

# information

## SPECIFIC CLAIMS

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Specific claims relate to the history of Canada's relations with Indians or First Nations\*. For the most part, specific claims deal with First Nations' land or assets.

As a result of many of the agreements signed between the early 1700s and the 1920s, First Nations exchanged title to large expanses of land for certain treaty rights and reserve lands. Through these treaties, the Crown secured land for the settlement of Canada.



In 1876, the Government of Canada passed the *Indian Act*, which formalized its legal relationship with Indians, especially where land and assets were concerned. However, it is recognized that Canada did not always honour its legal obligations as specified in the *Indian Act*, treaties and other agreements. Specific claims address a wide range of grievances – from Canada's administration of First Nations funds and assets, including timber and mineral rights, to shortfalls of promised reserve land.

### A Policy to Resolve Grievances

While some First Nations' grievances relate to events dating back a century or more, others are more recent. Between 1927 and 1951, under the terms of the *Indian Act*, First Nations could not hire a lawyer to bring a claim against the Crown without the Government of Canada's permission. When those provisions of the *Indian Act* were repealed, First Nations were able to pursue their outstanding grievances against the Crown.

In 1973, the federal government

established the Specific Claims Policy, which permits the investigation of First Nation claims that treaty or other legal obligations have not been fulfilled. In 1991, Canada changed the specific claims process to resolve claims more efficiently and fairly. It provided additional funding to deal with specific claims, lifted restrictions on pre-Confederation claims, and established the Indian Specific Claims Commission (ISCC) to provide an independent dispute resolution mechanism. The ISCC provides First Nations with an out-of-court alternative to review specific claims that have been rejected by Canada.

**Government policy recognizes that a specific claim exists when a First Nation establishes that its grievance gives rise to a lawful obligation through:**

- the non-fulfilment of a treaty or another agreement between First Nations and the Crown
- the breach of an *Indian Act* or other statutory responsibility
- the breach of an obligation arising out of government administration of First Nation funds or other assets
- an illegal sale or other disposition of First Nation land by government

Since 1973, Canada and First Nations have resolved more than 225 specific claims. Currently, more than 100 specific claims are in negotiation.

## Building a Better Future for First Nations and all Canadians

Canada is committed to honouring its lawful obligations to First Nations by

negotiating agreements that bring full and final closure to longstanding claims to the benefit of all Canadians. By addressing historic injustices that have undermined trust and co-operation, strong partnerships among First Nations people, governments and the private sector are evolving. The resolution of specific claims lays the groundwork for creating healthy, prosperous First Nations communities that can

participate, with their non-Aboriginal neighbours, in the economic growth of Canada.

*\*In this document, when the term 'First Nation' is used in the context of the Indian Act and specific claims, it refers to an Indian Act band.*

### Terminology\*

**First Nation:** A term that came into common usage in the 1970s to replace the word 'Indian,' which some people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term 'First Nations peoples' refers to the Indian people in Canada, both Status and Non-Status. Some Indian people have also adopted the term 'First Nation' to replace the word 'band' in the name of their community.

**Indian:** A term that describes all the Aboriginal people in Canada who are not Inuit or Métis. Indian peoples are one of three groups of people recognized as Aboriginal in the Constitution Act, 1982. It specifies that Aboriginal people in Canada consist of Indian, Inuit and Métis peoples.

**Indian Act:** Canadian federal legislation, first passed in 1876, and amended several times since. It sets out certain federal government obligations and regulates the management of Indian reserve lands. Among its many provisions, the *Indian Act* currently requires the Minister of Indian Affairs and Northern Development to manage certain moneys belonging to First Nations and Indian lands and to approve or disallow First Nations by-laws. In 2001, the national initiative *Communities First: First Nations Governance* was launched, to consult with First Nations people and leadership on the issues of governance under the *Indian Act*. The process will likely take two to three years before any new law is introduced.

**Reserve:** Land set apart and designated as a reserve for the use and occupancy of an Indian group or band.

\*These terms are listed in *Words First: An Evolving Terminology Relating to Aboriginal Peoples in Canada*, compiled by the department's Communications Resources Directorate.

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