

Framework Agreement on First Nation Land Management Act

SUBDIVISION A

Enactment of Act

Enactment

121 The *Framework Agreement on First Nation Land Management Act* is enacted as follows:

An Act respecting the Framework Agreement on First Nation Land Management

Preamble

Whereas Her Majesty in right of Canada and 13 First Nations signed the Framework Agreement on First Nation Land Management on February 12, 1996 in relation to the management by those First Nations of their lands, and other First Nations have signed the Framework Agreement after that date;

Whereas the *First Nations Land Management Act*, the purpose of which was to ratify and bring into effect the Framework Agreement, received royal assent on June 17, 1999;

And whereas it is appropriate to enact a new implementation Act to replace the *First Nations Land Management Act* and to reflect the primacy of the Framework Agreement, while also ensuring the continuity with the previous legal framework;

Now therefore, His 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 *Framework Agreement on First Nation Land Management Act*.

Interpretation

Definitions

2 (1) The following definitions apply in this Act.

First Nation land means reserve land or lands set aside to which a land code applies. It includes all the interests or land rights in, and resources of, the land that are within the legislative authority of Parliament. (*terres de la première nation*)

First Nation law means a law that is enacted by a First Nation in accordance with the Framework Agreement and the land code of that First Nation. (*texte législatif de la première nation*)

Framework Agreement means the Framework Agreement on First Nation Land Management, signed by Her Majesty in right of Canada and 13 First Nations on February 12, 1996 — and signed by other First Nations after that date — as amended from time to time in accordance with its provisions. (*accord-cadre*)

Minister means the Minister of Crown-Indigenous Relations. (*ministre*)

reserve has the same meaning as in subsection 2(1) of the *Indian Act*. (*réserve*)

Definitions in Framework Agreement

(2) In this Act, **First Nation**, **First Nation Lands Register**, **interest**, **land code**, **land right**, **Lands Advisory Board** and **licence** have the same meaning as in subclause 1.1 of the

Framework Agreement and **lands set aside** has the same meaning as *Lands Set Aside* in that subclause 1.1.

Not a treaty

3 The Framework Agreement is not a treaty within the meaning of section 35 of the *Constitution Act, 1982*.

Binding on His Majesty

4 This Act is binding on His Majesty in right of Canada.

Framework Agreement

Force of law

5 (1) The Framework Agreement continues to have effect and has the force of law.

Rights and obligations

(2) For greater certainty, a person or body has the powers, rights, privileges, immunities and benefits conferred on the person or body by the Framework Agreement and must perform the duties, and is subject to the liabilities, imposed on the person or body by the Framework Agreement.

Framework Agreement binding

(3) For greater certainty, the Framework Agreement is binding on, and may be relied on by, all persons and bodies.

Framework Agreement prevails

6 (1) In the event of any inconsistency or conflict between the Framework Agreement and this Act, the Framework Agreement prevails to the extent of the inconsistency or conflict.

Act prevails

(2) In the event of any inconsistency or conflict between this Act and any other federal law, this Act prevails to the extent of the inconsistency or conflict.

Publication

7 The Minister must make available to the public

- **(a)** the Framework Agreement that was signed by Her Majesty in right of Canada and 13 First Nations on February 12, 1996 and any amendments made to it; and
- **(b)** the most recent consolidated version of the Framework Agreement that has been approved by the Minister and the Lands Advisory Board.

Rights and Obligations of His Majesty in Right of Canada

Transfer

8 On the coming into force of the land code of a First Nation, the rights and obligations of His Majesty in right of Canada as grantor in respect of the interests or land rights and the licences described in the First Nation's individual agreement referred to in clause 6 of the Framework Agreement are transferred to the First Nation in accordance with that individual agreement.

First Nation Lands Register

Register continued

9 The First Nation Land Register established by the Minister under section 25 of the *First Nations Land Management Act*, chapter 24 of the Statutes of Canada, 1999, is continued as the First Nation Lands Register.

Regulations

10 The Governor in Council may, on the recommendation of the Minister and in accordance with the Framework Agreement, make regulations respecting the administration of the First Nation Lands Register, the registration of interests or land rights in it and the recording of any other matter in it, including but not limited to regulations respecting

- **(a)** the effects of registering interests or land rights, including priorities;
- **(b)** the payment of fees for the registration of interests or land rights and for any other service in relation to the Register;
- **(c)** the appointment, remuneration, powers, duties and functions of the officers and employees who administer the Register;

- (d) the keeping, by officers and employees, of documents that are not registrable; and
- (e) the transfer of the administration of the Register to any person or body and the disclosure of *personal information* as defined in section 3 of the *Privacy Act* for that purpose.

General Provisions

Judicial notice

11 Judicial notice must be taken of the Framework Agreement, a land code that is in force and any First Nation law.

Notice

12 (1) If an issue is raised by a party in any judicial or administrative proceeding in respect of the interpretation or validity of a provision of the Framework Agreement, this Act, a land code or a First Nation law, the issue must not be decided until the party has served notice

- (a) on the Attorney General of Canada and the Lands Advisory Board, in the case of a provision of the Framework Agreement or this Act; or
- (b) on the First Nation, in the case of a provision of a land code or a First Nation law.

Content and timing

(2) The notice must

- (a) describe the proceeding;
- (b) state the subject matter of the issue;
- (c) state the date on which the issue is to be argued;
- (d) give the particulars that are necessary to show the point to be argued; and
- (e) be served at least 30 days before the day on which the issue is to be argued, unless the court or tribunal authorizes a shorter period.

Participation in proceedings

(3) In any proceeding, the recipient of a notice may appear and participate as a party with the same rights as any other party.

Clarification

(4) For greater certainty, subsections (2) and (3) do not require that an oral hearing be held if one is not otherwise required.

Non-application of *Statutory Instruments Act*

13 The *Statutory Instruments Act* does not apply in respect of a land code, a First Nation law or an order made under subclause 14.2.1 of the Framework Agreement.

SUBDIVISION B

Transitional Provisions, Consequential Amendments and Repeal

Transitional Provisions

Definition of *former Act*

122 (1) In this section and sections 123 and 124, *former Act* means the *First Nations Land Management Act*, chapter 24 of the Statutes of Canada, 1999.

Other definitions

(2) In sections 123 and 124, *First Nation law, Framework Agreement, individual agreement, interest, land code, licence and right* have the same meaning as in

subsection 2(1) of the former Act, as it read immediately before the day on which section 143 of this Act comes into force.

Documents and decisions previously made

123 Nothing in this Act affects

- (a) any land codes, individual agreements, First Nation laws or documents, including licences and other authorizations, contracts and other instruments or acts, that were issued, granted, entered into or made in accordance with the former Act or the Framework Agreement and that are in force on the day on which this Act comes into force;
- (b) any actions taken or decisions made, before the day on which this Act comes into force, in accordance with the former Act or the Framework Agreement, including the registration of an interest or right in the First Nation Land Register, as established under section 25 of the former Act and the establishment of priorities or, in Quebec, rankings among interests or rights that have been registered.

Reference to former Act

124 Unless the context otherwise requires, any reference to the former Act, or any provision of that Act, in any land codes, individual agreements, First Nation laws or documents referred to in paragraph 123(a) is to be read as a reference to the *Framework Agreement on First Nation Land Management Act* or the Framework Agreement, or any relevant provision of that Act or Agreement, as the case may be.

Consequential Amendments

R.S., c. I-7

Indian Oil and Gas Act

125 Paragraph (d) of the definition *first nation lands* in subsection 2(1) of the *Indian Oil and Gas Act* is replaced by the following:

- (d) rights and interests in reserve lands that have been granted to Her Majesty in right of Canada for oil or gas exploration or exploitation pursuant to a land code adopted under the *Framework Agreement* as defined in subsection 2(1) of the *Framework Agreement on First Nation Land Management Act*. (*terres de la première nation*)

126 Subsection 3(1) of the Act is replaced by the following:

Instruments under other Acts

3 (1) Any licence, permit, lease or other instrument granted under any other Act of Parliament for the purpose of exploration for or exploitation of oil or gas situated in first nation lands — other than an instrument granted under the *First Nations Oil and Gas and Moneys Management Act* or an instrument granted to a person other than Her Majesty in right of Canada under the *First Nations Land Management Act*, as it read before the coming into force of the *Framework Agreement on First Nation Land Management Act*, or the *Framework Agreement*, as defined in subsection 2(1) of that Act — is subject to this Act as if the instrument were a contract.

2004, c. 17

Westbank First Nation Self-Government Act

127 Section 7 of the *Westbank First Nation Self-Government Act* is replaced by the following:

Acts respecting reserve lands

7 The *Framework Agreement on First Nation Land Management Act* and the *Indian Oil and Gas Act* do not apply in respect of the Westbank First Nation, its council, its members or Westbank lands.

2005, c. 48

First Nations Oil and Gas and Moneys Management Act

128 Subsection 26(1) of the *First Nations Oil and Gas and Moneys Management Act* is replaced by the following:

Registration of lands

26 (1) A legal description of a first nation's managed area shall be entered, as of the first nation's transfer date, in the Reserve Land Register maintained under section 21 of the *Indian Act* or, in the case of a first nation to which the *Framework Agreement on First Nation Land Management Act* applies, the *First Nation Lands Register*, within the meaning of subsection 2(2) of that Act. If lands are subsequently added to the managed area, the applicable register shall be amended accordingly.

129 Section 55 of the Act is replaced by the following:

Non-application

55 The *Framework Agreement on First Nation Land Management Act* and the *Indian Oil and Gas Act* do not apply in relation to oil and gas exploration or exploitation in a first nation's managed area as of the first nation's transfer date.

130 Subparagraph 62(b)(ii) of the Act is replaced by the following:

- **(ii)** providing for the transfer of existing contracts to that register from the Reserve Land Register maintained under section 21 of the *Indian Act* or, in the case of a first nation to which the *Framework Agreement on First Nation Land Management Act* applies, from the *First Nation Lands Register*, within the meaning of subsection 2(2) of that Act, and