



BILL S-3 AMENDMENTS

LEGAL AFFAIRS
AND JUSTICE





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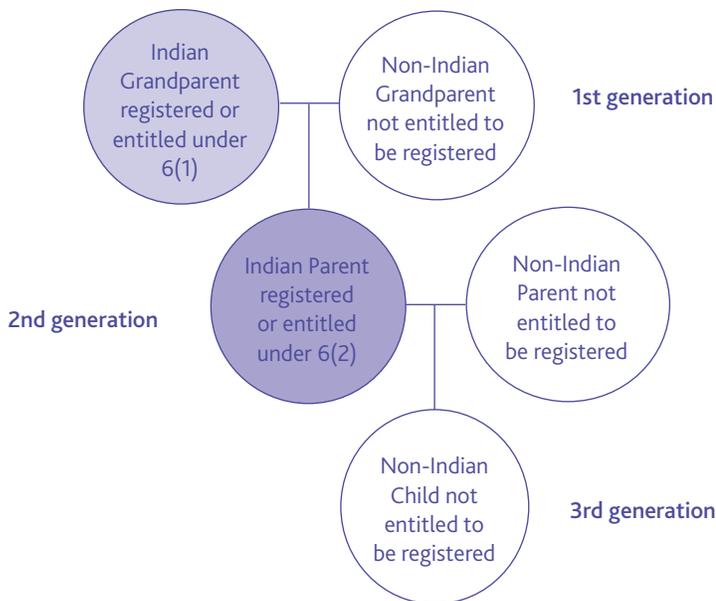
Second-Generation Cut-Off Rule

What is Canada's second-generation cut-off?

The concept of a "second-generation cut-off" was introduced in 1985. It was done as part of the Bill C-31 amendments. In this process, two general categories of Federal Indian Status were created – sections 6(1) and 6(2). The ability to transfer Indian status to children was created, as well. After two consecutive generations of parents who do not have Indian status (non-Indians), the third generation is no longer entitled to registration.

As such, entitlement is cut-off after the second generation. In other words, an individual will not be entitled to Indian registration if they have one grandparent with status and one parent who is not entitled to registration.

The following diagram shows how Canada's second-generation cut-off works:



The second-generation cut-off does not consider a person's sex, family status, marital status, ancestry or place of residence.

How does the second-generation cut-off work?

The application and operation of the second-generation cut-off is "mechanical." It is put to use without looking at the individual, or their family's circumstances. Under the Exploratory Process in 2011-2012, it was reported by some First Nation communities that some members were unfairly affected by the second-generation cut-off. They were cut-off even though the member and their family had always been connected to the band and community. The issue was also raised during the Parliamentary debates on Bill S-3. As a result, this issue is included as a subject matter for consultation under the Collaborative Process.

In addition, the second-generation cut-off serves as a gender-neutral transmission rule for people who are born after 1985. It allows for entitlement for children of two registered or entitled parents under section 6(1)(f), or where only one parent is registered or entitled under section 6(2). The gender of the parents, or the gender of children, does not matter there. This makes sure that the transmission of entitlement of Indian status continues forward if the conditions are met. If this rule did not exist, there would be no way for an Indian parent to transfer his/her status to their children, who were born after 1985.

Individual rights vs Collective rights

Most human rights show an individualistic concept of rights and rights-holders. However, for many First Nations people, their identity as an individual is connected to the community, to which that individual belongs. Therefore, the problem is that while the Charter and human rights laws guarantee individual rights, First Nations ask for protection of their collective rights as a group.