

Appendix A

Indian Act Sex Discrimination Working Group

Sharon McIvor is a Thompson Indian and a member of the Lower Nicola Band. Ms. McIvor, is a practising lawyer and a Professor of Indigenous Studies at the Nicola Valley Institute of Technology. She is a member of the Steering Committee of FAFIA.

Dr. Gwen Brodsky is lawyer and a leading expert on constitutional equality rights in Canada with many years of experience arguing equality rights cases before tribunals and courts.

Jeannette Corbiere Lavell, C.M. is a member of Wikwemikong First Nation on Manitoulin Island. She challenged the sex discrimination in the *Indian Act* under the *Canadian Bill of Rights* in 1971. She is a former President of the Native Women's Association of Canada, former president of the Ontario Native Women's Association, and a member of the Order of Canada.

Dr. Lynn Gehl is an Algonquin Anishinaabe-kwe from the Ottawa River Valley. She successfully challenged the *Indian Act* policy regarding unknown and unstated paternity. She is the author of numerous articles and of a recently published book, *Gehl v. Canada: Challenging Sex Discrimination in the Indian Act*.

Mary Eberts, O.C. Mary Eberts is one of Canada's leading constitutional equality rights litigators. She has been counsel in many challenges to *Indian Act* sex discrimination, and in ground-breaking *Charter* equality rights cases. She is an Officer of the Order of Canada.

Kukpi7 Chief Judy Wilson is the **Secretary-Treasurer of the Union of B.C. Indian Chiefs (UBCIC)**. She is the Chief of the Neskonlith Indian Band and a member of the First Nations Leadership Council, and the Assembly of First Nations Comprehensive Claims Policy Committee.

Viviane Michel is from Maliotenam, and she is the **President of Quebec Native Women (QNW)**. Bilingual, French and Innu, Viviane Michel has years of frontline experience working on violence against women with the Missinak Indigenous women's shelter in Quebec..

Mary Jane Hannaburg is a member of the Mohawk Nation and of the Bear Clan. She is **Vice-President of Quebec Native Women (QNW)**. She is a Certified

Addictions Specialist and Trauma Responder, and a Mental Health Worker at the Kanesatake Health Center.

Dr. Dawn Lavell-Harvard, Ph.D. is a member of the Wikwemikong First Nation, and Canada's first Aboriginal Trudeau Scholar. She is the **President of Ontario Native Women's Association (ONWA)**, former President of the Native Women's Association of Canada, and Director of the First Peoples House of Learning at Trent University.

Dr. Pamela Palmater is a Mi'kmaw citizen and member of the Eel River Bar First Nation in northern New Brunswick. She has been a practicing lawyer for 20 years and is currently a Full Professor and the **Chair in Indigenous Governance at Ryerson University**.

Shelagh Day is the **Chair of the Human Rights Committee of the Canadian Feminist Alliance for International Action (FAFIA)**. She is a human rights expert, with many years of experience working with governments, human rights commissions and non-governmental organizations. She is a Member of the Order of Canada.

Appendix B

Sent by email March 30, 2021 by:

Chloé van Bussel

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**Office of the Minister of Crown-Indigenous Relations/ Cabinet de la ministre
des Relations Couronne-Autochtones,**

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**Registration Information Provided by Minister Bennett during meeting with
Working Group, March 29, 2021**

Applications

- Expected 67,000
- Applications Received since December 2017 31,500 (47.0%)
- Applications Processed as of March 25, 2021 17,500 (54.1%)
- Applications to be Processed as of March 25, 2021 11,379 (36.7%)
- Applications Partially Processed as of March 25, 2021 2,837 (9.2%)

Automatic Indian Status Amendments

- Registrations Completed 125,000
- Individuals newly able to pass on entitlement due to Registration Category
Amendments 57,000

Service Standard Analytics

- Number of Applications within service standards (between 6 mos. and 2
years) 3,878
- Number of Applications outside service standards 10,338

Funding to Date

- An initial investment of \$19 million was provided in 2018

- An additional investment of \$21.2 million over three years starting in 2020-21 was approved in December 2020.
- Of the \$21.2 million, \$15.4 million will allow for an increase in resources to process registration claims, and \$5.8 million will be used for engagement and monitoring activities.
- Total Funding – \$40.2 million as of December 2017

Appendix C

Sent by email by Jordano Nudo, October 8, 2020

Conseiller politique | Policy Advisor

Cabinet du ministre des Services aux Autochtones | Office of the Minister of Indigenous Services

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Responses to the Canadian Feminist Alliance for International Action September 24, 2020

- 1. What estimate of the number of First Nations women and their descendants who are eligible to be registered because of the August 15, 2019 amendments is ISC using as its base for allocating staff and resources? How many new staff are being hired, and what is the amount of funds that are allocated for implementation of S-3?**
 - According to independent demographic estimates, the removal of the 1951 cut-off could result in between 270,000 and 450,000 individuals being newly entitled to registration under the *Indian Act* over the next decade.
 - The actual increase in the registered population will depend on the number of individuals who choose to apply and whose applications support their registration.
 - Since 2017, the Winnipeg Processing Unit, a dedicated S-3 processing unit, has steadily increased from approximately 20 to 53 employees in 2020. There are plans onboard additional staff.
 - Registration support is also provided by 22 subject matter experts, entitlement officers and genealogical researchers in Headquarters.
 - To support the processing of files in French and English at the same rate, ISC has created a processing unit in Quebec. Hiring and training of staff to support this unit is ongoing.
 - For the implementation of S-3, ISC was allotted \$19 million in 2018 following the coming into force of Bill S-3 in December 2017.
 - Additional funds were supplied to enhance individual programs (for example Non insured health benefits) on an as needed basis to account for the increase in those newly entitled to access them.
 - This month, an additional \$21M has been secured for the implementation of the 2019 S-3 amendments (the 1951 cut-off) to further increase staff for processing

of applications, to modernize operations, and for stakeholder engagement and impact monitoring.

2. How many applications the Registrar has received that are based on entitlement newly provided by the August 15, 2019 amendments?

- Since August 15, 2019, the Winnipeg Processing Unit has received 6200 applications. Some people may have already been included in our inventory if they applied before August 15, 2019.
- Unfortunately, we don't know how many applications we have received that are from applicants affected specifically by the 1951 cut-off and this is because an application must be processed in its entirety before it is known that it is impacted by the 1951 cut-off.
- There is no way to know, upon intake, whether the applicant falls under the 2017 or 2019 amendments.
- We do not track whether an applicant is registered under the 2019 amendments vs. the 2017 amendments. They are all tracked as one S-3 workload or inventory. This feature of the legislation is intentional to prevent further discrimination based on sex.

3. Are affidavits considered circumstantial evidence for the purposes of satisfying the unknown and unstated paternity provisions? What does the Registrar do in situations of an unknown paternity due to rape?

- All registration decisions are based on the balance of probabilities. This means that the evidence must show that it is more likely than not that the parent, grandparent, or ancestor is, was, or would have been entitled to be registered even if they are unknown.
- As outlined in section 5(6) of the *Indian Act*, the Registrar shall rely on any credible evidence that is presented by the applicant or that the Registrar otherwise has knowledge of and draw every reasonable inference in favour of the applicant.
- In situations where the applicant is unable to provide any circumstantial evidence, the applicant, and/or a person with knowledge of the applicant's ancestry or affiliation to a First Nation, are encouraged to provide any information that could help establish the person's entitlement to registration.
- Applicants are welcomed to submit affidavits or signed statements as circumstantial evidence to support their application for registration; however, it should be noted that applicants are not limited to affidavits and other types of circumstantial evidence are also accepted for review.
- In cases where an applicant is experiencing evidentiary difficulties, a discretionary decision may be rendered by the Registrar.

- Where a discretionary decision is required, cases are brought to an interdisciplinary case committee for review after which the case is presented to the Registrar for decision.
- Only the Registrar has the authority to render a discretionary decision.

4. How do applicants know that there is a priority processing policy for women and descendants who are elderly, have medical problems, or disabilities? How does an applicant trigger priority processing?

- Applicants that express an urgent need or request faster processing for registration or a Secure Certificate of Indian Status (SCIS), whether verbally or in writing, will have their applications assessed for priority processing on a case-by-case basis. Further documentation to support priority processing may be requested in some circumstances.
- Based on the July 23, 2020 meeting with the CFAIA, ISC is priority processing files of those aged 75 and over already in the queue (approximately 200 applications).
- If the Department receives pertinent information pertaining to a specific application(s), those may be processed on a priority basis for reasons including:
 - medical emergencies, including travel for medical reasons for the cardholder or the cardholder's spouse (with a health professional's note);
 - age of applicant;
 - employment;
 - education funding requirements (with a post-secondary letter of acceptance); and
 - per capita one-time payment to the band to which the applicant could be a member.
- This policy is not currently public. The Department is considering publicizing the policy in future external communications materials.
- Generally, and in support of equitable consideration, applications are processed in order of receipt.

5. Will ISC undertake to review ongoing and residual sex discrimination and address and remedy it?

- The Department is taking steps to address the residual discrimination as a result of sex-based inequities in the *Indian Act*.
- The onboarding of additional staff, system enhancements, workload management strategies, and additional funding are being pursued to further increase processing capacity and improve client service.
- These complementary measures will provide support to ensure that women and their descendants previously impacted by the sex-based

inequities in the registration provisions are registered and have access to the associated rights, benefits and services in a timely manner.

- The Department is committed to monitoring the impacts of the implementation of S-3 in partnership with First Nations and other stakeholders which will further support the Department's understanding of any residual discrimination.
- ISC is partnering with the Assembly of First Nations (AFN) and waiting on a proposal from the Native Women's Association of Canada (NWAC) to continue outreach on S-3, to assist in the monitoring of impacts, and to identifying possible solutions for other persisting inequities in the registration provisions.
- ISC will further engage the Canadian Feminist Alliance for International Action to help reach impacted individuals.
- Engagement with First Nations and partners is ongoing and the Department is developing proactive communications strategies to reach individuals who are impacted by the changes under S-3.

6. Will ISC negotiate reparations for First Nations women and their descendants who have been the victims of sex discrimination in the Indian Act?

- We acknowledge your interest in this issue. We do not currently have a mandate to negotiate on this matter.
- Discussions regarding reparations for those affected by sex-based discrimination in the registration provisions of the *Indian Act* would require support from Cabinet.

7. Will ISC consult with us about its interpretation of S-3 amendments?

- The Department welcomes collaboration with CFAIA on S-3 and is open to hearing CFAIA's interpretation of the S-3 amendments.
- Lori Doran, Director General responsible for S-3 implementation will reach out.

8. Will ISC reinstate women, and the descendants of women, who lost status because of involuntary enfranchisement, or coerced enfranchisement, without further litigation?

- The Department acknowledges the challenges that have been caused by enfranchisement. This issue was raised in the *Exploratory Process* and the *Collaborative Process*.
- The Department is committed to engaging and addressing other known inequities including issues of enfranchisement.