



Culture and Heritage Law

TNL 20/2016

Enacted on April 5, 2016

Amended April 25, 2016

Hegus Clint Williams

Deposited in the Tla'amin Registry

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Signature of Law Clerk

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CULTURE AND HERITAGE LAW

PREAMBLE

WHEREAS:

- A. Since the beginning of time, Tla'amin people have lived on the lands that the Creator provided for our ancestors and all future generations of Tla'amin people.
- B. Our ancestors lived by a traditional system of governance grounded in our *Ta'ow* (teachings) and *Ee ah ju thum* (language), which were our unwritten constitution that influenced all forms of environmental stewardship matters, social and political relations. It is this system that has sustained our way of life and *Tums gijeh* (lands) and resources.
- C. 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 since 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". 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 governance laws.
- D. Tla'amin *Ta'ow* 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;
- E. Part 2 of the Constitution of the Tla'amin Nation sets rights and responsibilities of Tla'amin Citizens including those relating to culture; and
- F. Under Chapter 14, s. 4 of the Tla'amin *Final Agreement*, the Tla'amin Nation has the authority to make laws with respect to Tla'amin culture and heritage, including:
 - (a) the preservation, promotion and development of Tla'amin culture and Tla'amin language;
 - (b) the establishment, conservation, protection and management of Cultural Heritage Sites on Tla'amin Lands, including public access to those sites; and
 - (c) cremation or interment of Archaeological or Ancestral Human Remains found on Tla'amin Lands or returned to the Tla'amin Nation;

NOW THEREFORE the Tla'amin Legislative Assembly enacts as follows.

CULTURE AND HERITAGE LAW

PART 1 - APPLICATION, DEFINITIONS AND INTERPRETATION

Citation

1. This Law may be cited as the *Culture and Heritage Law*.

Definitions

2. In this Law:

"Ancestral or Archaeological or Ancestral Human Remains" means human remains, of aboriginal ancestry, that are found within the Tla'amin Area and determined not to be the subject of investigation by the police or a coroner;

"Cultural Heritage Site" means a site of archaeological, historical or cultural significance on or under Tla'amin Lands and includes graves and burial sites;

"Director" means the Director of Lands and Resources or any other Director authorized by the Executive Council by Resolution to carry out the roles and responsibilities of the Director under this Law;

"Heritage Object" means, whether designated or not, personal property that was on or under or is on or under Tla'amin Lands, and that has heritage value to the Tla'amin Nation, British Columbia, a community or an aboriginal people, and includes a Tla'amin Artifact but excludes objects that have been legitimately acquired;

"Lands Manager" means the employee designated by Executive Council as the Lands Manager; and

"Tla'amin Artifact" means any object created by, traded to, commissioned by, or given as a gift to a Tla'amin Individual or that originated from the Tla'amin community, past or present, and that has past and ongoing importance to the culture or spiritual practices of Tla'amin Nation, but does not include any object that has been traded to, commissioned by, or given as a gift to another aboriginal individual or community.

Use of and reference to defined terms

3. (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 2 of this Law or in the Interpretation Law are presented capitalized in the text of the Law, and all other defined terms are presented in lower case.

Severability

4. 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.

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Validity

5. Nothing under this Law must be rendered void or invalid by
- (a) an error or omission in a notice, form, permit 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- RIGHTS AND ADMINISTRATION

Cultural rights and responsibilities

6. Tla'amin Citizens have the cultural rights and responsibilities set out in the *Tla'amin Constitution* subject to the *Tla'amin Constitution*, the *Tla'amin Final Agreement*, and Tla'amin Laws.

Government to promote Tla'amin culture

7. (1) Executive Council shall seek ways to preserve, promote, encourage and develop Tla'amin culture and language.
- (2) Executive Council shall seek ways to work with other governments and organizations to educate and raise awareness in the general public and in other governments and organizations regarding promoting, preserving and protecting Tla'amin culture, language, Cultural Heritage Sites and heritage objects.

Culture and Heritage Committee

8. (1) The Tla'amin Culture and Heritage Committee is established.
- (2) The Executive Council shall appoint:
- (a) an Executive Council or Legislative Assembly member and the Director of Lands and Resources or another appropriate staff members as *ex officio*; [Amended April 25, 2016] ¹
 - (b) at least three individuals who are Tla'amin Citizens, one of whom is an Elder;
 - (c) individuals who are knowledgeable about Tla'amin culture, language and heritage; and [Amended April 25, 2016] ²

¹ The clause enacted on April 5, 2016, originally read:
(a) an Executive Council or Legislative Assembly member and the Director of Lands or another appropriate staff members as *ex officio*
Amended April 25, 2016, to:

(a) an Executive Council or Legislative Assembly member and the Director of Lands **and Resources** or another appropriate staff members as *ex officio*;

² The clause enacted on April 5, 2016, originally read:

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(d) individuals who preferably speak the Tla'amin language or have some familiarity with it. *[Amended April 25, 2016]*³

(3) The Executive Council will specify terms of appointments for any Tla'amin Culture and Heritage Committee members.

(4) Until the Executive Council appoints members to the Tla'amin Culture and Heritage Committee under subsection (2), the members of the culture committee who were in place prior to Effective Date will carry out the roles of the Tla'amin Culture and Heritage Committee under this Law. *[Amended April 25, 2016]*⁴

(5) The Tla'amin Culture and Heritage Committee shall:

(a) advise the Director and the Executive Council on matters relating to Tla'amin culture, language and heritage; and

(b) carry out other roles as reasonably requested by the Director or Executive Council.

(6) The Executive Council may authorize payments of honoraria or reimbursement of expenses to members of the Tla'amin Culture and Heritage Committee in accordance with Tla'amin law and policy.

PART 3 - CULTURAL HERITAGE SITES

Cultural Heritage Sites, Objects and Designations

9. (1) Executive Council may,

(a) designate land or an area of land or an interest in land as a Tla'amin Cultural Heritage Site, or

(c) are knowledgeable about Tla'amin culture, language and heritage; and
Amended April 25, 2016, to:

(c) **individuals who** are knowledgeable about Tla'amin culture, language and heritage; and

³ The clause enacted on April 5, 2016, originally read:

(d) preferably speak the Tla'amin language or have some familiarity with it.

Amended April 25, 2016, to:

(d) **individuals who** preferably speak the Tla'amin language or have some familiarity with it.

⁴ The subsection enacted on April 5, 2016, originally read:

(4) Until the Executive Council appoints members to the Tla'amin Culture and **Heritage** Committee under subsection (2), the members of the culture committee who were in place prior to Effective Date will carry out the roles of the Tla'amin Culture and Heritage Committee under this Law.

Amended April 25, 2016, to:

(4) Until the Executive Council appoints members to the Tla'amin Culture and **Heritage** Committee under subsection (2), the members of the culture committee who were in place prior to Effective Date will carry out the roles of the Tla'amin Culture and Heritage Committee under this Law.

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- (b) designate an object as a Heritage Object.
- (2) A designation made under this section may do one or more of the following:
 - (a) apply to a single property or interest in land or to part of a property or interest in land;
 - (b) apply to more than one property or interests in land including properties or interests owned or held by different persons;
 - (c) establish policies or procedures regarding the provision of financial or other support for the conservation of a Cultural Heritage Site or Heritage Object;
 - (d) specify types of alterations to the property which may be made without a permit under this Law; and
 - (e) specify policies or procedures concerning the issuing of permits under this Law with respect to a property.

Designation procedure

10. (1) Before a designation is made under section 9, the Executive Council must consult with the Tla'amin Culture and Heritage Committee and ensure that notice is served of the proposed designation on the following Persons: *[Amended April 25, 2016]*⁵
- (a) in the case of land,
 - (i) all Persons who, according to the records of the land title office, have a registered interest in the land to be designated; and
 - (ii) any other prescribed Person;
 - (b) in the case of objects,
 - (i) the Person who has possession of the object;
 - (ii) all parties who, according to the records of the personal property registry established under the *Personal Property Security Act*, have a registered interest in the object; and
 - (iii) any other Person or party who, in the opinion of the Executive Council, is or may be the owner of the object or has or may have a proprietary interest in the object; and

⁵ The subsection enacted on April 5, 2016, originally read:
(1) Before a designation is made under section 9, the Executive Council must consult with the Tla'amin **Cultural** Committee and ensure that notice is served of the proposed designation on the following Persons:

Amended April 25, 2016, to:

(1) Before a designation is made under section 9, the Executive Council must consult with the Tla'amin **Culture and Heritage** Committee and ensure that notice is served of the proposed designation on the following Persons:

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- (iv) any other prescribed Person.
- (2) A Person or party served with notice under this section may serve the Executive Council with a notice of objection to the proposed designation within 30 days after receiving the notice of the proposed designation.
- (3) On receiving a notice of objection, the Executive Council must review the objection and may then amend or cancel the proposed designation as the Executive Council considers appropriate.
- (4) Before a designation is made, the Executive Council must consider any notice of objection to the proposed designation, the results of any review of the notice or notices of objection and the terms and conditions of any amendment to the proposed designation.
- (5) Within 30 days after:
 - (a) the Executive Council cancels a proposed designation,
 - (b) the Lieutenant Governor in Council makes a designation, or
 - (c) the Lieutenant Governor in Council decides not to make a designation,the Executive Council must serve notice on the Persons entitled to notice under subsection (1) that a designation has or has not been made.
- (6) Within 30 days after a designation is made, the Executive Council must register a description of the designated property in the Tla'amin Lands Registry; and,
 - (a) in the case of land, file a notice of the designation in the land title office, or
 - (b) if possible, in the case of personal property, file a notice of the designation in the personal property registry under the *Miscellaneous Registrations Act, 1992* (British Columbia).

Permits

- 11. (1)** The Director or another person authorized by the Executive Council by Resolution may: *[Amended April 25, 2016]*⁶
- (a) issue a permit authorizing an action referred to in subsections 12(1) or 12(2); or
 - (b) refuse to issue a permit for an action that, in the opinion of the Executive Council, would be inconsistent with the purpose of the heritage protection of the property.

⁶ The subsection enacted on April 5, 2016, originally read:
(1) The Director **of** another person authorized by the Executive Council by Resolution may:
Amended April 25, 2016, to:
(1) The Director **or** another person authorized by the Executive Council by Resolution may:

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(2) A permit issued under this section may include requirements, specifications and conditions that the Director considers appropriate and, without limiting the generality of this, the permit may: *[Amended April 25, 2016]*⁷

- (a) be limited to a specified period of time or to a specified location;
- (b) require the holder of the permit to consult with or obtain the consent of one or more parties whose heritage the property represents or may represent;
- (c) require the holder of the permit to provide the Executive Council with reports satisfactory to the Executive Council;
- (d) specify a repository for Heritage Objects that are removed from the heritage property; and
- (e) provide authority for the transport or storage of Ancestral or Archaeological or Ancestral Human Remains or Heritage Objects.

(3) Despite any other enactment, a permit issued under this section may specify the siting, dimensions, form, exterior design and finish of new construction or renovations to a building or structure.

(4) The Executive Council may, with the concurrence of the holder of the permit, amend, suspend or cancel a permit issued under this section.

(5) The Executive Council may, by order, without the concurrence of the holder of the permit:

- (a) amend or suspend a permit issued under this section if the Executive Council has information that was not considered when the permit was issued respecting the heritage value of heritage property that would be materially affected by an action authorized by the permit, or
- (b) cancel a permit issued under this section if the Executive Council has reasonable and probable grounds to believe that: *[Amended April 25, 2016]*⁸

⁷ The subsection enacted on April 5, 2016, originally read:

(2) A permit issued under this section **11** may include requirements, specifications and conditions that the Director considers appropriate and, without limiting the generality of this, the permit may:

Amended April 25, 2016, to:

(2) A permit issued under this section may include requirements, specifications and conditions that the Director considers appropriate and, without limiting the generality of this, the permit may:

⁸ The clause enacted on April 5, 2016, originally read:

(b) cancel a permit issued under section if the Executive Council has reasonable and probable grounds to believe that:

Amended April 25, 2016, to:

(b) cancel a permit issued under **this** section if the Executive Council has reasonable and probable grounds to believe that:

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- (i) the application for the permit included information that was false or misleading with respect to a material fact, or that omitted to state a material fact the omission of which makes information in the application false or misleading;
 - (ii) the holder has contravened or is in default of a requirement or condition of the permit, whether or not the holder is charged with an offence under this Law, or
 - (iii) the holder has contravened a provision of this Law or another Tla'amin Law, whether or not the holder is charged with an offence.
- (6) A permit does not authorize the holder of the permit to enter property, or to make any alteration to property, without the permission of the owner or occupier.

Heritage protection

12. (1) Except as authorized by a permit issued under section 11, a Person must not remove, or attempt to remove, from Tla'amin Lands a Heritage Object that is protected under this Law or which has been removed from a site protected under this Law.

(2) Except as authorized by a permit issued under section 11, or an order issued under section 9(5), a Person must not do any of the following:

- (a) damage, desecrate or alter a Cultural Heritage Site or a Heritage Object or remove from a Cultural Heritage Site or Provincial Heritage Object any Heritage Object or material that constitutes part of the site or object;
- (b) damage, desecrate or alter a burial place that has historical, cultural or archaeological value or remove human remains or any Heritage Object from a burial place that has historical, cultural or archaeological value;
- (c) damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving that has historical, cultural or archaeological value;
- (d) damage, excavate, dig in or alter, or remove any Heritage Object from, a site that contains artifacts, features, materials or other physical evidence of historical human habitation;
- (e) damage or alter a heritage wreck or remove any Heritage Object from a heritage wreck;
- (f) damage, excavate, dig in or alter, or remove any Heritage Object from, an archaeological site not otherwise protected under this section for which identification standards have been established by regulation;
- (g) damage, excavate, dig in or alter, or remove any Heritage Object from, a site that contains artifacts, features, materials or other physical evidence of unknown origin if the site may be protected under paragraphs (b) to (f);
- (h) damage, desecrate or alter a site or object that is designated by regulation;

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- (i) damage, excavate or alter, or remove any Heritage Object from, a property that is subject to an order under section 11(5); or
- (j) damage, alter or remove a notice, sign, plaque or marker posted or erected under this Law.

(3) The Executive Council may make regulations respecting the following:

- (a) defining the extent of types of sites protected under this Law;
- (b) identifying types of features, material or evidence for which the requirements of subsections 12(2)(d) and (g) do not apply, and these may be different for different types of sites;
- (c) establishing identification standards for archaeological sites to be protected under subsection 12(2)(f); and
- (d) identifying actions that shall be deemed to derogate from the heritage value of a site or object, or class of sites or objects, protected under subsection (2).

Heritage inspection and heritage investigation

13. (1) A Person must not excavate or otherwise alter land for the purpose of archaeological research or searching for artifacts of aboriginal origin except under a permit or order issued under this section.

(2) The Executive Council may, by permit, authorize a heritage inspection or heritage investigation of any property.

(3) A permit issued under subsection (2) does not authorize entry onto land or into a building without the permission of the owner or occupier.

(4) The Executive Council may order that a heritage inspection or heritage investigation be conducted if the Executive Council considers that any one or more of the following apply:

- (a) land may contain a Cultural Heritage Site or Heritage Object protected under subsection 12(2);
- (b) land that may have heritage value, or that may include a Cultural Heritage Site or Heritage Object, may be subject to subdivision;
- (c) the property may be subject to alienation from government ownership;
- (d) property that may have heritage value, or land that may include heritage property, may be subject to alteration by natural or human causes;
- (e) an object that may have heritage value may be subject to removal from Tla'amin Lands.

(5) The provisions of 12(2) apply to permits and orders under this section unless expressly exempted by written wording in the permit or order.

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- (6) A heritage inspection or heritage investigation ordered under subsection (4):
- (a) must state the purpose of the heritage inspection or heritage investigation;
 - (b) must specify how long the order is to remain in effect,
 - (c) must require that the heritage inspection or heritage investigation be carried out in an expeditious manner;
 - (d) may provide that property covered by the order is subject to protection under section 12(2) while the order remains in effect;
 - (e) may require the owner to undertake actions to preserve the integrity and condition of property covered by the order while the order remains in effect; and
 - (f) may include any terms, conditions or specifications that the Executive Council considers appropriate for the purpose of the heritage investigation.
- (7) If an order for a heritage inspection or heritage investigation made under subsection (4) relates to:
- (a) alienation of Tla'amin Nation property;
 - (b) a public work authorized to be undertaken under a Law;
 - (c) the extraction or harvesting of resources from land;
 - (d) the subdivision of land; or
 - (e) changes in use or development of land;

the Executive Council may require the person purchasing, subdividing, developing or using the property to undertake or pay for the heritage inspection or heritage investigation.

- (8) A person must not interfere with a heritage inspection or heritage investigation ordered under subsection (4).
- (9) A Person whose property is damaged during the course of a heritage inspection or heritage investigation ordered under subsection (4) is entitled to have the damage repaired at the expense of the holder of the permit or, if the damage cannot be repaired, to compensation from the holder of the permit.

Entry authority for heritage inspection and heritage investigation orders

- 14.** (1) An order made under section 13 authorizes the Person or Persons conducting the heritage inspection or heritage investigation to enter land identified in the order at any reasonable time for the purposes of the heritage inspection or heritage investigation.
- (2) Before entering or when entering land under subsection (1), the Person conducting the heritage inspection or heritage investigation must make a reasonable attempt to notify the owner or occupier of the land and, if requested, present proof of his or her authorization.

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(3) Except as provided in subsection (4), nothing in this section or in an order made under section 13 authorizes entry into a building without the permission of the owner or occupier.

(4) A justice may issue a warrant authorizing a Person to enter land or a building to conduct a heritage inspection or heritage investigation ordered under section 13 if the justice is satisfied that:

- (a) there are reasonable grounds to believe that entry is required to achieve the purposes of the order; and
- (b) there are reasonable grounds to believe that:
 - (i) an emergency exists;
 - (ii) the Person conducting the heritage inspection or heritage investigation has been unable to notify the owner or occupier after making a reasonable attempt to do so;
 - (iii) the admission has been refused or refusal is anticipated; or
 - (iv) the notification may defeat the object of the entry.

(5) A warrant issued under subsection (4) continues in force until the purpose for which the entry is required has been satisfied.

(6) If a heritage inspection or heritage investigation conducted under the authority of a warrant under subsection (4) requires entry into a building, the person conducting the heritage inspection or heritage investigation must be accompanied by a peace officer.

(7) On completion of a heritage inspection or heritage investigation ordered under section 13, if the owner of land was not notified under subsection (2), the Person undertaking the heritage inspection or heritage investigation must mail a notice informing the owner that a heritage inspection or heritage investigation has been conducted.

Information to the Provincial Minister

15. The Executive Council shall ensure that the provincial Minister responsible for the *Heritage Conservation Act* (British Columbia) and the provincial Archaeology Branch are provided with information relating to:

- (a) the location of Cultural Heritage Sites on Tla'amin Lands; and
- (b) any materials recovered from Cultural Heritage Sites on Tla'amin Lands.

PART 4 - ANCESTRAL REMAINS AND BURIAL OBJECTS

Ancestral remains and burial objects

16. (1) Tla'amin Nation holds as a sacred and irrevocable trust the Archeological Human Remains of Tla'amin ancestors and burial objects associated with such remains.

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(2) If Tla'amin Archeological Human Remains are discovered outside Tla'amin Lands, Executive Council must seek to negotiate or designate a representative to negotiate their ownership and return, or their care, custody or control and the respect to be accorded to them.

Ancestral remains and burial objects on Tla'amin Lands

17. (1) Ancestral remains and burial objects located on Tla'amin Lands:

(a) are the responsibility of the Tla'amin Nation and are under the trusteeship of the Tla'amin for all Tla'amin past, present and future members; and

(b) shall be treated respectfully in accordance with Tla'amin *Ta'ow* and this Law.

(2) A Person may not remove, relocate, modify, alter, destroy or otherwise interfere with burial objects and ancestral remains located on Tla'amin Lands without first obtaining a permit from the Executive Council setting out terms and conditions.

(3) Executive Council will ensure that Tla'amin coordinates with the Tla'amin Culture and Heritage Committee, the Klahoose First Nation, Holmalco First Nation, K'omoks First Nation, Sechelt First Nation and any other appropriate First Nations to manage, protect and respectfully deal with any Ancestral or Archaeological Remains and any Heritage Objects on Tla'amin Lands for which there is good reason to believe they may be associated with one or more of these First Nations. *[Amended April 25, 2016]*⁹

(4) If Tla'amin burial objects are located outside Tla'amin Lands, the Director or Lands Manager must

(a) assess their significance or importance, and

(b) make a written report to Executive Council on their location, their significance and related matters.

(5) If, after considering a report by the Lands Manager, and consulting with the Tla'amin Culture and Heritage Committee, the Executive Council concludes that the burial objects are of significance or importance to Tla'amin Nation it may authorize a person to seek to

⁹ The subsection enacted on April 5, 2016, originally read:

(3) Executive Council will ensure that Tla'amin coordinates with the Tla'amin **Cultural** Committee, the Klahoose First Nation, Holmalco First Nation, K'omoks First Nation, Sechelt First Nation and any other appropriate First Nations to manage, protect and respectfully deal with any Ancestral or Archaeological Remains and any Heritage Objects on Tla'amin Lands for which there is good reason to believe they may be associated with one or more of these First Nations.

Amended April 25, 2016, to:

(3) Executive Council will ensure that Tla'amin coordinates with the Tla'amin **Culture and Heritage** Committee, the Klahoose First Nation, Holmalco First Nation, K'omoks First Nation, Sechelt First Nation and any other appropriate First Nations to manage, protect and respectfully deal with any Ancestral or Archaeological Remains and any Heritage Objects on Tla'amin Lands for which there is good reason to believe they may be associated with one or more of these First Nations.

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negotiate the ownership and return of the burial objects or their care, custody or control and the respect to be accorded to them. *[Amended April 25, 2016]*¹⁰

PART 5 - TLA'AMIN ARTIFACTS AND PLACE NAMES

Ownership of Tla'amin Artifacts

18. (1) Every Heritage Object discovered on, in or under Tla'amin Lands, is owned by the Tla'amin Nation, unless ownership is proved to be vested in another Person under subsection (2).

(2) Ownership of a Heritage Object may be proved by another Person if that other Person:

(a) created it or commissioned it; or

(b) if the Heritage Object was originally legitimately acquired and passed on to that other person by gift, trade, purchase, by will or other devolution.

(3) Disputes about the ownership of a Heritage Object that cannot be resolved by agreement must be resolved by dispute resolution or court.

Tla'amin Artifacts off of Tla'amin Lands

19. Executive Council or a person designated by Executive Council must make best efforts to negotiate an agreement about the ownership, return of, care, custody, control or exhibition of, and respect to be accorded to, Tla'amin Artifacts held by:

(a) the Royal British Columbia Museum,

(b) the government of British Columbia or the government of Canada or any agency of either government,

(c) any Person or organization inside or outside Canada, and

(d) any museum or entity inside or outside Canada.

Tla'amin Place Names

¹⁰ The subsection enacted on April 5, 2016, originally read:

(5) If, after considering a report by the Lands Manager, and consulting with the Tla'amin **Cultural** Committee, the Executive Council concludes that the burial objects are of significance or importance to Tla'amin Nation it may authorize a person to seek to negotiate the ownership and return of the burial objects or their care, custody or control and the respect to be accorded to them.

Amended April 25, 2016, to:

(5) If, after considering a report by the Lands Manager, and consulting with the Tla'amin **Culture and Heritage** Committee, the Executive Council concludes that the burial objects are of significance or importance to Tla'amin Nation it may authorize a person to seek to negotiate the ownership and return of the burial objects or their care, custody or control and the respect to be accorded to them.

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20. Executive Council may establish and maintain:

- (a) a list of Tla'amin place names for places, features, items or things within the Tla'amin Area; and
- (b) a description of the traditional, permitted and prohibited uses at locations or in respect of features, items or things in the Tla'amin Area.

PART 6 - LEGAL, OFFENSES AND ENFORCEMENT

Standing to represent Tla'amin Nation

21. Executive Council may exercise a right to commence an action, intervene in an action, or exercise a right of standing, representation or appearance provided by or under a Tla'amin Law or an enactment of British Columbia, Canada, or other jurisdiction inside or outside Canada with respect to the ownership, possession, custody, control or devolution of Heritage Objects or the property or asserted cultural property of a Tla'amin Member or of Tla'amin.

Service of documents

22. (1) Where this Law requires service of a document on a person, other than service in relation to a court application, the document is sufficiently served on a person if

- (a) it is served personally on the person,
- (b) it is sent by registered mail, or a method of delivery that provides proof of delivery, to the person's actual or last known address, or
- (c) in the circumstances described in subsection (2), it is published in accordance with that subsection.

(2) If a document cannot be served personally on a person and the person's actual or last known address cannot be determined after reasonable steps for the purpose have been taken, the document may be served by publishing a notice in the prescribed form in 2 issues, at least one week apart, of a newspaper having general circulation

- (a) in the area where the person to be served was last known to reside or carry on business according to the information available to the person serving the document, or
- (b) in the area in which the land is situated if the document relates to land in which the person to be served holds an interest.

(3) A document served under subsection (1)(b) is deemed to be received on the earlier of

- (a) the date the person to whom it is sent actually receives the document, and
- (b) the expiry of 10 days after the date on which the document was sent.

Temporary protection and stop-work orders

23. (1) If the Director considers that a confirmed or potential Cultural Heritage Site or Heritage Object has been altered, damaged, desecrated or removed or is potentially at risk for any reason, the Director may issue or may authorize a Tla'amin representative to issue, to a Person or class of Persons, a stop-work or cease and desist order that prohibits any removal or alteration for a period of up to 120 days, subject to any requirements and conditions the Director considers appropriate.

(2) An order under subsection (1) may be extended by the Executive Council for such period as Executive Council considers necessary to protect Cultural Heritage Sites or Heritage Objects.

Civil remedies respecting contraventions

24. (1) In addition to any orders issued under section 23(1) and any other remedies under this Law:

- (a) Any authorized Tla'amin representative may apply to court for an injunction restraining a person from committing, or continuing to commit, a contravention of this Law or the regulations.
- (b) Any authorized Tla'amin representative may apply to court for a restoration or compliance order if a person
 - (i) fails to comply with or contravenes the requirements or conditions of a permit issued under this Law,
 - (ii) fails to comply with or contravenes an order made under this Law,
 - (iii) removes property, or attempts to remove property, from Tla'amin Lands in contravention of sections 12 and 17, or a regulation or permit under this Law,
 - (iv) moves, removes, damages, desecrates, alters, excavates or digs in property, or removes objects from property in contravention of section 12(2), or
 - (v) contravenes a regulation made under this Law.

(2) An order of the court in respect of an application under subsection (1) may include one or more of the following:

- (a) a requirement that the person restore the property to which the matter relates to its condition before the contravention on terms and conditions the court specifies;
- (b) a requirement that the person undertake, as the court considers appropriate, compensatory conservation work on the property that was affected or on other heritage property, or that conservation work be performed by others at the expense of that person;
- (c) an authorization that the minister may undertake conservation work at the expense of the person; and

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(d) any other requirements the court considers advisable.

(3) This section applies whether or not a person is charged with an offence under this Law.
*[Amended April 25, 2016]*¹¹

No Compensation; Indemnity

25. (1) Except as provided in section 13(9), no compensation is payable to a person for any loss or damage, or for any reduction in the value of property, that results from the operation of this Law, the performance in good faith of any duty under this Law or the exercise in good faith of any power under this Law.

(2) An action for damages must not be brought against the Executive Council, any employee of the Tla'amin Nation or a Tla'amin Institution, a member of a committee established in relation to this Law, or a person who is subject to the direction of the Executive Council or a Director, because of anything done or omitted to be done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of a power under this Law or the regulations.

(3) Subsection (2) does not absolve the government from vicarious liability for an act or omission of a person referred to in that subsection for which act or omission the government would be vicariously liable if the subsection were not in force.

Offences and Enforcement

26. (1) A person who does any of the following commits an offence:

- (a) contravenes section 12(2), 13(1), 13(8), or 17(2); *[Amended April 25, 2016]*¹²
- (b) fails to comply with or contravenes a requirement or condition of an order or permit under section 11(1), 13(2), 13(4), or 23(1); or
- (c) contravenes a regulation made under section 27.

(2) A person convicted of an offence under subsection (1) is liable,

- (a) if the person is an individual, to a fine of not more than \$50 000 or to imprisonment for a term of not more than 2 years or to both, or
- (b) if the person is a corporation, to a fine of not more than \$1,000,000.

¹¹ The subsection enacted on April 5, 2016, originally read:
(3) This section applies whether or not a person is charged with an offence under this **Act**.

Amended April 25, 2016, to:

(3) This section applies whether or not a person is charged with an offence under this **Law**.

¹² The clause enacted on April 5, 2016, originally read:

(a) contravenes section 12(2), 13(1), **or** 13(8), or 17(2);

Amended April 25, 2016, to:

(a) contravenes section 12(2), 13(1), 13(8), or 17(2);

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(3) If a corporation commits an offence under this Law, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the penalty set out in subsection (2).

(4) The time limit for laying an information respecting an offence under this Law or the regulations is six years after the facts on which the information is based first came to the knowledge of

(a) a Director;

(b) a police officer, police constable, peace officer, constable, enforcement officer or other person employed for the preservation and maintenance of the public peace, or

(c) an official designated in writing by the Executive Council.

(5) A document purporting to have been issued by an individual identified or designated under subsection (4) certifying the day on which he or she became aware of the facts on which an information is based, is admissible without proof of the signature of the official appearing to have signed the document, and in the absence of evidence to the contrary, is proof of the matter certified.

PART 7 -- REGULATIONS

Regulations

27. The Executive Council may make regulations which it considers necessary or advisable for the purposes of this Law, including, but not limited to:

(a) for any purpose in relation to which regulations are provided for in this Law;

(b) to prescribe any matter or thing referred to in this Law as prescribed or to be prescribed; and

(c) for any related matter.

28. Without limiting the generality of section 27, Executive Council may make regulations respecting:

(a) the preservation, promotion and development of

(i) the culture of Tla'amin Nation, including its history, laws, ceremonies, symbols, songs, dances, storytelling, and traditional naming practices, and

(ii) the Tla'amin language,

(b) the conservation and protection of, and access to, heritage resources on Tla'amin Lands including Cultural Heritage Sites, Heritage Objects, archeological sites, traditional use sites, culturally modified trees, trails and routes, burial or other funeral sites, structural features and cultural landscapes,

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- (c) archaeological sites on Tla'amin Lands and archaeological material discovered on Tla'amin Lands,
- (d) Tla'amin Artifacts owned by Tla'amin Nation,
- (e) Archaeological or Ancestral Human Remains found on Tla'amin Lands and any Archaeological or Ancestral Human Remains that come into the possession of Tla'amin Nation from Canada, British Columbia or otherwise,
- (f) the devolution of cultural property of a Tla'amin Citizen who dies without a valid will, *[Amended April 25, 2016]*¹³
- (g) specifying sites on Tla'amin Lands which a Tla'amin Individual may access for cultural purposes and activities, including gathering, *[Amended April 25, 2016]*¹⁴
- (h) setting out procedures for designating Tla'amin Individuals' access to specified sites on Tla'amin Lands for cultural purposes and activities, including gathering, *[Amended April 25, 2016]*¹⁵
- (i) specifying fines and penalties;
- (j) setting out application procedures, fees, content requirements, general conditions, criteria and any other matter relating to permits; and
- (k) confirming or prescribing forms, fees, and procedures for applications, permits and other administrative matters under this Law.

Authority to negotiate and conclude agreements

29. Executive Council is authorized to negotiate and enter into every agreement referred to in Chapter 14 [Culture and Heritage] of the *Final Agreement*.

PART 8 - COMING INTO FORCE

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- ¹³ The clause enacted on April 5, 2016, originally read:
(f) the devolution of cultural property of a Tla'amin **Member** who dies without a valid will,
Amended April 25, 2016, to:
(f) the devolution of cultural property of a Tla'amin **Citizen** who dies without a valid will,
- ¹⁴ The clause enacted on April 5, 2016, originally read:
(g) specifying sites on Tla'amin Lands which a Tla'amin **Member** may access for cultural purposes and activities, including gathering,
Amended April 25, 2016, to:
(g) specifying sites on Tla'amin Lands which a Tla'amin **Individual** may access for cultural purposes and activities, including gathering,
- ¹⁵ The clause enacted on April 5, 2016, originally read:
(h) setting out procedures for designating Tla'amin **Members'** access to specified sites on Tla'amin Lands for cultural purposes and activities, including gathering,
Amended April 25, 2016, to:
(h) setting out procedures for designating Tla'amin **Individuals'** access to specified sites on Tla'amin Lands for cultural purposes and activities, including gathering,

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Coming into force

30. (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 April 25th, 2016 apply as of April 5th, 2016. *[Added April 25, 2016]*¹⁶

THIS LAW WAS DULY ENACTED by the Tla'amin Legislative Assembly on the 5th day of April, 2016, and is HEREBY DULY AMENDED WITH CORRECTIONS on the 25th day of April, 2016 on Tla'amin Lands, in the Province of British Columbia.

¹⁶ Subsection (2) was added April 25, 2016.

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LEGISLATIVE HISTORY

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

Culture and Heritage Law [TNL 20/2016] 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>Culture and Heritage Law</i>	TNO- LA 28/2016	April 25, 2016 (corrections in effect April 5, 2016)	Various clerical corrections.

Regulations enacted under this Law: