

# Implementation of a Matrimonial Real Property Regime



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Print copies of the Toolkit are made available to participants at NALMA's Toolkit Training.

National Aboriginal Lands Managers Association

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# NALMA

## Bringing Lands Managers Together

### Our Mission

*A national organization of First Nation Lands Managers which will actively network towards the enhancement of professional development and technical expertise in the functions of Lands Management and which will also incorporate First Nation values and beliefs in Lands Management always keeping in mind the grass-root practices when dealing with Lands Management.*

### Our History

For many years the idea of forming a National Lands Managers Association had been on the minds of Lands Managers across Canada. In June of 1999 a group of Lands Managers gathered and elected an Ad Hoc Committee and developed a plan of action for the establishment of such an association. The Plan of Action developed provided the basic direction and the mandate of the association.

On December 21, 2000, the National Aboriginal Lands Managers Association

(NALMA) became officially incorporated as a non-profit, non-political organization. There are now over 100 members in NALMA.

### Becoming A Member

First Nations belonging to their respective Regional Lands Association are members of NALMA. Although there is currently no membership fee for NALMA, a membership fee may be required to join your Regional Lands Association. Membership fees vary from region to region.

The NALMA Board has placed a high priority on the establishment and continued support of the Regional Lands Associations. In essence, the Regional Lands Associations constitute the structure of NALMA, and together they share similar goals and objectives. See the NALMA website for contact information on your Regional Lands Association.

The website is: [nalma.ca](http://nalma.ca)

### Professional Recognition & Success

As a national organization, it is important to recognize the successful work of lands managers and their dedication and commitment in the field of First Nations Lands Management across Canada. NALMA acknowledges these accomplishments by honouring graduates of the Professional Lands Management Certification Program (PLMCP) and providing awards of excellence.

## NALMA Objectives

The objective of NALMA is to provide a working environment that will be comfortable to all First Nation Land Managers; to network between each other on land-related issues; and at the same time create a system that will address First Nation issues in various land management functions. Therefore, NALMA will strive to:

### Develop

- ongoing communications across Canada;
- fair and consistent processes for administering First Nations Lands;
- systems of lands management mechanisms and models which can be used by all First Nations;

### Promote

- and market the National and Regional Lands Associations across Canada;
- the incorporation of First Nations values, culture and beliefs into Lands Management systems and processes;
- the recognition of First Nations Managers for the successful work they have done in the area of Lands Management;

### Provide

- Professional Lands Management Certification Program (PLMCP) to maintain and improve the qualifications and standards of professionals;
- technical expertise and guidance to First Nations and INAC regarding lands management issues;
- unified process for Regional Lands Associations to share information and establish and maintain links across Canada through the Board of Directors;

### Participate

- at National, Regional and International Aboriginal Lands Management meetings and conferences;
- in the development and implementation of First Nations Lands policies and procedures.



**NALMA Headquarters**



## NALMA Members

NALMA's corporate body is comprised of eight Regional Lands Associations which are as follows:



Atlantic Region Aboriginal Lands Association (ARALA)

First Nations Lands Managers Association for Québec and Labrador (FNLMAQL)



Ontario Aboriginal Lands Association (OALA)

Manitoba Uske (USKE)



Saskatchewan Aboriginal Lands Technicians (SALT)

Treaty and Aboriginal Land Stewards Association of Alberta (TALSAA)



Planning and Land Administrators Of Nunavut (PLAN)

British Columbia Aboriginal Land Managers (BCALM)



## NALMA Membership Services

### Professional Development

An objective of NALMA is to raise the professional standards for First Nation Land Management. NALMA is committed to taking a leadership role to ensure that Land Managers receive adequate training opportunities required to efficiently and effectively manage their lands.

NALMA is pleased to offer the Professional Lands Management Certification Program (PLMCP) that will meet the existing and emerging needs of First Nation Land Management. PLMCP has two levels of certification: Level One - Post-Secondary Training is offered at a partnering institution, and Level Two - Technical Training, is delivered by NALMA.

NALMA also offers specialized training to First Nations; please visit [nalma.ca](http://nalma.ca) for a complete list. Each training component is complemented by a toolkit with a comprehensive manual, detailed process flowchart, checklist, and journal.

### Networking

NALMA provides a channel for successful networking through open lines of communication, knowledge sharing, gatherings, and the encouragement of partnerships and strategic alliances across Canada.

### Centre Of Lands Excellence (COLE)

To effectively deliver programs and services, NALMA has created a Centre of Lands Excellence whereby committed professionals share their experience, skills and knowledge in the areas of instruction, mentoring and technical expertise. Applications to COLE are available on the NALMA website: [nalma.ca](http://nalma.ca)

### Resources

NALMA is committed to ensuring that members have access to lands management resource information. NALMA has established a Resource Library, which is available to members. The NALMA website also shares information and links to current lands management information.

### Future Focus

NALMA will continue to provide capacity building opportunities to First Nation Land Managers so they may better serve their communities in the important profession of First Nation Land Management.

### National Lands Managers Gathering

NALMA holds National Gatherings to provide the opportunity for Land Managers to network and to build capacity through the exchange of ideas, information, and shared professional development. Every opportunity is sought to maximize partnership opportunities.



# Chapter 1 – Toolkit Overview

## A Welcome to the Users of this Toolkit



This Toolkit deals with the implementation of a Matrimonial Real Property (MRP) regime: either where the Provisional Federal Rules (PFR) in accordance with the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (FHRMIRA) are being followed, or a First Nation's own recently enacted MRP law.

The Toolkit was produced by the National Aboriginal Lands Managers Association (NALMA) and the Centre of Excellence for Matrimonial Real Property (COEMRP), with funding provided by Indigenous Services Canada (ISC). We hope you find the material easy to access, useful, and presented in an engaging fashion.

NALMA invites your suggestions for any improvements, corrections, and clarifications of the material presented herein. We hope you find this Toolkit helpful, and we wish you every success in your initiatives.

### MRP-Related Toolkits

There are three Toolkits dealing with Matrimonial Real Property issues:

1. The **Provisional Federal Rules (PFR) Toolkit** for First Nations who have not passed their own MRP law or who wish to use FHRMIRA.
2. The **MRP Law-Making and Ratification Toolkit** for First Nations who want to pass their own MRP law.
3. This Toolkit, the **Implementation of a Matrimonial Real Property Regime Toolkit**, deals with the effective administration of MRP regimes whether under the PFRs or a First Nation's own MRP law.

Provisional  
Federal Rules

MRP Law-making  
& Ratification

Implementation  
of an MRP Regime

## The COEMRP and the Role of NALMA

Hosted by NALMA, the COEMRP was an arm's length First Nation organization that assists First Nation communities in developing their own matrimonial real property laws and provided research on alternative dispute resolution mechanisms.



The COEMRP focused on disseminating knowledge to First Nation individuals, communities and organizations to assist them in understanding and implementing the FHRMIRA. The COEMRP provided a wide range of informational documents and aids such as this Toolkit, as well as specific guidance and coaching through visits or conference calls.



As the operations of the COEMRP have now ended, their services will now be offered by NALMA.

**COEMRP and NALMA do NOT provide legal advice or opinions.**

**Please consult your own legal counsel.**

If you have any questions or suggestions related to this Toolkit, please address them to:

### **National Aboriginal Lands Managers Association**

1024 Mississauga Street

Curve Lake ON, K0L 1R0

Phone (705) 657-7660 Toll Free (877) 234-9813 Fax (705) 657-7177

We invite you to visit NALMA's website at: [www.nalma.ca](http://www.nalma.ca)

## Implementation Toolkit: A Practical Resource

### What is this Toolkit?

It is an integrated set of printed materials, worksheets, flowcharts, checklists, and training modules designed for use by First Nations and their professional associates. This Toolkit explains the steps required and work involved to implement the PFRs or a First Nation's specific MRP law.

### When should it be used?

This Toolkit should be consulted to gain an insight on the requirements and best practices for administering the PFRs or a specific MRP law for your First Nation. This Toolkit is expected to be useful for many years to come with your own MRP law or the PFRs.

The PFRs came into force as of December 16, 2014 for those First Nations who have not passed their own MRP law. Some First Nations under the Framework Agreement on First Nation Land Management (FAFNLM) received an extension to June 19, 2016 before the PFRs applied. It is important to know what date the PFRs came into force on your First Nation. It is also important to understand that there may be situations where **BOTH** the PFRs and a First Nation specific MRP law apply where the First Nation was first under the PFRs before they ratified their own MRP law. For example, if the First Nation ratified and enacted their own MRP law on March 1, 2020, the PFRs would apply to any separation or survivorship that occurred before that date.

### Who should use this Toolkit?

The Toolkit has been written in a style that will be helpful to both laypersons, to Band administration staff, and to those schooled in the law.

Given the significance of the subject matter, Chief and Council, Band staff, and members should familiarize themselves with the Toolkit.

A copy of the Toolkit should be readily available at the Band Office.

### Where can you get this Toolkit?

Copies of this Toolkit may be obtained from NALMA by calling (705) 657-7660.

You are also invited to visit the ISC website for valuable information:

[www.canada.ca/en/indigenous-services-canada.html](http://www.canada.ca/en/indigenous-services-canada.html)

### Why was this Toolkit developed?

On June 19, 2013, Bill S-2, the *Family Homes on Reserves and Matrimonial Interests or Right Act*, (the *Act*) received Royal Assent. As announced in June 2013, the *Act* protects rights connected to family homes on reserves, including matrimonial interests or rights. These protections apply to individuals living on reserve during a relationship, in the event of a relationship breakdown and on the death of a spouse or common-law partner.

The first part of the *Act* went into force December 16, 2013. The remainder of the *Act's* provisions came into force a year later on December 16, 2014.

As of December 16, 2014, judges can issue orders for exclusive occupation as well as orders for the division of value of matrimonial real property. Designated judges may issue an Emergency Protection Order (EPO) to remove violent partners from the family home. Not all provinces have designated judges yet, so it is important to determine if EPOs are available in your province.

The *Act* also allows courts to apply First Nations' own matrimonial real property laws that respect their culture and traditions once those laws are enacted.

As of 2021, most First Nations have not yet passed their own MRP laws. Consequently, the PFRs apply to most First Nations.

To assist First Nation communities to understand the *Act*, and/or pass their own MRP law, a Centre of Excellence for Matrimonial Real Property (COEMRP) was established, hosted by the National Aboriginal Land Managers Association (NALMA).

This Toolkit is designed as a practical guide to assist First Nations in understanding the steps required to implement the PFRs or their own First Nation specific MRP law.

### **This Toolkit Is for You**

You may be an official of your First Nation such as a Chief or Councillor; or a manager or technician at the Band Office; or a lawyer or advisor to the First Nation; an Executor of a Will, or an Administrator of an Estate involving reserve land. Any number of people may have to deal with matrimonial real property issues at some point in their life or work.

This Toolkit has been produced by the COEMRP to help you manage the administrative aspects of the FHRMIRA or your First Nation's own MRP law. This Toolkit will help you in understanding what steps are required to implement the PFRs or your own First Nation specific MRP law by explaining the issues to consider prior to implementation; developing an Implementation Committee; what policies and procedures may be needed; conducting training for Band employees; promoting education and awareness in the community; how to monitor and evaluate the process; amending the procedures or the MRP law; and different dispute resolution processes that may be available. This Toolkit also examines the ongoing challenges that exist under the PFRs and under First Nation specific MRP laws.

FHRMIRA came fully into effect as of December 16, 2014. As with any new law, there will be new administrative procedures and record keeping requirements to help keep track of the cases that arise out of this new legislation. ISC has developed new forms and administrative procedures in relation to FHRMIRA that First Nation technicians and members will be expected to comply with when registering documents in a land registry maintained by ISC. Revisions to these forms can be expected over the months and years ahead. The advice contained on "best practices" in this Toolkit also applies in large measure to those First Nations who have their own MRP law and their own forms.

Clearly property is important to families, First Nations, and governments. MRP includes land held by one or both spouses or common-law partners and used by the family, as well as houses, sheds and any other property attached to the land.

MRP law deals with a wide range of issues related to such property in the event of marriage breakdown or death. You may well play an essential role in assisting your First Nation to address such property issues. We hope this Toolkit will assist you in the efficient execution of your administrative duties.

There are also other MRP publications that may be useful to survivors and administrators of wills:

1. *“Understanding Estate Management On-Reserve”* which is a booklet for survivors of a deceased member.
2. *“A Quick Reference to the Family Homes on Reserves and Matrimonial Interests or Right Act”* which is a booklet for executors, administrators, survivors, heirs, and beneficiaries.
3. The Estates Management Toolkit which is a Toolkit for First Nation Band staff.

Any suggestions for the improvement of these publications are most welcome and should be directed to NALMA. For further information on these and other NALMA products and services please call: 1-705-657-7660 or toll-free 1-877-234-9813.

### Training Options

While this Toolkit was designed for use by those First Nations’ technicians charged with the responsibility of developing and/or administrating MRP law, NALMA also offers various training courses related to many aspects of First Nation affairs and land management. These training sessions typically last one to three days.



### Consulting Options

First Nations are invited to contact NALMA to discuss the possibility of having one of the experts from NALMA visit the First Nation and consult with the Band Council on MRP matters.

### Toolkit Assumptions

First and foremost, this Toolkit was produced to serve the needs of the First Nations. While it deals with legal matters and legislation, it is not assumed that you are a lawyer or someone with extensive experience in legal matters.

Perhaps you have been tasked with informing your First Nation on the potential impact of the Act. Or perhaps you are a member of the Council or an Elder expected to advise your community.

You may be feeling rather anxious about these new responsibilities and somewhat perplexed about MRP legislation. That is perfectly understandable. Many experienced staff members on other First Nations share some of your concerns.

It is critical that community leaders have a solid understanding of the FHRMIRA and the process of adopting their own MRP law if they so choose. The Chief and Council must provide leadership to the community in this important area.



**NOTE**

This Toolkit is intended to provide information relating to general practices only and should not form the basis for legal advice of any kind. Ensure that your First Nation's lawyer is an integral part of your MRP law-making team.



### Some Handy Acronyms

Anyone involved in the MRP process will certainly become exposed to the inevitable collection of “secret codes” or acronyms used. Here are a few to get you started! There is a longer list provided in Appendix B of this document.

- BCR - Band Council Resolution
- C&C - Chief and Council
- COEMRP – Centre of Excellence for Matrimonial Real Property
- EOO – Exclusive Occupation Order
- EPO – Emergency Protection Order
- FAQ – Frequently Asked Questions
- FHRMIRA – *Family Homes on Reserve and Matrimonial Interests and Rights Act*
- FN - First Nation
- INAC – Indigenous and Northern Affairs Canada
- ISC – Indigenous Services Canada
- MRP – Matrimonial Real Property
- NALMA - National Aboriginal Lands Managers Association
- PFR – Provisional Federal Rules



### **Note on Terminology**

The term “**matrimonial real property**” refers to the house or land that a couple lives on or benefits from while they are married or in a common-law relationship.

For purposes of simplicity in this Toolkit, where it refers to “spouse”, it normally includes “common-law partner” as well.

When we refer to “the Act” we are referring to FHRMIRA.

We use the abbreviation “s.” to refer to a section of the Act.

When we refer to “Council” we mean Chief and Council collectively.

### **Why MRP Legislation Is Important to Those Experiencing Violence Who Are Living on Reserve**

Since 1986, provincial family and domestic violence laws that protected victims of abuse by giving them rights to their homes or land did not apply on reserve. Courts didn’t have the legal authority to make orders with respect to “real” property, namely, land and houses that are attached to land on reserve. Therefore, residents living on reserve did not have the same access to protection as those living off reserve.

This meant that a Court could not make an order with respect to:

- Division of real property on reserve on relationship breakdown
- Rights to possess or occupy the family home

The MRP legislation gives victims of abuse on reserve a defined process to seek legal protection with:

- Emergency Protection Orders
- Exclusive Occupation Orders
- Equal right to occupancy of the family home during the relationship
- Entitlement of surviving spouses to occupy the home
- Prevention of a spouse whose name is on the land or home from encumbering it (e.g., selling it or taking out a mortgage) without the spouse’s consent
- Rights to property and to share in the value of property at relationship breakdown.

## Some Facts about Matrimonial Real Property and FHRMIRA

Matrimonial Real Property (MRP) refers to a house or land that a couple occupies or benefits from when they are/were in a common-law relationship or are/were married.

The *Family Homes on Reserves and Matrimonial Interests or Rights Act* (FHRMIRA) is a law that provides rights and protections to individuals living on-reserve regarding the family home during a relationship and in the event of a relationship breakdown or death of a spouse or common-law partner.

However, FHRMIRA is not retroactive which means that it does not apply to situations that occurred before the PFRs came into force on December 16, 2014.

Some related statistics:

- Nearly 570 out of 617 First Nations in Canada are governed by FHRMIRA.
- Only a handful of First Nations have a First Nation-specific MRP law.
- As of March 2021, over 200 First Nations have demonstrated an interest in developing their own MRP law.
- Statistically, FHRMIRA provides rights and protections to 106,275 non-Band-owned on-reserve homes, as well as protections to a further 66,515 dwellings that are rental or Band housing.
- In most regions, rates of home ownership are much lower on-reserve when compared to off-reserve. While socio-economic factors partially account for the differences in home ownership, the situation for on-reserve residents is closely tied to complex property rights restrictions under the *Indian Act*.
- Statistically, the patterns of legal marriage and home ownership differ substantially between on- and off-reserve populations. For example, data from a 2011 National Household Survey (NHS) indicates that 20% of the adult population on-reserve is legally married compared to 40% off-reserve.
- The 2011 NHS data also indicates that home ownership rates are higher for married individuals than for single individuals across First Nations. This makes sense intuitively as couples are more likely to have a greater household income than single persons. Nevertheless, a substantial portion of the population on-reserve lives in either Band or rental housing.



## Chapter 2 – Before Starting

### First Nation Specific MRP Law

This Chapter applies to First Nations that have developed their own specific MRP law. Before the First Nation starts the process of implementation, it is essential that the First Nation fully understands its MRP law and that it is reviewed by a third party. If this step has not been completed before the First Nation ratifies its MRP law, it is strongly recommended that it be done before starting the implementation process.

### Understanding the MRP Law

It is imperative that the First Nation ***fully understands its MRP law before ratifying*** the law. While this might sound like stating the obvious, it unfortunately is not. We often receive inquiries from First Nations asking what certain provisions of their First Nation specific MRP law mean after they have ratified it as they are unsure.

First Nation specific MRP laws are often written using very complex legal and technical language that is not reflective of language that people use every day. Complex language combined with the fact that MRP is not a common topic of daily conversation, enhances the barriers to understanding MRP laws. These barriers can be reduced by having the MRP law written using plain language as much as possible and for the First Nation seeking clarity during the drafting stage on all provisions and terms used in the MRP law. Doing so at the drafting stage allows for any complex, vague, or misleading provisions and terms to be redrafted so their meaning is clearly stated. Taking these steps during the drafting stage ensures the MRP law is fully understood by the First Nation before it is ratified. A clearly written MRP law means that the MRP law will not only be understood today but also into the future.

Failing to have a MRP law that the First Nation fully understands can cause frustration for the people it is intended to serve and for the Band staff that must implement the MRP law. It also leaves the MRP law open to misinterpretation and potential legal challenge. As well, the First Nation may incur costs to seek advice from legal counsel or other experts as to what the MRP law says.

It is the responsibility of the First Nation to understand their specific MRP law inside and out. The First Nation is accountable to their members and residents for the law; they must implement, administer, and comply with the law; they need to promote education, understanding and adherence to the law; and they will be required to defend the law should it ever be challenged. If the First Nation does not fully understand its own MRP law, these will be very difficult responsibilities to fulfill.

**Best Practice**

The First Nation must understand its MRP law. Having it written in plain language helps to facilitate understanding.

### Third Party Review

Another important step that may assist First Nations when developing their own specific MRP law is having it reviewed by a third party during the drafting stage. The third party should be knowledgeable about MRP but has not been directly involved in developing that specific MRP law. This means that it should not be the lawyer that drafted the MRP law or a member of the MRP development committee. The third party should carefully review the draft MRP law to determine whether it is easily understandable by someone not involved in its development, if it is interpreted to say what it is supposed to say, and to spot any inconsistencies or gaps in information. The findings of the third party's review can then be used to further strengthen and clarify the MRP law where required.

**Best Practice**

Have a third party review the MRP law during the drafting stage to assess if it understandable and says what it intends to say.

### After Ratification

If the First Nation has already ratified its MRP law, it is still recommended that the First Nation carefully review the MRP law to determine if it fully understands the MRP law and to have a third party review the MRP law.

If these reviews determine that the First Nation does not understand its MRP law or that major revisions or additions are required, the First Nation will need to consider whether it should make amendments to the MRP law in accordance with the amending process in the MRP law.

If these reviews determine that amendments to the MRP law are not required but the MRP law is not widely understood, the First Nation should consider what tools and resources can be developed to increase awareness and knowledge about the MRP law. Chapter 9 of this Toolkit provides valuable resources that will assist the First Nation in promoting education and awareness of the MRP regime.

**Best Practice**

If the First Nation does not understand its own MRP law, it may need to be amended or education about it will need to be increased.

## Chapter 3 – Implementation Process Overview

### Why Implementation is Important

The *Family Homes on Reserve and Matrimonial Interests or Rights Act* (FHRMIRA) is in effect, and First Nations are either following the Provisional Federal Rules (PFRs) as laid out in FHRMIRA or they are following an MRP law that they have enacted for their own First Nation. Throughout this Toolkit we will collectively call these the “MRP regime,” unless we mean one or the other specifically.

Why is implementation important? Implementation is one of the most crucial elements in the MRP regime, but it is often overlooked or put together quickly to respond to a situation that arises. This can be problematic for many reasons, including that the process to implement the MRP regime will then be reactionary rather than being designed through an objective, comprehensive and well-planned process. This can cause frustration to residents that use the MRP regime, the community, and the Band staff who are charged with the responsibility of working within the MRP regime. This can also cause delays, increase costs, reduce confidence and trust, and expose the MRP regime and/or the First Nation to potential legal and other challenges.

We understand that designing and executing an implementation plan for the MRP regime can be confusing and overwhelming. Questions such as where to start, how much will it cost, how long will it take, and who is responsible can feel impossible without a clear understanding of all elements and requirements to implement the MRP regime.

This Toolkit has been developed to assist First Nations in answering these and other questions. This Toolkit explains the process of implementation from start to finish and provides a step-by-step guide on how to implement the MRP regime. This Toolkit breaks the implementation process down into clear manageable steps, allowing First Nations to have an in-depth understanding of the elements within each step and a plan on how to approach each step. We have also created templates, work sheets and other handy resources to assist First Nations in their implementation process.

The implementation process presented in this Toolkit is intended to be a comprehensive guide to how to implement the MRP regime. However, the implementation process in this Toolkit should not be viewed to be prescriptive as it can be easily modified and should be adapted to meet the individual needs of each First Nation.

**Best Practice**

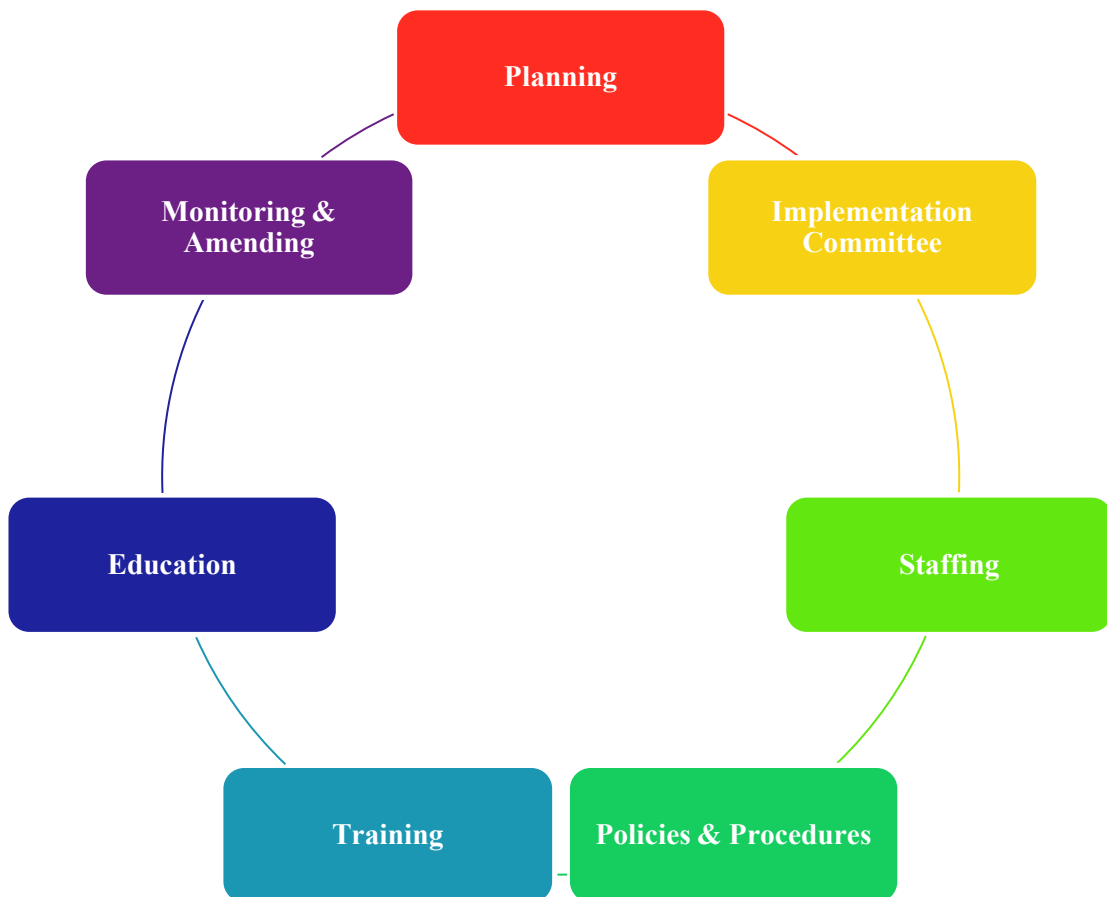
Adapt the implementation process in this Toolkit to meet the needs of the First Nation.

**Process Overview**

The implementation process we will be discussing in this Toolkit consists of the following steps:

1. Planning the implementation process.
2. Establishing an Implementation Committee.
3. Having a dedicated MRP office or staff.
4. Designing policies and procedures to administer the MRP regime.
5. Conducting training for Band employees and Council.
6. Promoting education and awareness for First Nation’s residents and others.
7. Monitoring, evaluating, and amending the administrative processes and the MRP regime.

These steps are presented in the diagram:



## Implementation is an Ongoing Process

As evidenced in the above diagram, implementation should not be viewed to be a linear process that starts at one point and has an end point. Instead, implementation is cyclical, meaning it has regular intervals in which a step or steps will need to be repeated. For example, a First Nation may accomplish all the steps in this Toolkit to implement the MRP regime but continue to perform the education and awareness step on an ongoing basis to assist its residents to fully understand the MRP regime. Or it may be necessary in the future to conduct the training step again to train new Band employees or members of Council. The implementation process should not be viewed as a checklist that is finally completed once the First Nation checks off all the steps. There will always be an ongoing requirement for implementation though not all steps may be required to be completed again or at the same time.

## Each Chapter Explores a Step

This Toolkit discusses each step to provide a comprehensive understanding of the implementation requirements and a straightforward plan for implementing the MRP regime. Each step is broken down into a separate Chapter where detailed discussion and accompanying resource materials are explained. The information discussed in each Chapter include:

- Planning requirements and considerations are discussed in **Chapter 4**. The importance of starting the implementation process in a timely manner and who is responsible for implementation are examined. How to develop an implementation plan and key questions to consider in designing an implementation process are presented.
- Establishing an Implementation Committee with clear responsibilities are considered in **Chapter 5**. The process used to establish the Implementation Committee and design its terms of reference are highlighted.
- **Chapter 6** discusses the importance of having a dedicated department or Band employee that is responsible for the MRP regime and what their roles and responsibilities are.
- **Chapter 7** explains the various policies and procedures that should be developed to administer the MRP regime. Conducting an inventory of existing First Nation laws or policies that may be impacted by the MRP regime; the different categories of policies and procedures to develop; and key policies and procedures are presented in this Chapter. The need for filing procedures to create an effective records management system that respects privacy requirements are outlined.
- The essential training requirements for Band staff and Council about the MRP regime and its administrative processes is examined in **Chapter 8**. Structuring the content of the training to the targeted audience and the need for ongoing training is discussed.

- **Chapter 9** explores how education and awareness of the MRP regime is vital for all residents, the First Nation overall, and its partners. The content to include in education and awareness campaigns, training tools, and target audiences is examined.
- **Chapter 10** highlights tools that can be used to monitor, evaluate, and amend the MRP regime and its administrative processes.

By presenting each step into separate Chapters, the First Nation can easily refer to the corresponding Chapter when needed in their implementation process and in the future.

The Resource Materials section of this Toolkit includes Templates and Work Sheets for many items that will be required to develop and execute an implementation plan for the MRP regime. The **Template** provides examples of information and details to include within the various resource materials. The **Work Sheet** is the document the First Nation can use to complete the information and details required within the various resource materials.

**Best Practices** are also highlighted throughout the Toolkit to identify items of importance and good approaches to having a successful implementation process.

This Toolkit also provides an overview of the court system and the different dispute resolution mechanisms that may be available under the MRP regime in **Chapter 11**, as well as some of the ongoing challenges in the MRP regime in **Chapter 12**. Additional resources are highlighted in **Chapter 13**, and **Appendix E** explains the funding resources that NALMA offers under the Special Projects Fund. Finally, **Appendix F** provides an overview and contact information for the various provincial legal services across the country.

### Resource Materials

The Resource Materials includes an Implementation Process Checklist that the First Nation can use to keep track of the main steps, questions and issues to consider, and to stay on schedule. Each chart in the checklist corresponds with the Chapter topics, Templates and Work Sheets that are referenced throughout the Toolkit.



## Chapter 4 – Planning Process

### Timing

Sometimes the hardest part of implementation is getting started. A First Nation may feel overwhelmed with how to start the implementation process, causing them to put it off or delay starting. Or a First Nation may be facing several different priorities and implementation is not high on the list of what needs to get done.

Whatever the reason, it is vital that the First Nation begin the process of implementing the MRP regime as soon as possible. This is critical for two reasons. First, the implementation process will take considerable time to be done properly. Second, having the First Nation start the implementation process on their own accord rather than being forced to do so, such as needing to respond to an MRP matter that is before the Courts, allows the First Nation to carefully plan and determine its implementation process instead of developing a reactionary or ad hoc one. For a First Nation that has its own MRP law, starting the implementation process immediately after ratification also helps to build on that momentum and the community's existing knowledge about the MRP law.

#### Best Practice

Start the implementation process as soon as possible to allow time to carefully plan, to steer the process, and to ensure it is comprehensive and done properly.

### Responsibility

The next obstacle often faced is determining who is responsible for the implementation process as it may not be clearly articulated in the PFRs or the First Nation's specific MRP law. Not having an identified individual or group tasked with implementing the MRP regime can contribute to delays in getting started.

As it is a function of government, Council has the overall responsibility for implementing the MRP regime. However, Council may choose to delegate the actual process of implementation to others such as the Band Manager or an Implementation Committee. If the process is delegated, it is important to remember that Council still has overall responsibility for the MRP regime implementation. As such, representatives of Council should be involved in the

implementation process, receive regular reporting on the progress of implementing, and be responsible for approving the final implementation process. This is a central element to the implementation plan, which we will discuss throughout this Toolkit.

The responsibility to start the process of implementation also rests with Council. This can be done by hiring an employee or appointing an Implementation Committee tasked with completing the implementation steps. We will discuss the role of the Implementation Committee further in Chapter 5.

#### Best Practice

Council is responsible for the overall implementation process. They should be part of the Implementation Committee, receive regular progress reports, and have final approval of the implementation process.

## Funding

By far, the greatest challenge facing First Nations in implementing the MRP regime is accessing the financial resources to do so. Where a First Nation has developed its own specific MRP law, it has likely considered how it will be resourced and may have taken steps to secure the required financial resources. For First Nations under the PFRs however, they may not have considered how the MRP regime will be funded or how much it will cost the First Nation.

There is no dedicated funding from ISC to implement the MRP regime. This means that First Nations will need to either self-finance the process or secure limited funding available from NALMA or other funding sources. More information about NALMA's funding for MRP regime activities can be found in **Appendix E**.

The lack of dedicated financial resources to implement the MRP regime often stands as a barrier to First Nations even starting the process of implementation. And when implementation is started, the scope of implementation and its continuity can be severely impacted by limited financial resources. This can result in the implementation process becoming constrained to fit within the limited financial resources rather than being comprehensive. It can also cause confusion and lack of ownership when the implementation process is flagged with stops and starts due to a lack of ongoing core funding.

While cognizant that there is no dedicated funding, the reality however is that First Nations will need to implement the MRP regime. The First Nation may decide that they want to implement the MRP regime to protect the rights of their residents, or they may be forced to do so as they must respond to an MRP matter before the courts. Either way requires the First Nation to commit financial resources to implementation. When the First Nation undertakes the implementation process by choice, it has more control in determining the financial resources

required. The same may not be true when the First Nation is forced to do so such as being required to participate in a Court proceeding, and it may end up being more costly.

To assist in determining the financial resources required, the First Nation should develop the implementation plan and budget at the outset. Implementation steps should be prioritized according to what must be completed immediately, in the short-term, and in the long-term. Doing so allows the First Nation to forecast the budget that will be required for each priority and when the financial resources will be required. This step is further discussed below.

#### **Best Practice**

Prioritizing activities in the implementation plan and budget helps to determine the necessary financial resources and when they are required.

## **Creating an Implementation Plan**

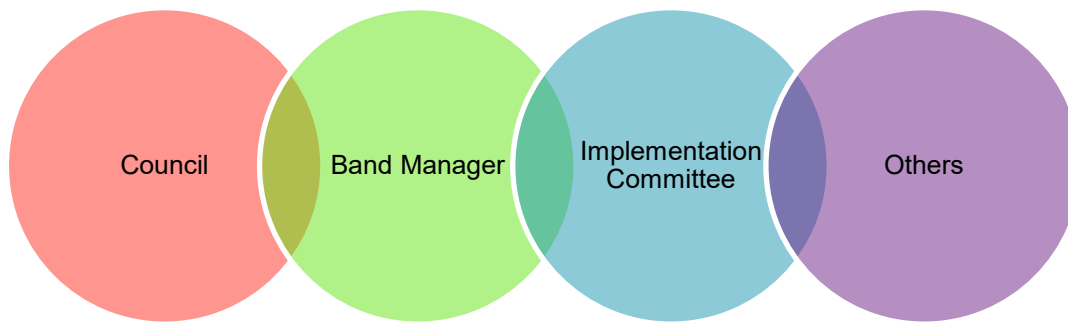
The next biggest obstacle is often deciding where and how to start. This can be a daunting task for a First Nation under either the PFRs or their own specific MRP law. The key is developing a clear implementation plan divided into manageable steps to accomplish a straightforward and comprehensive implementation process.

The implementation plan is essential to the success of the implementation process and helps to keep it on track. It is a road map used to guide the implementation process. The implementation plan helps to ensure all essential tasks are included, reduces the chance of overlooking an essential step in implementation, allocates tasks efficiently to individuals, establishes short-term priorities and performance expectations, creates an implementation schedule that can be tracked and monitored, sets expectations for implementation progress, establishes accountability, and assists in developing a more accurate budget.

## **Key Players**

As there are many factors to be considered in creating an implementation plan to guide the implementation process such as budget, timelines, and responsibilities, it is essential that all the key players are involved in the development. This means that Council, the Band Manager, the Implementation Committee, and any others that are required, should work together to develop the plan for implementation. Doing so ensures that all key players understand and agree to the implementation plan, any financial or human resource considerations are taken into account, and necessary checks and balances are factored into the implementation plan.

Each key player will have certain responsibilities and duties within the implementation process so their active participation in the creation of the implementation plan is essential. For example, the Band Manager may be responsible for approving and monitoring the implementation costs and expenses, while the Implementation Committee is responsible for completing the implementation work.



**Best Practice**

Include all key players and decision-makers in the planning process.

## Planning Takes Time

There may be an urge to rush the planning process to just get it done. However, rushing planning can do more harm than good causing critical elements of the implementation process to be overlooked or underdeveloped. A poorly developed implementation process can result in delays, increase expenses, and cause frustration for all involved.

Be prepared to take the amount of time that is necessary to develop the plan. It may take a few meetings of the key players before the implementation plan is complete. The more time spent properly planning, the better the implementation plan will be.

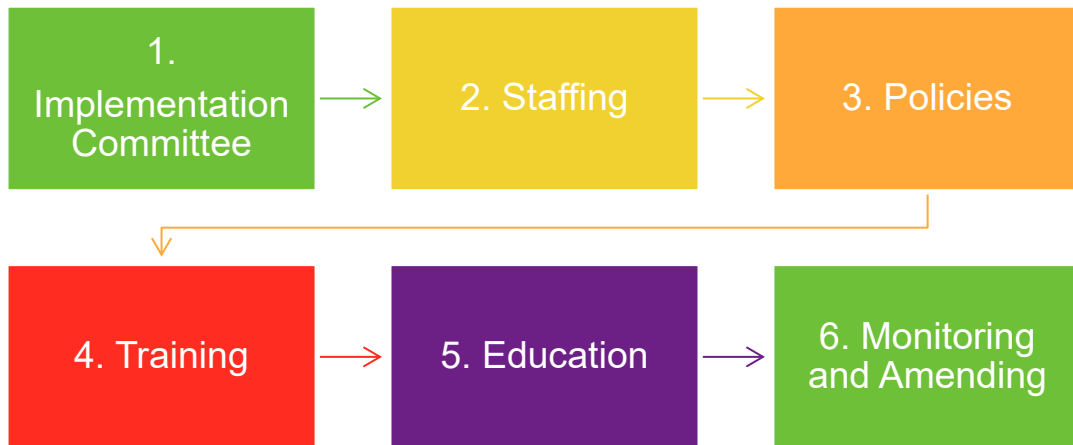
**Best Practice**

Don't rush the planning process! Proper planning takes time.

## Components to Include

Implementing an MRP regime includes a number of main tasks such as establishing an Implementation Committee to oversee the implementation process, hiring or assigning MRP responsibilities to a designated Band employee, developing the necessary policies to administer the MRP regime, conducting training for Band employees and Council on the administrative policies, educating the residents and others on the MRP regime, monitoring the MRP regime, and amending the administrative policies as required. In designing the implementation plan, a First Nation may wish to consider each of these main tasks individually rather than as one big group. This helps to break down the necessary activities and steps for each task and prioritize which tasks need to be done first.

The following diagram is an example of the main tasks that may be included in the implementation plan and their priority:



For each main task identified, it will be necessary to determine the following:

1. Identify the activities that need to be done.
2. Break down each activity into steps.
3. Determine who will be responsible for each activity.
4. Determine when each activity will be done.
5. Identify the human resources, materials and equipment required for each activity.
6. Estimate the budget required for each activity.



This information is then populated into the implementation plan by identifying what needs to be done, how it will get done, when it will get done, the resources needed, how much it will cost, and who is responsible for completing the work.

After completing the task of planning the next task might be developing the Implementation Committee, for example. To complete this task, the activities of establishing the Implementation Committee, developing the terms of reference, appointing or selecting the members, selecting the Chairperson, developing the work plan, conducting meetings, and reporting to Council may be required. Each of these activities are then further broken down into the steps that are required to complete each activity. The step required to complete the first activity of establishing the Implementation Committee would include Council immediately passing a motion authorizing the establishment of the Implementation Committee. The step required to complete the second activity of developing the terms of reference would require Council to define the purpose, mandate, responsibilities, and power of the Implementation Committee. These activities and steps would be recorded in the implementation plan as follows:

## Task 2: Implementation Committee

Activity	Steps	Timeline	Responsibility	Resources	Budget
<b>Establish Implementation Committee (IC)</b>	Pass motion authorizing establishment of the IC	Immediate	Council	None	\$0
<b>Develop Terms of Reference</b>	Define the purpose, mandate, responsibilities, and powers of the IC	Immediate	Council	Staff to develop Terms of Reference	\$0

The implementation plan would then continue to define each activity, steps, timeline, responsibility, resources, and budget for every task within the implementation plan.

Once the implementation plan is completed, the First Nation may wish to create other resources and tools to help keep the implementation process on track. A useful tool is developing a Gantt chart that records the main tasks, the activities to be completed, who is responsible for the completion, the status of the activities, and the timeframe for completing each activity. While a Gantt chart does not include the same level of detail as the implementation plan, it is a useful tool that provides a visual view of what needs to be completed and when to stay on schedule. If a Gantt chart is not used, it is strongly recommended that the First Nation develop some type of tracking tool to monitor the tasks

and activities that are completed, in progress, and upcoming. A similar tool can also be developed to keep track of budget expenses.

A completed template implementation plan and Gantt chart are included in the Resource Materials that shows what is included in the implementation plan and the Gantt chart. A blank implementation plan and Gantt chart work sheet that the First Nation can use are also included in the Resource Materials. Note that the Gantt chart can also be easily modified to keep track of budget expenses.

#### Resource Materials

The Resource Materials include a completed Template Implementation Plan and Gantt Chart that is to be used as a guide. A Work Sheet Implementation Plan and Gantt Chart is also included which the First Nation can modify and use.

### Realistic and Achievable

When designing the implementation plan, keep in mind that the implementation plan must be realistic and achievable for the First Nation. This requires a thorough understanding of each of the implementation plan components and consideration of the different internal and external factors that may affect the implementation plan.

For example, the First Nation may have a budget of \$50,000 to allocate to implementation this fiscal year. This means that the implementation activities to be completed this year must remain within the available budget. If the budget is unable to cover the costs of all planned activities, it may be necessary to redefined activities to come within the budget or to complete some activities in the future when additional financial resources are available.

#### Best Practice

Develop an implementation plan that is appropriate for your First Nation's needs and budget.

### Regularly Review and Revise

While the implementation plan is the road map to the implementation process it should not be viewed to be static. It will be necessary to regularly revisit and revise the implementation plan to address any issues that arise and to accommodate any changes that are necessary. Reviewing the implementation plan regularly helps to keep the implementation process on schedule, on budget, and within the defined parameters. Where situations arise that were not foreseen or planned for that affect the implementation plan, it will be necessary to revise it to accommodate those changes.

**Best Practice**

Regularly review the implementation plan and revise as required.

**Planning Questions to Consider**

To help First Nations in working through what tasks and considerations they may need to include within their implementation plan, we have developed several planning questions that are focused on the implementation process from start to finish.

These questions are intended to be a tool to assist First Nations in their planning. Some of the questions may not be of relevance to the First Nation depending on what MRP regime they are under. There may also be other questions the First Nation needs to consider that are not included here.

<i>Enactment</i>
1. What date did the PFRs come into force in the First Nation?
2. On what date is the MRP law to be enacted? Is it immediately or later?
3. Do both the PFRs and a First Nation specific MRP law apply? If so, what is the time period that the PFRs apply to, and what is the time period that the First Nation’s MRP law applies?

<i>Financial Resources</i>
4. What is the estimated cost required to implement the MRP regime and what is included in the estimate?
5. Will the cost to implement the MRP regime be done through internal funds or external funding?
6. If external funding is required, where will it be from and is it long-term or one-time funding?
7. Has the funding been secured, and does it fulfill the estimated amount required?
8. What is the plan for securing the ongoing financial resources that will be required for the MRP regime?



**Human Resources**

9. Does the First Nation have an MRP department, and if so, what are their responsibilities?
10. If there is no MRP department, which department or Band employee will be responsible for implementing the MRP regime and what will their responsibilities be?
11. Who will be responsible for overseeing the MRP regime once it is implemented, such as responding to requests for information?
12. What other departments and Band employees should be involved with the MRP regime?
13. Are there plans to hire a part-time or full-time MRP employee?

**Implementation Committee**

14. Will an Implementation Committee be established and if so, what are their responsibilities?
15. Who will be on the Implementation Committee and how are they selected?
16. What Band employees and/or Council will need to work with or be part of the Implementation Committee?
17. What other employees or agents may need to work with the Implementation Committee and what is the process to do so? For example, will the Implementation Committee work with the Band’s legal counsel and if so, when, and how?
18. What is the work plan and budget of the Implementation Committee?
19. How does the Implementation Committee report, to whom, and how often?

**Operational Requirements**

20. Is there an office for the MRP department or employee to work from?
21. Are there any operational barriers that exist which may restrict or limit people from accessing the MRP services? For example, is the employee’s office located in a busy area that would not protect the privacy of people that may use the MRP services?
22. If there are operational barriers, how can they be addressed?
23. What other operational requirements need to be considered and accommodated?

*Policies and Procedures*

24. Has an inventory been completed of what existing First Nation laws and policies are in place that may be impacted by the MRP regime?

25. Do any existing First Nation laws and policies require amendment to be consistent with the MRP regime? If so, who will make the amendments and when?

26. What policies and procedures are required?

27. Does the First Nation have a standard process that must be followed in developing policies and procedures?

28. Who will be responsible for developing the policies and procedures required to implement the MRP regime and what is the timeframe to do so?

29. What experts may need to be consulted in the development of the policies and procedures? For example, will an appraiser need to be consulted in designing the procedures relating to appraising the value of the MRP?

30. Will the Band's legal counsel provide a legal review of all policies and procedures?

31. How will the policies and procedures be approved and by whom?

*File Maintenance*

32. Does the First Nation have a standard process that is used for file maintenance?

33. Does the First Nation have a privacy policy that must be complied with?

34. What procedures need to be developed to maintain MRP files?

35. What department or employee will be responsible for MRP files?

36. Who will have access to MRP files and how will privacy and access be controlled and secured?

37. What information will be kept for an MRP file and for how long?

38. How will information and files be securely destroyed?

*Employee Training*

39. What training will be provided to Band employees on the MRP regime?

40. Will there be different levels of training provided to Band employees depending on their involvement with the MRP regime?

41. Who will conduct the training, when and how often?
42. What is the plan for ongoing training?

<i>Political</i>
43. What are the responsibilities of Council in the implementation process of the MRP regime?
44. What are the specific responsibilities of Council as stated in the PFRs or the First Nation specific MRP law? For example, does Council have a responsibility to make representations to the court for all MRP matters?
45. How will the responsibilities of Council be explained in the policies and procedures?
46. What training will Council require to understand their responsibilities regarding the MRP regime and how often will they receive the training?
47. How will feedback and direction be received from Council regarding the MRP regime? For example, if Council makes representation to the court on an MRP matter, will there be an internal process to follow up with Council to discuss what worked well and what could be improved?
48. What procedures are required to ensure that politics are separate from the administration of the MRP regime?

<i>Education and Awareness</i>
49. What education and awareness campaigns will be used to inform residents about the MRP regime and what will be included?
50. When will the education and awareness campaigns begin and who will conduct them?
51. Will there be different types of education and awareness campaigns?
52. Will education and awareness campaigns be coordinated and integrated into processes with other departments? For example, will copies of the MRP regime be provided to all tenants when they sign a Band rental agreement?
53. Will educational resources such as posters, infographics, and pamphlets be developed to inform people about the MRP regime and what will they include?
54. What educational resources already exist within the First Nation and externally (such as through NALMA) that can be used to increase understanding about the MRP regime?

55. What language(s) should the educational resources be published in?
56. Where will the PFRs or First Nation specific MRP law be posted and published?
57. Who can people bring questions to about the MRP regime?
58. How will the ongoing requirement for education and awareness be fulfilled?

<b><i>Relationships and Partnerships</i></b>
59. What relationships or partnerships are required for the implementation and enforcement of the MRP regime? For example, relationships with policing agencies that will enforce the MRP regime.
60. Do those relationships and partnerships already exist, or do they need to be developed?
61. Are there any barriers in developing and maintaining the necessary relationships and partnerships?
62. Has the PFRs or First Nation specific MRP law been provided and explained to all relevant partners?
63. Will training on the MRP regime be provided to all relevant partners, by whom and how often?

<b><i>Enforcement</i></b>
64. How will the MRP regime be enforced and by whom?
65. Is the PFRs or the First Nation specific MRP law enforced through an internal process, an external process, or a blend of both?
66. Does the First Nation have the required enforcement process in place, or does it need to be developed?
67. How will orders and decisions made under the MRP regime be registered and with whom?
68. What procedures are available where the MRP regime is not enforced, or orders and decisions not followed?
69. What procedures are required to promote understanding within the First Nation of the importance of complying with the MRP regime and any orders or decisions made?
70. What financial resources are required for enforcement of the MRP regime?

71. Can decisions and orders made under the MRP regime be appealed, and if so, to whom?
72. What are the long-term projected costs to enforce the MRP regime?
73. What are the potential legal costs to defending the First Nation specific MRP law should it be challenged in court?

<b><i>Monitoring, Reporting, and Evaluating</i></b>
74. How will the MRP regime be monitored, how often and by whom?
75. What type of reporting on the MRP regime will be required, how often and to whom?
76. How will privacy and confidentiality be maintained when reporting on the MRP regime?
77. What procedures are required to evaluate the successes and challenges of implementing the MRP regime?
78. How will the implementation of the MRP regime be evaluated?
79. Who should be involved in evaluating the implementation of the MRP regime? For example, how will residents that have used the MRP regime provide feedback on the process?
80. How will the results and feedback from evaluations be used?

<b><i>Reviewing, Amending, Revising</i></b>
81. How often will the effectiveness of the MRP regime and its policies and procedures be reviewed and by whom?
82. What is the process for making amendments to the First Nation specific MRP law?
83. What is the process for making amendments to the policies and procedures developed for the MRP regime and how much will it cost?
84. How will residents, Council, employees, and partners be advised of amendments made to the First Nation specific MRP law?
85. How will residents, Council, employees, and partners be advised of amendments made to the policies and procedures?

<i>Courts and Dispute Resolution</i>
86. How are disputes under the MRP regime resolved? Does it use an alternative dispute resolution process, the provincial court system, or a mix of both?
87. If the MRP regime uses both an alternative dispute resolution process and the provincial court system, what type of MRP issues are determined by each?
88. If the provincial court system is used, what resources are available to residents to inform them about the requirements and process to use the court system?
89. If the MRP regime has an alternative dispute resolution process, what does it consist of?
90. Is the alternative dispute resolution process already in place, or does it need to be developed?
91. If the alternative dispute resolution process is in place, is it ready to provide services under the MRP regime or does it require further development?
92. If the alternative dispute resolution process does not already exist, when and how will it be developed?
93. Who provides the services under the alternative dispute resolution process and what training do they have overall and on the MRP regime?
94. How is the alternative dispute resolution process funded?

### Resource Materials

These questions are set out in the Work Sheet Planning Questions located in the Resource Materials and includes space for the First Nation to record their answers to these questions.

## Chapter 5 – Implementation Committee

### Why it is Needed

One of the most crucial components of implementing the MRP regime is having someone or a group of people to complete the work that is required. This can also be one of the biggest challenges facing First Nations due to limited financial and capacity issues and often not having an employee whose main responsibilities are MRP. Many First Nations overcome this challenge by establishing an Implementation Committee to oversee and perform the work required to implement the MRP regime.

### Establishing the Implementation Committee

Generally, an Implementation Committee may be established by Council passing a motion to create the Implementation Committee. The motion should state that the Implementation Committee is established to oversee and perform the work required for implementing the MRP regime and include a term of reference. The motion is important as it officially records Council delegating the responsibility to develop the implementation tasks to the Implementation Committee. While the Implementation Committee will have delegated responsibility to complete the work, Council maintains overall authority for implementing the MRP regime.

Alternatively, the First Nation may already have a process in place such as a Committee Policy that governs how committees are established. In such instances, the First Nation should follow its existing process to establish the Implementation Committee.

#### Resource Materials

The Resource Materials include a Template Motion that can be used to officially establish the Implementation Committee.

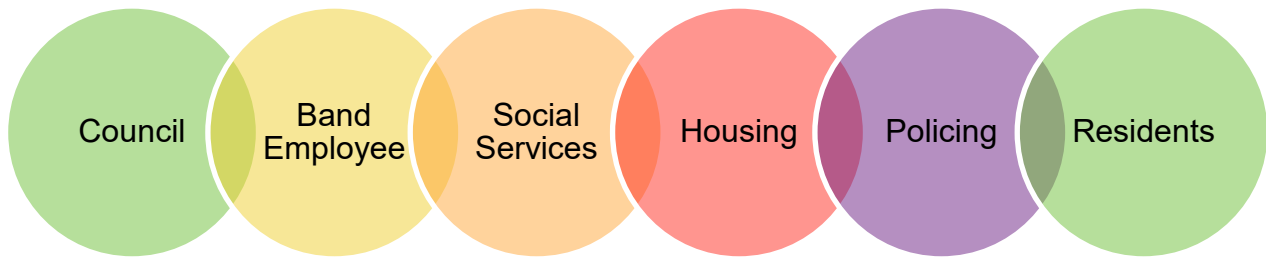
### Composition

If the First Nation has developed its own specific MRP law, it may already have a MRP Development Committee in place that could transition into becoming the Implementation Committee.

The Implementation Committee should be comprised of individuals from different groups within the First Nation that have knowledge of the MRP regime or with a specific skill set required for implementation. This should include employees of the Band Office, a

representative of Council, and representatives of other departments such as social services, housing, land management, and policing. It is also beneficial to have residents of the First Nation that are not on Council or Band employees as they may bring different perspectives to the Implementation Committee.

The size of the Implementation Committee will be dependent on the number of activities to be



completed, the timeframe to complete the work, and the circumstances of the First Nation. However, the Implementation Committee should not be too large that it becomes unwieldy and unable to accomplish the work that needs to be done. Similarly, if the Implementation Committee is too small, the members may become overburdened with the amount of work required causing burn out, missed timeframes, or hastily completed work.

The terms of reference should clearly outline how members of the Implementation Committee will be selected such as by volunteer, appointment, application, or election. Whatever process is used to select the members, it is important that they fully understand the full scope of the work that is required, the timeframes that will be followed, and what their responsibilities will be before they commit to be a member of the Implementation Committee. Failure to do so at the outset could cause members to be overwhelmed, resign, or impede the progress of the work.

Having the right people on the Implementation Committee is key to achieving the implementation tasks and activities. Members of the Implementation Committee must be dedicated to completing the work assigned on schedule, on budget, and must be able to work together as a team.

**Best Practice**

Implementation Committee members must understand their responsibilities, be dedicated, and work together as a team.

**Terms of Reference**

Generally, the terms of reference explain the Implementation Committee’s purpose, responsibilities, term, and composition. The process by which members are selected, removed, and may resign are included. The frequency of meetings, the process for meetings, quorum,



voting, and selecting a Chairperson are detailed. Whether members will be remunerated for their time and at what rate, such as through an honorarium, should be specified. How often the Implementation Committee reports to Council, that Council has final approval for the work, and that the Implementation Committee may work with advisors or Band employees is explained.

**Best Practice**

Develop a term of reference that clearly explains the Implementation Committee's purpose, structure, and process.

**Resource Materials**

A Template Terms of Reference and Work Sheet Terms of Reference are included in the Resource Materials that can be used to define the Implementation Committee's structure and responsibilities.

## **Responsibilities**

The Implementation Committee is responsible for adhering to the terms of reference and completing the tasks and activities required to implement the MRP regime as set out in the implementation plan. These responsibilities must be fulfilled in accordance with the schedule, budget, and implementation plan. Once the members of the Implementation Committee are selected, Council should meet with them to review the terms of reference and the implementation plan to discuss the planned approach to accomplish the work.

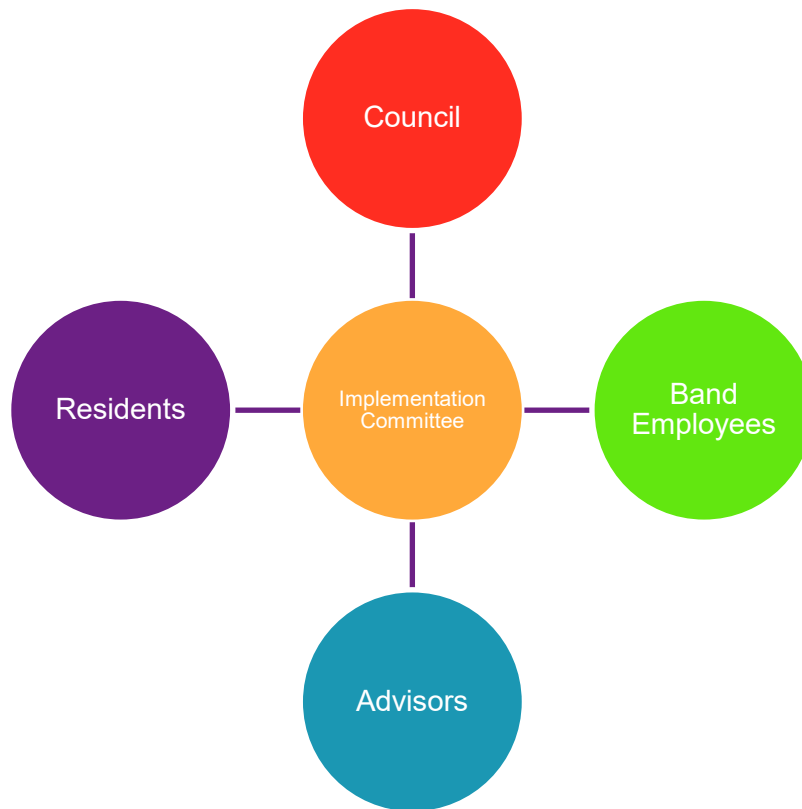
The Implementation Committee may need to work with Band employees and advisors such as the Band's legal counsel to complete some of their tasks and activities. The First Nation will need to facilitate this relationship to ensure the Implementation Committee, Band employees and advisors understand that they are to work together and how that relationship will work. For example, the Implementation Committee may need to work with the housing director to ensure that the Housing Policy is compliant with the MRP regime. Where there are potential costs to the implementation budget such as retaining legal counsel to review the MRP policies, there must be a clearly defined approval process that the Implementation Committee must follow to request these services.

**Best Practice**

Have a clear approval process that must be followed that require financial expenditures on the implementation budget by the Implementation Committee.

The Implementation Committee will also be responsible for meeting with and reporting to Council on the progress of implementation. Reporting should be detailed and occur regularly. Council must be apprised of the status of completing the tasks and activities as set out in the implementation plan and issues or concerns that arise. Regularly reporting allows the Implementation Committee to receive any necessary approval or feedback as required. Communication between Council and the Implementation Committee is vital to successfully implement the MRP regime.

The Implementation Committee may be required to communicate with residents to complete the implementation tasks and activities. For example, the Implementation Committee may request comments from residents on the proposed education infographics they are designing to explain the MRP regime. As the Implementation Committee will be the main face for the implementation process, they will require good communication skills and should be individuals that are respected in the First Nation.



**Best Practice**

The Implementation Committee should regularly report to Council.

**Resource Materials**

The Resource Materials include a Template Implementation Committee Status Report that shows what might be included in a report to Council. A Work Sheet Implementation Committee Status is also included that the First Nation can modify and use.

### Chairperson

The Chairperson is responsible for chairing meetings of the Implementation Committee, keeping the implementation plan on track in terms of schedule and budget, monitoring implementation, and providing timely reports on the implementation progress.

The Chairperson requires flexibility, good judgment, strong leadership and negotiation skills, and a solid knowledge of the implementation plan and the MRP regime. The Chairperson should ideally have management experience, with good organization and time-management skills; an understanding of FHRMIRA or the First Nation’s MRP law; leadership skills with a history of getting the job done; and good communications skills, both oral and written.

The Implementation Committee may select a member to be the Chairperson or Council may designate who will fill this role, such as the MRP employee. As the Chairperson has many responsibilities, it is recommended that the First Nation consider having this filled by a Band employee that is a member on the Implementation Committee as it builds in further accountability. The terms of reference should state how the Chairperson is selected or designated.



**Best Practice**

The Chairperson should be a Band employee to ensure accountability and help keep the implementation process on track.



## Chapter 6 - Staffing

### MRP Office or Employee

The First Nation should strongly consider creating an MRP office or hiring an employee who is responsible for the MRP regime. This is particularly key where the First Nation has its own specific MRP law. This position could be assigned the responsibilities for implementation, or alternatively could be the Chair of the Implementation Committee where one is established.

In addition to the implementation work, the MRP office or MRP employee is fundamental in the ongoing administration of the MRP regime. They would manage all MRP inquiries, administer MRP files and services, assist Council in preparing for Court proceedings, deliver training and education opportunities, and complete all ongoing MRP regime requirements.

The value of this position cannot be overstated. The MRP regime is in place which means there will be ongoing requirements the First Nation will have, whether it be under the PFRs or the First Nation's own specific MRP law. Under the PFRs, the First Nation may need to respond to MRP proceedings before the Court and comply with Court orders. Under the First Nation's own MRP law, the First Nation will need to administer and enforce its MRP law. Either process requires that there be someone in place to do the work. The question is who? As the Implementation Committee is temporary and only mandated to oversee the implementation process, these responsibilities will not fall to the Implementation Committee. A more permanent position is required.

To illustrate the importance of this position, consider the following questions. When a resident requests information about the MRP regime, who will respond to them? Who will prepare the necessary information for Council to attend at Court to make representations with respect to the cultural, social, and legal context that pertains to the application? Who will manage the MRP file from the initial request for MRP services until the matter is concluded? Who will provide training to Council and Band employees on the MRP regime? Who will develop and deliver education programs to residents and partners that are required in the administration of the MRP regime? Who will manage MRP evaluations and prepare any changes to the MRP policies? If the MRP regime includes an alternative dispute resolution process, who will coordinate and oversee it? These are just a handful of considerations that the First Nation must take into account in determining the ongoing requirements to administer the MRP regime.



As there may not be external funding specifically earmarked for developing an MRP office or hiring an MRP employee, the First Nation could explore other possible areas where funding may be available for this position. Alternatively, it may consider expanding an existing Band employee’s job duty to include administering the MRP regime such as through the social services or housing department. While funding may be an obstacle, failing to have these responsibilities assigned to a Band employee could cost the First Nation more in the long-term.

The First Nation will need to determine whether the position would be full-time or part-time. This may be contingent on the availability of funding, the anticipated work required, the size of the First Nation, and the type of MRP regime that the First Nation is under. It may be a fair assumption that more work may be required where the First Nation has its own MRP law rather than under the PFRs.

Whether the First Nation creates an MRP employee position or adds the MRP responsibilities to an existing employment position, it will need to consider what skills and suitability the employee should have. The employee will require a good work ethic, be creative, a good communicator, have file management skills, and understand the MRP regime. Moreover, the employee will need to be trustworthy, identify conflicts of interest, and be impartial. Given the sensitive and emotionally charged nature of the work, the employee will need to have excellent interpersonal skills and maintain confidentiality.

**Best Practice**

Establish an MRP employee position or assign the MRP responsibilities to an existing Band employee. The employee must fully understand the MRP regime, have good interpersonal skills, and maintain confidentiality.

**Resource Materials**

The Resource Materials include a Template Job Description for an MRP Employee that provides guidance on the purpose, qualifications, and accountabilities.

## Advisors

The First Nation will also need to contract or hire external advisors to assist with implementation tasks and to effectively administer the MRP regime. This may include the Band's legal counsel to conduct legal reviews of the MRP policies designed or to develop the First Nation's legal position before the Court. It may also include housing appraisers to determine the value of the matrimonial interests or rights. There may be other advisors required depending on the MRP regime and the circumstances. The Implementation Plan should clearly define when advisors will be used and the budget for doing so.



Several factors will need to be considered in determining when to use an advisor and for what purpose. There may be certain implementation tasks and activities that can be completed solely by the Implementation Committee or MRP employee such as conducting education sessions with residents. However, there may be other implementation tasks that require the use of advisors such as having legal reviews conducted of the alternative dispute resolution procedures developed under the First Nation's MRP law.

Where external advisors are used, ensure that the advisor is knowledgeable of the MRP regime and has the required skillset. For example, the legal counsel hired to prepare the First Nation's position on an MRP matter before the Court must be knowledgeable about the MRP regime. If not, this could increase costs to the First Nation and cause delay as the legal counsel will need to become up to speed with the MRP regime that the First Nation is under.

When the First Nation uses the services of advisors, it is well advised to have the terms and conditions of the services be in a written contract. The contract should include the scope of work to be completed, timeframe, budget, and who the advisor reports to. The Council maintains the authority to hire and oversee advisors; this should not be delegated to the Implementation Committee.

Where possible, the First Nation should consider when it can build internal capacity to complete the work of external advisors. For example, the First Nation's housing department may have a qualified housing appraiser that can determine the value of the matrimonial interests or rights. This builds internal capacity, reduces costs, increases efficiency, and strengthens the MRP regime overall.

### Best Practice

Building capacity internally reduces costs, increases efficiency, and strengthens the MRP regime.





## Chapter 7 – Policies and Procedures

### Purpose

Laws are developed with the goals of protecting rights, protecting people, or maintaining order. Laws are based on fundamental principles that reflect the community's culture and values and support its goals. Once laws are in effect, policies and procedures are required to address the laws implementation, administration, enforcement, and penalties for infractions of the law.

Implementing the MRP regime requires several policies and procedures to guide First Nations in its administration and to support residents who are affected by it. Policies and procedures provide guidance in defining the goals of the MRP regime, how to achieve its objectives, identifies key activities, and explains how to handle MRP issues as they arise. Policies and procedures provide consistency as they ensure the MRP process is administered the same for all users and by all employees charged with its responsibility. Accountability is achieved when policies and procedures are well established and consistently followed. Having formal written policies and procedures increase efficiency and effectiveness for the MRP regime. Policies and procedures allow the MRP regime to operate more steadily when everyone understands what needs to be done, how it is to be done, and who is responsible for doing it.



## Policies Versus Procedures

Policies generally relate to decisions by the First Nation and normally assist in how the First Nation functions. Policies set direction, guide, and influence decision-making. A policy is the ‘why’ behind a certain action. Policies generally do not change often; state who, what, when or why; and are broad and general.

Procedures provide detailed mandatory steps that explain who is responsible for each task, what steps need to be taken, and who the responsible party reports to. Procedures includes step-by-step instructions and may be presented as a checklist. Procedures are generally intended for internal departments. A procedure is the ‘how’ behind a certain action. Procedures continuously change and improve; state what, how, when or who; and offer a detailed description of activities.

The First Nation will require both policies and procedures in implementing the MRP regime. Policies look at the big picture, while procedures detail individual processes. For example, the First Nation may have a policy that establishes an alternative dispute resolution process that will address disputes under the First Nation’s own MRP law. To accompany that policy, it will need to develop the procedures of how to use the alternative dispute resolution process.

To understand these differences, it is useful to think of how the MRP regime works with the policies and procedures as follows:



## Development Process

The First Nation may already have a standard process it uses to develop policies and procedures, which could be used to develop its MRP regime policies and procedures. Where a standard process is not in place, we present the following development process that the First Nation may wish to use.

Generally, the steps to develop policies and procedures for the MRP regime include:

1. Determining who will be responsible for developing the policies and procedures. As set out in the implementation plan presented in this Toolkit, the Implementation Committee will be responsible for developing the MRP regime policies and procedures.
2. Identifying what policies and procedures are required. Policies and procedures may be required in anticipation of a need, such as the MRP employee requiring procedures to

administer the MRP file from start to finish. Or it may be in response to a need, such as a resident inquiring how to file their MRP application under the First Nation’s own MRP law. We will talk more about how to approach this in the next few steps below.

3. Drafting the policies and procedures. Policies and procedures can take a long time to develop, and proper time should be allocated in the implementation plan to do so. While the implementation plan assigns this responsibility to the Implementation Committee, they may need to work with other departments and advisors in drafting the policies. How to approach this is discussed further below.
4. Consulting on the policies and procedures. This is an optional step that the First Nation may want to include depending on the MRP regime policies and procedures being developed. For example, the First Nation may want to consult with residents about procedures on how to apply to use the alternative dispute resolution process under the First Nation’s own MRP law. However, it may decide it is not necessary to consult with residents on an internal file management procedure that will just be used by the MRP employee.
5. Conducting a legal review of the policies and procedures. The First Nation may decide to have the Band’s legal counsel involved throughout the drafting process or just at the end to conduct a legal review of the policies and procedures developed. Having a legal review completed ensures that the policies and procedures are consistent with the MRP regime and are legally compliant.
6. Approving the policies and procedures. As set out in the implementation plan, Council will need to be regularly updated on the development process of the policies and procedures. Council will also be responsible for approving the MRP regime policies and procedures. It is recommended that a formal process be used to approve the policies and procedures, such as passing a motion.
7. Implementing the policies and procedures. Communication with residents, Band employees, Council, and others on the policies and procedures will be required. Band employees and Council will also need to receive training on how to use the policies and procedures. These elements are further discussed in Chapters 8 and 9.
8. Monitoring, reviewing, and amending the policies and procedures as required. This element is further discussed in Chapter 10.



### Best Practice

The First Nation will need to constantly assess the MRP regime activities and responsibilities to identify what new policies and procedures are required and which existing one's requires amendments.

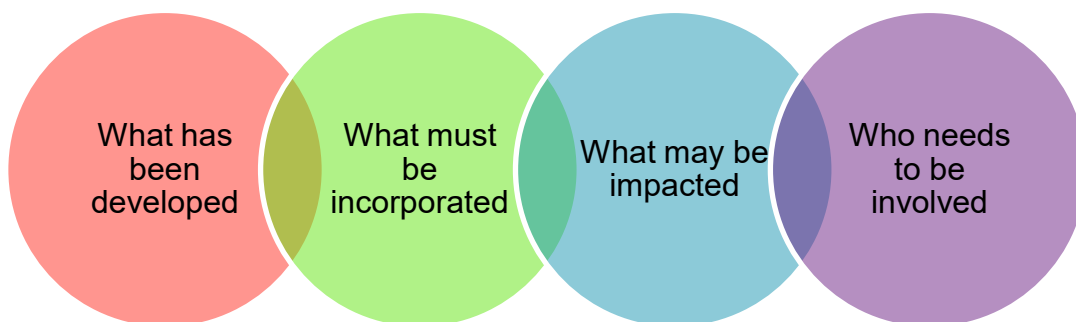
### Resource Materials

The Resource Materials include a Work Sheet Policies and Procedures Development Process that the First Nation can use to stay on track in developing its policies and procedures.

## Inventory Review

A good first step to determine what type of policies and procedures is required for the MRP regime is conducting an inventory review of the First Nation's existing laws and policies. This serves four main purposes:

1. It determines what existing laws and policies have already been developed for the MRP regime such as a Dispute Resolution Policy, for example.
2. It assesses what needs to be incorporated into or complied with in developing the MRP regime policies and procedures. For example, the First Nation may have a Confidentiality Policy that will need to be incorporated into the policies and procedures for the MRP regime.
3. It assesses what existing laws and policies may be impacted by the MRP regime and if they require amendments to be consistent with the MRP regime. For example, the First Nation may need to amend its Housing Policy as it conflicts with the MRP regime.
4. It determines which Band departments may need to be consulted with and/or involved in managing the MRP file. For example, it may be necessary for the MRP office to work in conjunction with the lands department, housing department, and social services department to administer MRP matters.

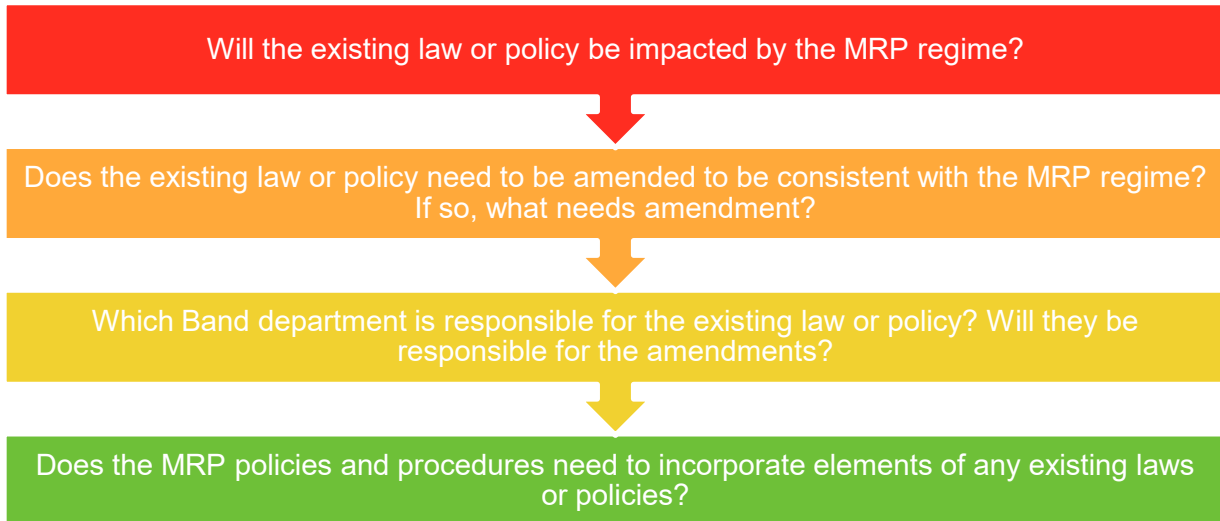


The First Nation can complete the inventory review by internally reviewing its laws and policies, such as those developed for MRP, land matters, housing, administration, and other areas. A review of the First Nations Gazette ([www.fng.ca](http://www.fng.ca)) will also help to determine if the First Nation has any published by-laws or laws. Indigenous Services Canada (<https://www.canada.ca/en/indigenous-services-canada.html>) may also be contacted to determine if the First Nation has any by-laws or laws passed before December 16, 2014.

**Best Practice**

Conduct an internal review of the First Nation’s laws and policies, check the First Nations Gazette and with Indigenous Services Canada.

In conducting the inventory review, the First Nation should consider if the existing law or policy will be impacted by the MRP regime, if it needs amendment to be consistent with the MRP regime, who is responsible for the existing law or policy and if they will oversee making the amendments. Whether the MRP regime policies and procedures need to incorporate any elements from the existing laws and policies should also be assessed.



The findings from the inventory review should be recorded to capture what existing policies and procedures may be impacted by the MRP regime, what requires amendment to ensure consistency, and who will be responsible for making the amendments. Any inconsistency between the MRP regime policies and procedures and existing policies and procedures that relate to or are impacted by the MRP regime must be rectified. For example, if the inventory review determines that the Housing Policy does not include provisions concerning how a Band rental is addressed when spouses separate, the Housing Policy will need to be amended to be consistent with the MRP regime.

As stated above, the findings of the inventory review will be instrumental in ensuring that the MRP regime policies and procedures are developed in accordance with the First Nation's existing policies and procedures.

### Resource Materials

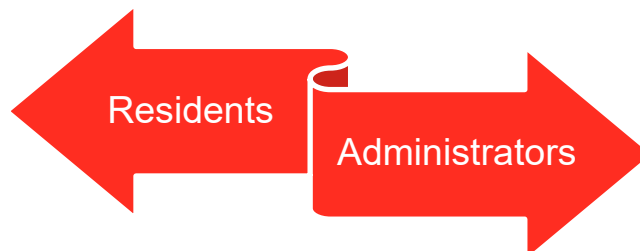
A Work Sheet Inventory of Laws and Policies is included that the First Nation can use in completing its inventory of existing laws and policies that may be impacted or relevant to the MRP regime.

A Template Record of Laws and Policies that gives examples of what is relevant to record from the inventory of laws and policies review is included, as well as a Work Sheet Record of Laws and Policies that the First Nation can work from.

## Determine What Is Required

Now comes the question of determining what policies and procedures are required under the MRP regime. The inventory review will provide a good basis but not a full assessment of what is required. The First Nation will need to analyze the PFRs or its own MRP law (whichever applies) to determine what must be developed to effectively administer and use the MRP regime.

This analysis should be considered with two lenses. First, determine what residents will require to understand and use the MRP regime. For example, residents will need information on what to do when a relationship breaks down, so the First Nation might want to develop a procedure that clearly explains the MRP process to residents. The second lens is to determine what the First Nation will need to effectively administer the MRP regime. For example, the First Nation may develop procedures on who is responsible for responding to residents' inquiries.



Generally, a policy or procedure should be developed when a process is lengthy, complex, routine but requires everyone to follow established rules, demands consistency, involves documentation or record-keeping, involves significant change, and has serious consequences if done wrong.



When conducting the analysis of the PFRs or the First Nation’s own MRP law (whichever applies), the First Nation should review each section and provision of the applicable MRP regime in detail. In doing so, it should ask whether a policy or procedure is needed. If it is determined that a policy or procedure is needed, the First Nation may wish to consider what is the purpose of the policy or procedure; what is the intended outcome; when, how, and who will use it. Further items to consider are what needs to be included in the policy or procedure; if it will improve understanding and efficiency; if it will be effective; and if there is a better way to achieve the intended outcome. For example, the First Nation may consider whether it needs to develop a policy or procedure to govern what information Council will present to Court in an application for an exclusive occupation order.

Is a policy or procedure needed?

What is the purpose?

What is the intended outcome?

When will it be used?

How will it be used?

Who will use it?

What does it need to include?

Will it improve understanding?

Will it improve efficiency?

Will it be effective?

Is there a better way to achieve the intended outcome?

While it may be a common practice for the First Nation to get things done without written policies and procedures, there are times when these unwritten rules need to be set out in a policy or procedure. This may happen when similar questions are asked repeatedly, people seem confused, or if there are too many ways that people can interpret the unwritten rules. In such instances, the First Nation is well advised to translate these unwritten rules into written policies and procedures. Given the complexity of the MRP regime, it is evident that having written policies and procedures are a far better approach than using unwritten rules to administer the MRP regime.

**Best Practice**

Don't forget to consider what unwritten rules should be set out in a written policy or procedure to avoid confusion and different interpretations.

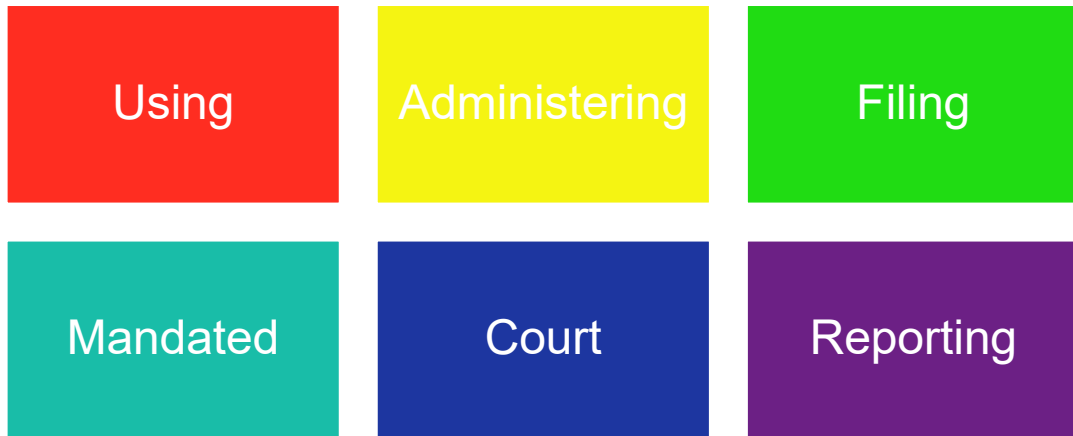
**Resource Materials**

The Template Policy and Procedure Development Questions provides an example of how these questions will assist in determining what policies and procedures are required for applications for Exclusive Occupation Orders. The Resource Materials also includes a Work Sheet Policy and Procedure Development Questions can be used by the First Nation to determine what policies and procedures to create.

**Groupings and Content**

As noted above, policies and procedures will generally be required to administer the MRP regime and to use the MRP regime. The First Nation may find it useful to separate policies and procedures into different groupings. Once the different groupings have been specified it will be easier to consider what type of policies and procedures will need to be developed within each grouping. We propose the following six policies and procedures groupings: (1) using the MRP regime; (2) administering the MRP regime; (3) file management; (4) mandated or pre-defined processes; (5) Court proceedings; and (6) reporting.





Dividing policies and procedures into these six groupings assists in determining the objectives, who it will be used by, and the content for each policy and procedure. This differentiation is important as not all policies and procedures will be used by or intended for the same audience. For example, file management policies and procedures would be used internally by the First Nation and not by residents using the MRP regime. As such, it will be necessary to develop several policies and procedures that are specific to each grouping rather than developing one large policy and procedure that is intended to address all matters. The latter approach of having only one large policy and procedure is not recommended as it will cause confusion for the user and those that are to apply it. It is a much better approach to develop separate policies and procedures that are each focused on addressing a specific issue or item.

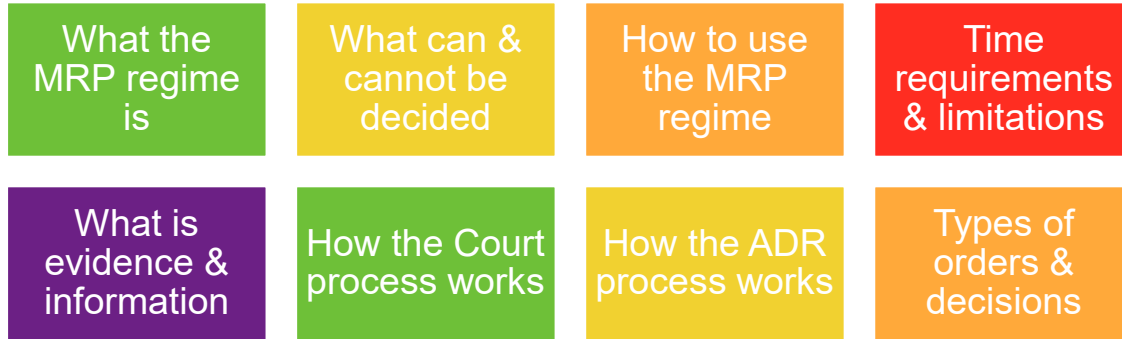
#### **Best Practice**

Breaking policies and procedures down into related groups or categories assists in determining what policies and procedures are required based on the objective, user, and content to include.

While it will be up to the First Nation to determine what to name the various policies and procedures it develops under each grouping, we provide the following examples of what the content may include for each grouping of policies and procedures. These examples should not be viewed to be exhaustive as there may be other content that is required depending on the needs of the First Nation and if they are under the PFRs or their own MRP law.

The first grouping of policies and procedures developed for users of the MRP regime should focus on what is required for residents to be able to understand the MRP regime and to effectively use it. Keep in mind that the MRP regime is a very complex process that residents will be interacting with when experiencing a very emotional and stressful time of their lives, so it is essential that these policies and procedures be user friendly, easy to understand, and include all necessary information. Residents are seeking help in a difficult situation and are hoping that their case will be dealt with in a timely manner, their issues will be resolved, and their privacy be respected. The policies and procedures may include such content as explaining

what the MRP regime is, what can and cannot be determined under the MRP regime, how to apply for and use the MRP regime, any time requirements or limitations, what is evidence or information that can be considered under the MRP regime, what the Court process is and how it works, what the alternative dispute resolution process is and how it works, and what types of orders or decisions can be made under the MRP regime.



The second grouping of administering the MRP regime should be focused on what the First Nation and its employees will require to effectively oversee and manage the MRP regime. These policies and procedures should be as detailed as possible to ensure the MRP regime is consistently applied and interpreted regardless of which Band employee is responsible for overseeing the MRP regime. Clear guidelines should be developed to deal with MRP files properly and expeditiously, while ensuring professionalism, respect, and efficiency are maintained. The content may vary depending on whether the First Nation is under the PFRs or its own MRP law, but may include how the MRP regime works, the First Nation’s responsibilities in administering the MRP regime, how to comply with the MRP regime, responding to inquiries, how to receive and screen an application, time requirements or limitations, notice requirements, serving and exchanging documents, accepting and weighing evidence, valuation and appraiser requirements, receiving domestic contracts, registry of orders, filing decisions and orders, enforcing decisions and orders, issuing fines and compensation, fees and costs to use MRP services, and how to use the alternative dispute resolution process if applicable. The Resource Materials includes an example of a procedure developed to administer an aspect of the MRP regime.

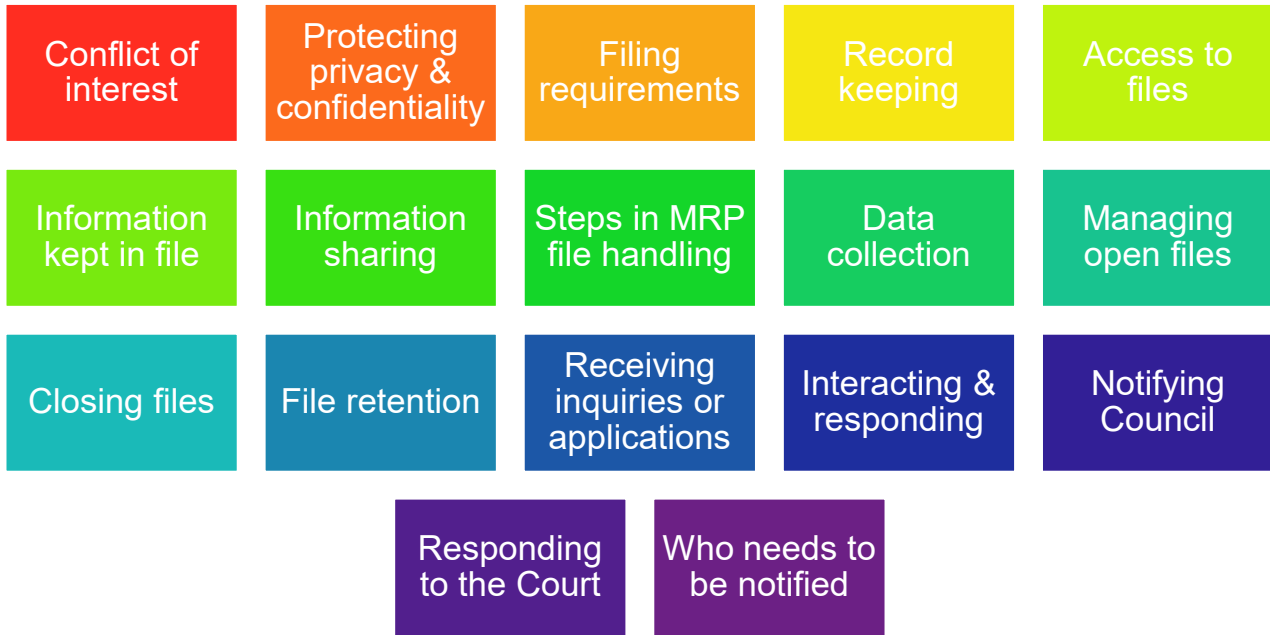


**Resource Materials**

The Template Administrative Procedure provides an example of a procedure on how to handle a resident presenting with an issue.

File management is the third grouping of policies and procedures that will be required. While this could be included into the previous grouping of administering the MRP regime, we have listed it as a separate group due to its significance. Content for file management policies and procedures may include addressing conflicts of interests, protecting the privacy and confidentiality of information, filing requirements, record keeping, who can access the MRP file, what information is kept in the file, what may be shared and with whom, steps in handling an MRP file from start to finish, data collection, managing open files, how to close a file, and file retention. The issue of who has responsibility for the MRP regime must also be addressed in these policies and procedures by considering such questions as who receives the inquiries or applications, who interacts or responds to the resident, when is Council notified and what information is provided, who responds to Court proceedings, and who needs to be informed

about an application on an as-needs-to-know basis only. The Resource Materials provides an example of a procedure to transfer MRP.



**Resource Materials**

The Template File Management Procedure provides an example of a file management procedure.

The fourth grouping of mandated or pre-defined processes includes policies and procedures that are already in place and which must be complied with for the MRP regime. These may include such forms and documents that must be properly completed and registered in relation to the requirements for spousal consent for the sale, disposal, or encumbrance of the family home; a Court order relating to the division of MRP between spouses; the administration of an estate; exclusive occupation orders; and emergency protection orders. Additionally, ISC has developed several forms to meet certain requirements of FHRMIRA including forms that deal with the transfer of MRP ownership either when both spouses are living, or when one of the spouses are deceased. Further information on these ISC forms is found in the Resource Materials of this Toolkit. Remember that First Nations under FAFNLM will have their own forms to deal with similar situations or will need to develop them.



**Resource Materials**

The ISC MRP Forms Summary further explains the forms that ISC requires to be completed to transfer MRP ownership when both spouses are living, or when one spouse is deceased.

**Best Practice**

When working with the ISC MRP Forms, be sure to refer to the Land Management Manual, the Indian Lands Registry Manual, and use NALMA’s Desk Manual developed for First Nations operating under the PFRs.

The fifth grouping of Court proceedings refers to the types of policies and procedures that are required for the First Nation to file or to respond to a Court process under the MRP regime. Content for these policies and procedures may include what situations the First Nation will make representations to the Court, how Council is informed, what information Council receives, who responds to the Court, what information is provided to the Court and in what format, how fairness is maintained, and how transparency and privacy are balanced in sensitive matters. It is strongly recommended that a clear policy or procedure be developed governing the representations that Council may make to the Court on the cultural, social, and legal context of the First Nation, and that the community be consulted on the development of this policy or procedure. The Resource Materials includes an example of a procedure developed for the First Nation to respond to a Court application.



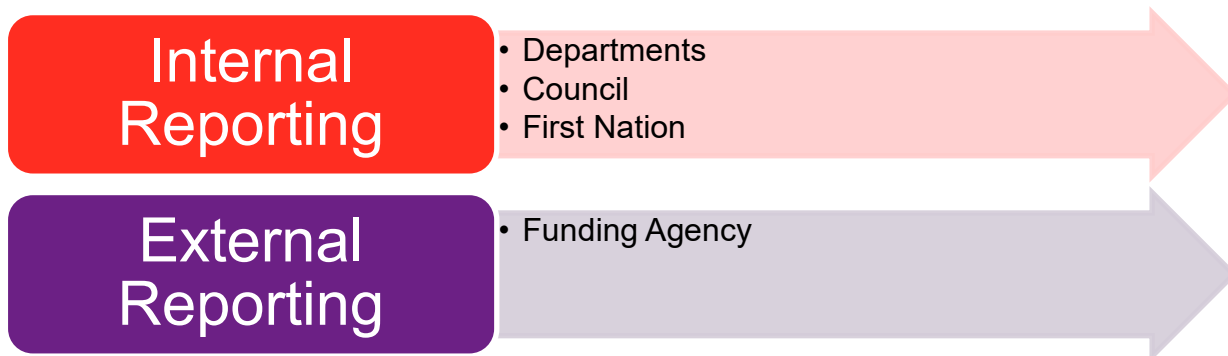
**Resource Materials**

The Template Court Procedure provides an example of a procedure to respond to a notice of a Court application.

**Best Practice**

Develop a clear policy or procedure governing when and what Council may make representations to the Court on the First Nation’s cultural, social, and legal context. Consult with the community on this policy or

The final grouping of reporting policies and procedures will include both internal and external reporting. Content for internal reporting may include subgroupings such as reporting to other departments, reporting to Council, and reporting to the First Nation at large. Reporting to other departments may include content directed at what information may be provided, to who, when, and for what purpose. Reporting to Council may include content that is file specific when necessary, such as for an MRP file before the Courts, and non-identifiable content such as reporting on how many individuals accessed the MRP services. Reporting to the First Nation at large should include procedures for non-identifiable information, how often reporting occurs, by whom, and for what purpose. External reporting content may include procedures for reporting to funding agencies if applicable, and what may be reported.



**Resource Materials**

The Resource Materials includes a Template Policies and Procedures Content that includes examples of the possible content for policies and procedures developed under each grouping. A Work Sheet Policies and Procedures Content is also included that the First Nation can work from.

**Drafting**

Once the First Nation has determined what policies and procedures it wants to create, it must draft them. If the First Nation does not have a standard process to develop its policies and procedures, the Implementation Committee should look at the style and way First Nation’s existing policies and procedures are written. This will provide valuable insight in terms of structure, layout, language, terminology, and content, which should be replicated in the MRP regime policies and procedures. This promotes consistency between all policies and procedures, which in turn enhances understanding and usability.

**Best Practice**

Language, terms, and structure used in the First Nation’s existing policies and procedures should be replicated in the MRP regime policies and procedures to ensure consistency and promote

In drafting easy to understand policies and procedures, some best practices include:

- Use language and tone appropriate for the reader
- Use terms and definitions consistently
- Use plain language and avoid jargon
- Explain any acronyms used
- Be clear when something is required ('use must' and 'will') and when something is optional (use 'may' and 'shall')

## What's Included in a Policy?

While the First Nation will need to customize its policies to its needs and the MRP regime it is under, policies generally include the following core elements:

Clear Title

Date of approval

Policy number

Purpose which describes the reason for the policy

Definitions of key terms used

Policy statement that explains the conditions for applying the policy  
- This is usually the lengthiest part of the policy

Responsibilities of who must maintain the policy and any follow up required

Attachments of any related documents

Putting these core elements into practice, the following is what a policy on First Nation Representation in Court may look like:

<b>Title</b>	First Nation Representation in Court
<b>Date</b>	Written July 25, 2018. Effective on the date of the MRP law coming into force.
<b>Policy No.</b>	MRP Policy 2018.14
<b>Purpose</b>	The interest of the First Nation must be considered when a decision is being rendered about reserve land (FHRMIRA section 41)
<b>Policy Statement</b>	The Chief or a designated member of Council shall apply for representation to the Court when a resident (member or non-member) makes application to the Court for exclusive occupation of matrimonial real property on reserve land
<b>Responsibility</b>	Chief and Council, Band's legal counsel
<b>Follow Up</b>	Keep a record of Court decisions and ensure that they are enforced



**Resource Materials**

The Resource Materials include a Template Policy Structure that shows what might be included in a policy. A Work Sheet Policy Structure is also included that the First Nation can modify and use to develop its policies.

**What’s Included in a Procedure?**

As with policies developed under the MRP regime, the First Nation will need to customize its procedures to its needs and the MRP regime it is under. Procedures generally include the following core elements:

- Name of the Task
- Purpose which describes the reason for the procedure
- Responsibilities of who completes the task
- Pre-requisites of any tasks that must be done before this task
- Actions to be taken listed in the order that they are to be taken
- Contacts of who else may be involved
- Follow up of any tasks to be completed after this one is done

Putting these core elements into practice, the following is what a procedure for applying for an exclusive occupation order may look like:

<b>Task</b>	Applying for an Exclusive Occupation Order
<b>Purpose</b>	How to apply to the Court for an Exclusive Occupation Order
<b>Responsibility</b>	The spouse with their lawyer
<b>Pre-Requisite</b>	None
<b>Actions to Take</b>	<ol style="list-style-type: none"> <li>1. Advise the spouse about alternative dispute resolution</li> <li>2. Provide the spouse with information about the MRP regime (the PFRs or the First Nation’s own specific MRP law)</li> <li>3. Advise the spouse to hire a lawyer</li> <li>4. Provide the spouse with the correct land description</li> <li>5. Advise the spouse that Council will require a copy of the application and any resulting orders</li> </ol>
<b>Others Involved</b>	MRP employee, Lands department
<b>Follow Up Tasks</b>	If the spouse obtains an Exclusive Occupation Order a copy must be provided to Council

### Resource Materials

The Resource Materials include a Template Procedure Structure that shows what might be included in a procedure. A Work Sheet Procedure Structure is also included that the First Nation can modify and use to develop its procedures.

## Additional Tools

While not mandatory, the First Nation may also develop guidelines or best practices to compliment the MRP regime's policies and procedures. Guidelines may offer advice or a suggested approach to improve the quality of a procedure. For example, for the above procedure on exclusive occupation orders, a guideline may be developed to explain what information the staff member might provide to the spouse about alternative dispute resolution such as pamphlets or other material. The First Nation may find that this is a useful tool to develop once it has been working within the MRP regime after a period of time.

Additionally, the First Nation may wish to develop visual graphics such as flowcharts to assist in understanding the MRP regime and to administer it. For example, a chart tracking all the steps in an MRP file from start to finish that identifies who is responsible may be a useful reference guide that can complement the First Nation's MRP regime policies and procedures.

### Resource Materials

The Resource Materials include a Template Steps and Responsibility Tracking Form that can be used to understand the MRP file process, who is responsible, and any applicable authority. A Work Sheet Steps and Responsibility Tracking Form is also included that the First Nation can modify and use.

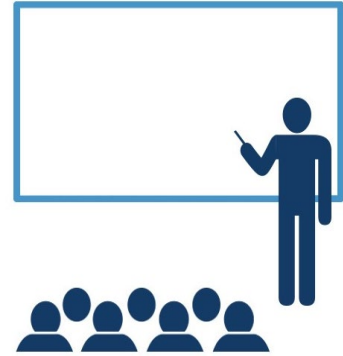
## Consultations

As noted in the development process steps, the First Nation may undertake the optional step to consult on the MRP regime policies and procedures. These consultations may be conducted with residents to garner their feedback on the useability and understanding of the proposed policies and procedures. Internal consultations with Band departments, particularly those that may be impacted or required to work with the policies and procedures may also be conducted. Consultations with partners such as policing agencies and prosecutors may also be held to receive feedback on the enforceability of the proposed policies and procedures.

It will be up to the First Nation to decide whether to consult on the policies and procedures developed. If the First Nation chooses to consult on the proposed policies and procedures, it should determine which policies and procedures need to be consulted on and with whom. For

example, policies and procedures on administering the MRP regime may only require consultations with relevant Band departments, whereas enforcement policies and procedures may require policing agencies to be consulted with.

Consultation provides an excellent opportunity to assess whether the policies and procedures meet their intended objectives and users, and to identify any changes required or additional policies and procedures needed before they are approved. However, factors such as timing and financial resources must also be considered in determining whether consultations can occur during the development process.



**Best Practice**

Determine which policies and procedures may require consultations with Band departments, residents, or partners to ensure they are useable, understandable, enforceable, and comprehensive.

**Legal Review**

It is strongly recommended that the First Nation have a legal review conducted on the MRP regime policies and procedures before it approves and implements them. This is an essential step that ensures the policies and procedures are legally compliant with the law and the applicable MRP regime that the First Nation is under. The legal review should be conducted by the Band’s legal counsel or another lawyer that is well versed in the PFRs and/or the First Nation’s MRP law.



The First Nation may decide to have the legal review conducted at the end once all the policies and procedures have been drafted or may choose to have the lawyer involved throughout the drafting process. Considerations such as timing, costs, and internal expertise may be factors that determine when the legal review will be completed. Whether the legal review is conducted at the end or throughout the drafting stage, it is vital that this step is not skipped and should be properly budgeted into the implementation process.

**Best Practice**

Properly budget for having a legal review conducted on the policies and procedures before they are approved and implemented.

## Approval

Once the MRP regime policies and procedures have been drafted and legally reviewed, they will need to be implemented. The First Nation may have an existing process that governs how policies and procedures are approved, or its MRP law may set out the process. Whichever process applies, it is recommended that the policies and procedures be formally approved by Council such as through passing a motion.

Council has the overall responsibility to approve the MRP regime policies and procedures before they can be implemented. To discharge this responsibility, Council must fully understand the policies and procedures that they are approving. This can be facilitated by having the Implementation Committee provide regular progress reports to Council throughout the development process.

### Best Practice

Keep Council regularly apprised throughout the development process of the MRP regime policies and procedures being created.

## Implementation

After the MRP regime policies and procedures have been officially approved by Council, the First Nation will need to implement the policies and procedures. Training and education on the MRP regime and its policies and procedures must also occur, which are discussed in the next two Chapters.

The policies and procedures must be used to effectively administer the MRP regime. Always keep in mind that the MRP regime policies and procedures must be fair, transparent, and consistently applied regardless of who is using the MRP regime or who is administering it. Failure to do so, can reduce confidence in the MRP regime and result in the MRP regime being unfairly applied to some people and not others. This in turn can expose the First Nation to legal challenges.

### Best Practice

Policies and procedures must be consistently applied regardless of the user or administrator.

## Ongoing Development

The development of policies and procedures should not be viewed to be a process that only needs to be done once. Rather, the First Nation will need to consistently monitor the policies and procedures to assess their efficiency, usefulness, and application, and to revise or develop new policies and procedures as required. The development and improvement of the MRP regime policies and procedures is an ongoing process that will continue into the future.

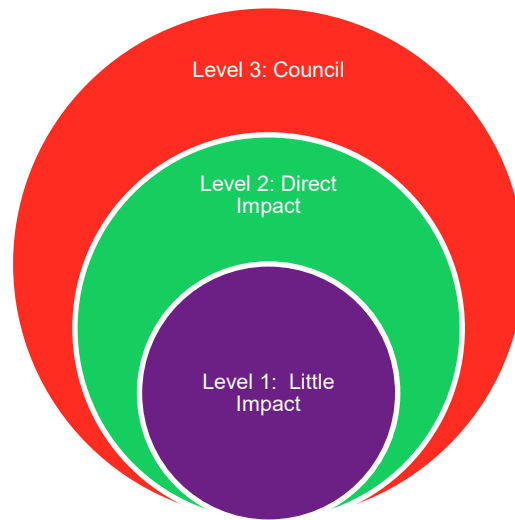


## Chapter 8 - Training

### Different Levels of Training

Once the MRP regime policies and procedures are developed, it will be necessary to conduct training on the policies and procedures and on the overall MRP regime. It is important that this step is included in the implementation plan and proper time and resources are allocated to conduct training.

When thinking about training it is important to identify the purpose of the training, who needs to be trained, what they need to be trained on, and when the training should occur. We propose that there are three different levels of training that the First Nation may wish to consider: (1) training for Band departments and employees that are not directly working in the MRP area or where it will have little impact on their work; (2) training for Band employees working directly in the MRP area or where their work will be directly impacted; and (3) training for Council.



Approaching training in this way helps to determine the training content for each of the three groups and how to appropriately tailor training for each respective group. This is necessary as not all groups will need the same level of training on the MRP regime and its policies and procedures. For example, Band employees in the public works department may only require general training about the MRP regime, whereas the housing and lands departments would require in-depth training on the MRP regime and its policies and procedures.

**Best Practice**

Training should be appropriately tailored to the group that is taking it. Not all employees will require the same level of training.

Where an individual falls into more than one training group, they will benefit from participating in both training sessions. For example, where a person is a member of Council and also a Band employee in the lands department, they should attend both the Council training session and the direct impact training session as the content and purpose of the training will differ for each training session.

The First Nation should consider making the training mandatory to attend for each group. This helps to ensure that all Band employees and Council members benefit from the training and can fulfill their responsibilities accordingly within the MRP regime. Failure to do so may result in the MRP regime being misinterpreted and inconsistently applied, while also contributing to a lack of knowledge and understanding by those who administer it.



Training should occur immediately after the MRP regime policies and procedures have been approved by Council. This allows the Band employees, departments, and Council to be properly prepared to administer the MRP regime immediately.

**Best Practice**

Training should be mandatory and done in a timely manner.

**Level One - Little Impact**

This training would be directed at Band employees and departments that are not directly working in the MRP area or where there will be little to no impact on their work. We have already provided the example of the public works department as being one that may come within this training group, but it will be up to the First Nation to determine who it should include. It may be useful to consider whether that employment position or department has been identified as having any responsibilities within the MRP regime or the policies and procedures that have been developed. If the answer is no, it may be safe to assume that they come within this training group.

The content for this training would be more of an overview of the MRP regime and how it works. An in-depth walk through of the MRP regime policies and procedures would not be necessary as these Band employees and departments will not have any direct responsibilities in using or administering the policies and procedures in their jobs. However, having a baseline



understanding about the MRP regime is important for these Band employees and departments as it builds their capacity and understanding.

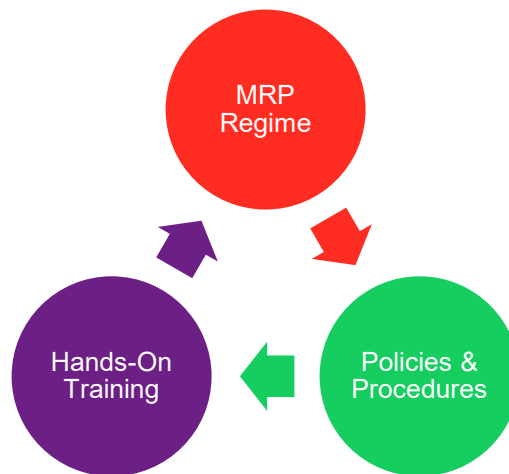
**Best Practice**

General training on the MRP regime would be provided in the Level One Training.

**Level Two – Direct Impact**

This training would be directed at Band employees that are directly working in the MRP area or where there will be a direct impact on their work. This may include but not be limited to the Band Manager, MRP employee, lands department, housing department, social services department, policing, and justice department. As with the previous group, determining who should be included in this training group can be done by assessing which Band employees and departments are identified as having responsibilities in the MRP regime and its policies and procedures.

The training content for this group should be an in-depth analysis of the MRP regime and the policies and procedures. It will be important to not just provide a read through of the materials but also to incorporate actual hands-on training of how to understand and use the MRP regime and its policies and procedures, such as how to complete the procedures. This will be essential as the participants of the training will be the ones responsible for the actual administration of the MRP regime. This ensures that they are properly educated about their responsibilities and how to administer them clearly, fairly, and effectively. Conducting training on how to complete the policies and procedures also helps to identify if there are any gaps in information or areas that require further development.



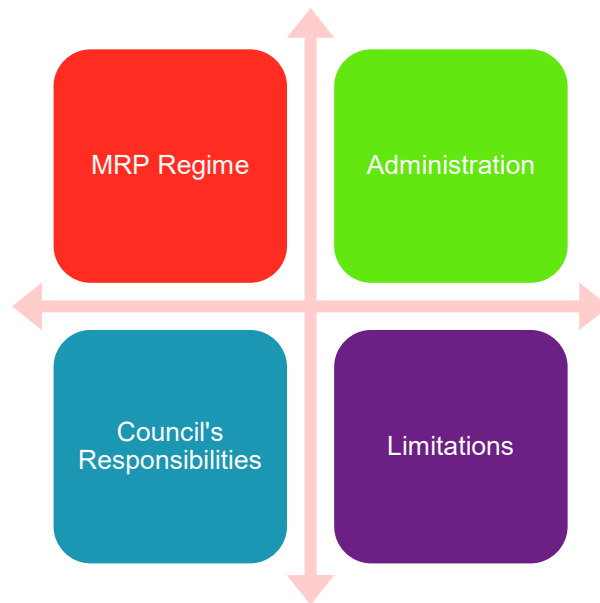
**Best Practice**

In-depth comprehensive training on the MRP regime and its policies and procedures would be provided in the Level Two Training.

**Level Three - Council**

This training would be directed at Council for them to have a comprehensive understanding of the MRP regime and what their responsibilities as the leadership of the First Nation are. Remember that understanding of the MRP regime must start at the top with Chief and Council being familiar with the provisions of the FHRMIRA, including definitions and terminology, the rights of spouses, enforcement of the law, Court orders, and the First Nation’s own MRP law if applicable.

The content for this training should include a detailed analysis of the MRP regime, how the First Nation will administer the MRP regime, Council’s overall responsibilities in its administration, and Council’s responsibilities in Court proceedings and any applicable alternative dispute resolution process. The training should also clearly explain any limitations to Council’s authority or power, such as that Council cannot veto a Court order under FHRMIRA. It will also be useful to incorporate exercises in which Council can work through the policies and procedures that apply to their responsibilities, so they have a clear understanding of how to use them and to identify any gaps or areas requiring improvement.



**Best Practice**

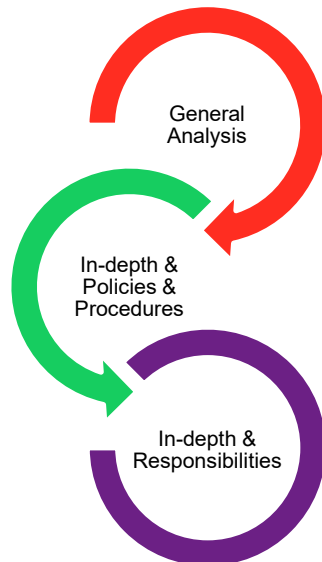
Detailed training on the responsibilities of Council in the MRP regime and corresponding policies and procedures would be provided in the Level Three Training.

**Develop and Deliver**

Once the First Nation has identified who it wants to train on the MRP regime, it will need to develop the training. It is recommended that the Implementation Committee be tasked with the responsibility to develop and deliver the training program as they are directly familiar with the MRP regime and the policies and procedures created. If this cannot occur, the Implementation Committee should work with the individual or group tasked with developing and delivering the training program.

While it is proposed that the training be provided in three different levels, the First Nation should not approach it as needing to develop three different training programs. Rather it should be undertaken as one overall training program that is divided into different segments or chapters. This means that one comprehensive training program would be developed but divided into segments such as with the first training segment focused on the Level One training, the second training segment on the Level Two training, and the third segment on the Level Three training.

Developing the training program this way ensures that there is consistency in the training although the content differs depending on the level of training. Another way to think about it is that the Level One training is more of a general summary, the Level Two training expands on the general summary to have an indepth analysis, and Level Three is similar to the previous level but includes more analysis on Council’s responsibilities. The training program and the three segments can be visualized as:



### Resource Materials

The Resource Materials include a Template Training Program Outline that explains what may be included in the training content for each training level. A Work Sheet Training Program Outline is also included that the First Nation can modify and use to develop its training program content.

The training program should incorporate a mix of presentations, hands-on exercises, and a question and answer component. Using different training styles and methods is important to increase understanding amongst participants and also to break down a fairly complex topic into more digestible pieces. Keep in mind that not all participants may have any familiarity with MRP so it is important that the training start with the building blocks and be conducted in a clear and easy to understand manner. This also means allocating the appropriate amount of time for the training to be conducted, and not to rush through the training just to get it done. Where there is a lot of content to cover in the training, such as in Levels Two and Three, it may be beneficial to complete the training over a few days rather than all in one day as it will allow the participants time to comprehend what they have learned.

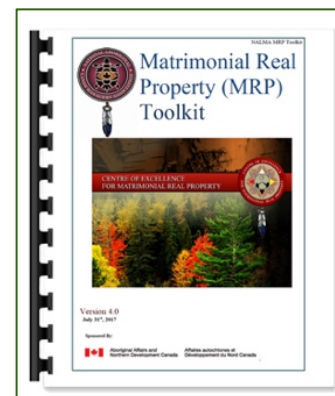
### Best Practice

Incorporate a variety of learning methods and approaches into the training program. MRP is a complex topic that not everyone is familiar with.

In addition to the content outlined for each of the three training levels, the First Nation should consider incorporating existing resources that have been developed by others that will assist in increasing understanding about the MRP regime. For example, the training can also include Toolkits, brochures and resources that have been developed by the COEMRP and NALMA.

Once the training program has been developed, it should be presented to Council for their approval before it is rolled out and delivered to each of the training groups.

It is further recommended that the training program include an evaluation component whereby participants can identify how the training can be improved in the future. The training program can then be revised accordingly or additional follow up training can occur.



**Best Practice**

Include existing resources that have been developed such as NALMA's Toolkits and brochures on MRP.

## Ongoing Training

Following the completion of the training program, the First Nation should assess what other training it can participate in that will further enhance its understanding of the MRP regime. This may include training and support provided by NALMA through their website, print and electronic resources, and in person training programs. It can also include related training opportunities such as in relation to housing, lands or social services as these will further enhance understanding about the effects of the MRP regime.

Much like the development of the MRP regime policies and procedures, the delivery of the training program is not a one time event. Rather, training is something that should occur regularly, particularly when there has been significant changes in the policies and procedures, changes to Band employees, or changes to Council. Be sure to incorporate training into the ongoing plan for the MRP regime.

The training program should regularly be reviewed and revised to incorporate any changes to the MRP regime, its policies and procedures, and the First Nation's processes. It is recommended that this occur at least once a year and that the First Nation specifically delegate this task to Council, the MRP employee, or another Band employee that works within the MRP regime.

**Best Practice**

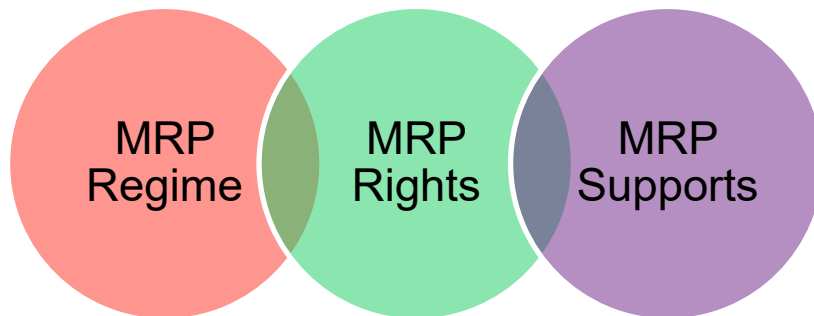
Reviewing and providing training is an ongoing process that should occur regularly to reflect any changes in process, staffing or Council.



## Chapter 9 – Education

### Education for Residents

It is essential that residents of the First Nation are aware of the MRP regime and its significance. Education is the first step of implementing any effective MRP regime and is required at all levels. The First Nation must conduct a comprehensive education and awareness campaign about the MRP regime, matrimonial rights, and what supports residents can expect when an issue arises.



Everyone living on reserve in a marriage or common-law partnership has certain MRP rights and protections whether the First Nation is under the PFRs or has its own MRP law. People are unable to exercise their rights when needed if they don't know about their rights or find it too difficult to do so. Many residents may not know what their matrimonial rights are or that they even have them. This is compounded by the fact that MRP is a complex topic, and something not often talked about. Small, rural, and remote First Nations may have additional capacity constraints that affect their ability to fully implement MRP. Education about the MRP regime provides wide-ranging knowledge and understanding for residents to be fully apprised of their rights and how to exercise their rights.

As with so many aspects of daily life, the ordinary citizen often has only a vague understanding of their rights until they run into difficulty. Most people happily fall in love, get married, or form common-law partnerships, buy homes, and have children without giving much thought to what happens if it doesn't last. Sadly, many relationships break down and people find themselves trying to understand their rights while they are under great personal stress and even conflict.

At such times, they often turn to the First Nation for help and guidance. They might talk to someone they know on Council; or they might go to the Band Office for advice; or they might call the Band Police if they feel threatened. They often call on their family and friends or a lawyer.

Ideally, reserve residents should become educated about their MRP rights long before they might need them, when they are not in a period of stress, conflict, and chaos. And how much better it would be if the people around them giving advice knew what their rights are? Educating the community in a professional way about MRP laws is akin to preventive medicine. Just as it is better to address the threat of an illness before the patient gets sick, so too it is preferable that people understand their MRP rights beforehand.

**Best Practice**

All residents need to be informed of their matrimonial rights and the protections afforded under the MRP regime.

**Who Should Develop and Deliver It?**

The responsibility to develop and deliver the education and awareness campaign should not be limited to just the Implementation Committee. Council must be actively involved especially in its delivery as the community will expect leadership to support what is being presented and as Council may be the first point of contact when residents inquire about MRP.

The First Nation’s communications employee should also be involved as they will have valuable insight into how to present complex information in accessible language and ways to share information.

Naturally, the MRP employee should also be actively involved in the education and awareness campaign about the MRP regime as well as other Band departments and employees that are impacted, such as housing and lands.





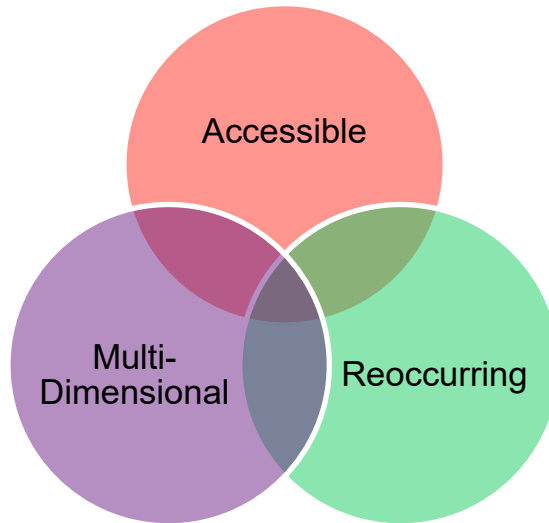
Remember that it is crucial that the same consistent message must be provided by all individuals involved in delivering the education and awareness campaign. Failure to do so can be fatal to achieving the main goal of the education and awareness campaign – educating the residents about their matrimonial rights and protections.

**Best Practice**

Be sure the messaging and information is consistent in the education and awareness campaign regardless of who delivers it. Correct information is a must!

**Who Is It Intended For?**

A one-time one-size fits all approach to education about the MRP regime is not sufficient nor appropriate. Rather, the education and awareness campaign must be accessible, reoccurring, and multi-dimensional.



The education and awareness campaign must reach many different segments of the First Nation’s population, each with their own circumstances and different levels of understanding about MRP. For instance, an education and awareness campaign targeted towards the youth might focus on the importance of understanding their matrimonial rights and how domestic contracts may be suitable for them. Meanwhile, Elders might wish to receive more information about their matrimonial rights should their spouse pass away.

How to reach each segment of the population must be incorporated into the education and awareness campaign. A good approach is to consider who should receive the information, what information do they need, and what is the best way to share the information with the intended recipients.



**Best Practice**

Ways to reach all segments of the population must be incorporated into the education and awareness campaign.

**What Should It Include?**

There is a lot of content to be covered in an education and awareness campaign. Much of the information about the MRP regime is complex and uses legal terms and language. This can cause confusion amongst the people that the education and awareness campaign is intended for. It is recommended that the MRP regime information be broken down into manageable chunks using plain language. This allows residents the opportunity to understand the information, to digest it, and to be able to ask questions to seek clarity.

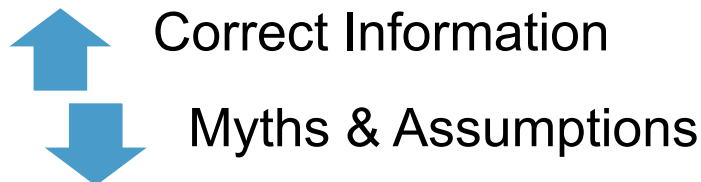
**Best Practice**

Don't try to fit all the information in at once! Break down the information into manageable sizes that promotes understanding and clarity.

The education and awareness campaign should include information that is aimed at correcting myths and assumptions about MRP, what the PFRs or the First Nation's MRP law is, what rights and protections spouses and common law partners have, how the First Nation administers the MRP regime, and what supports are available to residents if they require it. While this is not an exhaustive list as there may be other information that the First Nation deems important, we will discuss what some of the content may include.



Information to correct myths and assumptions may discuss why FHRMIRA was created and explain that it attempts to balance the individual rights of spouses on reserve with the collective rights of the First Nation. It may include how common-law is defined under FHRMIRA as a conjugal relationship of 12 months, but common-law may be defined differently for other aspects of family law that come under provincial and territorial jurisdiction. Other critical areas to correct are the assumptions that non-members or non-Indians do not have the same levels of protection as members (when in fact they do), or that Council can veto Court orders made by a judge under FHRMIRA (when in fact they can't). These are just some examples of myths and assumptions that need to be addressed, there may be others.

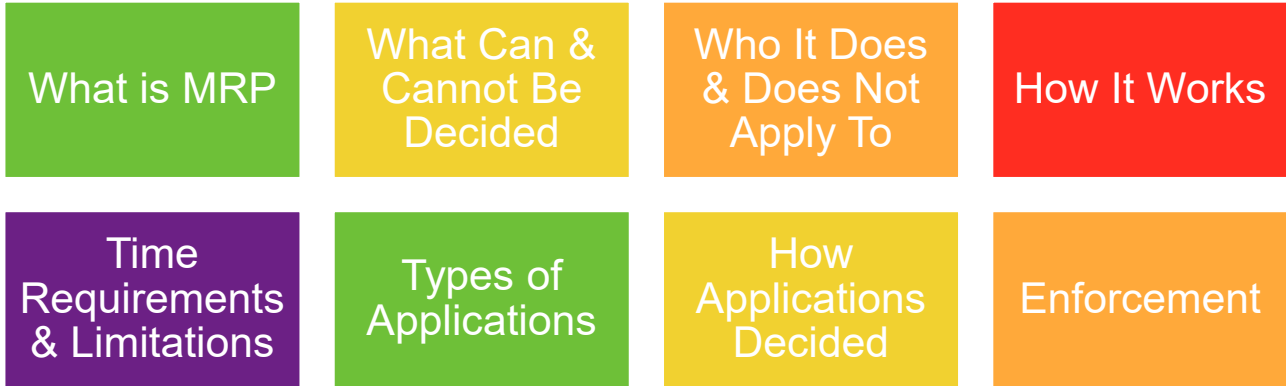


**Best Practice**

Correcting myths and assumptions about the MRP regime is central to promoting understanding about it.

Clear and concise information about the PFRs or the First Nation's MRP law is vital and the most central element of the education and awareness campaign. It should clearly explain what MRP is, what can and cannot be decided, that it applies to all members or non-members that reside on the reserve, that it does not apply to members living off-reserve, how the PFRs or First Nation's MRP law works, time requirements and limitations, different applications that may be brought, how applications are decided and if by a Court or an alternative dispute

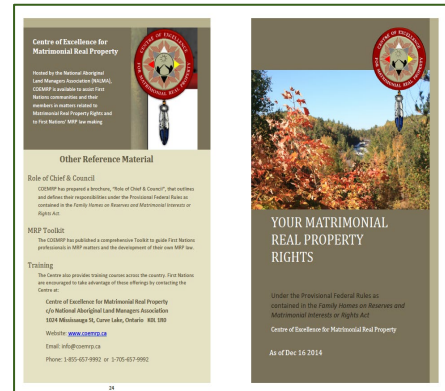
resolution process, and how decisions and orders are enforced. Given the scope of information, it is vital that there be numerous opportunities to share this information and through a variety of ways.



**Best Practice**

Share the information through a variety of opportunities and ways. Develop a Frequently Asked Questions document that explains issues and questions that commonly arise.

Information about the rights and protections afforded to spouses and common-law partners should explain who is defined as a spouse or common-law partner, the rights and protections that apply to members and non-members, and how domestic contracts are applied. Resource material such as COEMRP’s brochure ‘Your Matrimonial Real Property Rights’ may be provided, as well as contact information for provincial legal services such as that produced in **Appendix F** of this Toolkit. However, the First Nation and those providing the education and awareness information must be careful that participants do not interpret or rely on the information as legal advice. Residents must obtain their own legal advice on any MRP matters.





**Best Practice**

Be clear that any information about rights is not, and should not be relied on, as legal advice. Residents must obtain their own legal advice.

Content that explains how the First Nation administers the MRP regime will vary depending on whether the First Nation is under the PFRs or its own MRP law. Generally, it should include the First Nation’s overall responsibilities, Council’s responsibilities, Band employee’s responsibilities, and resident’s responsibilities. It is also useful to include general information about the MRP regime’s policies and procedures such as who to contact and how the process works to the First Nation at large, though more detailed information may be required in some instances such as when a resident applies to use the services for example.



Information on available supports to residents may include details on who to contact, resource materials such as NALMA’s brochures, information on provincial legal supports, as well as internal and external support services such as women’s shelters and emergency housing. This information should be developed in collaboration between the various Band departments and applicable partners such as social service organizations.

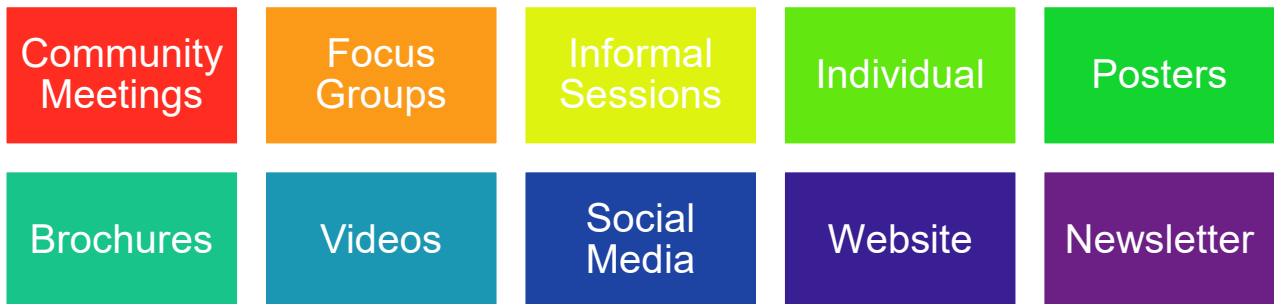


**Best Practice**

Support services information should include information on legal supports, women’s shelters, and emergency housing.

**How Should It Be Done?**

It is important to use a variety of methods to conduct the education and awareness campaigns. Holding large community meetings about the MRP regime may reach some but not all residents. Conducting smaller focus groups and informal sessions may also be needed. Individual information should also be made available, particularly where there may be concerns about domestic violence. Posters, brochures, videos, social media, the First Nation’s website, and newspaper are also valuable tools that should be utilized when designing the education and awareness campaign. A variety of methods is key to making sure that education about the MRP regime reaches as many residents as possible in the manner that is most appropriate to them.



The First Nation should arrange for NALMA to have one of their experts visit and meet with the community to provide information on the support services they provide and the various MRP resources they have developed. Additionally, the COEMRP and NALMA have published several brochures, toolkits and other resources that explain about MRP rights that the First Nation should keep at the Band Office and give to residents when needed or requested. Where the First Nation has its own MRP law, they may choose to develop similar types of brochures or educational material.

The First Nation knows its community best and should tailor the education and awareness campaign appropriately for it while ensuring that all can participate and benefit from the knowledge and understanding shared.

**Best Practice**

Use a variety of methods and ways to educate the First Nation's residents about the MRP regime.

**Access to the Law**

It is a fundamental principle of the rule of law that laws will be ineffective unless they are made known in advance to those who are to be guided by them. It is fair to say that there is still a general lack of awareness in most First Nations of the MRP law in effect and the rights residents have under those laws. Individuals cannot fully avail themselves of the protections of the law if they are not aware of it. Too often, community members are not sure where to go to get information and clear answers to their questions.

The fact that most First Nation MRP laws are not published creates a considerable barrier for those seeking to know what their rights are or to obtain a remedy under those laws. Members, residents, and their lawyers should have ready access to a copy of the MRP law in effect.

It would be desirable for those First Nations who have passed their own matrimonial real property law to publish that law in a central location. Since the *First Nations Gazette* is a forum for publishing many other First Nation laws, the First Nation may want to consider posting their matrimonial real property laws there as well. Because publication of First Nation laws in the *First Nations Gazette* is free of charge, it would impose no additional financial burden on First Nations.

The First Nation's website should have a section on MRP which includes a copy of the MRP law that applies to the First Nation, a Frequently Asked Questions sheet that provides answers to common questions that arise, and the contact information for who to contact at the Band Office for further information. As not all residents may be comfortable or have access to the Internet, it is also important that print copies of this information are made available in the Band Office for residents to access.

It is strongly recommended that a copy of the PFRs or the First Nation's specific MRP law (whichever applies) be posted on the First Nation's website and at the Band Office. Residents must be able to easily access a copy of the law that applies to them.

### **Best Practice**

Post the PFRs or the First Nation's MRP law (whichever applies) on the First Nation's website and at the Band Office.

### **Resource Materials**

The Resource Materials include a Template Education & Awareness Campaign Outline that explains what may be included in the education content for the First Nation's residents. A Work Sheet Education & Awareness Campaign Outline is also included that the First Nation can modify and use to develop its education content.

## **Education for Supporting Players and Partners**

When you have laws, you have lawyers, and courts with judges, and police who enforce court orders and decisions. MRP laws are no exception. So, it follows that these supporting players and partners must also become educated about the MRP laws. This is no easy task. To be implemented successfully, local, and regional law enforcement officers must also understand the MRP regime and the new protections it introduces, particularly regarding the enforcement of occupancy in the family home.

The First Nation will need to work with or interact with these supporting players and partners though each will have different responsibilities within the MRP regime. Band administrators should know what off-reserve players or partners they might have to deal with in MRP matters and ensure that personal networking is in place to deal with difficult situations. For example, if the RCMP provides policing services to the First Nation, then it makes sense that the First Nation's staff maintains an ongoing dialogue with the RCMP about the MRP law that is in effect in the First Nation. The First Nation should reach out to the local courts and local lawyers practicing in family law, as well as legal aid clinics, to ensure that they are aware of the rights created under MRP law.

FHRMIRA is a federal law and ISC is the federal government department responsible for dealing with administrative matters related to that MRP law. ISC has a Head Office in the National Capital Region and various Regional Offices across the country. Since MRP issues often involve land registrations, or Indian estate matters, the staff at ISC often becomes deeply involved in MRP cases. The First Nation will need to work with ISC in the MRP regime.

Where the First Nation has its own specific MRP law, it will need to ensure that the Provincial or Territorial Court, ISC Regional Office, policing agencies, local lawyers, social workers, and other supporting players and partners are provided with the MRP law and encouraged to read



it. The First Nation may wish to schedule education sessions with these supporting players and partners to ensure that they understand the First Nations' MRP law.



**Best Practice**

The success of the administration and enforcement of the MRP regime also relies on supporting players and partners, who should not be overlooked in the First Nation's education and awareness campaign.

**Ongoing Education**

As with all the other components to implement the MRP regime, education and awareness is an ongoing process that the First Nation must commit to to ensure that the MRP regime is understood, properly administered and enforceable by its residents and the supporting players and partners. This requires ongoing education and awareness by the First Nation, which should be regularly scheduled and budgeted for.

**Best Practice**

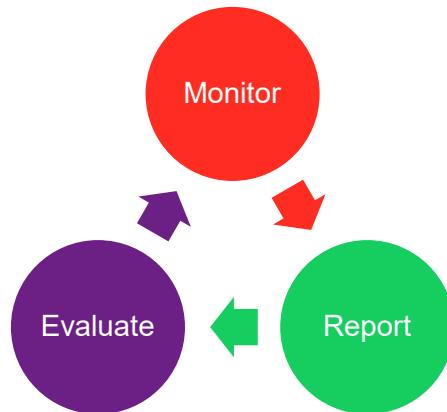
MRP rights can best be protected if the MRP law is well understood, is widely known, and is readily enforceable.



## Chapter 10 – Monitoring and Amending

### Monitoring, Reporting and Evaluating

Once the MRP regime and its policies and procedures are in place, it will be necessary to monitor, report on, and evaluate the effectiveness and efficiency of the process. This is especially crucial at the outset to determine where additional support is required, changes needed, and how the overall process can be improved. This should be tasked to the MRP employee as this will be an ongoing responsibility and as they will be in the best position to collect, tabulate, and analyze this information. Regular monitoring, reporting and evaluation will be an ongoing responsibility that the First Nation will need to carry out for as long as the MRP regime is in place.



### Monitoring

The MRP regime and its policies and procedures must be monitored to assess whether they achieve their goals and objectives. Monitoring spots situations where action is needed and helps to decide on a course of corrective action when required, such as amending the First Nation’s law or revising the MRP regime’s policies and procedures.

Monitoring and assessment are ideally carried out annually and involve collecting information about various aspects of the management of MRP matters on the First Nation. However, the First Nation may find it useful to collect this information throughout the year and later roll it up into the annual report. Doing so saves time and resources, and ensures that information is not missed, which could easily occur when relying on memory or needing to review each MRP file at the end of the year. For example, if the MRP employee does not record each time that

someone requests information about the MRP regime, it would be easy to not have a correct accounting at the end of the year which would affect the accuracy of the monitoring process.

There may be different aspects that the First Nation wishes to monitor about the MRP regime or that it may be required to monitor. Two possible areas to monitor may include monitoring the handling and frequency of MRP services and how efficiently MRP issues were handled. There are of course other aspects that the First Nations may deem important to monitor and assess.

If the First Nation decides to monitor the handling and the frequency of MRP services, it may collect information on requests for different types of MRP information; requests for assistance such as filling out applications; applications made with respect to MRP issues such as land transfers and division of property; Court orders applied for; times Chief and Council deemed it necessary to have representation in Court; and the use of different levels of dispute resolution.

## Handling & Frequency

Requests for information

Requests for assistance

Applications made

Court orders applied for

Council representations at Court

Use of dispute resolution

### Resource Materials

The Resource Materials include a Template Administrative Monitoring Assessment that explains what may be collected to monitor the handling and frequency of MRP matters. A Work Sheet Administrative Monitoring Assessment is also included that the First Nation can modify and use to develop its monitoring process.

Information collected on how efficiently MRP issues were handled would be gathered directly from the residents that requested services. This should be done after the residents MRP

services have been completed. Keeping in mind that many MRP issues are sensitive, feedback from residents who accessed services related to MRP issues would be valuable. The information gathered directly from residents will help determine if they felt that they were well served by the handling of their files. It would be important to collect such information as the timeliness of handling their file, a sense of privacy being respected, knowledgeable handling of the issue, and efficiency of the process. When collecting this information, it is imperative that the resident be appropriately informed about what the feedback will be used for and that the feedback can be confidential if they wish. This also means that there should be different ways in which they can provide their feedback such as through an anonymous survey or providing their feedback directly to the MRP employee.



#### **Best Practice**

Regular monitoring of the MRP regime and its policies and procedures determines where action is needed and what the corrective action is.

#### **Resource Materials**

The Resource Materials include a Template User Monitoring Assessment that explains data that may be collected by users of the MRP services. A Work Sheet User Monitor Assessment is also included that the First Nation can modify and use.

### **Reporting**

It is essential that reports be made back to the leadership at least annually to provide a sense of how the implementation of the MRP regime is working and its effectiveness. This report should be prepared and presented by the MRP employee or other Band employee responsible for the administration of the MRP regime.

Once numbers are tabulated and the feedback is compiled from the monitoring assessment, a report should be prepared for Council. The report should contain information on: (1) the number and types of requests satisfied; (2) number of files opened, resolved, and pending; (3) average timeline for resolution of files; (4) resources employed to handle the administrative duties related to the MRP regime including personnel, time, and funding; (5) the interaction

and coordination between the various responsible departments and staff; (6) effectiveness of dispute resolution plan; (7) successes and the factors that might have led to those successes; (8) what challenges were encountered in implementing the law; and (9) the factors that should be addressed to achieve greater success.



The report is used to inform Council about the level of success of the implementation of the MRP Regime, and to guide them on the need for changes. Council is then responsible for approving the findings of the report and acting upon them.

**Best Practices**

Provide an annual report and briefing to Chief and Council with recommendations.

**Resource Materials**

The Resource Materials include a Template Report that explains information that may be provided to Council on the implementation and effectiveness of the MRP regime. A Work Sheet Report is also included that the First Nation can modify and use.

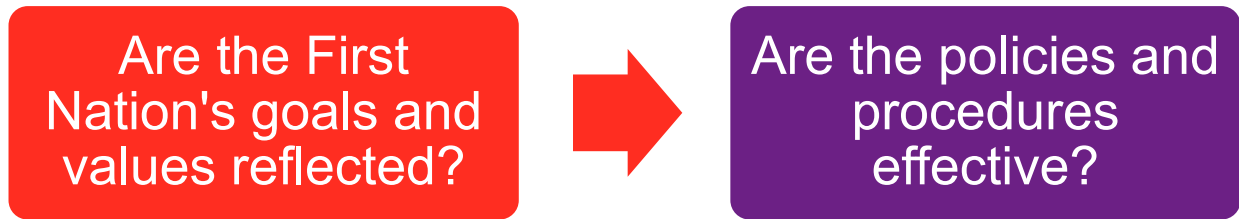
## Evaluating

Evaluation involves the analysis of the report, keeping the goals and the First Nation’s needs in mind. The effectiveness of the MRP regime and how it has been implemented should be evaluated annually based on the analysis outcome. This can be done by the MRP employee.

Alternatively, the First Nation may decide to have the evaluation prepared by a third party particularly if there is concern about the objectivity of the MRP employee as to their performance. However, this is also a budget factor that Council would need to consider in determining who should prepare the evaluation.

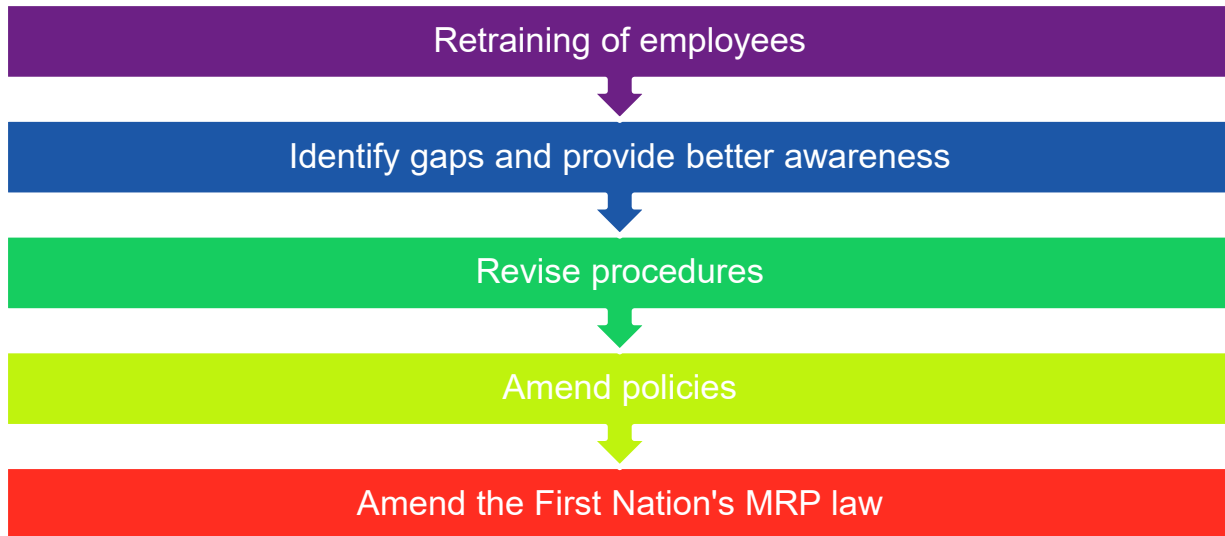
Questions that must be addressed in the evaluation are:

- Does the MRP Regime reflect the goals and values of the First Nation?
- Are the policies and procedures effective?



If the answer is “No” to either of these questions, corrective action may be required, including (in order of increasing difficulty and effort):

1. Retraining the Band employees who carry out the policies and procedures.
2. Meeting with the community and/or with relevant groups to identify procedural and knowledge gaps, and to provide a better awareness of the MRP regime.
3. Revising the procedures as required.
4. Making amendments to the policies.
5. For those First Nations with an MRP law, making amendments to that law.



Evaluation of the effectiveness and implementation of the MRP regime is particularly crucial in the first year to identify the strengths and areas requiring improvement. Evaluation thereafter is also important as it ensures the process doesn't become static and can adapt appropriately to changes that are required over time. Moreover, evaluation and corrective action helps to instill confidence in the MRP regime process in those that it is intended to serve and those that administer it.

#### Best Practices

Evaluate the effectiveness and implementation of the MRP regime annually. Take corrective action as required.

## Amending

For First Nations who have enacted their own MRP law, making amendments will have to follow the amending or repeal provisions contained in their law. If the amending or repeal provisions require a ratification vote, please refer to NALMA's MRP Law-making Toolkit for more information.

In any MRP Regime, making revisions to the policies should include community input as policies are generally based on the First Nation's values and principles as well as laws. Changes in policy may require parallel revisions to the procedures. Making revisions to procedures generally only involves the leadership and the Band administrative staff who use the policies and procedures in carrying out their day-to-day duties. Following the revisions, be sure to plan follow-up training for Band employees and Council on the revised policies and procedures.



**Best Practices**

Amendments to the First Nation's MRP law must follow the amending or repealing provisions in it.





# Chapter 11 – Courts and Alternative Dispute Resolution

## Purpose

Matrimonial Real Property disputes can be volatile, messy, complicated, and uncomfortable. They are also an unavoidable aspect of family and community life. This Chapter provides an overview of the Court system and different alternative dispute resolution processes that may be available, depending on whether the First Nation is under the PFRs or their own MRP law. This information is provided for information purposes and does not mean that one or all processes are available to the First Nation.

It is imperative that the First Nation fully understands and is knowledgeable of the Court process and/or alternative dispute resolution processes that apply to them. This is needed to effectively administer and use the PFRs or the First Nation's MRP law and to develop the corresponding policies and procedures that are required.

### Best Practice

The First Nation must know and understand what Court process and/or alternative dispute resolution processes apply to the MRP regime that they are under.

## Domestic Contracts

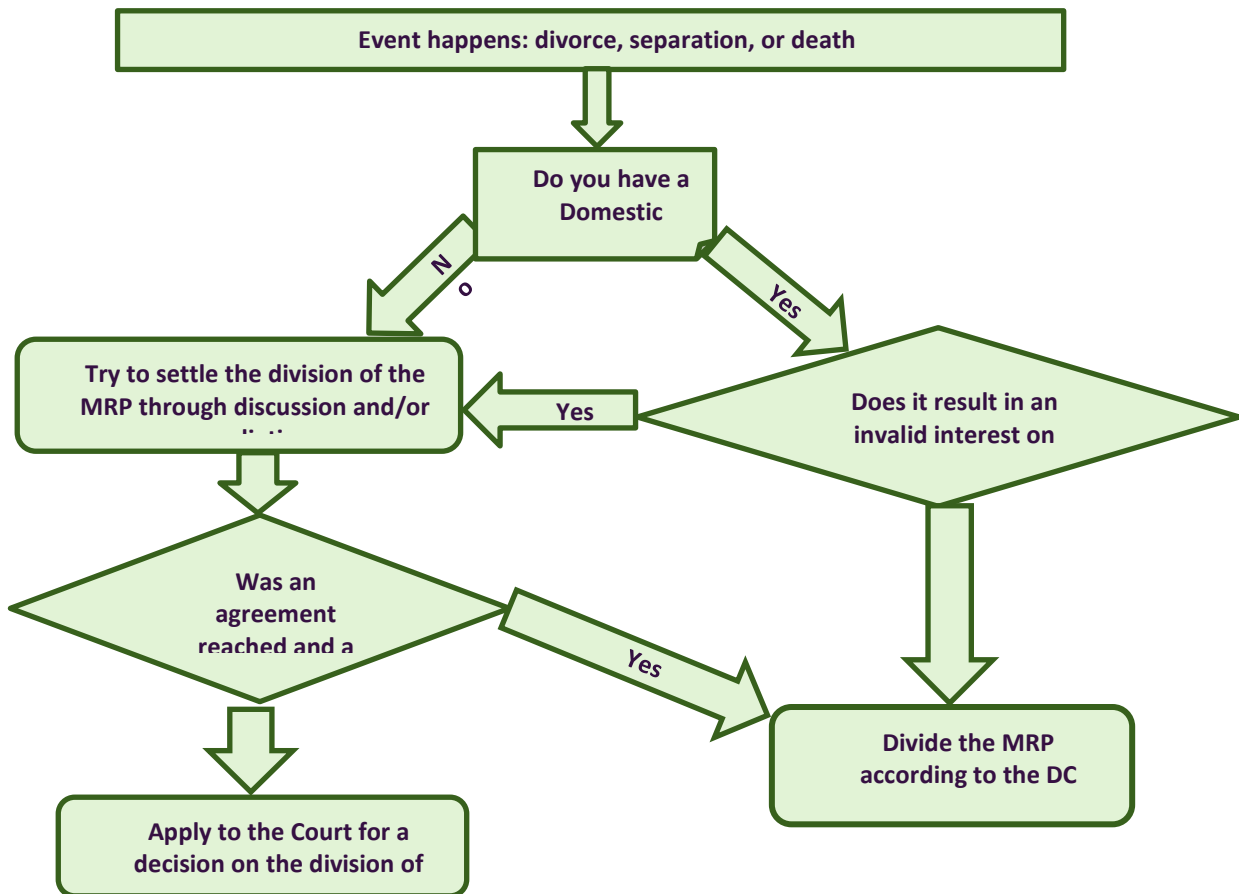
Rights and remedies contained in the PFRs or the MRP law may be accessed by those who need them; however, this does not mean that they must access the Court system to resolve their MRP issues. Many individuals may be able to come to an agreement on the division of property or exclusive occupation of the family home on their own by creating a domestic contract. A domestic contract is an agreement between two individuals who intend to reside together or who currently live together that outlines their rights and responsibilities. When signed it becomes legally binding.

Domestic contracts allow the couple to reach agreement on issues before any conflict may occur, to control what is in the agreement, to avoid conflicts, and to decide how they would divide their property. As the spouses agree to what is included in the domestic contract, they are more likely to follow it should their marriage or common-law relationship end, or upon death.

There are different types of domestic agreements include marriage contracts, cohabitation agreements, and separation agreements. A domestic contract may be entered into before or during marriage or common-law arrangement and may define rights and responsibilities during marriage, upon death, or upon separation or divorce. However, apart from separation agreements, domestic contracts cannot deal with custody, access, or child support.

Generally, the process to create a domestic contract normally involved the parties sitting down together and discussing the issues until they come to an understanding or agreement. They may wish to use a mediator to help them work through it, but this is not mandatory. Once they have reached agreement, they usually meet with a lawyer to draft the domestic contract. Often each party has their own lawyer review the draft domestic contract and negotiate any changes. To be valid, a domestic contract must be in writing, signed by each spouse, and properly witnessed.

As shown in the below chart, a domestic contract (DC) can simplify what happens in the event of divorce, separation, or death. In many cases there is no need to go to Court because both spouses have previously agreed on how they wish to handle the issues involved.



## Dispute Resolution Options

While a domestic contract may resolve many MRP issues, where resolution proves challenging, access to an alternative dispute resolution mechanism may provide yet another option. Where people have access to a process that they trust, they will tend to use it. One size doesn't fit all when choosing and developing alternative dispute resolution mechanisms. First Nations may consider developing an alternative dispute resolution process to assist its residents in resolving MRP disputes as an alternative to Court.

Alternative dispute resolution processes are generally more accessible, less costly, and less time consuming than Courts. It is recommended that the First Nation consult with its residents on whether an alternative dispute resolution process should be developed. Where a First Nation has its own MRP law, it may include an alternative dispute resolution process that the First Nation will use. In such instances, the First Nation will have a responsibility to ensure that the alternative dispute resolution process is in place and appropriately resourced. Where it has not yet developed its alternative dispute resolution process, this should be a main component included within the implementation plan.



The FHRMIRA also recognizes the importance of resolving disputes without resort to Courts. Section 2(3) of FHRMIRA contains a clause about “traditional” dispute resolution, which states:

*For greater certainty, for the purposes of this Act, an agreement between spouses and common-law partners includes an agreement reached through traditional dispute resolution.*

The First Nation may seek and secure funding to establish and support alternative dispute resolution mechanisms for its residents to use when an MRP dispute arises. If an alternative dispute resolution process is created, Council should support it but not be directly involved in its operations as they may find themselves caught in a conflicts of interest situation.

### Best Practice

The combination of well-written MRP laws AND well-organized alternative dispute resolution processes results in far fewer problems.

In considering what alternative dispute resolution mechanisms may be available, First Nations have used a range of dispute resolution options including Courts, Tribunals, Community based justice and dispute resolution models, and Indigenous or traditional processes. We will now briefly highlight how each works. The First Nation is encouraged to seek its own legal advice to learn more about each alternative dispute resolution process.

## Courts

Each province or territory has its local Courts and its Superior Court which has the jurisdiction to hear MRP issues. Each Court has its own forms and processes governed by their own rules of practice. MRP disputes are heard and resolved by an impartial judge trained in Canadian law. Decisions are binding but can be appealed to a higher Court.



However, one must understand that litigation is often adversarial, expensive, time consuming and complicated; therefore, provinces generally require that some form of mediation take place prior to litigation. Some Courts are unfamiliar with First Nations communities and traditions. This is a factor the First Nation should consider when using and/or making representations to the Court and when developing their alternative dispute resolution process under their own MRP law. Even though FHRMIRA is now a federal law, not all provincial Courts have experience dealing with cases under this new legislation.

Generally, going to a formal Court to resolve MRP problems should be seen as the last resort. It is preferable to try alternative dispute approaches first.

## Negotiation

In negotiation, the spouses work together to come to an agreement about how to resolve their MRP dispute. While they can negotiate a resolution on their own, they often use lawyers or representatives to do so. Sometimes a neutral third party will help the spouses negotiate a settlement. Unlike mediation or a more formal process, a negotiation does not have to take place in person, at a specific location or over a set period.



## Mediation

In mediation, a neutral third party works with the spouses to voluntarily resolve their MRP dispute. The mediator's role is to help the spouses identify what needs to be resolved and to help them better communicate with each other. However, the mediator is not the decision-maker. The mediator is only a facilitator who helps the spouses resolve their own dispute. Any agreement reached is made by the spouses.

### Best Practice

Provide proper training in MRP law to ensure mediators or decision-makers can be fair and impartial in making their decisions.

## Arbitration

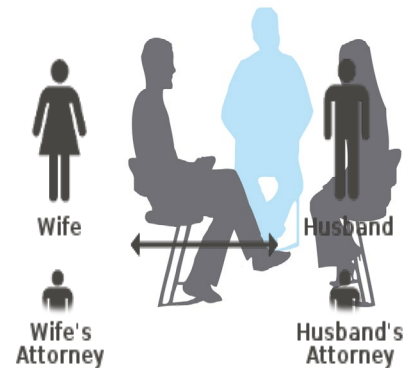
Arbitrations are somewhat like Court hearings. There is an appointed decision-maker usually called an adjudicator. The adjudicator is an expert in a relevant area of law and is normally from outside the First Nation to ensure impartiality. Spouses usually need the help of a representative (often a lawyer) to speak for them during arbitration. The adjudicator listens to the dispute, then goes away to consider the issues before making their decision. Adjudicators often rely on past decisions, or precedents, to come to their decisions. Spouses are legally required to comply with the final decision.

## Mediation-Arbitration (med-arb)

This is a legal process that blends the processes of mediation and arbitration into one. In med-arb, the spouses try to reach an agreement with the assistance of a mediator. If the dispute, or parts of the dispute cannot be resolved through mediation, the process switches to arbitration.

## Collaborative Law

In a collaborative law process, the spouses sign an agreement that they will not go to court to resolve their dispute. Instead, the spouses agree to work together with their lawyers to find a solution. Their lawyers must be trained in collaborative law and agree not to go to Court. If the process breaks down and the spouses later decide to go to Court, they must hire new lawyers. Spouses cannot use information from the collaborative law process against other spouse if they go to Court.



## Dispute Resolution Tribunals

Some First Nations have organized an alternative dispute resolution tribunal or justice circle that travels and serves a grouping of First Nations, or to provide alternative members so that members aren't faced with dealing directly with neighbours or close community members. Tribunals have formal and transparent structures, policies and procedures. There are clear rules and a process with clearly defined steps.

## Circle Process

Circle processes are called many different things but tend to follow a similar format and with certain elements in common. They typically address issues involving harm or safety concerns and are most connected to child protection systems or to criminal justice matters.

Everyone using a circle must consent to participate. A trained facilitator is used. The proceedings are usually private. Family, certain community members and professionals may be invited to participate and there is a focus on involving family and community where possible to arrive at a workable solution.





Generally, the steps in Circle Processes include:

1. Referral. Participants may be referred by the child welfare system, Council, or community-based helpers.
2. Preparation. A trained and paid facilitator talks privately to the referred individuals and others who should be present to gauge the risks, dynamics, and likelihood of success. In some situations, there may be behavioral or spiritual preparation required.
3. Opening. The facilitator welcomes participants. An Elder or spiritual leader may open with a prayer or brief ceremony. Rules and expectations are clearly outlined.
4. Introduction. Most begin with a round of introductions with all people identifying their roles and why they are present.
5. Issue identification. Participants talk about how they view the issues. They may feel and express strong emotions. While this step may be structured, it is always managed by the facilitator.
6. Teaching/understanding. Elders or leaders may give cultural or spiritual teaching, advice, or encouragement.
7. Development of a plan or resolution. An action plan is developed and put in writing.
8. Acceptance of plan. The facilitator or someone else in a position of responsibility, such as a social worker, reviews the plan and suggests modifications. Participants sign this agreement, and the parties receive a copy. The agreement is kept on file.
9. Closing. The facilitator brings the circle to a close. Usually, participants are given a chance to say something. A prayer may be said to end the process.
10. Follow-up. The facilitator should follow up to see if the agreement is being carried out. Certain types of assistance might have to be organized. There may be specific timelines to meet. If the agreement is not being followed, corrective action might have to be considered. Certain reports to a government department or Court may need to be filed to close the file.

A circle approach may not be appropriate in some circumstances. It may be difficult to have open and honest meetings if there is a history of a serious power imbalance.

#### **Best Practices**

Offer local mediation to residents to resolve most conflicts before they end up in Court. This also helps ensure that decisions are made with a full understanding of the First Nation's circumstances and culture. To further ensure mediators or decision-makers are fully impartial, consider creating a regional dispute resolution body with participants from several First Nations.



## Additional Considerations

The availability of justice services and related supports will determine the effectiveness of MRP law provisions against domestic violence in any given First Nation community.

Studies on the effectiveness of Emergency Protection Orders for reducing domestic violence indicate that the active and consistent enforcement of protection orders is key to improving victim safety. Emergency Protection Orders are unlikely to be considered an option or taken seriously by victims if they find it difficult to access relevant law enforcement agencies and Courts, and/or do not see immediate measures taken to enforce an order once it is made.

By contrast, victims of domestic violence are more likely to take steps to heal when they have easy access to legal counsel, healing circles, and other restorative justice mechanisms. Having a variety of other supports systems, such as emergency physicians, therapists, and family counselors, can also enhance healing.





## Chapter 12 – Ongoing Challenges

FHRMIRA is still less than ten years old. There is still much to learn and discover about how its provisions and those of complementary First Nations specific MRP laws will be enacted through court decisions and local administrations. In time, courts will more frequently come to decide legal cases about First Nations MRP rights and laws. Ideally, their growing body of knowledge and case law will be systematically documented and archived in publicly accessible databases.

Some of the ongoing challenges faced by First Nations and their partners in the MRP regime are discussed here.

### Gaining Access to the Courts

When FHRMIRA was passed, it outlined the role that would be played by provincial and territorial Courts. For example, it enabled judges in those courts to issue Emergency Protection Orders (EPO) to exclude a spouse or common-law partner from the family home on an urgent basis in situations of family violence.

However, currently, only a minority of provinces have formally designated judges for the purpose of hearing emergency protection order requests. It seems that it will take time and many more cases to eventually arrive at a fully functioning system nationally. Clearly, the need continues for greater training and awareness of the *Act* for members of the judiciary, law enforcement, legal practitioners, and social and family service workers.

Canada is a vast country, and many First Nations located in remote areas. The more remote a First Nation is, the more likely its residents are to experience disadvantages when it comes to benefitting from FHRMIRA's provisions. This is due to the geographic distance that exists between their First Nation and relevant access points for police, courts, lawyers, hospitals, and health professionals. Under these conditions, the substantial travel and time commitments that must be made to seek justice can have a significant deleterious effect on their well-being. For members of small remote First Nations who may be unfamiliar with the systems of urban society, simply being detached from their local community and cultural surroundings can be a significant source of anxiety.



A broader challenge is the continuing under-representation of First Nations people among the professions needed to fully implement MRP laws, including police, judges, and lawyers. Young people living on-reserve should be encouraged to consider entering these professions and be supported in their studies.



One way to overcome geographical distance is to improve broadband Internet services in these remote First Nations to provide online information and greater access to professional services by videoconferencing. These online resources and virtual services can be economical and help the Courts, support agencies, and specialists reach a larger rural and remote audience. Many individuals living on-reserve in Canada still face a severe digital divide as when compared with urban populations, they are severely under-served in terms of broadband Internet availability.

Broadband Internet has an enabling role in helping rural and remote First Nations residents by:

- Accessing online legal information about matrimonial real property rights and legislation such as FHRMIRA.
- Connecting with justice services, legal counsel, and support agencies online through secure video-conferencing and rich media platforms.
- Participating in e-learning opportunities and web-based public awareness campaigns.

## Enforcing the MRP Laws

Some aspects of MRP law, such as protection orders, may require police involvement. In cases of domestic or family violence, the removal of an aggressive spouse or common-law partner from the home may require the timely intervention of police and other support agencies to ensure that the victim and other members of the household are safe. Police officers may be called upon to help them to make application for an EPO. The police may have to enforce an EPO by removing the other spouse or common-law partner and any other specified persons. The police may attend with persons to supervise the removal of their belongings from the matrimonial home. Consequently, it is imperative that the police officers receive proper training on MRP law and work in close collaboration with the other First Nation's staff responsible for the welfare of the residents of the First Nation.

However, many police services attending to First Nations are not yet properly trained in MRP law. This may reflect a lack of priority based on a reluctance to get involved in such private matters or simply that the funding and time has not yet been provided for such training. While some First Nations have reached out to educate local police, Courts, and lawyers about their First Nation specific MRP laws, Band administrators have noted that providing this level of outreach and support requires funding that is not generally available through ISC. Moreover, even having funding to support the communication of MRP laws or training for local resources does not guarantee a response from law enforcement and legal service providers.

In many First Nations better access to emergency accommodations such as safe houses and shelters in cases of family violence is needed. Coordination between the police and social services needs to be achieved to diffuse and solve emergency situations.

In addition to providing better policing, there is a need to improve strategic data collection on relevant issues such as domestic violence interventions and property rights decisions under FHRMIRA and related MRP laws on-reserve. There are significant data gaps and efforts need to be made to develop and sustain a body of knowledge regarding MRP issues.



## Funding Challenges

In discussions held across the country, lack of funding for MRP issues is often the first challenge brought up. There is no dedicated funding from ISC. However, there is limited funding available through NALMA for communities to develop, ratify, publish, implement, and promote their own matrimonial property law. MRP considerations often require amendments to other First Nation's law or policies, especially in the areas of housing and social services.

It has been suggested that due to numerous other social, economic, and political issues that affect communities, developing an MRP law or regime is a competing priority within a First Nation's available capacity. Beyond capacity constraints and knowledge gaps, the limited funding available for MRP-related activities presents challenges for First Nations. Many First Nations are already dealing with limited resources, and the creation of a custom MRP law means allocating funds for legal fees, community engagement, ratification expenses, and broader social marketing efforts. As a result, some First Nations may have to remain under the PFRs of FHRMIRA for an indeterminate time, despite wanting to develop a custom MRP law that better fits their social and cultural context.



Even where the PFRs apply, there may be limited pilot funding available from NALMA to both educate and provide active support to the First Nation's residents about their MRP rights. Should a community decide to hire and train an MRP technician for example, that First Nation would have to find the funding to do so. Varying levels and quality of connectivity can limit access to information about the rights and protections provided under MRP laws.

First Nations and services that spearhead anti-violence initiatives are often underfunded or lack core funding and must renew their funding base every year. This causes programming and service planning to be unpredictable, and often means that victim services and family violence

interventions change significantly from year to year. Try to establish consistent multi-year funding for MRP-related services.

**Best Practice**

Commit to a funding program in support of MRP initiatives. Set an annual budget, however modest, and seek additional funding to build upon it. Be proactive; don't expect others to offer funding to you. Explore all options.

**Challenging an MRP Law**

What measures exist if a First Nation resident is unsatisfied with a First Nation's Matrimonial Real Property law? ?

As a First Nation develops its own law, the rights of individuals on reserves are protected, as they are off-reserve, by the *Canadian Charter of Rights and Freedoms* (the *Charter*) and the *Canadian Human Rights Act*, to the extent that complaints fall within its scope. Should a First Nation not follow the

requirements in the *Act* for the community vote, or if an individual resident feels that the content of the law is not *Charter* compliant or otherwise legally valid, the resident will have recourse to the Courts.

There are no stronger legal protections available to Canadians than those in the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act*, both of which may be enforced through the courts. Both the *Charter* and the *Canadian Human Rights Act* where applicable, will apply to First Nation laws. This approach makes First Nation governments accountable to First Nation members and will respect First Nations' ability to make laws to suit their community needs.

Clearly it is a daunting task for an individual to launch a legal challenge to an existing law. It would be preferable for individuals to be active participants in the development of their First Nation's MRP law and make sure they made use of their vote. Every First Nation would be better served by trying to develop the best possible law in the first place and then pass periodic updates to it if required.

**Coming into Force**

December 16, 2013 is the date the First Nation law-making mechanism came into force. The Provisional Federal Rules came into force a year later on December 16, 2014.



Some First Nations who were signatories to the FA on *FNLMA* received a 3-year extension from the date of royal assent before the PFRs began to apply. The coming-into-force date for those First Nations is June 19, 2016.

It is important that you know the coming-into-force date for your First Nation. Remember that there may be situations where **BOTH** the PFRs and a First Nation specific MRP law apply where the First Nation was first under the PFRs before they ratified their own MRP law. For example, if the First Nation ratified and enacted their own MRP law on March 1, 2020, the PFRs would apply to any separation or survivorship that occurred before that date.

## Non-Retroactivity

**There is no provision in FHRMIRA for it to apply retroactively.** The Provisional Federal Rules are not retroactive. The provisions of the *Act* only apply from the day or days on which they are brought into force. They only apply if the death or separation occurred on or after the date of coming into force of the PFRs. Any action commenced under the PFRs must be completed under the PFRs, even if a First Nation MRP law has subsequently been enacted in the interim.

### Best Practices Related to Ongoing MRP Challenges

- Take a long-term view. Just because an MRP law has been created, it does not mean that all MRP issues will somehow be automatically resolved right away. It will take years, perhaps decades, for everyone involved in MRP issues to come to a common understanding of how best to manage the challenges involved.
- Learn from others. Share your experience.
- Send representatives from your community to NALMA/COEMRP training events.
- Communicate with your Regional ISC office on MRP matters.





## Chapter 13 – Additional Resources

Further related information can be found in the documents listed here and at the websites provided:

### Legislation

- *Family Homes on Reserves and Matrimonial Interests or Rights Act*, S.C. 2013, C. 20, available online at: <http://laws-lois.justice.gc.ca/eng/acts/F-1.2/page-1.html>

### COEMRP and NALMA Resources

- MRP training courses presented by the COEMRP, check the website: [www.coemrp.ca](http://www.coemrp.ca)
- “*The MRP Desk Manual for First Nations Land Managers*” manual.
- “*On-reserve Matrimonial Real Property Rights*” booklet.
- “*A Quick Reference to the Family Homes on Reserves and Matrimonial Interests or Right Act*” booklet.
- “*Role of Chief and Council*” booklet.
- “*Understanding Estates Management on Reserve*” booklet.
- A Toolkit for On-Reserve Matrimonial Real Property Dispute Resolution available at: <https://www.coemrp.ca/our-publications/matrimonial-real-property-toolkit/>
- Applying for an EOO for a Family Home on Reserve (available for each province)
- Land management training presented by NALMA, check the website: [www.nalma.ca](http://www.nalma.ca)

### Indigenous Services Canada

- Indigenous Services Canada’s website: <https://www.canada.ca/en/indigenous-services-canada.html>
- *Indian Lands Registration Manual*. Ottawa, ON: Minister of Public Works and Government Services Canada.
- *Land Management Manual*. Ottawa, ON: Minister of Public Works and Government Services Canada.
- Land Registration. Ottawa, ON, Canada. Website: <https://www.sac-isc.gc.ca/eng/1100100034803/1611929056890>



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## Appendix A - Terminology

*The following definitions are used in the completion of the related ISC forms.*

**Administrator of an estate:** is a person appointed (by the Minister) to administer an estate. If there is no will or no one is named as Executor in the will, the Minister will appoint someone to handle all the legal and financial matters of the deceased's estate. It is not possible to have more than one appointed administrator.

**Common-law partner:** is defined in the *Indian Act* as a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year.

For clarity, in some cases, there may be a spouse (i.e., the couple remain legally married but are separated) and also a common-law partner. In that case, both the spouse and the common-law partner must complete the form Statutory Declaration of Spouse or Common-law partner.

**Descent:** refers to the succession of the ownership of property by inheritance (i.e., without a will, known as intestacy).

**Devise:** is a gift under a will of real property. It is also known as a bequest under a will.

**Estate:** includes real and personal property and any interest in land of the deceased.

**Executor of a will:** is a person named in the will to administer (handle all the legal and financial matters) the deceased's estate and to ensure that the details of the will are carried out. This is the same as an administrator or a personal representative. It is possible to have more than one executor named in a will.

**Family Home:** as defined by the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, means a structure that need not be affixed but that must be situated on reserve land and where the spouses or common-law partners habitually reside or, if they have ceased to cohabit or one of them has died, where they habitually resided on the day on which they ceased to cohabit, or the death occurred.

If the structure is normally used for a purpose in addition to a residential purpose, this definition includes only portion of the structure that may reasonably be regarded as necessary for the residential purpose.

**First Nation member:** means a person whose name appears on the band list of a First Nation or who is entitled to have their name appear on that list.

**Indian Registration Number:** is the 10-digit registration number found on the Certificate of Indian Status.

**Indian:** means a person who pursuant to the *Indian Act* is registered as an Indian or is entitled to be registered as an Indian.

**Interest or right:** for the purposes of these forms, means the following interests or rights referred to in the *Indian Act*: (i) a right to possession, with or without a Certificate of Possession or a Certificate of Occupation, allotted in accordance with section 20 of that *Act*, (ii) a permit referred to in subsection 28(2) of that *Act*, and (iii) a lease under section 53 or 58 of that *Act*.

**Matrimonial interests or rights:** mean interests or rights, other than interests or rights in or to the family home, held by at least one of the spouses or common-law partners

- a) that were acquired during the conjugal relationship;
- b) that were acquired before the conjugal relationship but in specific contemplation of the relationship; or
- c) that were acquired before the conjugal relationship but not in specific contemplation of the relationship and that appreciated during the relationship.

It excludes interests or rights that were received from a person as a gift or legacy or on devise or descent, and interests or rights that can be traced to those interests or rights.

**Real Property:** includes structures that are affixed to the land, as well as the land itself.

**Spouse:** includes either of two persons who have entered in good faith into a marriage that is voidable or void.

**Statutory Declaration:** is made pursuant to s. 41 of the *Canada Evidence Act*. A statutory declaration is of the same force and effect as if made under oath and therefore has value as evidence.

Warning to applicant/ declarant: Under the Criminal Code of Canada, it is an offence to make a false statutory declaration.

The following people can administer a statutory declaration: Any judge, notary public, justice of the peace, provincial court judge, recorder, mayor or commissioner authorized to take affidavits to be used either in the provincial or federal courts, or any other functionary authorized by law to administer an oath in any matter, may receive the solemn declaration of any person voluntarily making the declaration before him/her.

**Survivor:** in relation to a deceased individual, means their surviving spouse or common-law partner.

**Will:** means a written document that gives instructions on what is to be done with an estate after death.







## Appendix B - Acronyms

### Acronyms used in Land Management

#### A

AANDC	Aboriginal Affairs and Northern Development Canada (now ISC/CIRNAC)
AC	Arctic Council
ACLS -AATC	Association of Canada Lands Surveyors
ACMOR	Audit Committee for the Management of Risk
ACOA	Atlantic Canada Opportunities Agency
ADM	Assistant Deputy Minister
ADMO	Assistant Deputy Minister's Office
ADR	Alternative Dispute Resolution
AECL	Atomic Energy of Canada Limited
AFA	Alternative Funding Arrangements
AFN	Assembly of First Nations
AFOA	Aboriginal Financial Officers Association (of Canada)
AFS	Aboriginal Fisheries Strategy
AFSAR	Aboriginal Fund for Species at Risk
AG	Attorney General
AG	Auditor General (of Canada)
AHF	Aboriginal Healing Foundation
AHRDCC	Aboriginal Human Resource Development Council of Canada
AIAI	Association of Iroquois and Allied Indians
AIP	Approval in Principle
AIP	Agreement in Principle
ALI	Aboriginal Leadership Institute
AMN	Aboriginal Mapping Network, The
AMP	Administrative Monetary Penalty
ANAC	Aboriginal Nurses Association of Canada
AOM	Age of Majority
APC	Atlantic Policy Congress
APEX	Association of Professional Executives (of the Public Service of Canada)
APS	Aboriginal Policing Services
APTN	Aboriginal Peoples Television Network
ARALA	Atlantic Region Aboriginal Lands Association
ATIP	Access to Information and Privacy

ATR	Additions to Reserve
AWPI	Aboriginal Workforce Participation Initiative
AWPPA	<i>Arctic Waters Pollution Prevention Act (R.S.C., 1985, c. A-12)</i>
AYBC	Aboriginal Youth Business Council
AYN	Aboriginal Youth Network
<b>B</b>	
BARD	Beyond a Reasonable Doubt
BAS	Band Advisory Services (Indian Government Support Program component)
BCALM	British Columbia Aboriginal Land Managers
BCFN	British Columbia First Nations
BCR	Band Council Resolution
BCSC	British Columbia Supreme Court
BCTC	British Columbia Treaty Commission
BEB	Band Employee Benefits (Indian Government Support Program component)
BF	Bring Forward
BGMS	Band Governance Management System
BGO	Band Governance Officer
BNA Act	<i>British North America Act, 1867, 30-31 Vict., c. 3 (U.K.)</i>
BPR	Business Practices Review
BSF	Band Support Funding (Indian Government Support Program component)
<b>C</b>	
C & C	Chief and Council
CA	Court of Appeal
CAMA	Canadian Aboriginal Minerals Association
CAMC	Canadian Aboriginal Media Co-operative, The
CANDO	Council for the Advancement of Native Development Officers
CANE	Committee for the Advancement of Native Employment
CAP	Congress of Aboriginal Peoples
CASEA	Canadian Aboriginal Science and Engineering Association
CASTS	Canadian Aboriginal Science and Technology Society
CBC	Canadian Broadcasting Corporation
CC	Counter Claims/Cross Claims
CCA	Canada Council for the Arts
CCAB	Canadian Council for Aboriginal Business
CCEU	Cabinet Committee for the Economic Union
CCMD	Canadian Centre for Management Development
CCME	Canadian Council of Ministers of the Environment
CCP	Comprehensive Community Planning
CCRA	Canada Customs and Revenue Agency
CCSU	Cabinet Committee for the Social Union
CEAA	<i>Canadian Environmental Assessment Act, 2012</i>

CEAA	Canadian Environmental Assessment Agency
CEAR	Canadian Environmental Assessment Registry
CEM	Cumulative Effects Management
CEOP	Community Economic Opportunities Program (now known as CORP - Community Opportunity Readiness Program)
CEPA	<i>Canadian Environmental Protection Act, 1999</i>
CESO	Canadian Executive Service Organization - Aboriginal Services
CESP	Community Environmental Sustainability Plan
CF:FNG	Communities First-First Nation Governance
CFA	Comprehensive Funding Arrangements
CFMP	Capital Facilities and Maintenance Program
CFN	Chief Federal Negotiator
CFS	Canadian Forest Service
CH	Canadian Heritage
CHRA	<i>Canadian Human Rights Act</i>
CHRC	Canadian Human Rights Commission
CHRT	Canadian Human Rights Tribunal
CIDA	Canadian International Development Agency
CIDM	Comprehensive Integrated Document Management
CIER	Centre for Indigenous Environmental Resources
CIG	Claims and Indian Government
CIP	Canadian Institute of Planners
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada (previously INAC)
CIS	Certificate of Indian Status
CLP	Commercial Lease Precedent
CLR	Canada Lands Records
CLS	Canada Lands Surveyor
CLSA	<i>Canada Lands Surveys Act (R.S.C., 1985, c. L-6)</i>
CLSR	Canada Lands Surveys Records
CLSS	Canada Lands Survey System
CLUP	Community Land Use Plan
CMHC	Canada Mortgage and Housing Corporation
CN	Canadian National Railway
CNWA	<i>Canadian Navigable Waters Act (R.S.C., 1985, c. N-22)</i>
CO	Certificate of Occupation
COEMRP	Centre of Excellence for Matrimonial Real Property
COGLA	Canadian Oil and Gas Lands Administration
COIN	Canadian Off-Reserve Indian Nations Inc.
COSEWIC	Committee on the Status of Endangered Wildlife in Canada
CP	Certificate of Possession
CPC	Canadian Polar Commission
CPR	Canadian Pacific Railway

CPS	Canadian Parks Services
CR	Comprehensive Report (community consultations)
CR	Central Registry
CRF	Consolidated Revenue Fund
CRP	Community Ratification Process
CRTC	Canadian Radio-Television and Telecommunications Commission
CRUO	Certificate of Right to Use and Occupy
CS	Corporate Services
CS-CIMS	Client/Server Correspondence & Issue Management
CSIS	Canadian Security Intelligence Service
CSMP	Contaminated Sites Management Program
CSRS	Canadian Spatial Reference System
CWS	Canadian Wildlife Service
CYFN	Council of Yukon First Nations
<b>D</b>	
DAEB	Departmental Audit and Evaluation Branch
DAEC	Departmental Audit and Evaluation Committee
DEO	Deputy Electoral Officer
DFAIT	Department of Foreign Affairs and International Trade
DFO	Department of Fisheries and Oceans
DG	Director General
DGO	Director General's Office
DIAND	Department of Indian Affairs and Northern Development
DJ	see DOJ
DLSU	Departmental Legal Services Unit
DM	Deputy Minister
DMCAP	Deputy Minister Committee on Aboriginal Policy
DMF	Decision-Making Framework
DMO	Deputy Minister's Office
DMOAA	Deputy Minister's Outstanding Achievement Award
DND	Department of National Defence
DOJ	Department of Justice
DOMC	Database Operational Management Committee
DPR	Departmental Performance Report
DR	Dispute Resolution
DSL	Domestic Substance List (under CEPA)
<b>E</b>	
EA	Election Appeal
EA(ssessment)	Environmental Assessment
EA(udit)	Environmental Audit
EAP	Employee Assistance Program
EARP	Environmental Assessment and Review Process
EC	Environment Canada

ECD	Early Childhood Development
EDP	Economic Development Plan
EFN	Entitlement First Nation
EIA	Environmental Impact Assessment
EIIRP	Environmental Issues Inventory and Remediation Program
EIIS	Environmental Issues Inventory System
ELVs	End-of-life Vehicles
EM	Environment Management
EMA	Environmental Management Agreement
EMAP	Emergency Management Assistance Program
EMF	Environmental Management Framework
EMP	Environmental Management Plan
EMS	Environment Management System(s)
ENRD	Environment and Natural Resources Directorate
EO	Electoral Officer
EOT	Evidence of Title
EP	Environmental Protection
EPO	Emergency Protection Order
EPP	Environmental Protection Plan
EPR	Employee Performance Review
ER	Environmental Reviews
ERP	Emergency Response Plan or Environmental Review Process
ERS	Estates Registry System
ESA	Environmental Site Assessment
ESS	Environmental Stewardship Strategy
ESSC	Environmental Stewardship Steering Committee
E-Waste	Electronic Waste
<b>F</b>	
FA	Framework Agreement or <i>Fisheries Act</i>
FAA	<i>Financial Administration Act</i>
FACS	Final Arrangements & Cost Sharing
FAFNLM	Framework Agreement on First Nation Land Management
FAL	Financial Administration Law
FAQ	Frequently Asked Questions
FCSAP	Federal Contaminated Sites Action Plan
FC(TD)	Federal Court (Trial Division)
FEAC	Federal Environmental Assessment Coordinator
FHRMIRA	<i>Family Homes on Reserve and Matrimonial Interests or Rights Act (S.C. 2013, c. 20)</i>
FMB	Financial Management Board
FMP	Financial Management Plan
FMV	Fair Market Value
FN	First Nation

FNCCEC	First Nations Confederacy of Cultural Education Centres
FNCR	First Nation Council Resolution
FNEN	First Nations Environmental Network
FNFI	First Nations Financial Institutions
FNFP	First Nations Forestry Program
FNG	First Nation Governance
FNGA	<i>First Nations Governance Act</i>
FNGI	First Nations Governance Initiative
FNGWG	First Nations Governance Working Group
FNICCP	Joint First Nations and Inuit/DIAND Comprehensive Community Planning
FNIF	First Nation Infrastructure Fund
FNII	First Nation Infrastructure Initiative
FNLM	First Nation Land Management
FNLMA	<i>First Nations Land Management Act (S.C. 1999, c. 24)</i>
FNLMAQL	First Nation Lands Managers Association for Quebec and Labrador
FNLRS	First Nations Land Registry System
FNTC	First Nations Tax Commission
FPIC	Free Prior Informed Consent
FPTA	Federal, Provincial, Territorial, Aboriginal conference/Table
FRPA	<i>Federal Real Property Act</i>
FRPFIA	<i>Federal Real Property and Federal Immovables Act (S.C. 1991, c. 50)</i>
FS	Funding Services
FSC	Federal Steering Committee
FSIN	Federation of Saskatchewan Indian Nations
FSO	Funding Services Officer
FTA	Financial Transfer Agreements
FTNO	Federal Treaty Negotiation Office
FTP	Flexible Transfer Payment
<b>G</b>	
GCT3	Grand Council Treaty #3
GDG	Governance Discussion Groups
GEA	Gender Equality Analysis
GHGs	Greenhouse Gases
GIC	Governor in Council
GIS	Geographic Information System
GMST	Global Mean Surface Temperature
GNWT	Government of the Northwest Territories
GOL	Government-On-Line
GS	Gathering Strength
<b>H</b>	
HLTP	Historic Land Transactions Portfolio
HMTQ	Her Majesty the Queen
HPI	Heritage Protection Initiative

HQ	Headquarters
HR	Human Resources
HRDC	Human Resources Development Canada
HSP	Habitat Stewardship Program
I	
I&IAP	Indian and Inuit Affairs Program
IA	<i>Indian Act (R.S.C., 1985, c 1-5)</i>
IA	Individual Agreement
IA	Impact Assessment
IAA	<i>Impact Assessment Act (S.C. 2019, c.28, s. 1)</i>
IAA	Indian Association of Alberta
IBA	Indigenous Bar Association
ICB	Indian Claims Body
ICC	Indian Claims Commission
ICCE	Indigenous Centre for Cumulative Effects
ICNI	Inuit Committee on National Issues (to 1987, then ITC, now ITK)
IEAF	Indian Environmental Assistance Fund
IEPP	Indian Environmental Partnership Program
IGA	Inter Governmental Affairs
IGSP	Indian Government Support Program
IIAP	Indian and Inuit Affairs Program
IIMD	Indian and Inuit Management Development Program (Indian Government Support Program component)
ILA	Interdepartmental letter of Agreement
ILH	Individual Land Holding
ILR	Indian Lands Registry
ILRS	Indian Lands Registry System
IM	Information Management
IMED	Indian Moneys and Estates Directorate
INAC	Indigenous and Northern Affairs Canada (now ISC/CIRNAC)
INAC	Indian and Northern Affairs Canada
IOGC	Indian Oil and Gas Canada
IOGCP	Indian Oil Gas Canada Portfolio
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
IPCC	Intergovernmental Panel on Climate Change
IR	Inherent Right (of Self-Government)
IRA	Indian Registry Administrator
IRBL	Indian Registration and Band Lists
IRC	Indian Resource Council
IRF	Interdepartmental Recovery Fund
IRR	Indian Referendum Regulations (C.R.C., c. 957)
IRS	Indian Registry System

IRWDR	Indian Reserve Waste Disposal Regulations
ISC	Indigenous Services Canada (previously INAC)
ISO	International Organization for Standardization
ISO 14000	International Organization for Standardization
ISTC	Industry, Science and Technology Canada
IT	Information Technology
ITAB	Indian Taxation Advisory Board
ITC	Inuit Tapirisat of Canada (previously ICNI)
ITHR	Indian Timber Harvesting Regulations
ITK	Inuit Tapiriit Kanatami (previously ITC)
IWGFNG	Interdepartmental Working Group (First Nations Governance)
<b>J</b>	
JEDI	Joint Economic Development Initiative
JIAP	Joint Implementation Action Plan
JIC	Joint Implementation Committee
JMAC	Joint Ministerial Advisory Committee
JR	Judicial Review
JT	Joint Tenant
<b>L</b>	
L&E	Lands and Environment (branch)
LAB	Lands Advisory Board
LAC	Local Advisory Committee
LED	Lands and Economic Development
LEDSP	Lands and Economic Development Services Program
LIT	Litigation
LIT COMM	Litigation Committee
LMM	Land Management Manual
LMO	Land Management Office(r)
LMRB	Litigation Management and Resolution Branch
LMTP	Lands Management Training Program
LO	License of Occupation
LOS	Letter of Support
LRMP	Land and Resources Management Plan
LS	Location Sketch
LS	Legal Services
LSD	Legal Subdivision
LT	Location Ticket
LTS	Lands and Trust Services
	Lands and Trust Services/Assembly of First Nations Joint Initiative for
LTS/AFN-JI	Policy Development
LUA	Land Use Area
LUP	Land Use Planning
<b>M</b>	



M & B	Metes & Bounds
M & M	Mines & Minerals
MBCA	<i>Migratory Birds Convention Act (S.C. 1994, c.22)</i>
MBOA	<i>Modernization of Benefits and Obligations Act (S.C. 2000, c. 12)</i>
MC	Memorandum to Cabinet
MCSG	Mandating Committee on Self-Government
MFA	Manitoba Framework Agreement
MI	Mentally Incompetent
MNC	Métis National Council
MO	Ministerial Order or Minister's Office
MOF	Ministry of Forests
MOTH	Ministry of Transportation and Highways
MOU	Memorandum of Understanding
MP	Member of Parliament
MRP	Matrimonial Real Property
MSA	Municipal Services Agreement
MTSA	Municipal Type Service Agreements
MYAC	Métis National Youth Advisory Council
MyCLSS	My Canada Lands Survey System
<b>N</b>	
NAAF	National Aboriginal Achievement Foundation
NABA	The National Aboriginal Business Association
NAC	National Advisory Committee
NACCA	National Aboriginal Capital Corporation Association
NAFA	National Aboriginal Forestry Association
NAFC	The National Association of Friendship Centres
NAHO	National Aboriginal Health Organization
NALMA	National Aboriginal Lands Managers Association
NAN	Nishnawbe-Aski Nation
NAP	Northern Affairs Program
NAVA	The National Aboriginal Veterans Association
NAWA	National Aboriginal Women's Association
NBBA	New Band/Band Amalgamation
NCC	Native Council of Canada
NCC	Nunavut Construction Company
NCC	National Capital Commission
NCQ	Notice of Constitutional Question
NDSL	Non Domestic Substance List (under CEPA)
NE	Notice of Entitlement
NEB	National Energy Board
NETI	No Evidence of Title Issued
NFBC	National Film Board of Canada

NIICHRO	National Indian & Inuit Community Health Representatives Organization, The
NITA	Native Investment and Trade Association
NPA	<i>Navigation Protection Act (Now known as Canadian Navigable Waters Act (R.S.C., 1985, c. N-22))</i>
NPAC	Native Physicians Association in Canada
NPRI	National Pollutant Release Inventory (under CEPA)
NRCan	Natural Resources Canada
NRI	Natural Resources Inventory
NRSP	Natural Resource Stewardship Plan
NRUO	Notice of Right to Use and Occupy
NTI	Nunavut Tunngavik Incorporated
NWAC	Native Women's Association of Canada
NWT	Northwest Territories
NWTTG	North West Tribal Treaty Group
<b>O</b>	
OALA	Ontario Aboriginal Lands Association
OCAP	Ownership, Control, Access and Possession
OFNTSC	Ontario First Nations Technical Services Corporation
OGDs	Other Government Departments
OIC	Orders in Council
Ont. Sup. Ct.	Ontario Superior Court
OPI	Office of Primary Interest
OSR	Own Source Revenue
OTC	Office of the Treaty Commission (in Saskatchewan)
<b>P</b>	
PCBs	Polychlorinated biphenyls
PCD	Per Capita Distribution
PCL	Parcel
PCO	Privy Council Office
PDCA	Plan-Do-Check-Act
PDT	Policy Development Team (First Nations Governance)
PFR	Provisional Federal Rules
PIN	Personal Identification Number
PIWA	Pauktuutit – Inuit Women's Association
PLAN	Planning and Land Administrators of Nunavut
PLMC	Professional Land Managers Certification
PLMCP	Professional Land Management Certification Program
PMO	Prime Minister's Office
POGG	Peace, Order and Good Governance
PSC	Public Service Commission
PSPC	Public Services and Procurement Canada
PT	Public Trustee

PWGSC	Public Works and Government Services Canada
<b>Q</b>	
QA	Questions and Answers
QB	Queen’s Bench
<b>R</b>	
RA	Regulatory Affairs
RAP	Remedial Action Plan
RBAF	Results Based Audit Framework
RC	Resource Centre (of LAB)
RCAP	Royal Commission on Aboriginal People
RCM	Responsibility Centre Manager
RCMP	Royal Canadian Mounted Police
RDG	Regional Director General
REM	Regional Environmental Managers
RFP	Request for Proposals
RG	Receiver General
RGMAP	Reference Group of Ministers on Aboriginal Policy
RLA	Regional Lands Associations
RLAP	Regional Land Administration Program
RLEMP	Reserve Land and Environment Management Program
RMAF	Risk Management Accountability Framework
RO	Regional Office (INAC)
ROD	Record of Decision
RPP	Report on Plans and Priorities
RRBG	Registration, Revenues and Band Governance (branch)
RS	Registration Survey
RSIS	Reinstatement of Status Information System
<b>S</b>	
SALT	Saskatchewan Aboriginal Land Technicians
SAR	Species at Risk
SARA	<i>Species At Risk Act (S.C. 2002, c. 29)</i>
SCC	Supreme Court of Canada
SCC	Special Committee of Council (Cabinet)
SCI	Strategic Case Intake
	Sustainable Development Strategy (Federal Sustainable Development Strategy)
SDS	
SEC	Section
SEPP	Socio-Economic Policy and Programs
SETDP	Sustainable Eco-Tourism Development Plan
SFIN	Saskatchewan Federation of Indian Nations
SFLO	Strengthening Front Line Operations
SG	Self-Government
SGB	Surveyor General Branch (of NRCan)

SGFNLR	Self-Governing First Nations Land Registry
SMCEA	Senior Management Committee on Environmental Assessment
SOC	Statement of Claim
SOD	Statement of Defence
SOI	Statement of Intent
SolGen	Solicitor General Canada
SPC	Senior Policy Committee
SSB	Soldier Settlement Board
SWPP	Source Water Protection Plan
<b>T</b>	
TALSAA	Treaty and Aboriginal Land Stewards Association of Alberta
TAS	Trust Accounting System
TB	Treasury Board
TBS	Treasury Board Secretary
TC	Tribal Council
TCP	Tribal Council Program (Indian Government Support Program component)
TEA	Treaty Entitlement Agreement
TEK	Traditional Environmental Knowledge
TFMS	Trust Funds Management System
THRC	Treaties & Historical Research Centre
TIU	Treaty Implementation Unit
TK	Traditional Knowledge
TLE	Treaty Land Entitlement
TLEC	Treaty Land Entitlement Committee
TLUI	Traditional Land Use Inventory
TOR	Terms of Reference
TPA	Transfer Payment Authority
TPC	Treaty Policy & Coordination
TPI	Third Party Interests
TPM	Third Party Manager
TPMS	Transfer Payment Management System
TPS	Treaty Payments System
TSAG	First Nations Technical Services Advisory Group Inc.
TSL	Treaty Settlement Land
TWP	Township
<b>U</b>	
UAV	Unmanned Aerial Vehicle (drone)
UBCIC	Union of British Columbia Indian Chiefs
UBCM	Union of British Columbia Municipalities
UFA	Umbrella Final Agreement
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UOI	Union of Ontario Indians

USKE	Manitoba USKE
<b>V</b>	
VC	Value Component (also referred to as VEC)
VEC	Valued Ecosystem Component
VOC	Volatile Organic Compounds
<b>W</b>	
WCED	World Commission on Environment and Development
WEDS	Web-Enabled Environmental Database System
WHMIS	Workplace Hazardous Materials Information System
WMP	Waste Management Plan
<b>Y</b>	
YES	Youth Employment Strategy
YTG	Yukon Territorial Government



## Appendix C - FAFNLM

The *Framework Agreement on First Nation Land Management* (FAFNLM) is a government-to-government agreement signed by 13 First Nations and Canada on February 12, 1996. The FAFNLM was required to be ratified on behalf of Canada by an act of Parliament and that the act be consistent with the FAFNLM. Parliament enacted the *First Nations Lands Management Act* (FNLMA) in June of 1999.

The FAFNLM is a sectoral self-government initiative. Sectoral self-government in this context means that it recognizes First Nation law-making and management authority only over existing reserve lands, natural resources, and environmental management. It provides First Nations with the option of removing themselves from the 44 land-related provisions under the *Indian Act* and having federal, provincial, and municipal governments acknowledge First Nations' jurisdiction over land, natural resources, and environmental management. To opt out of the *Indian Act* land provisions, a First Nation must become a signatory to the FAFNLM with Canada, conclude an individual agreement with Canada, as well as develop and ratify its own land code.

FAFNLM fundamentally changes accountability of the First Nation government and of the Land Management Office. Land codes require reporting and accountability to First Nation membership rather than Canada. This is sometimes called political accountability.

NALMA courses and toolkits identify the Framework Agreement on First Nation Land Management (FAFNLM) in a variety of ways, depending on the specific topic at hand. We identify the variations between *Indian Act* and FAFNLM land management obligations. We seek only to include knowledge in our courses and toolkits that has already been published by the First Nations Land Management Resource Centre (RC) and Indigenous Services Canada (ISC). We strive to include detailed references and information to guide readers seeking additional information to find the source of the knowledge being shared in our courses and toolkits.

For further information please contact LABRC 1-888-985-5711 or [www.labrc.com](http://www.labrc.com)





## Appendix D – Traditional Knowledge

### Traditional Knowledge in Land Management

At NALMA we recognize the important role of Traditional Knowledge in managing lands. Across the country, we have often heard from our members that “we don’t manage lands, we manage human activities on our lands”. Today, land management requires a complex understanding and application of Traditional management practices as well as understanding and navigating the legal frameworks the Canadian state has superimposed across our territories. By weaving both of these systems a Nation can effectively manage their lands to the benefit of future generations.

As a national organization, we have hundreds of members from diverse Nations with their own cultural histories and approaches to land management that have been inherited and developed in place across millennia. The traditions and practices that have been inherited and developed by a Nation on the Atlantic Coast may be vastly different from those honed by a Nation in the Prairies or in the Far North. Yet we also know there are shared values related to the land that unite Indigenous Nations across the country. We believe there is space for each of us to learn from one another and seek to create opportunities for this learning through our training.

NALMA courses and toolkits incorporate Traditional Knowledge in various ways, depending on the topic at hand. Traditional Knowledge components are woven throughout a course or toolkit such as NALMA’s Climate Change toolkit where Traditional Knowledge practices and observations have been instrumental for Indigenous Nations understanding and addressing climate change. In other courses and toolkits, we emphasize the importance of utilizing your own Nation’s Traditional Knowledge and approaches, but without providing as many concrete examples; it would be impossible to do justice to the diversity and complexity of approaches across the country.

We know relationships are critical to engaging in Traditional Knowledge and seek only to include knowledge in our courses and toolkits that has already been published by Nations and Knowledge Holders themselves. We strive to include detailed references and information to guide readers seeking additional information to find the source of the knowledge being shared in our courses and toolkits. We recognize and respect there are components of Traditional Knowledge that are considered sacred and do our utmost to avoid inclusion of this knowledge in our publications.

## Terminology related to Traditional Knowledge

There are many working definitions for terms such as Traditional Knowledge and Indigenous Knowledge. Given the diversity of Nations and traditions, finding one term that encompasses all the knowledge systems from all Indigenous Nations across Turtle Island is a challenge and has inherent difficulties. In understanding these terms, we draw upon the work of Indigenous scholars from across the country. Our goal here is to provide working definitions guiding our use of these terms in our publications and trainings. This is not as a means of asserting there is one correct definition that applies to all Nations. As a practice at NALMA, we capitalize Traditional Knowledge, Indigenous Knowledge and other related terms to denote the importance of these systems and concepts.

The word knowledge is often pluralized to acknowledge the diversity of knowledge and ways of coming to know within Indigenous Knowledge systems and to honour that there are unique knowledge systems that originate with each Nation across Canada.

We welcome suggestions from our members on these working definitions and recommendations for the inclusion of Indigenous Knowledge in our publications and trainings.

**Traditional Knowledge (TK):** refers to complex knowledge system(s) that include many elements such as beliefs, values, histories, relationships between nations and other beings, technologies, as well as spiritual practices and beliefs. Key components of TK are that it is handed down from generation to generation and tells of how the world came to be created along with records of genealogy and rights to territorial areas. It also includes the passing on of technologies that enhance survival in a specific area.<sup>1</sup> Two key components of TK are the role of language and the rootedness in the land of a specific place.<sup>2</sup> Oftentimes, sharing knowledge and learning in TK systems is done through hands-on experience between Elders and youth.

**Indigenous Knowledge (IK):** IK and TK are often seen as different terms for the same thing and may be interchangeable. IK can also include the ways in which TK is brought into contemporary contexts and includes new observations, teachings, and approaches based on TK but applied to current realities.

**Traditional Ecological Knowledge (TEK):** refers to what is seen as a subset of TK/IK and as a “lived knowledge” that refers to the knowledge systems, teachings, beliefs, values, practices and learning approaches of Indigenous peoples with regard to the natural world.

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<sup>1</sup> Castellano, M. (2000). Updating Aboriginal traditions of knowledge. In Sefa Dei, G., and Hall, B. (Ed.), *Indigenous knowledge, global contexts* (pp. 1). Toronto: University of Toronto Press.

<sup>2</sup> Simpson, L. (2011). *Dancing on our turtles back: stories of Nishnaabeg re-creation, resurgence, and a new emergence*. Winnipeg: Arbeiter Ring Publishers.

## Appendix E – Special Project Fund

The NALMA offers financial support to First Nations who are contemplating the development of their own MRP law or increasing their understanding of the PFRs. Grants of up to \$25,000 per project is available through an application process. Concurrent projects will not be funded.

There are four categories of funding available, and each have sub-categories. The four categories available with a list of sample projects that might come under each sub-category are:

<b>CATEGORY 1 - EDUCATION AND AWARENESS</b>		
<b>A. Understanding the Provisional Federal Rules (PFRs)</b>	<b>B. Understanding the First Nation-specific law enacted under FHRMIRA</b>	<b>C. Understanding the Dispute Resolution in the context of Matrimonial Real Property</b>
Reviewing/distributing existing COEMRP materials	Developing/distributing community-specific materials (newsletters, FAQs, videos/plays, social media posting & website materials)	Holding information meetings with service providers (police service, social services, child and family services etc.)
Developing/distributing community-specific materials (newsletters, FAQs, videos/plays, social media posting & website materials)	Distributing copy of law, posting on website	Developing/distributing community-specific materials (newsletters, FAQs, videos/plays, social media posting & website materials)
Holding information meetings/kitchen table talks	Holding information meetings with service providers (local courts, police service, social services, child and family services etc.)	Holding information meetings/kitchen table talks

**CATEGORY 2 - CONSULTATION AND STRATEGIC PLANNING**

<b>A. Community and Stakeholder Consultation to determine if the First Nation will stay under the PFRs or develop own law</b>	<b>B. Community and Stakeholder consultation to determine if the First Nation would like to develop a Dispute Resolution mechanism</b>
Holding information meetings/kitchen table talks	Holding information meetings/kitchen table talks
Surveying the community	Surveying the community
Distributing information to households.	Distributing information to households.
Creation of strategic plan for implementation of PFRs or Law Development and Implementation	Creation of a strategy for Dispute Resolution and Implementation Plan

**CATEGORY 3 – LAW-MAKING**

<b>A. Development of Laws: Legal Fees and incremental draft reviews by Community</b>	<b>B. Ratification</b>
Establish a committee to guide the work	Hiring a Ratification Officer
Source and hire a lawyer with FHRMIRA knowledge	Purchase an online voting platform
Prepare and revise draft MRP Law based on feedback from committee, community and Council	Hosting Ratification Information session
Hold information sessions and distribute draft MRP Law for review and feedback	Holding vote day(s)

<b>CATEGORY 4 - IMPLEMENTATION</b>		
<b>A. Organizational Capacity Building for implementation of PFRs</b>	<b>B. Organization Capacity Building for implementation of a First Nation Specific Law</b>	<b>C. Organizational Capacity Building for implementation of a Dispute Resolution mechanism</b>
Development of Policies and Procedures	Development of Policies and Procedures	Development of Policies and Procedures
Staff Training	Staff Training	Staff Training
Establishing and Maintaining Confidential information handling process and record-keeping.	Establishing and Maintaining Confidential information handling process and record-keeping.	Establishing and Maintaining Confidential information handling process and record-keeping.

There is no set deadline to apply for funding. Complete proposals will be considered in the order that they are received, and projects must be completed by March 31<sup>st</sup> of the fiscal year for which they are approved. Further information about the Special Projects Fund can be obtained by contacting NALMA at [www.nalma.ca](http://www.nalma.ca)



## Appendix F – Provincial Legal Services

### Disclaimer

The following list of external resources are provided to explain the various legal services within each province that may be available to individuals. Although every effort has been made to ensure that these resources are true and correct at the time of publication, changes in circumstances after the time of publication may impact on the accuracy of this information. The COEMRP and NALMA made no warranty, assurance or representation as to the accuracy or reliability of this information or that it is suitable for your intended use. It is your responsibility to make your own decisions about the accuracy, currency, reliability and correctness of information found through these external resources and websites. The COEMRP and NALMA provide no guarantee as to the suitability, completeness or accuracy of the external resources and websites that are included in this Appendix.

### Alberta

The following legal services are available in Alberta:

1. Dial-A-Law is a free service operated by Calgary Legal Guidance that provides general information on a wide variety of legal issues in the Province of Alberta. To listen to a Dial-A-Law topic, please call the Dial-A-Law Operator between 8:30 a.m. and 4:30 p.m. during normal business hours, Monday to Friday. In Calgary Dial-A-Law can be reached at **(403) 234-9022** and from anywhere in Alberta **1-800-332-1091** (toll free). If after listening to that information, you still think you need a lawyer, contact Lawyer Referral for help in locating the right one for you.
2. For Lawyer Referral call **(403) 228-1722** in Calgary and toll free from anywhere in Alberta, Saskatchewan, Lower Mainland BC, Yukon, NWT and Nunavut at **1-800-661-1095**. A Lawyer Referral operator will answer your call. Once you describe the nature of your problem, the operator will give you the names and telephone numbers of up to three lawyers practicing in the area of law that best suit your needs. The first half-hour of the conversation with any referral lawyer is free.
3. Legal Aid Alberta (LAA) provides a wide range of legal services for low-income Albertans. You must meet eligibility requirements to qualify for these services. LAA's toll free number **(1-866-845-3425)** connects callers to Legal Services Centres located throughout Alberta. LAA offices are open Monday to Friday, 8:30am - 4:00pm, except closed Wednesdays at 2:30 pm.

4. Family Justice Services (FJS) is a group of programs and services offered by the Government of Alberta, Justice and Solicitor General in collaboration with the courts of Alberta. FJS staff work directly with individuals to find appropriate solutions for family law issues. Programs are available to qualifying parties either at no cost or for a nominal charge. FJS offices are located throughout the province. For more information go to the website at <https://albertacourts.ca/resolution-and-court-administration-serv/family-justice-services>
5. Family Law Information Centre - Family Law Information services are provided at various locations throughout Alberta. Staff at these locations help the public (including self-represented individuals), the legal community, the judiciary and government offices/agencies, by providing the following: general information about family law; plain language explanations of court procedure; court forms for most family law applications in either Court of Queen's Bench or the Provincial Court; help in making sure that the court forms are properly filled out; and Child Support Guidelines calculations to self-represented litigants and to the judiciary. For contact information see the website at <https://albertacourts.ca/resolution-and-court-administration-serv/family-justice-services/family-law-information>

## British Columbia

The following legal services are available in British Columbia:

1. Dial-A-Law is a library of legal information prepared by lawyers. It offers general information on a variety of topics on law in British Columbia. Dial-A-Law is a free service that is available in English, Chinese and Punjabi by telephone and on the Internet. Dial-A-Law can be accessed via internet at [www.dialalaw.org](http://www.dialalaw.org). Dial-A-Law is also available 24 hours a day, 7 days a week. To access Dial-A-Law by telephone, call **(604) 687-4680** in the Lower Mainland or **1-800-565-5297** in British Columbia.
2. The Lawyer Referral Service program enables the public to access lawyers and provides the opportunity to have a consultation with a lawyer for up to 30 minutes for a fee of \$25 plus tax. The Lawyer Referral Service operates by telephone. Please call during business hours, 8:30 am to 4:30 pm, Monday - Friday at **(604) 687-3221** or **1-800-663-1919**. Once the area of law is determined the operator will provide you with the name and telephone number of a lawyer in your geographical area. You contact the lawyer to set up an appointment to meet. You are entitled to up to a half hour consultation for \$25 (plus tax).
3. If you have a legal problem and can't afford a lawyer, the Legal Services Society can help. LSS telephone numbers are **(604) 408-2172** in Greater Vancouver and a toll-free number **1-866-577-2525** for all other areas in British Columbia. Service hours are 9:00 a.m. to 4:00 p.m. (Mondays, Tuesdays, Thursdays, and Fridays) and 9:00 a.m. to 2:30 p.m. (Wednesdays).



## Manitoba

The following legal services are available in Manitoba:

1. The Law Phone-In and Lawyer Referral Program provides general legal information over the phone in response to callers' inquiries. Office hours for service are 9 a.m. to 4 p.m. Monday through Friday. The direct number is **(204) 943-2305** or toll free **1-800-262-8800** from outside Winnipeg. For a referral to a lawyer only, you can call **(204) 943-3602**.
2. Legal Aid Manitoba provides legal advice and representation to eligible low-income individuals and groups for particular types of cases, such as most family law matters. Legal Aid Manitoba also has lawyers who offer an alternative called collaborative law which is aimed at helping couples find common ground without going to court. You can apply at the Application Centre in Winnipeg or at any of the Legal Aid Manitoba offices outside of Winnipeg.
3. In Winnipeg, Legal Aid has an Application Centre at 100 - 287 Broadway. The hours are Mondays & Tuesdays 12:30 pm to 4:30 pm; Wednesdays & Thursdays 1:30 pm to 4:30 pm. People are seen on a first-come, first served basis. Call: **(204) 985-8500** or **1-800-261-2960**.

## Newfoundland and Labrador

The following legal services are available in Newfoundland and Labrador:

1. The Law Society of Newfoundland and Labrador maintains a comprehensive online directory with lawyer contact information at [www.lawsociety.nf.ca](http://www.lawsociety.nf.ca). Individuals who need to speak to a law society representative may call **(709) 722-4740**.
2. Legal aid is a program available to help people with serious legal problems who are in financial need and cannot afford private counsel. In many cases legal aid may be provided without charge, but not always. In some cases, you may be required to pay some or all of the cost of the legal aid coverage you receive. In determining whether someone can afford to cover part of the cost, and if so what portion of the cost they will be asked to pay, the Legal Aid Commission will take a detailed look at your financial position. There are two requirements you must meet to get Legal Aid. First, you must fit within Legal Aid's financial requirements. Second, your legal matter must be one of the types of legal matters that Legal Aid covers. Family matters include legal disputes that arise because of changes within family relationships. Legal Aid usually covers family matters that include separation, divorce, and child custody and access. Legal Aid will sometimes cover other family matters (such as child support, spousal support, or matrimonial property) when they come up in the context of a separation, divorce, or child custody and access dispute. Such other family matters may also be covered in special circumstances. The office where you apply will decide, based on your individual circumstances, whether or not Legal Aid will cover such a matter. Please contact the legal aid offices by calling **1-800-563-9911**.

## Nova Scotia

The following legal services are available in Nova Scotia:

1. Dial-A-Law provides legal information on a pre-recorded message service 24 hours a day. Recordings are two to fifteen minutes in length and include family law, wills and estates. To use Dial-A-Law call **(902) 420-1888** or go to <http://www.legalinfo.org/how-lisns-can-help/dial-a-law.html>. For Lawyer Referral contact the Legal Information Society of Nova Scotia at **1-800-665-9779** (toll free) or at **(902) 455-3135**.
2. The Nova Scotia Legal Aid Commission provides legal representation to qualified applicants. Information may be found at [www.nslegalaid.ca](http://www.nslegalaid.ca). Applicants seeking legal aid are directed to call the closest legal aid office directly:

<p><b>AMHERST, NS</b>  <b>Nova Scotia Legal Aid</b>                      55 Church Street                      Amherst, NS B4H 3A7                      Phone: 902-667-7544                      Toll Free: 1-866-999-7544                      Fax: 902-667-0030</p>	<p><b>ANNAPOLIS ROYAL, NS</b>  <b>Nova Scotia Legal Aid</b>                      PO Box 188, 56 St. Anthony Street                      Annapolis Royal, NS B0S 1A0                      Phone: 902-532-2311                      Toll Free: 1-866-532-2311                      Fax: 902-532-7488</p>
<p><b>ANTIGONISH, NS</b>  <b>Nova Scotia Legal Aid</b>                      70 West Street, Suite 2                      Antigonish, NS B2G 2X7                      Phone: 902-863-3350                      Toll Free: 1-866-439-1544                      Fax: 902-863-7598</p>	<p><b>BRIDGEWATER, NS</b>  <b>Nova Scotia Legal Aid</b>                      202-141 High Street                      Bridgewater, NS B4V 1W2                      Phone: 902-543-4658                      Toll Free: 1-866-543-4658                      Fax: 902-543-3044</p>
<p><b>BRIDGEWATER, NS</b>  <b>Liverpool Sub-Office</b>                      Bridgewater, NS                      Phone: 902-354-3215                      Toll Free: 1-866-543-4658</p>	<p><b>DARTMOUTH, NS</b>  <b>Nova Scotia Legal Aid (Family)</b>                      1210-99 Wyse Road                      Dartmouth, NS B3A 4S5                      Phone: 902-420-7921                      Toll Free: 1-855-420-7921                      Fax: 420-7804</p>
<p><b>HALIFAX, NS</b>  <b>Nova Scotia Legal Aid (Adult Criminal)</b>                      400-5475 Spring Garden Road                      Halifax, NS B3J 3T2                      Phone: 902-420-6583                      Toll Free: 1-877-777-6583                      Fax: 902-420-1260</p>	<p><b>HALIFAX, NS</b>  <b>Nova Scotia Legal Aid</b>                      2830 Agricola Street                      Halifax, NS B3K 4E4                      Phone: 902-420-3450                      Toll Free: 1-866-420-3450                      Fax: 902-420-2873</p>

<p><b>HALIFAX, NS</b>  <b>Supreme Court Family Division - Duty Counsel</b>                  3380 Devonshire Avenue                  Halifax, NS B3K 5M6                  Phone: 902-424-5616</p>	<p><b>KENTVILLE, NS</b>  <b>Nova Scotia Legal Aid</b>                  325 Main Street, Salon B                  Kentville, NS B4N 1K5                  Phone: 902-679-6110                  Toll Free: 1-866-679-6110                  Fax: 902-679-6177</p>
<p><b>NEW GLASGOW, NS</b>  <b>Nova Scotia Legal Aid</b>                  116 George Street                  New Glasgow, NS B2H 2K6                  Phone: 902-755-7020                  Toll Free: 1-877-755-7020                  Fax: 902-752-8733</p>	<p><b>PORT HAWKESBURY, NS</b>  <b>Nova Scotia Legal Aid</b>                  302-15 Kennedy Street                  Port Hawkesbury, NS B9A 2Y1                  Phone: 902-625-4047                  Toll Free: 1-888-817-0116                  Fax: 902-625-5216</p>
<p><b>SYDNEY, NS</b>  <b>Nova Scotia Legal Aid</b>                  401-15 Dorchester Street                  Sydney, NS B1P 5Y9                  Phone: 902-563-2295                  Toll Free: 1-877-563-2295                  Fax: 902-539-0489</p>	<p><b>SYDNEY, NS</b>  <b>Supreme Court Family Division Duty Counsel</b>                  136 Charlotte Street, Main Level                  Sydney, NS B1P 1C3                  Phone : 902-563-2200                  Fax : 902-563-2224</p>
<p><b>TRURO, NS</b>  <b>Nova Scotia Legal Aid</b>                  102-523 Prince Street                  Truro, NS B2N 1E8                  Phone: 902-893-5920                  Toll Free: 1-877-777-5920                  Fax: 902-893-6112</p>	<p><b>WINDSOR, NS</b>  <b>Nova Scotia Legal Aid</b>                  PO Box 760                  151 Wentworth Road, Suite 2                  Windsor, NS B0N 2T0                  Phone: 902-798-8397                  Toll Free: 1-866-798-8397                  Fax: 902-798-8345</p>
<p><b>YARMOUTH, NS</b>  <b>Nova Scotia Legal Aid</b>                  204-164 Main Street                  Yarmouth, NS B5A 1C2                  Phone: 902-742-7827                  Toll Free: 1-866-742-3300                  Fax: 902-742-0676</p>	

## Ontario

The following resources are available in Ontario:

1. The Law Society Referral Service - This service offered by the Law Society of Ontario allows you to locate a lawyer or licensed paralegal in your area who practices the particular area of law in which you seek assistance. Individuals who use this service may receive a free 30-minute consultation. Contact: <https://lso.ca/home> or **1-800-268-8326** or **(416) 947-3330** within the Greater Toronto Area.
2. Legal Aid Ontario – You may be eligible for a legal aid certificate or other forms of legal advice if you cannot afford a lawyer and meet the necessary criteria established by Legal Aid Ontario. Contact: <http://www.legalaid.on.ca/en/> or toll free: **1-800-668-8258**.

## Prince Edward Island

The following legal services are available in Prince Edward Island:

1. The Lawyer Referral Service is available at **1-800-240-9798** or **902-892-0853** between 9 a.m. and 4 p.m., Monday to Thursday. A lawyer referred by the service will give you an interview of up to 45 minutes at a nominal charge of \$25.00 plus P.S.T and G.S.T.
2. Legal Aid Priority for Assistance - The objective of family legal aid is to provide legal assistance to those who cannot afford the services of a lawyer in the most urgent family situations. Legal needs are prioritized on two levels. Level One, the highest priority, refers to cases where domestic violence has occurred or where the personal security of applicants or children in their care is endangered in a family situation. Level Two describes the need for essential legal services in family situations where there has been no domestic violence or present threat to the security of the applicant or a child in his or her care. Divorce coverage is provided only where it is determined to be the most effective court procedure for addressing one or more of the foregoing objectives. In Level Two situations, applicants who require legal assistance to meet the needs of dependent children are given priority. Legal needs in this category include custody, access, financial support, and housing. Due to the high demand for those services, only very limited resources remain available to assist applicants with legal needs that do not relate directly to the support of dependent children. Where an applicant’s legal needs do not qualify for full service under Level Two, summary advice may be provided. Summary advice generally involves a brief telephone or office consultation with a staff lawyer, with the opportunity for further assistance if the applicant’s legal needs change or increase. The offices can be contacted directly at:

<p><b>Summerside Service Location</b>                  120 Harbour Drive                  Summerside, PE C1N 5L2                  Phone: (902) 888-8066                  Fax: (902) 438-4071                  Website: <a href="#">120 Harbour Drive Website</a></p>	<p><b>Charlottetown Service Location</b>                  40 Great George Street                  Charlottetown, PE                  Website: <a href="#">Customs House, 40 Great George Street, Charlottetown Website</a></p>
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## Saskatchewan

The following legal services are available in Saskatchewan:

1. If you need to speak with a lawyer, please consult your area phone book or use the "Find a Lawyer" feature of the Law Society of Saskatchewan website. The "Find a Lawyer" feature allows lawyers to be searched by firm/organization, city or first or last name. A lawyer's contact information is available via this service which allows you to contact lawyers directly. <https://lss.alinity.com/WebClient/Registrantdirectory.aspx>
2. Family Justice Services Branch – The branch is the central authority in Saskatchewan responsible for providing family justice services to individuals who need help in dealing with the difficulties arising from family breakdown, separation and divorce. These services are in the area of parenting, custody, access, support obligations and marriage. For program information and resources see the website at <http://www.justice.gov.sk.ca/familyjusticeservices> or call toll free at **1-866-229-9712**.
3. Public legal Education Association of Saskatchewan (PLEA) – PLEA is a non-profit, non-governmental organization that exists to educate and inform the people of Saskatchewan about the law and the legal system. It provides general information on the law and produces publications on many areas of law and makes these available to the public at no charge. For available resources got to their website at <http://www.plea.org/>
4. Legal Aid Saskatchewan provides a range of legal services to low-income individuals in Saskatchewan in the areas of family and criminal law. Those who are eligible can access the services of an experienced lawyer located throughout the province of Saskatchewan. An applicant is required to contact the closest of 15 Legal Aid Offices across Saskatchewan. The list of offices can be found at [http://69.27.116.234/contact/office\\_list.php](http://69.27.116.234/contact/office_list.php)

<p><b>Battlefords Area Office</b>            Provincial Building, #L103 - 1192 102nd Street            North Battleford, SK S9A 1E9            Phone: 306-446-7700            Fax: 306-446-7598            Toll Free: 1-877-441-4418            Email: <a href="mailto:Battlefords@legalaid.sk.ca">Battlefords@legalaid.sk.ca</a></p>	<p><b>Meadow Lake Area Office</b>            Unit #3, 101 Railway Place            Meadow Lake, SK S9X 1X6            Phone: 306-236-7636            Fax: 306-236-7634            Toll Free: 1-800-461-8188            Email: <a href="mailto:MeadowLake@legalaid.sk.ca">MeadowLake@legalaid.sk.ca</a></p>
<p><b>Melfort Area Office</b>            Box 6500, 3rd Floor, 105 Crawford Avenue East            Melfort, SK S0E 1A0            Phone: 306-752-6220            Fax: 306-752-6127            Toll Free: 1-877-424-1901            Email: <a href="mailto:Melfort@legalaid.sk.ca">Melfort@legalaid.sk.ca</a></p>	<p><b>Moose Jaw Area Office</b>            #113 - 110 Ominica Street West            Moose Jaw            S6H 6V2            Phone: 306-694-3700            Fax: 306-694-3738            Toll Free: 1-877-424-1902            Email: <a href="mailto:MooseJaw@legalaid.sk.ca">MooseJaw@legalaid.sk.ca</a></p>

<p><b>Northern Area Office</b>                  Box 5000, Mistasihk Place, 1328 La Ronge Ave                  La Ronge, SK S0J 1L0                  Phone: 425-4455                  Fax: 425-4472                  Toll Free: 1-800-667-4095                  Email: Northern@legalaid.sk.ca</p>	<p><b>Prince Albert Area Office</b>                  Box 3003, 11th Flr, L.F. McIntosh Bldg, 800 Central Ave                  Prince Albert, SK S6V 6G1                  Phone: 306-953-2850                  Fax: 306-953-2866                  Toll Free: 1-877-424-1900                  Email: <a href="mailto:PrinceAlbert@legalaid.sk.ca">PrinceAlbert@legalaid.sk.ca</a></p>
<p><b>Regina City Area Office</b>                  #200 - 1871 Smith Street                  Regina, SK S4P 4W5                  Phone: 306-787-8760                  Fax: 306-787-8827                  Toll Free: 1-877-424-1897                  Email: ReginaCity@legalaid.sk.ca</p>	<p><b>Regina Rural Area Office</b>                  #102 - 2400 College Avenue                  Regina, SK S4P 1C8                  Phone: 306-787-1141                  Fax: 306-787-2316                  Toll Free: 1-877-424-1906                  Email: <a href="mailto:ReginaRural@legalaid.sk.ca">ReginaRural@legalaid.sk.ca</a></p>
<p><b>Saskatoon City Criminal Legal Aid Area Office</b>                  #1053-122 3rd Avenue North, Sturdy Stone Centre                  Saskatoon, SK S7K 2H6                  Phone: 306-933-7820                  Fax: 306-933-7827                  Toll Free: 1-877-424-1898                  Email: SaskatoonCriminalLaw@legalaid.sk.ca</p>	<p><b>Saskatoon City Family Legal Aid Area Office</b>                  #155-122 3rd Avenue North, Sturdy Stone Centre                  Saskatoon, SK S7K 2H6                  Phone: 306-964-2200                  Fax: 306-964-2222                  Toll Free: 1-877-324-2200                  Email: <a href="mailto:SaskatoonFamilyLaw@legalaid.sk.ca">SaskatoonFamilyLaw@legalaid.sk.ca</a></p>
<p><b>Saskatoon Rural Area Office</b>                  #941-122 3rd Avenue North, Sturdy Stone Centre                  Saskatoon, SK S7K 2H6                  Phone: 306-933-7855                  Fax: 306-933-7854                  Toll Free: 1-877-424-1899                  Email: SaskatoonRural@legalaid.sk.ca</p>	<p><b>Swift Current Area Office</b>                  3rd Floor, 350 Cheadle Street West                  Swift Current, SK S9H 4G3                  Phone: 306-778-8272                  Fax: 306-778-8307                  Toll Free: 1-877-424-1905                  Email: <a href="mailto:SwiftCurrent@legalaid.sk.ca">SwiftCurrent@legalaid.sk.ca</a></p>
<p><b>South East Area Office</b>                  Box 5000-170; Main Floor, 1302 3rd Street                  Estevan, SK S4A 2V6                  Phone: 306-637-4620                  Fax: 306-637-4625                  Toll Free: 1-877-424-1903                  Email: Estevan@legalaid.sk.ca</p>	<p><b>Yorkton Area Office</b>                  #301 - 120 Smith Street East                  Yorkton, SK S3N 3V3                  Phone: 306-786-1440                  Fax: 306-786-1405                  Toll Free: 1-877-424-1904                  Email: Yorkton@legalaid.sk.ca</p>

## Québec

The following legal services are available in Quebec:

1. Island of Montreal - For a lawyer referral by field of law, call **(514) 866-2490** or write to: [reference@barreaudemontreal.qc.ca](mailto:reference@barreaudemontreal.qc.ca) (First 30 minutes consultation for \$30).
2. Regions of Québec, Beauce and Montmagny - For a lawyer referral by field of law, call **(418) 529-0301** or fill in the form available on the Barreau de Québec website. (First 30 minutes consultation for free).
3. Any other region in Québec - For a lawyer referral by field of law, call toll free **1-866-954-3528**, or write to: [referenceaap@barreau.qc.ca](mailto:referenceaap@barreau.qc.ca) (First 30 minutes consultation for \$30).
4. Longueuil - Call **(450) 468-2609** / Fax: (450) 468-1895 / [info@barreaudelongueuil.qc.ca](mailto:info@barreaudelongueuil.qc.ca) (First 30 minutes consultation for \$50).
5. General information on family law in the Province of Québec may be found at: <http://www.educaloi.qc.ca/en/categories/families-and-couples>

## New Brunswick

The following legal services are available in New Brunswick:

1. To find a lawyer, call the Law Society of New Brunswick at **(506) 458-8540**. Or you can look in the Yellow Pages, under "Lawyers".
2. For free general information on family law matters and guidance with family law forms and court procedures go to the Public Legal Education and Information Services of New Brunswick website at <http://www.legal-info-legale.nb.ca/en/index.php> or call toll free at **1-888-236-2444**.
3. Family Advice Lawyers are available at the new Family Law Information Centre in Saint John. If you live in Saint John, call **658-2261** for an appointment for up to two hours of consultation on how the court works, the rules of court, and the forms you must file in family law actions. You can also get general information on family law matters. Individuals in other regions can call toll free **1-855-266-0266** to find a Family Advice Lawyer in their area.
4. The New Brunswick Legal Aid Services Commission provides legal assistance to low-income individuals for certain family matters. Legal Aid gives priority to screening cases that are urgent or can directly benefit children. Individuals interested in applying for legal aid assistance are asked to contact their area service provider for specific information about their situation:

<p><b>Bathurst</b> 216 Main Street, Suite 205 Bathurst, NB E2A 1A8 Phone: 506-546-5010</p>	<p><b>Moncton</b> 860 Main Street, Suite 402 Moncton, NB E1C 1G2 Phone: 506-853-7300</p>
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<p><b>Campbellton</b>          19 Aberdeen Street, Suite 201          Campbellton, NB E3N 2J6          Phone: 506-753-6453</p>	<p><b>Saint John</b>          15 Market Square, 12th Floor          Saint John, NB E2L 1E8          Phone: 506-633-6030</p>
<p><b>Edmundston</b>          121 rue de l'Église, Suite 209          Edmundston, NB E3V 1J9          Phone: 506-735-4213</p>	<p><b>Tracadie-Sheila</b>          3512 Principale Street, Suite 1          Tracadie-Sheila, NB E1X 1C9          Phone: 506-395-1507</p>
<p><b>Fredericton</b>          500 Beaverbrook Court, Suite 501          Fredericton, NB E3B 4X5          Phone: 506-444-2777</p>	<p><b>Woodstock</b>          633 Main Street, Unit 122          Woodstock, NB E7M 2C6          Phone: 506-328-8127</p>
<p><b>Miramichi</b>          673 King George Hwy, Suite 103, Miramichi          Law Courts          Miramichi, NB E1V 1N6          Phone: 506-622-1061</p>	



# MRP Implementation Journal

MRP Implementation Committee Chairperson: \_\_\_\_\_

Tel: \_\_\_\_\_ Email: \_\_\_\_\_

CENTRE OF EXCELLENCE  
FOR MATRIMONIAL REAL PROPERTY



Version 2.0

# MRP Implementation Journal

## Using this Journal...

This journal has been prepared as a job aid for First Nations MRP Implementation Committee Members. It provides a place to keep track of the many actions, questions, contacts, follow-ups, and personal thoughts that inevitably are part of the MRP Implementation Process. Use it in conjunction with the Implementation of a Matrimonial Real Property Regime Toolkit.

It does not in any way replace the formal filing system that is required for managing such a project, but it may well help you keep on track as you work through the stages of the project.

The project may take many months to complete. People come and go during this period. Chiefs and Council members may change.

Keeping a journal or diary just may help you keep your bearings .



## MRP Implementation Journal

<b>Contacts: Implementation Committee</b>	
MRP Implementation Committee Chairperson:	
Tel:	Email:
Lawyer:	
Tel:	Email:
Committee Member:	
Tel:	Email:
Committee Member:	
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Committee Member:	
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Committee Member:  Tel:                      Email:

## MRP Implementation Journal

Contacts: Chief and Council	
Band Chief:	
Tel:	Email:
Band Councillor:	
Tel:	Email:
Band Councillor:	
Tel:	Email:
Band Councillor:	
Tel:	Email:
Band Councillor:	
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Band Councillor:  Tel:                      Email:

## MRP Implementation Journal

<b>Contacts: First Nation Admin Staff</b>	
Lands Manager:	
Tel:	Email:
Social Services:	
Tel:	Email:
Housing:	
Tel:	Email:
Name:	
Position:	
Tel:	Email:
Name:	
Position:	
Tel:	Email:

Name:	
Position:	
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Tel:	Email:
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Tel:	Email:
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Position:	
Tel:	Email:



## MRP Implementation Journal

Other Contacts	
Name:	
Tel:	Email:
Name:	
Tel:	Email:
Name:	
Tel:	Email:
Name:	
Tel:	Email:
Name:	
Tel:	Email:
Name:	
Tel:	Email:

## MRP Implementation Journal

### Implementation Committee

Implementation Committee Chairperson appointed:

Date:

Selection of lawyer:

Date:

Implementation Committee Terms of Reference

Developed by:                      Date:

Reviewed by:                      Date:

Approved by:                      Date:

Notes:



## MRP Implementation Journal

### Implementation Committee Meetings

Chairperson:

Date:

Actions assigned:

Responsibility:



## MRP Implementation Journal

<b>Policies Development</b>	
Responsibility:	
Date due:	
Issues raised:	Decision:
Reviewed by:	Date:
Approved by:	Date:

## MRP Implementation Journal

<b>Procedures Development</b>	
Responsibility:	
Date due:	
Issues raised:	Decision:
Reviewed by:	Date:
Approved by:	Date:

## MRP Implementation Journal

<b>Guidelines Development</b>	
Responsibility:	
Date due:	
Issues raised:	Decision:
Reviewed by:	Date:
Approved by:	Date:



## MRP Implementation Journal

<b>Community Awareness Plan</b>	
Responsibility:	
Date due:	
Initiative to be undertaken:	Responsibility:
Plan reviewed by:	Date:
Plan approved by:	Date:

## MRP Implementation Journal

Information or FAQ Brochure	
Responsibility:	
Date due:	
Items to be included:	
Reviewed by:	Date:
Approved by:	Date:
Available to members:	

## MRP Implementation Journal

<b>Information Meetings</b>		
Speaker name:		
Tel:	Email:	
Speaker name:		
Tel:	Email:	
Speaker name:		
Tel:	Email:	
Meeting locations:		Date & Time:
Action Items:	Assigned to:	Due date:

## MRP Implementation Journal

<h3>Education Plan</h3>	
Responsibility:	
Date due:	
On-reserve initiatives:	Responsibility:
Off-reserve initiatives:	Responsibility:
Plan reviewed by:	Date:
Plan approved by:	Date:

## MRP Implementation Journal

<b>Band Staff Training Plan</b>	
Responsibility:	
Date due:	
Initiative to be undertaken:	Responsibility:
Plan reviewed by:	Date:
Plan approved by:	Dates:

## MRP Implementation Journal

Monitoring / Evaluation Activities	
Activity:  Monitor: Date:	Observations:
Activity:  Monitor: Date:	Observations:
Activity:  Monitor: Date:	Observations:
Activity:  Monitor: Date:	Observations:
Activity:  Monitor: Date:	Observations:

## MRP Implementation Journal

<h3>Annual Report to Chief &amp; Council</h3>	
Responsibility:	Due date:
Monitoring/Evaluation Results:	Recommendations:
Final Review by:	Date :
Delivered to Chief & Council:	
Date:	

# MRP Implementation Journal

Notes

Notes



## MRP Implementation Journal

Notes



