UCHUCKLESAHT TRIBE GOVERNMENT

ENFORCEMENT ACT

UTS 16/2011

OFFICIAL CONSOLIDATION – CURRENT TO AUGUST 27, 2021

This is a certified true copy of the consolidated Enforcement Act UTS 16/2011, current to August 27, 2021.

Date: August 27, 2021

Signed: _____
Law Clerk

TABLE OF CONTENTS

PART 1 - INTRODUCTORY PROVISIONS 7

Short title 7
Executive oversight 7
Application 7
Definitions 7

PART 2 - OFFENCES 9

Offences generally 9
Offences by a corporation 9
Penalties generally 9
Prosecution of offences 9
Uchucklesaht prosecutor 9
Special Uchucklesaht prosecutor 10
Application of Offence Act (British Columbia) and Criminal Code (Canada) 10
Limitation period for prosecutions 11
Content of information 11

PART 3 - ENFORCEMENT OFFICERS 13

Appointment of enforcement officers 13
Authority of enforcement officers 13
Enforcement officer must show identification 14

PART 4 - COMPLIANCE NOTICES 15

Issuing compliance notice 15
Content of compliance notice 15
Serving compliance notice 16
Compliance notice form 16
Complying with or disputing compliance notice 16
When failure to serve compliance notice does not invalidate proceeding 17
Executive may authorize measures 17
Joint and several liability 18
Limitation period for compliance notices 18

PART 5 - TICKETS 19

Issuing ticket 19
Content of ticket 19
Serving ticket 19
Ticket form 20
Paying or disputing ticket 20
Failure to respond to ticket 21
When failure to serve ticket does not invalidate proceeding 21
Joint and several liability 21
Limitation period for tickets 21

PART 5.1 - SEIZURE 23

Seizure record 23
Seizure record form 23
Serving seizure record 23
Failure to serve a seizure record 24
Review by chief administrative officer 24
Custody 24

Special items 25
Return of seized property 25
Forfeiture 25
Recovery of costs 26
Application for possession 26
If owner of thing unknown 26

PART 6 - REVIEW OF COMPLIANCE NOTICES, TICKETS AND SEIZURE RECORDS 27

Review by chief administrative officer 27
Review by Administrative Decisions Review Board 27

PART 7 - GENERAL PROVISIONS 29

Regulations 29
Uchucklesaht representatives 29
Non-compliance 30
Commencement 30

PREAMBLE

The Uchucklesaht Tribe asserts that we have, since time immemorial, governed ourselves according to our traditions and protocols. With our inherent right to self-government recognized in the Maa-nulth Treaty and our Constitution, we have blended our traditional ways with modern-day governing systems which recognize the rule of law. In doing so, we honour our past and embrace the future, ensuring the continued existence of the Uchucklesaht Tribe as a strong political, social and cultural community.

Governing effectively requires not only enacting necessary Uchucklesaht law, but properly enforcing Uchucklesaht law. Effective enforcement of our laws honours our traditions while securing our future. For the effective enforcement of our laws, the Uchucklesaht Tribe desires a just, fair and robust framework for law enforcement for the common good of all Uchucklesaht citizens that embraces our traditions and protocols and adheres to the rule of law.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Enforcement Act.

Executive oversight

1.2 The chief councillor is responsible for the executive oversight of this Act.

Application

1.3 This Act applies to offences against Uchucklesaht enactments, except to the extent that the Uchucklesaht enactment specifically provides otherwise.

Definitions

1.4 In this Act:

"applicable government" means the government of Canada, the government of British Columbia, another provincial government or an extraterritorial government;

"application" means an application made under section 6.1 for a review of a compliance notice, ticket or seizure record;

"compliance notice" means a notice issued in accordance with Part 4;

"director" means the director responsible, from time to time, for the exercise of powers under the Uchucklesaht enactment to which the particular offence relates;

"discounted penalty" means the prescribed amount of the penalty payable if payment is received on or before the 14th day after the date a ticket was served in accordance with section 5.3;

"named person" means a person to whom a compliance notice, ticket or seizure record is issued;

"seizure record" means the document prepared by an enforcement officer under section 5.1.1 to record a seizure;

"special Uchucklesaht prosecutor" means a person appointed as a special prosecutor of the Uchucklesaht Tribe under section 2.5(a);

"surcharge penalty" means the prescribed amount payable if payment for a penalty is received on or after the 31st day after the date a ticket was served in accordance with section 5.3;

"ticket" means a ticket issued in accordance with Part 5;

"Uchucklesaht prosecutor" means a person appointed as a prosecutor of the Uchucklesaht Tribe under section 2.4(a).

PART 2 - OFFENCES

Offences generally

2.1 A person commits an offence against a Uchucklesaht enactment by

(a) doing an act forbidden under that Uchucklesaht enactment, or

(b) omitting to do any thing required under that Uchucklesaht enactment.

Offences by a corporation

2.1.1 Where a corporation commits an offence against a Uchucklesaht enactment, a director or officer of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

Penalties generally

2.2 (a) If a Uchucklesaht enactment does not specify a penalty for an offence, the following penalty applies:

(i) fine of at least $250, and not exceeding a maximum fine of $10,000 or the general limit for summary conviction offences under section 787 of the Criminal Code (Canada), whichever is greater; or

(ii) imprisonment for a term not exceeding six months.

(b) In a prosecution for an offence, the justice or court may impose all or part of the penalties applicable for the offence, together with the costs of the prosecution.

Prosecution of offences

2.3 The Uchucklesaht prosecutor may, after consulting with the chief administrative officer and on reasonable and probable grounds, lay an information on behalf of the Uchucklesaht Tribe that a person has committed or is suspected of having committed an offence.

Uchucklesaht prosecutor

2.4 (a) The Executive must appoint a Uchucklesaht prosecutor to conduct prosecutions of offences and any appeals arising from prosecutions of offences.

(b) In determining

(i) whether or not to lay an information, and

(ii) if the Uchucklesaht prosecutor intends to lay an information, the content of that information,

the Uchucklesaht prosecutor must consider

(iii) all relevant information and documents relating to the prosecution,

(iv) whether there is a substantial likelihood of conviction of the offence,

(v) the seriousness of the offence,

(vi) the values of the Uchucklesaht Tribe,

(vii) the integrity and independence of the Uchucklesaht Tribe enforcement system,

(viii) any recommendation of the chief administrative officer relating to the prosecution, and

(ix) the public interest.

(c) The Uchucklesaht prosecutor must perform his or her duties and exercise his or her powers in a manner consistent with the principle of prosecutorial independence and the overall authority and role of a prosecutor in the administration of justice in British Columbia.

Special Uchucklesaht prosecutor

2.5 (a) The Executive may appoint a special Uchucklesaht prosecutor where there is a significant possibility of a perceived or real improper influence on the prosecution process.

(b) A special Uchucklesaht prosecutor must perform the same duties and may exercise the same powers as a Uchucklesaht prosecutor.

Application of Offence Act (British Columbia) and Criminal Code (Canada)

2.6 (a) For certainty, the summary conviction proceedings of the Offence Act (British Columbia) apply to the prosecution of an offence under a Uchucklesaht enactment.

(b) If, in any proceeding, matter or thing to which this Act applies, partial provision or no express provision has been made in this Act or the applicable provisions of the Offence Act (British Columbia), the provisions of the Criminal Code (Canada) relating to offences publishable on summary conviction, including the provisions in Part XV respecting search warrants, apply to matters under this Act, with the necessary changes required and so far as applicable.

(c) The Criminal Code (Canada) provisions referred to in subsection (b) apply to the extent that they are not inconsistent with this Act.

Limitation period for prosecutions

2.7 An information must not be laid under section 2.3 more than three years after the day on which the alleged offence in relation to which the information is laid has been discovered by the Uchucklesaht Tribe Government.

Content of information

2.8 (a) An information laid under section 2.3

(i) must be in writing,

(ii) must be in the prescribed form,

(iii) must be under oath,

(iv) may charge more than one offence or relate to more than one matter of complaint, but if more than one offence is charged or the information relates to more than one matter of complaint, each offence or matter of complaint must be set out in a separate count,

(v) must not contain any reference to previous convictions if the information is in respect of an offence for which, because of previous convictions, a greater punishment may be imposed,

(vi) must contain, and is sufficient if it contains in substance, a statement that the defendant committed an offence or act specified in the information and punishable on summary conviction,

(vii) must contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against the defendant and to identify the transaction referred to, but otherwise the absence or insufficiency of details does not invalidate the information,

(viii) may refer to any section, subsection, paragraph, subparagraph or clause of the enactment that creates the offence charged, and for determining whether an information is sufficient, consideration must be given to any such reference, and

(ix) need not set out or negate any exception, exemption, proviso, excuse or qualification prescribed by law.

(b) The statement referred to in subsection (a)(vi) may be

(i) in popular language without technical assertions or allegations of matters that are not essential to be proved,

(ii) in the words of the enactment that describes the offence or declares the matters charged to be an offence or act punishable on summary conviction, or

(iii) in words that are sufficient to give to the defendant notice of the offence with which the defendant is charged.

(c) Without limiting subsection (a)(vii), no information is insufficient merely because it fails to

(i) name the person injured or intended or attempted to be injured,

(ii) name the person who owns or has a special property or interest in property mentioned in the information,

(iii) specify the means by which the alleged offence was committed,

(iv) name or describe with precision any person, place or thing, or

(v) if the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

PART 3 - ENFORCEMENT OFFICERS

Appointment of enforcement officers

3.1 The Executive may, by Order, appoint enforcement officers to enforce Uchucklesaht enactments and preserve and maintain public peace.

Authority of enforcement officers

3.2 (a) Without otherwise limiting the enforcement officer's powers at law, the Executive may, by Order, limit the authority of an enforcement officer appointed under section 3.1 to the enforcement of a specific Uchucklesaht enactment.

(b) Subject to subsection (a) and without limiting the enforcement officer's powers at law, an enforcement officer appointed under section 3.1 is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers:

(i) issue compliance notices;

(ii) issue tickets;

(iii) make any reasonable inspection of any person, place or thing for the purpose of ensuring compliance with a Uchucklesaht enactment

(A) if that person, place or thing is involved in an activity that is regulated by a Uchucklesaht enactment, and

(B) the enforcement officer does not have reasonable grounds to believe that a contravention of a Uchucklesaht enactment has occurred;

(iv) enter any place or thing during an inspection under paragraph (iii)

(A) at any reasonable time, if it is not a dwelling-house, or

(B) with the consent of the owner or occupant, if it is a dwelling-house;

(v) during an inspection under paragraph (iii)

(A) require to be produced any licences, books, bills, records or other documents, and

(B) take a sample of any substance

related to an activity that is regulated by a Uchucklesaht enactment;

(vi) seize anything found during an inspection conducted under paragraph (iii) that the enforcement officer believes on reasonable grounds

(A) was obtained in the commission of an offence,

(B) was or is being used in the commission of an offence, or

(C) may provide evidence of the commission of an offence;

(vii) provide the Uchucklesaht prosecutor with information sufficient for the Uchucklesaht prosecutor to lay an information under section 2.3;

(viii) remove trespassers from Uchucklesaht lands; and

(ix) if the enforcement officer finds a person committing an offence on or in relation to Uchucklesaht lands,

(A) arrest that person without a warrant,

(B) search that person and his or her belongings if there is a reasonable prospect of securing evidence of that offence, and

(C) seize anything from that person that the enforcement officer believes on reasonable grounds was obtained in, was or is being used in, or may provide evidence of, the commission of an offence; and

(x) perform any other duties and exercise any other powers assigned or delegated to the enforcement officer

(A) under this or any other Uchucklesaht enactment, or

(B) by the Executive.

Enforcement officer must show identification

3.3 An enforcement officer must, upon request, show appropriate identification confirming his or her credentials as an enforcement officer.

PART 4 - COMPLIANCE NOTICES

Issuing compliance notice

4.1 (a) If an enforcement officer has reasonable grounds to believe that a person is committing an offence or has committed an offence, the enforcement officer may issue a compliance notice in the prescribed form to that person.

(b) A compliance notice must be issued to a named person unless it is issued for an offence involving a vehicle, in which case it must also be issued to

(i) the vehicle's licence plate, or

(ii) the vehicle's identification number, temporary operation permit or interim permit under the Motor Vehicle Act (British Columbia) or other applicable law.

(c) If a compliance notice is issued under subsection (b), the compliance notice is deemed to have been issued to each registered owner of the vehicle as contained in the records of the applicable government.

(d) Each registered owner of a vehicle referred to in subsection (c) is deemed to be a named person.

Content of compliance notice

4.2 (a) A compliance notice must require the named person to do whatever is necessary to stop or rectify the offence.

(b) A compliance notice must contain the following information:

(i) the particulars of the offence in sufficient detail to permit the named person to identify it;

(ii) the date or time period within which the named person must comply with the requirements set out in the compliance notice under subsection (a);

(iii) the date and time the compliance notice is issued;

(iv) the name and signature of the enforcement officer who issued the compliance notice;

(v) how to apply for a review of the compliance notice; and

(vi) any other prescribed information.

(c) A compliance notice may state that if the named person does not comply with the requirements set out in the compliance notice and rectify the offence, another person authorized by the Executive may take action to rectify the offence at the expense of the named person.

Serving compliance notice

4.3 (a) A compliance notice must be delivered in accordance with Uchucklesaht law to each named person.

(b) If a compliance notice relates to an offence involving a vehicle, that compliance notice must be delivered to the address of each registered owner of the vehicle as shown in the records of the applicable government.

(c) Despite section 4.2(b) and subsection (a), a compliance notice may be delivered verbally by the enforcement officer reading the applicable section of the Uchucklesaht enactment that regulates, controls or prohibits the action or activity on

(i) Uchucklesaht lands, or

(ii) Uchucklesaht foreshore,

to the named person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance.

Compliance notice form

4.4 A compliance notice may be completed, recorded, issued and stored

(a) in electronic format by electronic means, or

(b) by another means that allows the compliance notice to be reproduced in an understandable form.

Complying with or disputing compliance notice

4.5 (a) Subject to subsection (b) and the period of time specified in the compliance notice under section 4.2(b)(ii), a named person must, within 14 days after the compliance notice was served on that named person in accordance with section 4.3,

(i) comply with the requirements in the compliance notice, or

(ii) apply for a review of the compliance notice in accordance with section 6.1.

(b) The director may extend the time limit established under subsection (a), upon request by the named person or his or her authorized representative, for

(i) a period up to 30 days, or

(ii) upon the approval of the Executive, a period longer than 30 days,

if the named person, acting in good faith and through absence, accident, illness or other cause beyond the person's reasonable control, is or was unable to respond to the compliance notice in accordance with subsection (a).

When failure to serve compliance notice does not invalidate proceeding

4.6 If a compliance notice is not served in accordance with section 4.3, a proceeding or an action in relation to the compliance notice is not invalidated if

(a) the content of the compliance notice was known by the named person within the time allowed for service,

(b) the named person consents, or

(c) the failure to serve in accordance with section 4.3 does not result in any substantial injustice.

Executive may authorize measures

4.7 (a) Subject to Part 6, the Executive may direct or authorize whatever action or measures are necessary to stop or rectify an offence or to prevent a re-occurrence of that offence if

(i) the named person has been served with the compliance notice in accordance with section 4.3,

(ii) the compliance notice included a description of the action or measures a person authorized by the Executive would take if the compliance notice was not followed,

(iii) the named person has not complied with the requirements of the compliance notice, and

(iv) the named person has not applied for a review of the compliance notice in accordance with section 6.1 within the time period under section 4.5, or

(v) the compliance notice has been reviewed under section 6.1 or 6.2 and after completing the review, the director or the Administrative Decisions Review Board has not reversed the compliance notice.

(b) If a named person under subsection (a) has not put or maintained premises in a clean or safe condition as required in a compliance notice, the Executive may, by Order, require the closure of the premises.

(c) The expenses of an action or the measures authorized by the Executive under this section are a debt owing by the named person to the Uchucklesaht Tribe payable on demand within 14 days, if that demand is delivered in accordance with Uchucklesaht law, and may be collected by the Uchucklesaht Tribe in accordance with sections 4.6 to 4.11 of the Financial Administration Act.

(d) If the Executive is authorized by a Uchucklesaht enactment to sell all or a part of any property that has been removed to stop or rectify an offence under this section, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.

Joint and several liability

4.8 The obligations arising from a compliance notice are joint and several as between the named persons.

Limitation period for compliance notices

4.9 A compliance notice for an offence must not be issued more than six months after the offence in relation to which the compliance notice is issued is alleged to have been committed.

PART 5 - TICKETS

Issuing ticket

5.1 (a) If an enforcement officer has reasonable grounds to believe that a person is committing an offence or has committed an offence against a Uchucklesaht enactment and a Uchucklesaht enactment allows ticketing for that offence, the enforcement officer may issue a ticket in the prescribed form to that person.

(b) A ticket must be issued to a named person unless it is issued for an offence involving a vehicle, in which case it must also be issued to

(i) the vehicle's licence plate, or

(ii) the vehicle's identification number, temporary operation permit or interim permit under the Motor Vehicle Act (British Columbia) or other applicable law.

(c) If a ticket is issued under subsection (b), the ticket is deemed to have been issued to each registered owner of the vehicle as contained in the records of the applicable government.

(d) Each registered owner of a vehicle referred to in subsection (c) is deemed to be a named person.

Content of ticket

5.2 A ticket must contain the following information:

(a) the particulars of the offence in sufficient detail to permit the named person to identify it;

(b) the penalty, discounted penalty and surcharge penalty;

(c) the methods of paying the penalty;

(d) the date and time the ticket is issued;

(e) the name and signature of the enforcement officer who issued the ticket;

(f) how to apply for a review of the ticket; and

(g) any other prescribed information.

Serving ticket

5.3 (a) A ticket must be delivered in accordance with Uchucklesaht law to each named person.

(b) Subject to subsection (c), if a ticket relates to an offence involving a vehicle, that ticket must be delivered to the address of each registered owner of the vehicle as contained in the records of the applicable government.

(c) If a ticket is for a parking offence, that ticket may be served on the named person by affixing the ticket to the vehicle in a conspicuous place or personally providing a copy of the ticket to the person having care and control of the vehicle.

(d) Despite section 5.2 and subsection (a), a ticket may be delivered verbally by the enforcement officer reading the applicable section of the Uchucklesaht enactment that regulates, controls or prohibits the action or activity on

(i) Uchucklesaht lands, or

(ii) Uchucklesaht foreshore,

to the named person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance.

Ticket form

5.4 A ticket may be completed, recorded, issued and stored

(a) in electronic format by electronic means, or

(b) by another means that allows the ticket to be reproduced in an understandable form.

Paying or disputing ticket

5.5 (a) A named person who is served with a ticket in accordance with section 5.3 must do one of the following:

(i) pay the discounted penalty amount, as set out in the ticket, within 14 days;

(i) pay the penalty amount, as set out in the ticket, within 30 days; or

(ii) apply for a review of the ticket within 14 days in accordance with section 6.1.

(b) The senior officer may extend a time limit established under subsection (a), upon request by the named person or an authorized representative of the named person, by,

(i) a period of up to 15 days, or

(ii) upon the approval of the Executive, a period longer than 15 days,

if the named person, acting in good faith and through absence, accident, illness or other cause beyond the person's reasonable control is or was unable to respond to the ticket in accordance with subsection (a).

Failure to respond to ticket

5.6 If a named person does not respond to a ticket in accordance with section 5.5, the surcharge penalty set out in the ticket is immediately due and payable by the named person to the Uchucklesaht Tribe in the manner indicated on the ticket and may be collected by the Uchucklesaht Tribe in accordance with sections 4.6 to 4.11 of the Financial Administration Act.

When failure to serve ticket does not invalidate proceeding

5.7 If a ticket is not served in accordance with section 5.3, a proceeding or an action in relation to the ticket is not invalidated if

(a) the content of the ticket was known by the named person within the time allowed for service,

(b) the named person consents, or

(c) the failure to serve in accordance with section 5.3 does not result in any substantial injustice.

Joint and several liability

5.8 The obligations arising from a ticket are joint and several as between the named persons.

Limitation period for tickets

5.9 A ticket for an offence must not be issued more than six months after the offence in relation to which the ticket is issued is alleged to have been committed.

PART 5.1 - SEIZURE

Seizure record

5.1.1 The enforcement officer that conducts a seizure under section 3.2(vi) or (ix) must prepare a seizure record in the prescribed form as soon as possible after the seizure has been conducted, which specifies

(a) the thing seized,

(b) the grounds for the seizure,

(c) the time and place that the seizure occurred,

(d) the name of the person from whom the thing was seized,

(e) the name and signature of the enforcement officer who conducted the seizure,

(f) how to apply for a review of the seizure, and

(g) any other prescribed information.

Seizure record form

5.1.2 A seizure record may be completed, recorded, issued and stored

(a) in electronic format by electronic means, or

(b) by another means that allows the seizure record to be reproduced in an understandable form

Serving seizure record

5.1.3 (a) The enforcement officer that conducts a seizure under section 3.2(vi) or (ix) must deliver, in accordance with Uchucklesaht law, a copy of the seizure record to

(i) the person from who the thing was seized, and

(ii) any other person whom the enforcement officer has reason to believe may have an interest in the seized thing,

all of whom are "named persons" in relation to that seizure record.

(b) If the enforcement officer becomes aware of a person who was not provided with a copy of the seizure record but should have been, the enforcement officer must deliver, in accordance with Uchucklesaht law, a copy of the seizure record to that person.

Failure to serve a seizure record

5.1.4 If a seizure record is not served in accordance with section 5.1.3, a proceeding or action in relation to the seizure is not invalidated if

(a) the content of the seizure record was known by the named person within the time allowed for service,

(b) the named person consents, or

(c) the failure to serve in accordance with section 5.1.3 does not result in any substantial injustice.

Review by chief administrative officer

5.1.5 (a) A named person may, within the 30 days of receiving a seizure record, apply for a review of that seizure in accordance with section 6.1.

(b) The chief administrative officer may extend the time limit established under subsection (a), upon request by the named person or his or her authorized representative, for

(i) a period of up to 30 days, or

(ii) upon the approval of the Executive, a period of longer than 30 days,

if the named person, acting in good faith and through absence, accident, illness or other cause beyond the person's reasonable control, is or was unable to respond to the seizure record in accordance with subsection (a).

Custody

5.1.6 (a) The enforcement officer that conducts a seizure under section 3.2(vi) or (ix) must deliver the seized thing to the chief administrative officer.

(b) The chief administrative officer must retain custody and ensure the safekeeping of the seized thing.

(c) The chief administrative officer may deliver the seized thing into the custody of any person he or she considers appropriate, prior to the conclusion of the proceedings for the offence related to the seizure, subject to an undertaking by that person to ensure the safekeeping of that thing.

(d) The chief administrative officer may require the person who is given custody under subsection (c) to do one or both of the following:

(i) provide the chief administrative officer with security for the seized thing in a manner and form that is satisfactory to the chief administrative officer; or

(ii) make the seized thing available for inspection by or deliver it into the custody of the chief administrative officer at any reasonable time.

Special items

5.1.7 (a) The enforcement officer or chief administrative officer may make copies of any d documents or records seized under section 3.2(vi) or (ix).

(b) The enforcement officer or chief administrative officer may release any wild animal or aquatic species seized under section 3.2(vi) or (ix).

(c) The chief administrative officer who has custody of any perishable thing seized under section 3.2(vi) or (ix) may dispose of it in any manner he or she considers appropriate and any proceeds realized from its disposition will be held in place of that thing.

Return of seized property

5.1.8 (a) The chief administrative officer must deliver a seized thing to the person lawfully entitled to be in possession of that thing if

(i) an information is not laid for the offence related to the seizure of that thing within the limitation period specified in section 2.7, or

(ii) that person is not named in the information that is laid for the offence related to the seizure of that thing and the proceedings for that offence are concluded.

(b) The chief administrative officer must deliver a seized thing to the person lawfully entitled to be in possession of the thing, if that person is named in the information laid for the offence related to the seizure and is found not guilty of that offence.

Forfeiture

5.1.9 (a) If the person lawfully entitled to be in possession of a seized thing is convicted of the offence related to the seizure, the court may order that person to forfeit that thing to the Uchucklesaht Tribe Government.

(b) If the person lawfully entitled to be in possession of the seized thing is convicted of the offence related to the seizure, and the court imposes a fine to be paid to the Uchucklesaht Tribe Government but does not order forfeiture, the chief administrative officer may detain the thing until the fine is paid.

(c) If the person lawfully entitled to be in possession of the seized thing is convicted of the offence related to the seizure, and the court does not order forfeiture or a fine to be paid to the Uchucklesaht Tribe Government, the chief administrative officer must return the thing to that person.

Recovery of costs

5.1.10 If a person is convicted of an offence related to a seizure, the court may order that person to compensate the Uchucklesaht Tribe Government for any costs incurred by the Uchucklesaht Tribe Government for the seizure, storage, maintenance or disposition of that thing.

Application for possession

5.1.11 Any person at any time may apply to court to have a seized thing delivered into their possession, notwithstanding the right to have a seizure reviewed under Part 6.

If owner of thing unknown

5.1.12 (a) If the chief administrative officer cannot identify any person who is lawfully entitled to possession of a seized thing by the date on which he or she is required to deliver that thing to a person under this Part, he or she may dispose of that thing and provide the Uchucklesaht Tribe Government with the proceeds.

(b) If a seized thing is disposed under subsection (a) and a person subsequently proves that he or she is lawfully entitled to possession of that thing, the Uchucklesaht Tribe Government will pay that person the proceeds of sale of the thing.

PART 6 - REVIEW OF COMPLIANCE NOTICES, TICKETS AND SEIZURE RECORDS

Review by chief administrative officer

6.1 (a) A named person may apply to the chief administrative officer for a review of the compliance notice, ticket or seizure record, as the case may be, by filing an application in the prescribed form with the chief administrative officer.

(b) An application must

(i) identify the compliance notice, ticket or seizure record that is the subject of the application, and

(ii) give the full legal name of the applicant, an address to which documents may be delivered to the applicant and a telephone number where the applicant may be contacted.

(c) The chief administrative officer must, within seven days after receiving an application, deliver a copy of the application to any other named person.

(d) The chief administrative officer may gather the information he or she reasonably requires for the review of the compliance notice, ticket or seizure record.

(e) After delivering a copy of the application to any other named person under subsection (c), the chief administrative officer must expeditiously review the compliance notice, ticket or seizure record and must, by directive,

(i) reverse or modify the compliance notice, ticket or seizure record with or without conditions, or

(ii) confirm the compliance notice, ticket or seizure record.

(f) As soon as practicable after completion of the review, the chief administrative officer must deliver in accordance with Uchucklesaht law to the applicant and any other named person written notice of

(i) the directive that the chief administrative officer made under subsection (e), and

(ii) the right to request a review of that directive in accordance with section 6.2.

Review by Administrative Decisions Review Board

6.2 (a) No later than 10 days after receipt of the written notice under section 6.1(f), the applicant or any other named person may request a review of the directive made under section 6.1(e) under the Administrative Decisions Review Act.

(b) The grounds for review under this section are that the directive is inconsistent with this Act or the Uchucklesaht enactment to which the compliance notice, ticket or seizure record relates.

(c) The applicant and any other named person are deemed to be parties to the review under the Administrative Decisions Review Act.

(d) After conducting a review, the Administrative Decisions Review Board may

(i) dismiss the review request, or

(ii) if it determines that the directive is inconsistent with this Act or the Uchucklesaht enactment to which the compliance notice, ticket or seizure record relates, cancel the compliance notice, ticket or seizure record.

PART 7 - GENERAL PROVISIONS

Regulations

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

(b) Without limiting subsection (a), the Executive may make regulations

(i) in relation to the duties and powers of enforcement officers,

(ii) designating offences for which a ticket may be issued, and

(iii) prescribing the form for an information laid under section 2.3, a ticket or a compliance notice.

(c) If a ticket may be issued for an offence, the Executive must, by regulation, establish, in relation to that offence, the amount of

(i) the penalty for each offence,

(ii) the discounted penalty, and

(iii) the surcharge penalty.

Uchucklesaht representatives

7.1.1 (a) Subject to subsection (b), if the Uchucklesaht Tribe enter into an agreement with an external enforcement agency for the enforcement of Uchucklesaht law, the Executive must appoint at least one but not more than three individuals to represent the Uchucklesaht Tribe under that agreement.

(b) If the Uchucklesaht Tribe and one or more other Maa-nulth First Nations enter into an agreement with an external enforcement agency for the enforcement of Maa-nulth First Nation law, and those Maa-nulth First Nations establish a joint enforcement advisory committee to represent them under that agreement, the Executive must appoint at least one but not more than two individuals to represent the Uchucklesaht Tribe on that committee.

(c) An individual appointed under subsection (a) or (b)

(i) Uchucklesaht Tribe has the power to make any decision on behalf of the Uchucklesaht Tribe in relation to the agreement with the applicable external enforcement agency, except a decision to amend or terminate that agreement, and

(ii) must report to the Executive at least quarterly on any compliance activities of the applicable external enforcement agency within Uchucklesaht lands and any concerns regarding the applicable external enforcement agency's enforcement of Uchucklesaht law.

Non-compliance

7.2 Every person who fails to comply with a compliance notice, ticket or directive under section 6.1(e) 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.

Commencement

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

LEGISLATIVE HISTORY

Enforcement Act UTS 16, 2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
1.4	UTS 40/2014, s. 2.2	June 19, 2014
2.6	UTS 40/2014, s. 2.3	June 19, 2014
4.3(a)	UTS 40/2014, s. 2.4(a)	June 19, 2014
4.3(c)	UTS 40/2014, s. 2.4(b)	June 19, 2014
4.5(a)	UTS 40/2014, s. 2.5	June 19, 2014
4.7(c)	UTS 40/2014, s. 2.6	June 19, 2014
5.1(a)	UTS 40/2014, s. 2.7	June 19, 2014
5.2(b)	UTS 40/2014, s. 2.8	June 19, 2014
5.3(a)	UTS 40/2014, s. 2.9(a)	June 19, 2014
5.3(d)	UTS 40/2014, s. 2.9(b)	June 19, 2014
5.4	UTS 40/2014, s. 2.10	June 19, 2014
5.5(a)	UTS 40/2014, s. 2.11	June 19, 2014
5.6	UTS 40/2014, s. 2.12	June 19, 2014
6.1(a)	UTS 40/2014, s. 2.13(a)	June 19, 2014
6.1(e)	UTS 40/2014, s. 2.13(b)	June 19, 2014
6.1(f)	UTS 40/2014, s. 2.13(c)	June 19, 2014
7.1(c)	UTS 40/2014, s. 2.14	June 19, 2014
6.1	UTS 40/2014, s. 2.15(a)	June 19, 2014
6.2	UTS 40/2014, s. 2.15(a)	June 19, 2014
7.2	UTS 40/2014, s. 2.15(a)	June 19, 2014
3.1	UTS 40/2014, s. 2.15(b)	June 19, 2014
3.2(a)	UTS 40/2014, s. 2.15(b)	June 19, 2014
4.7(b)	UTS 40/2014, s. 2.15(b)	June 19, 2014
2.3	UTS 49/2017, s.3.1(a)	March 27, 2017
2.4(b) and (c)	UTS 49/2017, s.3.1(b)	March 27, 2017
2.6, 2.7, 2.8	UTS 49/2017, s.3.1(c)	March 27, 2017
3.2(b)(vii)	UTS 49/2017, s.3.1(d)	March 27, 2017
4.9	UTS 49/2017, s.3.1(e)	March 27, 2017
7.1(b)	UTS 49/2017, s.3.1(f)	March 27, 2017
7.1.1	UTS 49/2017, s.3.1(g)	March 27, 2017
1.4	UTS 66/2021, s.2.1(a)	August 27, 2021
2.1.1	UTS 66/2021, s.2.1(b)	August 27, 2021
2.7	UTS 66/2021, s.2.1(c)	August 27, 2021
2.8(a)(vii)	UTS 66/2021, s.2.1(d)(i)	August 27, 2021

2.8(b)(i)	UTS 66/2021, s.2.1(d)(ii)	August 27, 2021
3.2(b)(iii)	UTS 66/2021, s.2.1(e)(i)	August 27, 2021
3.2(b)(iv)	UTS 66/2021, s.2.1(e)(i)	August 27, 2021
3.2(b)(v)	UTS 66/2021, s.2.1(e)(i)	August 27, 2021
3.2(b)(vi)	UTS 66/2021, s.2.1(e)(i)	August 27, 2021
3.2(b)(ix)	UTS 66/2021, s.2.1(e)(ii)	August 27, 2021
5.1.1-5.1.12	UTS 66/2021, s.2.1(f)	August 27, 2021

Amending Acts:

UTS 40/2014	Enforcement Framework Amendment Act No. 2 enacted June 19, 2014
UTS 49/2017	Enforcement Framework Amendment Act No. 3 enacted March 27, 2017
UTS 66/2021	Enforcement Framework Amendment Act No. 4 enacted August 27, 2021

Regulations:

UTR 18/2014	Compliance Notice and Ticket Regulation enacted July 2, 2014