

ASHCROFT INDIAN BAND

MEMBERSHIP RULES

PART I

WHEREAS section 35 of the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

AND WHEREAS section 25 of the Constitution Act, 1982 provides that the guarantee of individual rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada;

AND WHEREAS section 10 of the Indian Act, 1985, provides that a Band may assume control of its membership if it establishes Membership Rules for itself in writing and receives the consent of a majority of its electors;

AND WHEREAS a majority of the electors of the Ashcroft Indian Band have duly consented as annexed hereto in Schedule A;

NOW THEREFORE, the Band enacts as follows:

OBJECT OF THE RULES

1. The objective of the Ashcroft Indian Band in approving the establishment of these Rules is to protect the cultural and social identity of the Band, to maintain and strengthen the existing sense of community and to ensure continued peace and good order among the members of the Band.

INTERPRETATION

2. In these Rules:

(1) "Act" means the Indian Act, S.C. 1985, c.27 amending the Indian Act, R.S.C. 1970, c.1-6;

(2): "Band" means the Ashcroft Band of Indians:

(a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September, 1951;

(b) for whose use and benefit in common moneys are held by Her Majesty; or,

(c) declared by the Governor in Council to be a Band for the purpose of the Act;

(3) "Band List" means a list of persons that is maintained under section 8 of the Indian Act, 1985, by

the Band or the Department of Indian Affairs and Northern Development;

(4) "child" includes a child born in or out of wedlock, a legally adopted child and a child adopted in accordance with Indian custom;

(5) "Common Law Marriage" refers to a spousal union between a man and a woman of seven (7) years continuous duration;

(6) "Council of the Band" (the "Council") means the Chief and Council chosen according to the election provisions set out under section 74 of the Act;

(7) "Department" means the Department of Indian Affairs and Northern Development;

(8) "Elector" means a person who is:

- (a) registered on the Band List;
- (b) of the full age of eighteen years; and,
- (c) ordinarily resident on the reserve;

(9) "Indian" means a person who is registered or is entitled to be registered as an Indian within the meaning of the Act;

(10) "Indian Blood" refers to a person who is lineally descended from an Ashcroft Band member or a

Canadian Indian who did not acquire Indian status through marriage;

(11) "Indian Register" has the same meaning as that found in the Act;

(12) "Inter-Band marriage" means a marriage between an Ashcroft Band Member and a member of another Band;

(13) "Marriage" includes either a legal or common law union between a man and a woman;

✧ (14) "Membership Clerk" (the "Clerk") means a person appointed by the Council to perform the duties of registrar of Band membership;

✧ (15) "Membership Committee" (the "Committee") means a committee appointed by Council consisting of four (4) Band members, at least 18 years of age, each of whom represents one of the four (4) major families of the Band, plus one impartial non-Band member who enjoys the confidence of the Band;

(16) "Member of the Band" means a person whose name appears on the Band List or is entitled to have his name appear on the Band List;

(17) "Minister" means the Minister of Indian Affairs and Northern Development;

(18) "registered" has the same meaning as that found in the Act;

(19) "Registrar" means the officer of the Department who is in charge of the Indian Register and the Band Lists maintained by the Department;

(20) "restored member" means a Band member who lost Indian status and Band membership under former Indian Acts and who has been, or is entitled to be, reinstated on the Band List;

(21) "Rules" means the Ashcroft Indian Band Membership Rules; and,

(22) Use of words denoting the male gender is deemed to include the female gender.

PART II

ORIGINAL MEMBERSHIP

3. The following persons are automatically entitled to membership in the Band:

(1) Original Members: all persons entered or entitled to be entered on the Band List prior to April 17, 1985;

(2) Descendants of original members: all persons born on or after April 17, 1985 to natural parents

both of whom are, or if deceased, were original members of the Band;

(3) Restored Members: all persons entitled to be restored to the Band List by operation of section 6(1)(c) of the Act, namely:

(a) persons who lost Indian status and Band membership under the so-called "double mother" rule;

(b) Indian women who lost Indian status and Band membership by marriage to a non-Indian man;

(c) persons whose names were deleted from the Band list because of protest by the Band that his father was not Indian; and,

(d) Indian women and their children who were enfranchised as a result of the woman's marriage to an enfranchised Indian man.

4. All minor children born of natural parents, at least one of whom is a resident restored member, are deemed to be original members.

5. Any child born to a Band member and who is adopted out of the Band shall be deemed to be a Band member until

reaching the age of eighteen, at which time the child shall choose whether or not to remain a Band member.

6. For greater certainty, all those persons entitled to have their names entered onto the Band List pursuant to section 11(1) of the Act are automatically entitled to membership in the Band.

PART III

DISCRETIONARY MEMBERSHIP

7. All persons other than those mentioned in Part II may apply for membership in the Band including:

(1) all children of restored members eighteen years or older on the day these Rules come into force;

(2) natural children born of Inter-Band marriages within the meaning of these Rules;

(3) natural children born after April 17, 1985, one of whose parents is a Band member with Indian Blood;

(4) a child with Indian Blood who is adopted by a Band member;

(5) Indian spouses of Band members who marry within the meaning of Inter-Band marriage according to these Rules;

(6) members of other Bands who wish to transfer to the Band;

(7) any former Band member who lost status and Band membership under previous Indian Acts as a result of:

(a) residency outside Canada without the consent of the Superintendent or Indian Agent;

(b) becoming a lawyer, doctor or clergyman or upon receiving any degree from a university; and,

(c) service in the Canadian Armed Forces;

(8) For greater certainty, non-Indian spouses of Band members, whether legally married or living common law, may reside on the reserve according to conditions set out in the Band Residency By-Laws.

PART IV

DISCRETIONARY MEMBERSHIP CRITERIA

8. Persons making application to the Band for Discretionary Membership must provide:

(1) proof of Indian status or entitlement to Indian status from the Registrar; and,

(2) independent documentary evidence of direct descendance from a Band member with Indian Blood.

9. For greater certainty, independent documentary evidence refers to vital statistics which confirm the lineage of the applicant.

PART V

LOSS OF MEMBERSHIP

10. Where a person with no Indian Blood has become a member of the Band prior to April 17, 1985 through marriage to a Band member, that person shall no longer be entitled to Band membership upon:

- (1) divorce from a Band member;
- (2) living separate and apart from the Band member for one (1) continuous year; or,
- (3) becoming widowed;

unless that person is ordinarily resident and continues to reside on the reserve, in which case that person may retain his membership in the Band.

11. Where a Band member marries a member of another Band, that member shall elect within six months of the marriage to remain a Band member or transfer to the Band of the spouse, and notify the Council accordingly in writing.

12. A member may renounce membership in the Band by written notice to the Council. Such person may be re-

instated upon application under Part III, but may only do so once.

PART VI
APPLICATION PROCEDURE

* 13. All applications for Band membership shall be submitted to the Clerk on a form to be prescribed.

14. Applications on behalf of an eligible child may be made by the parent or guardian of that child.

* 15. The Clerk shall assess the validity of the supporting documents for compliance with the eligibility criteria set out in Part IV of these Rules.

* 16. The Clerk shall forward the application with supporting documents and a brief report on their conformity with the rules to the Committee.

* 17. The Committee shall recommend the acceptance or rejection of any application for Band membership to the Council.

* 18. The Council shall, upon receipt of the recommendation of the Committee, hold a referendum of Band members called for that purpose.

* 19. Referendums on Band membership shall be called by Council four (4) times each year in August, November

February and May, unless no applications are received during any three (3) month period in any year.

20. The Council shall give thirty (30) days notice to the Band membership of each referendum to be held.

21. Upon a vote in favor of a majority of those electors voting, the applicant shall be admitted as a member of the Band effective on the date of the referendum.

PART VII

APPEAL PROCEDURE

22. A person whose application is rejected by the members of the Band may, after three months from the date of rejection, re-apply for Band membership according to Part VI of these Rules.

23. A person re-applying for membership may provide additional evidence of eligibility.

24. A person may re-apply for membership only one time after being rejected by the Band members and the second referendum on any re-application for membership shall be considered final.

25. No claim shall lie against the Band, the Council, a Band member, nor any of their agents for denial of membership according to these Rules.

PART VIII
AMENDMENT PROCEDURE

26. These Rules may be amended if one third (1/3) of the electors sign a petition to Council which outlines the reasons for the proposed amendment.

27. Upon receipt fo the petition, the Council shall:

(1) give 30 days notice in writing to the electors of a special meeting to vote on the proposed amendment;

(2) post a copy of the notice in the Band office for 30 days prior to the said meeting; and,

(3) attach the text of the proposed amendment to the notices.

28. If the proposed amendment receives the consent of a majority of the electors, these Rules shall be amended accordingly.

29. Notwithstanding the amendment procedure prescribed in this Part, the Council shall call a General Band Meeting within ninety (90) days of the first anniversary of the coming into force of these Rules to review them.

PART IX
COMING INTO FORCE

30. These Rules shall come into force on the day the Band gives notice to the Minister that it is assuming control of its membership pursuant to section 10(6) of the Act.

PART X
DELEGATION OF POWER

? 31. The Band hereby delegates to the Council the authority to enact regulations to administer these Rules in a fair, impartial manner without discriminating on the basis of sex, religion, age or family and in accordance with the best interests of the Band.