



This Synopsis is meant to provide Members of Whitefish River with a brief summary of the amendments to the Indian Act in regards to Registration, and the Whitefish River First Nation Membership Program.

## A Summary of the "The Indian Act"

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The Indian Act is the Canadian federal Legislation first passed in 1876 that sets out certain Federal government obligations. 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".

The unfair terms of the Indian Act prior to 1985 caused many people to lose their status. Prior to Bill C-31, there were several ways a person "*lose their Indian Status*". Indian men, women and children could be removed from a band list or lose Indian status through enfranchisement.

**Enfranchisement** is defined as a process by which an Indian gave up status and band membership (voluntary or involuntary), and was the legal process for terminating a person's Indian status. Individuals or entire bands could enfranchise. Once Enfranchised, that person and their descendants lost all benefits related to registration. The effects of enfranchisement are still felt today. A person lost their Indian Status for various reasons, these included:

1. **Marriage to a Non-Indian man.** If a registered Indian woman married a non-Indian man, she automatically lost her Indian Status. She and her children born after the marriage were no longer considered status Indians under the Indian Act;
2. **by virtue of their education and profession** (i.e. lawyers, doctors, priests, teachers, serving in the Canada armed forces, etc.) or for leaving reserves for long periods – for instance, for employment, or foreign residence (more than 5 years) - they were automatically enfranchised;
3. **the right to vote** in a federal election. Until 1960, the only way Indians could vote in federal elections was to give up their Indian Status;
4. **individuals could submit an application to be enfranchised by** showing they were "fit" for enfranchisement and entering Canadian society. If all the requirements were met, they would receive a letter (called letters patent), that declared them enfranchised and no longer Indians. When a man enfranchised, his wife and children would also be enfranchised.

There have been over twenty major changes to the Indian Act. 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 17, 1985**.

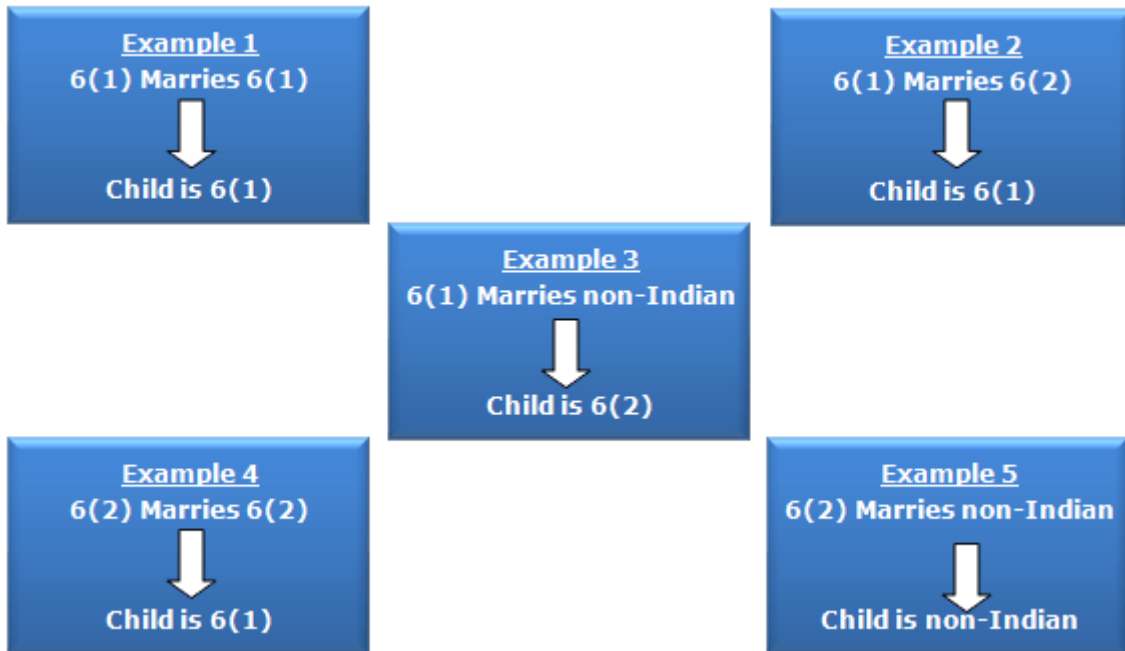
The **objective was to uphold three principles** that guided the amendments to the Indian Act were:

- 1) **removal of discrimination;**
- 2) **restoring Indian status and band membership rights; and**
- 3) **Give Indian Bands the right to control their own membership.**

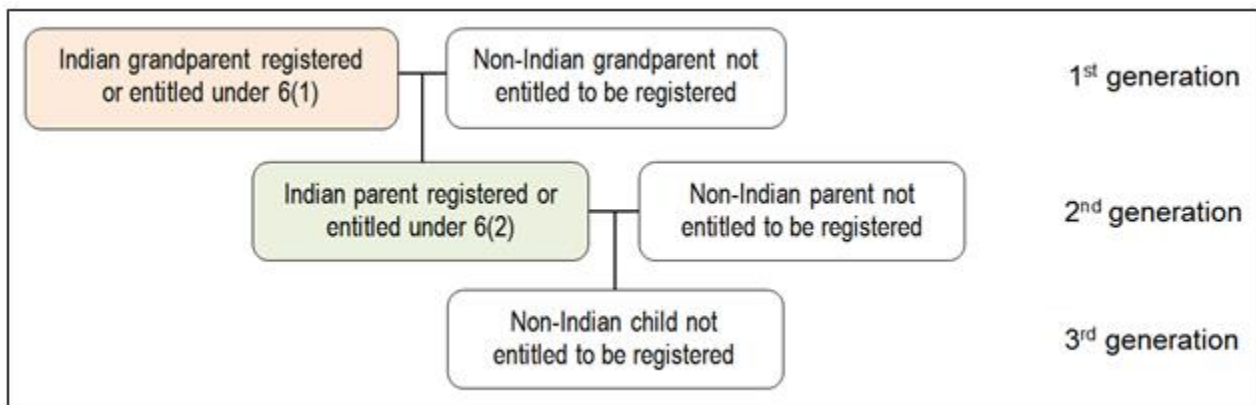
The Indian Act of 1985 abolished enfranchisement and restored status to those who had had status removed through enfranchisement, and introduced a "**Cut-Off**" in terms of who is entitled to registration. The revised **Section 6** of the Indian Act, "Persons Entitled to be Registered," introduced two classes of Indians

- 6(1) – those who can pass Indian status to their children;
- 6(2) – those who have Indian status, but cannot pass their status to their children unless the other parent is also has status. Also known as the "**second generation Cut-off Rule**"

Examples of Individuals entitled to be registered as Indian Status



**Second Generation Cut-off Rule** - after two consecutive generations of parenting with a person who is not entitled to registration (a non-Indian), the third generation is no longer entitled to registration. Entitlement is therefore cut-off after the second-generation. In other words, an individual will not be entitled to Indian registration if they have one grandparent and one parent who are not entitled to registration under the Indian Act". The following diagram illustrates how the second-generation cut-off is applied:



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

On **December 22, 2017, Bill S-3- An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procureur général)** came into force. This act addresses known sex-based inequities in the Indian Act and entitles persons who were affected by those inequities to register.

As of **August 15, 2019**, all of the amendments proposed under **Bill S-3**, including the removal of the 1951 cut-off date, are in force, resulting in the elimination of all known sex-based inequities in the Indian Act.

**ADDRESSING ENFRANCHISEMENT OF UNMARRIED WOMEN IN REGISTRATION – ON July 31, 2020**, the Quebec Superior Court issued its decision in the case of *Hele c. Attorney General of Canada (Hele Decision)*, ruling that **unmarried women could not be enfranchised** under the 1951 Indian Act. While some women did submit an application to enfranchise, the Court ruled that the provisions of the 1951 Indian Act were clear and purposeful in that **enfranchisement by application was only available to men, their wives and their minor children**. The *Hele Decision* only affects **unmarried women who enfranchised by application as an adult between September 4, 1951 and April 17, 1985, and their descendants**. It does not affect all persons who were enfranchised before 1985. Registered persons affected by the **Hele Decision** may be eligible for a category amendment. A category amendment may allow additional generations to be entitled to registration.

If you applied for registration before the Indian Act was amended, and are currently registered or are waiting for your application to be processed, it will automatically be processed based on the amended Indian Act, **you don't need to reapply**. **If you were affected by the 1951 cut-off date and your application for registration was denied: you need to re-apply.**

**Bill C-38 – An Act to amend the Indian Act.** - Introduced on **December 14, 2022**, **Bill C-38 seeks to: address the inequity of enfranchisement; enable deregistration by application; eliminate sex-based inequities in the membership provisions; and remove some outdated and offensive language in the Indian Act.**

If passed, Bill C-38 will: ensure persons with a family history of enfranchisement will be treated the same as those without; enable persons who wish to have their names removed from the Indian Register to apply for deregistration; enable women who were automatically transferred to their husbands' band to seek affiliation with their natal band. Women and their direct descendants may apply; and remove dated references to mentally incompetent Indians.

For more information on Bill C-38, visit: <https://www.sac-isc.gc.ca/eng/1662142490384/1662142638971>

**November 2023:** the Minister of Indigenous Services launched the **Collaborative Process on the Second-Generation Cut-Off and Section 10 Voting Thresholds**. The collaborative process consists of 2 phases:

**Phase 1:** Co-development and information sharing. The first phase of the collaborative process includes: an Indigenous advisory process; and a rights-holders information sharing initiative

**Phase 2:** Consultation activities and events - The second phase of the collaborative process is being co-designed and implemented based on the recommendations heard during the co-development and information sharing phase.

Since 1985, the second-generation cut-off has continued to have deep impacts on First Nation individuals. The second generation cut-off prevents many First Nations people with status under the

Indian Act from passing status on to their children and grandchildren, simply because of the person with whom they chose to parent.

The issue of double majority voting thresholds will also be examined to ensure that any proposed solution for the second-generation cut-off does not become an obstacle to First Nations seeking control over their membership lists.

**Indigenous Services Canada website:** <https://www.canada.ca/en/indigenous-services-canada.html>

**Indian Act:** <https://laws-lois.justice.gc.ca/eng/acts/i-5/>

## REGISTRATION VERSUS MEMBERSHIP

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Prior to 1985, automatic entitlement to band membership usually accompanied Indian status. The 1985 amendments separated Registration and Band Membership. As a result, persons may possess Indian status (registration), but not be members of a band (membership).

Section 10 bands enables First Nations to enact their own membership or citizenship codes. Once the band controls its membership list, Indian and Northern Affairs Canada (INAC) has no power to make additions or deletions, and no further responsibilities regarding the band list.

Section 11 Bands - ISC is responsible for the Indian Register as well as band lists.

**REGISTRATION** – The **Indian Registrar** retains sole responsibility for the registration of persons in the Indian Register

**MEMBERSHIP** – Membership in a band is determined either by: 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 a piece of self-government legislation separate from the Indian Act; or 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 Citizenship (Band Membership) under the ***WRFN Citizenship Code***.

**Normally, you are eligible for registration as a Status Indian if:**

- Both or either one of your parents are registered or entitled to be registered;
- your mother, grandmother or great-grandmother lost her Indian status through marriage to a non-Indian man before April 17, 1985;
- your mother, grandmother or great-grandmother was born out of wedlock of an Indian father and a non-Indian mother between September 4, 1951, and April 16, 1985;
- your parent's, grandparent's or great-grandparent's name was omitted or deleted from the Indian Register or from a band list because of their non-Indian paternity;
- you lost your registration because you or your parents applied to give up registration and First Nation membership through the process known as "enfranchisement";

## 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 **WRFN Citizenship** may include:

- a right to reside on reserve,
- a right to housing on reserve,
- right to involvement in community affairs (i.e. voting privileges within the band)

## NON-INSURED HEALTH BENEFITS FOR FIRST NATIONS & INUIT (NIHB)

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The Non-Insured Health Benefits (NIHB) program provides eligible First Nations and Inuit clients with coverage for a range of health benefits that are not covered through other social programs, private insurance plans, or provincial or territorial health insurance.

The program provides coverage for the following medically necessary goods and services: vision care; dental care; mental health counselling; medical supplies and equipment; prescription and over-the-counter medications; medical transportation to access medically required health services not available: on reserve, and in the community of residence.

For more information about health care services and non-insured health benefits (NIHB), visit <https://www.sac-isc.gc.ca/eng/1569861171996/1569861324236>

Jordan's Principle: <https://www.sac-isc.gc.ca/eng/1568396042341/1568396159824>

## WHITEFISH RIVER FIRST NATION CITIZENSHIP CODE

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*“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.** Applications for Citizenship are available upon request in the Membership Office



## Citizenship –Article IV

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The following persons are entitled to be enrolled in the Whitefish River First Nation Citizenship Register:

- “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 WRFN Citizenship code:

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“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;

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. Upon application by a probationary citizen for Citizenship”.

## CITIZENSHIP APPLICATION PROCESS & BAND CHANGE REPORT

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Applications submitted for either Full citizenship or Probationary Citizenship are reviewed by the WRFN Citizenship Advisory Committee, who then provides recommendations to Chief and Council for approval to post the applicants name(s) in the Band Change Report for a period of thirty (30) days. The Band Change Report is publicly posted at the Administration Office, Health Centre, Community Centre, Post Office and on the Whitefish River First Nation website – membership portal.

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 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)**

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An Indian Registration Administrator (IRA) is a band employee on reserve who does work related to the administration of Indigenous Services Canada (ISC) programs. IRAs are delegated specific authorities by the Indian Registrar. By working at the band level on behalf of ISC, IRAs are able to maintain the Indian Register and assist band with the issuance of Status Cards and registering **Life Events** (Births, Name Change, Marriages, Divorce, transfers, Death, etc.) in the Indian Registry System.

**Applications for registration** and registration of life events are available in the WRFN Membership office, as well as available on the Indigenous Services Canada website:

<https://www.sac-isc.gc.ca/eng/1462806841047/1572461062751#chp1>

## **LIFE EVENTS REPORTING**

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As of May 1, 2012, any changes made to an individual's Registry page require the individual's consent by completing a **"REQUEST FOR AMENDMENT FORM"** and **provide a copy of their photo I.d.** ISC requires your contact information, so they may notify individuals in writing of any changes made to their Registry Page.

## **REGISTERING AN ADULT FOR "INDIAN STATUS" – DOCUMENTS REQUIRED**

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- **Original** Long form Birth Certificate (Statement of Live Birth)
- **Birth or Baptismal Certificates** if the birth occurred in the province of Quebec prior to January 1, 1994
- **Name-Linking Document (if applicable)** - i.e. legal name change. Photocopy is acceptable
- Completed and signed **Application for Registration** on the Indian Register and for the Secure Certificate of Indian Status (SCIS) for **adults 16 years of age or older**
- Guarantor form;
- Two (2) Canadian passport-style photos (if applying for SCIS at same time)

## **REGISTERING A CHILD FOR "INDIAN STATUS" – – DOCUMENTS REQUIRED**

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- **ORIGINAL** Long Form Birth Certificate (also known as Statement of Live Birth)
- A completed and signed **Application for Registration** on the Indian Register and for the Secure Certificate of Indian Status (SCIS) for **children 15 years of age of younger or dependent adults.** NOTE: If both parents are stated on the Long Form Birth Certificate, both parents must sign.
- Name-Linking Document (if applicable) - i.e. legal name change. Photocopy is acceptable
- Guarantor Declaration Form (mail out applications).
- Two (2) Canadian passport-style photos (if applying for SCIS at same time)
- 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;



- 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;
- 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.

### **IF YOU WERE ADOPTED:**

A copy of the adoption order or a letter from the social services authorities confirming the details of the adoption; or a **consent form** signed and dated by the adopted applicant, or in the case of a child or dependent adult, by the adoptive parents or legal guardians, so ISC can get information about the biological ancestry from social services authorities involved in the adoption

You can also submit a copy of the pre-adoption birth certificate listing the biological parents' name, if available. If adopted in British Columbia, you'll need to fill out a consent form specific to that province. A **CUSTOM ADOPTION** is carried out following a First Nation's practices. Applicants need to submit additional documents to confirm the custom adoption. To find out more about what other documents you need to submit if you're adopted and to obtain a consent form: write to:

Adoption Unit, Indigenous Services Canada,  
10 rue Wellington,  
Gatineau, Quebec K1A 0H4

**Amending your registration category** - If known sex-based inequities in the Indian Act have affected your entitlement to registration, your registration category may be amended. To request a category amendment, submit a copy of valid acceptable identification as well as a signed and dated written request with your name, registration number and mailing address

**RECLAIMING YOUR NAME** - You can reclaim your name in the Indian Register and on your status card. At this time, your family name, given name or alias can only include letters from the Latin alphabet and some accented letters. To reclaim your family name or given name, you must submit a document that confirms your reclaimed name, such as a proof of birth document or a legal change of name certificate, with your complete application. To reclaim your name as an alias, you don't need to submit a document that confirms your reclaimed name with your complete application.

**To register a SPIRIT NAME / Alias**, submit signed Request for Amendment Form.

**To register a Marriage**: the **Original** marriage certificate 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.

**To Revert to Maiden Name**: If the female spouse wishes to revert to her birth (maiden) name or wishes to request a new registration number, the **Original Birth Certificate** is required.

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

To register a **Name Change**, the **Original** name change certificate is required.

As of **December 10, 2020**, you can select a **non-binary gender identifier** on the application form when applying for Indian Status or a Status card: M (Male) F (female) or X (another gender).

## **CERTIFICATE OF INDIAN STATUS CARD (CIS) CARD**

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To apply for a **Certificate of Indian Status (CIS) card paper Laminate card**, you must attend the membership office in person or contact the nearest First Nation to see if a card can be issued to you. Paper Laminate cards are no longer issued at Indigenous Services Canada regional offices.

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. Also **you must return your old CIS card in order to receive a new one.**

### **Acceptable forms of Identification are:**

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

## **SECURE CERTIFICATE OF INDIAN STATUS (SCIS) CARD**

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**This is a mail out application.** You can either mail the completed SCIS application and GUARANTOR FORM, or make an appointment at the nearest Indigenous Services Canada Regional office to you.

### **Required documents - Adults:**

- Two (2) pieces of photo identification
- Name linking document (if necessary, i.e. marriage certificate(s), Legal name change document).
- Two (2) photographs (Canadian passport style)

### **For Children 15 years and younger,:**

- **Original** birth certificate and one valid ID from parent/legal guardian,
- Legal documents (if necessary: custody/adoption/guardianship, name linking document etc.),

**SCIS PHOTO APP** - You can now take your own photo when applying for a Secure Certificate of Indian Status (SCIS), and submit it with your guarantor's name, email address and signature straight from your smartphone using the SCIS Photo App:

- Visit Google play or the App Store to download the app free of charge. Follow-on screen instructions.

## Certificate of Exemption (Gas Card):

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**Effective January 1, 2020, the Ontario Gas Card has been discontinued.** First Nation Individuals will use their Certificate of Indian Status (**Status Card**) to purchase tax-exempt gas **ON-reserve**. Ontario charges a tax of **14.7 cents per litre of gasoline**. First Nation individuals do not have to pay this tax when buying gasoline for their own use from an authorized on-reserve gasoline retailer.

**UPDATE - TAX RATE DECREASE EFFECTIVE JULY 1, 2022 until December 31, 2023**, the gasoline tax rate on unleaded gasoline will be reduced from 14.7 cents per litre to 9.0 cents per litre. Your vehicle license plate information is not required.

Beginning January 1, 2020, children under 16 years of age can continue to purchase tax-exempt gasoline for their exclusive use (i.e. snow machine, ATV) using their own status card or parent's status card.

**If the tax exemption is not provided**, the retailer **must** give you a sales receipt showing the gasoline tax charged. You may use that receipt to apply for a refund from the Ministry of Finance. To request a refund contact the Ministry of Finance by **Phone:** 1-866-668-8297 or email: [commodity.tax@ontario.ca](mailto:commodity.tax@ontario.ca)

For more information visit: <https://www.ontario.ca/page/first-nation-purchases-tax-exempt-gas>

## TREATY DAY for WHITEFISH RIVER FIRST NATIONS

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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, or use this link: [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/br\\_frms\\_traa\\_83088fl\\_1315099050062\\_eng.pdf](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-SUDBURY Regional office**, you must include a photocopy of your status card and mailing address.

## REQUEST TO UPDATE MAILING/CONTACT INFORMATION:

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Whitefish River First Nation members, please update your mailing address, and contact information. Your mailing address is required for voting purposes within the band, (i.e. elections, referendums), as well as distributing important information.

## CONTACT INFORMATION:

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### WRFN Membership Department

17A Rainbow Ridge Road, PO Box 188, Birch Island, ON P0P 1A0

**TELEPHONE:** (705) 285-4334 or (705) 285-4335 **Toll Free:** 1 (800)265-4335 **FAX:** (705) 285-4532

**Staff:** Louanne Megwanabe, Lands/Estates/Membership Clerk, email: [lands.ira@whitefishriver.ca](mailto:lands.ira@whitefishriver.ca)

Kathleen Migwanabi, Lands Manager/IRA, email: [kathleenm@whitefishriver.ca](mailto:kathleenm@whitefishriver.ca)

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