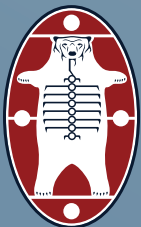




Second Generation Cut Off & Section 10 Voting Thresholds Information Booklet 2025



Nishnawbe Aski Nation
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Table of Contents

What you need to know	1
What does it mean to be registered as a 6(1) or 6(2)?.....	2
How the Second Generation Cut Off Works	3
Impacts on NAN Members.....	4
Potential Solutions	4
Opportunities and Next Steps.....	5
Additional Resources	6



WHAT YOU NEED TO KNOW:

Through the imposition of the Indian Act, the Government of Canada enforced an oppressive system of legislative assimilation which continues to define First Nations identity. The Indian Act system of membership is a denial of First Nations self-determination and caused severe harm to First Nations, including generations of First Nations women and their descendants.

Second Generation Cut Off:

- In 1985, Bill C-31 was used to amend the Indian Act to conform with the equality rights guaranteed by s.15 of the Canadian Charter of Rights and Freedoms (Charter).
- The amendments allowed women who previously lost their Indian Status to regain their status, as well as their children's status.
- New categories were created in the Indian Act through sections 6(1) and 6(2).
- Bill C-31 was meant to eliminate sex-based discrimination, but the amendments created new forms of discrimination such as the second-generation "cut-off".
- Bill C-31 passed with the support of very few First Nation groups. The federal government abandoned its policy of not amending the Indian Act without a consensus in the First Nation communities and provided its own solution to the problem of ending discrimination against First Nation women.

Bill C-31 brought about several changes, such as:

1. Indigenous women, who married a non-Indigenous man, no longer lost their Indian status.
2. Indigenous women, who lost their Indian status before because of their marriage to non-Indigenous men, were allowed to apply to have their Indian status returned to them. Their children were also given the same right.
3. Non-Indigenous women could no longer get Indian status by marrying Indigenous men.
4. Non-Indigenous women, who got their Indian status through marriage before 1985, did not lose their status.
5. The Indian Registrar could no longer remove those people from the Indian Register who had the right to registration.
6. Individuals, who were voluntarily or involuntarily enfranchised under the Indian Act before, were allowed to apply for the return of their Indian status.

Section 10 Voting Threshold

Section 10 of the Indian Act addresses how First Nations can create and administer their own membership codes. However, it imposes a double majority requirement - meaning a majority of all eligible voters and a majority of those who vote must approve new membership rules. For many NAN communities, which often have large or widely dispersed memberships, achieving this threshold can be difficult. As a result, these communities may struggle to enact membership rules that reflect their cultural values, traditions, and local realities.

WHAT DOES IT MEAN TO BE REGISTERED AS A 6(1) OR 6(2)?

Section 6 – 1985 Amendment to the Indian Act



The federal government has the sole authority, using the Indian Registrar, to decide who has the right to be registered as a status Indian.



Persons, who are registered with Indian status, can use services and benefits that are offered by federal departments, such as health services, education, social programs and housing.



Registration is divided into two main categories, which are known as sections 6(1) and 6(2).



People who are registered under sections 6(1) or 6(2) have the same access to services and benefits. However, their ability to pass Indian status to their children is not the same. It depends on whether a parent is registered under section 6(1) or section 6(2).



If a person, who is registered under section 6(1), has a child with someone without Indian status, their children will have a right to register under 6(2).



If a person, who is registered under section 6(2), has a child with a non-Indigenous person, then their children will not have a right to registration either under 6(1) or 6(2).

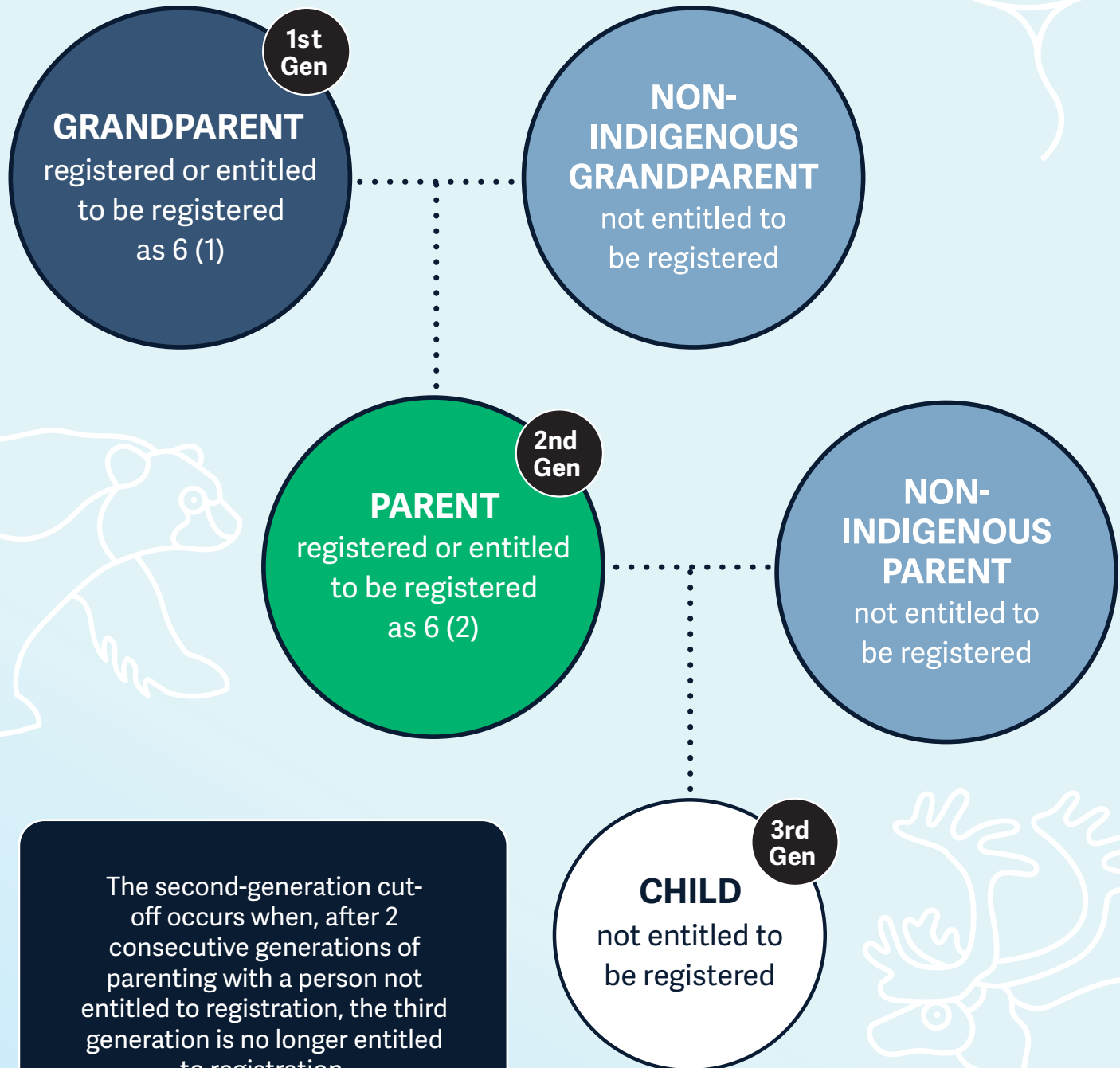


A person loses their right to Indian registration under the Indian Act after two consecutive generations of parenting with a person who is not entitled to registration themselves (non-Indigenous)



A person may be registered under section 6(1) if both of their parents are, or were, registered, or entitled to be registered.

How the second-generation cut-off works

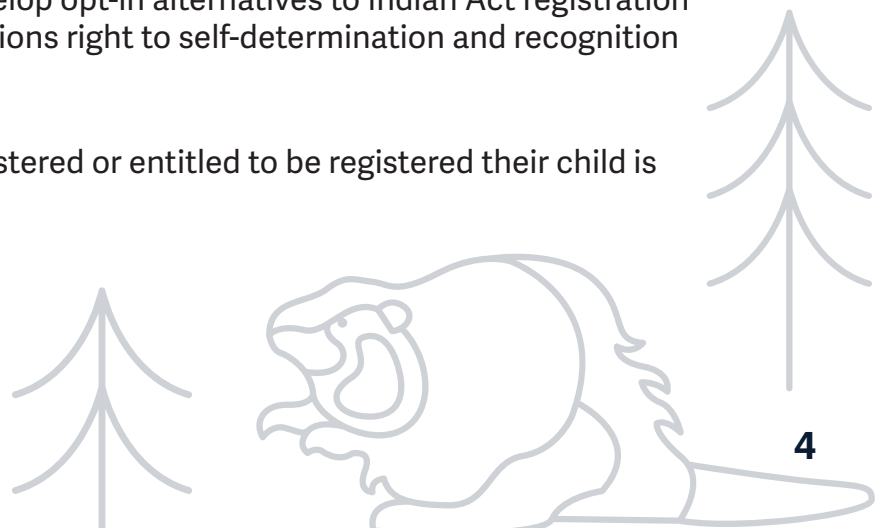


IMPACTS ON NAN MEMBERS:

- For many First Nations, these two issues threaten cultural continuity and self-determination.
- Children who cannot inherit status may become marginalized and lose formal links to their ancestral communities, limiting their access to education, housing, health benefits and social programs.
- Families who have members both on- and off-reserve must navigate complicated and restrictive registration rules, sometimes resulting in split family status designations.
- This disrupts family bonds, causes emotional strain, and denies some family members meaningful participation in their Nation's political and cultural life.
- In addition to personal and social repercussions, there is a broader concern that populations will decline on paper, making it harder for NAN First Nations to advocate effectively for essential resources. Since funding formulas for housing, healthcare, and other services often depend on recognized membership counts, losing status members can translate into lower funding allocations.
- Equally pressing is the inability to reform membership codes if the Section 10 voting threshold proves unattainable - leaving communities stuck with rules that do not mirror their evolving circumstances or criteria for membership.

POTENTIAL SOLUTIONS:

- Fundamental changes to the Indian Act registration, especially concerning registration and band membership provisions, are necessary for Canadian laws to be aligned with United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- First Nations and Canada to co-develop opt-in alternatives to Indian Act registration and citizenship supporting First Nations right to self-determination and recognition of Indigenous identity.
- One parent rule-if one parent is registered or entitled to be registered their child is entitled to be registered as 6 (1)
- Repeal Section 6



OPPORTUNITY AND NEXT STEPS:

- Indigenous Services Canada (ISC) has launched a Collaborative Process on the Second-Generation Cut-Off and Section 10 Voting Thresholds to gather First Nations-led solutions and potentially amend legislation or policies that perpetuate these inequities.
- ISC has identified future funding to support a meaningful consultation with First Nations to discuss the options/solutions in detail. (tentatively Fall 2025)
- NAN has secured a small amount of funding to share information with communities, and gather input from NAN Elders, youth, families, and leadership beginning late February to end of April.
- By identifying the real-world impacts and proposing viable solutions, NAN will submit a final report submitted to ISC by May 30, 2025.
- Assembly of First Nations and Chiefs of Ontario have mandate to work with Canada on co-developing reforms on Indian registration and membership with First Nation rights holders.
- This is a very important moment for NAN communities to assert their perspectives on membership, citizenship, and identity. Voices from all corners - parents, grandparents, youth, and community leaders - are needed to shape the recommended changes. A renewed legislative or policy framework could help preserve cultural integrity, maintain family unity, and ensure that NAN First Nations retain authority over defining their own membership.



ADDITIONAL RESOURCES:

NAN will be hosting Virtual Information Sessions.
Please check NAN website and Facebook page for dates/times and how to register.

<https://www.nan.ca/>

Further information can be found on ISC webpage:

<https://www.sac-isc.gc.ca/eng/1706281094364/1706281216732>

ISC will be holding information sessions. You can register through the link below:

<https://www.sac-isc.gc.ca/eng/1706281094364/1706281216732>

For more information please contact **Wendy Arseneault, Early Years Director**
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