

The Indian Act

The Indian Act is the Canadian federal Legislation first passed in 1876 that sets out certain federal government obligations. It provides for the registration of person as Indians, identifies who is entitled to be registered and who is not, sets the requirements for Band Lists (membership in bands) and makes provisions for protests of decisions concerning registration and membership and for appeals thereof. There have been over twenty major changes made to the Original Indian Act.

The Indian Act basically does two things affecting all the “**Indian People in Canada**”

1. it says how Reserves and Bands can operate; and
2. it defines who is and who is not recognized as an “Indian”

Important changes were made to the Indian Act on **June 28, 1985**, when Parliament passed **Bill C-31 – An Act to amend the Indian Act** was brought into accord with the Charter of Rights and Freedoms Act. The amendment came into effect **April 15, 1985**. The objective was to uphold **three** principles that guided the amendments to the Indian Act were: **1) removal of discrimination; 2) restoring status and membership rights; and 3) that Indian Bands have the option to control their own membership.**

The 1985 Indian Act amendment also introduced a “**Cut-Off**” in terms of who is entitled to registration. Persons born to a parent who is registered or entitled to be registered under section 6(2) are not eligible for registration unless their other parent is also someone who is registered or entitled to be registered under the Indian Act.

Another important change to the Indian Act was made on **December 15, 2010, Bill C-3 - Gender Equity in Indian Registration Act** received Royal Assent. The amendment to the Indian Act came into effect on **January 31, 2011**. *The bringing into force of Bill C-3 will ensure that eligible grandchildren of women who lost status as a result of marrying non-Indian men will become entitled to registration (Indian status).* The key criteria to registration under Bill C-3 are:

- **Did your grandmother lose her Indian status as a result of marrying a non-Indian?**
- **Is one of your parents registered, or entitled to be registered, under sub-section 6(2) of the Indian Act?**
- **Were you, or one of your siblings, born on or after September 4, 1951?**

Another important change to the Indian Act was made on **December 12, 2017, Bill S-3 – An Act to amend the Indian Act in response to the Superior Court Decision of Quebec decision in Descheneaux c. Canada (Procureur général)** received Royal Assent, **and parts of it came into force on December 22, 2017.** This includes immediately extending entitlement to Indian Status to individuals affected by inequities relating to the different treatment of cousins, siblings or minor who were omitted from historic lists. Further amendments will come into force at a later date, once consultations on how best to implement these changes are completed. These further amendments will extend status under subsection 6(1) of the Indian Act, to descendants of women who were removed from band lists or not considered Indian due to marriage to a non-Indian going back to **1869**.

Further information on the Government of Canada’s Response to the Descheneaux Decision can be found on the Indigenous Services Canada website or click on this link:

<http://www.aadnc-aandc.gc.ca/eng/1467227680166/1467227697623#chp5>

REGISTRATION VERSUS MEMBERSHIP

The Amendments to the Indian Act in 1985 separated registration in the Indian Register from band membership and gave the choice to bands to assume control of their own band membership.

This means that if you are eligible for registration as a Status Indian, you may not necessarily be eligible for Band Membership (**Whitefish River** uses the term “**Citizenship**”). The reverse is also true: You may be eligible for Band Membership, but not for registration as a Status Indian.

REGISTRATION – The Indian Registrar retains sole responsibility for the registration of persons in the Indian Register. The term “Status Indian” is used to refer to a person who is registered.

Normally, you are eligible for registration if:

- you were eligible before the Act was changed in 1985;
- you lost your registration as a result of your marriage to a non-Indian man;
- you lost your registration because your father was not an Indian;
- you lost your registration because you or your parents applied to give up registration and First Nation membership through the process known as "enfranchisement"; or
- Both your parents are eligible for registration for any reason.

THE INDIAN REGISTRAR – was first established in 1951, and is the official within the department who is responsible for the maintenance of the Indian Register and its component parts: the Band lists and General Lists.

Band Lists – which contained the names of persons who were band members and entitled to be registered; and

General Lists – which contained the names of persons who were not band members, but were entitled to be registered.

MEMBERSHIP -Membership in a band is determined either by:

1. the band under section 10 of the Indian Act. All decisions on who can become a member of a section 10 band are made by the band itself in accordance with the membership rules it has established; or
2. a piece of self-government legislation separate from the Indian Act; or
3. the Indian Registrar under Section 11 of the Indian Act.

On **June 8, 1987**, WRFN gave notice to the Minister of Indian Affairs and Northern Development that **WRFN is assuming control of its own membership**. On **September 25, 1987**, Minister gives notice to WRFN, that **Whitefish River** is a **section 10 band** under the Indian Act and determines its own Band Membership (**Citizenship**) under the **WRFN Citizenship Code**. Our Code using the preferred term **“Citizen”** and has the same meaning as the expression **“member”**, and means a person who is enrolled in the WRFN Citizenship Register.

Main Benefits of Indian Status and Citizenship (Band Membership)

Benefits of Indian Status may include:

- Certain non-insured health benefits
- possibility of post-secondary education assistance,
- treaty payments (if applicable),
- possibility of Federal and Provincial Sales Tax exemptions

Benefits of Citizenship may include:

- a right to reside on reserve,
- a right to housing on reserve,
- voting privileges within the band,
- right to involvement in community affairs

WHITEFISH RIVER FIRST NATION CITIZENSHIP

The Anishinabek of Whitefish River, affirming the cultural, spiritual and political integrity accorded to us by the Creator, which is based upon respect for the rights of individuals and nations, and honor for our Mother Earth;

And Recognizing the need to maintain our integrity as a distinct First Nation, and to protect and enhance – for future generations – our rights as Aboriginal people, including those rights provided for in the Robinson-Huron Treaty of 1850

We therefore hereby enact, pursuant to our right of self-government, as follows: **The Whitefish River First Nation Citizenship Code.**

Registration for Citizenship with Whitefish River First Nation is not automatic, and everyone must apply. When a person is seeking enrollment as a citizen or probationary citizen, as the case may be, the burden of proving the right or eligibility thereto rests upon the person who is seeking to establish entitlement or eligibility to enrollment.

The WRFN Citizenship code recognizes **two ways of becoming a citizen of our First Nation:** **First**, you may become a citizen, as of right, by virtue of your parentage under Article 4; **Second**, you may earn your right to become a citizen through Probationary Citizenship under Article 5.

Citizenship and Probationary Citizenship Applications are available upon request. Contact the Membership office

Citizenship Applications

The following persons are entitled to be enrolled in the Whitefish River First Nation Citizenship Register under **Article IV** of the Whitefish River First Nation Citizenship Code:

- “4.1 (1) (a) any person whose name appeared on the Band list maintained by the Department prior to the coming into force of this Code;
 - (b) Any person, both of whose parents are enrolled as citizens; or
 - (c) Any probationary citizen who has been granted citizenship pursuant to section 7.2
- (2) A person is entitled to be enrolled in the Citizenship Register if that person has at least one parent who is a citizen, provided that both that parent's parents are also citizens.
- (3) A person, who is a child, born on or after April 17, 1985, one of whose parents is a citizen, is entitled to be enrolled in the Citizenship Register, provided the other parent is a citizen of another First Nation and both parents consent to the enrollment.”

Probationary Citizenship - Article V of the Whitefish River First Nation Citizenship code:

- “5.1(1) “The following persons are eligible to make an application for probationary citizenship:
- (a) Any person who is a citizen of another First Nation;
 - (b) Any person who is married to a citizen;
 - (c) Any person, one of whose parents is enrolled as a citizen; and
 - (d) Any Indian who is a descendant of a citizen.

5.2 (2) In determining whether the granting of probationary citizenship is in the best interest of the First Nation, consideration shall be given to all of the circumstances of the applicants including:

- (a) The moral character of the applicant;
- (b) The aboriginal ancestry of the applicant;
- (c) The applicant's knowledge of, or commitment to learn the language and culture of the First Nation;

7.1 "A Probationary Citizen may make an application for enrollment in the Citizenship Register if he or she has been ordinarily a resident on the reserve for a period of two years." This means that a two (2) year residency requirement must be completed before applying for Full Citizenship.

CITIZENSHIP APPLICATION PROCESS & BAND CHANGE REPORT

Applications submitted for citizenship are date stamped when they are received in the Membership office. Applications are then reviewed by the WRFN Citizenship Advisory Committee, who provides recommendations to Chief and Council for approval to post the applicant name(s) in the Band Change Report for a period of thirty (30) days.

The **Band Change Report** allows Citizens of WRFN to view any changes (additions/deletions) to the Citizenship Register.

The omission, addition, or deletion of any name from the Citizenship Register may be protested within thirty (30) days by the person affected thereby, or by any **ten (10) electors**, by a written notice of protest to the Citizenship Advisory Committee. The notice of the protest shall contain: 1) the grounds of the protest, and 2) the names and signatures of the persons protesting.

Should no written objections be received during the thirty (30) day Band Change Report posting, the application will proceed to approval by Chief and Council, and the applicant's name will be entered into the Citizenship Register by Band Council Resolution.

Membership Clerk/Indian Registration Administrator (IRA)

The IRA Assists individuals with registering **Life Events** (such as Births, Name Change, Marriages, Divorce, transfers, Deaths); responsible for maintaining the WRFN Citizenship and Probationary Citizenship Registers; maintain the WRFN Voter's List, Band Change Reports when there are additions/deletions to the WRFN Citizenship Register, population statistics, prepare items and attend Citizenship Advisory Committee Meetings as a resource person, and issuance of Certificates of Indian Status Cards.

Application Forms for registration, Secure Certificate of Indian Status Card, and registration of life events are available in the WRFN Membership office, or forms are available on the Indigenous Services Canada website: <http://www.aadnc-aandc.gc.ca/eng/1100100032776/1100100032782>

As of May 1, 2012, any changes made to the Indian Registry System require an individual's mailing address. Aboriginal Affairs requires your mailing address, so they may notify individuals in writing of any changes made to their Registry Page.

PROCEDURE FOR REGISTERING A CHILD

1 Ensure that the child is eligible for registration. Children born after April 17, 1985, are eligible if:

- a) Both parents are registered, or
- b) One parent is registered under section 6(1) of the *Indian Act*

2 Documents required:

- The Child's **ORIGINAL** Long Form Birth Certificate (Statement of Live Birth).
- A completed and signed Application for Registration of a Minor Child under the Indian Act Form. If both parents are stated on the Long Form Birth Certificate, both parents must sign.
- Parent(s) signature is not required if:
 - a) If the court has awarded permanent custody of the child to one parent, consent of the other parent is not required. Custody/Court documents must be submitted as well.
 - b) If the court has award permanent custody of the child to a provincial or territorial director of Child and Family Service, consent of the parents is not require. Custody/Court documents must be submitted as well;
 - c) If a court has awarded permanent custody of the child to a guardian, consent of the parents is not required. Custody/Court documents must be submitted as well.

PROCEDURE FOR REGISTERING AN ADULT

1. Complete the application for registration of an adult.

2. Documents required:

- **Original** Long form Birth Certificate (Statement of Live Birth)
- **Birth or Baptismal Certificates** can be used if the birth occurred in the province of Quebec prior to January 1, 1994 (only if issued by the Church Authorities)

Original Forms submitted will be returned upon completion of registration

REGISTERING LIFE EVENTS

To register a Marriage - the **Original** marriage certificate or marriage registration and request to register a marriage form is required.

To register a Divorce, a copy of the Certificate of Divorce (Divorce granted in Canada after February 13, 1986); or Divorce Decree Absolute (divorce granted in Canada prior to February 13, 1986); or United States of America Divorce documents is required.

If the female spouse wishes to revert to her birth (maiden) name or wishes to request a new registration number, the following document is required: a signed "**Revert to Maiden Name Consent Form**"

To register a death, acceptable documents are: Vital Statistics Death Registration; Church Death Registration; Coroner's Report; Funeral Director's Statement; Burial permit; or Internment Certificate is required.

To register a name change, a name change certificate is required.

Alias is reserved mainly for Spirit names. To register an Alias, a request to add alias to name form is required.

CERTIFICATE OF INDIAN STATUS CARD (CIS) CARD

To apply for a Certificate of Indian Status (CIS) card paper Laminate card. Two (2) pieces of photo identification are required and a photo of the applicant. CIS cards are valid for 3 years for a minor, and 5 years for an adult.

Acceptable forms of Identification are:

- Valid Canadian Passport (counts as 2 pieces of I.d.)
- Certificate of Indian Status Card
- Birth Certificate
- Driver's License
- Firearm's License
- Student I.d. Card
- Employee I.d. Card
- Provincial Health Card
- Guarantor's form (guarantor must provide I.d.)

Mail out applications for Paper laminate Status Cards are no longer available, you must attend the membership office in person or contact the nearest First Nation to see if a card can be issued to you. Also, Paper Laminate cards are no longer available at Indigenous Services Canada offices.

NEW SECURE CERTIFICATE OF INDIAN STATUS (SCIS) CARD

To apply for the New Certificate of Indian Status Card, please make an appointment at the nearest Indigenous Services Canada Regional office. Currently applications are being accepted for the **“In-Canada” Secure Certificate of Indian Status Cards**. This is a mail out application, and the SCIS card will be mailed to you.

For Adults required documents are:

1. One (1) copy of valid government issued I.d. (reflecting name in IRS, and excluding CIS and SCIS)
2. No Birth Certificate required for adult applications.
3. Two (2) copies of valid government issued I.d. See list for CIS card
4. Two (2) passport style photographs; and
5. Name linking document (if necessary, i.e marriage certificate(s), Legal name change document).

For Children under 16 years, required documents:

1. **Original** proof of birth (wallet size or long form birth certificate),
2. one valid ID from parent/legal guardian,
3. Legal documents (if necessary, custody/adoption/guardianship, etc.),
4. 2 passport style photographs, and
5. Name linking document (if necessary).

To Apply for a Certificate of Exemption (Gas Card):

You are required to submit an application form and a photocopy of your status card (front and back) and fax the completed application to the fax number listed on the form. The gas card will be mailed directly to that applicant.

Application forms are available in the membership office or visit the Ontario Ministry of Finance website and search for gas card. Or click on the following link:

<http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=0265&NO=013-0265>

TREATY DAY for WHITEFISH RIVER FIRST NATIONS

Registered Status Members, Treaty Day is usually scheduled during the month of May. If you were unable to attend Treaty Day in person, you may submit a Treaty Annuity Request Form. Contact the Membership office to request the treaty Annuity Request Form or visit the INAC website: https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/br_frms_traa_83088fl_1315099050062_eng.pdf

Please mail the completed form to the **ONTARIO-NORTH, INAC Anemki Business Centre**, you must include a photocopy of your status card and mailing address.

REQUEST TO UPDATE MAILING/CONTACT INFORMATION:

We are requesting individuals to please update your mailing address to include Post Box numbers, and contact information (telephone, email, etc). Your mailing address is required for voting purposes within the band, (i.e. elections, referendums), as well as distributing important information. It is the individuals' responsibility to notify the Membership Office of change of address.

CONTACT INFORMATION:

Kathleen Migwanabi,
Indian Registration Administrator,
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