

TA'AN KWÄCH'ÄN COUNCIL

Chapter 2

Finance Administration Act

June 2007

Ta'an Kwäch'än Council
FINANCE ADMINISTRATION ACT

Enacted on this 18th day of June 2007

Chief Ruth Massie

The Board of Directors of the Ta'an Kwäch'än Council hereby enacts as follows:

PART ONE
GENERAL PROVISIONS

Short title

1. This Act may be cited as the *Finance Administration Act*.

Definitions

2. (1) In this Act

"approved annual budget" means the annual budget approved by the Ta'an Kwäch'än Council as set out in section 19;

"Board" means the Board established pursuant to the *Constitution of the Ta'an Kwäch'än Council*;

"consolidated financial statements" means consolidated financial statement as defined in the Public Sector Accounting and Auditing handbook;

"consolidated revenue fund" means the consolidated revenue fund as set out in subsection 9(2);

"compensation fund" means financial compensation pursuant to c.19, Financial Compensation, and includes Appendix C, Memorandum Regarding Certain Financial Arrangements, of the final agreement;

"department" means the department of finance as set out in section 4;

"final agreement" means the Ta'an Kwäch'än Council Final Agreement;

“finance manager” means the person hired by the Board under subsection 4(3) to supervise and manage the activities of the department;

“fiscal year” means the period from April 1 in one year to March 31 in the next year;

“fund” means a fund within the consolidated revenue fund and includes a trust fund, taxation fund, special fund or any other fund called by any other name that is established by the Ta’an Kwäch’än Council;

“General Assembly” means the General Assembly pursuant to the *Constitution of the Ta’an Kwäch’än Council*;

“investment counseling firm” means a firm registered as Investment Council or Portfolio Manager with the appropriate Canadian Provincial or Territorial securities commission;

“public body” means

(a) every department, branch, office, program, secretariat or other similar executive agency of the Ta’an Kwäch’än Council; and

(b) every board, committee, commission, foundation, corporation or other similar agency established or incorporated as an agent of the Ta’an Kwäch’än Council, but does not include

(a) a corporation of which the controlling share capital is owned by a person other than the Ta’an Kwäch’än Council or an agency of the Ta’an Kwäch’än Council; or

(b) a court established by an enactment;

“public money” means all money and negotiable instruments received, held or collected by, for or on behalf of the Ta’an Kwäch’än Council, including

(a) revenues of the Ta’an Kwäch’än Council, including interest on investments;

(b) money in funds designated as special funds under this Act or by the Ta’an Kwäch’än Council;

(c) money borrowed by the Ta’an Kwäch’än Council; and

(d) money in trust funds;

“public officer” includes any person in the public service of the Ta’an Kwäch’än Council

a) who is authorized to do or to enforce the doing of any act or thing or to exercise a power by or under an enactment; or

b) upon whom any duty is imposed by or under any enactment;

“public property” means all property, other than public money, that belongs to the Ta’an Kwäch’än Council;

“Management Committee” means the Management Committee pursuant to the *Government Administration and Interpretation Act* (Ta’an Kwäch’än Council), 2007, c.1;

“Strategic Economic Development Investment Fund” means the Strategic Economic Development Investment Fund pursuant to c.22, Economic Development Measures, Schedule A, Economic Measures, Part I – Specific Economic Measures, of the final agreement;

“taxation fund” means the taxation fund established by the Ta’an Kwäch’än Council for the tax buy-out compensation payable to the Ta’an Kwäch’än Council pursuant to c.20, Taxation, of the final agreement;

“trust fund” means the constitution of the legal entity that controls the trust property granted by the Ta’an Kwäch’än Council as settler; and

“trust money” means

- (a) money held in trust by the Ta’an Kwäch’än Council or a public officer;
- (b) money held in pension funds maintained by the Ta’an Kwäch’än Council;
- (c) money held in a court established by an Act;
- (d) money paid to the Ta’an Kwäch’än Council as a deposit or as security to ensure the doing of any act or thing; and
- (e) money that is paid to the Ta’an Kwäch’än Council or a public officer under an agreement or other undertaking or by way of a gift or bequest and that is to be paid to another person specified in the agreement or undertaking or by the donor of the gift or bequest, except for money received as reimbursement for or as a contribution or grant towards expenditures made or to be made by the Ta’an Kwäch’än Council,
- (f) but does not include trust money in the trust fund.

Application

3. If there is a conflict between this Act and any other enactment enacted before or after this section comes into force, this Act prevails unless the other enactment contains an express provision that it, or a relevant provision of it, applies notwithstanding this Act.

PART TWO ORGANIZATION

Department of finance

4. (1) The Board shall establish a department to be called the department of finance which shall be responsible for managing and carrying out the financial affairs of the Ta’an Kwäch’än Council.

- (2) Without limiting the generality of subsection (1), the department is responsible for
- (a) the management and administration of the Ta’an Kwäch’än Council funds;
 - (b) the supervision of the revenues and expenditures of the Ta’an Kwäch’än Council;
 - (c) all matters relating to the implementation of the financial management policy of the Ta’an Kwäch’än; and
 - (d) the direction of the financial affairs of the Ta’an Kwäch’än Council that are not assigned by this or any other enactment to the Management Committee or any other person.

(3) The Board shall hire a finance manager who shall be the senior official within the department.

(4) Subject to any recommendation provided by the Management Committee, the finance manager shall

- (a) ensure the proper collection, receipt, recording and disposition of public money and ensure proper authority exists for disbursement of public money;

- (b) establish the method by which the accounts of the Ta'an Kwäch'än Council are to be kept and the method by which any manager or other person shall account for public money that comes into his or her hands;
 - (c) maintain the accounts of the Ta'an Kwäch'än Council;
 - (d) evaluate the accounting and financial management systems of the Ta'an Kwäch'än Council and, as necessary, recommend improvements to the Management Committee or the Board;
 - (e) ensure preparation of any financial statements and reports required by the Chief, the Management Committee or other public body; and
 - (f) perform other duties assigned to the finance manager by the Board, the Management Committee or any other enactment.
- (5) Notwithstanding any other enactment, the finance manager shall have access, at all times, to all departments and branches of the Ta'an Kwäch'än Council and to their records and may
- (a) require from any manager information and explanations necessary for the performance of his or her duties;
 - (b) on the direction of the Management Committee, require from any person who receives or is responsible for public money such information and explanations as may be necessary to enable the finance manager to determine whether money paid from the consolidated revenue fund, if established, has been or is being
 - (i) applied for the purpose for which it was authorized to be paid, and
 - (ii) paid or dealt with in accordance with this or any other enactment.

Board may manage monies

5. In order to carry out the provisions of this Part Two, the Board may
- (a) secure professional advice;
 - (b) establish legal entities;
 - (c) enter into contracts for the management and investment of Ta'an Kwäch'än Council monies; and
 - (d) distribute or expend any income from the investment of Ta'an Kwäch'än Council monies in a manner and on terms approved by the General Assembly.

Consolidated financial statements and public accounts

6. (1) The finance manager shall prepare the financial statements and public accounts for the Ta'an Kwäch'än Council for each fiscal year in accordance with the Ta'an Kwäch'än Council's accounting policies established by the Board and shall submit the statements and accounts to the Board no later than the 30th day of September following the end of the fiscal year to which the statements and accounts apply.

- (2) The financial statements shall take into account the standards generally accepted for governments in Canada, cost of preparation and simplicity of presentation, and shall contain
- (a) a statement of the Ta'an Kwäch'än Council's accounting policies;
 - (b) statements of the financial position of the Ta'an Kwäch'än Council as of the end of the fiscal year, the revenues and expenditures of the Ta'an Kwäch'än Council for that fiscal year and any changes to the financial position of the Ta'an Kwäch'än Council in that fiscal year relative to the previous fiscal year;
 - (c) statements prepared in a form directed by the Board of

- (i) appropriations for the fiscal year compared to the actual expenditures and the amount unexpended for that fiscal year,
 - (ii) the debt, if any, guaranteed by the Ta'an Kwäch'än Council as at the end of the fiscal year,
 - (iii) other accounts and information that are necessary to show the financial position of the Ta'an Kwäch'än Council with respect to that fiscal year,
 - (iv) any assets, debts and obligations written off in that fiscal year,
 - (v) any debts and obligations extinguished in that fiscal year, and
 - (vi) any other financial information required by the Board to be included in the statements.
- (3) The public accounts shall contain
- (a) the financial statements of the Ta'an Kwäch'än Council as described in subsection (1);
 - (b) the report of the auditor appointed by the Board to review the financial statements; and
 - (c) any other information required by the Board to be included in the accounts.

Quarterly financial statements

7. The finance manager shall prepare, in each fiscal year, quarterly financial statements for the Ta'an Kwäch'än Council operating fund referred to in paragraph 9(1)(a) and shall submit the statements to the Board no later than the 30th day of the first month after the quarter to which the statements apply.

Appointment of the auditor

8. The Board shall appoint an auditor qualified as a chartered accountant, a certified general accountant, or a certified management accountant to audit and report on the financial statements and public accounts of the Ta'an Kwäch'än Council.

PART THREE REVENUE

Funds

9. (1) The Board may specify the formation of various funds and regulations for the accounting of public money and revenue over which the Board has control. These funds may include, but are not limited to
- (a) the operating fund;
 - (b) the compensation fund;
 - (c) the taxation fund;
 - (d) the Strategic Economic Development Investment Fund;
 - (e) the transition fund; and
 - (f) revolving funds.
- (2) In addition, the Board may establish a consolidated revenue fund incorporating the funds listed in subsection (1) should reporting requirements so require.

(3) The Board may designate a long-term fund to be managed in accordance with an investment policy and to be managed by an investment counseling firm.

Establishment of accounts

10. (1) The Board may establish, in the name of the Ta'an Kwäch'än Council, a separate account in a financial institution for the deposit of each of the following categories of Ta'an Kwäch'än Council monies:

- (a) the compensation fund;
- (b) the taxation fund;
- (c) the Strategic Economic Development Investment Fund; and
- (d) all other monies received to the credit of the Ta'an Kwäch'än Council.

(2) The Board may develop regulations and, or, policies in regard to these accounts as it deems appropriate or in accordance with other specified limitations such as the Strategic Economic Development Investment Fund.

- (3) Each of the accounts established pursuant to subsection 9(1) shall be in
- (a) a bank listed in Schedule I of the *Bank Act* (Canada), S.C. 1991, c.B-0.01;
 - (b) a financial institution approved by the Board; or
 - (c) other investment institutions as approved by the Board

on the terms of a financial management or investment plan that has been approved by the Board.

Trust fund

11. (1) Trust fund money shall be paid into and shall be maintained in trust funds established by the Board.

(2) The finance manager shall record the amount received in trust and the reason why the money is being held in trust.

(3) The Board may make regulations prescribing the process and procedures to establish trust funds.

Revolving funds

12. (1) The Board may, by order, authorize the finance manager to establish revolving funds for specific purposes.

(2) All revolving funds shall be part of the consolidated revenue fund if established.

(3) Any revolving fund shall be specific as to its purpose and shall include a dollar limit that shall not be exceeded without prior approval of the Board.

(4) When a revolving fund has been established as set out in subsection (1), the Management Committee may make recommendations to the Board to issue directives with respect to

- (a) the accounts and records to be kept for the fund;
- (b) the method of charging and crediting the fund;

- (c) the method of valuing the inventory of the fund; and
 - (d) any other matter relating to the operation and management of the fund.
- (5) Each revolving fund established shall be reported in the public accounts showing
- (a) the assets and liabilities of the fund; and
 - (b) the summary of transactions of the fund.

Collection and deposit of money

13. (1) No person shall open or close an account for the receipt, deposit or transfer of public money or trust money except as authorized by section 10.

(2) Every person who collects or receives public money shall pay or give all public money coming into his or her hands to the finance manager, or to his or her delegate, or deposit it to the credit of the consolidated revenue fund in an account authorized by the Board.

(3) The finance manager, or his or her delegate, shall deposit all public money that he or she receives to the credit of the appropriate revenue fund.

(4) Every person who collects or receives public money shall keep a record of the money received in such form and manner as the finance manager directs.

- (5) The Board may make regulations
- (a) respecting the authorizing of payment from the revenue funds of a fee or commission to persons collecting, managing or accounting for public money as remuneration for all services performed; and
 - (b) respecting the setting of the rates or levels of commissions and establishing the methods by which fees or commissions may be paid.

Refunds

14. Money received by the Ta'an Kwäch'än Council that is mistakenly paid or collected for any purpose that is not fulfilled shall be refunded from the appropriate revenue fund in part or in whole, as the circumstances require.

Write-off of assets and uncollectable debts

- 15.** (1) The Board may direct the finance manager to
- (a) write off all or part of a debt or obligation that it considers to be unrealizable or uncollectable; and
 - (b) authorize specified persons to write off all or part of a debt or obligation to the Ta'an Kwäch'än Council that the authorized person considers to be uncollectable.

(2) The write-off of all or part of a debt or obligation under this section does not extinguish the right of the Ta'an Kwäch'än Council to collect the amount of the debt or obligation written off.

(3) Every account written off shall be reported in the public accounts for that fiscal year in which the account is written off.

Remissions

16. (1) If the Board considers it is in the public interest to do so in a case or class of cases where great public inconvenience, great injustice or great hardship to a person has occurred or is likely to occur, the Board may, by order, authorize the remission of

- (a) any tax, royalty, fee or other sum that is paid or payable to the Ta'an Kwäch'än Council and that is imposed or authorized to be imposed by an enactment; or
- (b) any forfeiture, fine or pecuniary penalty imposed or authorized to be imposed by an enactment, even though all or part of it is payable to another person.

(2) A remission authorized in subsection (1) may be total or partial, conditional or unconditional, and a remission of an item referred to in paragraph (a) may be granted before, during or after the course of any proceeding for the recovery of the money and either before or after any payment of it has been made or has been enforced by process or execution.

(3) If a condition of remission authorized in subsection (1) is not performed, the authorization of the remission has no effect and proceedings may be initiated or continued as if the remission had not been authorized.

(4) Money required to be paid by the Ta'an Kwäch'än Council in this section may be paid out of the operating revenue fund.

(5) If an amount of not more than \$1 is owed to the Ta'an Kwäch'än Council, the debtor is entitled to a remission under this section.

(6) Every remission, other than those made in subsection (5), shall be reported in the public accounts for the fiscal year in which the remission is made.

Interest on overdue accounts

17. (1) The Board may make regulations requiring a person who owes or is liable to pay money to the Ta'an Kwäch'än Council pay interest on the money at a rate set out in the regulations.

(2) A rate prescribed in subsection (1) may be general or specific and interest is recoverable as a debt due to the Ta'an Kwäch'än Council.

(3) Regulations made under this section do not apply to any case where another enactment requires or authorizes the imposition of interest on money owed to the Ta'an Kwäch'än Council.

Board may levy fees and charges

18. Without limiting the generality of subsection 17(1), the Board may levy and collect fees or other charges for the purpose of offsetting the costs or carrying out the provisions of subsection 17(1).

PART FOUR EXPENDITURES

Annual budgets

19. (1) The Chief shall cause an annual budget to be prepared at least thirty days in advance of each fiscal year and the Board shall approve in advance for each fiscal year an annual budget containing estimates of revenues and expenditures by department, program and activity and for goods and services to be purchased in that fiscal year, and in consideration of any Ta'an Kwäch'än Council strategic, economic development or other plan.

(2) The annual budgets approved in accordance with subsection (1) shall create and maintain surplus fund balances to provide investment revenue available to fund future Ta'an Kwäch'än Council programs, services and other initiatives, and the Ta'an Kwäch'än Council annual budget estimates presented to the Board for acceptance and approval shall show a budgeted surplus in funds that include, but are not limited to

- (a) the operating fund;
- (b) the Strategic Economic Development Investment Fund;
- (c) the transition fund; and
- (d) revolving funds.

(3) Throughout the fiscal year, as required, the Chief may cause an amended annual budget to be prepared and may approve the amended annual budget containing estimates of revenues and expenditures by department, program and activity and for goods and services to be purchased in that fiscal year. If this occurs, the amended annual budget shall be considered the approved annual budget from the time of its approval by the Board until the end of the fiscal year to which it applies.

(4) To assist in the preparation of annual budgets, the Chief shall endeavor to establish a multi-year financial planning system, in consideration of any Ta'an Kwäch'än Council strategic, economic development or other plan, as part of the annual budgeting process.

Requisitions for payment

20. (1) Notwithstanding any other Act, no payment shall be made from any account in which monies are held to the credit of the Ta'an Kwäch'än Council unless a requisition for payment has been made under the authority of and in accordance with Ta'an Kwäch'än Council laws, signed by a public officer who has been authorized by Ta'an Kwäch'än Council laws to make such a requisition, and accepted by the appropriate department manager.

(2) Department managers shall be authorized to sign requisitions for the expenditures of their departments in accordance with approved department budgets up to the limits established by regulation.

(3) Department managers and the Chief shall be authorized to sign requisitions for accounts up to limits established by regulation.

Unforeseen payments

21. (1) No payment shall be made at any time from any revenue fund for any purpose unless the approved annual budget authorizes the payment to be made for that purpose at that time.

- (2) Notwithstanding subsection (1), the Board may, by order,
- (a) authorize the payment of money from the operating fund that is urgently required for the public good even though this money has not been identified in the approved annual budget; and
 - (b) where a payment is authorized as set out in paragraph (a), the Board shall as soon as practicable, by order, approve an amended annual budget which includes the payment authorized as set out in paragraph (a).

(3) Money must not be paid out of a trust fund except in accordance with the enactment or the trust instrument or other authority by which money is held in trust.

(4) Money received by the Ta'an Kwäch'än Council as a deposit or as security for future work or service to be provided by a contractor shall be held and payments shall be made from this money as set out in the contractor agreement relating to the money received. If there is no contract or agreement or if the contract or agreement does not contain any provisions or insufficient provisions describing how money is to be paid, the money shall be paid in accordance with this Act and any directives of the Board.

(5) All payments made under this section shall be reported in the public accounts for that fiscal year in which the payment was made.

Regulation of expenditures

22. The Chief may, by directive from the Board, control or limit payments from the approved annual budget and in doing so may

- (a) identify programs or projects within the approved annual budget and distribute money among these programs and projects;
- (b) transfer money between programs and projects identified in the approved annual budget;
- (c) distribute money among activities within a program or project or authorize a department manager to do so;
- (d) transfer money between activities within a program or project or authorize a department manager to do so; and
- (e) assign responsibility for the control and management of money for a program or project to a department manager.

Contracts

23. (1) Within limits established by regulation, and in accordance with the annual budgets approved by the Board, the Chief may enter into contracts, or may delegate to department managers the ability to enter into contracts, subject to such terms and conditions as the Chief considers necessary.

(2) Notwithstanding any other enactment, a contract shall not be entered into and is not enforceable against the Ta'an Kwäch'än Council unless entered into by the Chief or a department manager authorized to do so in subsection (1).

(3) It is a term of every contract that money that becomes due under the contract is not payable unless a provision of this Act, another enactment or the annual approved budget authorizes the payment to be made in the fiscal year in which the payment falls due.

(4) The Chief shall establish a register of contracts and each contract shall be entered and its status maintained by fiscal year.

Contract advances and retainers

24. Subject to any directives of the Board, the regulations and this Act, a contract advance may be made or a retainer may be paid from the appropriate revenue fund to any person to enable that person to pay expenses that are authorized to be paid by this Act or the annual approved budget.

Record of commitments

25. (1) Every department manager shall keep records of commitments for the expenditures chargeable to the programs and projects for which he or she has been assigned responsibility under section 23.

(2) Every person authorized to spend public money shall account for it in the manner provided under this Act or the regulations or as set out in a directive of the Board.

Accounts and reporting by the Board

26. (1) The Board shall cause the financial accounts of the Ta'an Kwäch'än Council to be prepared, maintained and published in a manner which is consistent with the standards generally accepted for governments in Canada, and shall report not less than annually to the General Assembly on these accounts.

(2) The Board shall report not less than annually on the financial management or investment of Ta'an Kwäch'än Council monies to the General Assembly.

PART FIVE ASSETS

Asset management

27. The Chief shall ensure the establishment and implementation of a system of asset management for all physical assets of the Ta'an Kwäch'än Council.

Power to invest

28. If money is in a revenue fund, other than money in a trust fund, and is not immediately required for payments, the Board may establish regulations regarding its investment.

Loans and equity investments

29. (1) No loan of public money shall be made except as authorized by an order of the Board.

(2) The power to make loans or direct equity investments from the operating fund shall not be exercised except in accordance with the regulations.

Public property

30. (1) No disposition or loan of public property shall be made to any person except as authorized by a directive of the Board.

(2) Subject to this Act, the Management Committee may recommend to the Board to issue directives in regard to

- (a) the acquisition of property by the Ta'an Kwäch'än Council;
- (b) the custody and control of public property;
- (c) the disposal of public property; and
- (d) the deletion of public property from the inventory of the Ta'an Kwäch'än Council.

Charging for services or use of property

31. Subject to any other enactment, if a service or the use of public property is provided by the Ta'an Kwäch'än Council to any person, the Management Committee may, by directive, set a fee or charge to be paid by the person to whom the service or the use or the property is provided.

PART SIX
LIABILITIES

Authority to borrow

32. (1) No money shall be borrowed or security issued by the Ta'an Kwäch'än Council except as authorized by a regulation made under this Act.

(2) No money borrowed by the Ta'an Kwäch'än Council shall be used for any purpose other than that stated in the regulation, except that if, on completion of the work for which the money was borrowed, there remains an unexpended balance, the balance shall be used by the Ta'an Kwäch'än Council.

Debt management and recovery plan

33. (1) In the event of the Ta'an Kwäch'än Council contracting a debt under section 31, the Chief shall have prepared a debt management plan to be approved as a part of the budget.

(2) In the event of the operating fund being in a deficit situation, the Chief shall have prepared a recovery plan to be approved as a part of the budget.

**PART SEVEN
ENFORCEMENT****Failure to account for public money**

34. If the Board has reason to believe that a person

- (a) has received public money for the Ta'an Kwäch'än Council and has not duly remitted it to the Ta'an Kwäch'än Council;
- (b) has received public money for which the person is accountable to the Ta'an Kwäch'än Council and has not duly accounted for it; or
- (c) has in the person's possession public money for a purpose and has not applied the money to that purpose,

the Chief may direct the finance manager to prepare a written notice to the person detailing the amount of money not paid, accounted for or applied and may, by notice, require the person within a reasonable time to be specified in the notice to

- (a) pay the money to the Ta'an Kwäch'än Council;
- (b) account for the money; or
- (c) apply it to its purpose and to provide to the finance manager vouchers or receipts indicating that the person has applied the money as was intended.

Statement of account

35. (1) The notice described in section 34 shall be served by delivering it to the person or by mailing it to her or him by registered mail to the last known address of the person.

(2) If a person fails to comply with a notice served on him or her as set out in subsection (1) within the time stated in the notice, the finance manager shall prepare a statement of account between that person and the Ta'an Kwäch'än Council showing the amount of money not duly paid over, accounted for or applied, and charging interest on the whole or any part of it at a rate and from a date determined by the finance manager.

(3) In a proceeding for the recovery of public money, a copy of the account prepared as set out in subsection (2) shall be evidence that the amount stated in the account, with interest, is due and payable to the Ta'an Kwäch'än Council without proof of the appointment or signature of the finance manager, and the amount and interest, at the rate established in subsection (2) to the date of recovery, may be recovered as a debt due to the Ta'an Kwäch'än Council.

Loss through misconduct

36. (1) If public money is lost or is not collected through the misconduct, neglect of duty or negligence of a person responsible for handling public money, the person is liable for the money and it may be recovered from him or her as a debt due to the Ta'an Kwäch'än Council.

(2) The Board may make regulations providing for the recovery from a department manager of the amount of any award or reasonable settlement in respect of damages for death, injury or private property damage as a result of the negligence or willful misconduct of the department manager in the performance of his or her duties or in the operation, care or custody of public property.

Evidence

37. An affidavit deposing to the facts and sworn by a person having knowledge of them shall be admissible in a court as prima facie proof of the facts stated in it in a proceeding for the recovery of public money from a person responsible for the collection, management or disbursement of the public money where it appears from the following documents or things that he or she has received money belonging to the Ta'an Kwäch'än Council and has refused or neglected to pay the money to the proper persons at the proper times:

- (a) books or accounts kept by him or under his or her control;
- (b) an accounting by him or her; or
- (c) a written acknowledgement or confession by him or her.

Failure to deliver money or documents

38. (1) If a person refuses or neglects to deliver money or an account, statement, return or proper voucher to the finance manager to whom the person is required under this or any other enactment to deliver it, the manager may direct the person to deliver it within a stated time, not less than fourteen days after the date of service of the direction.

(2) The direction described in subsection (1) shall be served by delivering it to the person or by mailing it to him or her by registered mail to the last known address of the person.

(3) A person who does not comply with a direction under this section commits an offence.

Records respecting public money

39. (1) All records respecting public money that are kept or used by, or received or taken into the possession of a person who is or was responsible for the collection, management or disbursement of public money or the accounting for it, and all money, securities or things of value received or taken into his or her possession by reason of his or her responsibilities for public money, belong to the Ta'an Kwäch'än Council.

(2) The Board may make regulations authorizing the archiving and destruction of any records respecting public money.

(3) Any person who destroys records respecting public money, except as authorized by the regulations, commits an offence.

Recovery of penalties and forfeitures

40. The Board may sue for and recover on behalf of the Ta'an Kwäch'än Council a penalty to enforce a forfeiture imposed by any law relating to public money in any court.

Offence

41. A public officer commits an offence when
- (a) in connection with the performance of his or her duties respecting public money, he or she willfully makes or signs a false entry, certificate, requisition, contract, return or other document; or
 - (b) having knowledge or information of the violation of any enactment that provides for the expenditure or collection of public money or of fraud committed by any person against the Ta'an Kwäch'än Council, he or she fails to report such knowledge or information in writing to the Chief.

Defenses to action for recovery of public money

42. (1) If money is paid to a person by the Ta'an Kwäch'än Council
- (a) in excess of the authority conferred in an enactment;
 - (b) without the authority of an enactment; or
 - (c) contrary to an enactment

and a right is asserted by the Ta'an Kwäch'än Council to recover the payments or part of it, or to retain other money in full or partial satisfaction of a claim arising out of the payment, the person against whom the right is asserted may, subject to subsection (2), rely on any matter of fact or law, including estoppels, which would constitute a defense in a proceeding brought to recover the payment as if it had been made under a mistake.

(2) Subsection (1) does not enable a person to rely on a defense that a payment made by the Ta'an Kwäch'än Council was made under a mistake of law, and the right of the Ta'an Kwäch'än Council to recover the money paid by it is not impaired by reason only that the payment was made under a mistake of law.

Penalty

43. A person who commits an offence under this Act is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding six months or both.

Other remedies

44. Nothing in this Act affects or abrogates the right of the Ta'an Kwäch'än Council or any other person to institute any civil or criminal proceedings against a person contravening this Act, against the person's sureties or against any other person.

PART EIGHT
MISCELLANEOUS

Regulations

45. In addition to the regulations authorized to be made by any other provision of this Act, the Board may make regulations for the carrying out of the purposes and provisions of this Act.

Act in force

46. This Act comes into force on a day to be fixed by the Board.