

Indian Lands Act

CHAPTER 219 OF THE REVISED STATUTES, 1989



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CHAPTER 219 OF THE REVISED STATUTES, 1989

**An Act Respecting an Agreement Between
the Government of Canada and
the Government of Nova Scotia for
the Settlement of Questions Respecting
Indian Reserve Lands**

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Short title

1 This Act may be cited as the *Indian Lands Act*. R.S., c. 219, s. 1.

Agreement

2 The Minister of Natural Resources or such other member of the Executive Council as is thereunto authorized by the Governor in Council may, on behalf of the Government of Nova Scotia, enter into and carry out an agreement in the form in the Schedule to this Act for the settlement of questions respecting Indian Reserve Lands. R.S., c. 219, s. 2; O.I.C. 1991-971; O.I.C. 2018-188; O.I.C. 2021-210; O.I.C. 2024-425.

Effect of Agreement

3 When an Agreement is entered into pursuant to this Act, the terms of the Agreement shall have effect as if they were contained in an Act of the Legislature. R.S., c. 219, s. 3.

Powers of Governor in Council

4 The Governor in Council may do, or may authorize a member of the Executive Council to do, every act necessary or proper for the exercise or enjoyment of any power, privilege or right conferred upon or vested in the Government of Nova Scotia under the said Agreement. R.S., c. 219, s. 4.

SCHEDULE

MEMORANDUM OF AGREEMENT made this day of, 195.

BETWEEN:

THE GOVERNMENT OF CANADA, hereinafter referred to as “Canada”,
of the first part,

- and -

THE GOVERNMENT OF THE PROVINCE OF NOVA SCOTIA, hereinafter
referred to as “Nova Scotia”, of the second part.

WHEREAS since the enactment of the British North America Act, 1867, certain lands in the Province of Nova Scotia set aside for Indians have been surrendered to the Crown by the Indians entitled thereto;

AND WHEREAS from time to time Letters Patent have been issued under the Great Seal of Canada purporting to convey said lands to various persons;

AND WHEREAS two decisions to the Judicial Committee of the Privy Council relating to Indian lands in the Province of Ontario and Quebec lead to the conclusion that said lands could only have been lawfully conveyed by authority of Nova Scotia with the result that the grantees of said lands hold defective titles and are thereby occasioned hardship and inconvenience;

NOW THIS AGREEMENT WITNESSETH that the parties hereto, in order to settle all outstanding problems relating to Indian reserves in the Province of Nova Scotia and to enable Canada to deal effectively in future with lands forming part of said reserves, have mutually agreed subject to the approval of the Parliament of Canada and the Legislature of the Province of Nova Scotia as follows:

- 1 In this agreement, unless the context otherwise requires,
 - (a) “Province” means the Province of Nova Scotia;
 - (b) “reserve lands” means those reserves in the Province referred to in the appendix to this agreement;
 - (c) “patented lands” means those tracts of land in the Province in respect of which Canada accepted surrenders of their rights and interests therein from the Indians entitled to the use and occupation thereof and in respect of which grants were made by Letters Patent issued under the Great Seal of Canada;
 - (d) “minerals” includes salt, oil, natural gas, infusorial earth, ochres or paints, the base of which is found in the soil, fire clays, carbonate of lime, sulphate of lime, gypsum, coal, bituminous shale, albertite and uranium, but not sand, gravel and marl;
 - (e) “Indian Act” means the Indian Act, Revised Statutes of Canada 1952, cap. 139, as amended from time to time and includes any reenactment, revision or consolidation thereof;
 - (f) “surrender” means the surrender for sale of reserve lands or a portion thereof pursuant to the Indian Act but does not include a surrender of rights and interests in reserve lands for purposes other than sale; and
 - (g) “public highways” means every road and bridge in reserve lands, constructed for public use by and at the expense of the Province or any municipality in the Province and in existence at the coming into force of this agreement.

2 All grants of patented lands are hereby confirmed except insofar as such grants purport to transfer to the grantees any minerals and said minerals are hereby acknowledged to be the property of the Province.

3 Nova Scotia hereby transfers to Canada all rights and interests of the Province in reserve lands except lands lying under public highways and minerals.

4 (1) In the event that a band of Indians in the Province becomes extinct, Canada shall revert in the Province all the rights and interests transferred to it under this agreement in the reserve lands occupied by such band prior to its becoming extinct.

(2) For the purpose of subparagraph (1) a band does not become extinct by enfranchisement.

5 The mining regulations made from time to time under the Indian Act apply to the prospecting for, mining of or other dealing in all minerals in unsurrendered reserve lands and all minerals reserved in the grants referred to in paragraph 2, and any payment made pursuant to such regulations whether by way of rent, royalty, or otherwise, shall be paid to the Receiver General of Canada for the use and benefit of the Indian band or Indians from whose reserve lands such monies are so derived.

6 (1) Canada shall forthwith notify Nova Scotia of any surrender and Nova Scotia may within thirty days of receiving such notification elect to purchase the surrendered lands at a price to be agreed upon.

(2) If Nova Scotia fails to elect within such thirty-day period, Canada may dispose of the surrendered lands without further reference to Nova Scotia.

(3) Where a surrender is made under the condition that the surrendered lands be sold to a named or designated person at a certain price or for a certain consideration, Nova Scotia shall exercise its election subject to that price or consideration.

(4) Subject to subparagraph (3) of this paragraph, should Canada and Nova Scotia be unable, within thirty days of the date of an election to purchase being made, to reach agreement on the price to be paid by Nova Scotia for any surrendered lands, the matter shall be referred to arbitrators as follows:

- (a) Canada and Nova Scotia shall each appoint one arbitrator, and the two arbitrators so appointed shall appoint a third arbitrator;
- (b) the decision of the arbitrators as to the price to be paid by Nova Scotia for the surrendered lands shall be final and conclusive; and
- (c) the costs of arbitration shall be borne equally by Canada and Nova Scotia.

IN WITNESS WHEREOF has hereunto set hand on behalf of the Government of Canada and has hereunto set his hand on behalf of the Government of the Province of Nova Scotia.

Signed on behalf of the)
 Government of Canada by)
)
)
 in the presence of:)
)
)

Signed on behalf of the)
 Government of the Province)
 of Nova Scotia by)
)
 in the presence of:)
)

APPENDIX

Reserve No.	Name of Reserve	Location of Reserve
ANNAPOLIS COUNTY		
7	Kedgemakooge	10 parcels of land lying along the shore of Kedgemakooge (Kajimijik) Lake, together with Richie and Muise Islands and the unnamed Island lying between the two abovenamed Islands, approximately 12 miles east of Caledonia.
6	Bear River	See Digby County.
ANTIGONISH COUNTY		
23	Pomquet and Afton	(a) parcel of land on both sides of Pomquet River, one mile west of Heatherton; (b) 2 parcels of land, approximately 2 miles east of Heatherton, on the south side of Highway No. 4.
CUMBERLAND COUNTY		
22	Franklin Manor	Approximately 10 miles southwest of Amherst, west of Hebert River.
DIBGY COUNTY		
6	Bear River	Approximately ¼ of a mile south of Digby-Annapolis county line. Part of this reserve is in Annapolis County.
HALIFAX COUNTY		
17	Beaver Lake	Approximately 11 miles northeast from Sheet Harbour on the west side of Highway No. 24.
HANTS COUNTY		
13	Shubenacadie (Grand Lake)	On the west shore of Shubenacadie Grand Lake near Hants and Halifax county line.
14	Shubenacadie	Approximately 2 miles west of Shubenacadie on both sides of Indian Brook on the north side of the road from Nine Mile River to Shubenacadie.
34	St. Croix	7 miles south of Windsor at the north end of St. Croix Lake.

INVERNESS COUNTY

- 2 Whycomomagh At the east end of St. Patrick channel, approximately one mile east of the town of Whycomomagh.
- 4 Malagawatch At the entrance of Denys Bay at the north shore of Malagawatch Harbour.
- 25 Margaree A small reserve on the west bank of Margaree River about ¼ of a mile north of the junction of the south-west and north-east branches of Margaree River.
- 26 Port Hood Small reserve near Port Hood.

LUNENBURG

- 19 Pennal Between Camp Lake and Wallaback Lake, approximately 4 miles north-east of New Ross Settlement.
- 20 New Ross Near the north-east end of Wallaback Lake, about 10 miles north-east of the Pennal Indian Reserve No. 19.
- 21 Gold River On the west side of Gold River near its mouth, approximately 3 miles west of Chester Basin Settlement.

PICTOU COUNTY

- 24 Fishers Grant On the south shore of the entrance into Pictou Harbour, about 4 miles north of the town of Trenton.
- 31 Merigomish Harbour Indian (or Chapel) Island and Mules (or Mooley) Island, south-west of Olding Island in Merigomish Harbour.

QUEENS COUNTY

- 10 Ponhook Lake On the east shore of Medway River at the outlet of Ponhook Lake, 2 miles north of Bang Falls Settlement.
- 11 Medway River On the west shore of Medway River, opposite Ponhook Lake Indian Reserve No. 10.
- 12 Wild Cat Along both sides of Wildcat River, west of Molega Lake and north of Ponhook Lake, about 2 miles south of the town of South Brookfield.

RICHMOND COUNTY

- 5 Chapel Island Approximately 5 miles east of St. Peters, on Highway No. 4, including the Chapel Island and two other adjacent Islands.

VICTORIA COUNTY

- 1 Middle River At the mouth of the Middle River on Highway No. 5, approximately 8 miles west of Baddeck.

CAPE BRETON COUNTY

3 Escasoni

On the north shore of East Bay of Bras d'or Lake, approximately 20 miles east of Sydney.

R.S., c. 219, Sch.
