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HOUSE OF COMMONS
CHAMBRE DES COMMUNES

MINISTER'S OFFICE
I.N.A.C.
CABINET DU MINISTRE
A.I.N.C.

SPUZZUM INDIAN BAND
MEMBERSHIP RULES

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MET/REC
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150-10-3

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 and freedoms that pertain to the aboriginal peoples of Canada; and,

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

WHEREAS a majority of the electors of the Spuzzum Indian Band (the "Band") have duly consented as annexed hereto in Schedule A;

NOW THEREFORE, the Band enacts as follows:

AIRMAIL

OBJECT OF THE RULES

1. The object of the Rules is to protect and enhance the cultural integrity, social harmony and economic stability of the Band.

INTERPRETATION

2. In these Rules,

- (1) "Appeal Board" (the "Board") shall consist of the Council of the Band, the legal counsel or notary public appointed by the Band, and the Membership Clerk;

- (2) "Band" means the Spuzzum Indian Band;

- (3) "Band List" means a list of persons belonging to the Band that is maintained under section 8 of the Act either by the Band or the Department of Indian Affairs and Northern Development (the "Department");

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

- (5) "Council of the Band" means the Council chosen according to the custom of the Band;

- (6) "elector" means any Band member entitled to vote at Band elections as determined by the custom of the Band;

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

(8) "Indian Blood" refers to a person who is lineally descended from a Spuzzum or Canadian Indian who did not acquire Indian status through marriage;

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

(10) "marriage" means either a legal or common law union between a man and a woman;

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

(12) "Membership Committee" (the "Committee") means the Chief and two Band members who shall be appointed by the Council of the Band within 60 days of each election of Chief and Council;

(13) "member of the Band" has the same meaning as that found in the Act;

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

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

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

(17) "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, re-instated on the Band List; and,

(18) Use of words denoting the male gender is deemed to indicate the female gender.

PART II

ORIGINAL MEMBERSHIP

3. The following persons are entitled to automatic membership and enrolment on the Band List:

(1) all persons entered or entitled to be entered on the Band List of the Spuzzum Indian Band immediately prior to April 17, 1985;

(2) all persons born on or after April 17, 1985 to natural parents one of whom is or, if no longer living, was an original member;

(3) 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 or her father was not Indian; and,

(d) persons who lost Indian status and Band membership through involuntary enfranchisement.

4. All minor children born of natural parents, at least one of whom is a 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 (18) years after which time that child may choose whether or not to remain a Band member.

PART III

DISCRETIONARY MEMBERSHIP

6. Persons other than those listed in Part II who wish to apply for membership in the Band must provide:

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

(2) independent documentary evidence of direct descendency from a Band member with Indian blood.

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

PART IV

APPLICATION PROCEDURE

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

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

10. The Clerk shall forward the application with the supporting documents and a brief report on their conformity with the Rules to the Membership Committee.

11. The Committee shall evaluate the eligibility of the applicant according to these Rules and recommend in writing the acceptance or rejection of the application to the Council.

12. Upon receipt of the recommendation, the Council shall call a referendum of eligible Band electors to vote on the acceptance or rejection of the application.

13. Upon a majority vote in favor of acceptance by those electors voting, the applicant shall be admitted as a member of the Spuzzum Indian Band.

14. For administrative convenience, referendums shall be called every three (3) months to vote on applications which are declared by the Committee to be complete.

PART V

APPEAL PROCEDURE

15. A person whose application for Band membership is rejected may appeal in writing to the Appeal Board within 60 days.

16. The applicant may submit additional documentary evidence in support of his or her appeal.

17. The Board shall be guided in its appellate decision by the object of these Rules as declared in section 1.

18. An applicant for Band membership may appeal a rejection only once to the Board.

19. The decision of the Board shall be final.

20. Neither the Band nor any of its agents under these Rules shall be liable for any claim made against it by a person whose application has been rejected.

PART VI

LOSS OF MEMBERSHIP

21. Where a person having no Indian blood has become a member of the Band after April 17, 1985, but prior to these Rules coming into force, he will be deemed not to be a Band member by operation of Part III.

22. Where a Band member marries a member of another Band, that member shall elect within six (6) months of the marriage to remain a Band member or transfer to the Band of the spouse and notify the Council accordingly in writing.

PART VII

AMENDMENT PROCEDURE

23. 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.

24. Upon receipt of the petition, the Council shall:

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

(2) post a copy of the notice described in subsection (1) in the Band office for 30 days prior to the said meeting; and,

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

25. If the proposed amendment receives the consent of a majority of the electors of the Band present at the meeting, these Rules shall be amended accordingly.

26. 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 to review these Rules.

PART VIII

COMING INTO FORCE

27. 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 IX

DELEGATION OF POWER

28. The Band hereby delegates to the Council the authority 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.