

SUMMARY OF THE FIRST NATION LAND MANAGEMENT ACT (FNLMA)

“An Act providing for the ratification and bringing into effect of the *Framework Agreement on First Nation Land Management*”

Introduction

The *First Nation Land Management Act (FNLMA)* was required under the *Framework Agreement on First Nation Land Management (Framework Agreement)* for two purposes:

1. to ratify the *Framework Agreement*, and
2. to implement those clauses of the *Framework Agreement* that affect third parties or other federal laws; or that are considered important enough to be repeated in the legislation.

The *FNLMA* is intended to be consistent with the *Framework Agreement* and to apply to the First Nations (FN) that are signatories to the *Framework Agreement* (set out in the schedule to the *FNLMA*). The *FNLMA* was previously introduced in Parliament on December 10, 1996, but the federal election that year prevented it from being enacted. The Bill was reintroduced as Bill C-49 in June of 1998. It was finally enacted and given royal assent on June 7, 1999.

Ratification

The *Framework Agreement* is the document that sets out the terms and conditions under which a FN can establish its own land management regime and remove its reserve lands from the Minister's control under the *Indian Act*. However, the *Framework Agreement* cannot come into force until it is ratified by both Canada and two FNs. Three FNs have already ratified the *Framework Agreement*, and Canada has fulfilled its obligation by enacting the *FNLMA*.

Implementation of the Framework Agreement

Ratification Process

A large portion of the Act relates to the “opting-in process” for First Nations. It repeats many of the clauses of the *Framework Agreement* on what a Land code must contain,

how a land code is approved by the community, the role of the independent Verifier and so on.

First Nation Lands

The Act states that title to First Nation Lands will not be affected by the Act and that these lands will continue to be reserves and to be constitutionally protected. First Nation lands are also protected against surrender for sale. If land is ever voluntarily exchanged by a First Nation for other land, the new land received by the First Nation would be protected in the same way.

Land Code

The clauses of the *Framework Agreement* on the legal effect of the Land Code are implemented by the Act. The Land Code will have the effect of law and will be recognized by the courts.

First Nation Powers

The powers of a First Nation to manage its reserve lands and resources, receive and use land revenues, and its legal capacity for land purposes are included in the Act. These powers are to be exercised for the use and benefit of the First Nation.

Transfer of Revenue

The Act provides that revenue moneys of the First Nation previously collected and held by Canada will be transferred to the First Nation when its land code comes into effect.

First Nation Laws

The law-making powers of a First Nation under its land code are set out in the Act. The laws may cover any matter related to First Nation land, including the granting of interests in land, land use, environment, and possession of matrimonial home. Provisions relating to the enforcement of First Nation laws, prosecutions and evidence are also included.

Register for First Nation Land

The Act authorizes Canada to setup a separate register to record interests granted by First Nations under their Land Codes.

First Nation Expropriation

The Act recognizes the right of a First Nation to expropriate interests in its own First Nation land for community works or other First Nation community purposes. The basic principles of this are included in the Act, e.g. fair compensation. The First Nation in its Land Code and laws would set out the details of how any community expropriation would work.

No Provincial Expropriation

First Nation land is immune from any expropriation by a provincial or municipal government or by provincial agencies.

Limited Federal Expropriation

The protections against the expropriation of First Nation land by the federal government, which were negotiated in the *Framework Agreement*, are set out in the Act. These include provisions on limiting expropriation to cases where it is justifiable and necessary for a federal public purpose that serves the national interest. The Act also requires Canada to provide alternate land to the First Nation, which would become First Nation land, in order to protect the land base of the First Nation. The Legislation contains provisions on compensation and the resolution of disputes over expropriation.

Liability Protection

Canada will remain liable for actions taken before the Land Code takes effect. The First Nation will assume responsibility for its land management actions after that date.

Application to other First Nations

The Act only applies to the 14 First Nation signatories set out in the Schedule. If other First Nations become signatories to the *Framework Agreement*, the Governor in Council may add them to the Schedule. The *Framework Agreement* may be opened up to other First Nations after a review of the *Framework Agreement*.