



Aboriginal Affairs and Northern Development Canada

Home > All Topics > About AANDC > Media Room > News Releases and Statements
> Archived - News Releases – 2011 > Backgrounder: *First Nations Elections Act*

Backgrounder: *First Nations Elections Act*

Many First Nations have been critical of the election process under the *Indian Act*, which they believe sets out an electoral regime that is antiquated and paternalistic. Some of the key concerns in the *Indian Act* election regime identified by First Nations are:

- two year terms of office being too short for First Nation governments to accomplish important priorities (federal, provincial and most municipal governments generally have terms of four years)
- a loose process for the nomination of candidates
- a mail-in ballot system that is open to abuse
- a slow and ineffective elections appeals system
- the absence of defined offences and penalties

Currently, of the 617 First Nations in Canada, 238 (roughly 40 per cent) hold elections in accordance with the election provisions of the *Indian Act*. An additional 343 First Nations (55 per cent) have community-designed or custom election codes; while 36 First Nations (5 per cent) select leaders pursuant to constitutions contained in their self-government agreements.

The Atlantic Policy Congress of First Nations Chiefs (APC) and the Assembly of Manitoba Chiefs (AMC) initiated a process with First Nations to develop recommendations on a bill to address concerns about the election process under the *Indian Act*.

In October 2010, the Minister of Aboriginal Affairs and Northern Development and the leaders of these organizations launched a national engagement exercise on electoral reform. With the support of the Government of Canada, these organizations met with other First Nation leaders across the country between October 2010 and March 2011 to present their recommendations, seek advice and reach consensus on improving the election process for First Nations.

The *First Nations Elections Act* responds to the recommendations provided by the APC and the AMC and is informed by the feedback obtained from the national engagement.

The four year term of office represents one of the key changes in this legislation. First Nation leaders and governance experts have repeatedly expressed that terms longer than the current two years are essential to creating the political stability First Nations need to establish solid business investments, practice long-term planning, and build relationships that will increase economic development.

Other points in the *Act* that offer improvement over the current *Indian Act* election system are:

- no role for the Minister of Aboriginal Affairs and Northern Development to play in receiving, investigating and deciding on election appeals
- provisions that allow groups of First Nations to hold their elections on a common day and line up their terms of office
- clear criteria on the eligibility to be a candidate for the position of chief
- the possibility for individual First Nations to institute a candidacy fee of no more than \$250, which would be refunded if the candidate received at least 5% of the total votes cast.

- similar to other election laws, penalties for defined offences such as obstructing the electoral process and engaging in corrupt or fraudulent activities in relation to an election
- powers to develop regulations surrounding mail-in ballots, advance polls and recall of elected officials

The numbers appearing above related to First Nations electoral systems were updated on, and are current as of, April 10, 2014.

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