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## TABLE OF CONTENTS

PREAMBLE.....	1
CHAPTER 1: INTERPRETATION .....	1
1. Short Title.....	1
2. Definitions.....	1
3. Purpose of Act .....	3
4. Consistency with Agreements and Laws .....	3
PART A: Establishment Of The Court.....	4
5. Independence and impartiality of the Court .....	4
6. Peacemaker Court Jurisdiction .....	4
7. Peacemaker Court Powers.....	5
8. Limitations on Peacemaker Court Powers .....	6
9. Guiding Considerations .....	6
10. Extraordinary Considerations.....	7
11. Peacemaker Court Orders .....	8
12. Appeals to the Peacemaker Court .....	8
13. Appeals to the Supreme Court .....	9
14. Legal Counsel to the Court .....	9
15. Friend of the Court .....	9
PART B: Composition Of Court.....	9
16. Peacemakers.....	9
17. Appointment and Qualifications of Peacemakers.....	10
18. Chief Peacemaker .....	11
19. Alternate Chief Peacemaker .....	12
20. Associate Peacemaker.....	12
21. Resignation and removal .....	12
22. Conduct of Peacemakers.....	13
PART C: Court Procedures.....	15
23. Sittings of the Court .....	15
24. Access to Court .....	15
25. Restricted access to Court proceedings.....	15
26. Court Procedures .....	15

27. Court Rules.....	16
PART D: Administration Of Court .....	16
28. Remuneration of Peacemakers .....	16
29. Remuneration of Court staff .....	17
30. Court facilities, services and budget .....	17
31. Liability of Peacemakers.....	17
CHAPTER 3: THE JUSTICE COUNCIL.....	17
PART A: Composition & Powers Of Justice Council:.....	17
32. Recognition of Justice Council.....	17
33. Functions of Justice Council .....	18
34. Composition of Justice Council .....	18
35. Chair .....	19
36. Rules .....	19
37. Remuneration and expenses .....	19
38. Liability of Justice Council.....	20
PART B: Complaints & Discipline .....	20
39. Complaints concerning Peacemakers .....	20
40. Initial review of complaints .....	20
41. Consideration of complaints .....	21
42. Discipline Panel .....	22
43. Decisions of the Discipline Panel.....	23
44. Review of Discipline Panel decisions .....	23
CHAPTER 4: ENFORCEMENT OF ACT .....	24
45. Enforcement of Court orders .....	24
46. Offences.....	25
47. Penalties.....	25
CHAPTER 5: GENERAL PROVISIONS .....	26
48. Consequential Amendments .....	26
49. Commencement of Act .....	26

**PREAMBLE**

The establishment and operation of an independent judiciary from the Teslin Tlingit government is a fundamental part of Teslin Tlingit governance and self-determination.

The Teslin Tlingit justice system is based on Tlingit principles and values as expressed in the Teslin Tlingit Constitution, this Act and the Teslin Tlingit Administration of Justice Agreement.

Teslin Tlingit Council recognizes that the Teslin Tlingit justice system requires the confidence and respect of the public it serves.

The Teslin Tlingit General Council by the advice of the Teslin Tlingit Executive Council enacts as follows:

**CHAPTER 1: INTERPRETATION****1. Short Title**

- (1) This Act may be cited as the Peacemaker Court & Justice Council Act: ax'kha xh'adu wus'yé.

**2. Definitions**

- (1) In this Act, unless the context indicates otherwise
  - (a) "Administration of Justice Agreement" means the agreement between Teslin Tlingit Council, Canada, and Yukon, made on February 21, 2011, as amended from time to time;
  - (b) "Alternate Chief Peacemaker" is a Peacemaker appointed under section 17 of this Act and will service as the Chief Peacemaker during those times in which the Chief Peacemaker is unable to carry out his duties;
  - (c) "Associate Peacemaker" is a Peacemaker who is appointed under section 17 of this Act and is not the Chief Peacemaker;
  - (d) "Chief Peacemaker" is a Peacemaker who is appointed under section 17 of this Act;
  - (e) "Citizen" means any person of Teslin Tlingit ancestry who belongs to one of the Teslin Tlingit clans as defined by the Teslin Tlingit Constitution;

- (f) “Clan” means any one of the five Teslin Tlingit clans;
- (g) “Court” means the Peacemaker Court established by this Act;
- (h) “Elder” is an Citizen who is 55 years of age or older;
- (i) “Elders Council” is a body of Elders established in accordance with section 15.1 of the Teslin Tlingit Constitution;
- (j) “Executive Council” means the body established by the Teslin Tlingit Constitution to manage government matters for Teslin Tlingit Council;
- (k) “Friend of the Court” is a Citizen appointed by the Justice Council to assist the Yukon courts where required;
- (l) “General Council” means the legislative body established by the Teslin Tlingit Constitution;
- (m) “Justice Council” means the body established by the Teslin Tlingit Constitution whose authorities and responsibilities are outlined within this Act for the purpose of the establishment and operations of the Teslin Tlingit Peacemaker Court;
- (n) “Justice Director” is a member of the Teslin Tlingit Management Board, as defined by the TTC Constitution, responsible for the administration and operations of the Peacemaker Court staff and public services;
- (o) “Operational Date” means the date when the Peacemaker Court begins to exercise its Stage Two Peacemaker Court process in accordance with this Act;
- (p) “Peacemaker” means a Chief Peacemaker, Alternate Chief Peacemaker or an Associate Peacemaker of the Peacemaker Court, appointed by the Justice Council in accordance with section 17 of this Act;
- (q) “Self-Government Agreement” means the agreement between Teslin Tlingit, Canada, and Yukon made on May 29, 1993, as amended from time to time;
- (r) “Settlement Land” means Category A Settlement Land, Category B Settlement Land or Fee Simple Settlement Land;

- (s) “Small Claims Court” means the court defined as such in the *Small Claims Court Act*, R.S.Y. 1986 c. 160;
- (t) “Stage One process” deals with those matters where two or more consenting parties agree to have their matters mediated before a Peacemaker;
- (u) “Stage Two Peacemaker Court process” includes matters such as referrals from Stage One process, adjudication, judicial review or appeals;
- (v) “Supreme Court” means the Supreme Court of Yukon;
- (w) “Territorial Court” means the Territorial Court of Yukon;
- (x) “Teslin Tlingit Constitution” means the superior law based upon the Teslin Tlingit traditional Clan system, enacted in July 1993 and subsequently amended in March 2009;
- (y) “Teslin Tlingit Final Agreement” means the Teslin Tlingit land claims agreement between Teslin Tlingit, Canada, and Yukon made on May 29, 1993, as amended from time to time;
- (z) Teslin Tlingit Law means laws passed or adopted by the Teslin Tlingit Council pursuant to the Self-Government Agreement and the Final Agreement;
- (aa) “Teslin Tlingit Traditional Territory” means the geographic area within Yukon identified as such on the maps referred to in section 2.9.1.1 of the Teslin Tlingit Final Agreement.

### **3. Purpose of Act**

- (1) This Act is to establish the Court in accordance with the Teslin Tlingit Council Administration of Justice Agreement negotiated pursuant to section 13.6.0 of the Self-Government Agreement.

### **4. Consistency with Agreements and Laws**

- (1) This Act is to be interpreted and applied in a manner that is consistent and gives effect to the provisions of the Teslin Tlingit Final Agreement, Self-Government Agreement, Administration of Justice Agreement and Teslin Tlingit Laws.

**CHAPTER 2: PEACEMAKER COURT****PART A: Establishment Of The Court****5. Independence and impartiality of the Court**

- (1) The Court is independent from the General Council and Executive Council of the Teslin Tlingit Council.
- (2) The Court will exercise its authorities and responsibilities in an impartial manner, in accordance with the Teslin Tlingit Constitution and principles outlined within this Act.

**6. Peacemaker Court Jurisdiction**

- (1) The Court has jurisdiction:
  - (a) throughout the Yukon, with respect to laws enacted under sections 13.1 and 13.2 of the Self-Government Agreement;
  - (b) on Settlement Land with respect to laws enacted pursuant to section 13.3 of the Self-Government Agreement; and
  - (c) within the geographic area of the law making authority of the Teslin Tlingit Council, with respect to laws enacted under the Final Agreement.
- (2) Without limiting the generality of sub-section (1) the Court has jurisdiction to:
  - (a) resolve any dispute between Citizens where the persons involved agree to a Stage One Peacemaker Court process;
  - (b) resolve any dispute that may arise under the Teslin Tlingit Constitution;
  - (c) adjudicate alleged violations of Teslin Tlingit Laws;
  - (d) hear a matter transferred from the Yukon Territorial Court;
  - (e) transfer any matter before it to the Small Claims Court, the Territorial Court or the Supreme Court, depending upon which court has jurisdiction, provided the matter is transferred before hearing evidence;
  - (f) resolve or adjudicate a dispute between, among or within Clans, if the Clan leaders involved so request;

- (g) exercise judicial review of the actions or decisions of the General Council or Executive Council;
  - (h) hear appeals of decisions made by any individual or administrative body with statutory authority, if the appeal is permitted by Teslin Tlingit law;
  - (i) exercise any other power conferred on it by General Council;
  - (j) exercise any power conferred on a judge or justice of the peace of the Territorial Court, or a Provincial Court Judge, under an enactment of the Yukon or Canada, with respect to such territorial or federal laws as recognized by the Administration of Justice Agreement; or
  - (k) exercise any power conferred on it by Canada or Yukon, by written agreement as recognized under section 5.6 of the Administration of Justice Agreement.
- (3) The Court may also provide dispute resolution services to persons who are not Citizens and who consent to be bound by a Stage One process.

## **7. Peacemaker Court Powers**

- (1) The Court has the power to:
- (a) make rules on matters of its procedures, in accordance with section 26;
  - (b) stay or dismiss any matter that is determined to be vexatious, frivolous or constitutes an abuse of the Court's process;
  - (c) issue process, such as summons, subpoenas and warrants which, unless registered as an order of the Supreme Court as provided by section 9.2 of the Administration of Justice Agreement, shall have the same force and effect as a process issued by the Territorial Court in respect of Yukon laws;
  - (d) waive pre-payment of Court fees if it is in the interests of justice to do so;
  - (e) set aside its own default judgements;
  - (f) set aside an order or process issued by the Court if a party with an adverse interest was given no notice of the relevant proceeding or process;

- (g) grant a new trial or hearing in a matter that it has determined, if it is in the interests of justice to do so;
- (h) adjourn proceedings;
- (i) take other action to carry out its jurisdiction or authorities;
- (j) make orders in accordance with Teslin Tlingit laws; or
- (k) make a Stage One Court order to be filed with the registry of the Supreme Court for record purposes.

#### **8. Limitations on Peacemaker Court Powers**

- (1) The Court cannot hear a matter that is within the exclusive jurisdiction of the Supreme Court.
- (2) The Court may not impose a sanction or penalty different in nature from those generally imposed by territorial, provincial or superior courts in Canada on a person who is not a Citizen, unless the person consents to be sentenced like a Citizen.

#### **9. Guiding Considerations**

- (1) The Court is to maintain the public confidence when carrying out its jurisdiction or authority.
- (2) The following principles will guide the Court when it carries out its authority:
  - (a) the values of respect, integrity, honesty and responsibility;
  - (b) the collective nature of Teslin Tlingit society;
  - (c) the obligation to preserve the land, environment and all resources within the Teslin Tlingit Traditional Territory for the well-being of both present and future Teslin Tlingit generations; and
  - (d) the Teslin Tlingit culture which is based on traditional knowledge, customs, language, oral history and spiritual beliefs and practices which is important for the well being of present and future generations.
- (3) In any matter that comes before it, the Court will:



- (a) give effect to the purpose, objects and principles expressed by the Teslin Tlingit Constitution and Teslin Tlingit laws;
- (b) ensure proceedings are conducted in accordance with the principles of natural justice;
- (c) ensure justice is administered without unreasonable delay;
- (d) consider general sentencing principles when sentencing offenders;
- (e) promote healing, rehabilitation and harmony within Teslin Tlingit community;
- (f) determine reasonable compensation that the offender would pay to victims where appropriate; and
- (g) apply Teslin Tlingit Clan practices and principles following consultation with the affected Clan or Clans.

#### **10. Extraordinary Considerations**

- (1) In addition to the requirements of section 9 the Court will consider:
  - (a) the interests of victims who may require special consideration in the process, and allow those victims to address the Court with respect to the consequences of the offender's action, and have their views considered when the Court sentences the offender;
  - (b) the Teslin Tlingit principle that families and Clans are responsible for the behaviour of Citizens and therefore, the Court may make an order:
    - (i) to hold the family or Clan accountable for the loss to the victim;
    - (ii) to hold the family or Clan accountable for the behaviour of the Citizen while serving a sentence imposed;
    - (iii) to release a Citizen into the care and supervision of the family or Clan, when the Court considers it is in the best interests of justice to do so;
  - (c) remedial sanctions that promote healing and accountability and demonstrate the importance of justice to the Teslin Tlingit;

- (d) the contributing or underlying factors to a person's unlawful behaviour; and
  - (e) when appropriate, programs that promote personal wellness to address the cause of offensive, criminal and other anti-social behaviour.
- (2) In circumstances where the offender is not a Citizen, the Court can impose a sentence informed by an individual's background subject to:
- (a) the person's consent; and
  - (b) confirmation that the person has the capacity to provide their consent.

### **11. Peacemaker Court Orders**

A Court order can be a Stage One or Stage Two Court order.

- (1) A Stage One order is a written agreement between two consenting parties who have applied to the Peacemaker Court for conflict resolution and the Chief Peacemaker has approved the agreement.
- (2) A person can file a Stage One agreement with the Supreme Court and the Stage One agreement can be enforced in the same manner as a Supreme Court order.
- (3) A Stage Two Court order can conclude:
  - (a) a dispute between two parties or more, who failed to achieve a Stage One order;
  - (b) a matter adjudicated under a law made by Teslin Tlingit, or under Yukon or Canadian law, by agreement;
  - (c) judicial review of an action or decision of the General Council or Executive Council; or
  - (d) an appeal of a decision made by either an individual or administrative body with a statutory power under a law made by Teslin Tlingit.

### **12. Appeals to the Peacemaker Court**

- (1) A person can apply to the Court:
  - (a) for the judicial review of a decision or action by General Council or Executive Council; or

- (b) for an appeal from an administrative tribunal or a decision or action exercised by an individual or body who has statutory authority, if the appeal is permitted by Teslin Tlingit law.
- (2) A Court's decision within section 12(1) will be final and cannot be subject to further review or appeal.

### **13. Appeals to the Supreme Court**

- (1) A Peacemaker Court order can be appealed to the Supreme Court on
  - (a) any process matters; or
  - (b) unless there is an express provision to the contrary, on matters that may arise from a Teslin Tlingit Law,and shall be subject to the Supreme Court Rules and procedures.

### **14. Legal Counsel to the Court**

- (1) The Peacemaker Court can retain legal counsel where required.

### **15. Friend of the Court**

- (1) The Justice Council may appoint a Citizen as a Friend of the Court to assist the Supreme Court to interpret Teslin Tlingit law and apply the principles set out in section 2 of the Administration of Justice Agreement.
- (2) A Friend of the Court is independent of Teslin Tlingit Council and is separate from any role Teslin Tlingit may have as a party to a matter before the Supreme Court.

## **PART B: Composition Of Court**

### **16. Peacemakers**

- (1) The Court is comprised of:
  - (a) a Chief Peacemaker;
  - (b) an Alternate Chief Peacemaker; and
  - (c) Associate Peacemakers.

- (2) A Peacemaker has the jurisdiction, as outlined in section 6 of this Act, to exercise all the authorities and perform all of the responsibilities imposed on the Court as provided by this Act and any enactment of the General Council.

### 17. Appointment and Qualifications of Peacemakers

- (1) The Justice Council in accordance with the process outlined within this section appoints Peacemakers.
- (2) To be eligible for appointment as a Peacemaker, a person must:
- (a) be a Citizen;
  - (b) have a working knowledge of the traditional values and customs of the Teslin Tlingit;
  - (c) be fluent in the Tlingit language or have a willingness to learn the Tlingit language to attain fluency;
  - (d) be willing to reside within the Teslin Tlingit Traditional Territory if necessary;
  - (e) successfully complete the credentials prescribed by the Justice Council;
  - (f) be recognized as a positive role model in the Teslin Tlingit community, which includes living a healthy lifestyle; and
  - (g) satisfy any other requirements prescribed by the Justice Council.
- (3) Prior to the appointment of a Peacemaker the Justice Council shall:
- (a) notify the five Clans in writing and invite the Clans to provide recommendations within a reasonable period of time to identify qualified candidates to be considered for appointment; and
  - (b) advertise the opportunity throughout the Yukon for interested Citizens to apply.
- (4) After providing a reasonable period for the Clans to make recommendations and interested Citizens to apply, the Justice Council will:

- (a) satisfy itself that the recommended and interested candidates **are qualified for appointment in accordance with section 17(2) of this Act;**
  - (b) interview the qualified candidates; and
  - (c) provide to the Clans a list of confirmed candidates recommended for appointment.
- (5) Within 30 days of receipt of the list provided in 17(4)(c), each Clan will advise the Justice Council of its concern toward any recommended candidate for appointment. The Clan will outline their concern in writing and will provide it to the Justice Council on a confidential basis.
  - (6) Where a Clan has raised a concern in section 17(5) the candidate will have an opportunity to respond to the Justice Council in writing and address the Clan's concern.
  - (7) The Justice Council will consider any concern made by a Clan and the candidate's response before making a final list of candidates.
  - (8) When the Justice Council initially appoints the Peacemakers to the Court, the Justice Council will designate the Chief Peacemaker, an Alternate Chief Peacemaker and Associate Peacemakers.
  - (9) Subject to this Act, **a Peacemaker holds office during good behaviour.**

## **18. Chief Peacemaker**

- (1) A Chief Peacemaker's initial term is for seven years. The Chief Peacemaker will continue to serve the Court as an Associate Peacemaker for an additional four years, for which the combined years will be a full term.
- (2) The Chief Peacemaker can be reappointed as a Chief Peacemaker following the expiry of a full term.
- (3) The Chief Peacemaker is responsible to:
  - (a) assign Peacemakers to hear matters, and to supervise them in the performance of their official functions;
  - (b) delegate responsibilities and duties to the Alternate Chief Peacemaker;

- (c) determine where the Court will conduct its proceedings;
- (d) advise the Justice Council on matters affecting the Court;
- (e) oversee the administration of the Court; and
- (f) perform any other functions assigned under Teslin Tlingit Law.

#### **19. Alternate Chief Peacemaker**

- (1) The Alternate Chief Peacemaker may perform any function of the Chief Peacemaker at the request of or during the absence of the Chief Peacemaker.
- (2) The Alternate Chief Peacemaker's initial term will be for a period of seven years. The Alternate Chief Peacemaker will continue to serve as an Associate Peacemaker for an additional three years, for which the combined years is a full term.
- (3) The Alternate Chief Peacemaker can be reappointed as an Alternate Chief Peacemaker upon the expiry of a full term.

#### **20. Associate Peacemaker**

- (1) An Associate Peacemaker may serve the Court on:
  - (a) a case by case basis; or
  - (b) a full or part-time appointment.
- (2) An Associate Peacemaker can serve up to seven years.
- (3) The Justice Council can appoint an Associate Peacemaker as a Chief Peacemaker or an Alternate Chief Peacemaker.
- (4) An Associate Peacemaker can be reappointed upon the expiry of their term as set out in section 20(2).

#### **21. Resignation and removal**

- (1) A Peacemaker who seeks to resign their position is required to provide the Justice Council a written letter of resignation, no later than three months prior to the date their resignation will take effect.
- (2) A Peacemaker who has resigned may seek re-appointment at any time after the date of their resignation.

- (3) A Peacemaker may be removed from office in accordance with the process outlined in sections 39 to 44 of this Act.

## 22. Conduct of Peacemakers

- (1) A Peacemaker is required to file a statement that discloses all professional and business interests, in the prescribed form, to the Justice Council at the time of appointment. The Justice Council will maintain the confidentiality of this information.
- (2) A Peacemaker, before assuming their duties, shall swear or affirm the following Oath of Office before the Chair of the Justice Council: "I, \_\_\_\_\_, do solemnly swear that I will duly, faithfully and to the best of my skill and knowledge execute the authority and trust expected of me as a Peacemaker for the Teslin Tlingit Peacemaker Court for as long as I shall continue to hold office, without fear or favour."
- (3) During a Peacemaker's term of office:
- (a) the Chief Peacemaker and Alternate Chief Peacemaker are required to reside within the Teslin Tlingit Traditional Territory; and
  - (b) an Associate Peacemaker is required to reside within the Yukon and be willing to travel to Teslin for the purposes of fulfilling the responsibilities as a Peacemaker.
- (4) During a Peacemaker's term:
- (a) the Peacemaker cannot be a member of the General Council, Executive Council, Justice Council, Elders Council or hold office for either the territorial, municipal or federal government;
  - (b) other than an Associate Peacemaker who is appointed on case by case basis, a Peacemaker cannot carry on any occupation, profession or other business other than their judicial responsibilities; and
  - (c) a Peacemaker must comply with the Peacemaker code of ethics and conflict of interest guidelines prescribed by the Justice Council.
- (5) If, immediately before being appointed, a Peacemaker:

- (a) does not satisfy the residency requirement, that Peacemaker will be required to comply with section 17(2)(d) within a time prescribed by the Justice Council; or
  - (b) has not completed the accreditation requirements outlined in section 17(2)(e), that Peacemaker must complete the necessary requirements within the time prescribed by the Justice Council.
- (6) A Peacemaker during their term will not:
- (a) engage in Teslin Tlingit, municipal, territorial or federal political activity, but can vote in a municipal, territorial or federal election;
  - (b) assist a person who may appear before the Court, except to the extent required under this Act;
  - (c) oversee or participate in any proceeding before the Court where the Peacemaker has a conflict of interest, as defined in the code of ethics and conflict of interest guidelines;
  - (d) express a personal opinion about Court policies, Court matters, Court deliberations, except through oral or written reasons for a decision of the Court;
  - (e) accept a gift or any other benefit from a person appearing before the Court;
  - (f) use their office to influence a decision of another person or entity within Teslin Tlingit Council; or
  - (g) take personal advantage of information that is
    - (i) obtained in the course of official duties; and
    - (ii) not available to the general public.
- (7) A former Peacemaker, starting from the time they ceased to be a Peacemaker up to a period of 12 months, may not act as agent nor advise any person who may appear before the Court.



**PART C: Court Procedures****23. Sittings of the Court**

- (1) The Court may conduct its business at any place on Settlement Land in the Yukon, in accordance with the Court's jurisdiction, and as determined by the Chief Peacemaker.
- (2) If the Chief Peacemaker directs the Court to sit according to a schedule, the Court staff will prepare a public schedule indicating the dates, times and places of the scheduled sittings.

**24. Access to Court**

- (1) The Chief Peacemaker is responsible to ensure that the public has access to the Court.
- (2) Public access to the Court includes geographical proximity to the sittings of the Court on Settlement Land relative to the ordinary residence of the parties involved with the matter before the Court.
- (3) Where public access cannot be provided the Court will accommodate public access through teleconference or videoconferencing.

**25. Restricted access to Court proceedings**

- (1) Stage One Court proceedings are to be closed to the public, unless the parties to the proceeding otherwise consent.
- (2) Subject to this Act, Stage Two Court proceedings are to be open to the public.
- (3) The Court may close its proceedings to the public or ban the publication of information from the Court hearings if the Peacemaker determines that it is in the public interest to do so.

**26. Court Procedures**

- (1) The presiding Peacemaker in any matter will conduct the Court proceedings in accordance with:
  - (a) the principles outlined in sections 9 and 10 of this Act; and

- (b) the Court rules established under section 27 of this Act.
- (2) Subject to section 25, Court proceedings will be:
  - (a) conducted in a public forum; and
  - (b) recorded to provide for public record, subject to rules on confidentiality and protection of privacy.
- (3) The presiding Peacemaker in each matter will:
  - (a) issue a written decision and if appropriate a signed order; and
  - (b) provide written reasons for any decision other than a consent order.
- (4) The Court is to maintain a public registry of its written decisions subject to the publication ban that may arise in accordance with section 25(3) of this Act.
- (5) The Justice Director will authorize those persons who may bring applications forward on behalf of the Teslin Tlingit Council or prosecute alleged violations of Teslin Tlingit Laws before the Court.

## 27. Court Rules

- (1) The Chief Peacemaker, in consultation with the other Peacemakers may prescribe Court rules and forms, consistent with this Act, to guide the Court's practice and procedures.

## PART D: Administration Of Court

### 28. Remuneration of Peacemakers

- (1) The Justice Council will establish the Peacemakers' remuneration and benefits and the Teslin Tlingit Council will provide the financial resources for the Peacemakers' remuneration and benefits.
- (2) In determining the Peacemakers' remuneration and benefits the Justice Council will consider:
  - (a) the need to provide adequate compensation to Peacemakers;
  - (b) the need to build a strong Peacemaker Court by attracting and retaining qualified persons as Peacemakers;

- (c) cost of living; and
- (d) any other matters that the Justice Council considers relevant.

### **29. Remuneration of Court staff**

- (1) The Justice Director, in accordance with the Teslin Tlingit employment policies will determine the remuneration and benefits payable to staff employed or contracted in the Peacemaker Court.

### **30. Court facilities, services and budget**

- (1) The Director of Justice, in consultation with the Chief Peacemaker will provide the Teslin Tlingit Council an annual budget for the Court operations.
- (2) Teslin Tlingit Council will take into account and review the budget prepared under subsection (1) and will provide reasonable financial resources in order for the Court to carry out its responsibilities.

### **31. Liability of Peacemakers**

- (1) A Peacemaker is not liable for damage caused by anything done or not done:
  - (a) in the performance of the Peacemaker's official functions; or
  - (b) in respect of a matter in which the Peacemaker lacked jurisdiction, or exceeded the jurisdiction of the Court, unless it is proven that the Peacemaker acted in bad faith or with gross negligence.
- (2) No action for recovery of damages lie against any person in respect of an act done, purported to be done, or not done in the execution of, in compliance with, or incidental to, an order, warrant or sentence issued by a Peacemaker.

## **CHAPTER 3: THE JUSTICE COUNCIL**

### **PART A: Composition & Powers Of Justice Council:**

#### **32. Recognition of Justice Council**

- (1) The Justice Council is established by the Teslin Tlingit Constitution and is one of the four branches of the Teslin Tlingit government.

**33. Functions of Justice Council**

- (1) The Justice Council has the authority to:
  - (a) appoint Peacemakers, in accordance with section 17 of this Act;
  - (b) establish Peacemakers' remuneration and benefits;
  - (c) where appropriate **make recommendations** to:
    - (i) the Chief Peacemaker for the reform of and improvements to the efficiency, uniformity and quality of services provided by the Court, or
    - (ii) the **General Council** for improvements to the Teslin Tlingit justice system generally;
  - (d) to consider and determine any complaints concerning a Peacemaker in accordance with section 39;
  - (e) hire legal counsel to assist where necessary; and
  - (f) perform any other function assigned to it under Teslin Tlingit law.

**34. Composition of Justice Council**

- (1) The Justice Council is based on Clan appointments, with one representative from each Teslin Tlingit Clan.
- (2) Justice Council members should have a working knowledge of Teslin Tlingit traditional values and customs and demonstrate good behaviour while serving on the Justice Council.
- (3) There will be 5 Justice Council members whose initial terms will be as follows:
  - (a) two members may serve a term of seven years each;
  - (b) two members may serve a term of five years each; and
  - (c) one member may serve a term of four years.
- (4) A Justice Council member may be reappointed upon the expiry of their initial term of office for one additional term of seven years.

- (5) A Justice Council member may resign by giving written notice to the Chair of the Justice Council.
- (6) A vacancy in the Justice Council, subject to quorum, does not impair the capacity of the remaining members to act.

### 35. Chair

- (1) The Justice Council will choose from its members:
  - (a) a Chair of the Council; and
  - (b) an alternate Chair should the Chair be unable to act.
- (2) **The Chair of the Justice Council duties include:**
  - (a) the administration of the Justice Council;
  - (b) the management of complaints against Peacemakers in accordance with sections 39 to 44 of this Act; and
  - (c) **file an annual written report to the General Council on administration of justice matters.**

### 36. Rules

- (1) The Justice Council may make rules for the conduct of its meetings.
- (2) Three Justice Council members constitute a quorum.
- (3) A quorum is required for the Justice Council to conduct its business.

### 37. Remuneration and expenses

- (1) **The Justice Council is entitled to reasonable remuneration and other expenses incurred in the performance of their duties under this Act.**
- (2) The Justice Director, in consultation with the Chair of the Justice Council, will provide the **Teslin Tlingit Council with an annual budget** for the Justice Council's operations.
- (3) **The Executive Council will provide reasonable financial resources for the Justice Council's operations.**

**38. Liability of Justice Council**

- (1) A Justice Council member is not liable for damage caused by anything they have done or not done:
  - (a) in the performance of the member's official function, or
  - (b) in respect of a matter in which the Justice Council lacked jurisdiction, or exceeded its authority provided under this Act, unless it is proven that the Justice Council member acted in bad faith or with gross negligence.

**PART B: Complaints & Discipline****39. Complaints concerning Peacemakers**

- (1) A Peacemaker may be disciplined or removed if the Peacemaker has:
  - (a) failed to comply with any requirement concerning conduct of a Peacemaker as set out in section 22 of this Act:
  - (b) been convicted of a crime under the Criminal Code of Canada; or
  - (c) behaved publicly in a manner that has allegedly damaged the credibility of the Peacemaker's Court.
- (2) Any person may make a written complaint in the prescribed form to the Chair of the Justice Council alleging that during a Peacemaker's term of office, that Peacemaker has:
  - (a) failed to comply with any requirement concerning conduct of a Peacemaker, as set out in section 22 of this Act; or
  - (b) behaved publicly in a manner that has allegedly damaged the credibility of the Peacemaker's Court.

**40. Initial review of complaints**

- (1) As soon as practicable after receiving a complaint under section 39, the Chair of the Justice Council will:
  - (a) consider the grounds and evidence brought forward in support of the complaint;

- (b) where appropriate take steps to investigate the complaint;
  - (c) dismiss the complaint with written notice to the complainant, if the Chair of the Justice Council determines that the complaint
    - (i) is frivolous, without merit or trivial; or
    - (ii) does not allege any facts which, if true, would constitute grounds for a complaint under section 39; or
  - (d) if the complaint is not dismissed under paragraph (c), provide a copy of the complaint to the Peacemaker who is the subject of the complaint, so that the Peacemaker may provide a response.
- (2) The Peacemaker under review has thirty days upon receipt of the complaint to provide a written response to the Chair of the Justice Council.
- (3) The Chair of the Justice Council will determine, based on the circumstances, whether to suspend the Peacemaker under review with or without pay or have the Peacemaker under review continue his duties up until a decision has been reached on the matter.

#### **41. Consideration of complaints**

- (1) The Chair of the Justice Council will convene a meeting of the complainant and the Peacemaker under review and attempt to resolve the dispute by mediation if:
- (a) the Peacemaker under review has responded within the time permitted under section 40(2) and admits that the allegations in the complaint are substantially true; and
  - (b) both the complainant and the Peacemaker under review agree to participate in the mediation process.
- (2) If the Peacemaker under review has:
- (a) failed to respond within the time permitted under section 40(2); or
  - (b) has responded within the time permitted under section 40(2) but has denied the allegations in the complaint,
- the Chair of the Justice Council will, within 10 days after the deadline or upon receipt of the response in 40(2), convene the Discipline Panel.

**42. Discipline Panel**

- (1) A Discipline Panel for the purpose of section 41(2) is comprised of:
  - (a) one member from the Justice Council; and
  - (b) one Elder appointed by the Elders Council.
- (2) A Discipline Panel is to investigate and determine, in accordance with this section, whether the allegation specified in the complaint is substantially true.
- (3) To inform the Discipline Panel's decision, it may request:
  - (a) either the Peacemaker under review or the complainant, or both, to provide additional information on the matter;
  - (b) either the Peacemaker under review or the complainant, or both, alone or together, to meet with the Discipline Panel to discuss the matter; or
  - (c) that any other person who the Discipline Panel considers may have information material to the matter, provide such information or meet with the Discipline Panel to discuss the matter.
- (4) When the Discipline Panel requests a person who is not a party to the discipline proceedings to provide information or appear before the Discipline Panel, the person must comply.
- (5) If either the Peacemaker under review or the complainant fails to comply with a requirement of the Discipline Panel under subsection (5) and fails to provide any reasonable grounds to justify their non-compliance, the Panel may draw a negative inference from that non-compliance and decide the matter in accordance with that inference, and any other evidence available to it.
- (6) A complainant may appear before the Discipline Panel in person or by a representative.
- (7) A Peacemaker under review will provide a final submission to the Discipline Panel, in a time prescribed by the Discipline Panel, before the Discipline Panel issues a final decision.
- (8) After reviewing all material information and considering any final submissions, the Discipline Panel will issue a written decision on their findings with reasons.



- (9) The Discipline Panel will deliver a copy of its written decision to the complainant, the Peacemaker under review, and the Chair of the Justice Council.

#### **43. Decisions of the Discipline Panel**

- (1) The Discipline Panel may make one or more of the following decisions under this section:
- (a) provide terms of an agreement in which both the complainant and Peacemaker under review consent in writing to resolve the matter;
  - (b) issue a written warning to the Peacemaker concerned;
  - (c) direct the Peacemaker concerned to
    - (i) undertake counselling;
    - (ii) engage in an educational program; or
    - (iii) comply with conditions as determined by the Discipline Panel; or
  - (d) that the Peacemaker be
    - (i) suspended from office until the Peacemaker has satisfied conditions determined by the Discipline Panel;
    - (ii) suspended from office for a period of not more than six months; or
    - (iii) removed from office.

#### **44. Review of Discipline Panel decisions**

- (1) The Chair of the Justice Council will convene a meeting of the Justice Council to review the Discipline Panel's decision if:
- (a) the Discipline Panel has ordered that a Peacemaker be removed from office, unless the Peacemaker under review has consented to the decision; or
  - (b) the complainant or the Peacemaker under review has appealed the Discipline Panel's decision to the Justice Council.
- (2) The complainant or the Peacemaker under review has 21 working days upon receipt of the Discipline Panel's decision to appeal to the Justice Council under section 44(1)(b).

- (3) A person who has consented to the Discipline Panel's terms, as outlined in section 43(1)(a), cannot subsequently appeal the Discipline Panel's decision to the Justice Council.
- (4) The Justice Council may refer the complaint back to the Discipline Panel to reconsider if the Justice Council demines that:
  - (a) the Discipline Panel failed to properly carry out its responsibilities under section 42; or
  - (b) the decision was not reasonably supported by the evidence.
- (5) If the Discipline Panel's decision is to remove the Peacemaker from office, the Justice Council may upon review:
  - (a) set aside the Discipline Panel's decision and substitute its own findings, if the Justice Council considers that such an order is excessive in the circumstances; or
  - (b) uphold the Discipline Panel's decision.
- (6) The Chair of the Justice Council will provide recommendations to the General Council for the enactment of regulations, or to the Justice Director for forms or procedures to be used in the determination of complaints under this Part.

#### **CHAPTER 4: ENFORCEMENT OF ACT**

##### **45. Enforcement of Court orders**

- (1) The Court, when making an order, may suspend the order on any terms or conditions, subject to continuing review and supervision by the Court.
- (2) The Court staff are responsible to:
  - (a) ensure that the persons before the Court receive true copies of the order; and
  - (b) file every Court order and Supreme Court order referred to in section 11 of this Act.

- (3) Every sixty days after the Court makes an order the Court staff will provide the Chief Peacemaker with a report on the status of compliance with and enforcement of the order.
- (4) If the Chief Peacemaker is not satisfied with the status of enforcement, the Chief Peacemaker may call the parties back to the Court to review and, where appropriate, amend the order to ensure the parties' compliance with the original order in the matter.

#### **46. Offences**

- (1) A person commits an offence who, having been sworn in or having made an affirmation:
  - (a) fails to answer any question fully and to the best of that person's ability; or
  - (b) gives false evidence, knowing or believing it to be false.
- (2) A person commits an offence who:
  - (a) contravenes or fails to comply with an order of the Court;
  - (b) does anything intended to improperly influence the Court concerning any matter before it;
  - (c) anticipates any finding of the Court concerning a matter before it in a way that is intended to influence the proceedings or findings;
  - (d) undermines the credibility of the Court or a member of the Court in their official capacities; or
  - (e) wilfully interrupts or frustrates the proceedings of the Court or misbehaves in the place where a hearing is being conducted.

#### **47. Penalties**

- (1) Any person convicted of an offence under this Act is liable to:
  - (a) imprisonment of up to six months; or
  - (b) a fine up to \$5,000.00 but not exceeding the higher of the maximum fine permitted under the Summary Convictions Act; or

- (c) both a fine and imprisonment.
- (2) The Court has jurisdiction to make a determination that a person has committed an offence under this Act and to impose a penalty under this Act.

## CHAPTER 5: GENERAL PROVISIONS

### 48. Consequential Amendments

- (1) The Teslin Tlingit *Administration and Interpretation Act*, T.T.C.S., 1998, c.5 is amended as follows:
  - (a) A definition of “court” is to be included under section 2 of the Act. “Court” means the Yukon Territorial or Supreme Court for the purposes of enforcing Teslin Tlingit Laws until Stage Two of the Peacemaker Court process comes into force and effect.
  - (b) Add a subsection to section 61(1) to include “any matters that are transferred to Teslin Tlingit Council jurisdiction under an agreement anticipated in section 5.6 of the Administration of Justice Agreement.”
  - (c) Add an additional subsection to section 61(1) to include “any written decisions issued by the Peacemaker Court or the Discipline Panel established under the Peacemaker Court and Justice Council Act.”
- (2) Other Teslin Tlingit laws are amended as may be required in order to:
  - (a) add limits of appeal to the Peacemaker Court, as anticipated by section 6.2 of the Administration of Justice Agreement; or
  - (b) provide for penalties as anticipated by section 7.3 and 7.5 of the Administration of Justice Agreement.

### 49. Commencement of Act

- (1) This Act comes into force on a date to be determined by the General Council.
- (2) Those provisions that relate to Stage Two Peacemaker Court matters are to be suspended for no less than 4 years from the date in which the Peacemaker Court provides Stage One Court services\_and the Peacemakers are trained and prepared to exercise their Stage Two Court responsibilities. Stage Two Peacemaker Court provisions will come into force on a date to be determined by the General Council.