

**ADDITIONS TO RESERVES****OVERVIEW**

The 2001 Additions to Reserve Policy (ATR), which is not part of the *Indian Act*, triggers a process for First Nations to add lands to their current reserve land base and/or the creation of new reserves. This process stemmed over time from either a legal obligation, community additions, or a tribunal decision. The authority to set aside reserve lands is delegated through Crown-Indigenous Relations Canada (CIRC).

Beginning in 2010, the Assembly of First Nations (AFN) and Canada formed a Joint Working Group (JWG) mandated by AFN resolution to jointly reform the 2001 Additions to Reserve (ATR) policy. This work culminated in 2016 with the release of a new 2016 ATR policy.

At the 2016 AFN Annual General Assembly (AGA) the Chiefs-in-Assembly passed AFN Resolution 17/2016, *Call on Canada to Update the Additions to Reserves Policy (ATR)*, urging Canada to work with the AFN to provide joint policy interpretation and implementation oversight. The previous department,

Indigenous and Northern Affairs Canada, accepted a 2016 AFN ATR proposal committing the parties to work together to achieve these outcomes.

CIRC, the newly formed federal department responsible for ATR implementation, initially proved hesitant to engage with AFN on ATR policy interpretation and implementation oversight. In December 2017, CIRC once again signaled a willingness to renew engagement and agreed to provide AFN with limited funding to engage with First Nations on ATR.

In the fall of 2018, Bill C-86 received Royal Assent, where CIRC unilaterally proposed and introduced legislation without AFN involvement. There was no opportunity for the AFN to provide comment.

At the Special Chiefs Assembly in December 2018, AFN Resolution 94/2018, *Reject Canada's Approach to Additions to Reserve Legislation*, was passed by consensus.

UPDATE

CIRC had explored legislative changes that would expand elements of the *Claims Settlement Implementation Acts* (Manitoba, Saskatchewan, and Alberta) nationally.

The changes will alleviate some of the administrative burdens faced by technicians involved in the ATR approval process and improve completion timeliness which is a progressive step towards an accelerated process.

ISSUE UPDATE

March 2019

One major change proposes having an approval process by way of Ministerial Order, rather than an Order in Council, not just for those First Nations pursuant to the Claims Settlement Implementation Act in the prairies, but for all First Nations.

A second major change is having access to pre-reserve designations, access to pre-reserve leases and pre-reserve permits allowing for increased access to economic development opportunities.

The legislative changes were developed unilaterally and introduced by CIRC without AFN's involvement. This undermines Canada's commitment to work jointly with First Nations on ATR policy reform.

There is commitment for funding and the need to create an oversight committee with AFN and CIRC in 2019-2020 which will assist in implementing the identified recommendations to further expedite the ATR process.

NEXT STEPS

- Need to reaffirm CIRC's support for the AFN's Resolution 26/2016, *Additions to Reserve Policy and Process Reform*.
- To provide an analysis of the Budget Implementation Act, Bill C-86, 2018.
- Call on Canada to ensure that any future ATR legislation be subject to joint oversight implementation with First Nations.

