

CANADIAN LEGISLATION RELATING TO FIRST NATION CULTURAL HERITAGE
(Brian Kiers and Catherine Bell, February 16, 2003)
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This list is divided into two parts. Part A includes key legislation that affects ownership, protection, and control of First Nation cultural heritage (sites, objects, intellectual property/traditional knowledge, and human remains). Part B is a more detailed list that reveals the scope and nature of Canadian legislation that has direct and indirect impact on First Nation cultural heritage. Some of this legislation (and regulations enacted pursuant to this legislation) will be implicated in the legal research conducted by members of the research team over the duration of this project.

Heritage conservation and repatriation are also addressed in northern land claim agreements and the Nisgaa Treaty. Relevant land claims and treaties and links to text are included in the appendix to *A Selected Review of Canadian Legislation Affecting First Nation Cultural Heritage*, which can be accessed through the research paper link .

The full text of legislation given below can be obtained through the Canadian Legal Information Institute website (www.canlii.org) which houses a collection of statutes and regulations from each jurisdiction in Canada. Federal statutes can also be accessed through the Justice Canada website (<http://laws.justice.gc.ca/en/index.html>).

PART A: KEY LEGISLATION

CANADA

Access to Information Act, R.S.C. 1985, c. A-1.

Canada National Parks Act, S.C. 2000, c. 32, ss. 16, 17, 32, 33 and 42.

Canada Heritage Languages Institute Act (not yet in force: assented to 1st February 1991)

Canadian Environmental Assessment Act, S.C. 1992, c. 37, s. 2(1).

Canadian Multiculturalism Act, R.S.C. 1985 (4th Supp.), c. 24, s. 3(1).

Copyright Act, R.S.C. 1985, c. C-42, 32.1(1)(c).

Cree-Naskapi (of Quebec) Act, S.C. 1984, c. 18, art. 21.

Cultural Property Export and Import Act, R.S.C. 1985, c. C-51.

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.).

Customs Tariff, R.S.C. 1997, c. 36.

Department of Canadian Heritage Act, S.C. 1995, c. 11, s. 4.

First Nations Land Management Act, S.C. 1999, c. 24, s. 31(3)(e).

Gwich'in Land Claim Settlement Act, S.C. 1992, c. 53, s. 4.

Historic Sites and Monuments Act, R.S.C. 1985, c. H-4.

Indian Act, R.S.C. 1985, c. I-5, s. 91.

Industrial Design Act, R.S.C. 1985, c. I-9.

Library and Archives of Canada Act, S.C. 2004, c. 11.

Museums Act, R.S.C. 1990, c. C-3, ss. 3, 5, 6, 8 and 9.

Northwest Territories Act, R.S.C. 1985, c. N-27, s. 57.

Nunavut Land Claims Agreement Act, S.C. 1993, c. 29.

Parks Canada Agency Act, S.C. 1998, c. 31.

Patent Act, R.S.C. 1985, c. P-4.

Status of the Artist Act, S.C. 1992, c. 33, ss. 2 and 3.

Trade-marks Act, R.S.C. 1985, c. T-13.

Yukon Act, R.S.C. 1985, c. Y-2, ss. 60-62.

Yukon First Nations Land Claims Settlement Act, S.C. 1994, c. 34.

Yukon First Nations Self-Government Act, S.C. 1994, c. 35.

ALBERTA

Cemeteries Act, R.S.A. 2000, c. C-3.

First Nations Sacred Ceremonial Objects Repatriation Act, R.S.A. 2000 c. F-14.

Foreign Cultural Property Immunity Act, R.S.A. 2000, c. F-17, S. 2(1).

Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25.

Glenbow-Alberta Institute Act, R.S.A. 2000, c. G-6.

Historical Resources Act, R.S.A. 2000, c. H-9.

Limitations Act, R.S.A. 2000, c. L-12.

Provincial Parks Act, R.S.A. 2000, c. P-35.

BRITISH COLUMBIA

Document Disposal Act, R.S.B.C. 1996, c. 99.

First Peoples' Heritage, Language and Culture Act, R.S.B.C. 1996, c. 147.

Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165.

Heritage Conservation Act, R.S.B.C. 1996, c. 187.

Limitation Act, R.S.B.C. 1996, c. 266.

Museum Act, R.S.B.C. 1996, c. 326.

Muskwa-Kechika Management Area Act, S.B.C. 1998, c. 38.

Nisga'a Final Agreement Act, S.B.C. 1999, c. 2.

MANITOBA

Archives and Recordkeeping Act, C.C.S.M. 2001, c. A132, c. 35.

Foreign Cultural Objects Immunity From Seizure Act, C.C.S.M., c. F140, s.1.

Freedom of Information and Protection of Privacy Act, C.C.S.M., c. F175.

Heritage Manitoba Act, C.C.S.M., c. H39, s. 9.

Heritage Resources Act, C.C.S.M., c. H39.1.

Limitation of Actions Act, C.C.S.M., c. L150.

Provincial Parks Act, C.C.S.M. c. P20.

NEW BRUNSWICK

Archives Act, S.N.B. 1977, c. A-11.1.

Limitation of Actions Act, R.S.N.B. 1973, c. L-8.

Municipal Heritage Preservation Act, S.N.B. 1978, c. M-21.1.

National Parks Act, R.S.N.B. 1973, c. N-1, s. 3.

New Brunswick Museum Act, R.S.N.B. 1973, c. N-7, s. 3.3.

Right to Information Act, S.N.B. 1978, c. R-10.3.

NEWFOUNDLAND and LABRADOR

Archives Act, R.S.N.L. 1990, c. A-16.

Access to Information and Protection of Privacy, S.N.L. 2002, c. A-1.1, s. 25. (Not yet in force: assented to 14 March 2002)

Arts Council Act, R.S.N.L. 1990, c. A-17, ss. 3-5.

Historic Resources Act, R.S.N.L. 1990, c. H-4.

Limitations Act, S.N.L. 1995, c. L-16.1.

Municipalities Act, 1999, S.N.L. 1999, c. M-24, s. 200(1).

Provincial Parks Act, R.S.N.L. 1990, c. P-32, s. 2(c).

NORTHWEST TERRITORIES

Access to Information and Protection of Privacy Act, S.N.W.T. 1994, c. 20, s. 19.

Archives Act, R.S.N.W.T. 1988, c. A-6.

Historical Resources Act, R.S.N.W.T. 1988, c. H-3.

Limitation of Act, R.S.N.W.T. 1988, c. L-8.

Northwest Territories Archaeological Sites Regulations, N.W.T. Reg. 2001-219.

Scientists Act, R.S.N.W.T. 1988, c H-3.

Territorial Parks Act, R.S.N.W.T. 1988, c. T-4.

NOVA SCOTIA

Environment Act, S.N.S. 1994-95, c. 1, s. 3(v)(i).

Freedom of Information and Protection of Privacy Act, S.N.S. 1993, c. 5, s. 19.

Limitation of Actions Act, R.S.N.S. 1989, c. 258.

Heritage Property Act, R.S.N.S. 1989, c. 199.

Municipal Government Act, S.N.S. 1998, c. 18, s. 479.

Provincial Parks Act, R.S.N.S. 1989, c. 367, s. 2(1).

Public Archives Act, S.N.S. 1998, c. 24.

Special Places Protection Act, R.S.N.S. 1989, c. 438.

Trails Act, R.S.N.S. 1989, c. 476.

NUNAVUT

Archives Act, R.S.N.W.T. 1988, c. A-6.

Access to Information and Protection of Privacy Act (Nunavut), S.N.W.T. 1994, c. 20, s. 19.

Historical Resources Act, R.S.N.W.T. 1988, c. H-3.

Limitation of Actions Act, R.S.N.W.T. 1998, c. L-8.

Territorial Parks Act, R.S.N.W.T. 1988, c. T-4.

ONTARIO

Archives Act, R.S.O. 1990, c. A.27.

Cemeteries Act (Revised), R.S.O. 1990, c. C.4, ss. 71-72.

Foreign Cultural Objects Immunity from Seizure Act, R.S.O. 1990, c. F.23, s. 1.

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31.

Limitations Act, R.S.O. 1990, c. L-15.

Limitations Act, 2002, S.O. 2002, c. 24.

Ministry of Citizenship and Culture Act, R.S.O. 1990, c. M.18, s. 4

Ontario Heritage Act, R.S.O. 1990, c. O.18, ss. 7 and 10.

Tobacco Control Act, 1994, S.O. 1994, c. 10, s. 13.

PRINCE EDWARD ISLAND

Archives and Records Act, c. A-19.1

Ancient Burial Grounds Act, R.S.P.E.I. 1974, c.

Archaeological Sites Protection Act, R.S.P.E.I. 1988, c. A-17.

Charlottetown Area Municipalities Act, R.S.P.E.I. 1988, c. C-4.1, s. 21.

City of Summerside Act, R.S.P.E.I. 1988, c. S-9.1, s. 21.

Freedom of Information and Protection of Privacy Act, R.S.P.E.I. 1988, c. F-15.01.

Heritage Places Protection Act, R.S.P.E.I. 1988, c. H-3.1.

Museum Act, R.S.P.E.I. 1988, c. M-14.

QUEBEC

An Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information, R.S.Q. c. A-2.1.

An Act Respecting Fabriques, R.S.Q. c. F-1.

An Act Respecting the Cree Regional Authority, R.S.Q. c. A-6.1, s. 6.

Archives Act, R.S.Q., c. A-21.1.

Code of Civil Procedure, R.S.Q., c. C-25.

Cultural Property Act, R.S.Q. c. B-4.

Forest Act, R.S.Q. c. F-4.1, s. 171.

The Education Act for Cree, Inuit and Naskapi Native Persons, R.S.Q. c. I-14.

SASKATCHEWAN

The Archives Act, R.S.S. 1978, c. A-26.

The Forest Resources Management Act, S.S. 1996, c. F-19.1.

Heritage Property Act, S.S. 1979, c. H-2.2.

Limitation of Actions Act, R.S.S. 1978, c. L-15.

The Freedom of Information and Protection of Privacy Act, S.S. 1990-91, c. F-22.01.

The Multiculturalism Act, S.S. 1997, c. M-23.01.

The Parks Act, S.S. 1986, c. P-1.1.

The Wanuskewin Heritage Park Act, 1997, S.S. 1997, c. W-13.

The Western Development Museum Act, R.S.S. 1978, c. W-12.

YUKON (See also Canada)

Access to Information and Protection of Privacy Act, R.S.Y. 2002, c.1.

Archives Act, R.S.Y. 2002, c. 9.

Cemeteries and Burial Sites Act, R.S.Y. 2002, c. 25.

Historic Resources Act, R.S.Y. 2002, c. 109.

Languages Act, R.S.Y. 2002, c. 133.

Limitation of Actions Act, R.S.Y. 2002, c. 139.

Parks and Land Certainty Act, R.S.Y. 2002, c. 165.

PART B: DETAILED LIST OF LEGISLATION

This is not an exhaustive list of all legislation that implicates First Nation cultural heritage. However, it demonstrates the wide range of legislation that has an impact on issues of protection, ownership and control.

CANADA

Access to Information Act, R.S.C. 1985, c. A-1.

Canada National Parks Act, S.C. 2000, c. 32, ss. 16, 17, 32, 33 and 42.

Canada Shipping Act, R.S.C. 1985, c. S-9, Article 30, s. 1(d).

Canadian Environmental Assessment Act, S.C. 1992, c. 37, s. 2(1).

Canadian Multiculturalism Act, R.S.C. 1985 (4th Supp.), c. 24, s. 3(1).

Copyright Act, R.S.C. 1985, c. C-42, 32.1(1)(c).

Cree-Naskapi (of Quebec) Act, S.C. 1984, c. 18, art. 21.

Cultural Property Export and Import Act, R.S.C. 1985, c. C-51.

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.).

Customs Tariff, R.S.C. 1997, c. 36.

Department of Canadian Heritage Act, S.C. 1995, c. 11, s. 4.

First Nations Land Management Act, S.C. 1999, c. 24, s. 31(3)(e).

Gwich'in Land Claim Settlement Act, S.C. 1992, c. 53, s. 4.

Historic Sites and Monuments Act, R.S.C. 1985, c. H-4, s. 3.

Indian Act, R.S.C. 1985, c. I-5, s. 91.

Industrial Design Act, R.S.C. 1985, c. I-9.

Mackenzie Valley Resource Management Act, S.C. 1998, c. 25, s. 64. (1).

Museums Act, R.S.C. 1990, c. C-3, ss. 3, 5, 6, 8 and 9.

National Archives of Canada Act, R.S.C. 1985, c. 1.

Northwest Territories Act, R.S.C. 1985, c. N-27, s. 57.

Nunavut Land Claims Agreement Act, S.C. 1993, c. 29.

Parks Canada Agency Act, S.C. 1998, c. 31.

Patent Act, R.S.C. 1985, c. P-4.

Status of the Artist Act, S.C. 1992, c. 33, ss. 2 and 3.

Trade-marks Act, R.S.C. 1985, c. T-13.

Yukon Act, R.S.C. 1985, c. Y-2, ss. 60-62.

Yukon First Nations Land Claims Settlement Act, S.C. 1994, c. 34.

Yukon First Nations Self-Government Act, S.C. 1994, c. 35.

ALBERTA

Cemeteries Act, R.S.A. 2000, c. C-3.

Child and Family Services Authorities Act, R.S.A. 2000, c. C-11.

First Nations Sacred Ceremonial Objects Repatriation Act, R.S.A. 2000 c. F-14.

Foreign Cultural Property Immunity Act, R.S.A. 2000, c. F-17, S. 2(1).

Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25.

Glenbow-Alberta Institute Act, R.S.A. 2000, c. G-6.

Government Organization Act, R.S.A. 2000, c. G-10.

Historical Resources Act, R.S.A. 2000, c. H-9.

Human Rights, Citizenship And Multiculturalism Act, R.S.A. 2000, c. H-14.

Limitations Act, R.S.A. 2000, c. L-12.

Provincial Parks Act, R.S.A. 2000, c. P-35.

Wildlife Act, R.S.A. 2000, c. W-10.

BRITISH COLUMBIA

Adoption Act, R.S.B.C. 1996, c. 5.

Child, Family and Community Service Act, R.S.B.C. 1996, c. 46.

Coal Act, R.S.B.C. 1996, c. 51.

Commissioner on Resources and Environment Act, R.S.B.C. 1996, c. 59.

Document Disposal Act, R.S.B.C. 1996, c. 99.

Environmental Assessment Act, R.S.B.C. 1996, c. 119.

First Peoples Heritage, Language and Culture Act, R.S.B.C. 1996, c. 147.

Forest Act, R.S.B.C. 1996, c. 157.

Forest Land Reserve Act, R.S.B.C. 1996, c. 158.

Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159.

Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165.

Heritage Conservation Act, R.S.B.C. 1996, c. 187.

Limitation Act, R.S.B.C. 1996, c. 266.

Mineral Tenure Act, R.S.B.C. 1996, c. 292, s. 17(1).

Mines Act, R.S.B.C. 1996, c. 293, s. 38(2).

Museum Act, R.S.B.C. 1996, c. 326.

Muskwa-Kechika Management Area Act, S.B.C. 1998, c. 38.

Ministry of Provincial Secretary and Government Services Act, R.S.B.C. 1996, c. 309.

Nisga'a Final Agreement Act, S.B.C. 1999, c. 2.

Oil and Gas Commission Act, S.B.C. 1998, c. 39, s. 3.

Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, s. 4(1).
http://www.qp.gov.bc.ca/statreg/stat/S/96436_01.htm

MANITOBA

Archives and Recordkeeping Act, C.C.S.M. 2001, c. A132, c. 35.
(TO BE PROCLAIMED: ASSENTED TO 6 JULY 2001)

Foreign Cultural Objects Immunity From Seizure Act, C.C.S.M., c. F140, s.1.

Freedom of Information and Protection of Privacy Act, C.C.S.M., c. F175.

Heritage Manitoba Act, C.C.S.M., c. H39, s. 9.

Heritage Resources Act, C.C.S.M., c. H39.1.

Provincial Parks Act, C.C.S.M. c. P20.

NEW BRUNSWICK

Archives Act, S.N.B. 1977, c. A-11.1.

Municipal Heritage Preservation Act, S.N.B 1978, c. M-21.1.

National Parks Act, R.S.N.B. 1973, c. N-1, s. 3.

New Brunswick Museum Act, R.S.N.B. 1973, c. N-7, s. 3.3.

Right to Information Act, S.N.B. 1978, c. R-10.3.

NEWFOUNDLAND and LABRADOR

(Alphabetical search for each Act under Table of Public Statutes for this section)

Archives Act, R.S.N.L. 1990, c. A-16.

Access to Information and Protection of Privacy, S.N.L. 2002, c. A-1.1, s. 25.
(TO BE PROCLAIMED: ASSENTED TO 14 MARCH 2002)

Arts Council Act, R.S.N.L. 1990, c. A-17, ss. 3-5.

Child, Youth and Family Services Act, S.N.L. 1998, c. C-12.1, 7(g).

City of Corner Brook Act, R.S.N.L. 1990, c. C-15, ss. 272, 273 and 275.

City of Mount Pearl Act, R.S.N.L. 1990, c. C-16, ss. 272, 273 and 275.

City of St. John's Act, R.S.N.L. 1990, c. C-17, s. 355.

Historic Resources Act, R.S.N.L. 1990, c. H-4.

Municipalities Act, 1999, S.N.L. 1999, c. M-24, s. 200(1).

Provincial Parks Act, R.S.N.L. 1990, c. P-32, s. 2(c).

NORTHWEST TERRITORIES

Access to Information and Protection of Privacy Act, S.N.W.T. 1994, c. 20, s. 19.

Archives Act, R.S.N.W.T. 1988, c.A-6.

Territorial Parks Act, R.S.N.W.T. 1988, c. T-4.

Wildlife Act, R.S.N.W.T. 1988, c. W-4, ss. 63-64, 98(j), 99, 116 and 118.

NOVA SCOTIA

Environment Act, S.N.S. 1994-95, c. 1, s. 3(v)(i).

Freedom of Information and Protection of Privacy Act, S.N.S. 1993, c. 5, s. 19.

Heritage Property Act, R.S.N.S. 1989, c. 199.

Municipal Government Act, S.N.S. 1998, c. 18, s. 479.

Provincial Parks Act, R.S.N.S. 1989, c. 367, s. 2(1).

Public Archives Act, S.N.S. 1998, c. 24.

Public Service Act, R.S.N.S. 1989, c. 376, s. 71.

Special Places Protection Act, R.S.N.S. 1989, c. 438.

Trails Act, R.S.N.S. 1989, c. 476, s. 10(1).

NUNAVUT

Archives Act, R.S.N.W.T. 1988, c.A-6.

Access to Information and Protection of Privacy Act (Nunavut), S.N.W.T. 1994, c. 20, s. 19.

Territorial Parks Act, R.S.N.W.T. 1988, c. T-4.

Wildlife Act, R.S.N.W.T. 1988, c. W-4, ss. 63-64, 98(j), 99, 116 and 118.

ONTARIO

Archives Act, R.S.O. 1990, c. A.27.

Cemeteries Act (Revised), R.S.O. 1990, c. C.4, ss. 71-72.

Child and Family Services Act, R.S.O. 1990, c. C.11, ss. 1 and 34.

Foreign Cultural Objects Immunity from Seizure Act, R.S.O. 1990, c. F.23, s. 1.

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31.

Ministry of Citizenship and Culture Act, R.S.O. 1990, c. M.18, s. 4

Ontario Heritage Act, R.S.O. 1990, c. O.18, ss. 7 and 10.

Planning Act, R.S.O. 1990, c. P.13, s. 2.

Regulated Health Professions Act, 1991, S.O. 1991, c. 18, s. 35.

Tobacco Control Act, 1994, S.O. 1994, c. 10, s. 13.

PRINCE EDWARD ISLAND

Archives and Records Act, c. A-19.1

Adoption Act, R.S.P.E.I. 1988, c. A-4., s. 2.

Ancient Burial Grounds Act, R.S.P.E.I. 1974, c. A-9.

Archaeological Sites Protection Act, R.S.P.E.I. 1988, c. A-17.

Charlottetown Area Municipalities Act, R.S.P.E.I. 1988, c. C-4.1, s. 21.

City of Summerside Act, R.S.P.E.I. 1988, c. S-9.1, s. 21.

Freedom of Information and Protection of Privacy Act, R.S.P.E.I. 1988, c. F-15.01.

Heritage Places Protection Act, R.S.P.E.I. 1988, c. H-3.1.

Museum Act, R.S.P.E.I. 1988, c. M-14.

QUEBEC

An Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information, R.S.Q. c. A-2.1.

An Act Respecting Fabriques, R.S.Q. c. F-1.

An Act Respecting the Cree Regional Authority, R.S.Q. c. A-6.1, s. 6.

Archives Act, R.S.Q., c. A-21.1.

Code of Civil Procedure, R.S.Q., c. C-25.

Cultural Property Act, R.S.Q. c. B-4.

Forest Act, R.S.Q. c. F-4.1, s. 171.

The Education Act for Cree, Inuit and Naskapi Native Persons, R.S.Q. c. I-14.

SASKATCHEWAN

The Archives Act, R.S.S. 1978, c. A-26.

The Forest Resources Management Act, S.S. 1996, c. F-19.1.

Heritage Property Act, S.S. 1979, c. H-2.2.

The Freedom of Information and Protection of Privacy Act, S.S. 1990-91, c. F-22.01.

The Multiculturalism Act, S.S. 1997, c. M-23.01.

The Parks Act, S.S. 1986, c. P-1.1.

The Wanuskewin Heritage Park Act, 1997, S.S. 1997, c. W-13.

The Western Development Museum Act, R.S.S. 1978, c. W-12.

YUKON

Access to Information and Protection of Privacy Act, S.Y. 1995, c.1

Archives Act, R.S.Y. 1986, c. 8.

Childrens Act, R.S.Y. 1986, c. 22, s. 131.

Historic Resources Act, S.Y. 1991, c. 8.

Parks Act, R.S.Y. 1986, c. 126.