

## Sechelt Indian Band Self-Government Act

1986, c. 27

[Assented to June 17, 1986]

An Act relating to self-government for the Sechelt Indian Band

### Preamble

WHEREAS Parliament and the government of Canada are committed to enabling Indian bands that wish to exercise self-government on lands set apart for those bands to do so;

AND WHEREAS the members of the *Indian Act* Sechelt band, in a referendum held on March 15, 1986, approved of

(a) the enactment of legislation substantially as set out in this Act for the purpose of enabling the Sechelt Band to exercise self-government over its lands, and

(b) the transfer by Her Majesty in right of Canada to the Sechelt Indian Band of fee simple title in all Sechelt reserve lands, recognizing that the Sechelt Indian Band would assume complete responsibility, in accordance with this Act, for the management, administration and control of all Sechelt lands;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### SHORT TITLE

#### Short title

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

### INTERPRETATION

#### Definitions

2. (1) In this Act,

"Band"  
« *bande* »

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

"Council"  
« *conseil* »

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

"District"  
« *district* »

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

"District Council"  
« *conseil de district* »

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

"Minister"  
« *ministre* »

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

"Sechelt lands"  
« *terres secheltes* »

"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

(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.

#### Aboriginal rights

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 *Constitution Act, 1982*.

## PURPOSES OF ACT

Purposes                    **4.** The purposes of this Act are to enable the Sechelt Indian Band to exercise and maintain self-government on Sechelt lands and to obtain control over and the administration of the resources and services available to its members.

## SECHELT INDIAN BAND

Creation of Band            **5.** (1) The Sechelt Indian Band is hereby established to replace the *Indian Act* Sechelt band.

*Indian Act* Sechelt band ceases to exist            (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).

## CAPACITY AND POWERS OF BAND

Capacity of band            **6.** The Band is a legal entity and has, subject to this Act, 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;
- (e) sue or be sued; and
- (f) do such other things as are conducive to the exercise of its rights, powers and privileges.

Band subject to its constitution            **7.** The powers and duties of the Band shall be carried out in accordance with its constitution.

## SECHELT INDIAN BAND COUNCIL

Sechelt Indian Band Council            **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.

Band to act through Council            **9.** The Band shall act through the Council in exercising its powers and carrying out its duties and functions.

## BAND CONSTITUTION

Elements of constitution            **10.** (1) The constitution of the Band shall be in writing and may

- (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 the 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;
- (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.

Membership code            (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.

Constitution declared  
in force

**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.

Referendum

(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*.

## AMENDMENT TO BAND CONSTITUTION

Amendment to  
constitution

**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.

## PUBLICATION OF CONSTITUTION AND AMENDMENTS

Publication

**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.

## LEGISLATIVE POWERS OF COUNCIL

Legislative powers of  
Council

**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 in respect of their interests in those lands, including assessment, collection and enforcement procedures and appeals relating thereto;
- (f) the administration and management of property belonging to the Band;
- (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;
- (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.
Limit on fine, penalty or imprisonment	(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.
Laws of British Columbia	(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.
Law may require licence or permit	(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.
Legislative powers granted by British Columbia	<b>15.</b> The Council may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.
<i>Statutory Instruments Act</i> not to apply	<b>16.</b> The <i>Statutory Instruments Act</i> does not apply to a law enacted by the Council.

## SECHELT INDIAN GOVERNMENT DISTRICT

Sechelt Indian Government District	<b>17.</b> There is hereby recognized the Sechelt Indian Government District, which shall have jurisdiction over all Sechelt lands.
Capacity of District	<p><b>18.</b> 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</p> <p>(a) enter into contracts or agreements;</p> <p>(b) acquire and hold property or any interest therein, and sell or otherwise dispose of that property or interest;</p> <p>(c) expend or invest moneys;</p> <p>(d) borrow money;</p> <p>(e) sue or be sued; and</p> <p>(f) do such other things as are conducive to the exercise of its rights, powers and privileges.</p>
District Council established	<b>19.</b> (1) There is hereby established the Sechelt Indian Government District Council, which shall be the governing body of the District.
Composition of District Council	(2) The District Council shall consist of the members of the Council.
District to act through District Council	<b>20.</b> The District shall act through the District Council in exercising its powers and carrying out its duties and functions.
Coming into force	<b>21.</b> (1) Sections 17 to 20 shall come into force in accordance with this section.
Sections 17 to 20 declared in force	(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 or the Council 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.
Conditions for order	<p>(3) The Governor in Council shall not make an order under subsection (2) unless he is satisfied that</p> <p>(a) the legislature of British Columbia has passed legislation respecting the District and the legislation is in force in British Columbia; and</p> <p>(b) the transfer of the powers specified in the order has been approved in a referendum held in accordance with the constitution of the Band.</p>
Where British Columbia legislation amended	(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 subsection (2) back to the Band or the Council, as the case may be, if the legislation referred to in paragraph (3)(a) is amended.
Condition for order	(5) The Governor in Council shall not make an order under subsection (4) unless he is satisfied that the transfer of powers specified in the order has been approved in a referendum held in accordance with the constitution of the Band.

Where British Columbia legislation repealed (6) 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.

Additional powers of District 22. The District may exercise any legislative power granted to it by or pursuant to an Act of the legislature of British Columbia.

## TRANSFER OF LANDS

Transfer of fee simple title 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.

Definition of "reserves" (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.

*Indian Act* Sechelt band rights and interests cease (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.

Letters patent (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).

Limitations 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  
(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.

Lands held for use and benefit of Band 25. The Band holds the lands transferred to it under section 23 for the use and benefit of the Band and its members.

## DISPOSITION OF SECHELT LANDS

Disposition of Sechelt lands 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.

## REGISTRATION OF SECHELT LANDS

Reserve Land Register 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*.

When section not to apply (2) This section does not apply with respect to any Sechelt lands that are registered pursuant to section 28.

Laws on registration 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.

Notice 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.

Minister to provide particulars to Council (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).

List to be posted	(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.
Request for modification	(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.
Consideration of request	(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.
Final list of interests	<b>30.</b> (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.
Copies to be provided	(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.
Final list determinative	(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.

## SECHELT LANDS

Class 24 of section 91	<b>31.</b> For greater certainty, Sechelt lands are lands reserved for the Indians within the meaning of Class 24 of section 91 of the <i>Constitution Act, 1867</i> .
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## MONEYS

Moneys	<b>32.</b> (1) Moneys held by Her Majesty in right of Canada for the use and benefit of the <i>Indian Act</i> Sechelt band shall be transferred to the Band.
Limitation	(2) Moneys transferred under this section shall be administered in accordance with the constitution and laws of the Band.

## FUNDING

Agreements between Minister and Band	<b>33.</b> 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.
Appropriations	<b>34.</b> 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.

## APPLICATION OF INDIAN ACT

Application of <i>Indian Act</i>	<b>35.</b> (1) Subject to section 36, the <i>Indian Act</i> 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 <i>Indian Act</i> is inconsistent with this Act, the constitution of the Band or a law of the Band.
Indians	(2) For greater certainty, the <i>Indian Act</i> applies for the purpose of determining which members of the Band are "Indians" within the meaning of that Act.
Taxation provisions	(3) For greater certainty, section 87 of the <i>Indian Act</i> 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).
Declaration that Act	<b>36.</b> The Governor in Council may, on the advice of the Minister, by order declare that the <i>Indian Act</i>

not apply 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.

## APPLICATION OF LAWS OF CANADA

General laws of Canada applicable to Band 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.

## APPLICATION OF LAWS OF BRITISH COLUMBIA

Laws of general application of British Columbia 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.

## APPLICATION OF LAWS RELATING TO NATURAL RESOURCES

*Indian Oil and Gas Act* 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.

*British Columbia Indian Reserves Mineral Resources Act* 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.

*Indian Reserves Minerals Resources Act* 41. The *Indian Reserves Minerals 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.

## APPLICATION OF BY-LAWS

Continuation in force of by-laws 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.

## GOVERNOR IN COUNCIL AND MINISTERS

Powers, functions and duties in constitution 43. The Governor in Council or any Minister of the Crown may exercise any powers and carry out any functions or duties that the Governor in Council or Minister, as the case may be, is authorized under the constitution of the Band to exercise or carry out.

## TRANSITIONAL PROVISIONS

Existing council of *Indian Act* Sechelt band 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.

Term of office (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.

*Indian Act* applies (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.

Members of *Indian Act* Sechelt band 45. (1) The members of the *Indian Act* Sechelt band, immediately before the coming into force of this Act, are the members of the Sechelt Indian band immediately after the coming into force of the Act.

Membership provisions apply (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.

Disposition of Sechelt lands 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.

## CONSEQUENTIAL AMENDMENTS

**47. to 60.** [Amendments to other Acts]

## COMMENCEMENT

Coming into force

<sup>\*</sup>**61.** This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

<sup>\*</sup> [Note: Act, except sections 17 to 20, in force October 9, 1986, *see* SI/86-193; sections 17 to 20 in force, *see* SI/88-48.]