

GENDER EQUITY IN INDIAN REGISTRATION ACT



How Do the New Legislative Changes to the Indian Act Affect Me?



What is the history of the *McIvor* decision?

The *Indian Act* defines eligibility for Indian registration (i.e. status). The Indian Register is the official record identifying all status Indians in Canada.

Over the years, there have been many changes to the rules for deciding who is eligible for registration. Important changes were made to Canada's *Indian Act* on June 28, 1985, when Parliament passed Bill C-31, *An Act to Amend the Indian Act*. This brought the *Indian Act* into line with the provisions of the *Canadian Charter of Rights and Freedoms* and was guided by three principles: removal of discrimination against women; restoring status and membership rights; and increasing control of Indian bands over their own membership.

In April 2009 the Court of Appeal for British Columbia ruled in the case of *McIvor v. Canada* that the *Indian Act* discriminates between men and women with respect to registration as an Indian and violates the equality provision in the *Canadian Charter of Rights and Freedoms*. In its ruling, the Court gave Parliament one year to amend the provisions of the *Indian Act* that were found to be unconstitutional. In order to comply with the Court of Appeal's decision, the Government of Canada is moving forward with legislative amendments to certain registration provisions of the *Indian Act*.

What are the proposed legislative amendments?

The proposed amendments, if enacted by Parliament, 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) in accordance with the *Indian Act*. The proposed amendments do not extend to other situations.

As a result of the amendments, who will be eligible for first-time registration under the *Indian Act* to respond to *McIvor* decision?

You should consult the web site of Indian and Northern Affairs Canada for the specific eligibility criteria. Generally speaking, the key criteria to be newly entitled to registration are:

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

Those who can answer yes to **all** of the above questions are encouraged to submit an application for registration as an Indian.

If you are the registered Indian parent of a minor child that fits the above scenario, you may apply on their behalf. Your entitlement to Indian registration will be automatically amended from 6(2) to 6(1) to allow for the registration of your child. No application for this amendment is required as it will be done at the time of your child's registration.

For more information on the criteria please consult our web site (www.ainc-inac.gc.ca/index-eng.asp) or call 1-800-567-9604.

How would these proposed amendments affect band membership?

For those being registered for the first time, there are two scenarios that govern band membership. For bands whose membership is determined by Indian and Northern Affairs Canada in accordance with section 11 of the *Indian Act*, applicants will be added to the band list at the time of registration. For bands who determine their own membership in accordance with section 10 of the *Indian Act*, applicants would be directed to the band with which they are affiliated to apply for membership.

This does not affect their entitlement to registration under the *Indian Act*.

For persons already registered who are being amended to sub-section 6(1) of the *Indian Act*, if you are affiliated with a section 11 band there will be no change to your band membership. If you are currently a member of a section 10 band who determines their own membership, you will not lose membership unless the membership rules of your band are amended to that effect.

Will the amendments address the Subsection 6(2)/Second Generation Cut-Off?

The proposed amendments to the *Indian Act* will only extend registration to eligible grandchildren of women who lost status as a result of their marriage to a non-Indian man before April 17, 1985. Other cases will not become eligible as a result of this amendment.

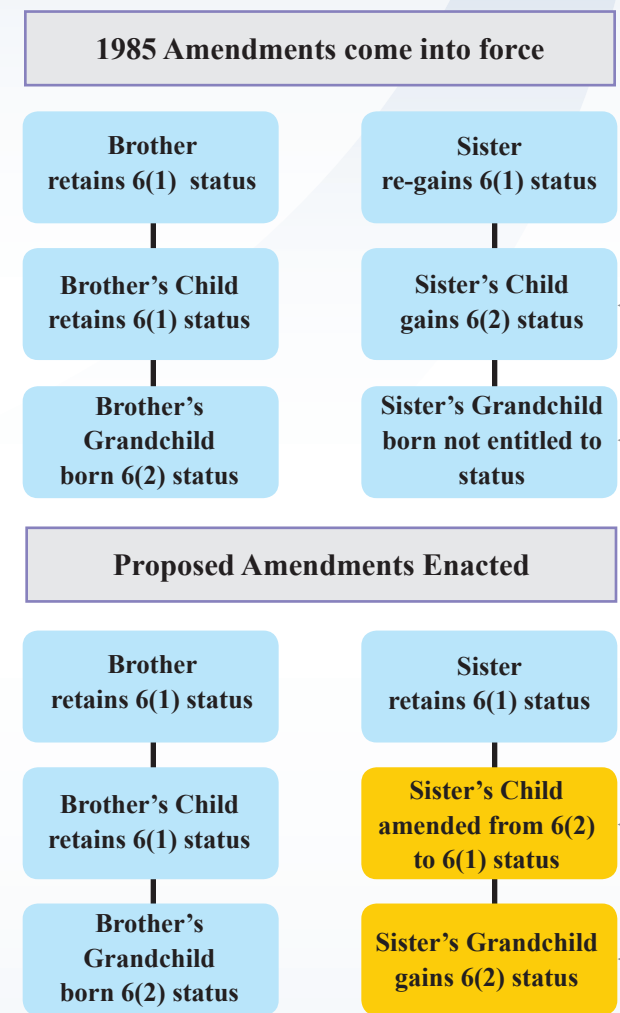
Could I lose my Indian status as a result of the proposed amendments?

No one will lose their status as a result of the proposed amendments.

Contact information

Indian and Northern Affairs Canada
Web site: www.ainc-inac.gc.ca/index-eng.asp
Phone: (toll-free) 1-800-567-9604

The family tree of a brother and a sister where the sister has lost status as a result of her marriage prior to April 17, 1985



Family tree assumes all generations parent with non-Indians