



# The Transmission of Status

Direction des Affaires juridiques et du Greffe

June 11, 2026

# Presentation outline

**Definitions**

**The transmission of Indian status**

**History of transmission rules**

**Bill S-2**

**Membership**

**National Consultation Circle on the Future of the Wendat Nation**

# 1. Definitions

# Indigenous Peoples

Indigenous peoples are the descendants of the first inhabitants of North America who lived there prior to the arrival of Europeans.

Their occupation of the territory resulted in the development of distinct societies with their own cultures, languages, traditions and organizational systems. (Source: *R. v. Van der Peet*, 1996 CanLII 216 (CSC), [1996] 2 RCS 507, s. 31.)

In Canadian law, the term “Indigenous Peoples” refers to three different groups: Indians (or First Nations), Inuit, and Métis.

# Indian

According to section 2 of the Indian Act, an Indian “means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian.”

Therefore, an Indian is a person who holds, or has the right to hold, “Indian status”.

The federal government maintains an “Indian Register”, where the name of every person entitled to be registered as an Indian is recorded.

# Indian status – Registration

- Indigenous peoples, including First Nations, have a legal status that is distinct from that of the rest of the population, stemming from their pre-existing occupation of the territory prior to the arrival of Europeans.
- Legally, registration distinguishes between Indians and non-Indians:
  - The federal government has the authority to legislate on “Indians” and “Indian lands”;
    - Indians are subject to the Indian Act.
- Federal funding is based on the number of registered Indians.

# Membership

Membership refers to being a **“member of a band”**.

According to section 2 of the Indian Act, a **“member of a band”** means **“a person whose name appears on a Band List or who is entitled to have his name appear on a Band List”**.

Until 1985, registration automatically conferred the right to be a member of a band and therefore to be added to the band list, maintained by the federal government's Registrar.

**Starting in 1985, a band could establish its own membership rules by adopting a code** (section 10 of the Indian Act) determining who has the right to appear on the band list.

**To date, the Wendats have not adopted a membership code.**

## 2. Transmission of Indian status

## 6(1) status

As a general rule, 6(1) status is granted to individuals with two parents who are registered under the Indian Act.

“6 (1) Subject to section 7, a person is entitled to be registered if: [...]

(f) both parents of that person are entitled to be registered under this section or, if the parents are no longer living, were so entitled at the time of death.”

Registered  
parent



Registered parent



Registered child

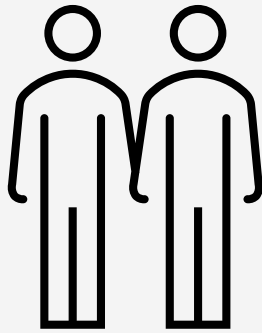


6(1) status

# Possible combinations – 6(1) status

General rule: two registered parents

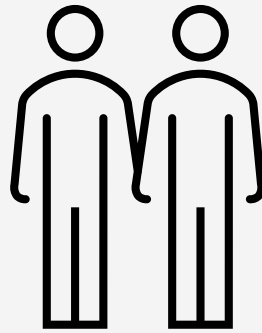
6(1) parent 6(1) parent



6(1) child



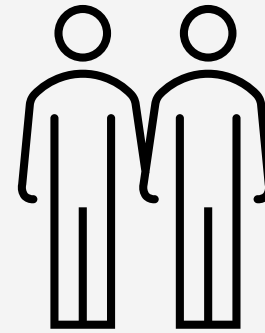
6(1) parent 6(2) parent



6(1) child



6(2) parent 6(2) parent



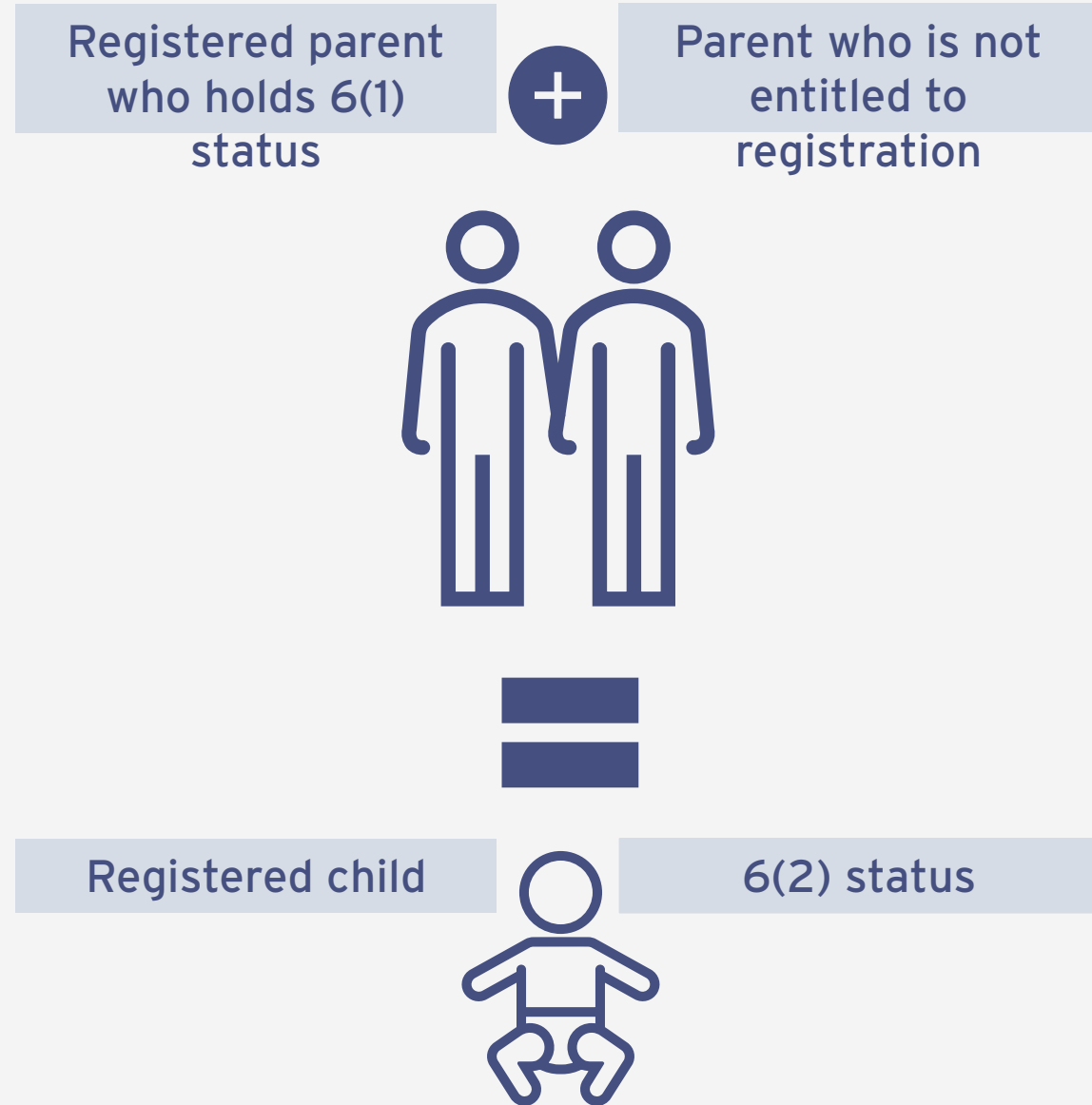
6(1) child



## 6(2) status

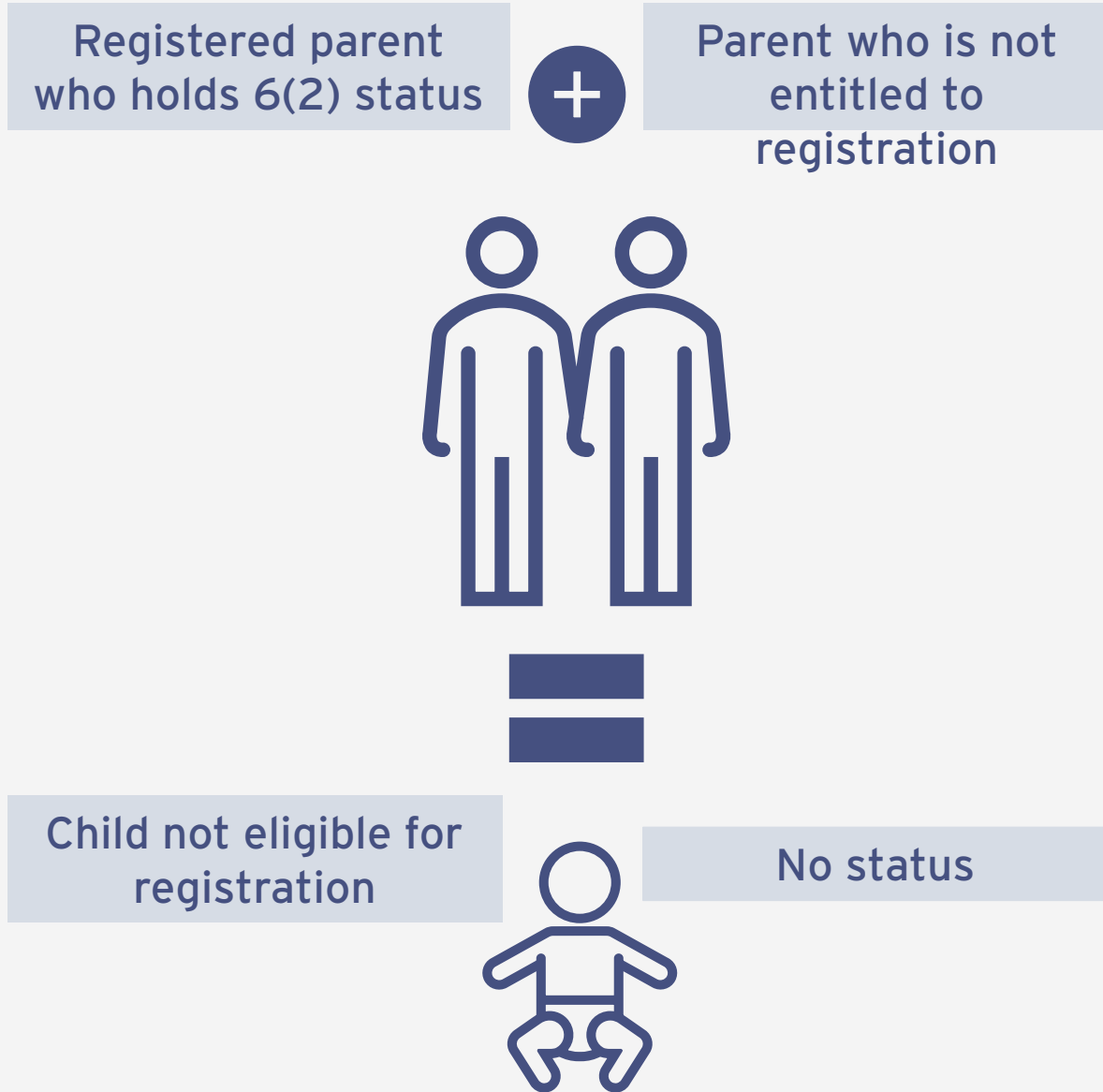
6(2) status is granted to individuals who have one registered parent with 6(1) status and another parent who is not entitled to registration under the Indian Act.

“6(2) Subject to section 7, a person is entitled to be registered if one of their parents is entitled to be registered under subsection (1) or, if that parent is no longer living, was so entitled at the time of death.”



## Second-generation cut-off

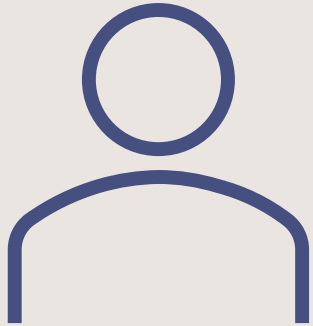
- Occurs after two generations of mixed unions.
- The individuals concerned have one registered parent with 6(2) status and another parent not entitled to registration under the Indian Act.



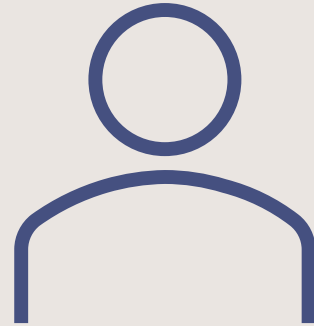
# 3. Transmission rule history

# Before 1985

Registered woman



Man not entitled to registration



Before 1985, registered women who married men not entitled to registration would lose their status.

Married persons not entitled to registration



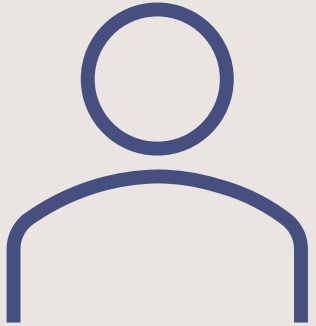
Child not eligible for registration



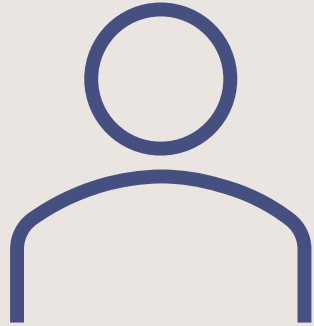
No status

# Before 1985

Woman not entitled  
to registration



Registered man



Registered married persons



Registered child



By marrying registered men, women acquired the  
right to registration.

# Pivotal moments in the Indian Act regarding registration

Adoption of Bill C-31

1985

Despite these amendments,  
discrimination persists.

Mclvor decision  
Adoption of Bill C-3

2010

Thanks to the struggles of many women, including Wendat women, amendments to the Indian Act were adopted.

Starting in 1985, women who had lost their registration rights through marriage could regain them and pass them on to their children.

Thanks to Sharon Mclvor, in 2010, the British Columbia Court of Appeal recognized that discrimination persists for the **children** of women who lost their right to register through marriage before 1985.

Bill C-3 was adopted in December 2010 and corrected this discrimination.

# Pivotal moments in the Indian Act regarding registration

Descheneaux decision  
Adoption of Bill S-3

2015-  
2019

Despite these amendments,  
discrimination persists.

Legal recourse  
Sioui et al. v. Canada (Attorney General)

2024

Thanks to Mr. Descheneaux in 2015, the Superior Court of Québec recognized that discrimination persists for the **grandchildren** of women who lost their right to register through marriage before 1985.

In 2019, the final provisions of Bill S-3, which specifically correct this discrimination, came into force.

Two Wendat women and one of their descendants, supported by the Conseil de la Nation Wendat, filed a lawsuit in the Superior Court.

The discrimination faced by registered women who made the difficult choice not to marry men ineligible for registration before 1985, and who cannot pass on their status to their grandchildren in the same way as women married to men whose status was not granted before 1985, was challenged.

# 1985 - Adoption of Bill C-31

In 1985, the Indian Act was amended, and marriage ceased to affect the right to registration.

From that point onward:

- No one loses the right to registration because of marriage;
- No one acquires the right to registration because of marriage.

Status categories 6(1) and 6(2) were created.

- Exclusion after the second generation was introduced.

# 1985 - Adoption of Bill C-31

“Enfranchisement” was a process of assimilation through which First Nations people lost their Indian status and band membership.

Two forms of enfranchisement existed:

- Voluntary enfranchisement;
- Involuntary enfranchisement.

In 1985, the Government removed the enfranchisement rules from the Indian Act with the adoption of Bill C-31 and amended the status rules to allow for the re-registration of enfranchised persons.

*McIvor*

## Back to before 1985

At birth, she was entitled to registration.  
Before 1985, she married a non-Indigenous man who was not entitled to registration.  
Therefore, from the date of her marriage, she lost her right to registration.

Non-Indigenous man not  
entitled to registration.

Ms. Mclvor

Mr. Grismer



## Adoption of Bill C-31 in 1985

Starting from 1985, Ms. Mclvor regained her right to registration and obtained 6(1) status.  
From 1985 onward, she was able to transfer this status to her son.

Starting from 1985, he regained the right to registration.  
He received 6(2) status.



Son of Ms. Mclvor and Mr. Grismer

# What would happen if Ms. McIvor were compared to a brother?

Mr. McIvor  
Brother of Ms. McIvor      Mr. McIvor's wife

At birth, he was entitled to registration.

Before 1985, he married a non-Indigenous woman who was not eligible for registration.

Upon his marriage, he did not lose his right to registration.



Marriage before 1985

At birth, she was not entitled to registration.

Before 1985, she married a registered man.

Upon her marriage, she acquired the right to register.



Son of Mr. McIvor and his wife

At birth, Mr. McIvor and his wife's son receives 6(1) status.

He is considered by law to have two registered parents.

# Mclvor comparison

Ms. Mclvor can pass on 6(2)  
status to her children



Mr. Mclvor, her brother, can  
pass on 6(1) status to his  
children



- The difference in treatment is a result of Ms. Mclvor's sex and marital status.
- Because Ms. Mclvor is a woman who married a non-Indigenous man before 1985 who was not eligible for registration, she cannot pass on to her children the same status as her brother, whose wife would have acquired status through marriage.
- Bill C-3, passed in 2010, corrected this discrimination.
- Specifically, the amendments adopted allowed Ms. Mclvor's child, and others in the same situation, to obtain 6(1) status.

*Descheneaux*

# Back to before 1985

Mr. Descheneaux's maternal grandmother

At birth, she was a registered female.

She married a non-Indigenous man who was not eligible for registration before 1985.

Therefore, she lost her right to registration as a result of her marriage.

Mr. Descheneaux's maternal grandfather



A non-Indigenous man not entitled to registration.

Mr. Descheneaux's mother



Mr. Descheneaux's father



A non-Indigenous man not entitled to registration.

She was born before 1985.

At birth, she was therefore not eligible for registration.

Mr. Descheneaux

He was born before 1985.

At birth, he was therefore not eligible for registration.



# Following the adoption of the 1985 and 2010 amendments

Mr. Descheneaux's maternal grandmother

Mr. Descheneaux's maternal grandfather

From 1985 onwards, she regained the right to register.



Non-Indigenous man not entitled to registration.

Mr. Descheneaux's mother

Mr. Descheneaux's father

From 1985 to 2010, she held 6(2) status.

After 2010, as the child of a woman who lost her status due to marriage, she was affected by the amendments in Bill C-3 and obtained 6(1) status.



Non-Indigenous man not entitled to registration.

Mr. Descheneaux

Mr. Descheneaux's spouse

From 1985 to 2010, he was subject to being cut off after the second generation and was not eligible for registration.

After 2010, because his mother was affected by the amendments in Bill C-3, he received 6(2) status.



Non-Indigenous woman not entitled to registration.

After 2010, the child is subject to being cut off after the second generation and is not entitled to registration.



Mr. Descheneaux's child

# And what if Mr. Descheneaux's status came from his grandfather?

Mr. Descheneaux's maternal grandfather

At birth, he was a registered male.  
Before 1985, he married a non-Indigenous woman who was not eligible for registration..  
Upon marriage, he does not lose his right to registration.



Mr. Descheneaux's maternal grandmother

At birth, she was a non-Indigenous woman not entitled to registration.  
Before 1985, she married a man who was registered.  
Upon her marriage, she acquired the right to registration.

Mr. Descheneaux's father

At birth, he received 6(1) status, being considered by law as having two registered parents.



Mr. Descheneaux's mother

At birth, she was a non-Indigenous woman not entitled to registration.  
Before 1985, she married a man who was registered.  
Upon her marriage, she acquired the right to registration.

Mr. Descheneaux

Mr. Descheneaux's spouse

At birth, he received 6(1) status, being considered by law as having two registered parents.



Non-Indigenous woman not entitled to registration.

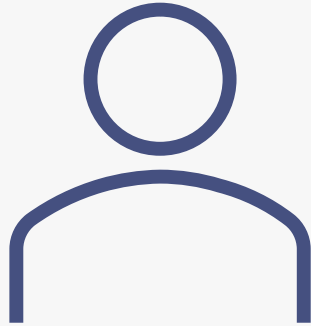
At birth, he received 6(2) status, being considered by law as having a registered parent with 6(1) status.



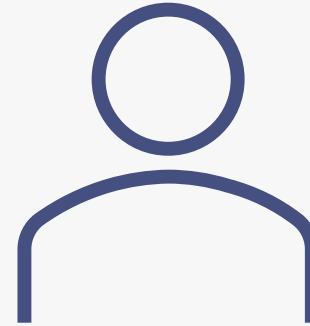
Mr. Descheneaux's child

# Descheneaux comparison

If the status comes from his grandmother, Mr. Descheneaux obtains 6(2) status and cannot pass on status to his children.

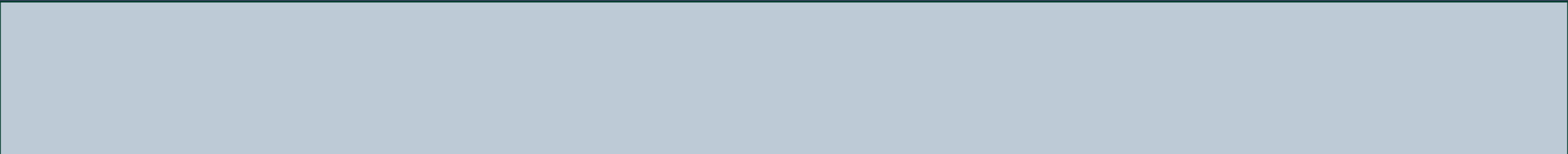


If the status comes from his grandfather, Mr. Descheneaux obtains 6(1) status and can pass on 6(2) status to his children.



- If Mr. Descheneaux's status is inherited from his grandmother and mother, women who married before 1985 to men ineligible for registration, he would have received 6(2) status.
- If Mr. Descheneaux's status is inherited from his grandfather and father, men who married before 1985 to non-Indigenous women who acquired status through marriage, he would have received 6(1) status.
- Bill S-3 was particularly adopted to correct this discrimination.
- In 2017, amendments to the Indian Act allowed the grandchildren of women who had lost their status, including Mr. Descheneaux, to obtain 6(1) status.
- Starting in 2019, the final sections of Bill S-3 came into effect and all descendants of women who lost their status through marriage, born before 1985 or born of a marriage that took place before 1985, can receive their status.

# 4. Bill S-2



# Previous version of Bill S-2

In 2025, the Nicholas ruling determined that the descendants of enfranchised persons are not treated under the Indian Act in the same way as people without the same family history of enfranchisement.

Bill S-2 was therefore initially intended to address this situation.

Bill S-2 addressed four main issues:

- Enfranchisement repeal;
- Voluntary deregistration;
- Natal band reaffiliation;
- Removing outdated or offensive language.

# Draft version of Bill S-2

All descendants of a registered person, regardless of their status, are eligible for registration.

- Section 6(1) (f) would be amended to read:

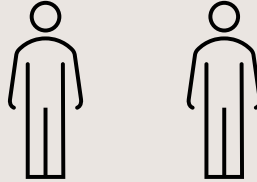
A person is entitled to be registered if they meet one of the following conditions: “(f) at least **one parent of that person is entitled to be registered under this section** or, if the parent is no longer living, was or would have been so entitled at the time of their death.”

- Section 6(2) would be repealed.
- This refers to the one-parent rule.

**Parliament has not yet voted on the bill.**

# Moving to a one-parent rule

Example: parent holding 6(2) status before the adoption of Bill S-2



Parent not eligible for registration

**Adoption of the proposed version of Bill S-2 - status would become transferable as soon as one parent is registered, regardless of the status and identity of the second parent**



1<sup>st</sup> generation: Registered descendant holding 6(1)(f) status



2<sup>nd</sup> generation: Registered descendant holding 6(1)(f) status



3<sup>rd</sup> generation: Registered descendant holding 6(1)(f) status

# 5. Membership

# Two options for membership

Membership grants the right to band membership (section 11 of the Indian Act).

- The band list is then maintained by the Registrar at the federal level.

Unless the band has adopted its own membership rules (code) (section 10 of the Indian Act).

- Section 10 of the Indian Act provides for the creation of membership codes and allows First Nations to determine their own membership rules.
- The band becomes responsible for maintaining the band list, unless it decides to delegate this responsibility to the federal government.

Section 10 establishes a decision-making mechanism based on a vote with specific conditions, including a double majority voting threshold.

- Only band members over the age of 18 can vote on the adoption of a membership code.

# The double majority voting threshold

The Indian Act requires a double majority:

A majority (more than 50%) of eligible people must vote.

- Example: For a population of 5,000, 2,501 people must vote.

A majority of those who voted must be in favour of the adoption.

- Example: Of the 2,501 voters, 1,251 must vote in favour.

# **6. National Consultation Circle on the Future of the Wendat Nation**

# National Consultation Circle on the Future of the Wendat Nation

- The Circle will take the form of various meetings to give as many Wendats as possible the opportunity to participate.
- In the meantime, information sessions and various resources will be made available to the Wendats to raise their awareness of the different issues.
- This will be a valuable opportunity for Wendats to exchange ideas, express themselves, and make proposals to preserve Wendat identity.

# Potential legislative changes

The Circle will need to adapt to the legislative amendments to the Indian Act. Specifically:

- If Bill S-2, An Act to amend the Indian Act (new registration entitlements) is passed with the abolition of the second-generation cut-off rule (one-parent rule), the Circle will consult with the Wendats on ways to transmit, promote, and protect Wendat culture.
- If Bill S-2, An Act to amend the Indian Act (new registration entitlements) is not passed with the abolition of the second-generation cut-off rule (one-parent rule), the Circle will consult with the Wendats on the rules and criteria governing Wendat identity.

The Circle will also need to adapt, if necessary, to any other legislative positions adopted by Ottawa.



Website: **wendake.ca**

Email address: **cerclenational@wendake.ca**

Legal action

*Sioui et al. v. Canada (Attorney General)*

# Back to before 1985

Grandmother



Grandfather



Non-Indigenous man not entitled to registration.

She was a female entitled to registration at birth.

Before 1985, she was in a common-law marriage with a non-Indigenous man who was not entitled to registration.

She decided not to marry in order to avoid losing her status.

Son



Son's wife



Non-Indigenous woman not entitled to registration.

Son born after 1985.

He was granted 6(2) status at birth.

He is not affected by Bill C-3, passed in 2010.

Grandson



At birth, the grandson is not entitled to registration.

He is subject to the second generation cut-off rule.

# Following the adoption of the 1985 and 2010 amendments

*Comparison with the situation of a woman who lost her status due to marriage.*

A woman entitled to registration at birth.

Before 1985, she married a non-Indigenous man not entitled to registration.

Therefore, she lost her right to registration between the date of her marriage and 1985.

Under the 1985 amendments, she regained her right to registration.

Non-Indigenous man not entitled to registration.

Grandmother



Grandfather



Son born after 1985.

He was granted 6(2) status at birth.

After 2010, as the child of a woman who lost her status due to marriage, he was granted 6(1) status.

Son



Son's wife



Non-Indigenous woman not entitled to registration.

Grandson

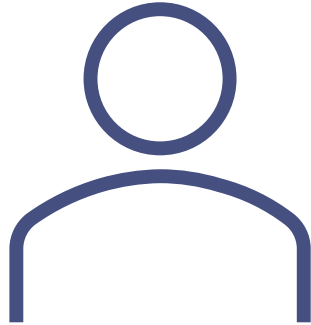


From 2010 onwards, the child has the right to registration and can receive 6(2) status, being considered by law as having a registered parent of 6(1) status.

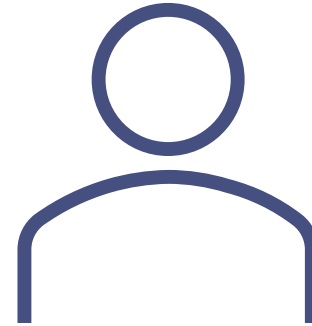
# Comparison

## Legal action Sioui et al. v. Canada (Attorney General)

If the status comes from a grandmother in a common-law marriage with a non-Indigenous man not entitled to registration, the **grandson is not entitled to registration.**



If the status comes from a grandmother who was married before 1985 to a non-Indigenous man not entitled to registration, the **grandson is entitled to registration and can receive 6(2) status.**



This situation constitutes discriminatory treatment based on marital status and sex.