UCHUCKLESAHT TRIBE GOVERNMENT

LAND ACT

UTS 12/2011

OFFICIAL CONSOLIDATION – CURRENT TO JUNE 19, 2014

This is a certified true copy of the consolidated Land Act UTS 12/2011, current to June 19, 2014.

Date: July 10, 2014

Signed: Edda Halvorsen
Law Clerk

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PREAMBLE

The Uchucklesaht Tribe asserts that we have occupied, benefited from and governed our Hahoulthee (traditional territory) since time immemorial. Our traditional territory has in the past provided the resources necessary to sustain the Uchucklesaht Tribe and we honour our connection to the lands, air, water and resources of our traditional territory which provide for our physical and spiritual needs.

Through our inherent right to self-government, the Uchucklesaht Tribe has preserved and protected our traditional territory and we accept the obligations and responsibilities inherent in governing Uchucklesaht lands and pledge to protect Uchucklesaht lands, the air above Uchucklesaht lands and the streams and groundwater that form part of Uchucklesaht lands for future generations of our citizens.

It is the desire of the Uchucklesaht Tribe that we promote a healthy and prosperous future that ensures the continued existence of the Uchucklesaht Tribe as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Uchucklesaht Tribe values the need to respect, protect and promote our heritage, culture and traditional ways which form the basis of our success and our destiny while understanding that these practices may change and require contemporary expression.

It is the desire of the Uchucklesaht Tribe that our Uchucklesaht lands continue to provide the resources necessary to sustain us, preserve our traditional ways and culture, encourage self-sufficiency and security through economic development and growth and to provide a home for our people forever.

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 Land Act.

Executive oversight

1.2 The member of the Executive holding the lands and resources portfolio is responsible for the Executive oversight of this Act.

Application

1.3 Unless otherwise provided in this Act, this Act applies to all Uchucklesaht lands.

Definitions

1.4 In this Act,

"applicant" means a person applying for a disposition under section 4.16;

"acquire" means obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

"approving officer" means the director;

"appurtenant lands" or "lands appurtenant to" means, in relation to an existing or proposed interest in, or licence in relation to, Uchucklesaht lands, the Uchucklesaht lands that are or are proposed to be subject to the interest or licence and includes any part of those lands less than the whole;

"community lands" means Uchucklesaht lands that are not

(a) subject to a Uchucklesaht residential interest,

(b) Uchucklesaht titled lands, the owner of which is a person other than the Uchucklesaht Tribe, or

(c) subject to a lease;

"community purpose" means a purpose the achievement of which will directly or indirectly benefit the Uchucklesaht Tribe, Uchucklesaht citizens or persons residing on Uchucklesaht lands;

"community works" means works the establishment or continuation of which will directly or indirectly benefit the Uchucklesaht Tribe, Uchucklesaht citizens or persons residing on Uchucklesaht lands;

"construction purpose" includes the building of a road, berm, foundation or wall;

"conventional boundary" means a boundary consisting of a straight line or a series of straight lines of fixed direction and length conforming as nearly as possible to the natural boundary, but eliminating minor sinuosities;

"devise" means

(a) as a noun, a gift or disposition under a will, or

(b) as a verb, to give or dispose of under a will;

"director" means the director of lands and resources;

"dispose" and "disposition" mean to grant an interest in or licence in relation to Uchucklesaht lands as contemplated in Part 4;

"eligible recipient" means

(a) a Uchucklesaht enrollee,

(b) the Uchucklesaht Tribe, or

(c) a Uchucklesaht housing service provider;

"equity" means, when used in the phrase "law or equity", the system of law designed to furnish remedies for wrongs which were not legally recognized under the common law of England or for which no adequate remedy was provided by the common law as inherited and modified by the Supreme Court;

"expropriate" means, in relation to an interest in, or licence in relation to, Uchucklesaht lands, to take without the consent of the holder;

"fee simple grant" means a grant of an estate in fee simple in Uchucklesaht lands;

"holder" means, in relation to an interest in, or licence in relation to, Uchucklesaht lands, the person registered in the lands registry office as the holder of the interest in, or licence in relation to, Uchucklesaht lands;

"immediate family" means, in relation to an individual, the spouse, sons, daughters, siblings and parents of the individual;

"information meeting" means a meeting referred to in section 6.2 of the Referendum Act;

"instrument" means any written document, certificate, conveyance, deed, mortgage, encumbrance or plan relating to the transfer, charging or otherwise dealing with or

affecting an interest in, or licence in relation to, land or evidencing ownership to it, including a will, grant of probate or administration, and an enactment;

"interest" includes, in relation to Uchucklesaht lands, a privilege, right, title or estate in that land;

"land authority" means a person referred to in section 2.7;

"licence" means, in relation to Uchucklesaht lands, a licence of occupation, natural resource licence or utility licence;

"licence of occupation" means a licence for a primary purpose other than extracting or harvesting natural resources or providing utility services;

"natural resource licence" means a licence for the primary purpose of extracting or harvesting a natural resource;

"prescribed individual" means an individual prescribed under this Act before whom an instrument must be witnessed;

"provincial Crown land registry" means the registry continued under section 7 of the Land Act (British Columbia);

"public utility" means a person who owns or operates equipment or facilities for utility services;

"railway corporation" means a corporation authorized to construct or operate a railway under federal or provincial law;

"ratification meeting" means a meeting referred to in section 6.3 of the Referendum Act;

"referendum" means a referendum held in accordance with the Referendum Act;

"registrar" means the office established under section 2.11 or the individual appointed to hold that office;

"road" means land designated or indicated as a road or lane in an instrument, map or plan made under this Act, whether or not a road or lane is constructed, and includes a road allowance or walkway allowance established under section 11.22;

"statutory right of way" means an easement without a dominant tenement, necessary for the operation and maintenance of the grantee's undertaking;

"Uchucklesaht housing service provider" means a person or trust designated by the Executive under section 5.2;

"Uchucklesaht residential interest" means a right to possession of a particular parcel of Uchucklesaht lands granted under Part 5;

"Uchucklesaht titled lands" means Uchucklesaht lands, the indefeasible title to which is registered under the Land Title Act (British Columbia) in accordance with Chapter 3 Land Title of the Maa-nulth Treaty;

"utility licence" means a licence for the primary purpose of providing utility services to owners or occupiers of Uchucklesaht lands;

"utility services" means services relating to

(a) the production, gathering, processing, generation, storage, transmission, sale, supply, distribution, delivery or provision of petroleum (including petroleum products and bi-products), gas (including natural gas, natural gas liquids and propane), electricity, steam or any other agent for the production of light, heat, cold or power,

(b) the emission, transmission, or reception of information, messages or communication by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications,

(c) the collection, disposal or treatment of garbage, solid waste, sewage or waste water, or

(d) the diversion, development, pumping, impoundment, distribution or furnishing of water,

Conflict between Land Act and other Uchucklesaht laws

1.5 (a) Subject to the Constitution, in the event of any inconsistency or conflict between this Act and any other Uchucklesaht law, this Act prevails to the extent of the inconsistency or conflict.

(b) For the purposes of subsection (a), a Uchucklesaht law is not inconsistent with this Act merely because it addresses a subject also addressed in this Act.

PART 2 - ADMINISTRATION OF UCHUCKLESAHT LANDS

Department of Lands and Resources established

2.1 The Department of Lands and Resources is established as a division of the Uchucklesaht administration.

Mandate

2.2 (a) The mandate of the Department of Lands and Resources is to perform the following duties and exercise the following powers:

(i) manage and administer Uchucklesaht lands as required

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

(B) by the Executive;

(ii) maintain and protect records relating to Uchucklesaht lands and Uchucklesaht land enactments;

(iii) prepare forms and instruments to be used in relation to Uchucklesaht lands and Uchucklesaht land enactments;

(iv) provide administrative support to the Executive, the chief administrative officer, other departments and land authorities as required

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

(B) by the chief administrative officer; and

(v) any additional functions assigned to the Department of Lands and Resources

(A) in accordance with this Act or any other Uchucklesaht enactment, or

(B) by the chief administrative officer.

(b) The chief administrative officer may

(i) establish and fill such positions within the Uchucklesaht administration, in addition to the position of director, as the chief administrative officer considers advisable to manage and administer Uchucklesaht lands and money derived from Uchucklesaht lands or to otherwise give effect to this Act or any other Uchucklesaht land enactment,

(ii) assign to a member of the Uchucklesaht administration or a land authority duties and powers in addition to those assigned in accordance with this Act or any other Uchucklesaht land enactment, and

(iii) subject to section 5.1 of the Integrity Act, appoint the same person to, or designate the same person to act in, two or more positions within the Department of Lands and Resources.

Director of lands and resources

2.3 (a) The office of the director of lands and resources is established.

(b) The Executive must appoint an individual to hold the office of director.

(c) The director reports to the chief administrative officer.

Duties of the director

2.4 The director must perform the following duties and may exercise the following powers:

(a) manage the Department of Lands and Resources;

(b) ensure that Uchucklesaht government employees within the Department of Lands and Resources perform the duties assigned to them

(i) under this Act or any other Uchucklesaht enactment,

(ii) by the chief administrative officer, or

(iii) by the director;

(c) report, as required by the chief administrative officer, to the Executive on the Department of Lands and Resources and its activities;

(d) act as the approving officer under this Act and section 77.21 of the Land Title Act (British Columbia);

(e) perform any additional duties or exercise any additional powers assigned to the director

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

(ii) by the chief administrative officer.

Delegation authority

2.5 (a) Upon the approval of the chief administrative officer, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to

(i) another Uchucklesaht director,

(ii) a Uchucklesaht government employee, or

(iii) an independent contractor of the Uchucklesaht Tribe.

(b) Despite the delegation of any duties or powers under subsection (a), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Powers retained by the Executive

2.6 (a) Unless otherwise specifically provided in this or another Uchucklesaht enactment, the Executive retains for itself all power to dispose of or approve an interest in, or licence in relation to, Uchucklesaht lands.

(b) The Executive may only exercise the powers and perform the duties referred to in subsection (a) in accordance with this Act and all other applicable laws.

(c) Subject to this Act, the Executive retains for itself all power for and in the name of the Uchucklesaht Tribe to, and the Executive may,

(i) enter into any agreement it considers necessary or advisable for the purpose of

(A) managing or administering Uchucklesaht lands or money derived from Uchucklesaht lands, and

(B) otherwise giving effect to this Act or any other Uchucklesaht land enactment,

(ii) authorize a Uchucklesaht official to enter into any such agreement or class of such agreements for or in the name of the Uchucklesaht Tribe, and

(iii) establish restrictions or conditions on any authority to enter into agreements or classes of agreements given under paragraph (ii).

Land authorities

2.7 The Executive may

(a) establish Uchucklesaht public institutions under Uchucklesaht law, and

(b) incorporate entities under federal or provincial laws,

to manage or administer, or assist the Department of Lands and Resources in the management or administration of, Uchucklesaht lands.

Delegation authority

2.8 (a) Subject to subsection (b), the Executive may, by regulation, delegate to any body or persons, including a land authority, any duty or power of the Department of Lands and Resources relating to the management or administration of Uchucklesaht lands.

(b) Despite subsection (a), the Executive may not delegate to any body or person any of the following duties or powers of the Executive:

(i) to dispose of or approve an interest in Uchucklesaht lands;

(ii) to call an information meeting, ratification meeting or referendum;

(iii) to enact a Uchucklesaht enactment;

(iv) to delegate a duty or power of the Executive under this or any other Uchucklesaht enactment.

(c) For certainty,

(i) a delegation by the Executive to a body or person under subsection (a)

(A) may include all or any part of a duty or power of the Department of Lands and Resources relating to the management or administration of Uchucklesaht lands,

(B) may pertain to all or a specified area of Uchucklesaht lands,

(C) is subject to any terms or conditions established by the Executive under the regulation making the delegation, and

(D) does not restrict the Executive from delegating any additional duties or powers of the Department of Lands and Resources to the body or person under another regulation, and

(ii) a body or person to which the Executive delegates a duty or power under subsection (a) may only perform the duty or exercise the power in accordance with this Act, the regulation making the delegation and all other applicable laws.

Lands registry office

2.9 The lands registry office is established as an office of the Department of Lands and Resources.

Mandate

2.10 The mandate of the lands registry office is to maintain

(a) an inventory of Uchucklesaht lands

(b) the lands register containing a record of

(i) all dispositions under this Act, and

(ii) any transfer of an interest in, or licence in relation to, Uchucklesaht lands

in accordance with this or any other Uchucklesaht enactment or as required by the director.

Office of the registrar established

2.11 (a) The office of the lands registrar is established.

(b) The chief administrative officer must appoint an individual to hold the office of the registrar.

(c) The registrar reports to the director.

Duties of the lands registrar

2.12 (a) The registrar must perform the following duties and may exercise the following powers:

(i) manage the lands registry office;

(ii) record entries and amendments to entries in the lands register required under this or another Uchucklesaht enactment; and

(iii) provide for the security and maintenance of the lands register.

(b) The registrar and staff of the lands registry office must not

(i) directly or indirectly act as the agent of a person investing money in or taking security in Uchucklesaht lands,

(ii) advise for a fee, reward or otherwise on interests in, or licences in relation to, Uchucklesaht lands, or

(iii) practice as a lawyer, notary public or conveyancer in relation to Uchucklesaht lands.

Lands register

2.13 (a) The registrar

(i) must record in the lands register

(A) a description of all Uchucklesaht lands,

(B) all dispositions under this Act, and

(C) any transfer of an interest in, or licence in relation to, Uchucklesaht lands, and

(ii) may record in the lands register other information relating to Uchucklesaht lands.

(b) During regular business hours, any person may examine and inspect the records of the lands register

(i) after completing an application in the form that the registrar requires, and

(ii) on the conditions that the registrar imposes.

(c) The Uchucklesaht Tribe makes no representation as to the accuracy or completeness of the records of the lands register and a person may not recover from the Uchucklesaht Tribe any loss or damage that the person suffers by reliance on the records of the lands register.

PART 3 - REGISTRATION AND ITS EFFECT

Application of part

3.1 (a) This Part does not apply to Uchucklesaht lands that are Uchucklesaht titled lands.

(b) For certainty

(i) the Land Title Act (British Columbia) applies to Uchucklesaht titled lands in accordance with Chapter 3 Land Title of the Maa-nulth Treaty, and

(ii) this Part is subject to the Maa-nulth Treaty.

Unregistered instrument

3.2 (a) Except as against the person making it, an agreement or instrument of any kind made or entered into after the Maa-nulth Treaty effective date by which a person intends to dispose of an interest in, or licence in relation to, Uchucklesaht lands does not operate to pass that interest or licence, either at law or in equity, unless it is registered or recorded in the lands register.

(b) Subsection (a) does not apply to a lease or rental agreement not exceeding three years.

(c) Neither the Executive nor any member of the Uchucklesaht administration or land authority has any obligation to determine, ensure or confirm for or on behalf of a recipient or holder of an interest in, or licence in relation to, Uchucklesaht lands, other than the Uchucklesaht Tribe, that

(i) the interest or licence is valid, of force or effect or in good standing, or

(ii) the interest or licence has been submitted for registration or recording, or has been registered or recorded, in the lands register.

Instrument operates when registered

3.3 An instrument intending to charge, deal with or affect

(a) Uchucklesaht lands, or

(b) an interest in, or licence in relation to, Uchucklesaht lands

does not charge, deal with or affect the Uchucklesaht lands or the interest or licence, either at law or in equity, until the time that the instrument is registered in the lands register, despite the date of its execution.

Registration of interest or licence

3.4 (a) A holder of a registered interest in, or licence in relation to, Uchucklesaht lands is entitled to the interest or licence created or evidenced by the instrument in relation to which the interest or licence is registered.

(b) Registration of an interest in, or licence in relation to, Uchucklesaht lands is not a determination by the registrar that

(i) the instrument in relation to which the interest or licence is registered creates or evidences an interest in, or licence in relation to, Uchucklesaht lands, or

(ii) the interest or licence is enforceable.

Priority of interests

3.5 Subject to a contrary intention appearing in the instrument creating the interest in, or licence in relation to, Uchucklesaht lands, if two or more interests in, or licence in relation to, Uchucklesaht lands entered on the lands register affect the same Uchucklesaht lands, the interests or licences have, as between themselves, priority according to the date and time the applications for registration of the interests or licences were received by the registrar, despite the dates of execution of the instruments.

Effect of notice of unregistered interest

3.6 (a) A person who is contracting, dealing with, taking or proposing to take from a registered holder

(i) an interest in, or licence in relation to, Uchucklesaht lands, or

(ii) a transfer or assignment of the interest or licence

is not affected by a notice, express, implied or constructive, of an unregistered interest or licence intending to affect the Uchucklesaht lands, other than

(iii) an interest or licence, the registration of which is pending, or

(iv) a lease or rental agreement not exceeding three years.

(b) Subsection (a) does not apply in a case of fraud in which the person has participated.

(c) Subsection (a) applies despite a rule of law or equity to the contrary.

Completion of registration

3.7 After registration of an interest in, or licence in relation to, Uchucklesaht lands or after cancellation of an interest in, or licence in relation to, Uchucklesaht lands, the registrar must make on an instrument deposited in support of the application for registration or cancellation an endorsement in the prescribed form.

Registration effective from time of application

3.8 Once registered, an instrument or application is deemed to have been registered and to have become operative for all purposes in relation to the interest in, or licence in relation to, Uchucklesaht lands or cancellation claimed by the application, and according to the intent of the instrument or application, as of the date and time when the application was received by the registrar.

Registrable instruments

3.9 An instrument that is sufficient to create an interest in, or licence in relation to, Uchucklesaht lands or to pass an interest in, or licence in relation to, Uchucklesaht lands is registrable only if it is in the prescribed form.

Witnessing and execution

3.10 (a) The execution by a transferor of an instrument must be witnessed by a prescribed individual who is not a party to the instrument.

(b) Subsection (a) does not apply to an instrument that is prescribed for the purposes of this section.

(c) In the absence of evidence to the contrary, the signature of a transferor on an instrument is proof that the transferor

(i) knows the contents of the instrument,

(ii) has signed the instrument voluntarily,

(iii) has the legal capacity to execute the instrument, and

(iv) intends to be bound by the instrument.

(d) An affidavit necessary for the purposes of this Act may be taken or made inside or outside British Columbia by and before a person before whom an affidavit may be sworn under the Evidence Act (British Columbia).

Witnessing — individuals

3.11 The signature of the prescribed individual witnessing the execution of an instrument by an individual is a certification by the prescribed individual that

(a) the individual appeared before and acknowledged to the prescribed individual that they are the individual named in the instrument as transferor, and

(b) the signature witnessed by the prescribed individual is the signature of the individual who made the acknowledgment.

Witnessing — corporations

3.12 (a) A corporation must execute an instrument by its authorized signatory who must, on behalf of the corporation, sign their name on the instrument.

(b) In the case of an instrument executed for a corporation by more than one authorized signatory, only the signature of one authorized signatory is required to be witnessed under this Part.

(c) In the case of an instrument that is executed by a corporation, the signature of the prescribed individual witnessing the execution is a certification by the prescribed individual that

(i) the individual who executed the instrument for the corporation appeared before and acknowledged to the prescribed individual that

(A) the individual is an authorized signatory of the corporation,

(B) the individual was authorized by the corporation to execute the instrument, and

(ii) the corporation existed at the time the instrument was executed and is legally entitled to hold and transfer an interest in, or licence in relation to, Uchucklesaht lands, and

(iii) the signature witnessed by the prescribed individual is the signature of the individual who made the acknowledgment.

Witnessing — individual power of attorney

3.13 (a) In the case of an instrument that is executed by an individual who is acting under a subsisting power of attorney, the signature of the prescribed individual witnessing the execution is a certification by the prescribed individual that

(i) the individual appeared before and acknowledged to the prescribed individual that

(A) the individual is the person named as the attorney of the transferor in a subsisting power of attorney,

(B) if the transferor is an individual, the individual acting under the power of attorney had, at the time the instrument was executed, no knowledge of the death or bankruptcy of the transferor, or of the revocation of the power by the transferor and no knowledge of the mental incapability of the transferor, and

(C) if the transferor is a corporation, the corporation is legally entitled to hold and transfer an interest in, or licence in relation to, Uchucklesaht lands and, at the time the instrument was executed, the corporation existed and the individual had no knowledge of the bankruptcy of the transferor or of a revocation of the power by the transferor, and

(ii) the signature witnessed by the prescribed individual is the signature of the individual who made the acknowledgment.

(b) An attorney who is an individual must

(i) execute the instrument by signing their name, and

(ii) indicate on the instrument that they are the attorney of the transferor.

Witnessing — corporate power of attorney

3.14 (a) In the case of an instrument that is executed by a corporation acting under a subsisting power of attorney, the signature of the prescribed individual witnessing the execution is a certification by the prescribed individual that

(i) the individual who executed the instrument for the corporate attorney appeared before and acknowledged to the prescribed individual that

(A) the individual is an authorized signatory of the corporate attorney,

(B) the individual and any other individual who executed the instrument for the corporate attorney were authorized by the corporate attorney to execute the instrument,

(C) the corporate attorney is the attorney of the transferor under a subsisting power of attorney,

(D) if the transferor is an individual, the individual executing the instrument for the corporate attorney had, at the time the instrument was executed, no knowledge of the death or bankruptcy

of the transferor, or of the revocation of the power by the transferor and no knowledge of the mental incapability of the transferor, and

(B) if the transferor is a corporation, the corporation is legally entitled to hold and transfer an interest in, or licence in relation to, Uchucklesaht lands and, at the time the instrument was executed, the corporation existed and the individual had no knowledge of the bankruptcy of the transferor or of a revocation of the power by the transferor, and

(ii) the signature witnessed by the prescribed individual is the signature of the individual who made the acknowledgment.

(b) A corporate attorney must execute an instrument in accordance with section 3.12(a) and must indicate on the instrument that the corporation is the attorney of the transferor.

Witnessing — persons not fluent in English

3.15 In the case of an instrument that is executed by an individual who appears to the prescribed individual to be unable to read English or to sign their name in English characters, the signature of the prescribed individual is, in addition to the certification in section 3.11, a certification by the prescribed individual that the individual appeared before and acknowledged to the prescribed individual that the contents and effect of the instrument were sufficiently communicated to the individual and that the individual fully understood the contents of the instrument.

Execution under seal

3.16 (a) In the case of an instrument executed under seal by an individual, whether on the individual's own behalf or as the attorney for the transferor, the signature of the prescribed individual witnessing the execution is, in addition to any other certification evidenced by the prescribed individual's signature, a certification by the prescribed individual that the individual appeared before the prescribed individual and acknowledged that

(i) the individual affixed their seal to the instrument, or

(ii) if the individual is acting under a power of attorney, the individual affixed their seal to the instrument and was authorized by the transferor to do so.

(b) In the case of an instrument executed under the seal of a corporation, whether on its own behalf or as the corporate attorney of the transferor, the signature of the prescribed individual witnessing the execution is, in addition to any other certification evidenced by the prescribed individual's signature, a certification by the prescribed individual that the individual who signed the instrument as the

authorized signatory appeared before the prescribed individual and acknowledged that

(i) the individual affixed the corporate seal of the transferor to the instrument and was authorized to do so, or

(ii) in the case of a corporate attorney, the individual affixed the corporate seal of the attorney to the instrument and was authorized to do so.

If instrument not witnessed

3.17 If

(a) the signature of a transferor is not witnessed as required under this Part,

(b) the registrar has satisfactory evidence, by affidavit,

(i) from an individual at least 16 years of age and is acquainted with the transferor and the transferor's signature, stating their belief that the signature subscribed to the instrument is the signature of the person named in the instrument as transferor, or

(ii) in the case of a corporate transferor or corporate attorney, from an individual at least 16 years of age and has personal knowledge of the matters contemplated in sections 3.12, 3.14 and 3.16(b) that would otherwise be acknowledged by the authorized signatory before an prescribed individual under those sections, and

(c) the registrar considers it to be appropriate to act under this section to avoid hardship,

the registrar may receive the instrument for registration as if it had been witnessed as required.

Defects in execution

3.18 If there is a defect in the execution of an instrument, the registrar may, if the registrar considers the instrument is legally binding, register it and the registration is valid for all purposes of this Act despite the defect.

Official record

3.19 (a) In this section,

"duplicate" means the counterpart of an original instrument or document made by the registrar in the usual and ordinary course of business using a technique that

(i) records all significant details of the original instrument or document, and

(ii) does not permit additions, deletions or changes from the original instrument or document;

"original document" means the document that is registered, deposited or filed under this Act.

(b) The registrar must make and maintain an official record of all instruments and documents registered, deposited or filed under this Act.

(c) The official record must consist of the original instrument or document or its duplicate.

(d) The registrar must store the official record made under subsection (b) either in the lands registry office or in some other location approved by the chief administrative officer.

(e) The registrar may

(i) make a copy of an original instrument or document, or of a duplicate, and

(ii) certify that the copy is a true copy of the original instrument or document.

(f) A certification of the registrar under subsection (e) is conclusive proof that the copy, and the duplicate if the copy is made from a duplicate, was made by the registrar in the usual and ordinary course of business using a technique that

(i) is capable of recording all significant details of the original instrument or document, and

(ii) does not permit additions, deletions or changes from the original instrument or document.

Content of records

3.20 (a) In addition to the information required by section 2.13(a), the registrar must store in the records of the lands registry office the names of registered holders of interests in, and licences in relation to, Uchucklesaht lands, with a reference opposite each name to the serial number under which the interest or licence of the person is registered.

(b) The registrar may store in the records other information required by the director respecting

(i) Uchucklesaht lands, and

(ii) holders of interests in, or licences in relation to, Uchucklesaht lands.

Certificates and copies

3.21 The registrar must provide to any person who completes an application in the form that the registrar requires

(a) a certificate showing the interests or licences entered on the lands register and all pending applications for a parcel of Uchucklesaht lands, and

(b) a copy of an instrument registered or deposited in the lands registry office.

Preservation of records

3.22 (a) The registrar may cause a record, or a selected portion of it, to be copied in a record of similar description if

(i) the record, from use or age, is becoming obliterated or unfit for future use, or

(ii) in the opinion of the registrar, convenience of reference requires.

(b) The copy of a record made under subsection (a), together with a certificate of the registrar at the end of the copy, stating that the copied record is a true copy of the original record, must, for all purposes be accepted and received as the original record.

(c) The original record copied under subsection (a) must be preserved among the records.

(d) If necessary for purposes of preservation, the registrar may cause

(i) a record that is unfit for use to be repaired or rebound, or

(ii) a plan that is deposited or filed to be repaired, copied or mounted.

Correction of clerical or typographical errors and omission of entries

3.23 (a) For the purposes of this Act, the registrar may, on any evidence the registrar considers sufficient,

(i) correct clerical or typographical errors in entries made under this Act, or

(ii) insert clerical entries omitted under this Act,

in relation to the registration of interests in, or licences in relation to, Uchucklesaht lands.

(b) In correcting a clerical or typographical error in an entry under subsection (a), the registrar

(i) must not erase or render illegible the original entry, and

(ii) must sign and date the corrected entry.

(c) When inserting an omitted clerical entry under subsection (a), the registrar must sign and date the inserted clerical entry.

(d) The correction of a clerical or typographical error or the insertion of an omitted entry under subsection (a) has the same validity and effect as if the error had not been made or the insertion entry not omitted.

Cancellation and correction of instruments

3.24 (a) For the purposes of this Act, to correct a clerical error the registrar may, on any evidence the registrar considers sufficient,

(i) cancel an instrument issued in error,

(ii) correct a misdescription in an instrument,

(iii) cancel an endorsement made in error on an instrument, or

(iv) provide an endorsement omitted in error on an instrument.

(b) In canceling an instrument under subsection (a)(i) or an endorsement under subsection (a)(iii), the registrar

(i) must not erase or render illegible the instrument or endorsement, and

(ii) must sign and date the cancellation.

(c) In correcting a misdescription in an instrument under subsection (a)(ii), the registrar

(i) must not erase or render illegible the original description, and

(ii) must sign and date the corrected description.

(d) In providing an omitted endorsement under subsection (a)(iv), the registrar must sign and date the endorsement.

(e) The cancellation of an instrument or endorsement under subsection (a) has the same validity and effect as if the instrument had not been issued or the endorsement had not been made.

(f) The correction of a misdescription or the provision of an omitted endorsement under subsection (a) has the same validity and effect as if the misdescription had not been made or the endorsement had not been omitted.

(g) The registrar must provide the director in a timely manner with a written report concerning any steps taken by the registrar under subsection (a).

Mistake or incorrect name

3.25 (a) If the director is of the opinion that a certificate or instrument

(i) was issued to or in the name of the wrong person through mistake that is not a clerical error, or

(ii) contains any error, incorrect name or wrong description of any material fact,

the director may issue a report to the Executive setting out the director's opinion and the facts on which the opinion is based.

(b) After considering a report issued by the director under subsection (a) in relation to a certificate or instrument, subject to subsection (c), the Executive may, by directive, direct that the certificate or instrument be replaced.

(c) The replacement of a certificate or instrument by the Executive under subsection (b) is not effective until

(i) the Executive delivers a copy of the directive directing the replacement of the certificate or instrument to the registrar,

(ii) the registrar issues a replacement certificate or instrument under subsection (d), and

(iii) the replacement certificate or instrument, with a copy of the directive directing the replacement of the certificate or instrument attached, is registered in the lands register.

(d) On the delivery under subsection (c)(i) of a copy of the directive directing the replacement of a certificate or instrument, the registrar may issue a replacement certificate or instrument in the prescribed form and register that replacement certificate or instrument, with the copy of the directive directing the replacement of the certificate or instrument attached, in the lands register.

(e) A person who is affected by a directive under subsection (b) may request a review of that directive under the Administrative Decisions Review Act.

Fraud or error

3.26 (a) If the director is of the opinion that a certificate or instrument was issued through fraud or in error, the director may issue a written report to the Executive setting out the director's opinion and the facts on which the opinion is based.

(b) After considering a report issued by the director under subsection (a) in relation to a certificate or instrument, subject to subsection (c), the Executive may, by directive, direct the discharge of the interest in, or licence in relation to, Uchucklesaht lands purported to be evidenced by that certificate or instrument.

(c) The discharge of an interest or licence by the Executive under subsection (b) is not effective until

(i) the Executive delivers a copy of the directive directing the discharge of the interest or licence to the registrar,

(ii) the director publishes in accordance with Uchucklesaht law a notice of the directive approving the discharge of the interest or licence,

(iii) the director delivers in accordance with Uchucklesaht law a copy of the directive directing the discharge to the holder of the discharged interest or licence,

(iv) the registrar issues a certificate of discharge of the interest or licence under subsection (d), and

(v) the certificate of discharge, with the copy of the directive directing the discharge of the interest or licence attached, is registered in the lands register.

(d) Thirty days after the publication of the notice under subsection (c)(ii) and the delivery of the directive directing the discharge under subsection (c)(iii) and on the delivery under subsection (c)(i) of a copy of the directive directing the discharge of the interest or licence, the registrar may issue a certificate of discharge for the interest or licence in the prescribed form and register that certificate, with the copy of the directive under subsection (b) attached, in the lands register.

(e) A person who is affected by a directive under subsection (b) may request a review of that directive under the Administrative Decisions Review Act.

Transition

3.27 (a) The interests or licences referred to in section 4.2(a)(i) are deemed to be registered in the lands register as of the Maa-nulth Treaty effective date on the terms provided for in the Maa-nulth Treaty.

(b) To evidence the interests or licences referred to in section 4.2(a)(i), on or as soon as practicable after the Maa-nulth Treaty effective date, the registrar must issue and register in the lands register for the lands appurtenant to that interest or licence an instrument in the name of the holder of each interest or licence with the applicable form of interest or licence attached substantially in the form as set out in Appendix E-6 or E-10 of the Maa-nulth Treaty or as otherwise agreed to by the parties to the instrument.

(c) As soon as practicable after the registration in the lands register of the certificate referred to in subsection (b), the registrar must deliver a copy of that certificate to the holder of the interest or licence.

PART 4 - DISPOSITIONS

Acquisition of interests

4.1 (a) No person may acquire an interest in, or licence in relation to, Uchucklesaht lands except under this or another Uchucklesaht enactment.

(b) A disposition under this Act is not binding on the Uchucklesaht Tribe until the instrument is executed by the Executive under this Act.

(c) Negotiations or arrangements, whether in writing or otherwise, before the execution of an instrument by the Executive under this Act, are not binding on and do not commit the Uchucklesaht Tribe to perform or complete a disposition.

Existing interests and licences

4.2 (a) Despite section 4.1 and subject to subsection (b), interests in, and licences in relation to, Uchucklesaht lands that are listed in

(i) Appendix E-4 of the Maa-nulth Treaty, or

(ii) Appendix E-14 of the Maa-nulth Treaty,

continue in accordance with their terms and conditions until they expire, terminate, are surrendered or otherwise come to an end in accordance with their terms and conditions or otherwise in accordance with law or equity.

(b) As of the Maa-nulth Treaty effective date, the Executive may exercise any power and carry out any function in relation to the interests and licences referred to in subsections (a)(i) and (a)(ii) that, prior to the Maa-nulth Treaty effective date, was a power or function of Canada or British Columbia as grantor.

Dispositions by the Executive

4.3 (a) Subject to this Act, the Executive may make a disposition to an applicant who satisfies the eligibility requirements in section 4.16 if the Executive considers the disposition to be in the interest of the Uchucklesaht Tribe.

(b) For purposes of subsection (a), the Executive may

(i) make a fee simple grant if the disposition has been approved in accordance with section 7.1,

(ii) grant a Uchucklesaht residential interest for an unlimited period of time,

(iii) grant a lease for up to 99 years,

(iv) grant a statutory right of way for so long as required,

(v) grant an easement for so long as required,

(vi) grant a utility licence for so long as required,

(vii) grant a licence of occupation for up to 10 years,

(viii) grant a public purpose licence of occupation for so long as required,

(ix) grant a natural resource licence for up to 50 years,

(x) grant a mortgage of lease for the term of the lease, and

(xi) grant a mortgage of Uchucklesaht titled lands registered in the name of the Uchucklesaht Tribe for up to 35 years.

(c) In a disposition under this section, the Executive may impose the terms, covenants and stipulations it considers advisable, including the following:

(i) payment by the applicant of the cost of a survey of the Uchucklesaht lands completed under the direction of the director;

(ii) personal residence on the Uchucklesaht lands by the applicant for a period set by the Executive; or

(iii) permanent improvement of the Uchucklesaht lands by and at the cost of the applicant on the conditions specified by the Executive.

(d) A disposition under this section must be made in the applicant's name only.

No transfer of estate in fee simple

4.4 For certainty, no estate in fee simple or indefeasible title to Uchucklesaht lands may be granted except in accordance with this Act.

Dispositions must be in writing

4.5 (a) An interest in, or licence in relation to, Uchucklesaht lands may only be disposed of by an instrument in writing and in accordance with this Act.

(b) If the Uchucklesaht Tribe in its own name is proposed to be a party to an instrument referred to in subsection (a), the instrument must not be executed on behalf of the Uchucklesaht Tribe without the prior approval of the Executive.

Limit on area of interest

4.6 Except with the prior approval of the Council, the Executive may not under section 4.3 make a disposition with a surface area greater than five ha at any one time or on any one application.

Amendment of area under application

4.7 Subject to section 4.6, the Executive may under section 4.3 make a disposition with

(a) a surface area reduced or expanded from the surface area stated in the application, and

(b) boundaries varied from the boundaries described in the application.

Amendments to instruments

4.8 (a) This section applies to an instrument disposing of an interest in, or licence in relation to, Uchucklesaht lands, other than a Uchucklesaht residential interest

(i) if the Uchucklesaht Tribe is a party to the instrument and the interest or licence has been granted under this Act, or

(ii) if the Uchucklesaht Tribe is proposed to be a party to the instrument, the interest or licence is proposed to be granted under this Act and the proposed disposition has been publicized at an information meeting and approved by vote at ratification a meeting or by referendum.

(b) Subject to subsection (c), the Executive may approve an amendment to an instrument referred to in subsection (a) without holding an information meeting, ratification meeting or a referendum only if

(i) under Part 7 the Executive could grant the interest or licence on the amended terms without holding an information meeting, ratification meeting or a referendum, or

(ii) the Executive considers that the amendment is

(A) necessary to rectify an error or omission in the instrument, or

(B) advisable to better protect or advance the interests of the Uchucklesaht Tribe.

(c) The Executive may not approve an amendment to an instrument referred to in subsection (a) if the amendment would extend the term of the interest or licence granted by the instrument, unless

(i) under Part 7 the Executive could grant the interest or licence with that extended term without the disposition being first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, or

(ii) the proposed amendment is first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, as the case may be, as would be required under Part 7 before the Executive could grant the interest or licence with that extended term.

Conditions, provisos, restrictions, exceptions and reservations

4.9 (a) A disposition under this or another Uchucklesaht enactment

(i) excepts and reserves a right in the Uchucklesaht Tribe, or any person acting for it or under its authority,

(A) to resume any part of the land that is deemed to be necessary by the Executive for making roads, canals, bridges or other public works, but not more than one-twentieth part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden,

(B) to enter any part of the land, and to raise and get out of it any mineral resources that may be found in, on or under the land, and to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them, paying reasonable compensation for the raising and getting,

(C) to enter any part of the land, and to harvest, replenish or protect forest resources that may from time to time be found on, in or under the land, and to use and enjoy any part of the land for any purpose connected with the harvesting, replenishing or protecting of forest resources, and to provide access on and through the land for the harvesting, replenishing or protecting of forest resources on or off the land,

(D) to take and occupy water privileges and to have and enjoy the rights of carrying water over, through or under any part of the land, as may be reasonably required for mining or agricultural purposes in the vicinity of the land, paying a reasonable compensation to the grantee, the grantee's successors and assigns, and

(E) to take from any part of the land, without compensation, gravel, sand, stone, lime, timber or other material that may be required in

the construction, maintenance or repair of a road, ferry, bridge or other public work, and

(ii) conveys no interest in

(A) mineral resources that may be found in, on or under the land,

(B) forest resources that may from time to time be found in, on or under the land, or

(C) roads on, over or through the land,

unless otherwise specifically provided in the instrument.

(b) Subsection (a) applies whether or not express words are used in the instrument, but is subject to subsection (c).

(c) A disposition under another Uchucklesaht enactment that expressly authorizes a disposition on terms different from those referred to in subsection (a) may be made on those terms.

(d) A disposition may, by express words, except or reserve to the Uchucklesaht Tribe, interests more extensive than those referred to in subsection (a).

(e) For all purposes, every disposition is conclusively deemed to contain express words making the exceptions and reservations referred to in subsection (a), except to the extent that the disposition is made on different terms under subsection (c).

(f) The power under subsection (d) to except and reserve interests includes a power to create a statutory right of way, and if this is done

(i) the Uchucklesaht Tribe is, in relation to the statutory right of way, a grantee, and

(ii) the statutory right of way is conclusively deemed to be necessary for the operation and maintenance of the Uchucklesaht Tribe's undertaking.

Deletion of conditions

4.10 (a) If, after a disposition has been made under this or any other Uchucklesaht enactment, other than a fee simple grant, the Executive finds that a condition, proviso, restriction, exception or reservation in the disposition is no longer required in the interest of the Uchucklesaht Tribe, the Executive may, by directive, direct that the condition, proviso, restriction, exception or reservation be deleted from the disposition.

(b) If, under subsection (a), the Executive directives the deletion of a condition, proviso, restriction, exception or reservation in a disposition that is registered under Part 3,

(i) the Executive must deposit a copy of the directive in the lands registry office, and

(ii) the registrar must make an entry in the lands register to describe the directive.

Bodies of water

4.11 If Uchucklesaht lands bordering on a lake, river, stream or other body of water is the subject of a disposition under this or any other Uchucklesaht enactment, no interest in the bed or shore of the body of water below its natural boundary passes to the person receiving the disposition.

Roads

4.12 Unless a contrary intention is expressly stated in an instrument, map or plan made under this Act, a road is deemed to be 20 m in width, being 10 m on each side of the centre line of the traveled portion of the road.

Date of disposition

4.13 A disposition under section 4.3 is effective as against the Uchucklesaht Tribe

(a) if a survey is not required, on the date that the instrument states, which must not be more than 30 days after the date on which the Executive executes the instrument, or

(b) if a survey is required, on the later of

(i) the date on which the Executive executes the instrument, and

(ii) the date on which the director confirms the survey under section 11.23.

Withdrawal from availability

4.14 (a) The Executive may, by Order, for any purpose it considers advisable

(i) withdraw Uchucklesaht lands from availability for disposition under this Act, and

(ii) amend or cancel a withdrawal made under paragraph (i).

(b) Land withdrawn from availability for disposition under subsection (a) may not be the subject of a disposition under this Act.

Designation for use or purpose

4.15 **(a)** The Executive may, by Order, for any purpose it considers advisable

(i) designate Uchucklesaht lands for a particular use or for the conservation of natural or heritage resources, and

(ii) amend or cancel a designation made under paragraph (i).

(b) Uchucklesaht lands designated under subsection (a) may not be the subject of a disposition under this Act if, in the opinion of the Executive, the disposition is not compatible with the use or purpose for which the land has been designated.

Applications for disposition

4.16 (a) Subject to this Act, an individual who is at least 19 years old, a corporation, treaty first nation, Canada or British Columbia may apply for a disposition described in section 4.3(b) but excluding section 4.3(b)(xi).

(b) Nothing in this Act obliges the Uchucklesaht Tribe to consider an application for a disposition, or to make a disposition on an application.

(c) An applicant does not obtain an interest in, or licence in relation to, Uchucklesaht lands, or a priority to acquire an interest in, or licence in relation to, Uchucklesaht lands, by applying for a disposition.

Application procedure for dispositions

4.17 (a) An application under section 4.16(a) must

(i) be made to the director in the form specified by the director, and

(ii) be accompanied by any prescribed application fee.

(b) If the Uchucklesaht lands that are the subject of an application under section 4.16(a) are unsurveyed or if no evidence of survey is available, the applicant must, along with the application and at the applicant's expense, provide a map indicating the location of the proposed interest in the form required by the director.

Public notice

4.18 (a) The director, at the applicant's expense, must post in accordance with Uchucklesaht law a notice of an application under section 4.16(a).

(b) The notice under subsection (a) must

(i) be headed "Land Act: Notice of Intention to Apply for a Disposition",

(ii) state the applicant's name, address and occupation,

(iii) state whether the application is for a fee simple grant, Uchucklesaht residential interest, lease, right of way, easement, or licence,

(iv) state the location and approximate surface area of the Uchucklesaht lands,

(v) state the purpose for which the interest is required, and

(vi) be signed by the applicant or their agent.

(c) The director must provide to the Executive proof of posting of the notice satisfactory to the Executive.

Register of applications

4.19 (a) The director must keep a register of applications for a disposition under section 4.16(a), including, for each application, a copy of the notice posted in accordance with section 4.18.

(b) During regular business hours, any person may examine and inspect the register of applications

(i) after completing an application in the form that the director requires, and

(ii) on the conditions that the director imposes.

(c) The Uchucklesaht Tribe makes no representation as to the accuracy or completeness of the register of applications and a person may not recover from the Uchucklesaht Tribe any loss or damage that the person suffers by reliance on the register of applications.

Feasibility studies and costs

4.20 (a) The director may require an applicant to obtain and file with the director, at the applicant's expense,

(i) feasibility studies,

(ii) environmental assessments,

(iii) timber cruises,

(iv) land valuation appraisals, or

(v) any other information about the application required by the director or the Executive.

(b) If an application is made under section 4.16(a), the director may

(i) estimate the cost

(A) to assess the impact of the disposition, or

(B) to monitor compliance with terms of the disposition, and

(ii) require the applicant to pay to the Uchucklesaht Tribe all or part of that estimated cost before the application is considered or the disposition made.

Security may be required

4.21 (a) The director may require an applicant to deposit with the Uchucklesaht Tribe a bond or other form of security for the performance and completion by the applicant of all the obligations and requirements specified by the director under this Act.

(b) The bond or other form of security required under subsection (a) must be payable to the Uchucklesaht Tribe for the amount and on the terms required by the director.

Affidavit may be required

4.22 The director may require an applicant to provide proof, by affidavit or otherwise, of any matter connected with the application, including the applicant's financial capacity.

Disposition of interest or licence

4.23 (a) A person who acquires an interest in, or licence in relation to, Uchucklesaht lands, other than Uchucklesaht titled lands, by a disposition under section 4.3 or by an allowable disposition under this section, must not dispose of or otherwise deal with that interest or licence, unless the disposing or other dealing is expressly allowed or approved by

(i) this or any other Uchucklesaht enactment,

(ii) the instrument, or

(iii) the Executive.

(b) An intended disposing of or other dealing with an interest in, or licence in relation to, Uchucklesaht lands, other than Uchucklesaht titled lands, in contravention of this section is void.

(c) As a condition precedent to an approval under subsection (a)(iii), the Executive may require the person to agree to and observe or perform, in relation to the Uchucklesaht lands, additional terms, covenants or stipulations.

Certificate of transfer under the Land Title Act (British Columbia)

4.24 (a) Uchucklesaht titled lands must not be registered in a name other than the Uchucklesaht Tribe without a certificate of transfer in the prescribed form issued by the Executive on behalf of the Uchucklesaht Tribe in accordance with this section.

(b) For certainty, a transfer of the ownership of a parcel of Uchucklesaht titled lands in contravention of this section is void.

(c) The registered owner of an indefeasible title to a parcel of Uchucklesaht titled lands may apply to the Executive for a certificate of transfer.

(d) An application made under subsection (c) must

(i) be made to the Executive in the prescribed form,

(ii) set out

(A) the parcel's land title office parcel identification number and legal description,

(B) the parcel's civic address, if any,

(C) the full legal name and occupation of the applicant,

(D) the full legal name and occupation of the proposed transferee,

(E) the intended use of the parcel by the proposed transferee, and

(iii) be accompanied by any prescribed application fee.

(e) Nothing in this Act obliges the Executive to consider an application made under subsection (c) or to make any decision on that application and, for certainty, the Executive may refuse to consider or decide an application made under subsection (c) for any reason it decides.

(f) In considering an application made under subsection (c), the Executive may consider, among other things, the following matters in reaching a decision on the application:

(i) the current use of the parcel identified in the application;

(ii) the proposed use of that parcel;

(iii) the stated use of that parcel, if any, that was indicated in the application under section 4.16 for the fee simple grant of that parcel;

(iv) whether or not the proposed transferee is

(A) a Uchucklesaht public corporation,

(B) a Uchucklesaht public institution,

(C) a Uchucklesaht corporation,

(D) an eligible recipient, or

(E) a person or category of persons prescribed under section 7.1(a)(iii);

(v) any matters relating to the proposed transferee the Executive decides are relevant; or

(vi) any other matters the Executive decides are relevant.

(g) If an application made under subsection (c) is approved, the Executive must issue to the applicant a certificate of transfer stating

(i) the certificate of transfer is issued in accordance with Uchucklesaht law, and

(ii) the person named in the certificate as transferee of the parcel is a permitted transferee under Uchucklesaht law.

PART 5 - RESIDENTIAL INTERESTS

Only eligible recipient may hold

5.1 Unless otherwise provided in this Part, only an eligible recipient may hold a Uchucklesaht residential interest.

Uchucklesaht housing service providers

5.2 The Executive may, by resolution, designate, or remove the designation of, a corporation or a trust as an entity approved to provide services to the Uchucklesaht Tribe and Uchucklesaht citizens in relation to housing on Uchucklesaht lands, including acquisition, construction or financing.

Grant by Uchucklesaht Tribe

5.3 (a) Subject to subsection (c), the Executive may, by resolution, grant a Uchucklesaht residential interest to an eligible recipient.

(b) For certainty, no person may acquire a Uchucklesaht residential interest by grant under subsection (a) except an eligible recipient.

(c) A grant of a Uchucklesaht residential interest by the Executive under subsection (a) is not effective until

(i) the Executive delivers a copy of the resolution granting a Uchucklesaht residential interest to the registrar,

(ii) an instrument granting the Uchucklesaht residential interest in the prescribed form signed by an authorized signatory of the Uchucklesaht Tribe is delivered to the registrar, and

(iii) the instrument granting the Uchucklesaht residential interest is registered in the lands register.

(d) On the delivery of a copy of the Executive resolution and instrument granting the Uchucklesaht residential interest in accordance with subsection (c), the registrar may register the instrument granting the Uchucklesaht residential interest, with the copy of the resolution, in the lands register and record the name of the eligible recipient as the holder of the residential interest.

Transfer by holder

5.4 (a) Subject to subsection (c), a holder of a Uchucklesaht residential interest may transfer that interest to an eligible recipient by executing and delivering to the eligible recipient the prescribed form of transfer.

(b) For certainty, no person may acquire a Uchucklesaht residential interest by transfer under subsection (a) except an eligible recipient.

(c) A transfer of a Uchucklesaht residential interest under subsection (a) is not effective until

(i) the transferor executes the form of transfer and the transferee delivers that executed form to the registrar, and

(ii) the form of transfer is registered in the lands register.

(d) On the delivery in accordance with subsection (c) of the form of transfer of a Uchucklesaht residential interest, the registrar may register that form of transfer in the lands register and record the transferee as the holder of the Uchucklesaht residential interest for the appurtenant lands.

(e) For certainty, this section does not apply to the transfer of a Uchucklesaht residential interest from the estate of a deceased holder of a Uchucklesaht residential interest.

Transfer from deceased

5.5 (a) If the holder of a Uchucklesaht residential interest is deceased, the person or court with authority to carry out the terms of the deceased's will or administer the deceased's estate, as the case may be, may apply to the registrar in the prescribed form to transfer that interest into the name of the applicant.

(b) An application made under subsection (a) must be accompanied by

(i) a certified copy of the grant of probate or letters of administration issued from the Supreme Court naming the applicant the personal representative of the deceased, or

(ii) if no grant of probate or letters of administration have been obtained,

(A) a certified copy of the last will of the deceased naming the applicant the executor of the deceased's estate, and

(B) an affidavit sworn by the applicant stating

(I) to the best of the applicant's knowledge, the certified copy of the will accompanying the application is the last will of the deceased and it was not revoked by the deceased prior to the deceased's death,

(II) the applicant is the individual identified in that will as the executor of the deceased's estate,

(III) the applicant is not seeking, and will not seek, a grant of probate of the will of the deceased, and

(IV) the reasons why the applicant is not seeking, and will not seek, a grant of probate of the will of the deceased, and

(iii) any other supporting documents or information the registrar may reasonably require, and

(iv) any prescribed application fee.

(c) A transfer of a Uchucklesaht residential interest into the name of the applicant under subsection (a) is not effective until

(i) the applicant delivers the completed application in the prescribed form and the documents required under subsection (b) to the registrar, and

(ii) the application in the prescribed form is registered in the lands register.

(d) On the delivery in accordance with subsection (c) of the completed application in the prescribed form and the documents required under subsection (b), the registrar may register the completed application in the lands register and record the name of the applicant in trust for the estate of the deceased as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Transfer from estate

5.6 (a) Subject to subsection (c), if the estate of a deceased individual includes a Uchucklesaht residential interest, the person or court with authority to carry out the terms of the deceased's will or administer the deceased's estate, as the case may be, may transfer that interest to an eligible recipient by executing and delivering to the eligible recipient the prescribed form of transfer.

(b) For certainty, no person may acquire a Uchucklesaht residential interest by transfer under subsection (a) except an eligible recipient.

(c) A transfer of a Uchucklesaht residential interest under subsection (a) is not effective until

(i) the transferor executes the form of transfer and the transferee delivers that executed form to the registrar, and

(ii) the form of transfer is registered in the lands register.

(d) On the delivery in accordance with subsection (c) of a form of transfer of a Uchucklesaht residential interest, the registrar may register that form of transfer in

the lands register and record the transferee as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Sale if beneficiary or heir ineligible

5.7 (a) If a Uchucklesaht residential interest is intended to pass by devise or by distribution from the estate of an intestate to a person other than an eligible recipient or the Uchucklesaht Tribe, the director must

(i) publish in accordance with Uchucklesaht law, a notice offering the Uchucklesaht residential interest for sale to eligible recipients and the eligible recipient who makes the highest bid within six months from the publication of the notice, or within any further period that the director may specify, is entitled to purchase that Uchucklesaht residential interest,

(ii) sell the Uchucklesaht residential interest to that highest bidder for the amount of the bid, and

(iii) pay the proceeds of that sale to the beneficiary or heir.

(b) For certainty, no person may acquire a Uchucklesaht residential interest by purchase under subsection (a) except an eligible recipient.

(c) A transfer of a Uchucklesaht residential interest upon a sale under subsection (a) is not effective until

(i) the director executes the prescribed form of transfer and the highest bidder under subsection (a), as transferee, delivers that executed form to the registrar, and

(ii) the form of transfer is registered in the lands register.

(d) On the delivery in accordance with subsection (c) of a form of transfer of a Uchucklesaht residential interest, the registrar may register that form of transfer in the lands register and record the transferee as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Reversion if no bid received

5.8 (a) If the director does not receive a bid from any eligible recipient within six months after the publication of a notice of sale under section 5.7 or within any further period specified by the director under section 5.7, the Uchucklesaht residential interest vests in the Uchucklesaht Tribe.

(b) If a Uchucklesaht residential interest reverts to the Uchucklesaht Tribe under this section,

(i) the director must publish in accordance with Uchucklesaht law a notice of reversion, and

(ii) the Uchucklesaht residential interest vests in the Uchucklesaht Tribe free and clear of

(A) any other right or interest, including any mortgage, and

(B) any claim by the estate of the former holder of the Uchucklesaht residential interest or any other person.

(c) On the publication of a notice of reversion of a Uchucklesaht residential interest in accordance with subsection (b), the registrar must register that notice of reversion in the lands register and record the Uchucklesaht Tribe as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Grant of mortgage by holder

5.9 (a) Subject to subsection (c), a holder of a Uchucklesaht residential interest may grant a mortgage of that interest to a bank by executing and delivering to the registrar the prescribed form of mortgage.

(b) No person may acquire a mortgage of a Uchucklesaht residential interest under subsection (a) except a bank.

(c) A grant of a mortgage of a Uchucklesaht residential interest under subsection (a) is not effective until

(i) the Executive approves the mortgage and delivers a copy of the resolution approving the mortgage to the registrar, and

(ii) the fully executed mortgage, with the copy of the resolution approving the mortgage attached, is registered in the lands register.

(d) On the delivery under subsection (a) and in accordance with subsection (c)(i) of a form of mortgage and a copy of a Executive resolution approving the mortgage, the registrar may register the mortgage, with the copy of the resolution approving the mortgage attached, in the lands register.

(e) For certainty, a mortgage of a Uchucklesaht residential interest granted and registered in the lands register under this section, until discharged under section 5.10, runs with the Uchucklesaht residential interest if the Uchucklesaht residential interest is transferred under sections 5.4, 5.5, 5.6 and 5.7.

Sale under bank mortgage

5.10 (a) Subject to subsection (c), if

(i) a bank is entitled to sell a Uchucklesaht residential interest pursuant to a mortgage of the Uchucklesaht residential interest held by the bank as mortgagee, or

(ii) a court of competent jurisdiction orders a sale of a Uchucklesaht residential interest in proceedings brought by the bank in relation to a mortgage of the Uchucklesaht residential interest held by the bank as mortgagee,

the bank or the person conducting the sale by court order, as the case may be, may sell the Uchucklesaht residential interest to an eligible recipient.

(b) For certainty, no person may acquire a Uchucklesaht residential interest by sale under subsection (a) except an eligible recipient.

(c) A sale of a Uchucklesaht residential interest under subsection (a) is not effective until

(i) the seller, as transferor, executes and delivers to the purchaser, as transferee, the prescribed form of transfer and the transferee delivers that executed from to the registrar, and

(ii) the form of transfer is registered in the lands register.

(d) On the delivery under subsection (c) of a form of transfer of a Uchucklesaht residential interest, the registrar may register that form of transfer in the lands register and record the transferee as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Release by holder

5.11 (a) Subject to subsection (b), a holder of a Uchucklesaht residential interest may release that interest by executing and delivering to the registrar the prescribed form of release.

(b) A release of a Uchucklesaht residential interest under subsection (a) is not effective until

(i) the Executive, by resolution, approves the release and delivers a copy of that resolution to the registrar, and

(ii) the form of release and the copy of the resolution approving the release are registered in the lands register.

(c) On the delivery under subsections (a) and (b) of the release and a copy of the Executive resolution approving the release, the registrar must register that release

and the copy of the resolution approving the release in the lands register and cancel the Uchucklesaht residential interest for the appurtenant lands.

Holder ceasing to a be a Uchucklesaht enrollee

5.12 (a) If a Uchucklesaht enrollee who is the holder of a Uchucklesaht residential interest ceases to be a Uchucklesaht enrollee

(i) that person may continue to hold that Uchucklesaht residential interest for six months after he or she ceases to be a Uchucklesaht enrollee, and

(ii) during that six month period, that Uchucklesaht residential interest may be transferred to an eligible recipient under section 5.4 or 5.6.

(b) If a Uchucklesaht residential interest held by the former Uchucklesaht enrollee referred to in subsection (a) is not transferred to an eligible recipient under section 5.4 or 5.6 during the six month period referred to in subsection (a), at the end of that period the Uchucklesaht residential interest vests in the Uchucklesaht Tribe free and clear of

(i) any other right or interest, including any mortgage, and

(ii) any claim by the former Uchucklesaht enrollee or any other person.

(c) On the vesting of a Uchucklesaht residential interest in the Uchucklesaht Tribe under subsection (b), the registrar must publish in accordance with Uchucklesaht law a notice of reversion and register the notice of reversion in the lands register and record the Uchucklesaht Tribe as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Holder ceasing to be Uchucklesaht housing service provider

5.13 (a) If a Uchucklesaht housing service provider which is the holder of a Uchucklesaht residential interest ceases to be a Uchucklesaht housing service provider,

(i) it may continue to hold that Uchucklesaht residential interest for six months after it ceases to be a Uchucklesaht housing service provider, and

(ii) during that six month period, it may transfer that Uchucklesaht residential interest to an eligible recipient under section 5.4.

(b) If a Uchucklesaht residential interest held by a former Uchucklesaht housing service provider referred to in subsection (a) is not transferred to an eligible recipient under section 5.4 during the six month period referred to in subsection (a), at the end of that period the Uchucklesaht residential interest vests in the Uchucklesaht Tribe free and clear of

(i) any other right or interest, including any mortgage, and

(ii) any claim by the former Uchucklesaht housing service provider or any other person.

(c) On the vesting of a Uchucklesaht residential interest in the Uchucklesaht Tribe under subsection (b), the registrar must publish in accordance with Uchucklesaht law a notice of reversion and register the notice of reversion in the lands register and record the Uchucklesaht Tribe as the holder of the Uchucklesaht residential interest for the appurtenant lands.

Discretion of registrar

5.14 For certainty, the registrar may withhold the issuance or registration of an instrument that under sections 5.3 to 5.13 the registrar is authorized to issue or register if the registrar considers that

(a) the prescribed form that is prerequisite to the issuance or registration has not been properly completed, including in its identification of the appurtenant lands, or

(b) the issuance or registration relates to a proposed disposition which

(i) would result in a Uchucklesaht residential interest being held by a person who was not an eligible recipient,

(ii) would be in conflict with an outstanding order made by a court of competent jurisdiction, or

(iii) would be otherwise invalid or unenforceable.

Effect of registration

5.15 (a) On the registration in the lands register of an instrument evidencing the holding of a Uchucklesaht residential interest under this Part, if a Uchucklesaht residential interest has been previously registered in relation to the appurtenant lands and has not been cancelled, that previously registered Uchucklesaht residential interest is cancelled and ceases to have any further force or effect.

(b) On the registration in the lands register of a discharge of a Uchucklesaht residential interest registered under this Part,

(i) the Uchucklesaht residential interest registered in relation to the appurtenant lands is cancelled and ceases to have any further force or effect, and

(ii) the Uchucklesaht residential interest is discharged from the appurtenant lands.

Severance of joint tenancy

5.16 If the interest of a joint tenant in a Uchucklesaht residential interest is

(a) transferred by the joint tenant to an eligible recipient under section 5.4,

(b) mortgaged by the joint tenant to a bank under section 5.9, or

(c) vested in the Uchucklesaht Tribe under sections 5.12 or 5.13,

the interest of the joint tenant is by that transfer, mortgage or vesting severed from the joint tenancy and converted to the interest of a tenant in common.

Issuance of licence by holder

5.17 (a) Despite any other provision of this Act or any other Uchucklesaht enactment, a holder of a Uchucklesaht residential interest may issue to an individual a licence to use and occupy the appurtenant lands for residential purposes.

(b) No person may acquire a licence under subsection (a) except an eligible recipient.

(c) On the expiry of a licence to use and occupy the lands appurtenant to a Uchucklesaht residential interest issued to an eligible recipient under subsection (a), the holder of a Residential Interest may, under subsection (a), issue a further licence to the same or another eligible recipient to use and occupy those lands.

(d) Despite any other provisions of this Act or any other Uchucklesaht law, a licence issued by the holder of a Uchucklesaht residential interest under subsection (a)

(i) does not require registration in the lands register to be effective, and

(ii) does not run with the Uchucklesaht residential interest if that interest is transferred or transmitted to another person under this Part.

Part exhaustive

5.18 Except as permitted by and in accordance with this Part, the holder of a Uchucklesaht residential interest may not dispose of or otherwise deal with that interest or grant any other right or interest in relation to the appurtenant lands.

Instrument void

5.19 Any deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which the holder of a residential interest intends to permit a person other than an eligible recipient to occupy, use, reside on or otherwise exercise rights on the appurtenant lands, is void.

Other interests and licences

5.20 (a) The Executive may, with the prior written consent of the holder of a Uchucklesaht residential interest, grant to another person under sections 7.6 and 7.11 a statutory right of way, easement or utility licence for the appurtenant lands.

(b) The holder of a Uchucklesaht residential interest referred to in subsection (a) may, by postponement agreement, give priority over the Uchucklesaht residential interest to a statutory right of way or easement granted by the Executive under that subsection.

PART 6 - SPOUSAL INTEREST IN FAMILY HOME

Definitions

6.1 In this Part,

"domestic contract" means

(a) a "spousal agreement" entered into between two individuals made in writing, signed and witnessed in which they agree on their respective rights and obligations while residing together as spouses or, on separation, in relation to the possession or division of a Uchucklesaht residential interest and may be a separate agreement or a part of an agreement dealing with their rights and obligations, or

(b) a "separation agreement" entered into between the spouses who are living separate and apart, made in writing, signed and witnessed in which they agree on their respective rights and obligations on separation in relation to the possession or division of a Uchucklesaht residential interest and may be a separate agreement or part of an agreement dealing with their rights and obligations;

"family home" means a Uchucklesaht residential interest where

(a) the holder is a spouse, and

(b) it is ordinarily used by the other spouse and a child of either spouse as a principal residence;

"holder" includes the estate of a deceased spouse, as represented by the executor, administrator or other personal representative of the estate of the deceased spouse;

"separate and apart" means intending to live separate and apart, where the marriage or marriage-like relationship has broken down and the spouses do not intend to reconcile and, for the purposes of this Part, may include living separate and apart under the same roof if the intent to live separate and apart exists;

"spousal interest" means an interest of a spouse in a family home under section 6.4.

Application

6.2 (a) This Part applies only to a Uchucklesaht residential interest.

(b) This Part applies in relation to a spousal interest whether or not it was acquired before or after this Part comes into effect.

Application of federal or provincial law

6.3 (a) Nothing in this Part limits the application of valid laws of Canada or British Columbia in relation to matrimonial causes, except to the extent that such laws deal expressly or implicitly with a spouse's interest in a Uchucklesaht residential interest and to that extent this Part shall apply.

(b) No order may be made by a court that results in a transfer of a Uchucklesaht residential interest or possession of a Uchucklesaht residential interest in favour of a spouse or a child that is not an eligible recipient.

Spousal interest

6.4 (a) The spouse of a holder of a Uchucklesaht residential interest acquires an interest in the family home on the earlier of any of the following events:

(i) the date agreed upon in a domestic contract between the spouses when they commenced living separate and apart;

(ii) the date a court makes a declaratory judgment that the spouses have no reasonable prospect of reconciliation with each other;

(iii) the date the spouses enter into a separation agreement;

(iv) the date a divorce is granted, if the spouses are married;

(v) the date the marriage is declared a nullity;

(vi) the date immediately preceding the date of death of the holder of the Uchucklesaht residential interest; or

(vii) such other time as a court determines.

(b) The spousal interest, including any right of possession, will be determined in accordance with this Part.

Application for exclusive possession of residential interest

6.5 (a) Upon acquiring a spousal interest, the spouse with the spousal interest may, within 180 days, apply to the Executive for a directive granting exclusive possession of the family home.

(b) Before considering an application under subsection (a), the Executive may require the applicant to provide whatever documentation and information the Executive considers reasonably necessary in order to consider the factors under subsection (c).

(c) The Executive in reviewing an application under subsection (a) will consider, in descending order of importance, the following factors:

(i) which spouse has custody of a child;

(ii) the possible disruptive effects on the child of moving out of the community or to other accommodation;

(iii) the child's views and preferences if such can reasonably be ascertained;

(iv) any mental, physical or emotional violence committed by a spouse against the other spouse or a child of either spouse;

(v) the duration of time the spouse with the spousal interest resided in the family home;

(vi) any existing directive under this Part and any existing court support orders;

(vii) the financial position of both spouses;

(viii) any domestic contract between the spouses;

(ix) the availability of other suitable and affordable accommodation for each of the spouses; and

(x) any other factors the Executive considers relevant.

(d) Upon receiving an application under subsection (a) and considering the factors referred to in subsection (c) and subject to subsection (e), the Executive may, by directive, direct that the spouse with the spousal interest has exclusive possession of the family home.

(e) A directive under subsection (d) is not effective until

(i) the Executive delivers a copy of that directive to the registrar,

(ii) the registrar issues a certificate of exclusive possession in the prescribed form under subsection (f), and

(iii) the certificate of exclusive possession, with a copy of the directive for exclusive possession is registered in the lands register.

(f) On the delivery under subsection (e) of a copy of a directive for exclusive possession, the registrar may issue a certificate of exclusive possession in the prescribed form and register that certificate of exclusive possession, with the copy of the directive for the exclusive possession attached, in the lands register.

(g) Upon the registration of the certificate of exclusive possession in the lands register under subsection (f), the spouse with the spousal interest is entitled to exclusive possession of the family home, subject to section 6.6, and the holder of that Uchucklesaht residential interest must immediately give up exclusive possession of the family home to the spouse with the spousal interest.

(h) The director must make reasonable efforts as soon as practicable to deliver in accordance with Uchucklesaht law a copy of the certificate of exclusive possession, with the copy of the directive for exclusive possession attached, to the holder of the Uchucklesaht residential interest and the spouse with the spousal interest.

(i) For certainty, any transfer or encumbrance of a Uchucklesaht residential interest which has registered against it a certificate of exclusive possession is subject to the certificate of exclusive possession.

(j) A person who is affected by a directive under subsection (d) may request a review of that directive under the Administrative Decisions Review Act.

Termination of exclusive possession

6.6 (a) Subject to subsection (b), a directive granting exclusive possession made by the Executive under section 6.5 will terminate on the earlier of any of the following events:

(i) the death of the spouse with the spousal interest;

(ii) the directive is no longer in the best interests of the child;

(iii) the spouse with the spousal interest has ceased to occupy the family home as a principal residence;

(iv) the spouse with the spousal interest no longer has primary custody of a child of either spouse;

(v) the last child of either spouse for which the spouse with the spousal interest had primary custody is no longer a child;

(vi) the spouse with the spousal interest remarries or becomes the spouse of an individual who is not the holder of the Uchucklesaht residential interest;

(vii) the directive is causing the holder of the Uchucklesaht residential interest undue financial hardship; and

(viii) there has been a change in the factors considered under section 6.5(c) since the directive was made which warrants the termination of the directive.

(b) Upon the request of the holder of the Uchucklesaht residential interest or if the director is of the opinion that a directive for exclusive possession made by the Executive under section 6.5 has terminated under section (a), the director will issue a written report to the Executive setting out the director's opinion and the facts on which the opinion is based and whether or not the report is at the request of the holder of the Uchucklesaht residential interest.

(c) After considering a report issued by the director under subsection (b) and subject to subsection (d), the Executive may, by directive, direct the discharge of the certificate of exclusive possession.

(d) A directive under subsection (c) is not effective until

(i) the Executive delivers a copy of that directive to the director,

(ii) the director delivers in accordance with Uchucklesaht law a copy of that directive to the spouse with the spousal interest, the holder of the Uchucklesaht residential interest and to the registrar,

(iii) the registrar issues a certificate of discharge of the certificate of exclusive possession under subsection (e), and

(iv) the certificate of discharge, with the copy of the directive for the discharge of certificate of exclusive possession attached, is registered in the Lands Register.

(e) Subject to subsection (g), 90 days after the delivery to the spouse with the spousal interest of the directive for the discharge of the certificate of exclusive possession in accordance with subsection (d)(ii), the registrar must issue a certificate of discharge regarding the certificate of exclusive possession in the prescribed form and register that certificate, with the copy of the directive for the discharge of the certificate of exclusive possession, in the lands register.

(f) A person who is affected by a directive under subsection (c) may request a review of that directive under the Administrative Decisions Review Act.

(g) If a review request is made under subsection (f), the registrar will not issue the certificate of discharge regarding the certificate of exclusive possession until the review is finally determined and that review confirms the directive to discharge the certificate of exclusive possession.

(h) A request by the holder of a Uchucklesaht residential interest under subsection (b) may only be made once every two years or as the director otherwise decides is reasonable in the circumstances.

Possession not assignable

6.7 An directive for exclusive possession of a family home by the Executive under section 6.5 is not assignable.

Enforcement

6.8 (a) A peace officer may arrest without warrant an individual the peace officer believes on reasonable grounds to have contravened a directive for exclusive possession of a family home made by the Executive under section 6.5.

(b) Where a spouse with a spousal interest has been granted a directive for exclusive possession of a family home by the Executive under section 6.5 which has not been discharged under section 6.6 and the holder of the Uchucklesaht residential interest or other person is interfering with that exclusive possession or conducting themselves in a manner calculated to disrupt or interfere with the quiet possession of the family home by the spouse with the spousal interest or a child of either spouse, the spouse with the spousal interest may apply to the Provincial Court which may make a directive that the holder of the Uchucklesaht residential interest or other person not enter the family home or approach within a particular distance of the family home.

PART 7 - COMMUNITY LANDS

Fee simple grants

7.1 (a) The Executive may grant or transfer an estate in fee simple to Uchucklesaht titled lands to

(i) an eligible recipient,

(ii) a Uchucklesaht corporation, or

(iii) a prescribed person or category of persons

only if the proposed grant is first publicized at two information meetings and approved by a referendum.

(b) The Executive may grant or transfer an estate in fee simple to a Uchucklesaht titled lands to

(i) a Uchucklesaht public corporation, or

(ii) a Uchucklesaht public institution

only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

(c) For certainty, the Executive may only grant or transfer an estate in fee simple to a community lands in accordance with this section.

Appraisals

7.2 (a) Despite any other provision of this Act, the Executive may not grant

(i) an estate in fee simple to Uchucklesaht titled lands under section 7.1,

(ii) a lease under section 7.4 or 7.5, or

(iii) a natural resource licence under section 7.9 or 7.10

unless the Executive first obtains one or more appraisals of the fair market value of the appurtenant lands.

(b) If Council enacts a law that requires that the Executive first obtain one or more appraisals of the fair market value of the appurtenant lands before granting an interest in, or a licence in relation to, Uchucklesaht lands under sections 7.3, 7.6, 7.7, 7.8, 7.11 and 7.13, the Executive must comply with that requirement before making such a grant.

Leases of 10 years or less

7.3 The Executive may grant a lease of community lands for a term or possible term of ten10 years or less only if

(a) the Executive has not previously granted a lease of those community lands to the grantee or a member of the grantee's immediate family,

(b) the term or possible term of the proposed lease, when added to the term of all previous leases of those community lands granted by the Executive to the grantee or a member of the grantee's immediate family since the last occasion, if any, on which such a grant was publicized at an information meeting and approved by vote at a ratification meeting, totals 10 years or less, or

(c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 10 and 25 years

7.4 The Executive may grant a lease of community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 25 and 99 years

7.5 The Executive may grant a lease of community lands for a term or possible term of more than 25 years but not more than 99 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Easements and statutory rights-of-way

7.6 (a) The Executive may grant an easement over Uchucklesaht lands.

(b) The Executive may grant or reserve an easement called a statutory right-of-way over Uchucklesaht lands to any person including the following:

(i) the Uchucklesaht Tribe, a Uchucklesaht public institution or a Uchucklesaht corporation;

(ii) Canada, an agency of Canada or a corporation owned by Canada;

(iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;

(iv) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation;

(v) a local government, an agency of a local government or a corporation owned by a local government;

(vi) a public utility;

(vii) a strata corporation established under the Strata Property Act (British Columbia);

(viii) a homeowner's association incorporated under the Society Act (British Columbia),

(ix) a housing cooperative incorporated under the Cooperative Association Act (British Columbia), or

(x) a railway corporation.

(c) The holder of an interest in Uchucklesaht lands may, by grant or otherwise in favour of the Uchucklesaht Tribe or a person listed in subsection (b), as grantor encumber the interest with an easement called a statutory right-of-way, without a dominant tenement, for any purpose necessary for the operation and maintenance of the grantee's undertaking, including the right to flood.

(d) To the extent necessary to give effect to this section, the rule requiring an easement to have a dominant and servient tenement is abrogated.

(e) The requirement that a statutory right of way be for a purpose necessary for the operation and maintenance of a grantee's undertaking does not apply if the grantee is the Uchucklesaht Tribe.

(f) A statutory right-of-way registrable under this section is binding on the grantor and the grantor's successors in title, even though the instrument or other disposition has not been signed by the grantee.

(g) No person who enters into a statutory right-of-way under this section is liable for a breach of the statutory right-of-way occurring after the person has ceased to be the owner of the interest in the land encumbered by that statutory right-of-way.

Licences of occupation

7.7 (a) The Executive may grant a licence of occupation in relation to community lands for a term or possible term of 10 years or less.

(b) Despite subsection (a), the Executive may grant a licence of occupation in relation to community lands for a public purpose for a term or possible term of greater than 10 years to any of the following:

(i) the Uchucklesaht Tribe, an agency of the Uchucklesaht Tribe or a corporation owned by the Uchucklesaht Tribe;

(ii) Canada, an agency of Canada or a corporation owned by Canada;

(iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;

(iv) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation; or

(v) a local government, an agency of a local government or a corporation owned by a local government.

Natural resource licences of 10 years or less

7.8 The Executive may grant a natural resource licence in relation to community lands for a term or possible term of 10 years or less only if

(a) the Executive has not previously granted a natural resource licence in relation to those community lands to the grantee or a member of the grantee's immediate family,

(b) the term or possible term of the proposed natural resource licence, when added to the term of all previous natural resource licences in relation to those community lands granted by the Executive to the grantee or a member of the grantee's immediate family since the last occasion, if any, on which such a grant was publicized at information meetings and approved by vote at a ratification meeting, totals 10 years or less, or

(c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resources licences of between 10 and 25 years

7.9 The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resource licences of between 25 and 50 years

7.10 The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 25 years but not more than 50 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Utility licences

7.11 The Executive may grant a utility licence in relation to community lands to any of the following:

(a) the Uchucklesaht Tribe, a Uchucklesaht public institution or a Uchucklesaht corporation;

(b) Canada, an agency of Canada or a corporation owned by Canada;

(c) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;

(d) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation;

(e) a local government, an agency of a local government or a corporation owned by a local government; or

(f) a public utility.

Registration of dispositions

7.12 The director must deliver an instrument disposing of an interest in, or licence in relation to, Uchucklesaht lands to the lands registry office for registration under Part 3 on the date that the Uchucklesaht disposition is effective under section 4.13.

Registration of covenant as to use and alienation

7.13 (a) A covenant described in subsection (b) in favour of

(i) the Uchucklesaht Tribe, a Uchucklesaht public institution or Uchucklesaht corporation,

(ii) Canada, an agency of Canada or a corporation owned by Canada, or

(iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia,

as covenantee, may be registered against an interest in the Uchucklesaht lands subject to the covenant and is enforceable against the covenantor and the successors in title of the covenantor even if the covenant is not annexed to Uchucklesaht lands owned by the covenantee.

(b) A covenant registrable under subsection (a) may be of a negative or positive nature and may include one or more of the following provisions:

(i) provisions in relation to

(A) the use of Uchucklesaht lands, or

(B) the use of a building on or to be erected on Uchucklesaht lands;

(ii) that Uchucklesaht lands

(A) are to be built on in accordance with the covenant,

(B) are not to be built on except in accordance with the covenant, or

(C) are not to be built on;

(iii) that Uchucklesaht lands

(A) are not to be subdivided except in accordance with the covenant, or

(B) are not to be subdivided;

(iv) that parcels of the Uchucklesaht lands designated in the covenant and registered under one or more registrations are not to be sold or otherwise transferred separately.

(c) A covenant described in subsection (d) in favour of

(i) the Uchucklesaht Tribe, a Uchucklesaht public institution or a Uchucklesaht corporation, or

(ii) any person designated by the Executive on terms and conditions it determines is proper,

as covenantee, may be registered against an interest in the Uchucklesaht lands subject to the covenant and, subject to subsections (k) and (l), is enforceable against the covenantor and the successors in title of the covenantor even if the covenant is not annexed to Uchucklesaht lands owned by the covenantee.

(d) A covenant registrable under subsection (c) may be of a negative or positive nature and may include one or more of the following provisions:

(i) any of the provisions under subsection (b);

(ii) that Uchucklesaht lands or a specified amenity in relation to it be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.

(e) For the purpose of subsection (d)(ii), "amenity" includes any natural, historical, heritage, cultural, scientific, architectural, environmental, wildlife or plant life value relating to the Uchucklesaht lands that are subject to the covenant.

(f) A covenant registrable under this section may include, as an integral part,

(i) an indemnity of the covenantee against any matter agreed to by the covenantor and covenantee and provision for the just and equitable apportionment of the obligations under the covenant as between the owners of the interest in the Uchucklesaht lands affected, and

(ii) a rent charge charging the Uchucklesaht lands affected and payable by the covenantor and the covenantor's successors in title.

(g) If an instrument contains a covenant registrable under this section, the covenant is binding on the covenantor and the covenantor's successors in title, even though the instrument or other disposition has not been signed by the covenantee.

(h) No person who enters into a covenant under this section is liable for a breach of the covenant occurring after the person has ceased to be the holder of the interest in the Uchucklesaht lands.

(i) A covenant registrable under this section may be

(i) modified by the holder of the charge and the holder of the interest in the Uchucklesaht lands charged, or

(ii) discharged by the holder of the charge

by an agreement or instrument in writing the execution of which is witnessed or proved in accordance with this Act.

(j) The registration of a covenant under this section is not a determination by the registrar of its enforceability.

(k) On the death or dissolution of an owner of a covenant registrable under subsection (c)(ii), the covenant ceases to be enforceable by any person, including the Uchucklesaht Tribe, other than

(i) another covenantee named in the instrument creating the covenant, or

(ii) an assignee of a covenantee if the assignment has been approved in writing by the Executive.

(l) If a covenantee or assignee referred to in subsection (k) is a corporation that has been dissolved and subsequently restored into existence, the covenant continues to be enforceable by the restored corporation from the date of its restoration.

(m) A recital in a covenant that a person "has been designated by the Executive under section 7.13(c)(ii) of the Land Act", or a statement to that effect in the application to register the covenant, is sufficient proof to the registrar of that fact.

(n) The Executive may only delegate its powers under subsections (c)(ii) and (k)(ii) to the director.

PART 8 - EXPROPRIATIONS

Expropriations for community purposes

8.1 (a) Subject to subsections (b) and (c), the Executive may expropriate all or part of an interest in, or licence in relation to, Uchucklesaht lands that in the opinion of the Executive is necessary for community works or community purposes.

(b) The Executive may not expropriate all or part of an interest in, or licence in relation to, Uchucklesaht lands until the following conditions, in the order listed, are satisfied:

(i) notice of the proposed expropriation has been delivered in accordance with Uchucklesaht law to the holder of the interest or licence;

(ii) the Executive has attempted in good faith to negotiate an agreement with the holder of the interest or the licence for the transfer of the interest or licence, or the part of the interest or licence, as the case may be; and

(iii) the proposed expropriation has been publicized at an information meeting.

(c) The Executive may not expropriate an interest in Uchucklesaht lands obtained by Canada or British Columbia.

Compensation

8.2 (a) If the Executive proposes to take all or a part of an interest in, or licence in relation to, Uchucklesaht lands under section 8.1, the Executive must offer to pay compensation for the proposed taking to the registered holder.

(b) As all or part of the compensation offered under subsection (a), the Executive may offer to grant to the holder a similar interest or licence under section 4.3.

(c) If the Executive and the holder agree on the compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Uchucklesaht Tribe pays that compensation to the holder.

(d) If the Executive and the holder do not agree on the compensation to be paid for the proposed taking, the Executive may apply to the director for a determination of compensation under section 8.3.

(e) If under section 8.3 the director determines compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Uchucklesaht Tribe pays that compensation to the holder.

(f) The Executive is not obligated to proceed with a proposed taking of an interest or licence after the director determines compensation to be paid for the proposed taking under section 8.3.

Determination of compensation

8.3 (a) In this section, "estimated fair market value" means in relation to a proposed taking of an interest in, or licence in relation to, Uchucklesaht lands under section 8.1, the estimated amount that would have been paid for an interest in, or licence in relation to, Uchucklesaht lands in the open market by a willing seller to a willing buyer on the date that the Executive gave written notice of the proposed taking to the holder, without any account of

(i) the development or other purpose for which the Executive proposes the taking, or

(ii) the enactment or amendment by the Uchucklesaht Tribe of a zoning or other law in anticipation of the development or other purpose.

(b) The director must determine the compensation to be paid by the Executive for the proposed taking of the interest or licence, on application by the Executive under subsection 8.2(d).

(c) Before making a determination of compensation under this section, the director

(i) must invite the Executive and the holder to make a written or oral submission to the director on the determination of compensation, and

(ii) may require the Executive and the holder to produce any information that the registrar considers relevant to the determination.

(d) In making a determination of compensation on an application under section 8.2(d) the director may take into account

(i) the estimated fair market value of the interest or licence,

(ii) whether the holder is in actual occupation of the Uchucklesaht lands,

(iii) whether the Executive is willing to grant another interest or licence to the holder as all or part of the compensation, and

(iv) the costs or expenses that would be reasonably incurred by the holder as a direct result of the proposed taking.

(e) The director must, on making a determination of compensation under this section, provide written reasons for the determination to the Executive and the holder.

(f) A person who is affected by a determination of the director under subsection (b) may request a review of that determination under the Administrative Decisions Review Act.

PART 9 - DISALLOWANCE, CANCELLATION, AMENDMENT AND ABANDONMENT

Application

9.1 This Part does not apply to Uchucklesaht titled lands, the owner of which is a person other than the Uchucklesaht Tribe.

If approval subject to survey

9.2 (a) If an application for a disposition of unsurveyed Uchucklesaht lands has been approved by the Executive subject to completion of a satisfactory survey, the Executive may disallow the application if

(i) the survey is not completed by the date specified by the director, or

(ii) the Executive considers it not to be in the interest of the Uchucklesaht Tribe to make the disposition because of information

(A) in the completed survey,

(B) in a report from the land surveyor who conducted the survey, or

(C) received by the Executive from another source.

(b) If the Executive disallows an application under subsection (a)(ii), the Uchucklesaht Tribe must reimburse the applicant for the applicant's survey costs, unless the applicant made a misrepresentation that resulted in the disallowance.

If error in approval or disposition

9.3 (a) The Executive may, by directive,

(i) amend or correct

(A) a disposition made under this Act, or

(B) an approval of a disposition given under this Act,

(ii) disallow an application for a disposition made under this Act, or

(iii) cancel a disposition made under this Act,

if the Executive determines that

(iv) there is an error in the names or description of the applicant, the description of the Uchucklesaht lands, or any other material part of the approval or disposition,

(v) the Uchucklesaht lands are not available for disposition under this Act,

(vi) the survey of the Uchucklesaht lands is incorrect, or

(vii) information provided by the applicant is incorrect.

(b) If the Executive amends or corrects a disposition or approval under this section, the amended or corrected disposition or approval is effective as of the date of the original disposition or approval.

(c) If the Executive disallows an application under this section, the Executive may

(i) reimburse the applicant for all or part of the money paid on the application,

(ii) reimburse the applicant for the applicant's survey costs, and

(iii) pay to the applicant any compensation that the Executive considers advisable.

(d) If the Executive cancels a disposition under this section,

(i) the disposition holder's interest in, or licence in relation to, the Uchucklesaht lands and the interest of all persons claiming through that holder are terminated,

(ii) all improvements to the Uchucklesaht lands become the property of the Uchucklesaht Tribe, and

(iii) the Executive may

(A) reimburse the disposition holder for all or part of the money paid for or under the disposition,

(B) reimburse the disposition holder for the disposition holder's survey costs, and

(C) pay to the disposition holder any compensation that the Executive considers advisable.

(e) If a disposition that is amended or cancelled under this section is registered under Part 3,

(i) the Executive must deposit a copy of the directive in the lands registry office, and

(ii) the registrar must amend or cancel the registration on receipt of the directive.

(f) A person who is affected by a directive under subsection (a) may request a review of that directive under the Administrative Decisions Review Act.

If non-compliance with disposition

9.4 (a) If a person who holds a disposition under this Act fails or neglects to comply with a term, covenant or stipulation set out in the instrument of disposition or imposed by the Executive in the disposition, the director may deliver in accordance with Uchucklesaht law a notice to the person requiring the person to comply with the term, covenant or stipulation within 60 days after the date the notice is delivered.

(b) If the failure or neglect referred to in subsection (a) continues after the 60 day period, the Executive may, by directive, cancel the disposition.

(c) If the Executive cancels a disposition under subsection (b),

(i) the disposition holder's interest in, or licence in relation to, the land and the interest of all persons claiming through that holder are terminated,

(ii) all improvements to the Uchucklesaht lands become the property of the Uchucklesaht Tribe, and

(iii) any money paid for or under the terms of the disposition is forfeited to the Uchucklesaht Tribe.

(d) If a disposition that is cancelled under subsection (b) is registered under Part 3,

(i) the Executive must deposit a copy of the directive in the lands registry office, and

(ii) the registrar must cancel the registration on receipt of the directive.

(e) A person who is affected by a directive under subsection (b) may request a review of that directive under the Administrative Decisions Review Act.

Abandonment of disposition

9.5 (a) A person holding a disposition under this Act may abandon and terminate the disposition by giving written notice to the director.

(b) On abandonment and termination of a disposition under subsection (a),

(i) all improvements to the Uchucklesaht lands become the property of the Uchucklesaht Tribe, and

(ii) all money paid for or under the terms of the disposition is forfeited to the Uchucklesaht Tribe.

(c) If a disposition that is abandoned and terminated under subsection (a) is registered under Part 3,

(i) the director must deposit in the lands registry office a copy of the written notice given to the director under subsection (a), and

(ii) the registrar must cancel the registration on receipt of the written notice.

Debts payable on cancelled disposition

9.6 (a) Unless the Executive otherwise directs, the holder of a disposition that is cancelled under section 9.4 or abandoned and terminated under section 9.5 must pay all money remaining due under the disposition and observe or perform all terms, covenants and stipulations of the disposition.

(b) Money remaining due to the Uchucklesaht Tribe on a cancelled or abandoned and terminated disposition is recoverable by the Uchucklesaht Tribe as a debt due to the Uchucklesaht Tribe.

PART 10 - TRESPASS ON UCHUCKLESAHT LANDS

Trespass on Uchucklesaht lands

10.1 (a) If a person does anything described in section 10.2 on Uchucklesaht lands, the Executive may, on notice delivered in accordance with Uchucklesaht law to that person, do one or more of the following:

(i) require the person to cease the unauthorized activity and restore the Uchucklesaht lands to a condition satisfactory to the director;

(ii) require the person to pay to the Uchucklesaht Tribe a sum of money considered by the Executive reasonable for the unauthorized occupation, possession or use set out in section 10.2 or for the restoration of the Uchucklesaht lands;

(iii) instruct the director to seize, on behalf of the Uchucklesaht Tribe, any goods, chattels or other materials on the Uchucklesaht lands; or

(iv) require the person to remove, to the satisfaction of the director, any improvements made by or on behalf of the person on the Uchucklesaht lands and, if the person fails to comply within the required time, instruct the director to remove the improvements at the person's cost.

(b) A notice under subsection (a) must include the following:

(i) details, including the time and place, of the unauthorized activity;

(ii) the requirement or instruction of the Executive under subsection (a); and

(iii) if applicable, the date by which the person must comply with a requirement of the Executive under subsection (a).

(c) If the identity or the address of the person is unknown to the Executive, the notice under subsection (a) may be given by posting it on the Uchucklesaht lands where the offence occurred.

(d) A notice under subsection (a) may be issued more than once in relation to the same matter if a person does not comply with the first notice issued in relation to that matter.

(e) Money required to be paid to the Uchucklesaht Tribe by a person under this section is recoverable by the Uchucklesaht Tribe as a debt due to the Uchucklesaht Tribe.

(f) Any improvements removed or goods, chattels or other materials seized under this section become the property of the Uchucklesaht Tribe and the Executive may

authorize the improvements, goods, chattels or other materials to be sold, rented, removed or destroyed by the director.

(g) A person who is affected by a requirement or instruction set out in a notice under subsection (a) may request a review of that requirement or instruction under the Administrative Decisions Review Act.

Offences

10.2 A person who

(a) without lawful authority

(i) occupies or possesses Uchucklesaht lands,

(ii) damages Uchucklesaht lands or improvements on Uchucklesaht lands,

(iii) harvests, extracts or damages forest resources, mineral resources, fish or wildlife on Uchucklesaht lands,

(iv) interferes with the lawfully authorized use, occupation or possession of Uchucklesaht lands,

(v) constructs a building, structure, enclosure or other works on Uchucklesaht lands,

(vi) excavates Uchucklesaht lands,

(vii) throws, deposits, dumps or in any way causes to be placed on Uchucklesaht lands any glass, metal, garbage, soil or other material,

(viii) abandons on Uchucklesaht lands any vehicle or vessel, or

(ix) interferes with or removes a sign erected by, on behalf of or with the authority of the Executive on Uchucklesaht lands,

(b) uses a designated area of Uchucklesaht lands contrary to a Uchucklesaht enactment, or

(c) fails to comply with a requirement set out in a notice given to that person under section 10.1(a)

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.

Liability for activities under section 10.2

10.3 A person who does, or causes another person to do, anything described in section 10.2 is liable for loss and damages suffered by the Uchucklesaht Tribe or any other person as a result of that activity.

PART 11 - SURVEYS

Application of Part

11.1 This Part applies to Uchucklesaht lands that are Uchucklesaht titled lands only to the extent it does not conflict with the Land Title Act (British Columbia) which prevails to the extent of an inconsistency between it and this Act.

Districts

11.2 For the purpose of describing Uchucklesaht lands under this Act, the Executive may, by regulation,

(a) constitute a part of Uchucklesaht lands as a district, and

(b) amend or cancel a district.

Authorized surveyor

11.3 All surveys required under this Act must be carried out by a British Columbia land surveyor acting under the instruction of the director.

Surveyor to act under director

11.4 The British Columbia land surveyor in charge of a survey under this Part must make the survey and plan under the guidance and instruction of the director.

Power to require survey

11.5 The Executive may require a survey to be made of Uchucklesaht lands.

Method of defining new parcel

11.6 Unless otherwise provided in section 11.20, a new parcel created by subdivision or a parcel for which a new disposition is sought under Part 4 must be defined by a subdivision plan.

Survey costs for Uchucklesaht dispositions

11.7 Unless the Executive otherwise requires, by directive or section 9.2(b) applies, an applicant under section 4.16 must pay the cost of a survey of the Uchucklesaht lands that is required under this Act.

Survey district lots

11.8 (a) Uchucklesaht lands may be surveyed into district lots that are rectangular in shape and bounded by lines running as nearly as may be true north and south and east and west.

(b) At the discretion of the director, district lots may be polygonal in shape and oriented to conform to topography.

(c) The natural boundary of a body of water may be adopted as a boundary of a district lot.

(d) A conventional boundary may be established in a survey of a district lot and land defined by a conventional boundary carries with it the rights and incidents as if it were bounded by the natural boundary.

(e) District lots must be numbered in a consecutive numbering system for each district constituted under section 11.2.

(f) Subject to subsection (g), the area of a district lot must not be larger than 300 ha.

(g) If one of the boundaries of a district lot is a natural boundary, the area of the district lot must not be larger than 320 ha.

Survey instructions by director

11.9 (a) If

(i) an application for a disposition of unsurveyed Uchucklesaht lands has been approved by the Executive subject to completion of a satisfactory survey, and

(ii) a land surveyor engaged by the applicant to conduct the survey of the Uchucklesaht lands makes a request of the director for instructions,

the director must issue instructions about the survey to the surveyor.

(b) A survey under subsection (a) must be completed in the time specified in the instructions, and the survey records must be forwarded immediately to the director unless, in special circumstances, the director extends the date for completion.

(c) If, for any reason, a survey under subsection (a) is not satisfactory to the director, the director may require a further survey or report.

(d) If a survey under subsection (a) is not completed and forwarded by the required date, the surveyor must discontinue the survey and advise the applicant.

(e) A surveyor who discontinues a survey under this section must immediately forward to the director the field notes and the results of the surveyor's work up to and including the date the survey was discontinued.

Restrictions on subdivision

11.10 (a) Except in compliance with this Part, a person must not subdivide Uchucklesaht lands into smaller parcels than those of which the person is the owner for the purpose of

(i) transferring it, or

(ii) leasing it, or agreeing to lease it, for life or for a term exceeding three years.

(b) Except in compliance with this Part, a person must not subdivide Uchucklesaht lands for the purpose of a mortgage or other dealing that may be registered under this Act as a charge if the interest conferred on the transferee, mortgagee or other party would entitle the person in law or equity under any circumstances to demand or exercise the right to acquire or transfer the underlying interest in the Uchucklesaht lands.

(c) Subsection (a) does not apply to a subdivision for the purpose of leasing a building or part of a building.

(d) An instrument executed by a person in contravention of this section does not confer on the party claiming under it a right to registration of the instrument or a part of it.

Approval of subdivision plan required

11.11 A subdivision or reference plan must not be deposited in the lands registry office by the registrar unless it has first been approved by the approving officer.

Requirements as to subdivision and reference plans

11.12 A survey plan tendered for deposit in the lands registry office must comply with the following requirements:

(a) the survey plan must be based on a survey made by a British Columbia land surveyor;

(b) the plan must have a title which includes a legal description, in accordance with the requirements of the registrar, of the Uchucklesaht lands;

(c) unless otherwise provided by regulation, the survey plan must be accompanied by a machine made transparent copy of a type approved by the director, together with the number of white prints that may be necessary for the purpose of taxing authorities and the director; and

(d) the correctness of the survey and plan must be verified by the surveyor by his or her statement in the form approved by the director.

Tender of plan for examination and approval

11.13 (a) A subdivision plan must be tendered for examination and approval by the approving officer.

(b) The subdivision plan must be accompanied by the following:

(i) the applicable prescribed fees;

(ii) a certificate

(A) that all taxes assessed on the subdivided land have been paid, and

(B) if taxes are payable by installments, that all installments owing at the date of the certificate have been paid;

(iii) if the approving officer considers that there is reason to anticipate that the Uchucklesaht lands may be resubdivided and requires this information, a sketch showing that the parcels into which the Uchucklesaht lands are subdivided can conveniently be further subdivided into smaller parcels;

(iv) if the approving officer requires this information, profiles of every new roadway shown on the plan and such necessary topographical details as may indicate engineering problems to be dealt with in opening up the roadways, including environmental impact or planning studies.

(c) The Executive may prescribe fees for subdivision plan examination by the approving officer, which may vary with the number, size and type of parcels involved in the proposed subdivision.

Plan tendered later than three months after survey

11.14 (a) If a subdivision plan is tendered for examination and approval after the expiration of three months after the date the survey is completed, the approving officer may require the surveyor who carried out the survey to inspect the survey and

(i) satisfy himself or herself that

(A) all posts and monuments are in place, and

(B) the survey has not been affected by an intervening survey or a registration, deposit or filing under this Act, and

(ii) write on the plan "inspected under the Land Act", with the date of the inspection and his or her signature.

(b) The surveyor may inspect and certify a plan under subsection (a) before the plan is tendered for approval.

(c) In the event of the death or disability of the surveyor, the director may appoint another British Columbia land surveyor to make the inspection.

Time limit for approval and consideration of public interest

11.15 (a) A subdivision plan must be approved or rejected by the approving officer within two months after the date it is tendered for examination and approval or within another prescribed period.

(b) If, under subsection (a), the approving officer rejects a subdivision plan, the approving officer must as soon as practicable notify in writing the applicant, or the solicitor or agent of the applicant, of the rejection, stating briefly the reason and the approving officer's requirements, if any.

(c) In considering an application for subdivision approval in relation to Uchucklesaht lands, the approving officer may refuse to approve the subdivision plan if the approving officer considers that the deposit of the plan is against the public interest.

Principles guiding approving officer

11.16 (a) In considering an application for approval of a subdivision under section 11.13, the approving officer must be guided by the principles and requirements set out in this Act and the Planning and Land Use Management Act applicable to the examination of subdivisions made by subdivision plan.

(b) An application for approval must be accompanied by the prescribed fee.

(c) If the approving officer refuses to grant approval, or if approval is not granted within two months after the date the application is tendered to the approving officer for approval, the applicant may request a review of the matter under the Administrative Decisions Review Act.

Signatures of owners to plan

11.17 (a) A subdivision plan must be signed by each holder of the interest in the Uchucklesaht lands subdivided.

(b) All the signatures to the plan must be witnessed in the same manner as is required by section 3.10.

Application for deposit

11.18 (a) An application to deposit a subdivision plan in the lands registry office must be

(i) in the form approved by the registrar,

(ii) accompanied by the approved subdivision plan and the reproductions required by the registrar, and

(iii) tendered for deposit to the registrar within two months or any other period that may be prescribed after it has been approved by the approving officer, or within a further time the registrar, on application made to the registrar before the expiration of the two months or the other period prescribed, may allow for sufficient cause.

(b) If the application and plan are not tendered to the registrar within the time allowed, the approval of the plan is deemed to have been revoked.

Serial deposit number

11.19 The registrar must assign a serial number to each reference plan or explanatory plan deposited with the registrar.

Registrar to determine whether description acceptable

11.20 (a) The registrar may accept

(i) a metes and bounds description or an abbreviated description, with or without a reference plan or an explanatory plan, or

(ii) a reference plan or an explanatory plan, with or without a metes and bounds description

in any of the following cases:

(iii) if a new parcel is created by the subdivision of an existing parcel shown on a deposited subdivision plan;

(iv) if the new parcel is created for the purpose of adding it to an already existing adjoining parcel in the same subdivision plan, in which case the new parcel is deemed to be an integral portion of the parcel to which the new parcel is added;

(v) if an easement or a statutory right of way under section 7.6 or covenant under section 7.13 is being created;

(b) The registrar, before exercising his or her discretion in relation to the matters covered by subsection (a), must require the applicant to provide satisfactory evidence that the approving officer has granted approval of the subdivision.

(c) In the case of a lease of all or part of a building, the registrar may, on the ground of hardship or economic loss, accept a sketch plan with or without a metes and bounds description or abbreviated description.

New registrations for parcels shown on deposited plan

11.21 (a) The registrar must examine the application and plan submitted under section 11.18, and any supporting instrument produced and, if satisfied that they are in order and in compliance with all the requirements of this Act, must deposit the plan under the serial deposit number assigned to the plan on its receipt and register the new interests in Uchucklesaht lands and the holders of the parcels shown on the plan as may be necessary.

(b) If a new interest in Uchucklesaht lands is registered, the former interest must be cancelled.

(c) If a new taxable interest in Uchucklesaht lands under a real property tax law of the Uchucklesaht Tribe is registered, a print of the plan must be transmitted to the appropriate authorities.

(d) Concurrently with the tender of the plan, an application may be made to the registrar to register an instrument dealing with any parcel included in the plan and reference in the instrument to the plan and parcel must be in the manner required by the registrar.

Road and walkway allowances

11.22 The Executive may authorize the director to establish or cancel a road allowance or walkway allowance on Uchucklesaht lands.

Surveys to be confirmed

11.23 A survey may not be used or adopted for the purpose of this Act until it is confirmed in writing by the director on the official plan.

Deemed deposit of certain plans

11.23.1(a) Subject to subsection (b) and despite any other provision in this Part, any survey plan completed in accordance with 2.5.1 of Chapter 2 Lands of the Maa-nulth Treaty and deposited in the provincial Crown land registry is deemed to be deposited in the lands registry office on the same date and at the same time as that survey plan was deposited in the provincial Crown land registry.

(b) Despite any other provision in this Part, a survey plan completed in accordance with 2.5.1 of Chapter 2 Lands of the Maa-nulth Treaty and deposited in the provincial Crown land registry prior to April 1, 2011, is deemed to be deposited in the lands registry office at 12:01 AM on April 1, 2011.

(c) The registrar must assign a serial number to each survey plan deemed to be deposited under this section.

(d) For each survey plan deemed to be deposited under this section, the registrar must

(i) deposit a white print in the lands registry office, and

(ii) provide the director the number of white prints that may be necessary for the purpose of taxing authorities and the director.

Director may require resurvey

11.24 (a) Subject to subsection (b), the director may, by directive, require a resurvey of Uchucklesaht lands if the director considers that

(i) a survey of Uchucklesaht lands, on the ground, differs materially from the field notes or plan of that survey confirmed under this Act,

(ii) it is advisable to replace a natural boundary confirmed under this Act with a conventional boundary, or

(iii) the posts, monuments or boundaries of a survey confirmed under this Act cannot be located.

(b) If the land requiring a resurvey under subsection (a) is Uchucklesaht titled lands, the director may not require a resurvey of that land under this section unless the director receives an application for a resurvey from a registered owner of the estate in fee simple to the Uchucklesaht lands.

Persons likely to be affected by resurvey

11.25 If a person applies to the director for a resurvey under section 11.24(b) and the director believes that other persons are likely to be adversely affected by a resurvey, the director must direct the person applying for the resurvey to publish in accordance with Uchucklesaht law a notice of the application.

Decision on application for resurvey

11.26 (a) Before deciding an application for resurvey under section 11.24(b), the director may permit any person who the director believes may be affected by the application an opportunity to make a submission to the director on the application.

(b) After deciding an application for resurvey under section 11.24(b), the director must provide a written decision

(i) to the applicant for the resurvey, and

(ii) to any other person who the director believes may be affected by the decision.

Guiding principles

11.27 (a) Subject to subsection (b), in making a resurvey under section 11.24, the British Columbia land surveyor must re-establish as nearly as possible the existing boundaries.

(b) The surveyor in subsection (a) may

(i) depart from existing boundaries in order to establish boundaries in agreement with occupation and improvements, and

(ii) distribute any shortage in area within a group of parcels, having regard to occupation and improvements.

Substitute surveyor

11.28 After a directive has been issued under section 11.24, the director may

(a) appoint a substitute British Columbia land surveyor in place of the surveyor previously appointed to make the resurvey,

(b) direct the substitute surveyor to adopt and make use of as much of the resurvey as the previously appointed surveyor has completed, and

(c) determine how the work of the previously appointed surveyor is to be certified or authenticated.

Plan and report of surveyor

11.29 (a) On completion of a resurvey under section 11.24, the British Columbia land surveyor must prepare and apply to file with the director

(i) the resurvey plan, and

(ii) a report that sets out

(A) any difficulties encountered during the resurvey,

(B) the evidence concerning the re-establishment of original and lost monuments,

(C) the system of surveying employed,

(D) the degree of accuracy obtained,

(E) the nature of all monuments erected, and

(F) other information bearing on the resurvey as may be of service in the consideration of the report and plan.

(b) The surveyor must include in a report under subsection (a), in concise and tabulated form,

(i) a list of all parcels comprised within the limits of the resurvey,

(ii) a list of all parcels the boundaries of which appear as altered by the plan, with a statement showing how they are altered, and

(iii) a statement of the costs and expenses of the resurvey.

Further work by surveyor

11.30 If, for any reason, the director is not satisfied with a special resurvey plan or report that a British Columbia land surveyor has applied to file under section 11.29, the director may

(a) refuse to file the plan and the report, and

(b) instruct the surveyor

(i) to complete further or remedial work, and

(ii) to prepare and apply to file under section 11.29 a plan and report that includes that further or remedial work..

Notice of plan and report

11.31 On the filing of a resurvey plan and report under section 11.29, the director must

(a) deliver a copy of the resurvey plan and the report to the Executive, and

(b) deliver in accordance with Uchucklesaht law a notice to all

(i) registered owners of an estate in fee simple in Uchucklesaht titled lands, if any, and

(ii) registered holders of an interest in, or licence in relation to, the Uchucklesaht lands

within the limits of the resurvey

(iii) that the survey has been completed,

(iv) that the resurvey plan and the report may be inspected at the lands registry office, and

(v) of a date and place at which submissions may be made to the director on the resurvey plan and the report.

Hearing of submissions

11.32 (a) At the time and place specified in the notice delivered under section 11.31(b), the director must receive the written or oral submission on the resurvey plan and report of any

(i) registered owner of an estate in fee simple in Uchucklesaht titled lands, if any, and

(ii) registered holder of a interest in, or licence in relation to, the Uchucklesaht lands

within the limits of the resurvey.

(b) After receiving any submissions under subsection (a), the director must prepare and deliver to the Executive a report on the submissions received.

Approval of plan

11.33 (a) On receipt of the report of the director prepared under section 11.32, the Executive may, by directive,

(i) approve the resurvey and the survey plan, or any part of it, or

(ii) reject the resurvey plan.

(b) If the Executive approves the resurvey plan, or any part of it, under subsection (a)(i), the Executive may by directive

(i) declare the resurvey plan, or the approved part of it, to be the true and correct survey and plan of the Uchucklesaht lands affected,

(ii) declare that all boundaries and lines fixed by the resurvey plan, or the approved part of it, are the true boundaries and lines, and

(iii) declare, with any reservations that the Executive considers expedient, that the resurvey plan, or the approved part of it, must be substituted for all former surveys and plans of the Uchucklesaht lands affected which have

previously been registered, or for the corresponding portions of those former surveys or plans, and

(iv) vest any interest in the Uchucklesaht lands necessary to implement the resurvey plan, or the approved part of it.

(c) The Executive must deliver to

(i) the registrar, and

(ii) the British Columbia surveyor who completed the resurvey,

a copy of a directive made under this section.

Registration of directive

11.34 (a) On receipt of a directive made under section 11.33 approving a resurvey plan, or a part of it, the registrar must register the directive and the approved resurvey plan or part of the resurvey plan.

(b) An approved resurvey plan or part of a resurvey plan that is registered under subsection (a) is

(i) the official plan of the Uchucklesaht lands comprised within the limits of the plan or the approved part of it,

(ii) binding on all persons,

(iii) deemed, for all purposes, to be the original survey of the Uchucklesaht lands, and

the boundaries established by any previous survey have no further effect, and the notes or plans of the previous survey have no further effect.

(c) If the land resurveyed is Uchucklesaht titled lands, the director must deposit a copy of the confirmed resurvey plan in the land title office.

Conflicting monuments

11.35 On receipt of a directive made under section 11.33 approving a resurvey plan, or a part of it, the British Columbia land surveyor who completed the resurvey must

(a) remove all survey posts, stakes or monuments that

(i) were on the Uchucklesaht lands within the limits of the resurvey prior to the resurvey, and

(ii) are liable to lead to confusion in connection with the approved resurvey plan or part of the resurvey plan, and

(b) obliterate all marks on any post, stake or monument that

(i) was on the Uchucklesaht lands within the limits of the resurvey prior to the resurvey, and

(ii) has been used or adopted by the surveyor as a post, stake or monument of the resurvey,

except the marks placed on it or adopted by the surveyor in the survey.

Resurvey gain or loss of property

11.36 (a) If, as a result of a resurvey, a person acquires an interest in Uchucklesaht lands, the person must pay the person from whom the interest in Uchucklesaht lands is taken compensation in an amount the director may, by directive, require.

(b) An amount that the director requires one person to pay to a second person under subsection (a) is recoverable by the second person as a debt owed to the second person.

(c) If either person described in subsection (a) is dissatisfied with the amount of compensation required by the director, the person may request a review of the directive issued under the Administrative Decisions Review Act.

Cost of resurvey

11.37 (a) Subject to subsection (c), all of the registered holders of an interest in the Uchucklesaht lands contained in the resurvey required by the director under section 11.24 must pay, as determined by the director under subsection (b), a proportion of

(i) the cost of the resurvey, and

(ii) if applicable, other expenses to complete and deposit the resurvey plan in the lands registry office or land title office.

(b) The director must determine the amount payable by a registered owner or holder of an interest as contemplated in subsection (a) by

(i) calculating the proportion of the total area of Uchucklesaht lands contained in the resurvey plan that is made up by the registered owner's area or holder's area, and

(ii) applying that proportion to the total amount payable under subsection (a).

(c) On the recommendation of the director, the Executive may exempt the registered owner or holder from paying all or any part of the costs or expenses in subsection (a) and in that event the Uchucklesaht Tribe must assume those costs or expenses.

(d) An amount payable by a registered owner or holder under this section is recoverable by the Uchucklesaht Tribe as a debt due to the Uchucklesaht Tribe.

PART 12 - GENERAL PROVISIONS

Regulations

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

Application for indefeasible title

12.1.1 (a) The Executive may apply, in the name of the Uchucklesaht Tribe, under 3.3.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the registration of an indefeasible title to a parcel of Uchucklesaht lands for which no indefeasible title is registered at the time of the application.

(b) Subject to section 7.1, the Executive may apply, in the name of a person contemplated in section 7.1, under 3.3.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the registration of an indefeasible title to a parcel of Uchucklesaht lands for which no indefeasible title is registered at the time of the application.

Cancellation of Uchucklesaht title

12.2 (a) If

(i.1) the Uchucklesaht Tribe is the registered owner of Uchucklesaht titled lands, or

(i) a Uchucklesaht corporation is the registered owner of Uchucklesaht titled lands and that Uchucklesaht corporation has given its consent, and

(ii) there are no charges registered against the Uchucklesaht titled lands, except charges in favour of the Uchucklesaht Tribe,

the Executive may apply under 3.7.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the cancellation of the registration of the indefeasible title to that land under the Land Title Act (British Columbia).

(b) On cancellation of the registration of an indefeasible title to that Uchucklesaht lands, the land is deemed to no longer be Uchucklesaht titled lands under this Act.

Right of entry

12.3 For the purpose of performing their duties under this Act, the following individuals may, at reasonable times, enter any Uchucklesaht lands and premises:

(a) the director;

(b) the registrar;

(c) an authorized Uchucklesaht employee who has identification from the Uchucklesaht Tribe for the purpose.

Commencement

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

LEGISLATIVE HISTORY

Land Act UTS 12, 2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
12.1.1(a)	UTS 25/2013, s.1.1(a)	March 28, 2013
12.2(a)	UTS 25/2013, s. 1.1(b)	March 28, 2013
1.4	UTS 31/2014, s. 4.1(a)	February 28, 2014
11.6	UTS 31/2014, s. 4.1(b)	February 28, 2014
11.23.1	UTS 31/2014, s. 4.1(c)	February 28, 2014
3.25	UTS 40/2014, s. 4.9(a)	June 19, 2014
3.26	UTS 40/2014, s. 4.9(a)	June 19, 2014
6.5(a)	UTS 40/2014, s. 4.9(a)	June 19, 2014
6.6(a)	UTS 40/2014, s. 4.9(a)	June 19, 2014
6.6(b)	UTS 40/2014, s. 4.9(a)	June 19, 2014
6.8	UTS 40/2014, s. 4.9(a)	June 19, 2014
9.3	UTS 40/2014, s. 4.9(a)	June 19, 2014
9.4	UTS 40/2014, s. 4.9(a)	June 19, 2014
11.33	UTS 40/2014, s. 4.9(a)	June 19, 2014
11.34	UTS 40/2014, s. 4.9(a)	June 19, 2014
11.35	UTS 40/2014, s. 4.9(a)	June 19, 2014
3.25	UTS 40/2014, s. 4.9(b)	June 19, 2014
3.26	UTS 40/2014, s. 4.9(b)	June 19, 2014
4.10	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.5(e)(iii)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.5(h)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.6(a)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.6(d)(iv)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.6(e)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.6(g)	UTS 40/2014, s. 4.9(b)	June 19, 2014
6.7	UTS 40/2014, s. 4.9(b)	June 19, 2014
9.3	UTS 40/2014, s. 4.9(b)	June 19, 2014
9.4	UTS 40/2014, s. 4.9(b)	June 19, 2014
11.33	UTS 40/2014, s. 4.9(b)	June 19, 2014
11.34	UTS 40/2014, s. 4.9(b)	June 19, 2014
11.35	UTS 40/2014, s. 4.9(b)	June 19, 2014
4.14	UTS 40/2014, s. 4.9(c)	June 19, 2014
4.15	UTS 40/2014, s. 4.9(d)	June 19, 2014
4.23(a)(iii)	UTS 40/2014, s. 4.9(e)	June 19, 2014
6.5(c)(vi)	UTS 40/2014, s. 4.9(f)	June 19, 2014
6.5(d)	UTS 40/2014, s. 4.9(g)	June 19, 2014

6.5(e)	UTS 40/2014, s. 4.9(h)	June 19, 2014
6.5(e)(i)	UTS 40/2014, s. 4.9(i)	June 19, 2014
6.5(f)	UTS 40/2014, s. 4.9(j)	June 19, 2014
6.5(j)	UTS 40/2014, s. 4.9(k)	June 19, 2014
6.6	UTS 40/2014, s. 4.9(l)	June 19, 2014
6.6(c)	UTS 40/2014, s. 4.9(m)	June 19, 2014
6.6(d)	UTS 40/2014, s. 4.9(n)	June 19, 2014
6.6(d)(i)	UTS 40/2014, s. 4.9(o)	June 19, 2014
6.6(d)(ii)	UTS 40/2014, s. 4.9(o)	June 19, 2014
6.6(f)	UTS 40/2014, s. 4.9(p)	June 19, 2014
11.5	UTS 40/2014, s. 4.9(q)	June 19, 2014
11.7	UTS 40/2014, s. 4.9(r)	June 19, 2014
11.24(a)	UTS 40/2014, s. 4.9(s)	June 19, 2014
11.24	UTS 40/2014, s. 4.9(t)	June 19, 2014
11.28	UTS 40/2014, s. 4.9(u)	June 19, 2014
11.36(a)	UTS 40/2014, s. 4.9(v)	June 19, 2014
11.36(b)	UTS 40/2014, s. 4.9(w)	June 19, 2014
11.36(c)	UTS 40/2014, s. 4.9(x)	June 19, 2014
11.37(a)	UTS 40/2014, s. 4.9(y)	June 19, 2014

Amending Acts:

UTS 25/2013	Land Act Amendments Act enacted March 28, 2013
UTS 31/2014	Miscellaneous Amendments Act enacted February 28, 2014
UTS 40/2014	Enforcement Framework Amendment Act No. 2 enacted June 19, 2014

Regulations:

UTR 6/2011	Land Registry Forms Regulation enacted April 1, 2011
UTR 8/2012	Survey Plan Reproductions Regulation enacted June 5, 2012
UTR 10/2013	Fee Regulation enacted January 21, 2013