



SLR 1 - Setting Apart Land for First Nation Reserves

Land Titles & Surveys - Internal Procedure Manual

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A. Background

Reserve – means a tract of land, the legal title to which is vested in His Majesty, that has been set apart by His Majesty for the use and benefit of a band. [\(1\)](#)

Setting apart land for reserves is a legal and administrative process through which the Government of Canada designates specific parcels of land for the use and benefit of First Nations.

In Alberta, the process of **Reserve Creation**—also known as **Addition to Reserve (ATR)**—follows a federally guided framework but includes unique provincial and municipal considerations (done by the Federal Crown before submission of documents to Land Titles).

Adding additional lands to reserve first requires Alberta to transfer lands to Canada or, often, the band purchasing land on a willing seller-buyer basis and then transferring clear title to Canada as part of applying to the Federal Crown to have the land added to reserve under the ATR Policy.

The federal government has constitutional authority to proceed with an addition to reserve after clear title is transferred from Alberta or a band-owned company. This may occur to fulfill legal obligations under the Natural Resources Transfer Agreement (NRTA) or treaty land entitlement (TLE), or more often, through land purchased and an application made by the band under the federal ATR Policy.

On August 27, 2019, the [Addition of Lands to Reserves and Reserve Creation Act](#) came into force, which facilitates the setting apart of reserve land for the use and benefit of First Nations and the addition of land to reserves.

B. Policy and Procedure

General Information

For the general Reserve Creation Process in Alberta please see the “Additions to Reserve” Federal policy. [\(Link\)](#)

General Submission Requirements

The following requirements must be complied with for a Reserve Land Creation registration submission:

1. Documentation Registration Request
 - a. Completed via SPIN2
 - b. [Document Type](#) – Order - Endorsement
 - c. [Rights Type](#) - Surface
 - d. [Land IDs](#) – Linc Number, Short Legal or Title Number
2. Transfer of Land (Private landowner)
 - a. If the parcel of land is not currently owned by the Federal Crown (Canada), a transfer is required from the current owner to the Federal Crown.
 - b. The title to be transferred must be free and clear of all encumbrances.
3. Order in Council (Public land ownership)
 - a. If the land is under provincial control, an Order-in-Council is required transferring administration and control to the federal government.
 - i. The title to be transferred must be free and clear of all encumbrances.
4. Ministerial Order (MO)

- a. To set apart lands as shown on attached schedule for the benefit of a named Indian Band in addition to their reserve the following is required:
 - i. A schedule showing all the lands affected by the Order.
 - ii. A cover letter requesting for the transfer of administration and quieting of the titles. Or
- b. Alternatively, from Justice Canada, solicitors for the Minister of Crown-Indigenous Relations, we will accept a letter requesting that certain titles be set aside and titles be cancelled or quieted. This is submitted with Ministerial Order conferring Reserve Status pursuant to Sec 4(1) of the Addition of Lands to Reserves and Reserve Creation Act., with an attached schedule of affected land.

Special Considerations

1. In cases where the Ministerial Order covers more land than what the letter from Federal Justice Department list/schedule, the cover letter must specify that only the lands in their attached schedule are to be quieted at the time of submission – notwithstanding that the MO has more lands listed.
2. We may accept requests to cancel or quiet titles accompanied with a letter from Justice Canada solicitors for the Minister of Indigenous Services, with attached Conditional Ministerial Orders Conferring Reserve Status, conditional and effective on when His Majesty in right of Canada becomes the registered owner of the said lands.

C. Fees

- [Tariff Item \(3\)](#) - For the Transfer of Land

**Note* – See the *Land Titles and Surveys Common Document Fee Schedule* for additional information regarding fees ([Link](#))

D. Forms

- [Form 8](#) - Transfer of Land ([Link](#))

E. Related and Standard Policy / Related Content

External Resources

- Government of Canada – Additions to Reserve Policy ([Link](#))

F. Statutes and Case References

Applicable Legislated Acts

- Addition of Lands to Reserves and Reserve Creation Act ([Link](#))
- Claims Settlements (Alberta and Saskatchewan) Implementation Act ([Link](#))
- The Constitution Acts 1867 to 1982 ([Link](#))
- The Indian Act ([Link](#))
- Tariff of Fees Regulation, Land Titles Act ([Tariff](#))

References

Reference #	Reference
1	Indian Act, R.S.C., 1985, c. I-5