



Conflict of Interest Law

TNL 08/2016

Enacted on April 5, 2016

Amended June 23, 2016

Amended May 27, 2020

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Deposited in the Tla'amin Registry

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PREAMBLE

WHEREAS:

- A. Tla'amin Ta'ow (*teachings*) are our traditional teachings and unwritten laws that our Ancestors lived by. In creating written laws, we continue to honour and uphold our Ancestral practices, teachings and core values. Through our laws, we reinforce the principles of respect, unity and connection to our lands and resources. We vow to keep these teachings and principles in mind in all that we do as Tla'amin people;
- B. Through this Law and other Tla'amin enactments, we are continuing to exercise our inherent right of self-determination. The Tla'amin Government will govern in an accessible, accountable and transparent manner;
- C. As we have always done, we continue to occupy our lands and carry out our Ta'ow (*teachings*) that require us to be stewards of our lands and resources today and always, and we are committed to the responsible, sustainable stewardship of lands, waters, air and other resources. In upholding our responsibilities, we will continue to seek the guidance of the Creator, our Ancestors and the knowledge of Tla'amin Elders as we protect and make decisions about managing our lands and resources;
- D. Our vision of self-government and of a healthy, self-sufficient Tla'amin Nation began long ago with our ancestors and our leadership of the past. Many of those who were involved in shaping and advancing our vision have passed on and we acknowledge their contributions and sacrifice. They put in place the foundation that we have built upon today. Those respected ones have cleared the path so that we, the Tla'amin Nation, could achieve our vision of "one heart, one mind, one Nation";
- E. It is on this basis that we accept the obligations and responsibilities inherent in governing and work to blend our traditional and modern-day governing approaches, including the development of conflict of interest laws;
- F. Through our written *Constitution* and this *Conflict of Interest Law*, we reinforce our Nation's objectives including Tla'amin unity, good faith engagement among ourselves and with our neighbours and maintaining enduring connections to our lands and resources;
- G. Further, we are committed to pursuing the economic, social and cultural wellbeing of our Nation with the aim of sustaining and improving the quality of life for present and future Tla'amin generations;
- H. It is our intention to accomplish this through upholding and enforcing good governance principles;
- I. We vow to keep our Ta'ow (*teachings*) and these principles in mind in all that we do as Tla'amin people. The Tla'amin Nation adopts this Law based on these values and principles;
- J. Under section 31 of the *Constitution*, the Tla'amin Government may exercise any right, power, privilege or authority, and may carry out any duty, function or obligation, of the

Tla'amin Nation or Tla'amin Government in accordance with Tla'amin law, the *Constitution* and the Final Agreement including making any law within the authority of the Tla'amin Government;

- K.** Under paragraph 1 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the right to self-government, and the authority to make laws, as set out in the Final Agreement;
- L.** Under paragraph 47 of Chapter 15 [*Governance*] of the Final Agreement, the Tla'amin Nation has the authority to make laws in relation to the administration, management and operation of Tla'amin Government; and
- M.** Under paragraph 3 of Chapter 15 [*Governance*] of the Final Agreement, the authority of the Tla'amin Nation to make laws in relation to a subject matter under the Final Agreement includes the authority to make laws and do other things as may be necessarily incidental to exercising its authority.

NOW THEREFORE the Legislative Assembly enacts as follows:

PART 1 - INTRODUCTORY PROVISIONS

Short title

1. This Law may be cited as the *Conflict of Interest Law*.

Purpose

2. The purpose of this Law is to govern conflicts of interest for the Tla'amin Nation and Tla'amin Entities.

Application

3. This Law applies to the Tla'amin Nation and Tla'amin Entities.

Definitions

4. In this Law,

“agent” means a person, who may or may not be an employee, who has been appointed to represent the Tla'amin Nation or a Tla'amin Entity in dealing with third parties;

“apparent conflict of interest” occurs when a reasonably well-informed individual would perceive that an individual's ability to exercise a power or perform a duty or function of their office or position would be affected by the individual's private interests;

“associates” means all persons with which the individual shares in at least 10% in the ownership of, or with whom they have partnered for, a piece of land, a business or a not-for-profit organization;

“Chair of the Finance Committee” means the individual appointed as the chair of the Finance Committee of the Tla'amin Nation under the *Administration and Finance Law*;

“conflict of interest” occurs when an individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that, in the exercise of the power or performance of the duty or function, there is an opportunity to benefit the individual's private interests;

“contractor” means a person who is not an employee of the Tla'amin Nation or a Tla'amin Entity, but who works for the Tla'amin Nation or Tla'amin Entity under a contract for services;

“dependent” refers to

- (a) an individual under the age of 18 years in respect of whom another individual or another individual's spouse is a parent or acting in a parental capacity,
- (b) an individual in respect of whom another individual or another individual's spouse is acting as guardian, and

- (c) an individual, other than an employee of another individual, who is financially dependent upon another individual or another individual's spouse;

"director" means an individual who is a member of the board of directors, commissioner, director or trustee of a Tla'amin Entity,

"employee" means a Tla'amin Nation employee or employee of a Tla'amin Entity;

"financial interests" means anything of monetary value including but not limited to salary, consulting fees, honoraria, equity interests (e.g. stocks, stock options or other ownership interests), interests in real or personal property, dividends, royalties, rent, capital gains, intellectual property, and forgiveness of debt;

"gift" means a personal benefit, including an amount of money if there is no obligation to repay it, and a service or property or the use of property or money that is provided without charge or at less than its commercial value, including entertainment, hospitality, travel, and items of property whether consumable or otherwise;

"household" means an individual's spouse, their dependents and any individual in respect of whom the individual is a dependent;

"immediate family" refers to an individual's children and step-children, parents, grandparents, grandchildren, and siblings, unless they are dependents of the individual or the individual is a dependent of that family member;

"officer" means

- (a) an "officer" as defined in the *Administration and Finance Law*, or
- (b) an individual holding a similar position with the Tla'amin Nation or a Tla'amin Entity;

"other interests" means the financial interests of a not for profit (e.g. society), charitable entity or corporation of which the individual is a director;

"private interests" means

- (a) the financial interests and other interests of an individual, their spouse or their dependents, and
- (b) the financial interests of
 - (i) the household of an individual's immediate family, and
 - (ii) an entity in which an individual or an individual in combination with any dependent or immediate family member has a controlling interest, but does not include any financial interest or other interest that is remote or insignificant in nature;

"spouse" includes a common law spouse; and

“Tla’amin Entity” means the Tla’amin Holdings Limited Partnership, Tla’amin Holdings Inc., Tla’amin Capital Assets Limited Partnership, Tla’amin Community Health Board Society, and all Tla’amin Business Enterprises scheduled to the *Economic Development Law* and any other entity designated by regulation.

Interpretation

5. (1) In addition to the terms defined in this Law, terms used in this Law may be defined in the *Interpretation Law*.
- (2) Only those defined terms that are capitalized in section 4 or in the *Interpretation Law* are presented capitalized in the text of this Law, and all other defined terms are presented in lower case.
- (3) References to “this Law” include any regulations made under this Law.

Severability

6. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

7. Nothing under this Law must be rendered void or invalid by
 - (a) an error or omission in a notice, form or other document given or authorized under this Law; or
 - (b) a failure of the Tla’amin Nation or a Tla’amin official to do something within the required time.

PART 2 - CONFLICT OF INTEREST

Conflict of interest

8. (1) Tla’amin officials, directors, employees, contractors and agents of the Tla’amin Nation or a Tla’amin Entity must avoid circumstances that could result in a conflict of interest or an apparent conflict of interest.
- (2) Tla’amin officials, directors, employees, contractors and agents of the Tla’amin Nation or a Tla’amin Entity must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who reasonably expects to receive some benefit or preferential treatment from them.
- (3) An individual’s private interests do not give rise to a conflict of interest if those interests
 - (a) are the same as those of a broad class of Tla’amin Citizens;

- (b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function; or
 - (c) relate to the honoraria and other benefits paid to Tla'amin officials or directors in their capacity as Tla'amin officials or directors, on the condition that such honoraria and benefits are reasonable and comparable to other organizations of similar size and circumstance.
- (4) Elected officials of the Tla'amin Nation must not serve as a director of a Tla'amin Entity.
- (5) The Legislative Assembly or Executive Council may appoint one or more elected officials as liaisons to the board of directors of a Tla'amin Entity, however a liaison
- (a) does not have the right to vote on board matters; and
 - (b) must not participate in discussions on matters that may impact the individual's private interests.
- (6) An individual, who is
- (a) a Tla'amin official or a contractor or agent of the Tla'amin Nation;
 - (b) a director, senior officer, employee, contractor or agent of a Tla'amin Entity; or
 - (c) the spouse or dependent of an individual described in paragraph (a) or (b),
- may not accept any gift that was given to them in connection with their position with the Tla'amin Nation or a Tla'amin Entity, except in accordance with the regulations made under this Law.

*[Added June 23, 2016]*¹

Disclosure

9. (1) Elected officials must annually disclose relevant information respecting their private interests that could result in a conflict of interest, or an apparent conflict of interest, in accordance with the process set out in the regulations.
- (2) Tla'amin officials, directors, employees, contractors and agents of the Tla'amin Nation or a Tla'amin Entity must disclose all real and potential conflicts of interest, including any conflicts of a potentially continuing nature, at the first available opportunity in accordance with the regulations.
- (3) Conflicts that are disclosed as being of a potentially continuing nature do not need to be repeatedly disclosed.

¹ Subsection (6) was added June 23, 2016.

- (4) A Tla'amin official, director, employee, contractor or agent of the Tla'amin Nation or a Tla'amin Entity will not be found to be in a conflict of interest if they, at the first available opportunity
 - (a) disclose the particulars of a real or apparent conflict of interest; and
 - (b) absent themselves from the discussion and from voting on the matter.

Elected official or director who is also an employee

- 10. (1) Subject to subsection (2), an individual who is an employee and an elected official or director of the Tla'amin Nation or a Tla'amin Entity must not participate in discussions or decisions at duly convened or special meetings that directly pertain to their position, department or entity.
- (2) The majority of other elected officials or directors at the meeting may request that the individual participate in the discussion of the matter in their role as an employee, without the authorities of an elected official or director, provided that the individual absents themselves from the decision on the matter.
- (3) An officer or employee of a Tla'amin Entity cannot be a director of the same Tla'amin Entity.

Obligation to report

- 11. (1) All Tla'amin officials must report instances where they believe that a Tla'amin official, contractor or agent of the Tla'amin Nation has a conflict of interest to the chief administrative officer or the Chair of the Finance Committee, as applicable, in accordance with the Complaints and Whistleblower Policy.
- (2) The chief administrative officer or the Chair of the Finance Committee, as the case may be, must protect the identity of individuals who report conflicts of interest from disclosure in accordance with the Complaints and Whistleblower Policy.

Employment

- 12. An elected official, with the approval of the other elected officials of the Tla'amin Nation, may be hired as an employee by the Tla'amin Nation or may be engaged as a consultant or advisor to them, provided that the other elected officials of the Tla'amin Nation are satisfied that
 - (a) the hiring or engagement was made in accordance Tla'amin laws and policies;
 - (b) a full and accurate job description relating to the employment in question has been published before such engagement and that an open and fair competition for the employment or contract has first been carried out;
 - (c) the salaries, benefits or fees payable are reasonable, having regard to the salaries, benefits or fees paid to other employees doing similar work and having similar qualifications or to individuals engaged by other governments and organizations in Canada of similar size and function; and

- (d) those individuals are at least as well qualified to satisfactorily perform the work required as are any of the other applicants for the position.

Contracts, contractors and agents

- 13. (1) A Tla'amin official may not directly or indirectly enter into a contract with the Tla'amin Nation during their term of office or for six months following the date on which their term has expired, unless
 - (a) the contract is awarded in accordance with the procurement policies of the Tla'amin Nation;
 - (b) the interest is disclosed; and
 - (c) the work to be performed under the contract is reasonably necessary to the Tla'amin Nation and the fees payable for performing the work stipulated in the contract are fair and reasonable in relation to the fees that would be paid to or charged by an independent person for the same work.
- (2) Contractors and agents must not attempt to obtain preferential treatment from the Tla'amin Nation or a Tla'amin Entity by threatening or offering gifts or benefits that a Tla'amin official, director, officer or employee is prohibited from accepting under Tla'amin laws and policies.

Quorum

- 14. An elected official or director who absents themselves from all or part of a meeting because of the requirements of this Law and its regulations must be counted as if they were present for the purpose of determining whether a quorum is present for that meeting.

PART 3 - REVIEW AND APPEAL PANEL

Review and Appeal Panel

- 15. The Review and Appeal Panel will determine whether a Tla'amin official has a conflict of interest or apparent conflict of interest if the matter is referred to the Review and Appeal Panel in accordance with the regulations. *[Amended April 25, 2016]*²

Authority

- 16. (1) On receiving a request, the Review and Appeal Panel may make any inquiries that they consider appropriate, and shall make a determination as to whether a Tla'amin

² The section enacted on April 5, 2016, originally read:
15. The Review and Appeal Panel will determine whether a Tla'amin official **or director** has a conflict of interest **when** the matter is referred to the Review and Appeal Panel in accordance with the regulations.
Amended May 27, 2020, to:
15. The Review and Appeal Panel will determine whether a Tla'amin official has a conflict of interest **or apparent conflict of interest** if the matter is referred to the Review and Appeal Panel in accordance with the regulations.

official has a conflict of interest or an apparent conflict of interest. *[Amended April 25, 2016]*³

- (2) The Review and Appeal Panel shall provide their determination to the Legislative Assembly in writing.
- (3) Determinations by the Review and Appeal Panel are final.

PART 4 - CONFIDENTIAL INFORMATION

Responsibilities of Tla'amin officials, directors, contractors and agents

17. Tla'amin officials, directors, employees, contractors and agents of the Tla'amin Nation or a Tla'amin Entity must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit their private interests or those of their associates.

PART 5 - MISCELLANEOUS

Outside employment, contracts and business interests

18. (1) An officer or employee of the Tla'amin Nation or Tla'amin Entity must ensure that any permitted outside employment, contracts or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that any activities related to their outside employment, contract or business interests are conducted on their own time and with their own resources.
- (2) Tla'amin officials, directors, employees, contractors and agents must not take advantage of a business or investment opportunity being considered by the Tla'amin Nation or a Tla'amin Entity that the individual becomes aware of while performing their duties or services for the Tla'amin Nation or a Tla'amin Entity unless the Tla'amin Nation or a Tla'amin Entity has determined not to pursue the opportunity.

Tla'amin Nation and Tla'amin Entity property and services

19. (1) Tla'amin officials, directors, and employees of the Tla'amin Nation or a Tla'amin Entity must not use any personal property or services of the Tla'amin Nation or a Tla'amin Entity for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or directions of the Tla'amin Nation or a Tla'amin Entity.

³ The subsection enacted on April 5, 2016, originally read:
(1) On receiving a request, the Review and Appeal Panel may make any inquiries that they consider appropriate, and shall make a determination as to whether a Tla'amin official has a conflict of interest.
Amended May 27, 2020, to:
(1) On receiving a request, the Review and Appeal Panel may make any inquiries that they consider appropriate, and shall make a determination as to whether a Tla'amin official has a conflict of interest **or an apparent conflict of interest.**

- (2) Tla'amin officials, directors, employees, contractors and agents of the Tla'amin Nation or a Tla'amin Entity must not acquire any personal property of the Tla'amin Nation or a Tla'amin Entity unless it is done in accordance with the policies or directions of the Tla'amin Nation or a Tla'amin Entity.

Regulations

- 20.** (1) The Executive Council must establish regulations or policies consistent with this Law that identify responsibilities and procedures for enforcing this Law within the Tla'amin Nation and Tla'amin Entities.
- (2) The Executive Council may make regulations
- (a) considered necessary, advisable, and ancillary to this Law and not inconsistent with it; and
 - (b) to provide for administrative and procedural matters for which no express, or only partial, provision has been made.
- (3) Without limiting the generality of subsection (2), the Executive Council may make regulations as follows:
- (a) to define a word or expression used but not defined in this Law;
 - (b) to specify the content and form of declarations, forms or affidavits required by this Law;
 - (c) to designate an entity as a Tla'amin Entity for the purposes of this Law; and
 - (d) to designate a Tla'amin Entity as exempt from all or part of this Law.

Coming into force

- 21.** (1) This Law comes into force on the date it is enacted by the Legislative Assembly.
- (2) For greater certainty, this Law is in effect as of April 5th, 2016 and the corrections dated June 23rd, 2016 apply as of April 5th, 2016. *[Added June 23, 2016]*⁴

THIS LAW IS HEREBY DULY ENACTED by the Legislative Assembly on the 5th day of April, 2016 and **IS HEREBY DULY AMENDED WITH CORRECTIONS** on the 23rd day of June, 2016 on Tla'amin Lands, in the Province of British Columbia.

⁴ Subsection (2) was added June 23, 2016.

LEGISLATIVE HISTORY

(Note: The Legislative History is for administrative purposes only and is not part of the Law.)

Conflict of Interest Law [TNL 08/2016] enacted April 5, 2016.

Amendments and Corrections

Table of Legislative Changes

Name of Law or Order	Law or Order Number	Date Amended or Corrected	Section(s) Amended
Order correcting the <i>Conflict of Interest Law</i>	TNO- LA 42/2016	June 23, 2016 (corrections in effect April 5, 2016)	Clerical corrections to sections 8(6) and 21
Order passing <i>A Law to Amend the Review and Appeal Law and the Conflict of Interest Law</i>	TNO-LA 10/2020	May 27, 2020	Deletion of reference to “or director” (section 15); adding “or an apparent conflict of interest” (sections 15 and 16); and minor amendment (section 15).

Regulations enacted under this Law:

Tla’amin Nation Conflict of Interest Regulation [TNReg 12/2016]

Tla’amin Entities Conflict of Interest Regulation [TNReg 13/2016]