

FAQs: BILL S-3

Q1	What is Bill S-3?
A1	It is a proposed federal Bill that became legislation passed by the government of Canada entitled <i>An Act to amend the Indian Act in response to the Superior Court of Quebec Decision in Descheneaux c. Canada</i> , on December 22, 2017.
Q2	What is the Descheneaux Decision?
A2	Stephane Descheneaux is a descendant from an Abenaki woman who married a non-Indian status man prior to 1985. He believed that his children were being deprived of the recognition as a status Indian because of the historical sex discrimination in the Indian Act. He took his case to court, where he argued that had it been his grandfather married who married a non-status Indian, he and his children would be entitled to Indian status automatically. He was essentially fighting for the right to be able to transmit status to his children, as he had already got recognition as a status Indian under <i>Bill C-3 (McIvor Decision, 2011)</i> . In 2015, the Superior Court of Quebec ruled that several provisions of the Indian Act (Section 6) surrounding who is considered to be a status Indian violated the principles of equality under Section 15 of the Canadian Charter of Rights and Freedoms; Descheneaux won his case.
Q3	What were the effects of this ruling?
A3	When a decision is rendered in a Superior Court in Canada as final, that means that a precedent is set and all laws in question must comply with the ruling. In this case, the precedent that was set is that Section 6 of the Indian Act was declared unconstitutional based on discrimination of sex, which means that the government was ordered to amend the law (the Indian Act).

Q4	How does the Indian Act affect Indigenous Peoples in Canada today?
A4	<p>In 2019, the Indian Act continues to define and govern the relationship between Canada and Indigenous peoples. It sets out the “powers of Indigenous governments, creates a system of land holdings and property interests, provides for the education of Indigenous children, establishes programs for financial assistance, provides for the legal authority to issue warrants in Indigenous communities to maintain peace and order, and determines who is and is not legally an Indian person”.</p> <p>Therefore, any recognized “band” or nation in Canada continues to be subject to the provisions of the Indian Act. It is a very controversial piece of legislation, with no input from any Indigenous Peoples, despite the fact that this is who it is aimed at governing.</p>

Q5 What were the amendments to the Indian Act based on the Descheneaux Decision?

A5

1. **PHASE I: Immediate Implementation:** To comply with the Descheneaux ruling, the government introduced Bill S-3, which addresses three issues regarding sexism in the Indian Act.

Below are the provisions of Phase I of Bill S-3, which have been passed and are already in force:

- **“Cousins Issue:** Addresses the differential treatment of first cousins whose grandmother lost Status due to marriage with a non-Indian, when that marriage occurred before April 17, 1985;
- **Siblings Issue:** Addresses the differential treatment of women who were born out of wedlock of Indian fathers between September 4, 1951 and April 17, 1985;
- **Issue of Omitted Minors:** Addresses the differential treatment of minor children, compared to their adult or married siblings, who were born of Indian parents or of an Indian mother, but lost entitlement to Indian Status because their mother married a non-Indian after their birth September 4, 1951 and April 17, 1985”.

**This has allowed for newly entitled persons to be registered as status Indians under Section 6 of the Indian Act.*

2. **PHASE II: Delayed Implementation:**

- **“6.1(A) All the Way”:** Once this is in force, all descendants born prior to April 17, 1985 (or of a marriage prior to that date) of women who were removed from band lists or not considered Indians because of their marriage to a non-Indian man will be entitled to 6.1 status. This will **extend registration entitlement under section 6.1 to all those individuals who can trace their ancestry to at least one person who was entitled to registration prior to April 17, 1985 and dating all the way back to the 1869 Gradual Enfranchisement Act;**
- Elimination of the “1951 cut-off” will come into effect once consultations through the *Collaborative Process* with First Nations on how best to implement these changes are completed;

**1951 cut off: individuals born/adopted prior to September 4, 1951 who had a grandmother who lost her status due to the marriage of a non-Indian were not entitled to registration under Bill C-3.*

Q6	What is the Collaborative Process?
A6	<p>The Collaborative Process is a federal government initiative, which is currently underway, to consult with First Nations on Indian registration, band membership and citizenship. It is apart of the Phase II implementation of Bill S-3; the feedback received from these consultations are meant to give the government an indication of how Bill S-3 should be implemented and if there should be further amendments to continue to open up registration criteria.</p> <p>The 3 major themes they are consulting on:</p> <ol style="list-style-type: none"> 1. The removal of the 1951 cut-off from the Indian Act 2. Remaining inequities related to registration and membership under the Indian Act: issues such as adoptions, enfranchisement, resources and impacts on communities. 3. Transfer of the responsibility for determining membership/citizenship to First Nations. <p>Consultations are ongoing until March 2019. Federal Collaborative Process consultants are due to report back to the House of Commons on further amendments to the Indian Act under Bill S-3 by June 2019.</p> <p>The MCK has taken the position that the federal government has no business in consulting with First Nations on who is a member and/or citizen of a nation. Kahnawà:ke is not participating the Collaborative Process, as it is federally run and does not address the concerns of our community as a collective regarding Bill S-3 and its impacts.</p>

Q7 What is the Mohawk Council of Kahnawà:ke doing about Bill S-3?

A7 The MCK appointed a working group in order to educate and inform the community about this Bill. The members are:

- Kahsennenhawe Sky-Deer – Office of the Kahnawà:ke Kanien'kehá:ka Registry Portfolio Chief
- Alan John Rice – General Manager of the Office of the Kahnawà:ke Kanien'kehá:ka Registry
- Brandon Bordeau – Bill S3 Communications/Engagement Officer
- Katsistohkwí:io Jacco – Office of the Council of Chiefs Technician
- Alexis Shackleton – Director of MCK Client Based Services
- Winona Polson-Lahache – Chief Political Advisor

**See last page for contact information*

Since November 2018, the working group has consulted with hundreds of community members on Bill S-3. This has been done through several informative kiosks, presentations to community organizations, open community meetings, K103 radio talk shows and advertisements, and outreach in the local media. The goal is to try to educate and inform as many community members as possible about Bill S-3 and its implications.

Q8	What happens after the working group informs and educates the community of Kahnawà:ke?
A8	<p>The working group’s plan is to follow along the timeline of the Collaborative Process, so that Kahnawà:ke may submit its own community position on S-3 simultaneously when the federal consultants present to the House of Commons in June 2019.</p> <p>The timeline for the MCK Bill S-3 working group is:</p> <ul style="list-style-type: none"> • November 2018-February 2019: Inform and educate community; • March 2019: Launch of Kahnawà:ke Bill S-3 survey created by the working group to gauge the community’s opinion on Bill S-3; • March 2019: Formation of the Kahnawà:ke S-3 Defense Coalition. This will give interested community members the opportunity to help draft the Kahnawà:ke community position on Bill S-3; • March-April 2019: Networking with other Indigenous Communities; • Finalize community position by May 2019 at the latest; community position to be sent to Crown Indigenous and Northern Affairs Canada (CIRNAC) along with the Federal government;
Q9	How can I get involved?
A9	<ul style="list-style-type: none"> • Participate in or request a presentation from the working group • Participate in the Kahnawà:ke Bill S-3 survey in the month of March 2019 • See attached Press Release for the Open Call for community members to sit on the ‘Kahnawà:ke S-3 Defense Coalition’ • Inform friends/family/other community members • Stay informed through the local media or our website.

Q10	How can I get more information on Bill S-3?
A1 0	<p>The working group is happy to offer:</p> <ul style="list-style-type: none"> • An informative presentation on Bill S-3 (at your workplace, your home, in a focus group, etc.) • An information package on Bill S-3 (available at the Main MCK reception or CBS reception located at the back of the Services Complex) • The Bill S-3 Website: WWW.Kahnawake.com/s3 • A Youth Information Session on February 28, 2019 at the KYC at 7:00pm (Ages 16-30 years) <p><i>*Check the website and/or local media to get more information on upcoming presentations</i></p>
*Bill S-3 Working Group Contact Information:	

- Kahsennenhawe Sky-Deer: Kahsennenhawe.sky-deer@mck.ca or 450-632-7500 (ext. 50287)
- Alan John Rice: alanjohn.rice@mck.ca or 450-632-7500 (ext. 59333)
- Brandon Bordeau: brandon.bordeau@mck.ca or 450-632-7500
- Katsistohkwii:io Jacco: katsistohkwiiio.jacco@mck.ca or 450-632-7500 (ext. 50247)
- Alexis Shackleton: alexis.shackleton@mck.ca or 450-632-7500 (ext. 59325)
- Winona Polson-Lahache: winona.polson-lahache@mck.ca or 450-632-7500 (ext. 50261)