

This simplified version of the Indian Act was prepared during a joint project undertaken by the Yorkton Tribal Council and Parkland Regional College. Funding was made available by the National Literacy Secretariat, Human Resources Development.

The Indian Act was simplified to make the document easier to read and understand for many Aboriginal adults. It is not a legal document. For legal reference and clarification, please refer to the original Act.

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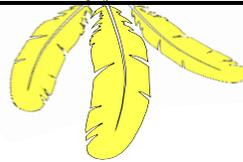
SECTION 1



NAME

1. This government record is called the "Indian Act."

SECTION 2



MEANING OF SOME WORDS IN INDIAN ACT

2. Words used in the Indian Act are:

band

- (a) a group of Indians who share Reserve lands;
- (b) a group of Indians who share the money kept by the Minister of Indian Affairs; or
- (c) a group of Indians who are called a band by Government

child	your own children or children who are adopted
council of the band	(a) the chief and councils elected under the act; or (b) picked by the custom of the band
Department	Department of Indian Affairs and Northern Development
elector	a person who is: (a) on a Band List; (b) age 21 or older; and (c) able to vote in band elections
estate	everything a person owns (land, clothing, money)
Indian	a person who has the right to have his name on a Band or General List (<i>see Sections 11 and 12</i>)
intoxicant	anything with alcohol in it that can make a person drunk
member of a band	a person who has the right to have his name on a Band List (<i>see Sections 6, 11 and 12</i>)

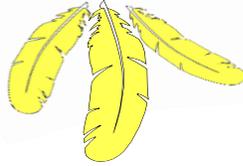
mentally incompetent Indian	an Indian who is not able to think, reason and look after himself (<i>see Section 51</i>)
Minister	the Minister of Indian Affairs and Northern Development
registered	listed as an Indian in the Indian Register (<i>see Section 5</i>)
Registrar	the person from the Department of Indian Affairs who takes care of the Indian Register. This person decides who will be listed.
reserve	land set aside by Government for the use of an Indian band
superintendent	a Government supervisor for the affairs of the band
surrendered land	any part of reserve lands that were given up by a band to the Government

When the word "band" is used with "reserve" or "surrendered land", this means the band for which the land was set aside.

Unless the Act says otherwise:

- (a) a band can not do something unless more than 50% of its members agree; and
- (b) a band can not use its power unless more than 50% of the band councillors agree at a band council meeting.

SECTION 3



HOW THE INDIAN ACT IS MANAGED

- 3.** (1) The Indian Act is managed by the Minister of Indian Affairs.
- (2) The Minister can chose a Deputy Minister or Assistant to use the powers given by the Indian Act.

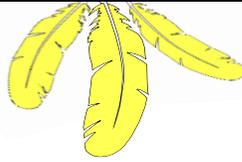
SECTION 4



HOW THE INDIAN ACT IS PUT TO USE

4. (1) The Indian Act does not cover Eskimo or Inuit people.
- (2) The Government can make laws about what part of the Indian Act applies to:
 - (a) any Indian or band; or
 - (b) any reserve or any part of reserve lands that were given up by a band to the Government.The Government can also change any law it has made.
- (3) Sections 114-123 and sometimes Sections 42-52 do not apply to Indians who do not live on the reserve.

SECTIONS 5 - 16



WHO IS AN INDIAN UNDER THE INDIAN ACT AND HOW ARE INDIANS LISTED

5. The Department of Indian Affairs keeps a list of names of every person who has the right to be listed as an Indian. The person in charge of the list is known as the "Registrar".
6. See Section 5 above.
7. (1) The Registrar has the power to add or take names off the Band list.

(2) When changes are made to the Band list, the Registrar has to show the date of any changes.
8. The list of names that were on Band lists as of September 4, 1951 had to be posted in the local Indian Affairs office.
9. (1) These band lists could be questioned any time up until six months after September 1951. If a person's name was added on or taken off a Band list by the Registrar, a written protest could be made

within three months.

The protest could be made by:

- (a) the band council or a group of band electors;
- (b) any adult on the Band list;
- (c) the person whose name was added on or taken off the list.

The protest had to state why the person's name should not be added to or taken off the list. [See *Section 12(2)*].

- (2) The Registrar must study each protest and make a decision. This decision is final unless it is taken to the courts.
- (3) After the Registrar made a decision, the band council or person involved could apply to the Registrar to have the court look into the case. It had to be done in writing. The Registrar must then send his decision and all papers and materials to the court.
- (4) The court that is looking into the Registrar's decision can set up a hearing to allow people to tell their stories. After reviewing the case, the court decides if the person has the right to have his/her name listed in the Indian Registrar. The court's decision is final.

- (5) Any decision made by the Registrar can only go to court once.
 - (6) It is up to the person who protests to prove to the court that the Registrar's decision is wrong.
- 10.** When a man's name is added to or taken off a Band List, the names of his wife and children under the age of 21 are also added or taken off. [*See Section 109(3).*]
- 11.** (1) A person has the right to be listed as an Indian under the Indian Act if he:
- (a) lived on Indian lands before the law was made on May 26, 1874;
 - (b) is a member of a band;
 - (c) is a male whose ancestors (father, grandfather, great grandfather, etc. on the father's side) were people who were allowed under A or B above;
 - (d) is a legal child of a person who is allowed under A, B or C above;
 - (e) is the child of the mother who is allowed under A, B or D; or
 - (f) is the wife or widow of a man who is allowed to be listed under A, B, C, D or E.
- (2) The child of an unmarried Indian woman was only able to be listed if the child was born after August 13, 1956.

12. (1) (a) Some people who had the right to be listed under Section 11 could lose that right if:
- i. that person was given half breed lands or money set aside for him;
 - ii. that person's ancestors were given half breed lands or money set aside for them;
 - iii. that person wished to be moved from one band to another;
 - iv. that person's parents were married after September 4, 1951 and his mother was not on the band list before she got married, and his grandmother on his father's side was not on the band list before she got married. This person loses the right to be listed at age 21.
- (b) If an Indian woman marries a non-Indian, she loses her status.
- (2) The child of an unmarried Indian woman born after August 13, 1956 can be listed on the Band List. If no one protests within one year, the name stays. A child cannot be listed if the courts prove that the father was not Indian.
- (3) The Minister can give a letter to an Indian saying that the Indian Act no longer applies to that person. *(See Sections 10 and 109.)*

(4) Parts (1) (a) (i) do not apply to anyone who:
(a) was listed as an Indian on August 13, 1958; or
(b) is a child of someone who was listed as an Indian on August 13, 1958.

(5) See section 12(2).

13. The Minister has the power to add names to a list or move names from one Band list to another.

14. A woman no longer belongs to her Band if she marries a man from another band. She becomes a member of her husband's band.

15. (1) An Indian who gives away his rights or who is no longer a band member can get from the Government:

(a) a one-time share of money held for the band by Government; and

(b) 20 years of treaty payments in one lump sum.

(2) A person can not receive any money under Section 15 (1) if:

(a) his name was taken off the Indian Register because of a protest; or

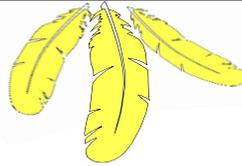
(b) he did not have the right to be listed because he was the child of an unmarried Indian woman and

was born before August 13, 1956, or lost his status at age 21. (See Section 12).

- (3) If the person, who has a right to money under Section 15(1), is less than 21 years old, the Minister may:
 - (a) pay the money to the person's parents or guardian; or
 - (b) hold the money until the person is 21.
 - (4) When an Indian loses or gives up his rights under Section 15, the Minister can decide to pay him for improvements that he made to his property.
 - (5) If a woman had the right to benefits before Sept. 4, 1951, the Minister may pay her ten times the average amount of money she got over the last ten years.
- 16.** (1) If a person moves from one band to another, then the money he would get under Section 15 is given to the new band.
- (2) When a person moves from one band to another, that person loses any rights to the land or money held by the Government for the old band. This person will also have the same rights as the other members of the new band.

- (3) When a woman marries a man from another band, her share of the money is moved to her new band. If her share from the old band is more than her share from the new band, she will be given the difference.

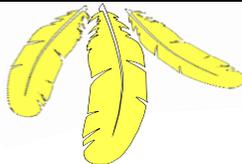
SECTION 17



NEW BANDS AND JOINING BANDS

- 17.** (1) The Minister may:
- (a) form new bands and Band Lists;
 - (b) join bands together by consent of the band members;
 - (c) move names from the Band List to the General List.
- (2) When a new band is formed, the Minister will decide how the lands and money will be divided.
- (3) When the Minister forms a new band, no one can protest about the members on the new Band List.

SECTION 18



RESERVES

- 18.** (1) Reserve lands set aside for the use of bands are still owned by the Government. The Government can decide how these lands are used but they must follow the rules of the Indian Act and treaties.
- (2) The Minister can set aside reserve land for Indian schools, burial grounds, Indian Affairs offices and health projects without asking the band. If band members agree, the Minister can also use reserve lands for any reason that is for the good of the band.

When the Minister takes away reserve lands for these uses, the person on that land has the right to receive money for his loss. The Minister has the final say on how much money the person will get.

SECTION 19



MARKING OUT RESERVE LANDS

- 19.** The Minister has the power to:
- (a) allow reserves to be marked out;
 - (b) mark out the reserve into lots; and
 - (c) decide where the roads will be built.
- 20.** (1) An Indian does not have the right to use or live on reserve lands unless the band council and the Minister agree.
- (2) The Minister may give an Indian a paper saying that this person has the right to use and live on reserve lands.
- (3) If an Indian was given a "location ticket" before Sept. 4, 1951, that person has the right to own the land.
- (4) The Minister can refuse to give an Indian the right to use reserve lands even if the band council agrees. The Minister can set some rules that the person must follow before he will agree with the band's

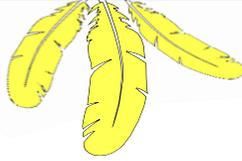
decision.

- (5) If the Minister refuses to give the land to an Indian, the Minister must give that person a paper giving him the right to stay on the land for two years.
 - (6) At the end of two years, the Minister can allow the Indian to stay on the land for another two years. The Minister may agree with the band council letting this person have a "location ticket" or, he can refuse and say that the land should be given out to another person by the band council.
-
- 21.** The Department keeps a list of all papers which say who can use and live on reserve lands.
 - 22.** An Indian has the right to keep land that he was living on before it became part of the reserve.
 - 23.** An Indian, who lost the right to live on the land that he made improvements on, may be paid back for the work he has done.
 - 24.** An Indian who has the right to own reserve land can give his rights back to the band or any other band member if the Minister agrees.
 - 25.** (1) An Indian who loses the right to live on the reserve may give his right to own land to the band or any

other band member within six months.

- (2) If an Indian loses his right to own land on the reserve after making improvements on it, the Minister will decide how much money the band should pay him for these improvements.
- 26.** If a mistake was made on land ownership papers, the Minister can replace it with a new one.
- 27.** If the Minister thinks that the document was given out because of a mistake or a trick, then he may cancel the document without the approval of the person who has it.
- 28.** (1) Any document does not apply to a person who is not a band member.
- (2) The Minister may let anyone live on or use reserve lands for up to one year without the band council's approval. If the person wants to stay longer, the band council must agree.
- 29.** Reserve lands can not be sold to pay a fine.

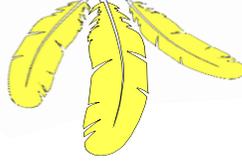
SECTIONS 30 - 31



GOING ONTO RESERVES WITHOUT PERMISSION

- 30.** A person caught on the reserve without permission or a right to be there, can be fined \$50. and/or sent to jail for up to one month.
- 31.** (1) A person who is accused of being on the reserve without permission can be removed from the reserve by the Federal Court of Canada.
- (3) Other legal rights that the Government, an Indian or band has against trespassers still apply.

SECTIONS 32 - 33

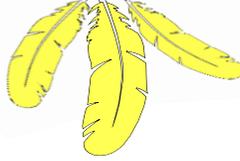


SALE OR TRADING OF FARM GOODS (Alberta, Saskatchewan, Manitoba)

32. (1) Any sale or trading of animals or farm goods to a non-band member must first be approved in writing by the Indian agent.

- (2) The Minister can order that Section 32 does not apply to a band or Indian. The Minister can also cancel this order.

SECTION 34

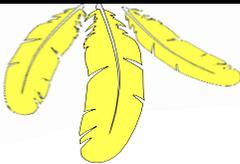


ROADS AND BRIDGES ON RESERVES

- 34.** (1) The band must look after roads, bridges, ditches and fences on reserve as instructed by the Superintendent.
- (2) If the Minister feels that the band is not looking after its roads and bridges, he may have someone else do the work and the band must pay the cost(s).

(See Sections 19, 64 and 81.)

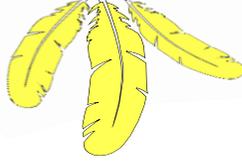
SECTION 35



RESERVE LAND TAKEN FOR PUBLIC USE

35. (1) Federal and Provincial laws give the province, local authorities and some companies the power to take or use land without consent as long as the Government agrees. The Government can make rules that must be met before, during and after reserve lands have been taken.
- (2) Unless the Government makes rules about how the lands will be taken, Federal and Provincial laws will apply.
- 3) Instead of the province, etc. taking the land without the consent of the owner, the Government can give these lands to the province, etc. with certain rules.
- (4) The province, etc. must pay the band or Indians who have lost their lands without consent.

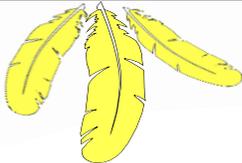
SECTION 36



SPECIAL RESERVES

- 36.** Any lands that the Government does not own which have been set aside for the use of a band are still said to be reserves under the Indian Act.

SECTIONS 37 - 41



GIVING UP RESERVE LAND

- 37.** Reserve lands can not be sold or rented until they have been given up by the band to the Government, unless the Indian Act allows for the land to change hands under Section 35.
- 38.** (1) A band can give up any right or interest of the band and its members in a reserve. For example, the band can give up land to have a power line go through it.

(2) When land is given up by the band, it can be forever or for a certain number of years, with or without conditions.

39. (1) Giving up land is not law unless:

(a) it is made to the Government, more than 50% of band members agree, and it is accepted by Government;

(b) more than 50% of all band members must vote. If less than 50% vote, the Minister may call a special meeting within 30 days;

(c) if more than 50% of the people who attend the special meeting called by the Minister under Section 39(29) vote to give up the land, then the decision is passed as law;

(d) a vote can be done by secret ballot if the band asks for one or if the Minister decides it is best;

(e) when a special meeting is called, the superintendent or another Government officer must be at the meeting.

40. When the band agrees to give up land under Section 39, the officer who was at the meeting and the chief or councillor must sign under oath that the band has agreed to this decision. The papers are then sent to the Government.

- 41.** Giving up reserve land gives the Government the power to carry out the terms of the surrender.

SECTIONS 42 - 44



PROPERTY OF INDIANS WHO HAVE DIED

- 42.** (1) The Department has the power to deal with the property of Indians who have died.
- (2) The Government has the power to rule that reserve lands held by an Indian at the time of death are by law his property.
- (3) Rules made under Section 42 apply to Indians who died before, on or after September 4, 1951.
- 43.** Under Section 42, the Department may:
- (a) choose people to carry out the terms of a will or, if the person died without a will, gather the person's things and take care of the property until a decision has been made about what to do with it;

- (b) give someone the right and power to carry out the terms of the will;
- (c) give someone the right and power to collect and take care of the person's property if there is no will;
- (d) decide to handle things by itself;
- (e) make any decision about the property of an Indian who has died.

- 44.** (1) The Minister may decide to give the courts in the province the power to deal with the property of an Indian who has died.
- (2) Any questions about the will or the handling of property can be left up to the court to decide.
- (3) The court's decision about reserve land can not be carried out unless the Minister agrees in writing.

SECTIONS 45 - 47

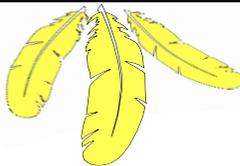


WILLS AND APPEALS

- 45.** (1) The Indian Act does not stop an Indian from making a will.
- (2) The Minister will accept any written paper signed by an Indian which says what is to be done with his property after he dies.
- (3) A will made by an Indian has no power until it is approved by the Minister or a court.
- 46.** (1) The Minister has the power to decide that an Indian's will is not legal if:
- (a) the person was forced to sign the will against his wishes;
 - (b) the person was not able to understand;
 - (c) the will would be hard on the family;
 - (d) the will was not good for the band or was not legal;
 - (e) the will is hard to understand or does not follow the Indian Act;
 - (f) the will was not good for the people.

- (2) A will or part of a will that is found not to be legal will be carried out as if the person died with no will.
- 47.** (1) Any person affected by the will has up to two months to appeal to the Federal Court of Canada if the amount being questioned is more than \$500.00.

SECTIONS 48 - 50



DEALING WITH A PERSON'S PROPERTY WHEN HE DIES WITH NO WILL

- 48.** (1) If the person's property is worth less than \$2000.00, everything goes to the widow.
- (2) If the property is worth more than \$2000.00, the widow gets the first \$2000.00 and the rest is divided as follows:
- (a) if there are no children, the widow gets everything;
 - (b) if there is one child, the child gets half and the widow gets the other half;

(c) if there is more than one child, the widow gets one third

If a child dies before the person that left the will, the widow will receive the child's share.

- (3) (a) If the Minister thinks that the dead person's children will not be looked after very well, he can give all or part of the property to the children instead of the widow.
(b) The widow can stay on reserve lands as long as she does not remarry.
- (4) When a person dies without a will and has children, his property will be divided equally among the children after the widow takes her share.
- (5) If an Indian who dies had no wife and children, all the property goes to the mother and father.
- (6) If an Indian dies without a will, a wife, children or parents, the property is to be shared equally by the brothers and sisters. If any brother or sister is dead, their children take that person's share. If only nephews and nieces are alive, they divide the property equally.
- (7) If an Indian dies without a wife, children, parents, brothers, sisters, nephews or nieces, then the

property goes to the closest relative.

- (8) Property is divided up among the closest blood relatives. The property goes back to the band if the relatives are more distant than nephews or nieces.
- (9) Finding out who is the closest relative to the person who died is done by counting up to the nearest ancestor and then counting down to the relative.
- (10) Children and relatives of the dead Indian who were being carried by their mothers, but not yet born, can receive their share of the property.
- (11) If a will does not cover all of a person's property, what is left is divided as if there was no will.
- (12) English customs about the property of a dead husband or wife do not apply to Indians. The property of a married Indian couple only belongs to one or the other - not both.
- (13) If an unmarried Indian woman dies, her children and grandchildren have a right to her share of any property.
- (14) When a child of an unmarried Indian woman dies and leaves no widow or children, then all his property goes to his mother. If his mother is dead,

the property will go to his brothers and sisters. If any of his brothers and sisters are dead, his nephews or nieces will get the property.

(15) This section applies to both men and women.

(16) In this section, "child" means a legally adopted child and a child adopted by Indian custom.

49. A person who says he has a right to reserve lands through his share of a will does not legally own those lands until it is approved by the Minister.

50. (1) A person who does not have the right to live on a reserve can not receive that right through the will of an Indian who died.

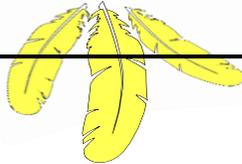
(2) If the right to own or live on reserve lands is given to a person who is not allowed to live on reserve, the superintendent must sell that right at the highest bid. The money goes to the person who was given that right through the will of an Indian who died.

(3) If no one bids on the lands in Section 50(2) within 6 months, the land is returned to the band. The band must pay the person, who was given the rights to the land, for any improvements made to the property.

(4) The person who bought the right to own or live on

the land does not receive the rights to that land until the Minister approves it.

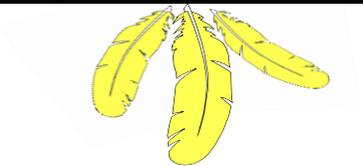
SECTION 51



PROPERTY OF MENTALLY INCOMPETENT INDIANS

- 51.** (1) The Minister has the power to deal with the property of an Indian who is not able to think, reason and look after himself.
- (2) The Minister may:
- (a) have someone look after the property of the person mentioned in Section 51(1);
 - (b) have the property sold, rented or mortgaged to pay off debts, or the cost of looking after him;
 - (c) make any other orders which are needed to look after the property.
- (3) The Minister may order that property owned off reserve by the person mentioned in Section 51(1) will fall under the laws of the province.

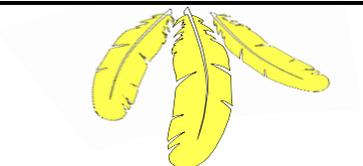
SECTION 52



GUARDIANSHIP

- 52.** If an Indian under the age of 21 has a right to some property, the Minister may have someone look after the property until the person reaches the age of 21.

SECTION 53



TAKING CARE OF RESERVES AND LAND THAT HAS BEEN GIVEN UP BY THE BAND

- 53.** (1) The Minister, or another person chosen by the Minister, has the power to take care of, sell or rent the lands given up for sale by the band as long as the rules of the Indian Act or Surrender are followed.
- (2) If a person who agreed to buy land which has been given up by the band to the Government dies, the

Minister may grant the land to a family member if the claim is legal.

- (3) Any person who works for the Department cannot buy or rent land that has been given up by the band unless the Government agrees.
- 54.** If a person made arrangements to buy or rent land which has been given up by the band to the Government, he can sell his rights to someone else if the Minister agrees.
- 55.** (1) A list known as the "Surrendered Lands Register" is to be kept in the Department. It must have all the details about the lands that were given up by the band.
- (2) Deals with conditions that are not final can not be listed in the Register.
 - (3) The Department can refuse to list a document unless there is proof that it was properly signed.
 - (4) If a question comes up, documents which are listed are put ahead of documents which have not been listed.
- 56.** When a document is listed, the main copy is marked with a special certificate signed by the Minister or another Government officer he has chosen.

57. The Government can make rules that:

- (a) give the Minister the power to give out licences to cut wood, with or without band approval, on reserve land or on any part of reserve lands that were given up by a band to the Government;
- (b) give advice on how licences for cutting wood can be used and how long they are good for;
- (c) allow minerals, which have been given up by the band to the Government, to be sold and mined;
- (d) say the punishment for breaking these rules will be a \$100.00 fine or three months in jail, or both;
- (e) will allow wood or minerals to be taken away if the person was taking them without approval.

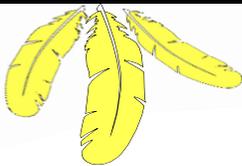
58. (1) If reserve land is not being used, the Minister may with the approval of the band:

- (a) hire people to improve or work the land using band money;
- (b) rent out the land for farming or other uses which will be for the good of the owner;
- (c) rent the land for farming which will be for the good of the band.

(2) Money made from farming will be used to pay rent to the owner. Improvements made to the land will be taken out of the rent. Any money left over is given to the band.

- (3) The Minister can rent out reserve land that an Indian owns if the Indian asks him to do so.
 - (4) Without a surrender, the Minister may:
 - (a) get rid of wild grass or dead trees; and
 - (b) if the band council is not available, the Minister may give out short-term permits to sell sand, gravel, clay and other materials. These permits can be renewed only if the council agrees.
The money from these sales goes to the band or the Indian who has rights to that land.
- 59.** (a) The Minister may change the amount to be paid for the sale or rent of reserve land if the council agrees;
- (b) The Minister can also change the amount to be paid to the band by an Indian who borrowed money from the band.

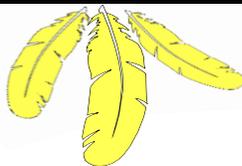
SECTION 60



BAND CONTROL OF RESERVE LAND

- 60.** (1) The Government can give the band the right to decide how much control it has over the lands as long as the Government agrees.
- (2) The Government can also cancel any rights it gives under this section.

SECTIONS 61 - 69



TAKING CARE OF INDIAN MONEYS

- 61.** (1) Money given to the Indian band is to be used only for the good of the band. The Government can decide what the needs are.
- (2) Interest rates on Indian band monies will be set by the Government.

- 62.** Money made from selling reserve land or band buildings are called capital moneys. All other band moneys are called revenue.
- 63.** The Financial Administration Act states how government workers should handle money given to them. Rent or other money paid under the Indian Act to the superintendent can be paid to the Indian who has a right to receive the money. In such cases, the superintendent must follow the Indian Act - not the Financial Administration Act.
- 64.** With the consent of the band council, the Minister can use capital moneys of the band as follows:
- (a) up to half the money can be given equally to band members;
 - (b) to build roads, bridges and ditches on reserves or on any part of reserve land that was given up by a band to the Government;
 - (c) to build a fence around the reserve;
 - (d) to buy a reserve or more land for the band;
 - (e) to buy, for the band, land owned by a band member;
 - (f) to buy farm animals and equipment for the band;
 - (g) to build something that will last for a long time (for example, a water dam) and that will also be good for the band;
 - (h) if it will help the band, the Minister can lend money to band members. A band member can not borrow any

more than half the value of his property. The Indian's property or belongings can be held by the Minister until the loan is paid;

(i) to pay the cost of looking after the band's lands and property;

(j) to build houses for band members or to lend band members the money for building houses;

(k) the Minister can use capital moneys for anything he thinks is for the good of the band.

65. The Minister can use capital moneys to:

(a) pay an Indian who had his land taken from him against his will;

(b) pay for fire prevention or fighting fires, and for emergency funds.

66. (1) With the band council's consent, the Minister can use revenue moneys for any use he thinks will be good for the band.

(2) The Minister may use revenue moneys to help the sick, old or needy and for funerals. The Minister may use the money to pay unemployment insurance for people who work for the band.

(3) The Minister may allow the band council to use revenue moneys to:

- (a) kill weeds and "pests" on reserves;
- (b) stop diseases from spreading on reserves;
- (c) check how buildings are fixed or destroyed;
- (d) stop too many people from living in the same houses;
- (e) make a way to have clean homes and public places;
- (f) build fences around the reserve.

67. If it costs the Government to collect moneys from the band, it can take that money from band funds.

68. (1) When the Minister thinks that an Indian man has:

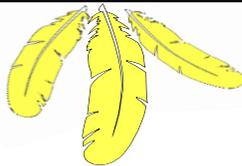
- (a) left his wife or family without a good reason;
- (b) acted in such a way that his family cannot live with him; or
- (c) been away from his family because he is in jail;

the Minister can order that any money which that Indian has a right to should be used to look after his family.

(2) If the Minister thinks an Indian woman left her husband and family, he can order that any money which she has a right to should be used to look after her family.

- (3) If the Minister thinks that one parent of an illegal child is an Indian, money which that parent has a right to can be used to look after the child. The Minister will not do this if he thinks that the person's other legal children would not be looked after.
- 69.** (1) The Government has the power to allow the band to use the revenue moneys as they wish. It also has the power to take away that right.
- (2) The Government can set rules as to how revenue moneys can be used by the band. The Government can also say in what way the Indian Act and Financial Administration Act do not apply.

SECTION 70



LOANS TO INDIANS

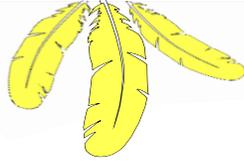
- 70.** (1) The Minister may give to the Indian Agent a sum of money from the revenue fund:
- (a) to lend money to bands, Indian groups or to an Indian for farming, fishing or crafts;

(b) to use or lend money to a group of Indians to start a project;

(c) to deal with any matter that the Government thinks is necessary.

- (2) The Government can set rules for all things listed above.
- (3) Moneys that are used under Section 70(1) are to be marked down as public moneys.
- (4) The Minister will give to the Receiver General all moneys that are for loan payments.
- (5) The money that is given out by the Minister for the purposes listed above will never be more than six million and fifty thousand dollars.

SECTION 71



FARMS ON RESERVES

- 71.** (1) The Minister may operate farms on reserves. He may also hire people to work on these farms for the purpose of teaching.
- (2) The Minister can use money made from farming on reserves in any way that will help the Indians.

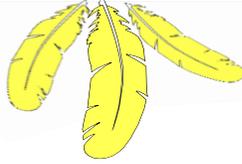
SECTION 72



TREATY MONEY

- 72.** Treaty moneys shall be paid out of the Revenue Fund.

SECTION 73

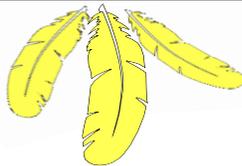


RULES THE GOVERNMENT CAN MAKE

- 73.** (1) The Government can make rules about:
- (a) hunting, fishing and trapping on reserves;
 - (b) weed and pest control;
 - (c) traffic rules;
 - (d) dog control;
 - (e) pool rooms and dance halls;
 - (f) stopping sickness on reserves;
 - (g) health care for Indians;
 - (h) making an Indian go to the hospital in order to stop the spread of sicknesses;
 - (i) checking the condition of the buildings and repair or destroy them if needed;
 - (j) stopping too many people from living in the same house on reserves;
 - (k) clean and healthy building conditions;
 - (l) building fences around the reserve;
 - (m) giving the band council the right to borrow or lend money for the purpose of building or repairing houses.

- (2) The Government can decide what will happen if these rules are broken. Punishment cannot be more than \$100.00, three months in jail, or both.
- (3) The Government can make rules to carry out the Indian Act.

SECTIONS 74 - 80



ELECTING THE CHIEF AND BAND COUNCIL

- 74.** (1) When the Minister thinks it will be good for a band, he can set a date for an election of the chief and band council.
- (2) Unless the Minister says differently, the elected council shall be:
- (a) only one chief;
 - (b) one councillor for every 100 band members, but not less than two or more than twelve.

(3) The Government can make election rules which say:

(a) that the chief shall be elected by more than 50% of the councillors;

(b) that the band councillors shall be elected by more than 50% of the band members, or by more than 50% of the members living in the same section as the person who will represent them on council.

(4) A reserve is only one section, unless a special meeting or vote is held and more than 50% of band members want the reserve divided into sections. If the Minister agrees, the reserve can be divided into six or less sections with each section having about the same number of band members.

75. (1) Only a band member who lives in a section can be chosen as councillor to represent that section.

(2) No person can be elected as chief or councillor, unless moved and seconded by people who have that right.

76. (1) The Government can make rules about band elections. The rules can deal with:

(a) meetings to name people to stand for chief and council;

- (b) people to look after the voting;
- (c) how voting will be done;
- (d) appeals against elections;
- (e) rules to decide who is living on the reserve.

The Government can make other rules about band elections.

- (2) Rules made under Section 76 (1)(c) must provide for secret ballots.
- 77.** (1) Any band member who is 21 years or older and usually lives on the reserve can vote in chief and band council elections.
- (2) Any band member who is 21 years or older and usually lives on reserve can vote in the election of a councillor to represent that section.
- 78.** (1) Chiefs and councillors usually hold office for two years.
- (2) A chief or councillor can lose their position if:
 - (a) he is guilty of a serious crime; he quits or dies; or he loses the right to hold office;
 - (b) the Minister thinks he is not fit to hold office because he was guilty of a crime; he did not go to three meetings in a row without permission; or he

was not honest in the election.

- (3) If a person was not honest in an election, the Minister can have him removed from office. This person may not be allowed to run for chief or councillor for up to six years.
- (4) A special election may be held if a new chief or councillor is needed up to three months before the next election date.

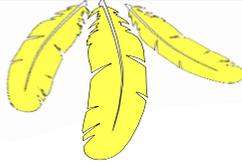
79. The election of a chief or councillor is not legal if:

- (a) someone was not honest in the election (for example, gave a bribe);
- (b) the rules of the Indian Act were not followed;
- (c) a person who stood for office did not have the right to do so.

80. The Government may make rules about band and council meetings. The Government can also make rules about:

- (a) who is in charge of the meetings;
- (b) the notices for these meetings;
- (c) duties of the Government officer who attends the meetings;
- (d) the number of people to make the meeting legal.

SECTIONS 81 - 86



RULES THE BAND COUNCIL CAN MAKE

- 81.** The band council can make rules for the list below so long as they do not go against the Indian Act or any rules made by the Government or Minister:
- (a) health care and stopping the spread of sickness;
 - (b) traffic rules;
 - (c) keeping law and order;
 - (d) stopping trouble-makers;
 - (e) control of livestock and stray animals;
 - (f) to build and look after roads, bridges, ditches, fences, water courses, and so on;
 - (g) to divide the reserves into building and business zones;
 - (h) to control how buildings are built, fixed and used;
 - (i) dividing lands for the members of the band with some land kept for the use of the whole band, and keeping records of who owns or lives on reserve lands;
 - (j) the control of weeds;
 - (k) the control of beekeeping and poultry farming;
 - (l) making wells and using the band water supply;
 - (m) the control of sports and recreation;
 - (n) setting rules for people who come onto the reserve to buy or sell;

- (o) hunting, fishing and trapping rules;
- (p) the control of people who come onto the reserve without the right to do so;
- (q) making sure that the rules are followed;
- (r) anyone breaking these laws can be fined \$100.00 or one month in jail or both.

82. (1) The chief or council must send every rule that is made to the Minister within four days.

- (2) A rule made under Section 81 becomes law in 40 days or less after it has been sent to the Minister, unless the Minister does not agree with the rule.

83. (1) Along with the rules set in Section 81, the Government can give the band council the right to make other rules listed below as long as the Minister agrees:

- (a) land taxes and business licenses;
- (b) collecting and spending money for band expenses;
- (c) the duties and wages of band staff;
- (d) chief and councillor wages;
- (e) the penalty for not paying land taxes;
- (f) raising money for band projects;
- (g) make other rules to carry out the rules listed above.

(2) Tax money raised can only be spent with band council approval.

- 84.** When an Indian does not pay his land taxes, the Minister can pay it out of band funds which have been set aside for that Indian.
- 85.** The Government can take away the band council's power to make rules under this section.
- 86.** A rule made by the band council is legal if it is signed by the superintendent. A rule is legal whether it has been written properly or not.

SECTIONS 87 - 90



TAXES AND SPECIAL LEGAL RIGHTS

- 87.** Except for Subsection (2) and Section 83, band lands or any part of reserve lands that were given up by a band to the Government, or any personal property of an Indian, can not be taxed. Any items left by an Indian who dies are not added to the value of a person's property.

NOTE: *This section of the Indian Act went before the Supreme Court of Canada for consideration of the Income Tax Act. Based on the Courts decision there may be some changes to this section.*

- 88.** All provincial laws apply to Indians except when those laws go against the terms of a treaty, the Indian Act or another Act of the Government of Canada.
- 89.** (1) Personal property of an Indian or band can not be taken to pay debts unless it is allowed by the Indian Act or that person agrees.
- (2) Anything sold to a band or band member on credit can be taken back if the payments are not made.

- 90.** (1) Any personal property bought with Indian moneys, or given to the band or an Indian by the Government, must stay on reserve.
- (2) Any deal made where property is sold or given away is not legal unless the Minister agrees or if the deal is made between band members.
- (3) Any deal made which does not follow the rules listed above is not legal. It is also illegal to destroy any property that must stay on reserve.

SECTIONS 91 - 92



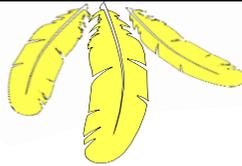
TRADING WITH INDIANS

- 91.** (1) A person can own the following property only if the Minister agrees:
- (a) an Indian grave house;
 - (b) a carved grave pole;
 - (c) a totem pole;
 - (d) a carved house post;
 - (e) a rock with paintings or carvings on it.
- (2) Subsection 91(1) does not apply if the above items were made for sale by an Indian.
- (3) No one can take, damage or destroy any items listed in Subsection 91(1) unless the Minister agrees in writing.
- (4) Anyone who breaks this rule can be fined up to \$200.00 or sent to jail for three months.
- 92.** (1) Any person who works for the Department, a missionary or a teacher on reserve can not sell or trade with an Indian unless he has a licence from

the Minister. Anyone working full-time for the Department will not be given a licence.

- (2) A licence can be cancelled by the Minister at any time.
- (3) Any person who goes against Subsection 91(1) may be fined \$500.00.
- (4) If a person who works for the Department goes against Subsection 91(1), he can also lose his job.

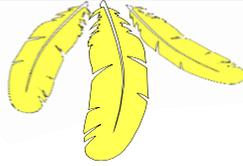
SECTION 93



TAKING MATERIALS FROM RESERVES

- 93.** The Minister can approve in writing for someone to take minerals, stone, sand, gravel, clay, trees, shrubs, wood or hay from a reserve. Anyone who takes or has these things without permission is breaking the law and can be fined up to \$500.00, sent to jail for up to three months or both.

SECTIONS 94 - 102



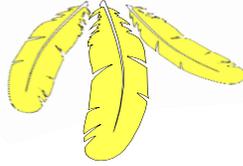
LIQUOR

- 94.** Anyone who sells, makes or gives liquor to any Indian on or off reserve is breaking the law and can be fined between \$50.00 to \$300.00, sent to jail for one to six months, or both.
- 95.** Any Indian who has or makes liquor off reserve is breaking the law and can be fined between \$10.00 - \$50.00, sent to jail for up to three months, or both.
- 96.** (1) Subsection (2) or (3) comes into effect, or stops being in effect, in the province if the Government of Canada rules it so.
- (2) If this section has been ruled by the Government to be in effect, it is not against the law:
- (a) to sell or give liquor off reserve; or
(b) for an Indian to have liquor.
- (3) The rules of 94(a)(ii) and 95(a) are not broken if an Indian has or buys liquor as long as the laws of the province have been followed.

- 97.** A person may be fined between \$10.00 - \$50.00, given a jail term of no more than three months, or both if he is found guilty of being drunk or having liquor.
- 98.** (1) The Government may rule when Subsection 98(2) comes into effect or stops being in effect on reserve.
- (2) Government may rule that it is not wrong under Section 97(a) to have liquor on reserve as long as the laws of the province are followed.
- (3) The Government will not make a ruling under 98(1) unless more than 50% of band members vote for it at a special meeting.
- (4) Government may set rules:
- (a) as to how the voting will be done;
- (b) as to how the reserve will be defined for the vote.
- (5) A ruling to bring Section 98(2) into effect will not be made unless the band council asks the Government to do so, and:
- (a) the reserve is located in a province where a ruling has already been made under Section 96(3); or

- (b) the provincial Government agrees with the ruling.
- (6) Where Section 98(2) is already in force, it is not against the law to sell or give liquor to an Indian off reserve, or for an Indian to have liquor, as long as the laws of the province were followed.
- 99.** Liquor laws under the Indian Act do not apply if the liquor is used for sickness or accidents.
- 100.** If someone who is being charged for having liquor says that it was to be used as medicine, it is up to that person to prove it.
- 101.** If anyone is found guilty of a crime under this act, a signed document is all that is needed to prove it.
- 102.** Anyone guilty of a crime under the Indian Act who was not punished, may be fined up to \$200.00, sent to jail for up to three months, or both.

SECTIONS 103 - 108



GOODS WHICH HAVE BEEN TAKEN AWAY

103. (1) Whenever a police officer, superintendent or any person who has been chosen by the Minister believes that there was an offence against Section 33 (trespassing), 90 (selling band property), 93 (taking gravel, sand, trees off reserve without a permit), 94, 95 or 97 (liquor), that person has the power to take all the goods which he believes were used in the offence.

Example: If a car is used to carry liquor onto the reserve by a bootlegger, the car and liquor can be taken away.

- (2) Anything taken away under Section 103(1) can be kept for three months from the day they were taken, or the goods that were taken can be kept until the court is over.
- (3) If a person was charged for one of the offences mentioned in Section 103(1) and found guilty, the court can order that the goods not be given back to him. The goods now belong to the Government.

(4) When there is good reason to believe that Sections 33, 90, 93, 94, 95 or 97 are being broken, the court can give peace officers permission to search any place or building on or off reserve for the goods.

104. The monies paid for fines can be given to the band, the local police or used to enforce the law.

105. In any court document, an Indian can be referred to by his given name, a nickname, or a description (if his name is not known).

106. A Justice of the Peace has the power to hear and decide cases under the Indian Act if they occur within the area given to him by the provincial Government.

107. Government may choose people to be Justices of the Peace for the purpose of the Indian Act. They have the power to deal with:

(a) Indian Act crimes; and

(b) Criminal Code crimes such as assault, cruelty to animals or breaking and entering if the crime was committed by an Indian, or the victim was an Indian or the property belonged to an Indian.

108. For any matter relating to the Indian Act or Indian Affairs, the following people have the power to take statements under oath:

- (a) people chosen by the Minister;
- (b) superintendents;
- (c) the Minister, Deputy Minister and the person in charge of a branch of the Department of Indian Affairs.

SECTIONS 109 - 113



GIVING UP STATUS AS AN INDIAN

- 109.** (1) Government has the power to say that an Indian, his wife and children under age 21 who has asked the Minister to give up his status as an Indian is no longer an Indian if the Minister believes that the Indian who has applied is:
- (a) 21 years or older;
 - (b) able to take on the same responsibilities as other citizens;
 - (c) will be able to look after himself and his family.
- (2) When an Indian woman marries a non-Indian, Government may order her to give up her status as an Indian. If the Minister thinks it best, her children may also be asked to give up their Indian status.

- (3) If an Indian man who is not living with his wife asks to give up his status as an Indian, his wife and children may keep their rights unless his wife agrees to give up her status as an Indian. If the Government thinks they are living together again, the wife and children may be ordered to give up their status.

- (4) A person does not lose his rights as an Indian unless his name is on a special list made by the Government.

110. When a person's name is listed on a special order giving up his Indian status, that person is no longer recognized as an Indian by law.

111. (1) If an Indian gives up his rights, he can sell or give away his share of reserve land to the band or another band member. If the land is not sold within 30 days after the Indian has given up his rights, then the superintendent can sell the land to the highest bidder and give the money to the Indian who just gave up his rights. If no one buys the land within six months, the land is given back to the band. The Department can pay the Indian for improvements made to the land out of band funds.

- (2) If the band council agrees, the land that belongs to an Indian who has given up his rights is no longer reserve land.
- (3) Where an order has been made under Section 110, the Indian who gave up his rights is allowed to stay on that land for ten years. He is also expected to pay the band for the value of the land. The money that was given to him when he gave up his rights may be used to pay the band.
- (4) After the ten year period mentioned in Section 111(3), the Minister may give the land to the Indian.

- 112.** (1) When a band asks to give up its status, and has given the Minister a plan for dealing with band lands and funds, and the Minister thinks the band can manage its own affairs, the Government can give its approval and make rules to put the plan in place.
- (2) An order under Section 112(1) will not be made unless a special vote is held and more than 50% of band members approve the plan mentioned in 112(1) and vote in favour of the band giving up its status.
 - (3) In order to carry out the band's request to give up its status, Government may give power to the Minister to make agreements with the province and

municipal governments.

- (4) The agreement made under Section 112(3) may include giving money to the province or municipal government to care for the old, the poor and the sick. This money may be taken from band funds or be given by Government.

113. (1) When a band asks to give up its status and provides a plan to deal with band lands and funds, the Minister can chose a committee to report on:

- (a) if it will be good for the band to give up its status;
- (b) if the plan is a good one; and
- (c) any other questions.

(2) The committee chosen under 113(1) will be made up of:

- (a) a judge;
- (b) a Department worker;
- (c) a band member chosen by the band council.

SECTIONS 114 - 123



SCHOOLS

114. (1) This section only applies to Indian children living on reserve. The Minister is allowed to make agreements with the following:

- (a) the provincial government;
- (b) a government officer for the Northwest Territories;
- (c) a government officer for the Yukon;
- (d) a public or separate school board;
- (e) churches or charities.

(2) The Department can set up and run schools for Indian children.

115. The Minister may:

- (a) make rules about the quality of school buildings, equipment, and education;
- (b) arrange for children to be taken to and from schools;
- (c) make agreements with churches for the support of children in schools which they run;
- (d) use moneys set aside for children in residential

schools to pay for their care and education.

116. (1) Every Indian child aged seven or older must go to school.

(2) The Minister may:

(a) make an Indian child aged six go to school;

(b) make an Indian who turns 16 stay in school until the end of the term; and

(c) make an Indian who turns 16 stay at school, but he cannot be made to go to school after he turns 18.

117. An Indian child does not have to go to school if:

(a) the child is sick;

(b) the child has to help with the work at home so long as written permission is given;

(c) the child is being taught at home or somewhere else so long as the Minister agrees in writing;

(d) there is no room in the school.

118. The Department will decide which schools Indian children shall go to. A child will not be sent to a school which teaches a different religion unless the parent agrees in writing.

- 119.** (1) The Minister may choose "truant officers" to make sure that Indian children go to school. These officers have the powers of peace officers.
- (2) As well as the powers mentioned in Section 119(1), a truant officer can:
- (a) go into any place where he thinks there are Indian children between ages 7 - 16 who should be in school;
 - (b) look into any case where children are not in school;
 - (c) give a written notice to a parent to make the child go to school.
- (3) If a child does not show up in school within three days of the notice as in Section 119(2)(c), the parent may be fined no more than \$5.00, put in jail for ten days, or both.
- (4) A notice given under Section 119(2)(c) stays in effect for one year.
- (5) A child who is always late for school will be marked absent.
- (6) A truant officer can do whatever needs to be done to take charge of a child who he thinks should be in school.

120. An Indian child who:

- (a) is kicked out of school or is asked to leave; or
- (b) does not go to school;

will be known as a juvenile delinquent as stated in the Juvenile Delinquents Act.

121. (1) If more than half of the band members belong to a certain religion, then the school shall be taught by a teacher of that same religion.

- (2) Only a teacher belonging to the same religion as over 50% of the band members shall be allowed to teach on that reserve.

122. If the Government thinks that there are enough children of a certain religion, the band can have a separate day school or class set up on reserve.

123. In Sections 114 to 122:

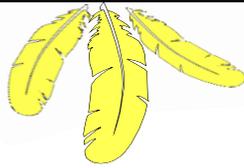
"child" means an Indian between the ages of 6 and 16 who is required by the Minister to go to school

"school" includes a day school, technical school, high school and residential school

"truant officer" includes:

- (a) a member of the RCMP;
- (b) a person chosen for police duty on reserve; and
- (c) a school teacher or chief chosen by the superintendent.

SECTION 124



PRIOR GRANTS

124. If a reserve was given up by the band to the Government before September 4, 1951 and title was granted to a person or an agreement to sell the land was made, then the titles and agreements for sale will be treated as if they were made under the Indian Act.