

UNION OF B.C. INDIAN CHIEFS

THE SECHELT ACT AND WHAT IT MEANS

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**Union of B.C. Indian Chiefs
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UNION OF B.C. INDIAN CHIEFS

THE SECHELT ACT AND WHAT IT MEANS

INTRODUCTION:

It would be easy, in the following paper, to get confused about the use of the terms "Sechelt band" and "Sechelt Indian Band", which both refer to almost the same body, except for some important legal changes. The difference between them comes from the effects of this Act, which excludes the Band from most parts of the Indian Act.

To save repeated explanations, and, at the same time, make clear which of the two is being referred to, the Sechelt Band as it existed under the Indian Act will always be referred to as the "old Sechelt band" and the Sechelt band as it is set up by this Act will be referred to as the "Sechelt Indian Band", or the "new Sechelt Indian Band", where that seems called for.

When the word "Band" is used alone and capitalized, it refers to the Sechelt Indian Band.

**An Act relating to the establishment of self-government
for the Sechelt Indian Band.**

Section 1.

1. This act may be cited as the Sechelt Indian Band Self-Government Act.

Section 1.

This Act is to be called the Sechelt Indian Band Self-Government Act.

Meanings of certain words in the Sechelt Act

Section 2. (1)

2. (1) In this Act,

"Band" means the Sechelt Indian Band established by subsection 5(1);

"Council" means the Sechelt Indian Band Council referred to in section 8;

"District" means the Sechelt Indian Government District recognized by section 17;

"District Council" means the Sechelt Indian Government District Council established by subsection 19(1).

"Minister" means the Minister of Indian Affairs and Northern Development;

Section 2. (1)

In this Act, the following words have the following meanings:

"Band" means the Sechelt Indian Band set up by this Act to replace the band as it used to exist under the Indian Act.

"Council" means the Sechelt Indian Band Council, which under this Act will govern the new Sechelt Indian Band.

"District" means the Sechelt Indian Government District, which is recognized by this Act as having legal control over all Sechelt lands.

"District Council" means the Sechelt Indian Government District Council, set up by this Act as the group responsible for running the Sechelt Indian Government District.

"Minister" means the Minister of Indian Affairs and Northern Development.

"Sechelt lands" means
 (a) lands transferred to
 the Band under section 23,
 and (b) lands that are
 declared by the Governor in
 Council and the Lieutenant-
 Governor in Council of
 British Columbia to be
 Sechelt lands for the
 purposes of this Act.

"Sechelt lands" means reserve
 and surrendered lands turned
 over by the government of
 Canada to the Sechelt Indian
 Band by this Act.

All lands set aside under the
Indian Act for the use and
 benefit of the old Sechelt
 band are to be turned over
 to the new Band, as long as
 the lands remain set aside at
 the date that this Act
 becomes law.

"Sechelt lands" also means
 any other lands declared by
 the government of Canada and
 the government of British
 Columbia to be Sechelt lands
 for the purposes of this Act.

Section 2. (2)

For greater certainty,
 Sechelt lands do not include
 lands described in the
 definition "Sechelt lands"
 in subsection (1) where the
 lands have been sold or the
 title to the lands has been
 otherwise transferred.

Section 2. (2)

Reserve lands that have been
 sold or in any other way have
 passed into the hands of
 third parties are not
 included within the meaning
 of "Sechelt lands", even if
 they otherwise seem to fit
 the meaning given above.

Section 3.

For greater certainty,
 nothing in this Act shall be
 construed so as to abrogate
 or derogate from any
 existing aboriginal or
 treaty rights of the members
 of the Sechelt Indian Band,
 or any other aboriginal
 peoples of Canada under
 section 35 of the Consti-
 tution Act, 1982.

Section 3.

This Act should not be read
 so as to take away or limit
 any existing aboriginal or
 treaty rights belonging to
 members of the Sechelt Indian
 Band or any other of the
 native peoples of Canada.
 These rights remain just as
 they are set out in section
 35 of the constitution of
 Canada, the Constitution
 Act, 1982.

Purpose of Act

Section 4.

The purposes of this Act are to enable the Sechelt Indian Band to establish and maintain self-government for itself and its members on Sechelt lands and to obtain control over and the administration of the resources and services available to its members.

Section 4.

There are two purposes of this Act. The first is to allow the Sechelt Indian Band to govern itself on its own lands. The second is to allow the Band to take control over the resources and services which are available to Band members.

Sechelt Indian Band

Section 5. (1)

The Sechelt Indian Band is hereby established to replace the Indian Act Sechelt Band.

Section 5. (1)

By this Act, the Sechelt Indian Band is officially established to replace the Sechelt band as it existed under the Indian Act.

Section 5. (2)

The Indian Act Sechelt Band ceases to exist, and all its rights, titles, interests, assets, obligations and liabilities, including those of its band council, vest in the Sechelt Indian Band established under subsection (1).

Section 5. (2)

The Sechelt band as it existed under the Indian Act no longer exists. The rights and obligations of the old band, and of the old band council, are all passed along to the new Sechelt Indian Band. This includes all rights, all rights to the ownership and use of land, all possessions and assets of the old band and its council, as well as all of their debts and liabilities.

Legal powers and abilities of the Band

Section 6.

The Band is a legal entity and has, subject to this Act, the capacity, rights, powers and privileges of a natural person, without restricting the generality

Section 6.

The Band is a legally recognized body which can-- unless something in this Act says otherwise--do anything an ordinary adult person can do.

of the foregoing, may

- (a) enter into contracts or agreements;
- (b) acquire and hold property or any interest therein, and sell or otherwise dispose of that property or interest;
- (c) expend or invest moneys;
- (d) borrow money; and
- (e) do such other things as are conducive to the exercise of its rights, powers and privileges.

Without meaning to limit its range of actions, the Band may enter into legal contracts and agreements, buy, sell or own property, spend, invest and borrow money, and do other things that are in keeping with its rights, powers and privileges.

Section 7.

The powers and duties of the Band shall be carried out in accordance with its constitution.

Section 7.

The constitution of the Band controls how its powers and duties must be exercised.

Sechelt Indian Band Council

Section 8.

The Sechelt Indian Band Council shall be the governing body of the Band, and its members shall be elected in accordance with the constitution of the Band.

Section 8.

The Band will be governed by the Sechelt Indian Band Council. The members of the Council must be elected according to the rules set out in the Band constitution.

Section 9.

The Band shall act through the Council in exercising its powers and carrying out its duties and functions.

Section 9.

The Band will act through the Band Council when carrying out its actions.

Band Constitution

Section 10. (1)

The constitution of the Band shall be in writing and may

Section 10 (1)

The constitution of the Band must be in writing and may deal with the following subjects:

(a) establish the composition of the Council, the term of office and tenure of its members, and procedures relating to the election of Council members;

(b) establish the procedures or processes to be followed by Council in exercising the Band's powers and carrying out its duties;

(c) provide for a system of financial accountability of the Council to the members of the Band, including audit arrangements and the publication of financial reports;

(d) include a membership code for the Band;

(e) establish rules and procedures relating to the holding of referenda referred to in section 12 or subsection 21(3) or provided for in the constitution of the Band;

(f) establish rules and procedures to be followed in respect of the disposition of rights and interests in Sechelt lands;

(a) The make-up of the Band Council, the length of time council members can serve, the conditions under which they will be allowed to serve, and the rules which must be followed in holding Band Council elections.

(b) What kinds of rules and regulations the Band Council must follow in carrying out the Band's business.

(c) Set up a system to make information about Band spending available to Band members, including an organized and regular review of the Band's books by an accountant and the publishing of financial reports.

(d) Set up rules to determine who can be a Band member or not.

(e) Set up rules for the holding of referendums or general membership votes. For instance, when referendums must be held to amend the Band constitution, or when the Sechelt Indian Government District Council is brought into existence and certain Band powers have to be turned over to it, or on other occasions that the Band constitution might call for.

(f) Set up rules dealing with how rights over Sechelt lands are to be managed.

(g) set out specific legislative powers of the Council selected from among the general classes of matters set out in section 14; and

(h) provide for any other matters relating to the government of the Band, its members or Sechelt lands.

Section 10. (2)

A membership code established in the constitution of the Band shall respect rights to membership in the Indian Act Sechelt band acquired under the Indian Act immediately prior to the establishment of that code.

Section 11. (1)

The Governor in Council may, on the advice of the Minister, by order, declare that the constitution of the Band is in force, if

- (a) the constitution includes or provides for the matters set out in paragraphs 10(1)(a) to (f);
- (b) the constitution has the support of a majority of the electors of the Indian Act Sechelt band or of the Sechelt Indian Band; and
- (c) the Governor in Council approves the constitution.

(g) Set out subjects about which the Band Council is entitled to make laws.

(h) Provide for any other matter having to do with the government of the Band, Band members or Sechelt lands.

Section 10. (2)

If at any time before the present Act comes into force, a person acquired membership rights in the old Sechelt band, those rights continue with the new Sechelt Indian Band. Nothing in the Sechelt Indian Band's new membership code can take those rights away.

Section 11. (1)

If the Minister of Indian Affairs recommends it, the federal cabinet may, without any further legislation, declare that the Sechelt Indian Band constitution has the force of law. Cabinet may do so as long as the constitution provides for and deals with those matters which are mentioned in sections 10(1)(a) to 10(1)(f) above. Also the majority of the voting members of either the old band or the new Band must approve the constitution, and the federal cabinet must approve the constitution.

Section 11. (2)

The support of a majority of the electors of the Indian Act Sechelt band or of the Sechelt Indian Band shall, for the purposes of this section, be established by a referendum held in accordance with the Indian Referendum Regulations.

Section 11. (2)

In order for the Band constitution to be approved, it must be approved by a majority of all the voting members of the Band in a vote held according to the rules set out in the Indian Referendum Regulations.

Changes to the Band Constitution**Section 12.**

The Governor in Council may, on the advice of the minister, by order, declare in force an amendment to the constitution of the Band, if the amendment has been approved in a referendum held in accordance with the constitution of the Band and the Governor in Council approves the amendment.

Section 12.

If the Minister of Indian Affairs recommends it, the federal cabinet may, without any further legislation, declare that any amendment or change to the Sechelt constitution has the force of law. Cabinet may do so only if a majority of Band members voting in a referendum approve the changes, and the cabinet also approves the changes.

The referendum to find out if there is Band member approval must be held according to the rules set out in the Band constitution.

Publication of Constitution and Amendments**Section 13.**

The Minister shall cause to be published in the Canada Gazette the constitution or any amendment thereto forthwith on issuing an order declaring the constitution or amendment in force under this Act.

Section 13.

Once the Band constitution or any amendment to it has been declared by the federal cabinet to have the force of law, the Minister of Indian Affairs must soon as possible see to it that the constitution or amendment is published officially in the Canada Gazette.

[The Canada Gazette is the publication of the federal government through which public notice is given of all the government's legislation and regulations.]

Legislative Powers of Council

Section 14. (1)

The Council has, to the extent that it is authorized by the constitution of the Band to do so, the power to make laws in relation to matters coming within any of the following classes of matters:

(a) access to and residence on Sechelt lands;

(b) zoning and land use planning in respect of Sechelt lands;

(c) expropriation, for community purposes, of interests in Sechelt lands by the Band;

(d) the use, construction, maintenance, repair and demolition of buildings and structures on Sechelt lands;

(e) taxation, for local purposes, of interests in Sechelt lands, and of occupants and tenants of Sechelt lands including assessment collection and enforcement procedures and appeals relating thereto;

(f) the administration and management of property belonging to the Band;

Section 14. (1)

As long as the Band constitution allows it, the Sechelt Indian Band Council may make laws on the following matters:

(a) Determining who may come on and who may live on Sechelt lands.

(b) Planning and regulating the uses of Sechelt lands.

(c) The kinds of situations--when lands are needed for the community as a whole--that Band can make forced take-overs or buy-out rights in Sechelt lands.

(d) Rules to be followed in regard to the use of buildings on Sechelt lands, how they must be built, kept up, repaired or torn down.

(e) Taxation, for local purposes, of Sechelt lands and of the tenants and owners of Sechelt lands. This includes laws on how the tax is calculated and collected, how it is enforced, and methods by which persons or parties can appeal their tax bill

(f) How property owned by the Band is to be dealt with.

(g) education of Band members on Sechelt lands;

(h) social and welfare services with respect to Band members, including, without restricting the generality of the foregoing, the custody and placement of children of Band members.

(i) health services on Sechelt lands;

(j) the preservation and management of natural resources on Sechelt lands

(k) the preservation, protection and management of fur-bearing animals, fish and game on Sechelt lands;

(l) public order and safety on Sechelt lands;

(m) the construction, maintenance and management of roads and the regulation of traffic on Sechelt lands;

(n) the operation of businesses, professions and trades on Sechelt lands;

(o) the prohibition of the sale, barter, supply, manufacture or possession of intoxicants on Sechelt lands and any exceptions to a prohibition of possession;

(p) subject to subsection (2), the imposition on summary conviction of fines or imprisonment for the contravention of any law made by the Band government;

(g) The education of Band members living on Sechelt lands.

(h) How social and welfare services for Band members are to be managed. Among other things, this includes how the children of Band members are to be cared for, where and by whom.

(i) Health services on Sechelt lands.

(j) How natural resources on Sechelt lands are to be preserved and managed.

(k) How fur-bearing animals, fish and game on Sechelt lands are to be preserved, protected and managed.

(l) How Sechelt lands are to be policed and protected.

(m) The building and upkeep of roads on Sechelt lands. The setting of traffic regulations on Sechelt lands.

(n) How businesses, professions and trades are to be conducted or pursued on Sechelt lands.

(o) Laws preventing the sale or otherwise of liquor, drugs or of anything else that impair a person's functions. There can be exceptions for possession.

(p) If someone is convicted of breaking Band laws, there can be a fine of not more than \$2,000, and/or prison for not more than 6 months.

(q) the devolution, by testate or intestate succession, of real property of Band members on Sechelt lands and personal property of Band members ordinarily resident on Sechelt lands;

(r) financial administration of the Band;

(s) the conduct of Band elections and referenda;

(t) the creation of administrative bodies and agencies to assist in the administration of the affairs of the Band; and

(u) matters related to the good government of the Band, its members or Sechelt lands.

Section 14. (2)

A law made in respect of the class of matters set out in paragraph (1)(p) may specify a maximum fine or a maximum term of imprisonment or both, but the maximum fine may not exceed two thousand dollars and the maximum term of imprisonment may not exceed six months.

(q) The Band may make laws about inheriting Sechelt lands or rights in Sechelt lands, whether given by will or where there is no will. If the person who died was a Band member who ordinarily lived on Sechelt lands, then the Band can make laws about inheriting his property even if the property has nothing to do with Sechelt lands or rights over these lands.

(r) How the finances of the Band are to be handled.

(s) How Band elections and referendums are to be held.

(t) Setting up of various agencies to handle different aspects of the Band's business.

(u) Matters having to do with responsible government of the Band, Band members or Sechelt lands.

Section 14. (2)

When the Band makes a law setting a prison term or a fine or both for the breaking of a Band law, the most the fine can be is \$2,000 and the most the prison term can be is 6 months.

Section 14. (3)

For greater certainty, the Council has the power to adopt any laws of British Columbia as its own law if it is authorized by the constitution to make laws in relation to the subject-matter of those laws.

Section 14. (4)

A law made by the Council may require the holding of a licence or permit and may provide for the issuance thereof and fees therefor.

Section 15.

The Council may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.

Section 16.

The Statutory Instruments Act does not apply to a law enacted by the Council

Section 14. (3)

If the Band Council has the right under the Band constitution to make laws on a certain subject, it may adopt the laws of the province on that subject and make them the laws of the Sechelt Indian Band as well.

Section 14. (4)

The Band may make laws requiring licences or permits and may collect fees for these licences or permits. It may set up ways that these licences and permits can be issued and the fees for them collected.

Section 15.

If any Act of the B.C. government grants the Sechelt Indian Band the right to make laws on certain matters, then the Band may make laws on those matters.

Section 16.

The Statutory Instruments Act does not apply to laws made by the Band Council.

[This Act governs administrative regulations and orders passed by the federal government.]

Sechelt Indian Government District

Section 17.

There is hereby recognized the Sechelt Indian Government District, which shall have jurisdiction over all Sechelt lands.

Section 18.

The District is a legal entity and has the capacity, rights, powers and privileges of a natural person and, without restricting the generality of the foregoing, may

- (a) enter into contracts or agreements;
- (b) acquire and hold property or any interest therein, and sell or otherwise dispose of that property or interest;
- (c) expend or invest moneys;
- (d) borrow money; and
- (e) do such other things as are conducive to the exercise of its rights, powers and privileges.

Section 19. (1)

There is hereby established the Sechelt Indian Government District Council, which shall be the governing body of the District.

Section 19. (2)

The District Council shall consist of the members of the Council.

Section 17.

This Act recognizes the legal existence of the Sechelt Indian Government District, which may make laws and make decisions in regard to all Sechelt lands.

Section 18.

The Sechelt Indian Government District is a legally-recognized body which can do anything an ordinary adult person can do. Without meaning to restrict it only to these actions, the District may enter into legal contracts and agreements, buy, sell or own property, spend, invest and borrow money, and do other things that are in keeping with its rights, powers and privileges.

Section 19. (1)

The Sechelt Indian Government District Council is set up by this Act to govern the District.

Section 19. (2)

Only members of the Band Council can sit on the District Council.

Section 20.

The District shall act through the District Council in exercising its powers and carrying out its duties and functions.

Section 21. (1)

Sections 17 to 20 shall come into force in accordance with this section.

Section 21. (2)

The Governor in Council may, subject to subsection (3), on the advice of the Minister, by order, declare that sections 17 to 20 are in force and transfer any of the powers, duties or functions of the Band under this Act or the constitution of the Band to the District, except those relating to membership in the Band and the disposition of rights or interests in Sechelt lands.

Section 21. (3)

The Governor in Council shall not make an order under subsection (2) unless he is satisfied that

- (a) the legislature of British Columbia has passed legislation respecting the District and the legislation is in force in British Columbia; and
- (b) the transfer of powers specified in the order has been approved in a referendum held in accordance with the constitution of the Band.

Section 20.

All the actions of the Sechelt Indian Government District must be carried out through the District Council.

Section 21. (1)

This section controls how and when sections 17 to 20 become effective law.

Section 21. (2)

If the Minister of Indian Affairs recommends it, the federal cabinet, without any further legislation, may declare that sections 17 to 20 have the force of law. This means that any of the powers that the Band has under this Act can be transferred to the District except those having to do with determining Band membership and those having to do with the giving out rights over Sechelt lands.

Section 21. (3)

There are two things that would prevent the Federal cabinet from declaring sections 17 to 20 to be the law. The sections cannot be declared law unless the B.C. government has passed legislation concerning the Sechelt Indian Government District and that legislation has become the law in B.C. The sections cannot be declared law unless the transfer of powers from the Band to the District is approved by a vote of the Band members in a referendum held according to the Band constitution.

Section 21. (4)

The Governor in Council may, on the advice of the Minister, by order, transfer any of the powers, duties and functions that were transferred to the District under paragraph (2)(b) back to the Band if the legislation referred to in paragraph (3)(a) is amended.

Section 21. (5)

The Governor in Council may, on the advice of the Minister, by order, declare that sections 17 to 20 are no longer in force and transfer the powers, duties and functions that were transferred to the District under subsection (2) back to the Band if the legislation referred to in paragraph (3) (a) is no longer in force.

Section 22.

The District may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.

Section 21. (4)

In case the B.C. government changes any of its laws concerning the Sechelt Indian Government District, and if the Minister of Indian Affairs recommends it, the federal cabinet may, without any further legislation, give back to the Band any powers that may have been given to the District.

Section 21. (5)

In case the B.C. government completely cancels its laws concerning the Sechelt Indian Government District, and if the Minister of Indian Affairs recommends it, the federal cabinet may, without any further legislation, give back to the Band all the powers that may have been given to the District.

Section 22.

Any legal powers given to the District by the B.C. government may be used by the District.

Transfer of Lands

Section 23. (1)

The title to all lands that were, immediately prior to the coming into force of this section, reserves, within the meaning of the Indian Act, of the Indian Act Sechelt band is hereby transferred in fee simple to the Band, subject to the rights, interests and conditions referred to in section 24.

Section 23. (2)

In subsection (1), "reserves" includes surrendered lands, within the meaning of the Indian Act, that have not been sold or the title to which has not been otherwise transferred.

Section 23. (3)

All rights and interests of the Indian Act Sechelt band in respect of the lands referred to in subsection (1) cease to exist on the coming into force of this section.

Section 23. (1)

All land that had been set aside for the use and benefit of the old Sechelt band is given to the new Sechelt Indian Band by this Act. This means that legal ownership of the land is passed from the federal government to the Band. But there are limitations. First, the land must have remained set aside right up to the time this section of the Act becomes law. Second, any parties other than the Band and the federal government who had rights over any of these lands are entitled to keep what rights they had. The passing of title does not effect the rights of others.

Section 23. (2)

The lands transferred to the Sechelt Indian Band include both reserve and surrendered lands, as these terms are used in the Indian Act, so long as the lands were not sold or the legal ownership in some other way transferred before this Act became law.

Section 23. (3)

Once the Sechelt lands are transferred to the Sechelt Indian Band, all rights that the old Sechelt band had over them no longer exist.

Section 23. (4)

Forthwith on the coming into force of this section the Governor in Council shall cause to be issued under the Great Seal of Canada letters patent confirming the transfer of, and describing, the lands referred to in subsection (1).

Section 24.

The fee simple title of the Band in the lands transferred to it under section 23 is subject to

(a) any interests recognized or established by the agreement entered into between Canada and British Columbia on January 26, 1943, relating to the ownership and exploitation of minerals, the British Columbia Indian Reserves Mineral Resources Act, being chapter 19 of the Statutes of Canada, 1943-44 and the Indian Reserves Minerals Resources Act, being chapter 192 of the Revised Statutes of British Columbia, 1979, all as amended from time to time;

(b) the conditions of conveyance set out in British Columbia Order in Council No. 1036 of July 29, 1938, as amended by British Columbia Order in Council No. 1555 of May 13, 1969, in respect of the lands conveyed to Her Majesty in right of Canada by that Order in Council; and

Section 23. (4)

Once the Sechelt lands are given over to the Sechelt Indian Band, the federal cabinet must issue a deed to the Band showing that the lands have been transferred to them, and providing a legal description of the lands showing exactly which lands they are.

Section 24.

The Sechelt Indian Band's ownership of Sechelt lands is limited in the following ways:

(a) On January 26, 1943 the B.C. and Canadian governments made an agreement concerning rights to minerals on Indian reserves. This agreement was confirmed in the B.C. Indian Reserves Mineral Resources Act, an Act of the federal government, and the Indian Reserves Mineral Resources Act, an Act of the B.C. government. The ownership of the Sechelt lands by the Sechelt Indian Band continues to be limited by these Acts.

(b) By Order in Council #1036, the B.C. government gave the legal ownership of Indian reserve lands in B.C. to the federal government. This order in council was altered by Order in Council #1555. These documents set out limitations on the ownership of Indian reserve lands by the federal government by allowing continuing rights to the B.C.

government, i.e., by taking reserve lands for roads. These limitations remain the same even though the land is owned by the Sechelt Indian Band.

(c) any rights or interests under a mortgage, lease, occupation permit, certificate of possession or other grant or authorization in respect of the lands that exist on the coming into force of this section.

(c) If anyone had a mortgage, lease, occupation permit, certificate of possession or in any other way had rights over Sechelt lands before the lands were transferred to the Sechelt Indian Band, they continue to have these rights.

Section 25.

The Band holds the lands transferred to it under section 23 for the use and benefit of the Band and its members.

Section 25.

The Band holds title to the Sechelt lands for the use and benefit of both the Band and its members.

Dealing with Sechelt Lands

Section 26.

The Band has full power to dispose of any Sechelt lands and any rights or interests therein but shall not do so except in accordance with the procedure established in the constitution of the Band.

Section 26.

The Band may deal with Sechelt lands in any way it likes, but must do so according to the rules set out in the Band constitution. (see section 10)

Registration of Sechelt Lands

Section 27. (1)

Subject to subsection (2), particulars relating to all transactions respecting Sechelt lands shall be entered in the Reserve Land Register kept under section 21 of the Indian Act.

Section 27. (1) & (2)

Unless dealings in Sechelt lands are registered according to the laws of the province of B.C., they must be registered, together with any details of the deals made, in the Reserve Land Register kept by the Department of Indian Affairs.

Section 27. (2)

This section does not apply with respect to any Sechelt lands that are registered pursuant to section 28.

Section 28.

The Council may make laws authorizing the registration, in accordance with the laws of British Columbia, of estates or interests in any Sechelt lands specified in the laws of the Council, and for that purpose may make laws making any laws of British Columbia applicable to those Sechelt lands.

Section 29. (1)

Where a law is made under section 28, the Council shall forthwith

(a) cause to be published in a local newspaper of general circulation notice of the law with a legal description of the lands to which it relates; and

(b) give notice thereof to the Minister, or a person designated by the Minister for that purpose, and provide the Minister or that person with a copy of the law and a survey plan and legal description of the lands to which it relates.

Section 28.

The Band Council may make laws allowing the registration in the B.C. land registry system under provincial laws, of any interests in Sechelt lands. For this purpose, the Sechelt Band Council may adopt any B.C. law and allow the B.C. law to apply to Sechelt lands.

Section 29. (1)

When the Sechelt Indian Band adopts a law of B.C., allowing it to apply to any Sechelt lands, it must do the following as soon as possible:

(a) First, it must publish a notice in a local public newspaper telling about the adoption of this law by the Council, and describing in standard legal terms the Sechelt lands to which the B.C. law applies.

(b) Second, it must give notice of the adoption of the law to the Minister of Indian Affairs or a person appointed by him. In the notice, there must be a copy of the B.C. law adopted by the Band Council adopting the B.C. law, along with a survey plan and a legal description of the lands involved.

Section 29. (2)

The Minister shall forthwith, and in any event not later than thirty days after receipt of notice of a law under subsection (1) in respect of any Sechelt lands,

(a) cause to be provided to the Council a list of all particulars entered on the Reserve Land Register kept under section 21 of the Indian Act in respect of those lands; and

(b) cause to be sent to any person who appears from the Reserve Land Register to have any interest in those lands, at his latest known address, a notice indicating that

(i) a law has been made under subsection (1) in respect of those lands, and
 (ii) that person may not request any modification of the Register unless he does so within the time period referred to in subsection (3).

Section 29. (2)

Promptly after receiving the notice from the Band Council which is set out above, and no more than thirty days later, the Minister of Indian Affairs must do the following:

(a) Hand over to the Band Council all the information concerning the lands involved which may be found in the Reserve Land Register kept by the Department of Indian Affairs.

(b) If a person appears, according to the Reserve Land Register, to have rights over lands which will be affected by the adoption of the B.C. laws, the Minister must send a notice to him or her at the person's last known address. The notice must explain about the adoption of the laws and tell him or her that if they want to register any changes in the interests they hold over the Sechelt lands affected, they must do so before the time limit. The time limit is within thirty days after the Band itself receives details of the Reserve Land Register from the Minister of Indian Affairs.

Section 29. (3)

The Council shall, forthwith on receiving the list referred to in paragraph (2) (a), cause the list or a copy thereof to be posted in a conspicuous place on the lands to which the list relates, and in another conspicuous place within the Sechelt community, and shall indicate thereon that no person may request a modification of the Reserve Land Register unless he does so within thirty days after a date indicated on the list, which date shall be the date on which the list was provided to the Council.

Section 29. (4)

Any person may, within the time period referred to in subsection (3), make a request to the Minister for a modification of the Reserve Land Register.

Section 29. (5)

The Minister, or a person designated by the Minister for that purpose, shall consider a request under subsection (4) forthwith on receipt, and a decision of the Minister or the designated person on the matter shall be final.

Section 29. (3)

When the Band Council receives from the Minister of Indian Affairs information from the Reserve Land Register, they must promptly post this information both on the lands to which the information applies and at some other obvious and open place in the Sechelt community. Along with this, the Band Council must post notice of how long people have to dispute the information from the Reserve Land Register. The time limit is thirty days from when the Band Council itself received the information from the Minister of Indian Affairs. The exact time limit date must be included on the posting.

Section 29. (4)

Any person may ask the Minister of Indian Affairs to modify the information in the Reserve Land Register as long as they do so within the time limit.

Section 29. (5)

The Minister of Indian Affairs, or a person the Minister chooses, must consider whether or not the changes that are requested will in fact be made, and whatever he or she decides will be final.

Section 30. (1)

The Minister shall cause to be prepared, not later than ten days after the expiration of the period referred to in subsection 29 (3), a final list of all rights and interests in Sechelt lands in respect of which laws are made under section 28.

Section 30. (2)

The Minister shall cause a copy of every final list prepared under subsection (1) to be provided forthwith to the Council and to an official designated for that purpose by the government of British Columbia.

Section 30. (3)

A final list prepared under subsection (1) is for all purposes determinative of all rights and interests in the lands to which it relates as of the time the list is prepared.

Section 30. (1)

Within ten days after the time limit for requesting changes has passed, the Minister of Indian Affairs must make a final list of who has what rights over the Sechelt lands affected by the Band's adoption of B.C. laws.

Section 30. (2)

As soon as possible, these final lists must be given to the Band Council and to an official appointed by the B.C. government to receive these lists.

Section 30. (3)

All the rights and interests and only the rights and interests recognized by these final lists will be recognized by the law.

Sechelt Lands**Section 31.**

For greater certainty, Sechelt lands are lands reserved for the Indians within the meaning of Class 24 of section 91 of the Constitution Act, 1867.

Section 31.

Sechelt lands fall within the meaning of "lands reserved for Indians" as set out in section 91 (24) of the Constitution Act, 1867, which gives the government of Canada (and not the province) the right to make laws having to do with Indians and lands reserved for Indians.

Moneys**Section 32. (1)**

Moneys held by Her Majesty in right of Canada for the use and benefit of the Indian Act Sechelt Band shall be transferred to the Band.

Section 32. (2)

Moneys transferred under this section shall be administered in accordance with the constitution and laws of the Band.

Section 32. (1) & (2)

Money held by the federal government for the old Sechelt Band must be given to the new Sechelt Indian Band. This money must be handled by the Band according to Band laws and the Band constitution.

Funding**Section 33.**

The Minister may, with the approval of the Governor in Council, enter into an agreement with the Band under which funding would be provided by the government of Canada to the Band in the form of grants over such period of time, and subject to such terms and conditions, as are specified in the agreement.

Section 34.

Any amounts required for the purposes of section 33 shall be paid out of such moneys as may be appropriated by Parliament for those purposes.

Section 33.

If the federal cabinet approves, the Minister of Indian Affairs may agree with the Sechelt Indian Band to grant funding to them. How long the funding will continue, and under what conditions, will be set out in the agreement.

Section 34.

The money granted to the Sechelt Indian Band by the government must be taken out of government funds set aside by Parliament for that very purpose.

Application of the Indian Act

Section 35. (1)

Subject to section 36, the Indian Act applies, with such modifications as the circumstances require, in respect of the Band, its members, the Council and Sechelt lands except to the extent that the Indian Act is inconsistent with this Act, the constitution of the Band or a law of the Band.

Section 35. (2)

For greater certainty, the Indian Act applies for the purpose of determining which members of the Band are "Indians" within the meaning of that Act.

Section 35. (3)

For greater certainty, section 87 of the Indian Act applies, with such modifications as the circumstances require, in respect of the Band and its members who are Indians within the meaning of that Act, subject to any laws made by the Council in relation to the class of matters set out in paragraph 14(1)(e).

Section 35. (1)

As far as possible given the situation, and unless the federal cabinet says otherwise, the Indian Act still applies to the Band, to its members, to the Band Council and to Sechelt lands. But if anything in this Act, in the constitution or laws of the Band, goes against what the Indian Act says, then this Act, the Band constitution and the Band laws apply and the Indian Act does not.

Section 35. (2)

It is the Indian Act that decides whether a Sechelt band member is an "Indian" within the meaning of the Indian Act.

Section 35. (3)

Section 87, which is the Indian tax-exemption section of the Indian Act, continues to apply to the Band to any of its members who are "Indians" under the Indian Act. The tax exemption applies with any changes the situation requires, except when the taxes are viewed by the Band under the Band's own tax laws.

Section 36.

The Governor in Council may, on the advice of the Minister, by order declare that the Indian Act or any provision thereof does not apply to

(a) the Band or its members, or

(b) any portion of Sechelt lands,

and may, on the advice of the Minister, by order revoke any such order.

Section 36.

If the Minister of Indian Affairs advises it, the federal cabinet may, without passing any further legislation, declare that the Indian Act or any part of it no longer applies to the Band or its members or to any particular section of Sechelt lands. If the Minister advises it, the federal cabinet may also reverse any such order.

Application of Laws of Canada**Section 37.**

All federal laws of general application in force in Canada are applicable to and in respect of the Band, its members and Sechelt lands, except to the extent that those laws are inconsistent with this Act.

Section 37.

Any laws made by the federal government which are of the sort that apply to everyone, apply also to the Band, its members and Sechelt lands, but only if those laws don't conflict with this Act.

Application of Laws of British Columbia**Section 38.**

Laws of general application of British Columbia apply to or in respect of the members of the Band except to the extent that those laws are inconsistent with the terms of any treaty, this or any other Act of Parliament, the constitution of the Band or a law of the Band.

Section 38.

Any laws made by the B.C. government which are of the sort that they apply to everyone, apply also to Band members, but only if those laws don't conflict with any treaty, with this or any other Act of the federal government, or with the laws or constitution of the Band.

Application of Laws Relating to Natural Resources

Section 39.

The Indian Oil and Gas Act, as amended from time to time, applies, with such modifications as the circumstances require, in respect of the Band, its members, the Council and Sechelt lands.

Section 40.

For greater certainty, the British Columbia Indian Reserves Mineral Resources Act, being chapter 19 of the Statutes of Canada, 1943-44, as amended from time to time, applies in respect of Sechelt lands.

Section 41.

The Indian Reserve Mineral Resources Act, being chapter 192 of the Revised Statutes of British Columbia, 1979, as amended from time to time, applies in respect of Sechelt lands.

Section 39.

The Indian Oil and Gas Act, as it may be changed from time to time, applies to the Band, its members, the Band Council and Sechelt lands. It should be applied with any changes the situation may require.

Section 40.

The British Columbia Indian Reserves Mineral Resources Act, an Act passed by the federal government, as it may be changed from time to time, applies to Sechelt lands.

Section 41.

The Indian Reserves Mineral Resources Act, an Act passed by the provincial government, as it may be changed from time to time, applies to Sechelt lands.

Application of By-laws

Section 42.

The by-laws of the Indian Act Sechelt band that are in force immediately before this Act comes into force remain in force on Sechelt lands that were, at that time, reserves, within the meaning of the Indian Act, of the Indian Act Sechelt band and in respect of the members of the Band to the extent that the by-laws are consistent with this Act, the constitution of the Band or a law of the Band.

Section 42.

Any by-laws passed by the old Sechelt band council continue to apply on the same lands where they used to apply, and to Band members, but only if these by-laws don't conflict with this Act, or with the constitution and laws of the new Sechelt Indian Band.

Governor in Council and Ministers

Section 43.

The Governor in Council or any Minister of the Crown may exercise any powers and carry out any functions or duties that are set out in the constitution of the Band with respect to the Governor in Council or that Minister, as the case may be.

Section 43.

The federal cabinet or any federal government minister may do anything that the constitution of the Band allows them to do.

Transitional Provisions

Section 44. (1)

The council of the Indian Act Sechelt band that is in office pursuant to the Indian Act immediately before the coming into force of section 5 shall be deemed to be the Council and to have been elected in accordance with the constitution of the Band.

Section 44. (1)

The council of the old Sechelt band which is in office just before the new Sechelt Indian Band comes into being, will continue in office as the new Band Council just as if it had been elected according to the new Sechelt Indian Band constitution.

Section 44. (2)

The council of the Indian Act Sechelt band referred to in subsection (1) shall continue in office as the Council until a new Council has been elected in accordance with the constitution of the Band.

Section 44. (2)

The old band council will continue in office until a new Council can be elected according to the new Sechelt Indian Band constitution.

Section 44. (3)

Any provisions of the Indian Act relating to elections of band councils and the qualification of persons to hold office as chief or councillor apply to the council of the Indian Act Sechelt band until a new Council has been elected in accordance with the constitution of the Band.

Section 44. (3)

The rules for election of band council and any qualifications that a person had to have to sit on a band council under the Indian Act continue to apply to the old band council and will apply until a new Council can be elected according to the new Sechelt Indian Band constitution.

Section 45. (1)

The members of the Indian Act Sechelt band, immediately before the coming into force of this Act, are members of the Sechelt Indian Band immediately after the coming into force of the Act.

Section 45. (2)

For greater certainty, during any period after this Act comes into force but before the Band constitution comes into force the provisions of the Indian Act relating to membership apply in respect of the Sechelt Indian Band.

Section 46.

For greater certainty, during any period after this Act comes into force but before the constitution of the Band comes into force, the provisions of the Indian Act relating to the disposition of rights or interests in reserves within the meaning of that Act, apply in respect of Sechelt lands.

Section 45. (1)

Members of the old Sechelt band who were members at the time this Act became law continue to be members of the new Sechelt Indian Band.

Section 45. (2)

During the time between when this Act becomes law and the Band constitution becomes law, the Indian Act will determine whether or not a person is a Band member.

Section 45. (3)

During the time between when this Act becomes law and the Band constitution becomes law, the Indian Act will determine whether persons or parties have rights over Sechelt lands, and what those rights are.

CONSEQUENTIAL AMENDMENTS

[This is a list of amendments made to other Acts of the federal government to clarify that they continue to apply to the Sechelt lands established by this Act.]

Canada Assistance Plan

Section 47. (1)

The definition "band" in section 10 of the Canada Assistance Plan is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) the Band, as defined in the Sechelt Indian Band Self-Government Act;"

Section 47. (2)

The definition "council" in section 10 of the said Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding the following paragraph:

"(c) the "Council", as defined in the Sechelt Indian Band Self-Government Act;"

Section 47. (3)

The definition "reserve" in section 10 of the said Act is amended by striking out the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act."

Section 47. (1) (2) (3)

The meaning of the word "band" in section 10 of the Canada Assistance Plan is changed by adding the meaning of the word "Band" as it is used in this Act.

The meaning of the word "council" is changed by adding the meaning of the word "Council" as it is used in this Act.

The meaning of the word "reserve" is changed by adding the meaning of the words "Sechelt lands" as they are used in this Act.

Expropriation Act

Section 48.

Section 3 of the Expropriation Act is amended by adding thereto the following subsection:

"(3) No interest in lands that are "Sechelt lands", as defined in the Sechelt Indian Band Self-Government Act, may be expropriated under this part without consent of the Governor in Council."

Section 48.

The Expropriation Act is changed by not allowing the Department of Public Works to take over or buy out Sechelt lands for public works purposes and without the consent of the Sechelt Indian Band unless these actions are approved directly by the government itself.

Fishing and Recreational Harbours Act

Section 49.

The definition "agency" in section 2 of the Fishing and Recreational Harbours Act is repealed and following substituted therefor:

"agency", in relation to a province, includes

- (a) any incorporated or unincorporated city, town, municipality, village, township, rural municipality, regional district administration or local improvement district administration,
- (b) any council of a band within the meaning of the Indian Act, and
- (c) the Council, within the meaning of the Sechelt Indian Band Self-Government Act;"

Section 49.

The meaning of "agency" in section 2 of the Fishing and Recreational Harbours Act is changed by adding the meaning of the word "Council" as it is used in this Act.

Canada Lands Surveys Act

Section 50.

Paragraph 30(1)(a) of the Canada Lands Surveys Act is amended by striking out the word "or" at the end of subparagraph (i) thereof, by striking out the word "and" at the end of subparagraph (ii) thereof and substituting therefor the word "or" and by adding thereto the following subparagraph:

"(iii) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act; and"

Section 50.

The meaning of the words "Canada Lands" in Part II of the Canada Lands Surveys Act is changed by adding the meaning of the words "Sechelt lands" as they are used in this Act.

Municipal Grants Act, 1980

Section 51.

The definition "taxing authority" in subsection 2 (1) of the Municipal Grants Act, 1980 is amended by striking out the word "or" at the end of paragraph (b) thereof, by adding the word "or" at the end of paragraph (c) thereof and by adding thereto, immediately after paragraph (c) thereof, the following paragraph:

"(d) the Council within the meaning of the Sechelt Indian Band Self-Government Act if it levies and collects a real property tax or a frontage or area tax in respect of Sechelt lands, as defined in that Act."

Section 51.

The meaning of the words "taxing authority" in section 2 (1) of the Municipal Grants Act is changed by adding the meaning of the word "Council" as it is used in this Act. But this only applies if the Sechelt Indian Band Council passes a law taxing in one way or another Sechelt lands.

National Energy Board Act

Section 52.

Subsection 67(3) of the National Energy Board Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act."

Section 52.

Under the National Energy Board Act, an oil and gas pipeline cannot take possession or occupy certain lands without the permission of the federal government. The Act is changed by including Sechelt lands among those lands.

National Housing Act

Section 53.

Section 2 of the National Housing Act is amended by adding thereto, in alphabetical order within the section, the following definition:

"Indian" means an Indian, as defined in the Indian Act;

"Indian band" means

(a) council of the band, as defined in the Indian Act,

(b) band or council, as defined in the Cree-Naskapi (of Quebec) Act, or

(c) the Band or the Council, as defined in the Sechelt Indian Band Self-Government Act;

"reserve", in relation to Indians, means

(a) a reserve, as defined in the Indian Act,

(b) Category IA land or Category IA-N land, as defined in the Cree-Naskapi (of Quebec) Act,

(c) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act;"

Section 53.

The purpose of the National Housing Act is to provide a way of assisting certain groups to obtain proper housing. It does this by guaranteeing loans for the buying, building and improvement of housing projects, homes, and hostels. It also allows some loans to be made directly through the National Housing Corporation. The changes to the National Housing Act which are made by sections 53 through 58 of this Act are simply that the Sechelt Indian Band and Council are added to those groups who can get assistance, and Sechelt lands are added to those areas where assistance is available.

Section 54.

Subsection 6(4) of the said Act is repealed and the following substituted therefor:

"(4) An approved lender may, subject to and in accordance with regulations of the Governor in Council made under the authority of this subsection, make a loan to an Indian, an Indian band or a group of Indians for the purpose of assisting in the purchase, improvement or construction of a housing project on a reserve, and such loans are insurable in the manner provided by those regulations."

Section 55. (1)

Paragraph 34.1(1)(c) of the said Act is repealed and the following substituted therefor:

"(c) with the consent of the Minister of Indian Affairs and Northern Development, to an Indian resident on a reserve, to a group of Indians each of whom is resident on a reserve or to an Indian band for the purpose of assisting in the repair, rehabilitation or improvement of a family housing unit or of housing accommodation of the hostel or dormitory type on a reserve or for the purpose of assisting in the conversion, as described in paragraph (b), of an existing residential building on a reserve."

Section 55. (2)

Subsection 34.1(4) of the said Act is repealed.

Section 56.

Subsection 34.86(1) of the said Act is repealed.

Section 57.

Paragraphs (c) to (e) of the definition "eligible contribution recipient" in subsection 56.1(1) of the said Act are repealed and the following substituted therefor:

"(c) an Indian band, or
(d) a group of Indians each of whom resides on a reserve."

Section 58.

Section 59 of the said Act is repealed and the following substituted therefor:

"59. The Corporation may, subject to and in accordance with regulations of the Governor in Council, make loans to Indians for the purpose of assisting in the purchase, improvement or construction of housing projects on reserves."

Privacy Act

Section 59.

Subsection 8(6) of the Privacy Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding "or" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) the Band, as defined in the Sechelt Indian Band Self-Government Act."

Section 59.

Generally, under the Privacy Act, personal information about a person that is in the hands of the government department cannot be given out by that department without that person's permission. An exception to this is when an Indian band needs this information for the purpose of researching or proving any claims, disputes or grievances they may have. The Privacy Act is changed by adding the Sechelt Indian Band to those groups who fall within this exception.

Railway Act

Section 60.

Subsection 133(1) of the Railway Act is amended by striking out the word "or" at the end of paragraph (a) thereof, by adding the word "or" at the end of paragraph (b) thereof and by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

"(c) Sechelt lands, as defined in the Sechelt Indian Band Self-Government Act."

Section 61.

This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

Section 60.

Under the Railway Act certain lands cannot be taken over or occupied by railway companies unless the companies are given specific permission to do so by the federal government. The Act is amended by adding Sechelt lands to these lands.

Section 61.

This Act or any part of it will become the law on the day or days when the government decides to do so. At that time it will be officially announced.

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