

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

-and-

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA,
NISHNAWBE-ASKI NATION and INNU NATION

Interested Parties

**BOOK OF AUTHORITIES OF INNU NATION
ON THE MOTION DATED AUGUST 7, 2020**

February 3, 2021

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Our understanding is that it has not been the Panel’s practice to ask for copies of its *Caring Society* decisions cited within a party’s written submissions in the same proceeding. These citations are hyperlinked within our submissions.

1

Excerpts from the Transcript of the Cross-Examination of Nathalie
Nepton, January 8, 2021 – enclosed for ease of reference

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada K1A 1J4

BETWEEN/ENTRE:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA
and ASSEMBLY OF FIRST NATIONS

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and/et

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ATTORNEY GENERAL OF CANADA
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Respondent

Intimée

and/et

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA and
NISHNAWBE ASKI NATION

Interested Parties

Parties intéressées

BEFORE/DEVANT:

Sophie Machildon
Edward Lustig

CHAIR
PANEL MEMBER

Judy Dubois

REGISTRY OFFICER

FILE NO. /NO CAUSE: T 1340/7008

VOLUME: 1

LOCATION/ENDROIT: VIA ZOOM VIDEOCONFERENCE

DATE: 2021/01/08

PAGES: 1 - 183

APPEARANCES:

Robert Frater, Q.C.

for the Attorney General of Canada

Stuart Wuttke

for Assembly of First Nations

David Taylor

for First Nations Child and Family

Sarah Clarke

Caring Society of Canada

Adam Williamson

Shelby Thomas

Dr. Cindy Blackstock

Andrea Auger

Natalie Posala

for Nishnawbe Aski Nation

Maggie Wente

for Chiefs of Ontario

Emily King

Brian Smith

for the Canadian Human Rights
Commission

Judith Rae

for Innu Nation

1 million and the lesser amounts of funding for the
2 other jurisdictions as a result?

3 A. No. And I can say when I
4 read briefly last night the documents as well as
5 the CCCW minutes, some of the items, especially
6 this issue about the options and the funding, I
7 didn't understand what the issue was. And so
8 without the benefit of having attended the meetings
9 or participated in the discussions, my context
10 wasn't sufficient for me to really seize the issue
11 for what it is.

12 Q. But you are aware, though,
13 that there have been concerned about the fixed or
14 the set pot, the total amount of funding available
15 for CWJI, at least in -- in the tables I have seen
16 it was 80 million plus the amounts that were
17 settled on in that Minister's special
18 representative process, and that there was no
19 mechanism within the CWJI to increase the pot in
20 the event that other needs arose or the needs were
21 greater than the funding provided for.

22 A. Exactly. As I have stated in
23 CCCW is that it is a fixed pot and that is the
24 envelope within which ISC works.

25 Q. So it's not a needs-based

1 amount, then?

2 A. No, it's a fixed pot.

3 Q. Now, in terms of the
4 initiatives that CWJI covers -- and I guess I
5 should just -- I will go back to your affidavit. I
6 don't have the specific wording point, but just to
7 make life a bit easier when I do.

8 Now, in terms of the CWJI, my
9 understanding is that there are prevention
10 activities that can be funded for nations under the
11 CWJI; is that right?

12 A. Yes.

13 Q. But in terms of the other
14 child and family services activities like intake
15 and investigations or legal fees associated with
16 child welfare proceedings or repair for buildings
17 that have child and family services function, those
18 aren't eligible amounts under the CWJI, is my
19 understanding.

20 A. Yes, they would be accessible
21 for agencies that have access to the actuals
22 (inaudible) and actuals (inaudible).

23 Q. But not under the CWJI?

24 A. No.

25 Q. And so ISC's position would

1 distributing it in whatever -- according to ISC's
2 own judgment?

3 A. Exactly.

4 Q. All right. Given that, I
5 don't have too, too many other questions.

6 Mr. Taylor had asked you several
7 times or asked you quite a bit about how the CWJI
8 formulas and the ramp-up monies -- how the gross
9 amounts to be distributed over Canada, how you came
10 to those.

11 Did I hear you -- can you just
12 clarify for me, do you agree that those weren't
13 based on any kind of assessment of First Nations
14 needs at the time?

15 A. Based upon my understanding,
16 yes.

17 Q. All right. Okay. So I'm
18 just going to -- I didn't put the Ontario special
19 study into the document book because I'm not going
20 to draw you to any particular part of it, but --
21 and I note you didn't say that you had read it in
22 preparation, so can you just let me know when the
23 last time you read it was?

24 A. Oh, my goodness. It's a good
25 question, Ms. Wente. I would say probably a good

1 A. Yes.

2 Q. There's a comment at the end
3 of that paragraph 27 around the funding that Canada
4 has provided to the province through its bilateral
5 agreement with the province.

6 I just want to first confirm,
7 we're talking about protection funding there, then,
8 not prevention funding?

9 A. That is correct. I will
10 double-check my table at NN-3.

11 Q. I think what you will --

12 A. Yes.

13 Q. Yes. Okay. Thank you.

14 What's also in your paragraph 27, at the top of
15 that paragraph, is that the provincial government
16 of Newfoundland and Labrador provides protection
17 services. Later in that same paragraph, you say
18 prevention is not part of the legislation.

19 So just to confirm, the province
20 of Newfoundland and Labrador, it is not providing
21 prevention services?

22 A. Yes. I agree with that.

23 Q. Okay. So in terms of the
24 funding then referenced that is going to the
25 province for protection, this 10.8 million and then

1 issue and providing some sort of certainty with
2 respect to the possibility of funding for 2021.

3 Q. 2021/'22?

4 A. Yeah. And --

5 Q. Okay.

6 A. Yeah.

7 Q. So that may refer, then -- be
8 intended to refer to next fiscal year?

9 A. Yes.

10 Q. Okay. And I do not want to
11 compromise -- I recognize that there are
12 discussions --

13 A. Yes.

14 Q. -- but I do want the panel to
15 have some clarity of information. I'm going to put
16 to you that Indigenous Services Canada has not, in
17 fact, confirmed any CWJI funding for Innu band
18 representatives for any year. And I'm saying
19 confirmed -- has not confirmed. Is that correct,
20 to your knowledge, Ms. Nepton?

21 A. I would say yes, besides what
22 has been provided by Jordan's Principle. However,
23 as mentioned before, there are ongoing discussion
24 that are looking at other options and accommodating
25 needs.

1 objecting and you were trying to figure out where
2 she was going with this. But now the questions
3 have been asked, so how do you propose that we move
4 forward with this? We have your context. We have
5 your objection.

6 MR. FRATER: Yes. I guess what we
7 would like is if we get to a place where we can
8 give the Tribunal more clarity on this issue, I
9 would appreciate the opportunity to do so.

10 THE CHAIR: Perfect. Thank you.
11 Ms. Rae?

12 MS. RAE: Okay. Thank you. Okay.
13 I think we can move on from that piece.

14 BY MS. RAE:

15 Q. I'm going to move to an issue
16 that Mr. Taylor raised around this issue of, as you
17 put it, Ms. Nepton, partially delegated agencies.

18 A. Yes.

19 Q. Or as he put it, a kind of
20 third way. There does seem to be a bit of a
21 category there in terms of how Indigenous Services
22 Canada is operating, and I'm going to try to just
23 ask a few further follow-up questions on there. I
24 don't know if I'll serve to clarify anything or
25 perhaps muddy the waters further, but we can try.

1 So I would like to just turn to
2 paragraph 29 of your affidavit, around the
3 Miawpukek First Nation, which is in Newfoundland
4 and Labrador. So this is the third reserve
5 community, third and last reserve community in
6 Newfoundland and Labrador.

7 As you indicate, Indigenous
8 Services Canada provides direct funding to the
9 First Nation which is based on actuals and that
10 they then have a service agreement with the
11 province of Newfoundland and Labrador for
12 protection services. The salary of a provincial
13 social worker is paid for.

14 My understanding is that they have
15 a very small -- a very tiny number of children in
16 care, so one social worker on duty is quite
17 sufficient, so it's a pretty simple service
18 agreement.

19 I'm just trying to characterize
20 this. It is still the province of Newfoundland and
21 Labrador that delivers the protection service in
22 this model; yes?

23 A. Yes. Yes. As I understand
24 it.

25 Q. Thank you. So they haven't

1 delegated protection to the Miawpukek First Nation?

2 A. That's right. It's subject
3 to a service agreement between the province and
4 Miawpukek.

5 Q. Right. So what's different
6 from Indigenous Services Canada's perspective is
7 that there is a -- it has one funding agreement,
8 which is with Miawpukek, and then they kind of flow
9 through the protection funds to the province?

10 A. Yes.

11 Q. Okay. But it's not that the
12 province has delegated anything to the First
13 Nation.

14 A. I would have to double-check
15 what the arrangement is to confirm how the funding
16 flows. And I would be happy to get back to you to
17 confirm how the funding flows with respect to
18 protection services and prevention.

19 Q. Okay. The suggestion I put
20 to you is that the category here is really about
21 the flow of funding from Indigenous Services
22 Canada's perspective rather than any type of
23 delegation.

24 A. Okay.

25 Q. Does that fit -- would you

1 A. M'hmm.

2 Q. So my suggestion is that
3 nothing is, in fact, delegated. It's a different
4 funding model but not a delegation difference.

5 A. All right. Thank you for
6 that clarification.

7 Q. Okay. And I take it you're
8 not necessarily agreeing with that right now? It's
9 something you're going to take back?

10 A. Exactly.

11 Q. Thank you. Okay. And then
12 further to that, you would agree with me, Ms.
13 Nepton, that in both of those cases, P.E.I. and
14 Miawpukek, they have a very small number of
15 children in care?

16 A. Yes.

17 Q. Thank you. So, further to
18 that, if they have a service agreement where
19 they're purchasing protection services from the
20 province, we can anticipate that there is a level
21 of complexity that is much simpler if we're talking
22 about, say, one social worker, as your affidavit
23 indicates in the case of Miawpukek, versus, say,
24 hundreds of children in care and multiple social
25 workers.

1 A. Yes.

2 Q. There's a difference there in
3 complexity.

4 A. Yes, I would agree with that.

5 Q. Thank you. Okay. I think,
6 then, I can move on from the discussion, then, of
7 child protection, the child protection side of
8 services. And I just have a few questions, then,
9 on the prevention side.

10 We will just confirm a few points
11 here. I think, actually, your evidence and Ms.
12 Germaine Benuen's evidence has been quite
13 consistent on the prevention point. So just going
14 back up to paragraph 27 of your affidavit. I think
15 we actually confirmed earlier that you have been
16 kind of -- based on what you've had here already,
17 the province of Newfoundland and Labrador, it does
18 protection, it doesn't do prevention, and that's
19 not part of it, the legislation?

20 A. Exactly. It's not entrenched
21 in the legislation.

22 Q. Okay. Thank you. We covered
23 that the 10 million going up to 19 million or
24 whether it goes up to 17 or 18, whatever the number
25 is confirmed to be, that money is for protection.

1 Okay.

2 A. Yeah.

3 Q. You have confirmed that the
4 Innu funding is through CWJI. The Innu that are
5 not eligible for a prevention at actuals, at least
6 in Indigenous Services Canada's view, that's --

7 A. Correct. Yes.

8 Q. Okay. So just to confirm,
9 then, no one, no entity, is eligible for prevention
10 funding on an actual cost basis at this time in
11 order to provide prevention services to the
12 Labrador Innu First Nations?

13 A. As far as I know, I agree
14 with that statement. I do not know.

15 Q. Sorry, you agree?

16 A. Yes.

17 Q. Thank you.

18 A. (Inaudible).

19 Q. Okay. And please -- okay.
20 Thank you. Please confirm for me the basis on
21 which Indigenous Services Canada reimburses the
22 province of Newfoundland and Labrador for
23 maintenance to put Labrador Innu children into care
24 if they are removed from their families of origin,
25 the cost of (indiscernible) care, the maintenance

2

Responses to undertakings of Nathalie Nepton during the January 8,
2021 cross-examination – enclosed for ease of reference

Responses to undertaking of Nathalie Nepton during the January 8, 2020 cross-examination in the matter before the Canadian Human Rights Tribunal

Undertakings Based on Questions from the Caring Society

Undertaking #1: Provide a regional breakdown for FY 16-17 through to 19-20 of the number of First Nations not served by a delegated agency.

Region	2016-17	2017-18	2018-19	2019-20	2020-21
AB	9	9	9	11	11
ATL*	4	4	4	4	4
BC	84	83	84	83	83
ON	16	16	15	15	15
SK	10	9	10	11	11
YK	14	14	14	14	14
TOTAL	137	135	136	138	138

* In the Atlantic Region, there are two in New Brunswick and two in Newfoundland and Labrador.

- In Quebec, all First Nations are served by a service provider that have access to the CHRT actual claims process.
- In Manitoba, all First Nations are served by a delegated agency.

Undertaking #2: Provide the number of First Nations not served by a delegated agency that received CWJI funding for each fiscal year since the start of CWJI.

Based on a preliminary analysis of the available data, as of January 26, 2020, ISC's records indicate that the following number of First Nations not served by a delegated agency have received CWJI funding:

- 107 First Nations in 2018-19
- 111 First Nations in 2019-20
- 124 First Nations in 2020-21

Undertaking #3: Provide a copy of the Saskatchewan Prevention Protocol.

The Prevention Protocol was developed at the request of the Government of Saskatchewan. It is tripartite and includes the First Nation, the province and ISC. Attached is a draft protocol for a First Nation that will be entering into this protocol.



Draft SK Prevention
Protocol.docx

**Responses to undertaking of Nathalie Nepton during the January 8, 2020
cross-examination in the matter before the Canadian Human Rights Tribunal**

Undertaking #4: Confirm which First Nations that have provided Notice under C-92 are not currently served by a delegated agency.

The following First Nations have provided Notice under C-92 which are not currently served by a delegated agency:

- Mushuau Innu First Nation
- Sheshatshiu Innu First Nation
- Mikisew Cree Nation
- Muskeg Lake Cree Nation
- Sts'ailes First Nation
- Cowessess First Nation

Undertaking #5: Confirm whether First Nations agencies operating under a First Nations law developed in accordance with C-92 will be eligible for funding under the FNCFS Program. Provide information on what the Act provides for funding.

ISC cannot presume which service delivery model an Indigenous Governing Body may choose to adopt when exercising jurisdiction under the Act. The role of agencies will be decided by the communities.

Should an Indigenous Governing Body exercising jurisdiction under the Act choose to adopt a model which includes continuing to have protection services delivered by an agency, funding for activities eligible under the FNCFS program would be available.

Indigenous Governing Bodies exercising jurisdiction under the Act, that choose to adopt an Indigenous-led child and family services model that does not include agencies, will discuss and establish their funding needs at the coordination agreement table. Under this scenario, funding for agencies under the FNCFS Program would not be available to the Indigenous Governing Body.

Other variations of service delivery models may also be adopted by an Indigenous Governing Body, which may choose to maintain some links to the existing child and family services system in either the short or longer term. In such a case, funding requirements and eligibility of activities under the FNCFS program would be discussed at the coordination agreement table.

Responses to undertaking of Nathalie Nepton during the January 8, 2020 cross-examination in the matter before the Canadian Human Rights Tribunal

Undertaking #6: Provide any analysis, if any, that demonstrate that “Canada is at the forefront of prevention funding as most provincial and territorial jurisdictions have not yet revised legislation to account for a significant shift towards prevention”, as stated at paragraph 55 of Nathalie’s affidavit.

The statement is based on a review of provincial and territorial child and family services legislation, which is included at Exhibit NN-2 of Nathalie Nepton’s affidavit. From this review we concluded that very few jurisdictions have revised their legislation to account for the shift in emphasis toward prevention work. ISC assumes from this that there is a lack of provincial/territorial investment in prevention. Furthermore, ISC is unaware of instances where provincial/territorial governments may be investing in this area through other departmental initiatives rather than through their respective child and family services legislation.

Undertakings in Response to Questions from the Assembly of First Nations

Undertaking #7: Clarify whether for First Nations that choose to exercise their right under the Act, there will be a funding stream for them to provide services to their communities. (similar to undertaking #5)

There is no funding stream for the long-term operationalization of an Indigenous governing body’s law once they begin exercising jurisdiction. Each community will directly receive funding unique to their service delivery model as established in the coordination agreement. The needs and service delivery models will vary in each community, and we cannot fully anticipate at this time what funding will be required to support the operationalization of Indigenous laws.

Undertakings in Response to Questions from the Innu Nation

Undertaking #8: Provide an explanation of how ISC arrived at the 82 figure at paragraph 27 of Nathalie’s affidavit regarding the number of children in care from Natuashish and Sheshatshiu, and why there is a discrepancy between this number and the 162 number reported in Germaine Benuen’s affidavit. In addition, explain why the 82 figure is different from the 235 figure reported in Nathalie Nepton’s exhibit #2.

ISC would need a better understanding of the methodology used to arrive at the 162 figure to accurately answer the question.

The number reported in the affidavit is based on ISC’s available child maintenance data for 2018-2019, which is the number of on-reserve registered children in care who have been associated with the two Innu bands.

ISC’S Information Management System indicated that there were 82 registered on-reserve children with a band number from the Mushuau Innu First Nation or the Sheshatshiu Innu First Nation who were in care as of March 31, 2019.

Responses to undertaking of Nathalie Nepton during the January 8, 2020 cross-examination in the matter before the Canadian Human Rights Tribunal

The Information Management System includes information on children in care, based on eligible placement expenses for a First Nation child on reserve or ordinarily a resident on reserve. The system groups registered children according to their band, however it does not record the band associated to children who are not registered. Therefore, it is possible that this number may be higher. This may account for the difference in the numbers reported in Nathalie Nepton's affidavit and in the affidavit of Germaine Benuen.

The count is also based on a point in time as of March 31, 2019. If other numbers are taken from a period of time, as opposed to a fixed point, that could also account for the variation.

Finally, the 235 figure reported at exhibit 2 of the affidavit is based on a different point in time and includes different groups of children.

The number provided in Exhibit NN-2 is based on data as of March 31, 2018, and includes all on reserve registered and non-registered First Nations children in care in Newfoundland and Labrador.

The number provided at paragraph 27 in Nathalie Nepton's affidavit is based on data as of March 31, 2019, and only includes registered on-reserve First Nations children from the Mushuau Innu First Nation and the Sheshatshiu Innu First Nation.

Undertaking #9: Clarify whether the \$19.1 million figure referenced at paragraph 27 of Nathalie's affidavit included an amount for \$1.8 million that related to a previous year.

Canada's public accounts indicate that funding to the province of Newfoundland and Labrador increased from \$10.8 million in 2015-2016 to \$19.1 million in 2018-2019. My understanding is that of the \$19.1 million provided to the province in 2018-2019, \$1.8 million was an expense incurred by the province in 2016-2017, but only invoiced to and paid by Canada during the 2018-2019 fiscal year. As such, for financial reporting purposes, a total of \$19.1 million was paid to the province of Newfoundland and Labrador by Canada in 2018-2019.

The payment of invoices in a new fiscal year for previous year's expenses is a common occurrence in the context of Canada's funding agreements with provinces and territories, as it often takes more time for the provinces to finalize their compliance.

Undertaking #10: Clarify which jurisdictions include band representatives in their legislation and how ISC funds them.

"Band Representative Services" is a term which is used in child and family services legislation for some jurisdictions, but not all. To assist in making comparisons between jurisdictions, the following is a description of the funding ISC currently provides to service providers in various provinces. These providers may be engaging in activities similar to band representative service in Ontario which are the subject of the CHRT order.

ISC is currently providing funding to support Indigenous or band representatives for First Nations communities in Ontario and three Atlantic provinces, being Newfoundland and Labrador, Nova Scotia and Prince Edward Island. Funding has been provided through either the February 1, 2018 CHRT actuals process, regular operations budget allocations, or through

Responses to undertaking of Nathalie Nepton during the January 8, 2020 cross-examination in the matter before the Canadian Human Rights Tribunal

additional funding sought through a proposal based mechanism. The details by province are as follows:

- In Ontario, funding for band representative services is provided through the reimbursement of actual expenditures, in accordance with the February 1, 2018 CHRT orders.
- In Nova Scotia, the provincial allocation of CWJI funding under the FNCFS program has been prioritized by Chiefs to fund a band representative project that includes funding for one band representative for each of the 13 communities.
- In Newfoundland and Labrador, the Innu Roundtable Secretariat has been receiving funding for band representatives through Jordan's Principle for the two Innu communities in Labrador. In addition, the Miawupkek First Nation has recently identified its Director of Child and Family Services as an Indigenous representative under the provincial legislation. The Director's salary is an eligible expenditure under the FNCFS annual operation budget allocation. No additional funding has been requested to date.
- In Prince Edward Island, the Mi'kmaq Confederacy of PEI's (now named Epekwitk Assembly of Councils Inc.) Director of Child and Family Services was the band representative for the two Mi'kmaq communities. The Director's salary is an eligible expenditure under the FNCFS annual operations budget allocation. Recently, the Chiefs designated one staff member within their band administration to exercise a band representative function.

The CWJI funding stream provides flexibility to First Nations in determining where to allocate resources, including towards "band representative" type activities. Funding for band representative services will be considered in ISC's ongoing discussions with First Nations to advance long term reform of the FNCFS Program.

Undertaking #11: Confirm how funding flows from ISC to Miakpukek First Nation for protection services and whether there is any delegation to ensure the flow of funding, and if so to confirm the specifics of the delegation.

While the provincial legislation in Newfoundland and Labrador provides for delegation since June 2019, as of yet there are no regulations in place to implement the delegation provision. As a result, ISC has a comprehensive funding agreement with the Miakpukek First Nation for the delivery of child and family services within its community, which includes both protection and prevention activities because Miakpukek also has a service agreement in place with the province for the delivery of protection services on-reserve.

Under the funding agreement with ISC, Miakpukek's protection care expenditures are reimbursed on actuals based on maintenance costs reported. Miawpukek also receives an annual allocation for operations and prevention, and as it is considered a small agency, it has access to reimbursement on actuals as per the CHRT orders.

Responses to undertaking of Nathalie Nepton during the January 8, 2020 cross-examination in the matter before the Canadian Human Rights Tribunal

Undertaking #12: Confirm how funding flows from ISC to MCPEI for protection services and whether there is any delegation to ensure the flow of funding, and if so to confirm the specifics of the delegation.

There is no delegation provision in PEI's legislation. ISC has a comprehensive funding agreement with MCPEI (now named Epekwitk Assembly of Councils Inc.) for the delivery of child and family services in the two Mi'kmaw communities, which includes both protection and prevention activities because MCPEI has a service agreement with the province for the delivery of protection services for children ordinarily living on-reserve.

Under the funding agreement with ISC, MCPEI's protection care expenditures are reimbursed on actuals based on maintenance costs reported. MCPEI also receives an annual allocation for operations and prevention. As it is considered a small agency, it has access to reimbursement on actuals as per the CHRT orders.

Undertaking #13: Provide the basis on which ISC reimburses the province of Newfoundland and Labrador for maintenance (e.g. is it based on an actual cost for reimbursement).

Under the bilateral agreement between ISC and Newfoundland and Labrador's Ministry of Children, Seniors and Social Development, protection care expenditures are reimbursed on actuals based on maintenance expenses, which are reported quarterly.

An operations (administration) budget is negotiated annually as part of the annual funding agreement, based on budget projections and substantiation submitted by the province.

3

An Act respecting First Nations, Inuit and Métis children, youth and families, SC 2019, c 24



CANADA

CONSOLIDATION

CODIFICATION

**An Act respecting First Nations,
Inuit and Métis children, youth
and families**

**Loi concernant les enfants, les
jeunes et les familles des
Premières Nations, des Inuits et
des Métis**

S.C. 2019, c. 24

L.C. 2019, ch. 24

Current to January 10, 2021

À jour au 10 janvier 2021

Last amended on January 1, 2020

Dernière modification le 1 janvier 2020

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

LAYOUT

The notes that appeared in the left or right margins are now in boldface text directly above the provisions to which they relate. They form no part of the enactment, but are inserted for convenience of reference only.

NOTE

This consolidation is current to January 10, 2021. The last amendments came into force on January 1, 2020. Any amendments that were not in force as of January 10, 2021 are set out at the end of this document under the heading “Amendments Not in Force”.

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité – lois

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

MISE EN PAGE

Les notes apparaissant auparavant dans les marges de droite ou de gauche se retrouvent maintenant en caractères gras juste au-dessus de la disposition à laquelle elles se rattachent. Elles ne font pas partie du texte, n'y figurant qu'à titre de repère ou d'information.

NOTE

Cette codification est à jour au 10 janvier 2021. Les dernières modifications sont entrées en vigueur le 1 janvier 2020. Toutes modifications qui n'étaient pas en vigueur au 10 janvier 2021 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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S.C. 2019, c. 24

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An Act respecting First Nations, Inuit and Métis children, youth and families

Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis

[Assented to 21st June 2019]

[Sanctionnée le 21 juin 2019]

Preamble

Whereas the Government of Canada is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples;

Whereas Canada ratified the United Nations Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination;

Whereas Parliament recognizes the legacy of residential schools and the harm, including intergenerational trauma, caused to Indigenous peoples by colonial policies and practices;

Whereas Parliament recognizes the disruption that Indigenous women and girls have experienced in their lives in relation to child and family services systems and the importance of supporting Indigenous women and girls in overcoming their historical disadvantage;

Whereas Parliament recognizes the importance of reuniting Indigenous children with their families and communities from whom they were separated in the context of the provision of child and family services;

Whereas the Truth and Reconciliation Commission of Canada's Calls to Action calls for the federal, provincial and Indigenous governments to work together with respect to the welfare of Indigenous children and calls for the enactment of federal legislation that establishes national standards for the welfare of Indigenous children;

Whereas Parliament affirms the right to self-determination of Indigenous peoples, including the inherent

Préambule

Attendu :

que le gouvernement du Canada s'est engagé à mettre en œuvre la Déclaration des Nations Unies sur les droits des peuples autochtones;

que le Canada a ratifié la Convention des Nations Unies relative aux droits de l'enfant et la Convention internationale sur l'élimination de toutes les formes de discrimination raciale;

que le Parlement reconnaît les séquelles découlant des pensionnats indiens ainsi que les torts, notamment les traumatismes intergénérationnels, causés aux peuples autochtones par les politiques et les pratiques coloniales;

que le Parlement reconnaît les bouleversements subis par les femmes et les filles autochtones en lien avec les systèmes de services à l'enfance et à la famille et l'importance de les aider à surmonter les désavantages historiques auxquels elles sont confrontées;

que le Parlement reconnaît l'importance de réunir avec leurs familles et leurs collectivités les enfants autochtones qui en ont été séparés dans le cadre de la fourniture de services à l'enfance et à la famille;

que la Commission de vérité et réconciliation du Canada a lancé des appels à l'action demandant aux gouvernements fédéral, provinciaux et autochtones de travailler ensemble pour le bien-être des enfants autochtones et demandant l'édiction de dispositions législatives fédérales qui établissent des normes nationales à cette fin;

right of self-government, which includes jurisdiction in relation to child and family services;

Whereas Parliament affirms the need

to respect the diversity of all Indigenous peoples, including the diversity of their laws, rights, treaties, histories, cultures, languages, customs and traditions,

to take into account the unique circumstances and needs of Indigenous elders, parents, youth, children, persons with disabilities, women, men and gender-diverse persons and two-spirit persons,

to address the needs of Indigenous children and to help ensure that there are no gaps in the services that are provided in relation to them, whether they reside on a reserve or not,

to eliminate the over-representation of Indigenous children in child and family services systems, and

to enact legislation for the benefit of Indigenous children, including First Nations, Inuit and Métis Nation children;

Whereas the Government of Canada is committed

to working in cooperation and partnership with Indigenous peoples to support the dignity and well-being of Indigenous children and youth and their families and communities, as well as the achievement of their full potential, and to respecting, strengthening and building on the accomplishments of Indigenous peoples in this regard,

to achieving reconciliation with First Nations, the Inuit and the Métis through renewed nation-to-nation, government-to-government and Inuit-Crown relationships based on recognition of rights, respect, cooperation and partnership, and

to engaging with Indigenous peoples and provincial governments to support a comprehensive reform of child and family services that are provided in relation to Indigenous children;

And whereas the Government of Canada acknowledges the ongoing call for funding for child and family services that is predictable, stable, sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Indigenous children, families and communities;

que le Parlement affirme le droit à l'autodétermination des peuples autochtones, y compris le droit inhérent à l'autonomie gouvernementale lequel comprend la compétence en matière de services à l'enfance et à la famille;

que le Parlement affirme la nécessité :

de respecter la diversité de tous les peuples autochtones, notamment en ce qui a trait à leurs lois, à leurs droits, à leurs traités, à leur histoire, à leur culture, à leur langue, à leurs coutumes et à leurs traditions,

de reconnaître la situation et les besoins propres aux aînés, aux parents, aux jeunes, aux enfants, aux femmes ou aux hommes autochtones, ainsi que ceux propres aux Autochtones ayant un handicap, de diverses identités de genre ou bispirituels,

de combler les besoins des enfants autochtones et d'aider à faire en sorte que les services qui sont fournis à leur égard ne comportent pas de lacune, et ce, qu'ils résident ou non dans une réserve,

de mettre fin à la surreprésentation des enfants autochtones dans les systèmes de services à l'enfance et à la famille,

d'édicter des dispositions législatives pour le bien des enfants autochtones, notamment ceux d'entre eux qui sont issus d'une première nation, qui sont des Inuits ou qui sont issus de la Nation métisse;

que le gouvernement du Canada s'est engagé :

à travailler en coopération et en partenariat avec les peuples autochtones afin de favoriser la dignité, le bien-être et le plein épanouissement des enfants et des jeunes autochtones, de leurs familles et de leurs collectivités et à respecter, à renforcer et à utiliser comme fondement les réalisations de ces peuples à cet égard,

à mener à bien la réconciliation avec les Premières Nations, les Inuits et les Métis grâce à des relations renouvelées de nation à nation, de gouvernement à gouvernement et entre les Inuits et la Couronne, qui reposent sur la reconnaissance des droits, le respect, la coopération et le partenariat,

à dialoguer avec les peuples autochtones et les gouvernements des provinces pour appuyer une réforme en profondeur des services à l'enfance et à la famille fournis à l'égard des enfants autochtones;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Interpretation

Definitions

1 The following definitions apply in this Act.

care provider means a person who has primary responsibility for providing the day-to-day care of an Indigenous child, other than the child's parent, including in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs. (*fournisseur de soins*)

child and family services means services to support children and families, including prevention services, early intervention services and child protection services. (*services à l'enfance et à la famille*)

coordination agreement means an agreement referred to in subsection 20(2). (*accord de coordination*)

family includes a person whom a child considers to be a close relative or whom the Indigenous group, community or people to which the child belongs considers, in accordance with the customs, traditions or customary adoption practices of that Indigenous group, community or people, to be a close relative of the child. (*famille*)

Indigenous, when used in respect of a person, also describes a First Nations person, an Inuk or a Métis person. (*autochtone*)

Indigenous governing body means a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. (*corps dirigeant autochtone*)

Indigenous peoples has the meaning assigned by the definition *aboriginal peoples of Canada* in subsection 35(2) of the *Constitution Act, 1982*. (*peuples autochtones*)

que le gouvernement du Canada reconnaît la demande constante d'obtention d'un financement des services à l'enfance et à la famille qui soit prévisible, stable, durable, fondé sur les besoins et conforme au principe de l'égalité réelle afin d'atteindre des résultats qui sont positifs à long terme pour les enfants, les familles et les collectivités autochtones,

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Définitions et interprétation

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

accord de coordination L'accord visé au paragraphe 20(2). (*coordination agreement*)

autochtone S'agissant d'une personne, vise notamment celle issue d'une première nation, un Inuit ou un Métis. (*Indigenous*)

corps dirigeant autochtone Conseil, gouvernement ou autre entité autorisé à agir pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones titulaires de droits reconnus et confirmés par l'article 35 de la *Loi constitutionnelle de 1982*. (*Indigenous governing body*)

famille Vise notamment toute personne que l'enfant considère être un proche parent ou qui, conformément aux coutumes, aux traditions ou aux pratiques coutumières en matière d'adoption du groupe, de la collectivité ou du peuple autochtones dont l'enfant fait partie, est considérée par ce groupe, cette collectivité ou ce peuple être un proche parent de l'enfant. (*family*)

fournisseur de soins S'entend de toute personne qui a la responsabilité principale de fournir des soins quotidiens à un enfant autochtone, autre qu'un parent — mère ou père — de celui-ci, notamment en conformité avec les coutumes ou les traditions du groupe, de la collectivité ou du peuple autochtones dont l'enfant fait partie. (*care provider*)

ministre Le ministre des Services aux Autochtones. (*Minister*)

peuples autochtones S'entend au sens de *peuples autochtones du Canada*, au paragraphe 35(2) de la *Loi constitutionnelle de 1982*. (*Indigenous peoples*)

Minister means the Minister of Indigenous Services. (*ministre*)

2019, c. 24, s. 1; 2019, c. 29, s. 378.

Rights of Indigenous peoples

2 This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them.

Conflict — existing agreement

3 If there is a conflict or inconsistency between a provision that is in an agreement — including a treaty or a self-government agreement — that contains provisions respecting child and family services, concluded before the day on which subsection 18(1) comes into force, between an Indigenous group, community or people and Her Majesty in right of Canada or of a province and a provision of this Act or the regulations, the provision that is in the agreement prevails to the extent of the conflict or inconsistency.

Minimum standards

4 For greater certainty, nothing in this Act affects the application of a provision of a provincial Act or regulation to the extent that the provision does not conflict with, or is not inconsistent with, the provisions of this Act.

Nunavut Act

5 Subject to section 4, nothing in this Act affects the Legislature for Nunavut's legislative powers referred to in section 23 of the *Nunavut Act*.

6 [Repealed, 2019, c. 29, s. 378]

Her Majesty

Binding on Her Majesty

7 This Act is binding on Her Majesty in right of Canada or of a province.

Purpose and Principles

Purpose

8 The purpose of this Act is to

- (a) affirm the inherent right of self-government, which includes jurisdiction in relation to child and family services;

services à l'enfance et à la famille Services de soutien aux enfants et aux familles, notamment des services de prévention, d'intervention précoce et de protection des enfants. (*child and family services*)

2019, ch. 24, art. 1; 2019, ch. 29, art. 378.

Droits des peuples autochtones

2 La présente loi maintient les droits des peuples autochtones reconnus et confirmés par l'article 35 de la *Loi constitutionnelle de 1982*; elle n'y porte pas atteinte.

Conflict — accord existant

3 Les dispositions de tout accord — notamment d'un traité ou d'un accord sur l'autonomie gouvernementale — comprenant des dispositions relatives aux services à l'enfance et à la famille qui a été conclu avant la date d'entrée en vigueur du paragraphe 18(1) entre, d'une part, un groupe, une collectivité ou un peuple autochtones et, d'autre part, Sa Majesté du chef du Canada ou d'une province l'emportent sur les dispositions incompatibles de la présente loi et de ses règlements.

Normes minimales

4 Il est entendu que la présente loi ne porte atteinte à l'application des dispositions d'aucune loi provinciale — ni d'aucun règlement pris en vertu d'une telle loi — dans la mesure où elles ne sont pas incompatibles avec les dispositions de la présente loi.

Loi sur le Nunavut

5 Sous réserve de l'article 4, la présente loi ne porte pas atteinte à la compétence législative de la Législature du Nunavut visée à l'article 23 de la *Loi sur le Nunavut*.

6 [Abrogé, 2019, ch. 29, art. 378]

Sa Majesté

Obligation de Sa Majesté

7 La présente loi lie Sa Majesté du chef du Canada ou d'une province.

Objet et principes

Objet

8 La présente loi a pour objet :

- a) d'affirmer le droit inhérent à l'autonomie gouvernementale lequel comprend la compétence en matière de services à l'enfance et à la famille;

(b) set out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children; and

(c) contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Principle — best interests of child

9 (1) This Act is to be interpreted and administered in accordance with the principle of the best interests of the child.

Principle — cultural continuity

(2) This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

(a) cultural continuity is essential to the well-being of a child, a family and an Indigenous group, community or people;

(b) the transmission of the languages, cultures, practices, customs, traditions, ceremonies and knowledge of Indigenous peoples is integral to cultural continuity;

(c) a child's best interests are often promoted when the child resides with members of his or her family and the culture of the Indigenous group, community or people to which he or she belongs is respected;

(d) child and family services provided in relation to an Indigenous child are to be provided in a manner that does not contribute to the assimilation of the Indigenous group, community or people to which the child belongs or to the destruction of the culture of that Indigenous group, community or people; and

(e) the characteristics and challenges of the region in which a child, a family or an Indigenous group, community or people is located are to be considered.

Principle — substantive equality

(3) This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

(a) the rights and distinct needs of a child with a disability are to be considered in order to promote the child's participation, to the same extent as other children, in the activities of his or her family or the Indigenous group, community or people to which he or she belongs;

b) d'énoncer des principes applicables à la fourniture de services à l'enfance et à la famille à l'égard des enfants autochtones, et ce, à l'échelle nationale;

c) de contribuer à la mise en œuvre de la Déclaration des Nations Unies sur les droits des peuples autochtones.

Principe — intérêt de l'enfant

9 (1) La présente loi doit être interprétée et administrée en conformité avec le principe de l'intérêt de l'enfant.

Principe — continuité culturelle

(2) La présente loi doit être interprétée et administrée en conformité avec le principe de la continuité culturelle, et ce, selon les concepts voulant que :

a) la continuité culturelle est essentielle au bien-être des enfants, des familles et des groupes, collectivités ou peuples autochtones;

b) la transmission de la langue, de la culture, des pratiques, des coutumes, des traditions, des cérémonies et des connaissances des peuples autochtones fait partie intégrante de la continuité culturelle;

c) le fait que l'enfant réside avec des membres de sa famille et le fait de respecter la culture du groupe, de la collectivité ou du peuple autochtones dont il fait partie favorisent souvent l'intérêt de l'enfant;

d) les services à l'enfance et à la famille sont fournis à l'égard d'un enfant autochtone de manière à ne pas contribuer à l'assimilation du groupe, de la collectivité ou du peuple autochtones dont il fait partie ou à la destruction de la culture de ce groupe, de cette collectivité ou de ce peuple;

e) les caractéristiques et les défis propres à la région où se trouvent les enfants, les familles et les groupes, collectivités ou peuples autochtones doivent être pris en considération.

Principe — égalité réelle

(3) La présente loi doit être interprétée et administrée en conformité avec le principe de l'égalité réelle, et ce, selon les concepts voulant que :

a) les droits et les besoins particuliers d'un enfant handicapé doivent être pris en considération afin de favoriser sa participation — autant que celle des autres enfants — aux activités de sa famille ou du groupe, de la collectivité ou du peuple autochtones dont il fait partie;

(b) a child must be able to exercise his or her rights under this Act, including the right to have his or her views and preferences considered in decisions that affect him or her, and he or she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;

(c) a child's family member must be able to exercise his or her rights under this Act, including the right to have his or her views and preferences considered in decisions that affect him or her, and he or she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;

(d) the Indigenous governing body acting on behalf of the Indigenous group, community or people to which a child belongs must be able to exercise without discrimination the rights of the Indigenous group, community or people under this Act, including the right to have the views and preferences of the Indigenous group, community or people considered in decisions that affect that Indigenous group, community or people; and

(e) in order to promote substantive equality between Indigenous children and other children, a jurisdictional dispute must not result in a gap in the child and family services that are provided in relation to Indigenous children.

Best Interests of Indigenous Child

Best interests of Indigenous child

10 (1) The best interests of the child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of child and family services in relation to an Indigenous child and, in the case of decisions or actions related to child apprehension, the best interests of the child must be the paramount consideration.

Primary consideration

(2) When the factors referred to in subsection (3) are being considered, primary consideration must be given to the child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that child, of having an ongoing relationship with his or her family and with the Indigenous group, community or people to which he or she belongs and of preserving the child's connections to his or her culture.

b) tout enfant doit être en mesure d'exercer sans discrimination, notamment celle fondée sur le sexe et l'identité ou l'expression de genre, ses droits prévus par la présente loi, en particulier le droit de voir son point de vue et ses préférences être pris en considération dans les décisions le concernant;

c) tout membre de la famille d'un enfant doit être en mesure d'exercer sans discrimination, notamment celle fondée sur le sexe et l'identité ou l'expression de genre, ses droits prévus par la présente loi, en particulier le droit de voir son point de vue et ses préférences être pris en considération dans les décisions le concernant;

d) le corps dirigeant autochtone agissant pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones dont un enfant fait partie doit être en mesure d'exercer sans discrimination les droits de ce groupe, de cette collectivité ou de ce peuple prévus par la présente loi, en particulier le droit de voir le point de vue et les préférences de ce groupe, de cette collectivité ou de ce peuple être pris en considération dans les décisions les concernant;

e) dans le but de promouvoir l'égalité réelle entre les enfants autochtones et les autres enfants, aucun conflit de compétence ne doit occasionner de lacune dans les services à l'enfance et à la famille fournis à l'égard des enfants autochtones.

Intérêt de l'enfant autochtone

Intérêt de l'enfant autochtone

10 (1) L'intérêt de l'enfant est une considération primordiale dans la prise de décisions ou de mesures dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone et, s'agissant de décisions et de mesures relatives à la prise en charge de l'enfant, l'intérêt de celui-ci est la considération fondamentale.

Considération première

(2) Lorsqu'il est tenu compte des facteurs prévus au paragraphe (3), une attention particulière doit être accordée au bien-être et à la sécurité physiques, psychologiques et affectifs de l'enfant, ainsi qu'à l'importance pour lui d'avoir des rapports continus avec sa famille et le groupe, la collectivité ou le peuple autochtones dont il fait partie et de préserver ses liens avec sa culture.

Factors to be considered

(3) To determine the best interests of an Indigenous child, all factors related to the circumstances of the child must be considered, including

- (a)** the child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (b)** the child's needs, given the child's age and stage of development, such as the child's need for stability;
- (c)** the nature and strength of the child's relationship with his or her parent, the care provider and any member of his or her family who plays an important role in his or her life;
- (d)** the importance to the child of preserving the child's cultural identity and connections to the language and territory of the Indigenous group, community or people to which the child belongs;
- (e)** the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;
- (f)** any plans for the child's care, including care in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs;
- (g)** any family violence and its impact on the child, including whether the child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the child; and
- (h)** any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.

Consistency

(4) Subsections (1) to (3) are to be construed in relation to an Indigenous child, to the extent that it is possible to do so, in a manner that is consistent with a provision of a law of the Indigenous group, community or people to which the child belongs.

Provision of Child and Family Services

Effect of services

11 Child and family services provided in relation to an Indigenous child are to be provided in a manner that

Facteurs à considérer

(3) Pour déterminer l'intérêt de l'enfant autochtone, il doit être tenu compte de tout facteur lié à la situation de ce dernier, notamment :

- a)** son patrimoine et son éducation culturels, linguistiques, religieux et spirituels;
- b)** ses besoins, dont son besoin de stabilité, compte tenu de son âge et du stade de son développement;
- c)** la nature et la solidité de ses rapports avec son parent — mère ou père —, son fournisseur de soins et tout membre de sa famille ayant un rôle important dans sa vie;
- d)** l'importance pour lui de préserver son identité culturelle et ses liens avec la langue et le territoire du groupe, de la collectivité ou du peuple autochtones dont il fait partie;
- e)** son point de vue et ses préférences, compte tenu de son âge et de son degré de maturité, sauf s'ils ne peuvent être établis;
- f)** tout plan concernant ses soins, lequel peut comprendre des soins donnés conformément aux coutumes ou aux traditions du groupe, de la collectivité ou du peuple autochtones dont il fait partie;
- g)** la présence de violence familiale et ses effets sur l'enfant, notamment le fait que l'enfant y soit ou non directement ou indirectement exposé, ainsi que le tort physique, affectif ou psychologique causé à l'enfant ou le risque qu'un tel tort lui soit causé;
- h)** toute procédure judiciaire, ordonnance, condition ou mesure, de nature civile ou pénale, concernant sa sécurité ou son bien-être.

Compatibilité

(4) Les paragraphes (1) à (3) doivent, dans la mesure du possible, être interprétés à l'égard d'un enfant autochtone de manière compatible avec les dispositions du texte législatif du groupe, de la collectivité ou du peuple autochtone dont l'enfant fait partie.

Fourniture des services à l'enfance et à la famille

Effet des services

11 Les services à l'enfance et à la famille sont fournis à l'égard de l'enfant autochtone de manière à :

(a) takes into account the child's needs, including with respect to his or her physical, emotional and psychological safety, security and well-being;

(b) takes into account the child's culture;

(c) allows the child to know his or her family origins; and

(d) promotes substantive equality between the child and other children.

Notice

12 (1) In the context of providing child and family services in relation to an Indigenous child, to the extent that doing so is consistent with the best interests of the child, before taking any significant measure in relation to the child, the service provider must provide notice of the measure to the child's parent and the care provider, as well as to the Indigenous governing body that acts on behalf of the Indigenous group, community or people to which the child belongs and that has informed the service provider that they are acting on behalf of that Indigenous group, community or people.

Personal information

(2) The service provider must ensure that the notice provided to an Indigenous governing body under subsection (1) does not contain personal information about the child, a member of the child's family or the care provider, other than information that is necessary to explain the proposed significant measure or that is required by the Indigenous governing body's coordination agreement.

Representations and party status

13 In the context of a civil proceeding in respect of the provision of child and family services in relation to an Indigenous child,

(a) the child's parent and the care provider have the right to make representations and to have party status; and

(b) the Indigenous governing body acting on behalf of the Indigenous group, community or people to which the child belongs has the right to make representations.

Priority to preventive care

14 (1) In the context of providing child and family services in relation to an Indigenous child, to the extent that providing a service that promotes preventive care to support the child's family is consistent with the best interests

a) tenir compte de ses besoins, notamment en matière de bien-être et de sécurité physiques, psychologiques et affectifs;

b) tenir compte de sa culture;

c) lui permettre de connaître ses origines familiales;

d) favoriser l'égalité réelle entre lui et les autres enfants.

Avis

12 (1) Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, dans la mesure où cela est compatible avec l'intérêt de l'enfant, avant la prise d'une mesure importante à son égard, le responsable de la fourniture des services est tenu d'en aviser son parent — mère ou père — et son fournisseur de soins, ainsi que le corps dirigeant autochtone qui, d'une part, agit pour le compte du groupe, de la collectivité ou du peuple autochtones dont l'enfant fait partie et, d'autre part, en a informé le responsable de la fourniture des services.

Renseignement personnel

(2) Le responsable de la fourniture des services veille à ce que l'avis donné au corps dirigeant autochtone au titre du paragraphe (1) ne contienne aucun renseignement personnel à l'égard de l'enfant, d'un membre de sa famille ou de son fournisseur de soins, outre les renseignements qui sont nécessaires pour expliquer la mesure importante qui est proposée ou qui sont exigés par l'accord de coordination du corps dirigeant autochtone.

Représentations et qualité de partie

13 Dans le cadre de toute procédure judiciaire de nature civile relative à la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone :

a) le parent — mère ou père — et le fournisseur de soins de l'enfant ont le droit de faire des représentations et d'avoir qualité de partie;

b) le corps dirigeant autochtone agissant pour le compte du groupe, de la collectivité ou du peuple autochtones dont l'enfant fait partie a le droit de faire des représentations.

Priorité aux soins préventifs

14 (1) Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, dans la mesure où cela est compatible avec l'intérêt de

of the child, the provision of that service is to be given priority over other services.

Prenatal care

(2) To the extent that providing a prenatal service that promotes preventive care is consistent with what will likely be in the best interests of an Indigenous child after he or she is born, the provision of that service is to be given priority over other services in order to prevent the apprehension of the child at the time of the child's birth.

Socio-economic conditions

15 In the context of providing child and family services in relation to an Indigenous child, to the extent that it is consistent with the best interests of the child, the child must not be apprehended solely on the basis of his or her socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of his or her parent or the care provider.

Reasonable efforts

15.1 In the context of providing child and family services in relation to an Indigenous child, unless immediate apprehension is consistent with the best interests of the child, before apprehending a child who resides with one of the child's parents or another adult member of the child's family, the service provider must demonstrate that he or she made reasonable efforts to have the child continue to reside with that person.

Placement of Indigenous Child

Priority

16 (1) The placement of an Indigenous child in the context of providing child and family services in relation to the child, to the extent that it is consistent with the best interests of the child, is to occur in the following order of priority:

- (a)** with one of the child's parents;
- (b)** with another adult member of the child's family;
- (c)** with an adult who belongs to the same Indigenous group, community or people as the child;
- (d)** with an adult who belongs to an Indigenous group, community or people other than the one to which the child belongs; or

l'enfant, les services favorisant des soins préventifs destinés à aider la famille de celui-ci ont priorité sur les autres services.

Soins prénatals

(2) Dans la mesure où la fourniture de services prénatals favorisant des soins préventifs est compatible avec ce qui, après sa naissance, est susceptible d'être dans l'intérêt de l'enfant autochtone, la fourniture de ces services a priorité sur la fourniture d'autres services afin de prévenir la prise en charge de l'enfant à sa naissance.

Condition socio-économique

15 Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, dans la mesure où cela est compatible avec son intérêt, l'enfant ne doit pas être pris en charge seulement en raison de sa condition socio-économique, notamment la pauvreté, le manque de logement ou d'infrastructures convenables et l'état de santé de son parent — mère ou père — ou de son fournisseur de soins.

Efforts raisonnables

15.1 Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, sauf si sa prise en charge immédiate est compatible avec son intérêt, avant que l'enfant qui réside avec un parent — mère ou père — ou avec un autre membre de sa famille qui est un adulte ne puisse être pris en charge, le responsable de la fourniture des services est tenu de démontrer que des efforts raisonnables ont été faits pour que l'enfant continue de résider avec celui-ci.

Placement de l'enfant autochtone

Priorité

16 (1) Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, le placement de l'enfant, dans la mesure où cela est compatible avec son intérêt, se fait auprès de l'une des personnes ci-après énumérées par ordre de priorité :

- a)** un parent — mère ou père — de l'enfant;
- b)** un autre membre de sa famille qui est un adulte;
- c)** un adulte appartenant au groupe, à la collectivité ou au peuple autochtones dont il fait partie;
- d)** un adulte appartenant à un groupe, à une collectivité ou à un peuple autochtones autre que celui dont il fait partie;

(e) with any other adult.

Placement with or near other children

(2) When the order of priority set out in subsection (1) is being applied, the possibility of placing the child with or near children who have the same parent as the child, or who are otherwise members of the child's family, must be considered in the determination of whether a placement would be consistent with the best interests of the child.

Customs and traditions

(2.1) The placement of a child under subsection (1) must take into account the customs and traditions of Indigenous peoples such as with regards to customary adoption.

Family unity

(3) In the context of providing child and family services in relation to an Indigenous child, there must be a re-assessment, conducted on an ongoing basis, of whether it would be appropriate to place the child with

(a) a person referred to in paragraph (1)(a), if the child does not reside with such a person; or

(b) a person referred to in paragraph (1)(b), if the child does not reside with such a person and unless the child resides with a person referred to in paragraph (1)(a).

Attachment and emotional ties

17 In the context of providing child and family services in relation to an Indigenous child, if the child is not placed with a member of his or her family in accordance with paragraph 16(1)(a) or (b), to the extent that doing so is consistent with the best interests of the child, the child's attachment and emotional ties to each such member of his or her family are to be promoted.

Jurisdiction — Child and Family Services

Affirmation

18 (1) The inherent right of self-government recognized and affirmed by section 35 of the *Constitution Act, 1982* includes jurisdiction in relation to child and family services, including legislative authority in relation to those services and authority to administer and enforce laws made under that legislative authority.

e) tout autre adulte.

Placement avec d'autres enfants ou près d'eux

(2) S'agissant d'un placement visé au paragraphe (1), pour décider de ce qui est compatible avec l'intérêt de l'enfant, il doit être tenu compte de la possibilité de placer celui-ci avec des enfants qui ont le même parent — mère ou père — que lui ou qui sont autrement membres de sa famille, ou près de tels enfants.

Coutumes et traditions

(2.1) S'agissant d'un placement visé au paragraphe (1), il doit être tenu compte des coutumes et des traditions des peuples autochtones en matière d'adoption, notamment en ce qui concerne l'adoption coutumière.

Unité familiale

(3) Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, est réévaluée régulièrement :

a) l'opportunité pour l'enfant qui ne réside pas avec une personne visée à l'alinéa (1)a) d'être placé auprès d'une telle personne;

b) sauf si l'enfant réside avec une personne visée à l'alinéa (1)a), l'opportunité pour l'enfant qui ne réside pas avec une personne visée à l'alinéa (1)b) d'être placé auprès d'une telle personne.

Attachement et liens affectifs

17 Dans le cadre de la fourniture de services à l'enfance et à la famille à l'égard d'un enfant autochtone, sont favorisés, dans la mesure où cela est compatible avec l'intérêt de l'enfant, l'attachement de l'enfant pour tout membre de sa famille avec lequel il n'est pas placé conformément aux alinéas 16(1)a) ou b) et les liens affectifs entre l'enfant et ce dernier.

Compétence en matière de services à l'enfance et à la famille

Affirmation

18 (1) Le droit inhérent à l'autonomie gouvernementale reconnu et confirmé par l'article 35 de la *Loi constitutionnelle de 1982* comprend la compétence en matière de services à l'enfance et à la famille, notamment la compétence législative en matière de tels services et l'exécution et le contrôle d'application des textes législatifs pris en vertu de cette compétence législative.

Dispute resolution mechanisms

(2) For greater certainty and for the purposes of subsection (1), the authority to administer and enforce laws includes the authority to provide for dispute resolution mechanisms.

Application of *Canadian Charter of Rights and Freedoms*

19 The *Canadian Charter of Rights and Freedoms* applies to an Indigenous governing body in the exercise of jurisdiction in relation to child and family services on behalf of an Indigenous group, community or people.

Laws of Indigenous Groups, Communities or Peoples

Coordination and Application

Notice

20 (1) If an Indigenous group, community or people intends to exercise its legislative authority in relation to child and family services, an Indigenous governing body acting on behalf of that Indigenous group, community or people may give notice of that intention to the Minister and the government of each province in which the Indigenous group, community or people is located.

Coordination agreement

(2) The Indigenous governing body may also request that the Minister and the government of each of those provinces enter into a coordination agreement with the Indigenous governing body in relation to the exercise of the legislative authority, respecting, among other things,

(a) the provision of emergency services to ensure the safety, security and well-being of Indigenous children;

(b) support measures to enable Indigenous children to exercise their rights effectively;

(c) fiscal arrangements, relating to the provision of child and family services by the Indigenous governing body, that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Indigenous children, families and communities and to support the capacity of the Indigenous group, community or people to exercise the legislative authority effectively; and

Mécanismes de résolution des différends

(2) Pour l'application du paragraphe (1), il est entendu que l'exécution et le contrôle d'application comprend la compétence de prévoir des mécanismes de résolution des différends.

Application de la *Charte canadienne des droits et libertés*

19 La *Charte canadienne des droits et libertés* s'applique à tout corps dirigeant autochtone qui exerce la compétence en matière de services à l'enfance et à la famille pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones.

Texte législatif d'un groupe, d'une collectivité ou d'un peuple autochtones

Coordination et application

Avis

20 (1) Le corps dirigeant autochtone agissant pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones qui a l'intention d'exercer sa compétence législative en matière de services à l'enfance et à la famille peut en donner avis au ministre et au gouvernement de chacune des provinces où est situé le groupe, la collectivité ou le peuple.

Accord de coordination

(2) Ce corps dirigeant autochtone peut également demander au ministre et au gouvernement de chacune de ces provinces de conclure avec lui un accord de coordination concernant l'exercice de cette compétence portant notamment sur :

a) la fourniture de services d'urgence nécessaires au bien-être et à la sécurité des enfants autochtones;

b) des mesures de soutien permettant aux enfants autochtones d'exercer leurs droits efficacement;

c) des arrangements fiscaux concernant la fourniture de services à l'enfance et à la famille par le corps dirigeant autochtone qui soient durables, fondés sur les besoins et conformes au principe de l'égalité réelle afin d'atteindre des résultats qui sont positifs à long terme pour les enfants, les familles et les collectivités autochtones et de soutenir la capacité du groupe, de la collectivité ou du peuple autochtones d'exercer efficacement la compétence législative;

(d) any other coordination measure related to the effective exercise of the legislative authority.

Application — sections 21 and 22

(3) Sections 21 and 22 apply only in respect of an Indigenous group, community or people on whose behalf an Indigenous governing body

- (a)** entered into a coordination agreement; or
- (b)** has not entered into a coordination agreement, although it made reasonable efforts to do so during the period of one year after the day on which the request is made.

Clarification

(4) For the purposes of paragraph 3(b), sections 21 and 22 apply beginning on the day after the day on which the period referred to in that paragraph ends.

Dispute resolution mechanism

(5) If the Indigenous governing body, the Minister and the government of each of those provinces make reasonable efforts to enter into a coordination agreement but do not enter into a coordination agreement, a dispute resolution mechanism provided for by the regulations made under section 32 may be used to promote entering into a coordination agreement.

New request

(6) If sections 21 and 22 do not apply in respect of an Indigenous group, community or people, nothing prevents the Indigenous governing body that has already made a request under subsection (2) on behalf of the Indigenous group, community or people from making a new request.

Coordination agreement entered into after one year

(7) For greater certainty, even if sections 21 and 22 apply in respect of an Indigenous group, community or people on behalf of which an Indigenous governing body has not entered into a coordination agreement, nothing prevents the Indigenous governing body from entering into a coordination agreement after the end of the period referred to in paragraph (3)(b).

Force of law

21 (1) A law, as amended from time to time, of an Indigenous group, community or people referred to in subsection 20(3) also has, during the period that the law is in force, the force of law as federal law.

d) toute autre mesure de coordination liée à un exercice efficace de la compétence législative.

Application des articles 21 et 22

(3) Les articles 21 et 22 ne s'appliquent qu'à l'égard du groupe, de la collectivité ou du peuple autochtones pour le compte duquel un corps dirigeant autochtone :

- a)** soit a conclu l'accord de coordination;
- b)** soit ne l'a pas conclu, mais a fait des efforts raisonnables à cette fin dans l'année qui suit la date de présentation de la demande.

Précision

(4) Pour l'application de l'alinéa (3)b), les articles 21 et 22 s'appliquent à compter de la date qui suit celle à laquelle expire la période visée à cet alinéa.

Mécanisme de résolution des différends

(5) Si le corps dirigeant autochtone, le ministre et les gouvernements de chacune de ces provinces font des efforts raisonnables pour conclure l'accord de coordination mais qu'ils ne le concluent pas, le mécanisme de résolution des différends prévu par les règlements pris en vertu de l'article 32 peut être utilisé afin d'en favoriser la conclusion.

Nouvelle demande

(6) Tant que les articles 21 et 22 ne s'appliquent pas à l'égard d'un groupe, d'une collectivité ou d'un peuple autochtones, rien n'empêche le corps dirigeant autochtone qui a déjà présenté une demande au titre du paragraphe (2) pour le compte de ce groupe, de cette collectivité ou de ce peuple d'en présenter une nouvelle.

Accord de coordination conclu après une année

(7) Il est entendu que, même si les articles 21 et 22 s'appliquent à l'égard d'un groupe, d'une collectivité ou d'un peuple autochtones pour le compte duquel un corps dirigeant autochtone n'a pas conclu l'accord de coordination, rien n'empêche le corps dirigeant autochtone de le conclure après l'expiration de la période visée à l'alinéa (3)b).

Force de loi

21 (1) A également force de loi, à titre de loi fédérale, le texte législatif, avec ses modifications successives, du groupe, de la collectivité ou du peuple autochtones visé au paragraphe 20(3), pendant la période au cours de laquelle ce texte est en vigueur.

Interpretation

(2) No federal law, other than this Act, affects the interpretation of a law referred to in subsection (1) by reason only that subsection (1) gives the law the force of law as federal law.

Application of federal laws

(3) No federal law, other than this Act and the *Canadian Human Rights Act*, applies in relation to a law referred to in subsection (1) by reason only that subsection (1) gives the law the force of law as federal law.

Conflict — federal laws

22 (1) If there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services — other than any of sections 10 to 15 of this Act and the provisions of the *Canadian Human Rights Act* — that is in a federal Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

Clarification

(2) The reference to a “federal Act or regulation” in subsection (1) does not include a reference to a law that has the force of law under subsection 21(1).

Conflict — provincial laws

(3) For greater certainty, if there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services that is in a provincial Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency.

Application to Indigenous children — exception

23 A provision respecting child and family services that is in a law of an Indigenous group, community or people applies in relation to an Indigenous child except if the application of the provision would be contrary to the best interests of the child.

Conflict — stronger ties

24 (1) If there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services that is in a law of another Indigenous group, community or people,

Interprétation

(2) Les lois fédérales, autre que la présente loi, n'ont aucun effet sur l'interprétation du texte visé au paragraphe (1) du seul fait que ce paragraphe lui donne force de loi à titre de loi fédérale.

Application des lois fédérales

(3) Les lois fédérales, autre que la présente loi et la *Loi canadienne sur les droits de la personne*, ne s'appliquent pas relativement au texte visé au paragraphe (1) du seul fait que ce paragraphe lui donne force de loi à titre de loi fédérale.

Conflit — loi fédérale

22 (1) Les dispositions relatives aux services à l'enfance et à la famille de tout texte législatif d'un groupe, d'une collectivité ou d'un peuple autochtones l'emportent sur les dispositions incompatibles relatives aux services à l'enfance et à la famille, autres que les articles 10 à 15 de la présente loi et les dispositions de la *Loi canadienne sur les droits de la personne*, de toute loi fédérale ou de tout règlement pris en vertu d'une telle loi.

Précision

(2) Les mentions de « loi fédérale » et de « règlement pris en vertu d'une telle loi », au paragraphe (1), ne visent pas le texte législatif auquel le paragraphe 21(1) donne force de loi.

Conflit — loi provinciale

(3) Il est entendu que les dispositions relatives aux services à l'enfance et à la famille de tout texte législatif d'un groupe, d'une collectivité ou d'un peuple autochtones l'emportent sur les dispositions incompatibles relatives aux services à l'enfance et à la famille de toute loi provinciale ou de tout règlement pris en vertu d'une telle loi.

Application aux enfants autochtones — exception

23 La disposition relative aux services à l'enfance et à la famille de tout texte législatif d'un groupe, d'une collectivité ou d'un peuple autochtones s'applique à l'égard d'un enfant autochtone, sauf si son application est contraire à l'intérêt de l'enfant.

Conflit — liens plus étroits

24 (1) Les dispositions relatives aux services à l'enfance et à la famille de tout texte législatif d'un groupe, d'une collectivité ou d'un peuple autochtones avec lequel, compte tenu de sa résidence habituelle, ainsi que de son point de vue et de ses préférences, eu égard à son âge et à

the provision that is in the law of the Indigenous group, community or people with which the child has stronger ties — taking into consideration his or her habitual residence as well as his or her views and preferences, giving due weight to his or her age and maturity, unless they cannot be ascertained, and the views and preferences of his or her parent and the care provider — prevails to the extent of the conflict or inconsistency.

References to laws

(2) Subsection (1) also applies in respect of the provisions of a law that has the force of law under subsection 21(1).

Publication and Accessibility

Publication

25 The Minister must

(a) as soon as feasible after receiving a notice under subsection 20(1), or a request under subsection 20(2), post on a website the name of the Indigenous group, community or people on whose behalf an Indigenous governing body has given the notice or made the request, as the case may be, and the date on which the notice or request was received;

(b) as soon as feasible after a coordination agreement is entered into, post on a website the name of the Indigenous group, community or people on whose behalf an Indigenous governing body has entered into the coordination agreement and the date on which it was entered into; and

(c) as soon as feasible after receiving notice that a law made on behalf of an Indigenous group, community or people contains a provision respecting child and family services, post on a website the name of that Indigenous group, community or people and the date on which the law comes into force.

Accessibility

26 After receiving a copy of a law that contains a provision respecting child and family services made on behalf of an Indigenous group, community or people referred to in subsection 20(3), the Minister is to ensure that the law is made accessible to the public in any manner that the Minister considers appropriate, and to that end may publish the law, as amended from time to time, in the *Canada Gazette*.

son degré de maturité, sauf s'ils ne peuvent être établis, et du point de vue et des préférences de son parent — mère ou père — et de son fournisseur de soin, l'enfant entretient des liens plus étroits que ceux qu'il entretient avec un autre groupe, une autre collectivité ou un autre peuple l'emportent sur les dispositions incompatibles relatives aux services à l'enfance et à la famille du texte législatif de cet autre groupe, de cette autre collectivité ou de cet autre peuple.

Précision

(2) Les dispositions des textes législatifs auxquels le paragraphe 21(1) donne force de loi sont également visées par le paragraphe (1).

Publication et accessibilité

Publication

25 Le ministre affiche les renseignements ci-après sur un site Web :

a) dès que possible après réception de l'avis visé au paragraphe 20(1) ou de la demande présentée au titre du paragraphe 20(2), le nom du groupe, de la collectivité ou du peuple autochtones pour le compte duquel l'avis a été donné ou la demande a été présentée et la date à laquelle l'avis ou la demande ont été reçus;

b) dès que possible après la conclusion de l'accord de coordination, le nom du groupe, de la collectivité ou du peuple autochtones pour le compte duquel il a été conclu et la date à laquelle il l'a été;

c) dès que possible après réception d'un avis attestant qu'un texte législatif comprenant des dispositions relatives aux services à l'enfance et à la famille a été pris pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones, le nom de ce groupe, de cette collectivité ou de ce peuple autochtones et la date à laquelle le texte est entré en vigueur.

Accessibilité

26 Après réception de la copie d'un texte législatif comprenant des dispositions relatives aux services à l'enfance et à la famille pris pour le compte d'un groupe, d'une collectivité ou d'un peuple autochtones visé au paragraphe 20(3), le ministre veille à ce que le texte soit rendu accessible au public de la façon qu'il estime indiquée et peut à cette fin le publier, avec ses modifications successives, dans la *Gazette du Canada*.

General

Role of Minister

27 The Minister may gather information respecting the child and family services that are provided in relation to Indigenous children and information about individuals in relation to whom those services are provided and facilitate the disclosure of that information to affected families and communities.

Agreements — information

28 The Minister may enter into agreements with a provincial government and any Indigenous governing body regarding the collection, retention, use and disclosure of information respecting the child and family services that are provided in relation to Indigenous children in order to, among other things,

- (a) ensure that Indigenous children are identified as a First Nations person, an Inuk or a Métis person, as the case may be, and that their communities of origin and those of their parents are identified, when possible, when child and family services are provided in relation to them;
- (b) support the improvement of those services; and
- (c) facilitate the disclosure of that information to affected families and communities.

Powers of Minister

29 For the purposes of section 27, the Minister may disclose information respecting the child and family services that are provided in relation to Indigenous children and information about individuals in relation to whom those services are provided.

Disclosure of information

30 For the purposes of implementing an agreement referred to in section 28, a provincial government or a public body established under a provincial Act may collect and disclose information respecting the child and family services that are provided in relation to Indigenous children and information about individuals in relation to whom those services are provided.

Five-year review

31 (1) Every five years after the day on which this section comes into force, the Minister must, in collaboration with Indigenous peoples, including representatives of First Nations, the Inuit and the Métis, undertake a review of the provisions and operation of this Act.

Dispositions générales

Rôle du ministre

27 Le ministre peut recueillir des renseignements concernant les services à l'enfance et à la famille fournis à l'égard des enfants autochtones et des renseignements au sujet des individus à l'égard desquels ces services sont fournis et favoriser la communication de ces renseignements aux familles et aux collectivités en cause.

Accords — renseignements

28 Le ministre peut conclure avec le gouvernement de toute province et avec tout corps dirigeant autochtone des accords portant sur la collecte, la conservation, l'utilisation et la communication de renseignements concernant les services à l'enfance et à la famille fournis à l'égard des enfants autochtones, notamment en vue :

- a) de faire en sorte que chaque enfant en cause soit identifié comme étant issu d'une première nation, un Inuit ou un Métis, selon le cas, et que ses collectivités d'origine et celles de ses parents soient identifiées, dans la mesure du possible, lorsque sont fournis à leur égard des services à l'enfance et à la famille;
- b) d'appuyer l'amélioration de ces services;
- c) de favoriser la communication de ces renseignements aux familles et aux collectivités en cause.

Pouvoirs du ministre

29 Pour l'application de l'article 27, le ministre peut communiquer des renseignements concernant les services à l'enfance et à la famille fournis à l'égard des enfants autochtones et des renseignements au sujet des individus à l'égard desquels ils sont fournis.

Communication de renseignements

30 Afin de mettre en œuvre les accords conclus en vertu de l'article 28, toute administration provinciale et tout organisme public constitué sous le régime d'une loi provinciale peut recueillir et communiquer des renseignements concernant les services à l'enfance et à la famille fournis à l'égard des enfants autochtones et des renseignements au sujet des individus à l'égard desquels ces services sont fournis.

Examen quinquennal

31 (1) Tous les cinq ans suivant la date d'entrée en vigueur du présent article, le ministre effectue, en collaboration avec les peuples autochtones, notamment avec des représentants de premières nations, des Inuits et des Métis, l'examen des dispositions et de l'application de la présente loi.

Provincial governments

(2) For greater certainty, when undertaking the review, the Minister may also collaborate with provincial governments.

Report

(3) The Minister must prepare a report on the review that sets out his or her conclusions and recommendations, including any improvements to the provisions of this Act that he or she recommends.

Tabling of report

(4) The Minister must cause the report to be tabled in each House of Parliament on any of the first 30 days on which it is sitting after the day on which the report is completed.

Regulations

Regulations

32 (1) If affected Indigenous governing bodies were afforded a meaningful opportunity to collaborate in the policy development leading to the making of the regulations, the Governor in Council may make regulations providing for any matter relating to the application of this Act or respecting the provision of child and family services in relation to Indigenous children.

Provincial governments

(2) For greater certainty, subsection (1) does not prevent provincial governments from collaborating in the policy development referred to in that subsection.

Transitional Provisions

Representations and party status

33 In the context of a proceeding referred to in section 13 that is pending on the day on which that section comes into force, the right referred to in that section may be exercised only if its exercise is consistent with the best interests of the child and is appropriate in the circumstances.

Regulations

34 (1) If affected Indigenous governing bodies were afforded a meaningful opportunity to collaborate in the policy development leading to the making of the regulations, the Governor in Council may make any regulations that the Governor in Council considers necessary to provide for any other transitional matter arising from the coming into force of this Act.

Gouvernements provinciaux

(2) Il est entendu que le ministre qui effectue l'examen peut aussi le faire en collaboration avec les gouvernements provinciaux.

Rapport

(3) Le ministre établit un rapport d'examen faisant état de ses conclusions et recommandations, y compris les améliorations qu'il recommande, le cas échéant, d'apporter à la présente loi.

Dépôt du rapport

(4) Il fait déposer le rapport devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.

Règlements

Règlements

32 (1) Le gouverneur en conseil peut prendre tout règlement régissant l'application de la présente loi ou concernant la fourniture de services à l'enfance et à la famille à l'égard des enfants autochtones si les corps dirigeants autochtones touchés ont eu l'occasion de collaborer de façon significative à l'élaboration des orientations préalables à sa prise.

Gouvernements provinciaux

(2) Il est entendu que le paragraphe (1) n'empêche pas les gouvernements provinciaux de collaborer à l'élaboration des orientations qui y sont visées.

Dispositions transitoires

Représentations et qualité de partie

33 Dans le cadre de toute procédure visée à l'article 13 qui est en cours à la date d'entrée en vigueur de cet article, le droit prévu à celui-ci ne peut être exercé que s'il est compatible avec l'intérêt de l'enfant et pertinent dans les circonstances.

Règlement

34 (1) Le gouverneur en conseil peut prendre tout règlement qu'il estime nécessaire concernant toute autre mesure transitoire qui découle de l'entrée en vigueur de la présente loi si les corps dirigeants autochtones touchés ont eu l'occasion de collaborer de façon significative à l'élaboration des orientations préalables à sa prise.

Provincial governments

(2) For greater certainty, subsection (1) does not prevent provincial governments from collaborating in the policy development referred to in that subsection.

Coming into Force

Order in council

***35** The provisions of this Act come into force on a day or days to be fixed by order of the Governor in Council.

* [Note: Act in force January 1, 2020, see SI/2019-96.]

Gouvernements provinciaux

(2) Il est entendu que le paragraphe (1) n'empêche pas les gouvernements provinciaux de collaborer à l'élaboration des orientations qui y sont visées.

Entrée en vigueur

Décret

***35** Les dispositions de la présente loi entrent en vigueur à la date ou aux dates fixées par décret.

* [Note : Loi en vigueur le 1^{er} janvier 2020, voir TR/2019-96.]