



BOUDREAU LAW

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File No.: 1242-011

July 7, 2018

VIA E-MAIL

Mitaanjigamiing First Nation
P.O. Box 609
Fort Frances, ON
P9A 3M9

Chief and Council:

Re: Changes to By-Law Enactment Process under Bill C-428

I am writing to you today in order to provide you with an analysis of the changes made to the process for the enactment of First Nation by-laws under the Indian Act. These changes occurred through Bill C-428, entitled An Act to Amend the Indian Act (publication of by-laws) and to Provide for its Replacement. This amendment received Royal Assent on December 16, 2014.

The powers of the Chief and Council under section 81 of the Indian Act remain the same in that Chief and Council may make by-laws on the listed matters, provided that they are not inconsistent with the Indian Act itself or with any regulation. What has changed is that section 82 of the Indian Act was repealed. This means that the Chief and Council no longer have to forward a copy of the proposed by-law to the Minister for their approval and wait 40 days after having sent it for the by-law to be considered effective.

Now, under section 86 of the Indian Act, a by-law passed by Chief and Council comes into force on the day it is published, which must occur either on a website, in the First Nations Gazette, or in a local newspaper.

There are some exceptions to these general rules however. Section 83 of the Indian Act relating to money by-laws, still allows for the Minister to approve either the whole or only part of a by-law made under that section. Additionally, section 85.1 on by-laws relating to intoxicants requires that a by-law under that section not be made unless it is first assented to by a majority of the electors of the band at a special meeting.

In summary, Chief and Council may make by-laws under section 81 of the Indian Act without the approval of the Minister and without it being ratified by the community. These come into effect on the day they are published. Chief and Council may also create money by-laws under section 83, though it is subject to the Minister's approval. Chief and Council

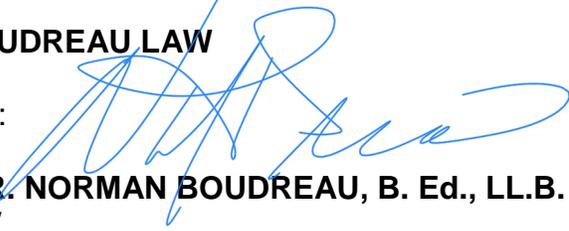
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may also make by-laws relating to intoxicants under section 85.1, but these by-laws would have to be ratified by the community.

Sincerely,

BOUDREAU LAW

Per:


J. R. NORMAN BOUDREAU, B. Ed., LL.B.
NB/