

# 44 Sections of the *Indian Act* Replaced by a Land Code

The *Framework Agreement on First Nation Land Management* provides an opportunity for First Nations to replace the following 44 sections of the *Indian Act* with their own land laws.

## Reserves

### Section 18

Minister no longer authorizes use of reserve lands for community purposes.

### Section 18.1

The land code sets out the general rules applicable to the occupancy of First Nation land.

### Section 19

Minister no longer directs road construction and determines road location, authorizes surveys, or creates lots or subdivisions, within reserve boundaries.



## Possession of Lands in Reserves

### Section 20

Ministerial approval not required for allotment, possession, or occupation of First Nation land. Minister no longer issues Certificates of Possession or Occupation, etc.

### Sections 22, 23, 24, 25, 26, 27

Ministerial approval and rules regarding individual holdings no longer required as the land code sets out the general rules applicable to the use and occupancy of First Nation land, including the granting or expropriation of interests or rights in First Nation land.

### Section 28

Minister no longer issues permits, and the land code sets out the general rules applicable to the use and occupancy of First Nation land.



## Trespass on Reserves

### Sections 30, 31

This statutory offence and penalty for trespass no longer applies as the First Nation now has the discretion to create such an offence.



## Roads and Bridges

### Section 34

Superintendent no longer has the power to instruct band to maintain roads, bridges, ditches and fences on land. Minister can no longer remedy such neglect and recoup the cost from funds held by Canada.



## Lands Taken for Public Purposes

### Section 35

The Governor in Council no longer has the authority to consent to the taking or use of reserve land by a province, a municipal or local authority, or a corporation, that has the power to expropriate, take or use land without the consent of the owner.



## Surrenders and Designations

### Sections 37, 38, 39, 39.1, 40, 40.1, 41

Surrenders and designations provisions no longer apply. Alienation of First Nation land is restricted except where exchanged for other land in accordance with the Framework Agreement. The rules and procedures respecting occupancy of First Nation land, land use, zoning, etc. are set out in the land code.



## Distribution of Property on Intestacy

### Sections 48, 50(4)

Approval of Minister no longer required for estate transfers and section 50 sales of individual holdings.



## Management of Reserves and Surrendered and Designated Lands

### Sections 53, 54, 55, 56

Minister no longer has authority to manage or sell surrendered lands or lease designated lands. Particulars of surrendered and designated lands no longer entered in the Surrendered and Designated Lands Register.

### Section 57

Governor General's authority to make regulations in respect of timber surrenders and mineral surrenders no longer required.

### Section 58

Uncultivated or unused lands provisions no longer apply.

### Section 59

Adjustment of contracts provisions no longer apply.

### Section 60

Authority of Governor in Council to grant right to Band to exercise control and management of reserve lands no longer required.



## Management of Indian Moneys

### Sections 61<sup>1</sup>, 62, 63, 64, 65, 66, 67, 68, 69

Capital and revenue moneys collected, received or held for the use and benefit of a band are transferred to operational First Nations and no longer managed by Canada under the *Indian Act* (note: First Nations with a land code in force prior to December 13, 2018, can request that their capital moneys be transferred to them along with their revenue moneys).



## Farms

### Section 71

Minister no longer empowered to operate reserve farms.



## Removal of Materials from Reserves

### Section 93

Restrictions and other rules and procedures (including any potential offences and penalties) respecting the removal of sand and gravel, hay and timber, etc. to be set out in the land code as opposed to the *Indian Act*.



## Regulations

Regulations made under section 57 of the *Indian Act*; and

Regulations under sections 42 and 73 of the *Indian Act* to the extent that they are inconsistent with the *Framework Agreement on First Nation Land Management*, a First Nation's land code, or its First Nation laws.

**The remainder of the *Indian Act* will continue to apply for all other purposes except to the extent that other *Indian Act* provisions do not apply as a result of other legislation (e.g., *First Nations Fiscal Management Act*.)**

<sup>1</sup> **Green numbers** are sections that ceased to apply after the 2018 legislative amendments