



FAQ | Matrimonial Real Property

What is contained in the Legislation?

This legislation is comprised of two main sections:

1. First Nations Law - Making Mechanism - came into force on December 16, 2013.
 - a) This first section “enables” First Nations to enact their own MRP laws (*Section 7(1)*), which must involve:
 - i. Procedures for amendments and enforcing court orders.
 - ii. A ratification process that allows for a community-wide vote to approve their MRP law
 - iii. At least 25 per cent of all eligible voters are required to participate in the vote/ratification process (*Section 9(2)*).
 - iv. A simple majority is required in order to approve the law (*Section 9(1)*),
 - v. Adhere to the *Charter of Rights and Freedoms* and the *Canadian Human Rights Act*
2. Federal Provisional Laws - came into force on December 16, 2014.
 - a) The second part of this legislation provides laws for dealing with matrimonial real property until the First Nation community passes its own MRP law.
 - b) The federal legislation will rely on the provincial court system to apply and enforce the provisions contained within the act.
 - c) The following two provisions are intended to protect best interest of the family and directly impact the right and/or access to matrimonial property that is located in the First Nation community:
 1. Emergency Protection Orders
 - i. A judge, who is designated by the provincial court, is authorized to issue this type of court order, which allows for exclusive occupation of the family home for up to 90 days.
 - ii. An EPO can be issued when a judge deems that family violence or damage to the property is a real possibility
 - iii. An application to obtain an EPO can be made by a spouse or common-law partner, or a peace officer or other person with or without the consent of the spouse or common-law partner.
 2. Exclusive Occupation Orders

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- i. A judge referred to in s. 2(1) of the Divorce Act has the authority to issue a court order to allow exclusive occupation of and access to the family home.
- ii. A judge has the discretion to issue such an order based on the following:
 - Following the death of a spouse
 - Following the break-up of a conjugal relationship
 - For removal of disruptive person(s)
- iii. The duration of the EO could range from a set number of days to a longer period, such as, until the dependent children reach the age of majority.

Does this Act impact First Nations collective or individual rights to reserve land?

No. The legislation does not grant non-Indians or non-members permanent residency status on a reserve, change title to reserve lands or allow non-members to benefit from the value or appreciation of reserve land.

Who does this Act apply to?

The Act applies to married couples and common-law partners living on-reserves, where at least one partner is First Nation (status Indian) and a member of the First Nation community in which they reside. The exceptions are:

- First Nations that have enacted MRP laws under this Act before December 16, 2014
- First Nations with self-government agreement (unless they have reserve land and opt into the provisional federal rules)
- First Nations with land codes in place under the *First Nations Land Management Act*
- First Nations land codes in place that are on the schedule to the First Nations Land Management Act will be exempted for a period of three years from the date of Royal Assent, which is June 19, 2016.

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ABOUT AIAI

AIAI is mandated as a Provincial Territorial Organization (PTO) to defend and enhance the Aboriginal and Treaty rights of our seven member First Nations. Our member nations include: Batchewana First Nation, Caldwell First Nation, Delaware Nation, Hiawatha First Nation, Mohawks of the Bay of Quinte, Oneida Nation of the Thames, and the Wahta Mohawks. Learn more at www.aiai.on.ca, on Twitter [@AIAI_comms](https://twitter.com/AIAI_comms) and on [Facebook](https://www.facebook.com/AIAI).