

Canada Gazette, Part II, Volume 153, Number 18

Registration
SOR/2019-304 August 16, 2019

FIRST NATIONS FISCAL MANAGEMENT ACT

Whereas, in accordance with paragraph 2(3)(a) of the *First Nations Fiscal Management Act*, the council of each band referred to in the annexed Order has requested that the name of the band be added to the schedule to that Act;

Therefore, the Minister of Crown-Indigenous Relations, pursuant to subsection 2(3) of the *First Nations Fiscal Management Act*, makes the annexed *Order Amending the Schedule to the First Nations Fiscal Management Act*.

Gatineau, August 13, 2019

Carolyn Bennett
Minister of Crown-Indigenous Relations

Order Amending the Schedule to the First Nations Fiscal Management Act

Amendment

1 The schedule to the *First Nations Fiscal Management Act* is amended by adding the following in alphabetical order:

- Kawacatoose First Nation
- Kingsclear First Nation
- Tsay Keh Dene Nation

Coming into Force

2 This Order comes into force on the day on which it is registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Order.)

Issues

First Nations wishing to access the full array of services available through the national First Nation institutions created

under the *First Nations Fiscal Management Act* first require addition to the schedule to the Act. Subsection 2(3) of the Act states that, at the request of a First Nation, the Minister of Crown-Indigenous Relations may, by order, add, change or delete the name of the First Nation from the schedule.

The following three First Nations have requested, via Band Council Resolutions, to be added to the schedule to the *First Nations Fiscal Management Act*: Kawacatoose First Nation in Saskatchewan, Kingsclear First Nation in New Brunswick and Tsay Keh Dene Nation in British Columbia.

Background

The *First Nations Fiscal Management Act* came into force on April 1, 2006. It supports economic development and well-being in First Nation communities by enhancing First Nations' property taxation, creating a First Nations bond financing regime and supporting First Nations' capacity in financial management. These objectives are achieved through the national First Nation institutions established through the *First Nations Fiscal Management Act*. These institutions are the First Nations Finance Authority, the First Nations Tax Commission and the First Nations Financial Management Board.

Objective

The objective of this initiative is to add the names of the three aforementioned First Nations to the schedule to the *First Nations Fiscal Management Act* through an order made under subsection 2(3) of the Act by the Minister of Crown-Indigenous Relations.

These First Nations will have the ability to access some or all of the services available under the *First Nations Fiscal Management Act*. The national First Nation institutions will work closely with First Nations who wish to implement property tax systems, strong financial management practices, and who wish to access the First Nations bond financing regime.

Description

The *Order Amending the Schedule to the First Nations Fiscal Management Act*, made pursuant to subsection 2(3) of the Act, adds the names of the following First Nations to the schedule: Kawacatoose First Nation, Kingsclear First Nation and Tsay Keh Dene Nation.

The First Nations may — should their governments so choose — impose property taxes and use property tax revenues or other revenues to invest in and support community projects under the framework of the *First Nations Fiscal Management Act*, as an alternative to the existing property tax jurisdiction available to First Nations under section 83 of the *Indian Act*. First Nations scheduled to the *First Nations Fiscal Management Act* are also able to seek certification in the areas of financial performance and financial management systems. Once certified, First Nations may apply for access to a First Nations bond financing regime based on their property tax or other revenue streams.

Regulatory development

Consultation

Given that this *Order Amending the Schedule to the First Nations Fiscal Management Act* implements requests by the three aforementioned First Nations to come under the Act, it was not considered necessary to undertake consultations over and above those already conducted by the aforementioned First Nations with the residents of their communities.

The *First Nations Fiscal Management Act* national institutions work closely with all First Nations who have requested to be added to the schedule to the *First Nations Fiscal Management Act*.

Modern treaty obligations and Indigenous engagement and consultation

There is no potential modern treaty implication as the initiative responds to the needs and interests of the aforementioned First Nations. This initiative does not require the Government of Canada to fulfill any consultations and engagement requirements described in a modern treaty.

Instrument choice

Non-regulatory options were not considered, as subsection 2(3) of the *First Nations Fiscal Management Act* provides the necessary authority for the Minister of Crown-Indigenous Relations to add, change or delete the name of a First Nation from the schedule.

Regulatory analysis

This *Order Amending the Schedule to the First Nations Fiscal Management Act* is carried out in response to a request from the aforementioned First Nations who wish to access some or all of the services available under the Act.

The Act provides First Nation governments with authority over financial management, property taxation and local revenues and financing for infrastructure and economic development. The Act will enable the above mentioned First Nations to participate more fully in the Canadian economy while meeting local needs by strengthening real property tax and financial management systems; by providing increased revenue raising tools, strong standards for accountability, and access to capital markets available to other governments; and by allowing for the borrowing of funds for the development of infrastructure on reserve through a cooperative, public-style bond issuance.

Regulations under the Act allow First Nations to securitize their own source revenues. This has the potential to greatly expand the opportunity for First Nations to make investments from their own resources to fund their participation in the economic expansion occurring in their traditional territories. First Nations throughout Canada are asking to be scheduled to the Act.

Costs and benefits

There are no costs associated with adding, changing or deleting the names of First Nations from the schedule to the *First Nations Fiscal Management Act*. The Act is one of a few optional initiatives supported by the Government of Canada, which modernize through legislation various aspects of First Nation governance previously dealt with under the *Indian Act*. The goal of this support in the implementation of the Act is to enhance First Nation governance capacity in support of improved economic development and well-being in First Nation communities.

Small business lens

The small business lens does not apply to this initiative, as it does not impose any level of compliance and/or administrative costs on small businesses.

“One-for-One” Rule

The “One-for-One” Rule does not apply to this initiative, as it does not result in any administrative costs or savings for businesses.

Regulatory cooperation and alignment

Given that opting into the *First Nations Fiscal Management Act* is made at the request of the aforementioned First Nations, through resolution of their councils, this initiative is not under a regulatory cooperation work plan.

Strategic environmental assessment

Given that this *Order Amending the Schedule to the First Nations Fiscal Management Act* results solely in the addition of the three aforementioned First Nations to the schedule to the Act, no potential environmental effects have been identified for this initiative.

Gender-based analysis plus

Given that this *Order Amending the Schedule to the First Nations Fiscal Management Act* results solely in the addition of the aforementioned First Nations to the schedule to the Act, no gender-based analysis plus (GBA+) issues have been identified for this initiative. A full GBA+ has been completed for the *First Nations Fiscal Management Act* regime overall, and found that the regime has the potential for positive impacts on Indigenous communities, including Indigenous women, elderly people, and children.

Rationale

The names of the aforementioned First Nations are added to the schedule to the *First Nations Fiscal Management Act* at the request of the councils of the First Nations.

By joining the *First Nations Fiscal Management Act*, the aforementioned First Nations may choose to implement a property tax system under the Act, seek certification of their financial performance and financial management systems, and/or participate in a First Nations bond financing regime. These tools and services are provided to build economic infrastructure, promote economic growth and attract investment on reserve, thereby increasing the well-being of First Nations communities.

Implementation, compliance and enforcement, and service standards

There are no compliance and enforcement requirements associated with this initiative and no implementation or ongoing costs which can be directly associated with adding First Nations to the schedule to the *First Nations Fiscal Management Act*.

Contacts

For the First Nations Tax Commission

Clarine Ostrove
Legal Counsel
c/o Mandell Pinder
422–1080 Mainland Street
Vancouver, British Columbia
V6B 2T4
Telephone: 604-681-4146
Fax: 604-681-0959

For Crown-Indigenous Relations and Northern Affairs Canada

Leane Walsh
Director
Fiscal Policy and Investment Readiness Directorate
Economic Policy Development Branch
10 Wellington Street, 17th Floor
Gatineau, Quebec
K1A 0H4
Telephone: 819-953-0103
Fax: 819-934-1983