods or services to a Huu-ay-aht body;

(f) a Huu-ay-aht Act provides for public disclosure;

(g) the disclosure is about expenses incurred by a public officer travelling at the expense of a Huu-ay-aht body;

(h) the disclosure reveals details of a licence, permit or similar discretionary benefit granted to an individual by a Huu-ay-aht body, but does not include personal information supplied in support of an application for the licence, permit or benefit;

(i) the disclosure reveals details of a discretionary benefit of a financial nature granted to an individual by a Huu-ay-aht body, but does not include personal information

(i) supplied in support of an application for income assistance or social service benefits, or

(ii) relating to the determination of benefit levels for an individual.

Exceptions to invasion of personal privacy

7.1 If a record contains information about a law enforcement matter involving an external enforcement agency, Executive Council must, before determining whether or not to designate that record a Huu-ay-aht public record,

(a) provide notice of the proposed designation to that external enforcement agency in sufficient detail to permit that external enforcement agency to prepare their views on the proposed designation, and

(b) give full and fair consideration to any comments or recommendations provided by that external enforcement agency in relation to the proposed designation.

HFNA 1/2015, s. 2(b).

PART 3 – PUBLIC INTEREST PARAMOUNT

People's Assembly resolution

8 (1) The People's Assembly may by resolution passed by more than 60% of eligible voters who vote, require Executive Council as soon as practicable to

(a) designate the records specified in the resolution as Huu-ay-aht public records, or

(b) cancel the designation of the records specified in the resolution as Huu-ay-aht public records.

(2) Subsection (1) applies despite any other provision of this Act or another Huu-ay-aht Act.

(3) If a record specified in a resolution proposed under subsection (1) contains information about a law enforcement matter involving an external enforcement agency, the People's Assembly may only vote on that resolution if that external enforcement agency has been provided

(a) notice of the proposed resolution in sufficient detail to permit that external enforcement agency to prepare their views on the proposed resolution,

(b) at least 10 days notice of the People's Assembly at which the proposed resolution will be voted on, and

(c) an opportunity to attend that People's Assembly and present its views on the proposed resolution.

HFNA 1/2015, s. 2(c).

Public interest disclosure

9 (1) The head of a Huu-ay-aht body must, without delay, disclose to the public, to an affected group of people or to an affected individual, information

(a) about a risk of significant harm to the environment or to public health or safety, or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Subsection (1) applies despite any other provision of this Act or another Huu-ay-aht Act.

(3) Before disclosing information under subsection (1), the head of a Huu-ay-aht body must

(a) if the proposed disclosure contains information about a law enforcement matter involving an external enforcement agency

(i) provide notice of the proposed disclosure to that external enforcement agency in sufficient detail to permit that external enforcement agency to prepare their views on the proposed disclosure, and

(ii) give full and fair consideration to any comments or recommendations provided by that external enforcement agency in relation to the proposed disclosure, and

(b) if feasible, notify any other third party to whom the information relates.

(4) If it is not feasible to comply with subsection (3)(b), the head of a Huu-ay-aht body must deliver notice of the disclosure to the last address, if known, of the third party.

HFNA 1/2015, s. 2(d).

PART 4 – ACCESS TO HUU-AY-AHT PUBLIC RECORDS

Inspection and copying Huu-ay-aht public records

10 (1) Huu-ay-aht public records designated by Executive Council under section 4 are official records for the purposes of section 106 of the *Government Act*.

(2) The Law Clerk must make the records described in subsection (1) available for public inspection in accordance with section 106 (4) of the *Government Act*.

(3) Huu-ay-aht public records are records available to the public for the purposes of section 107 of the *Government Act*.

(4) The Law Clerk may provide electronic access to Huu-ay-aht public records.

PART 5 – PROTECTION OF PRIVACY

Purposes for which personal information may be collected

11 Personal information may only be collected by, or for, a Huu-ay-aht body if

(a) collection of the personal information is expressly authorized by a Huu-ay-aht Act,

(b) the personal information is collected for the purposes of law enforcement, or

(c) the personal information relates directly to, and is necessary for, a program, service or activity of the Huu-ay-aht body.

How personal information is to be collected

12 (1) If a Huu-ay-aht body collects personal information, or causes personal information to be collected, the Huu-ay-aht body must collect the personal information directly from an individual the personal information is about unless

(a) another method of collection is authorized by

(i) the individual, or

(ii) a Huu-ay-aht Act,

(b) the collection of the personal information is necessary for the medical treatment of the individual and it is not possible

(i) to collect the personal information directly from that individual, or

(ii) to obtain authority under paragraph (a) (i) for another method of collection,

(c) the personal information may be disclosed to the Huu-ay-aht body under section 18, or

(d) the personal information is collected for the purpose of

(i) determining the individual's suitability for an honour or award including an honorary degree, scholarship, prize or bursary,

(ii) a proceeding before the Huu-ay-aht Tribunal, a court, a judicial or quasi-judicial tribunal or an adjudicative body,

(iii) collecting a debt or fine or making a payment, or

(iv) law enforcement.

(2) A Huu-ay-aht body under subsection (1) must

(a) tell an individual the purpose of and legal authority for collecting the individual's personal information, and

(b) provide an individual with contact information of a public officer who can answer questions about the collection of the individual's personal information.

(3) Subsection (2) does not apply if

(a) the personal information is about law enforcement,

(b) Executive Council excuses a Huu-ay-aht body from complying with that subsection because to do so would

(i) result in the collection of inaccurate information, or

(ii) defeat the purpose or prejudice the use for which the personal information is collected, or

(c) the personal information

(i) is not required under subsection (1) to be collected directly from the individual the personal information is about, and

(ii) is not collected directly from the individual the personal information is about.

Accuracy of personal information

13 If an individual's personal information

(a) is in the custody or under the control of a Huu-ay-aht body, and

(b) will be used by or on behalf of the Huu-ay-aht body to make a decision that directly affects the individual,

the Huu-ay-aht body must make a reasonable effort to ensure that the personal information is accurate and complete.

Right to request correction of personal information

14 (1) An individual who believes

(a) his or her personal information in the custody or control of a Huu-ay-aht body has an error or omission, and

(b) correction of the error or omission is necessary,

may request the head of the Huu-ay-aht body to correct the personal information.

(2) If a correction to personal information is not made in response to a request under subsection (1), the head of the Huu-ay-aht body must annotate the personal information with the requested correction.

Notification of unauthorized disclosure

15 A public officer must immediately notify the head of a Huu-ay-aht body if the public officer is aware that disclosure of personal information in a Huu-ay-aht body's custody or control is made without authorization under this Act or another Huu-ay-aht Act.

Retention of personal information

16 If an individual's personal information

(a) is in the custody or under the control of a Huu-ay-aht body, and

(b) is used by or on behalf of the Huu-ay-aht body to make a decision that directly affects the individual,

the Huu-ay-aht body must ensure that the personal information is retained for at least 5 years after being used so that the affected individual has a reasonable opportunity to obtain access to that personal information.

Use of personal information

17 A Huu-ay-aht body must ensure that personal information in its custody or under its control is used only

(a) for the purpose for which that personal information was obtained or compiled, or for uses consistent with that purpose,

(b) if the individual the personal information is about has identified the personal information and has consented in writing to its use, or

(c) for the purpose for which that personal information may be disclosed to the Huu-ay-aht body by another Huu-ay-aht body under section 18.

Disclosure of personal information

18 (1) A Huu-ay-aht body must ensure that personal information in its custody or under its control is disclosed only as permitted under subsection (2).

(2) A Huu-ay-aht body may disclose personal information in its custody or under its control in any of the following circumstances:

(a) for the purpose for which the personal information was obtained or compiled or for a use consistent with that purpose;

(b) to comply with a subpoena, warrant or order issued or made by a court, person or body in Canada with jurisdiction to compel the production of the personal information;

(c) to a public officer of a Huu-ay-aht body, if the personal information is reasonably necessary

(i) for the public officer to exercise their powers or perform their duties and functions, or

(ii) to protect the public officer's health or safety;

(d) to a Huu-ay-aht body or a law enforcement agency in Canada to assist in a specific investigation

(i) undertaken with a view to a law enforcement proceeding, or

(ii) from which a law enforcement proceeding is likely to result;

(e) in accordance with Part 2, 3 or 4;

(f) in accordance with section 20;

(g) if the individual the personal information is about has consented, in the manner established by Executive Council, to the disclosure;

(h) in accordance with another Huu-ay-aht Act;

(i) in accordance with a provision of a treaty, arrangement or agreement that

(i) authorizes or requires disclosure of the personal information, and

(ii) requires disclosure to be made under an Act;

(j) to contact the next of kin or a friend of an injured, ill or deceased individual.

(3) Despite subsection (1), if disclosure of an individual's personal information is in the best interests of the Huu-ay-aht and the personal information can only be disclosed in individually identifiable form,

(a) for a specific prescribed statistical or research purpose, or

(b) in a specific case or specified circumstances,

Executive Council may authorize the disclosure, subject to any restrictions or conditions Executive Council considers advisable.

Definition of consistent purposes

19 For the purposes of sections 17 and 18, the use of personal information is consistent with the purposes for which the personal information was obtained or compiled if the use

(a) has a reasonable and direct connection to any of those purposes, and

(b) is necessary for exercising the powers and performing the duties and functions of the Huu-ay-aht body that uses or discloses the personal information or causes that personal information to be used or disclosed.

Right of access to personal information

20 (1) An individual has a right to, and must on written request be given, access to inspect and obtain a copy of personal information about the individual in a record in the custody, or under the control, of a Huu-ay-aht body if the personal information

(a) was supplied by that individual, or

(b) was not supplied by that individual and the disclosure will not have the consequences referred to in section 4 (b).

(2) For the purposes of subsection (1), an individual

(a) must be given access to inspect the personal information during regular business hours at the principal office of the Huu-ay-aht body,

(b) must not, without authorization, remove the personal information, from the place of inspection, and

(c) may have a copy made of all or part of the personal information on payment of any applicable fee established by Executive Council.

Power to disregard requests

21 Executive Council may authorize the head of a Huu-ay-aht body to disregard requests for personal information that unreasonably interfere with the operations of a Huu-ay-aht body if those requests are

(a) repetitious or systematic in nature, or

(b) frivolous or vexatious.

PART 6 – RECORDS MANAGEMENT

Records and information security

22 A Huu-ay-aht body must protect information and records in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, retention or disposal.

Records and information management

23 (1) A Huu-ay-aht body or public officer must not

(a) collect, use, disclose or retain more information than is reasonably necessary to exercise its powers and perform its duties and functions or provide access to records in accordance with a Huu-ay-aht Act, or

(b) subject to sections 16 and 25, retain records for longer than is reasonably necessary to exercise its powers and perform its duties and functions.

(2) Executive Council may prescribe standards, policies and procedures with respect to the collection, use, disclosure, retention and disposal of information and records in the custody or under the control of a Huu-ay-aht body.

Directory of Huu-ay-aht records

24 (1) Executive Council must publish a directory of records by April 1 each year.

(2) The directory of records must include

(a) a description of the categories of records in the custody or under the control of each Huu-ay-aht body,

(b) information about each category of records, including

(i) the location of the records,

(ii) the storage format of the records,

(iii) the retention period for the records,

(iv) the level of security precautions,

(v) any agreements with other governments relating to confidentiality, access to information or protection of privacy of the records,

(vi) whether part or all of the records are Huu-ay-aht public records, and

(vii) any other information specified by Executive Council, and

(c) contact information of a public officer responsible for the records management of each category of records.

(3) A Huu-ay-aht body must provide Executive Council with the information necessary to fulfill the requirements of this section.

Retention of records

25 A Huu-ay-aht body must ensure that records under its custody or control are retained for at least 5 years after the later of

(a) the date the records were created, and

(b) the date the records came into the custody or under the control of the Huu-ay-aht body.

PART 7 – INDEPENDENT REVIEW

Independent Review Commissioner

26 (1) By September 1, 2014, and every 4 years after that date, the chair of the Huu-ay-aht Tribunal must appoint a qualified individual to the position of Independent Review Commissioner for a term not to exceed 6 months.

(1.1) The chair of the Huu-ay-aht Tribunal may extend the term of appointment of the Independent Review Commissioner appointed under subsection (1) by up to 6 months if the chair reasonably believes such an extension is in the best interests of the Huu-ay-aht.

(2) The Independent Review Commissioner must

(a) invite written input from Huu-ay-aht citizens on the operation of this Act,

(b) conduct research and prepare a written report on the operation of this Act,

(c) deliver the report to Executive Council by December 1 in the year of the review,

(d) give public notice of the report, and

(e) present the report at the first People's Assembly after the report is delivered to Executive Council.

(3) The purpose of the Independent Review Commissioner's report under subsection (2) is to

(a) assess whether this Act ensures that Huu-ay-aht bodies are open, accountable and transparent, and that individual personal privacy is protected,

(b) identify amendments to this Act or another Huu-ay-aht Act to better achieve the purposes of this Act,

(c) recommend designation or cancellation of a designation of Huu-ay-aht public records, and

(d) make other recommendations to achieve the purposes of this Act.

(4) For the purpose of making recommendations for the designation of Huu-ay-aht public records, the Independent Review Commissioner may

(a) consider whether the format or content of a particular category of records could reasonably be modified to record section 4 (b) information separately, or

(b) consider, if it is impractical to record section 4 (b) information separately, whether the information in the record could reasonably be summarized to avoid disclosure of it.

(5) Executive Council may establish additional terms of reference for the Independent Review Commissioner.

HFNA 4/2015, s. 1.

PART 8 – GENERAL PROVISIONS

Intergovernmental agreements

27 Executive Council may enter into agreements with other governments for one or more of the following:

(a) collecting information;

(b) protecting information;

(c) retaining information;

(d) using or disclosing information;

(e) keeping information confidential;

(f) applying specified information and privacy provisions contained in the laws of other governments to specified Huu-ay-aht records.

Protection of Huu-ay-aht body from legal suit

28 No action lies against a Huu-ay-aht body, the head of a Huu-ay-aht body, a public officer or any person acting on behalf of or under the direction of the head of a Huu-ay-aht body for damages resulting from

(a) the disclosure, or failure to disclose, in good faith all or part of a record under this Act or any consequences of that disclosure or failure to disclose,

(b) the failure to give any notice required under this Act if reasonable care is taken to give the required notice, or

(c) anything else done or omitted to be done under this Act, if the action was in good faith in the exercise of powers, and performance of duties and functions under this Act.

Head of Huu-ay-aht body

29 (1) Executive Council must designate a person or group of persons as head of a Huu-ay-aht body for the purposes of this Act.

(2) Subsection (1) does not apply to government.

Delegation by head of Huu-ay-aht body

30 (1) A head of a Huu-ay-aht body may, in writing, delegate any of his or her powers, duties or functions under this Act to another public officer.

(2) Despite subsection (1), a head of a Huu-ay-aht body must not delegate the power to delegate under this section.

(3) A delegation under subsection (1), does not relieve the head of a Huu-ay-aht body of the responsibility of ensuring that the delegated powers, duties or functions are properly exercised and performed.

(4) A delegation under subsection (1), may contain any conditions or restrictions the head of the Huu-ay-aht body considers appropriate.

Compliance notices and tickets

31 Executive Council or a public officer authorized by Executive Council may issue one or both of the following to a person for the contravention of this Act or the regulations:

(a) a compliance notice under Division 2 of Part 3 of the *Offence and Law Enforcement Act*;

(b) a ticket under Division 3 of Part 3 of the *Offence and Law Enforcement Act*.

Offences and penalties

32 (1) A person must not willfully do any of the following:

(a) make a false statement to, or mislead or attempt to mislead, Executive Council, the head of a Huu-ay-aht body, the Independent Review Commissioner, or any other person in the exercise or performance of that other person's roles, responsibilities, powers, duties and functions under this Act;

(b) obstruct Executive Council, the head of a Huu-ay-aht body, the Independent Review Commissioner, or any other person in the exercise or performance of their role, responsibilities, powers, duties, and functions under this Act.

(2) A public officer who has access, whether authorized or unauthorized, to personal information in the custody or under the control of a Huu-ay-aht body, must not use or disclose that personal information except as authorized under this Act.

(3) A person who does any of the following commits an offence subject to proceedings under Division 4 of Part 3 of the *Offence and Law Enforcement Act*:

(a) contravenes subsection (1) or (2) of this section;

(b) fails to comply with any compliance notice issued under section 31 of this Act.

Conflict of Acts

33 (1) If a provision of this Act is inconsistent or in conflict with a provision of another Huu-ay-aht Act, the provision of this Act prevails unless the other Huu-ay-aht Act expressly provides that it, or a provision of it, applies despite this Act.

(2) Federal or provincial law prevails to the extent of a conflict with Huu-ay-aht legislation in relation to the protection of personal information.

(3) Subject to subsection (2), if a provision of this Act is inconsistent or is in conflict with the laws of another government, this Act prevails unless Executive Council has exempted the affected records from the application of this Act under section 3 (2).

Power to make regulations

34 (1) Executive Council may make regulations referred to in section 39 of the *Interpretation Act*.

(2) Without limiting subsection (1), Executive Council may make regulations as follows:

(a) specifying statistical or research purposes under section 18 (3) (a);

(b) prescribing standards, policies and procedures under section 23 (2).

No further effect

35 Unless otherwise specified in the Treaty or a Huu-ay-aht Act, all motions, resolutions, bylaws, directives, policies, guidelines or other forms of decision that directly or indirectly affect the subject matter of this Act which were approved or passed before Effective Date by the band council of the Huu-ay-aht under the *Indian Act* or the membership of the Huu-ay-aht Indian Band have no further effect after the date on which this Act comes into force.

Amendments to this Act

36 (1) With the exception of implementing a recommendation contained in a report made by the Independent Review Commissioner under section 26, an amendment to this Act must be approved by the People's Assembly before the amendment is brought into force.

(2) Repeal of this Act must be approved by the People's Assembly before being brought into force.

Commencement

37 This Act comes into force on March 31, 2013.