

first facts #2: What does the *Indian Act* say about annuities?

► The Indian Act of 1985 is silent on the valuation and distribution of Treaty annuities.

The Indian Act was revised most recently in 1985. It contains a single sentence that states Treaty monies are to be paid out of the federal government's Consolidated Revenue Fund.

The word "annuity" appears only once in the Act. It refers to the authority of the Indian Affairs Minister to order that the \$4 or \$5 annuity for "an Indian", who is imprisoned or abandons "his" family, be used for spousal and/or child support. The word "annuities" appears once to refer to monies due to women leaving a band prior to 1951 (typically ten years of annuities), which the Minister can order paid from band funds. That's it.

► The original Indian Act of 1876 was also silent on the valuation and distribution of Treaty annuities, but detailed how annuities could be used to control band members.

At the time of the signing of Treaties and the imposition of the Indian Act, the \$4 or \$5 annuity paid to every man, woman and child in a Treaty band was considered a significant amount of money. A family of five would have, say, \$20 or \$25 per year to spend as they chose.

However, that money could also be withheld by Indian Affairs as a means of controlling or punishing band members:

- The annuity for a woman living immorally with a man not her husband could be stopped.

- The annuity for any Indian deserting his wife and children could be stopped or paid instead to his wife.

- Any Indian convicted and imprisoned would forfeit his annuity, and that money used to defray his incarceration and trial costs.

► Because the Indian Act is silent on the valuation and distribution of Treaty annuities, the rules in place today are based on federal government policy.

Under today's federal government policy, eligibility to receive a Treaty annuity is dependent on being both a Status Indian and a member of a Treaty band. Neither was a requirement under the Indian Act of 1876:

- An Indian woman "marrying out" and thereby losing her Status would continue to receive her share of the Treaty band annuity payments.

- Indians who became enfranchised would no longer be considered to legally be "Indian", but would continue to receive their annuity payments.

Treaty annuity eligibility rules are not based on the Indian Act or the language of the Treaties.

Changes to rules and regulations governing Treaty annuities are almost entirely a reflection of the policy preferences of the government of the day.