

The Collaborative Process on the Second-Generation Cut-Off and Section 10 Voting Thresholds: Consultation Plan Placemat

The purpose of this placemat is to provide an overview of the plan for the consultation period of the Collaborative Process on the Second-Generation Cut-off and Section 10 Voting Thresholds

In 2019, the Minister's Special Representative (MSR) to the 2018/19 Collaborative Process for Bill S-3 reported that the second-generation cut-off is a remaining inequity of great concern that requires an urgent, separate, and in-depth consultation process to develop solutions.

December 2022: The former Minister of Indigenous Services, Patty Hajdu, committed to launching a collaborative consultation process with First Nations to address the second-generation cut-off.

June 2023: Canada committed to Action Plan Measure 2.8 in the *United Nations Declaration on the Rights of Indigenous Peoples Act's* Action Plan: "Co-develop a collaborative consultation process on a suite of broader reforms relating to registration and band membership issues, prior to any transition away from the *Indian Act*..."

November 2023: The Collaborative Process on the Second-Generation Cut-off and Section 10 Voting Thresholds was launched, seeking to address these issues through consultation and cooperation with First Nations.

The purpose of this Collaborative Process is to determine how, not whether, to remedy the second-generation cut-off.

Issues for Consultation

The Second-Generation Cut-off:

Individuals registered under sections 6(1) and 6(2) of the *Indian Act* have equal access to rights, programs, benefits, and services. However, they differ in their ability to pass on entitlement to their children alone. Currently, a person entitled under section 6(2) can only pass on entitlement to their children if they parent with another entitled individual. The second-generation cut-off occurs after two consecutive generations of parenting with a person who is not entitled to registration, resulting in the third generation not being entitled.

Section 10 Voting Thresholds:

First Nations must achieve a double majority voting threshold to assume control of membership under section 10 and establish their own membership rules. To achieve a double majority, a majority of the First Nation's eligible electors must participate in the vote, and a majority of those who vote, must be in favour of the First Nation assuming control of membership and writing their own membership rules. Some First Nations have experienced challenges reaching this double majority requirement, preventing them from successfully transitioning to section 10.

Why consult on the double majority threshold now? Individuals may become newly entitled once a solution to the second-generation cut-off is introduced. This increases the number of eligible electors in a First Nation, which may be challenging for section 11 First Nations who want to transition to section 10. It is important to consider how changes to the registration provisions may also impact First Nations' ability to assume control of membership.

Phase 1 – The Co-Development and Information-Sharing Phase

The purpose of the first phase of the Collaborative Process is to co-design the consultation period with an Indigenous Advisory Process and share information with First Nations and impacted individuals to increase transparency and support participation in advance of the consultation phase. Phase 1 included:



An **Indigenous Advisory Process**, made up of 17 Indigenous, representative organizations that provided recommendations on the design and delivery of the consultation phase, ensuring that First Nation's perspectives are reflected in the process.



A **Rights-Holders Information Kit**, providing background on the key issues, community-specific data on the impact of the second-generation cut-off, and plain-language interpretations of the registration provisions of the *Indian Act*.



Information Sessions on the content of the Rights-Holders Information Kit, allowing participants to ask questions and discuss content with Indigenous Services Canada (ISC).



A **Consultation Readiness Form** was available for First Nation leadership to assess and inform ISC on their readiness for consultation, determining the start of consultation events.



A **Consultation Plan**, co-developed with the Indigenous Advisory Process, to outline the design of the consultation process.



A **What We Heard Report**, summarizing the findings and recommendations of the Indigenous Advisory Process. Artwork has also been created by an Indigenous artist to portray the findings in a visual format.

Additional Information



Learn more about the Collaborative Process on the Second-Generation Cut-off and Section 10 Voting Thresholds by scanning the QR code or by visiting:

www.canada.ca/second-generation-cut-off



If you have any questions, contact the Registration Reform and Engagement team at:

Reforme-de-linscription-Registration-Reform@sac-isc.gc.ca

Phase 2 – The Consultation Events and Activities Phase

The second phase of the Collaborative Process involves consultation events and activities to engage directly with Rights-Holders and impacted individuals to develop and consult on solutions to the second-generation cut-off and section 10 voting thresholds.

Step 1

Indigenous-led Options for Solutions

Impacted Rights-Holders, First Nation communities, and Indigenous Organizations propose possible solutions to the second-generation cut-off and/or the section 10 voting thresholds.

This initiative includes:

- A funded call for proposals from First Nations and Indigenous Organizations; and
- An online Individual Feedback Form open to Rights-Holders and impacted individuals.

Step 2

Legal Viability and Impact Assessment

The solutions proposed in step 1 undergo a legal viability and impact assessment by a Registration Reform and Legal Solutions Committee (RRLSC).

The RRLSC is comprised of several members, including lawyers, academics, subject matter experts, and retired Senators. The RRLSC is tasked with reviewing the solutions proposed by First Nations to ensure they comply with existing laws and that implementation is feasible, while assessing the variety of impacts of each solution.

The results will be reflected in a consultation guide so that participants of consultation events in Step 3 can understand the full impact of each possible solution when determining which option(s) are the most agreeable for a way forward.

Step 3

Indigenous-led Consultation Events

First Nation communities and Indigenous Organizations host consultation events and activities to discuss and determine the solution(s) from the consultation guide that to address the second-generation cut-off and the section 10 voting thresholds issue.

This initiative includes:

- A funded call for proposals from First Nations and Indigenous Organizations; and
- Departmental support, as requested.

Following the consultation phase and once a path forward is identified, Indigenous Services Canada will proceed with pursuing a legislative amendment to address the second-generation cut-off and section 10 voting threshold issues.