

**YUULU?IL?ATH FIRST NATION GOVERNMENT
ENFORCEMENT FRAMEWORK
AMENDMENT ACT NO. 2**

YFNS 44/2015



This law enacted on April 14, 2015

Signed

A handwritten signature in black ink, appearing to read 'Charles McCarthy', written over a horizontal line.

Charles McCarthy, President of the
Yuulu?il?ath First Nation

DEPOSITED IN THE
REGISTRY OF LAWS

ON 14 / Apr / 2015

A handwritten signature in black ink, appearing to be initials, written over a horizontal line.
Signature of Law Clerk

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PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Enforcement Framework Amendment Act No. 2.

Executive oversight

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

Application

1.3 This Act amends

- (a) the Enforcement Act YFNS 16/2011,
- (b) the Financial Administration Act YFNS 6/2011, and
- (c) the Yuulu?il?ath enactments set out in Part 4 to clarify whether certain decisions are made “by Order” or “by directive”.

PART 2 - ENFORCEMENT ACT AMENDMENTS

Definitions

2.1 In this Part, “Act” means the Enforcement Act YFNS 16/2011.

Definition amendments

2.2 Section 1.4 of the Act is amended as follows:

- (a) by adding “in accordance with section 5.3”
 - (i) at the end of the definition of “discounted penalty”, and
 - (ii) at the end of the definition of “surcharge”; and
- (b) by adding “penalty” immediately following “surcharge” in the definition of “surcharge”.

Section 2.6 amendments

2.3 Section 2.6 of the Act is amended as follows:

- (a) by striking out “offences” and substituting “an offence under a Yuulu?il?ath enactment” in subsection (a); and
- (b) by striking out “specified” and substituting “referred to” in subsection (c).

Section 4.3 amendments

2.4 (a) Section 4.3(a) of the Act is amended by adding “to each named person” at the end of that subsection.

(b) Section 4.3(c) is repealed and the following substituted:

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

- (i) Yuulu?il?ath lands, or
- (ii) Yuulu?il?ath foreshore,

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

Section 4.5 amendments

2.5 Section 4.5(a) is repealed and the following substituted:

- “(a) Subject to subsection (b) and the period of time specified in the compliance notice under section 4.2(b)(ii), a named person must, within 14 days after the compliance notice was served on that named person in accordance with section 4.3,
- (i) comply with the requirements in the compliance notice, or
 - (ii) apply for a review of the compliance notice in accordance with section 6.1.”

Section 4.7 amendments

2.6 Section 4.7(c) is amended by adding “payable on demand within 14 days, if that demand is delivered in accordance with Yuulu?il?ath law, and may be collected by the Yuulu?il?ath First Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act” at the end of that section.

Section 5.1 amendments

2.7 Section 5.1(a) of the Act is amended by striking out the first instance of “that” and substituting “a” in the third line.

Section 5.2 amendments

2.8 Section 5.2(b) of the Act is amended by adding “penalty” at the end of that section.

Section 5.3 amendments

- 2.9** (a) Section 5.3(a) of the Act is amended by adding “to each named person” at the end of that section.
- (b) Section 5.3(d) is repealed and the following substituted:
- “(d) Despite section 5.2 and subsection (a), a ticket may be delivered verbally by the enforcement officer reading the applicable section of the Yuulu?il?ath enactment that regulates, controls or prohibits the action or activity on
- (i) Yuulu?il?ath lands, or
 - (ii) Yuulu?il?ath foreshore,

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

Section 5.4 amendments

- 2.10** Section 5.4 of the Act is amended by adding “recorded,” immediately following “completed” in the first line.

Section 5.5 amendments

- 2.11** Section 5.5(a) of the Act is amended by striking out “service of the ticket,” and substituting “the ticket was served on that named person in accordance with section 5.3,”.

Section 5.6 amendments

- 2.12** Section 5.6 of the Act is amended by adding “and may be collected by the Yuułu?il?ath First Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act”.

Sections 6.1 amendments

- 2.13** (a) Section 6.1(a) of the Act is amended by adding “in the prescribed form” immediately following “application” in the second line.
- (b) Section 6.1(e) is amended by striking “may” and substituting “must” in the third line.
- (c) Section 6.1(f) is amended by adding “in accordance with Yuułu?il?ath law” immediately following “deliver” in the second line.

Section 7.1 amendments

- 2.14** Section 7.1(c) is amended as follows:
- (a) by adding “, in relation to that offence,” immediately following “establish” in the second line; and
- (b) by adding “penalty” at the end of paragraph (iii).

Orders and directives

- 2.15** (a) Sections 6.1, 6.2 and 7.2 are amended by striking out every instance of “order” and substituting “directive”.
- (b) Sections 3.1, 3.2(a) and 4.7(b) are amended by striking out every instance of “order” and substituting “Order”.

PART 3 - FINANCIAL ADMINISTRATION ACT AMENDMENTS

Financial Administration Act amendments

- 3.1 Sections 5.6 and 5.7 of the Financial Administration Act YFNS 6/2011 are repealed and the following substituted:

Definitions

- 5.6 In sections 5.6 to 5.11,

“debt” means an amount of money that is due and payable to the Yuulu?il?ath First Nation;

“debtor” means the person who is required to pay a debt.

Write off and forgiveness of debts

- 5.7 The chief financial officer may, by Order and after seeking the advice of the Executive, write off or forgive all or a portion of any debt or obligation owed to the Yuulu?il?ath First Nation.

Notice required if no response to notice

- 5.8 At the end of the period established by a Yuulu?il?ath enactment for the purposes of payment of a debt, if

- (a) the debtor has not paid the debt, and
- (b) the debt is not the subject of a review by the Administrative Decisions Review Board or review by another person with the authority to review the debt under a Yuulu?il?ath enactment,

the chief financial officer may deliver in accordance with Yuulu?il?ath law a notice to the debtor indicating the debt owing and how and where payment may be made.

Amounts owing enforced in court

- 5.9
- (a) Subject to subsections (b) and (c), a debt may be recovered by the director of operations, or his or her delegate, by filing a certificate in the prescribed form in the Supreme Court or Provincial Court.
 - (b) A certificate under this section may not be filed in the Supreme Court or Provincial Court until 30 days after the date a notice is delivered to the debtor in accordance with section 5.8.

- (c) A certificate may not be filed under this section for a debt that has been owed to the Yuulu?il?ath First Nation for more than two years.

Content of certificate

- 5.10 A certificate filed under section 5.9(a) must be signed by the director of operations and must include the following information:
- (a) the name of the debtor;
 - (b) the details of the debt, including the date and circumstances of the debt, the date that the debt became due and payable and the total amount owing in respect of the debt;
 - (c) the amount of any penalty, surcharge, administrative recovery fee or other amount that applies to the debt; and
 - (d) a copy of the notice delivered to the debtor in accordance with section 5.8.

Effect of certificate

- 5.11 (a) A certificate filed under section 5.9(a) is of the same effect, and proceedings may be taken on it by the Yuulu?il?ath First Nation, as if it were a judgment of the Supreme Court or Provincial Court, as the case may be, for the recovery of a debt in the amount stated in the certificate.
- (b) A certificate filed under section 5.9(a) is admissible in any proceedings to recover the certified debt without proof of the signature or authority of the director of operations and is proof of the certified facts.

PART 4 - ORDERS AND DIRECTIVES

Building and Development Authorization Act

- 4.1** The Building and Development Authorization Act YFNS 23/2012 is amended by
- (a) striking out “order” and substituting “directive” in section 5.1(i), and
 - (b) striking out “may order” and substituting “may, by directive, require” in sections 5.2(b) and 5.4(a).

Citizenship Act

- 4.2** The Citizenship Act YFNS 10/2011 is amended as follows:
- (a) by striking out “revocation orders” and substituting “revocation notices” in section 3.2(b)(iv);
 - (b) by striking out the two instances of “make an order revoking” and substituting “revoke” in section 6.2;
 - (c) by striking out the two instances of “intended order” and substituting “proposed revocation” in section 6.3;
 - (d) by striking out “may make an order revoking” and substituting “may, by directive, revoke” in section 6.4(a); and
 - (e) by striking out all other instances of “order” and substituting “directive” in section 6.4, including the instance in the heading to section 6.4.

Code of Conduct and Conflict of Interest Act

- 4.3** The Code of Conduct and Conflict of Interest Act YFNS 4/2011 is amended by striking out “ordered” and substituting “required” in section 6.5(e).

Environmental Protection Act

- 4.4** The Environmental Protection Act YFNS 15/2011 is amended as follows:
- (a) by striking out each instance of “order” and substituting “Order” in sections 2.1(e)(i)(C), 2.3(b), 2.5(a)(ii), 2.5(d), 2.6, 2.9(a), 3.4, 5.9(e), (f), (g) and (m), 5.11(e), 5.11(g), 5.12(b)(ii), 5.12(f), 6.5(c)(iv), 7.5(c), 7.9(a), 8.2, 8.3, 9.1(a)(ii), 9.1(b)(i), 9.3, 9.4, 9.10 and 10.2(c);
 - (b) by striking out each instance of “order” and substituting “directive” in sections 4.4, 4.5 and 9.1(b)(ii);

(c) by repealing section 2.1(e)(vi)(A) and substituting the following:

“(A) acting under an Order of the lands manager if the lands manager, by Order, authorizes the fires for training purposes,”

(d) by repealing section 2.5(c) and substituting the following:

“(c) Despite subsection (b), the lands manager

- (i) may, by Order, require a person referred to in that subsection to comply with the regulations or the approved contaminant management plan within the period specified in the Order, and
- (ii) must deliver in accordance with Yuulu?il?ath law a copy of the Order to that person.”

(e) by repealing section 3.2 and substituting the following:

“Protection Order

3.2 (a) Where the lands manager believes on reasonable grounds that it is necessary or advisable for the protection of the environment to do so, the lands manager may, by Order, require any person

- (i) to install safeguards to prevent the discharge of contaminants into the environment,
- (ii) to site, transport or store any contaminant in the manner set out in the Order, or
- (iii) to have on hand at all times the equipment and material necessary to alleviate the effect of any discharge of contaminants that may be specified in the Order.

(b) Where an inspector believes on reasonable grounds that a discharge of a contaminant in contravention of this Act or a permit is likely to occur, the inspector may, by Order, require any person whose actions may increase the likelihood of a discharge or the owner or person in charge, management or control of the contaminant to take the preventive measures that the inspector considers necessary.”

(f) by repealing section 3.3 and substituting the following:

“Order of inspector

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- 3.3 (a) Where an inspector believes on reasonable grounds that a discharge of a contaminant in contravention of this Act or a permit has occurred or is occurring, the inspector may, by Order, require any person causing or contributing to the discharge or the owner or the person in charge, management or control of the contaminant to stop the discharge by the date specified in the Order.
- (b) For certainty, the issue of an Order under this section does not preclude the prosecution of an offence under section 9.1.
- (c) Despite subsection (a), where a person discharges or permits the discharge of a contaminant into the environment, an inspector may, by Order, require that person to repair or remedy any injury or damage to the environment that results from the discharge.”
- (g) by repealing section 3.5 and substituting the following:

“Emergency Order

- 3.5 (a) Despite section 3.6, where, in the opinion of an inspector, an emergency exists and an Order must be issued under section 3.2 or 3.3, the inspector may issue a verbal Order to the person who, in the opinion of the inspector, is the person best able to comply with the Order.
- (b) An Order issued under subsection (a) will take effect from the time it is issued.
- (c) An Order issued under subsection (a) has the same force and effect as a written Order.
- (d) An Order issued under subsection (a) must be served in written form in accordance with section 3.6 as soon as practicable after it is issued.”
- (h) by repealing section 3.6 and substituting the following:

“Service of Orders

- 3.6 An Order under section 3.2 or 3.3 must be delivered in accordance with Yuulu?il?ath law.”

- (i) by repealing section 4.3 and substituting the following:

“Directive to improve condition of land

4.3 Where an inspector believes on reasonable grounds that any Yuulu?il?ath lands are unsightly, the lands manager may, by directive, require the owner or occupier of the land or the last person to own or occupy the land to improve the condition of the land in such manner and to such extent as may be set out in the directive.”

- (j) by striking out the definition of “remediation order” and substituting the following in section 5.1(a):

“remediation Order” means an Order under section 5.9;

- (k) by striking out “may order” and substituting “may, by Order, require” in sections 5.2(g) and 5.3(a);
- (l) by striking out the two instances of “orders” and substituting “Orders” in section 5.3(c) and 5.4(a);
- (m) by striking out “an order under section 5.9” and substituting “a remediation Order” in section 5.8(b);
- (n) by striking out all instances of “remediation order” and substituting “remediation Order” in section 5.9, including the instance in the heading to section 5.9;
- (o) by striking out “an order referred to in subsection (f)” and substituting “a remediation Order referred to in subsection (f)” in section 5.9(g);
- (p) by striking out “the lands manager, may, even though the ordered action interferes with or takes away property rights, order any person to” and substituting “the lands manager may, by Order even if the ordered action interferes with or takes away property rights, require any person to” in section 5.11(c);
- (q) by repealing section 6.6 and substituting the following:

“Variance orders

6.6 (a) If the lands manager considers that a person should have temporary relief from a requirement of an Order, a permit, an approval, a code of practice or a contaminant management plan, the lands manager may issue a variance Order in relation to a requirement of the Order, permit, approval, a code of practice or contaminant management plan.

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- (b) If the lands manager issues a variance Order, the lands manager must
 - (i) specify the requirements in relation to which he or she grants the relief,
 - (ii) specify the period during which the variance Order will remain in effect, and
 - (iii) publish in accordance with Yuulu?i?ath law a notice of the variance Order.
 - (c) Despite subsection (b), the lands manager may
 - (i) cancel a variance Order, or
 - (ii) renew or extend a variance Order.”
 - (r) by repealing section 6.9(d) and substituting the following:
 - “(d) Within 30 days of the issuance of an Order under this Act or a directive under section 4.3, a person may request a review of that Order or directive, as applicable, under the Administrative Decisions Review Act.”
 - (s) by repealing section 6.10 and substituting the following:
 - “**Effect of review**
 - 6.10 (a) A review request of an Order made under section 3.2 or a directive issued under section 4.3 acts as a stay of the operation of that Order or directive, as applicable.
 - (b) A review request of an Order made under section 3.3 or 3.5 does not act as a stay of the operation of that Order.”

Government Personnel Act

4.5 The Government Personnel Act YFNS 5/2011 is amended as follows:

- (a) by striking out “and by order may” and substituting “and may, by directive,” in section 6.2(b);
- (b) by striking out “order” and substituting “directive” in sections 6.2(c)(ii) and 6.3; and
- (c) by striking out “order” and substituting “Order” in sections 7.2(b)(iv), 7.4(b)(iii)(B), 8.2(b)(vi) and 8.4(b)(iii)(B).

Interpretation Act

4.6 The Interpretation Act YFNS 17/2011 is amended as follows:

- (a) by adding the following definition to section 3.3 in alphabetical order:
“directive” means a written command, decision, direction, instruction or ruling made under a Yuulu?il?ath enactment;”;
- (b) by deleting the first instance of the word “order” and substituting “Order” in section 5.1(d); and
- (c) by striking out “order” and substituting “Order” in section 5.3(d).

Land Act

4.7 The Land Act YFNS 12/2011 is amended as follows:

- (a) by striking out each instance of “an order” and substituting “a directive” in sections 3.25, 3.26, 6.5(a), 6.6(a) and (b), 6.8, 9.3, 9.4 and 11.33 to 11.35;
- (b) by striking out all other instances of “order” and substituting “directive” in sections 3.25, 3.26, 4.10, 6.5(e)(iii), 6.5(h), 6.6(a), 6.6(d)(iv), 6.6(e), 6.6(g), 6.7, 9.3, 9.4, 11.33 to 11.35, including the headings to those sections, ;
- (c) by striking out “may, for any purpose it considers advisable, by order” and substituting “may, by Order, for any purpose it considers advisable” in section 4.14;
- (d) by striking out “may, if it considers advisable, by order” and substituting “may, by Order, for any purpose it considers advisable” in section 4.15;
- (e) by striking out the first instance “order” and substituting “directive” in section 6.5(c)(vi);
- (f) by striking out “order” and substituting “directive” in section 6.5(d);
- (g) by striking out “The order for exclusive possession by the Executive under subsection (d)” and substituting “A directive under subsection (d)” in section 6.5(e);
- (h) by striking out “the order for exclusive possession” and substituting “that directive” in section 6.5(e)(i);
- (i) by striking out “an Executive order” and substituting “a directive” in section 6.5(f) and deleting the second instance of the word “order” and substituting “directive” in that section;

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- (j) by repealing section 6.5(j) and substituting the following:
 - “(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.”;
 - (k) by striking out “by Executive order” in the heading to section 6.6;
 - (l) by striking out “by order” and substituting “by directive” in section 6.6(c);
 - (m) by striking out “The order for the discharge of a certificate of possession by the Executive under subsection (c)” and substituting “A directive under subsection (c)” in section 6.6(d);
 - (n) by striking out the two instances of “the order for the discharge of the certificate of exclusive possession” and substituting “that directive” in sections 6.6(d)(i) and (ii);
 - (o) by repealing section 6.6(f) and substituting the following:
 - “(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.”;
 - (p) by striking out “order” and substituting “require” in the heading to section 11.5;
 - (q) by striking out “orders” and substituting “requires, by directive” in section 11.7;
 - (r) by striking out “may order” and substituting “may, by directive, require” in section 11.24(a);
 - (s) by striking out all other instances of “order” and substituting “require” in section 11.24, including the instance in the heading to section 11.24;
 - (t) by striking out “After a resurvey has been ordered” and substituting “After a directive has been issued” in section 11.28;
 - (u) by striking out “ordered by the lands manager” and substituting “the lands manager may, by directive, require” in section 11.36(a);
 - (v) by striking out “orders” and substituting “requires” in section 11.36(b);
 - (w) by repealing section 11.36(c) and substituting the following:
 - “(c) If either person described in subsection (a) is dissatisfied with the amount of compensation required by the lands manager, the person may request a review of the directive issued under that subsection under the Administrative Decisions Review Act.”; and

- (x) by striking out “ordered” and substituting “required” in section 11.37(a).

Legislature Rules of Order and Procedure Act

4.8 The Legislature Rules of Order and Procedure Act YFNS 3/2011 is amended as follows:

- (a) by striking out “The Legislature may appoint by motion” and substituting “the Legislature may, by resolution, appoint” in section 18.2(a); and
- (b) by striking out “by order” and substituting “by Order” in section 18.2(b).

Planning and Land Use Management Act

4.9 The Planning and Land Use Management Act YFNS 13/2011 is amended by

- (a) by striking out “order” and substituting “Order” in section 6.6(b);
- (b) by striking out all instances of “an order” and substituting “a directive” in sections 7.3 and 7.4;
- (c) by striking out “order” and substituting “direct” in section 7.3(b);
- (d) by striking out all other instances of “order” and substituting “directive” in sections 7.3 and 7.4; and
- (e) by striking out “the board of variance may set aside” and substituting “the board of variance may, by directive, set aside” in section 7.4(b).

Referendum Act

4.10 The Referendum Act YFNS 9/2011 is amended as follows:

- (a) by striking out “must order” and substituting “must, by Order, require” in section 2.1;
- (b) by striking out “may order” and substituting “may, by Order, require” in section 2.2;
- (c) by striking out “may at the request of a majority of the eligible voters present and voting at a Hittatsoo Assembly, order” and substituting “may, by Order, at the request of a majority of the eligible voters present and voting at a Hittatsoo Assembly, require” in section 2.3;
- (d) by striking out “order” and substituting “Order” in sections 3.1 and 6.5(b)(i);
- (e) by striking out “may, during the meeting, make any order” and substituting “may, by directive during the meeting, make any rules” in section 6.3(g); and

- (f) by striking out “ordered” and substituting “held” in section 8.3.

Resources Harvesting Act

4.11 The Resources Harvesting Act YFNS 14/2011 is amended as follows:

- (a) by striking out each instance of “order” and substituting “Order” in sections 2.1(k), 5.1(a), 5.4(a), 5.5(a), 7.1(a), 7.1(c), 7.2(a), 7.2(c) and 8.1(b); and
- (b) by striking out “may make any order that is reasonably necessary prohibiting” and substituting “may, by directive if reasonably necessary in the circumstances, prohibit” in section 5.4(b).

Fisheries Regulation

4.12 The Fisheries Regulation YFNR 5/2011 is amended as follows:

- (a) by deleting the first instance of the word “order” and substituting “Order” in section 4.3;
- (b) by striking out each instance of “order” and substituting “Order” in sections 4.6(a), 4.7, 4.8 and 5.4; and
- (c) by striking out “by the lands manager by order” and substituting “by the lands manager, by Order” in section 5.1(b).

Wildlife and Migratory Birds Regulation

4.13 The Wildlife and Migratory Birds Regulation YFNR 7/2011 is amended as follows:

- (a) by striking out each instance of “order” and substituting “Order” in sections 4.5 and 5.6; and
- (b) by striking out “by the lands manager by order” and substituting “by the lands manager, by Order” in section 5.1(b).

PART 5 - GENERAL PROVISIONS

Commencement

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