

Bill S-3

An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux v. Canada

What is it?

Bill S-3 refers to an Act, passed in December 2017, whose initial purpose was to fix the sex-based discriminatory registration provisions within the *Indian Act*. The bill was divided into two stages, the latter stage consisting of consultations with Indigenous communities and persons. **This is where you come in.**

What changed with the *Indian Act*?

There are 4 issues the bill sets out to resolve which have historically restricted individuals from attaining status: unknown/unstated parentage; omitted minor children (children who lost status when their mother married a non-status man); the cousins issue (differential treatment among first cousins whose status depends on the sex of their grandparent) and the siblings issue (females born out of wedlock between 1951 – 1985 who were denied status). These individuals are now able to apply and successfully receive status.

Who isn't included?

There are a number of issues remaining in the *Indian Act* which go unaddressed by this Act: (1) the differentiation and hierarchy of status between 6(1)(a) (seen as male category) and 6(1)(c) status (seen as female category), resulting in status women and their descendants losing status sooner than descendants on the male line and which sees to 6(1)(c) women and their descendants being relegated to a different, often stigmatized and deemed 'lesser' category of status and entitlement; (2) issues related to adoption, sperm donors, surrogacy and fertility treatments are not addressed; (3) unstated paternity is still problematic, as it asks the registering individual, predominantly women, to supply "relevant evidence" which is difficult for many to access, or in cases where fathers refuse to sign the application forms, is impossible and (4) rules regarding band membership leave the opportunity for communities to discriminate against women.

NWAC hopes that the government will remove all discrimination from the *Indian Act*.

Will it work?

While this Act provides opportunities for more individuals to apply for status, the government continues to determine who does and does not qualify for 'Indian' status.

The Act also contains layered coming into force provisions, meaning these amendments will occur in 2 stages, the first addressing only the discrimination found to be unconstitutional in the titular court case and the second stage addressing a broader range of discrimination under these provisions, but not all discrimination. The Act also suggests the government has already determined the actions it will take following consultations.

The government recently expressed support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which expressly states that Indigenous peoples should be determining their own identity and membership. It remains to be seen how the government would reconcile UNDRIP with the current *Indian Act*.

Applying for status also requires that an applying individual supply a number of documents, many of which are difficult to access: one's original long form birth certificate; 2 identical passport style photos; one piece of accepted identification.

What should we do?

Make your voice heard! NWAC will be holding Provincial and Territorial Member Association consultations, as well as national online consultations and a national symposium to raise awareness and generate discussion about this Act and its effectiveness.

For questions, contact:

Tamsin Fitzgerald

Bill S-3 Project Coordinator

tfitzgerald@nwac.ca