



HISTORY OF REGISTRATION AFTER THE INDIAN ACT

History of Registration after the Indian Act

The laws and rules regarding Indian registration in Canada have changed since 1850.

1850 – *An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada*

Canada passed "*An Act for the better protection of the Lands and Property of the Indians in Lower Canada*". It was the first act that explained who an Indian was.

In that document, an "Indian" was described as:

1. All persons of Indian blood, who were believed to belong to the particular Body or Tribe of Indians interested in Lower Canada lands, and their descendants.
2. All persons married to such Indians and living amongst them, and their descendants.
3. All persons living among such Indians, whose parents on either side were or are Indians of such Body or Tribe, or had the right to be considered as such.
4. All persons adopted in infancy by any such Indians and who were living in the village or in the lands of such Body or Tribe of Indians, and their descendants.

1869 – Legal changes

Those Indian women, who married non-Indian men, lost their Indian status. Also, under the Act, children of that marriage lost their Indian status as well.

Indian women who marry an Indian man become a member of their husband's band.

1876 – *Indian Act*

It was the first act that was clearly named as an Indian Act in Upper and Lower Canada.

In that act, an "Indian" was defined as:

- any male person of Indian blood who was believed to belong to a particular band;
- any child of such person;
- any woman who is or was lawfully married to such person.

If an Indian got a university degree or a religious order membership, then they could be enfranchised against their will. Wives and children are automatically enfranchised along with their husbands/fathers.

Bands have the right to be enfranchised as a whole.



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Voluntary enfranchisement is introduced for the first time. It gave an individual a choice to not be considered an Indian. As such, an individual could leave their band.

If an Indian lived outside of Canada for more than 5 years without the permission of the department, then that Indian became enfranchised.

1918 – An Act to Amend the *Indian Act*

Starting in 1918, unmarried women and widows, as well as their minor unmarried children, could apply for enfranchisement.

1951 – An Act respecting *Indians*

The Indian Register was created to record all individuals who had a right to registration.

The Indian Registrar can add or remove (if these people are ineligible) names from the Indian Register.

If an individual's name was removed or added to the Register, he or she had a right to protest that decision.

When a male is added or removed from the Register, his wife and children are also added or removed from the Register.

Women, who marry a non-Indian man, do not qualify for registration. They were also removed from band lists after their marriage.

If an individual meets certain requirements, he or she had a right to voluntary enfranchisement.

If a man is getting enfranchised, his order of enfranchisement must clearly list his wife and children. If they are not listed there clearly, then they keep their status.

The Double Mother Rule was introduced. This rule was used to remove status from grandchildren at age 21 – if their mother and paternal grandmother both got Indian status through their marriage to an Indian.

1985 – Bill C-31 – An Act to Amend the *Indian Act*

Marriage doesn't make a woman automatically join her husband's band. All provisions that govern enfranchisement rules (both voluntary and involuntary) are gone. New provisions are created to let people, especially women who lost their status, become status Indians again. Section 10 gives means to Indian bands to set their own membership codes/rules.

Children are treated equally - whether they are born in or out of wedlock, and whether they are biological or adopted.

The definition of a "child" was included in section 2 of the Indian Act. It was changed to recognize a legally adopted child (not only a legally adopted Indian child). It also recognized children adopted in accordance with Indian custom.

2011 – Bill C-3 – *Gender Equity in Indian Registration Act*

Was passed in response to the *McIvor v. Canada* decision.

Addressed unfairness about removing the Double Mother Rule under Bill C-31 in 1985. That rule unfairly benefitted the male line of a family, neglecting the female line.

Grandchildren of those women, who lost their Indian status because they married non-Indian men before 1985, were given a right to Indian registration for the first time.

Introduced the "1951 Cut-Off" under section 6(1)(c1)(iv).

2017 – Bill S-3 – An Act to amend the *Indian Act* in response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur general)*

Was passed in response to the *Descheneaux c. Canada (Procureur general)* decision.

Provisions about siblings, cousins, omitted or removed minors, and unknown/unstated parentage took effect on December 22, 2017.

Provisions about the removal of the 1951 cut-off will come into force at a later date. It will be done after the consultation phase of the Collaborative Process. First Nations, Indigenous groups and affected individuals will be consulted on how to carry out the removal of the 1951 cut-off.