Understanding the Métis Nation of Ontario Act, 2015

MNO Community Information Sessions
February 2016
The founding delegates of the MNO made a decision to bind their people together in the spirit of nation-building, based on a democratic representative model, as opposed to past Pan-Aboriginal Models.

The MNO designed its democratically elected governance structures at the local, regional, and provincial levels to represent its citizens.
CREATION OF THE MNO AND ITS GOVERNANCE STRUCTURES

Establishing the MNO

• Ontario Métis came together in 1993 and created the MNO to represent their collective rights, interests and claims

• Statement of Prime Purpose set out MNO’s values and principles, purpose and goals including,
  • “to gain the recognition and respect of the Métis as a Nation and a people” and
  • “to establish democratic institutions based on our inherent right of self-government”
Creation of the MNO and Its Governance Structures

Incorporating the Secretariat

• While the Métis Nation – as an Indigenous People – has the inherent right to self-government and self determination, Métis governments continue to struggle to have Canada fully recognize their mandates and jurisdictions.

• The MNO required a corporate body to act as its legal and administrative arm to receive funding for delivery of programs and services, and to create some protection for Métis citizens and elected leadership from being personally liable for the administrative and business operations of the MNO.
CREATION OF THE MNO AND ITS GOVERNANCE STRUCTURES

Using Corporations to Advance Self-Government

• The MNO Secretariat was incorporated as a not-for-profit corporation under Ontario law in 1994

• Many other Indigenous governments use similar corporate structures to advance their self-government

• The Indigenous people or nation can never be incorporated, but the groups members or citizens create a corporation to collectively represent them and to negotiate with other governments

• Corporate law, however, has always been an awkward fit for Indigenous governments
THE MÉTIS NATION OF ONTARIO
SECRETARIAT ACT, 2015

MNO Act Timeline

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1993</td>
<td>Creation of the MNO as representative government for Ontario Métis</td>
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<td>1994</td>
<td>Incorporation of MNO Secretariat as the legal and administrative arm of the MNO under the Ontario Corporations Act</td>
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<td>2007</td>
<td>MNO makes first submission to Ontario Government on concerns about the modernization of the Ontario Corporations Act and need for Métis legislation</td>
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<td>2008</td>
<td>MNO President Lipinski elected and makes legislative recognition of MNO and Community Councils a priority for his mandate</td>
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<td>2008</td>
<td>MNO-Ontario Framework Agreement includes commitment to explore legislation recognizing MNO and its Community Councils</td>
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<td>2009</td>
<td>MNO Assembly passes unanimous resolution calling for MNO-specific legislation</td>
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Ontario passes Not-For-Profit Corporations Act to take effect at a date in the future that includes problematic provisions for MNO Secretariat.

MNO-Ontario Framework Agreement renewed and continues to include commitment to explore legislation recognizing MNO and its Community Councils.

MNO Assembly passes unanimous resolution calling for MNO-specific legislation.

Premier Wynne commits to moving forward on MNO-specific legislation at annual meeting with MNO President Lipinski.

Presentations to MNO AGA on MNO legislation and unanimous resolution in support of securing an MNO Act.

Ontario Legislature unanimously passes MNO Act.


2010 October
2014 April
2014 August
2014 December
2015 August
2015 Dec. 9th
2016 Onward
Passage of the MNO Act was a historic milestone for the Métis in Ontario

- Received all party support
- First time in 148 year history of the Ontario Legislature where legislation passed that included the word “Métis”
- Binds future governments in recognizing the representative role of the MNO, representing the collective rights, interests and aspirations of its citizens and communities

While MNO’s ultimate goal is to replace the Act with legislation that gives legal force and effect to a negotiated modern-day land claims agreement between MNO, Ontario and Canada, the Act significantly advances the recognition of the MNO’s rights and self-government agenda today.
ONTARIO’S LEGISLATIVE PROCESS

1. First Reading
   - Bill Introduced
   - Objectives explained
   - No debate
   - Vote

2. Standing Committee
   - Review/hearings
   - Clause by clause review and vote
   - Propose amendments

3. Committee of Whole House
   - MPP clause by clause review/vote
   - Propose amendments

4. Second Reading
   - Bill principles debated
   - No amendments
   - Vote

5. Third Reading
   - Final debate
   - No amendments
   - Final vote

6. Royal Assent
   - By Lieutenant Governor
   - Becomes law

7. Proclamation
   - Law in effect

If passed

Métis Nation of Ontario
Associate Chief Operating Officer
THE MÉTIS NATION OF ONTARIO SECRETARIAT ACT, 2015

Purpose

• To exempt the MNO from certain provisions of provincial corporate law that are inconsistent with how Ontario Métis have chosen to govern themselves, and

• To create special provisions for the MNO to reflect its unique status and objectives

Rather than the MNO having to change its structures and policies to reflect Ontario law, Ontario has changed its laws to respect the MNO's structures and policies.
THE MÉTIS NATION OF ONTARIO SECRETARIAT ACT, 2015

Preamble

Makes a number of important statements about the nature and structure of the MNO, and why MNO requires special recognition

- MNO was created to represent and advocate on behalf of its citizens and communities
- MNO citizens are the members of the MNO Secretariat, and have defined rights and responsibilities as set out in the Secretariat constituting documents and bylaws
**Preamble (continued)**

- MNO citizens identify as descendents of the Métis people that emerged in west central North America with their own language (Michif), culture, traditions and way of life. These Métis people collectively refer to themselves as the Métis Nation, which includes Métis communities within Ontario.

- Through the Secretariat, the MNO has established various democratically elected governance structures at the local, regional and provincial levels to represent its citizens.
• The Ontario Government recognizes that the Secretariat’s status as a governance structure that represents its citizens at the local, regional and provincial levels creates operational realities that are distinct from other Ontario not-for-profit corporations.

This legislative recognition of MNO citizens and communities as part of the broader Métis Nation; the representative role the Secretariat plays to advocate on behalf of its citizens and communities; and the Métis Nation of Ontario’s democratically elected governance structures is now recognized in law in Ontario!
THE MÉTIS NATION OF ONTARIO SECRETARIAT ACT, 2015

Legislation Highlights

Definitions

- Respecting MNO’s terminology
- ‘Citizens’ rather than ‘members’
- ‘Councillor’ rather than ‘director’
- ‘Métis Community Council’
- ‘Provisional Council’
- ‘Secretariat’
THE MÉTIS NATION OF ONTARIO SECRETARIAT ACT, 2015

Legislation Highlights

MNO Elections

- Protects the MNO Electoral Code and the democratic process through which Ontario Métis have chosen to govern themselves
- Ontario corporate law does not provide for the type of electoral process the MNO has developed
- MNO Act ensures our process is respected
Removal of Councillors

- Ontario law did not respect that MNO Councillors are democratically elected
- The MNO Act provides a balance between having a way to remove a Councillor if they are not fulfilling their duties, while still respecting the fact that these individuals are democratically elected
- The citizens that vote a Councillor in have the power to vote them out
Youth Representatives

- Meaningful youth participation in the MNO’s governance structures is important to the MNO, for example:
  - Citizens 16 years of age and older can vote in elections and at MNO Annual General Assemblies
  - Post-secondary and youth representatives on PCMNO
Legislation Highlights

Youth Representatives

- Ontario corporate law does not allow youth under 16 years of age to play any role in not-for-profit corporations.

- MNO Bylaws have always protected young people between the ages of 16 and 18 from potential liabilities by limiting their ability to vote.

- Cannot expect a 16 year old to make a decision that when they turn 18 they will take on all rights and liabilities of a director.
Youth Representatives

- The MNO Act protects the right of MNO citizens between the ages of 16-18 years to serve as a councillor without voting power; and if a young person turns 18 during their term, they are still unable to exercise a vote.

- The MNO can develop policy to permit councillors who turn 18 years old during their term of office to step down and be reappointed at which time they could accept all rights and responsibilities of a councillor.
List of Citizens

• Significance of MNO citizenship (as opposed to simple membership in some group) is recognized under the Act
• Strict controls are placed on access to the list of MNO citizens
• List is only available to MNO citizens or their legal representatives on receipt of a statutory declaration promising the list won’t be used for any purpose not connected with the Secretariat, including:
  • Forming another body with objects similar to those of the Secretariat or establishing a registry of Aboriginal persons
  • Challenging the eligibility of anyone to be a citizen
  • Soliciting citizens on behalf of another body
• Anyone who uses the list for improper purposes is guilty of an offence and liable to a fine of up to $1,000
Legislation Highlights

Community Councils

- Charter Agreements advance Métis self-government by providing:
  - consistency of Métis citizenship across the province
  - Consistency in how Community Councils operate across the province based on mutually agreeable terms as set out in the Charter Agreements
  - Fairness and transparency in election of Métis representatives at the local level, and
  - Equitable sharing of resources to benefit all Ontario Métis, including effective and accountable program and service delivery through the Secretariat
Legislation Highlights

Community Councils (continued)

• Some Community Councils are happy to carry on under the current Charter Agreement model, -- they are free to continue to do so

• Other Community Councils have repeatedly said that they want to be able to incorporate so that they can have more local control over their financial affairs

• Given past experience, the MNO has implemented policies to avoid debts of Community Councils rolling up – some Community Councils see these as restrictive and want to assume more risk and liabilities at the local level in order to build capacity and pursue various initiatives
Legislation Highlights

Community Councils (continued)

- The MNO Act now provides a mechanism for Community Councils to incorporate, creating a liability shield between the Secretariat and the Community Council, while also making sure the Community Council operates consistently and as part of the MNO’s overall governance structure.

- Willing Community Councils will be allowed to be incorporated as separate corporations, with the Secretariat as the sole ‘member’ of the corporation (‘member’ used only in a corporate law sense). Community Councils will continue to be governed by locally elected Councilors, and continue to represent local MNO citizens as will be set out in the bylaws that they will need to negotiate with the Secretariat prior to being incorporated.
Legislation Highlights

Community Councils (continued)

- Community Councils as individual corporations with the Secretariat as their sole member accomplishes two basic goals:
  - They will achieve greater control over their own affairs and be responsible for their own debts and liabilities
  - At the same time, the Secretariat will still have the power to ensure consistency and fairness in Métis governance across the province (through issuing written orders – establishing province wide policies), just as it does under the current Charter system

- The MNO Act does not give the Secretariat any more authority than it already has under the Charter Agreements
Legislation Highlights

Regulations Provisions

- Provides a process for making changes to the Act by way of regulation rather than going through the whole legislative drafting and political process of having the law go through the House.

- Prevents MNO’s needs for further exemptions in the future from being subject to a bi-partisan political process.
Legislation Highlights

Regulations Provisions

- Any regulations made by the ministers must do one of two things:
  - Create further exemptions from or alterations to provincial corporate law as it applies to the Secretariat and Métis Community Councils; or
  - Relate to another matter that is necessary or advisable for the purposes of the MNO Act (i.e. to recognize and reflect the Secretariat’s unique role as a governance structure)
THE MÉTIS NATION OF ONTARIO SECRETARIAT ACT, 2015

Legislation Highlights

Amendments

• Sections 1-16 of the MNO Act set out the changes (i.e. exemptions) that are made under the Ontario Corporations Act

• Sections 17-29 of the MNO Act set out the changes that will be made when the Not-for-Profit Corporations Act eventually comes into force
What Happens Next?

• MNO Act came into force on January 1, 2016 but nothing really changed on that day

• Community information sessions will be offered in February 2016 to review the Act with citizens and Community Councils to better inform them, and to identify for future discussions those Community Councils that may have an interest in incorporating under the Act

• Additional capacity is needed for the Secretariat and interested Community Councils to negotiate new arrangements

• The MNO will develop a “way forward plan” based on what is heard during the Community Information Sessions and seek funding to implement it
“...this [legislation] is about our government being responsive to MNO’s long-standing request for corporate legislation and strengthening the province’s relationship with MNO. In summary, if passed, the legislation will recognize the unique democratic nature of MNO’s secretariat structure and allow it to operate more effectively under the Corporations Act and the Not-for-Profit Corporations Act, 2010, when it comes into force… In conclusion, Speaker and members of this House, today when I speak of all the activities we’ve seen, I remind you that initiatives like this are helping to achieve reconciliation among Métis, First Nations and Inuit people and other non-indigenous peoples throughout the province. The Métis Nation of Ontario Secretariat Act is a step on that path.”

Minister David Zimmer, Ministry of Aboriginal Affairs
Comments from the Legislature (December 9, 2015)

“There has never been a bill for the Métis Nation of Ontario in this House before. The last time we talked about the Métis Nation in this House, it was because we wanted Louis Riel to be hanged. I think it’s quite fitting that, today, we are talking about a celebration. We are talking about a victory. We are talking about something really positive that the Métis Nation of Ontario has wanted for a long time, and that is happening right here, right now…

They are very proud of their rich heritage, and they are inspired by the values and the traditions of their ancestors. The strengths of the Métis society are based on democracy, freedom, fairness, equality, generosity and justice. But above all, the Métis people cherish harmony and peace. It’s pretty hard to argue with this, Speaker, pretty hard.”

MPP France Gellinas, NDP Aboriginal Affairs Critic
“I understand that if this bill wasn’t passed, then…the rules regulating not-for-profit corporations don’t line up with the very democratic structure of the Métis Nation of Ontario. For example, if this bill didn’t pass, then the Not-For-Profit Corporations Act requires annual election of directors, and it would allow anyone to run. In this bill, they’re not called directors; they’re councillors. They have four-year terms, not one-year terms. Only recognized citizens of the Métis Nation of Ontario can run for office. Only citizens can vote…

It is very democratic. I have to say, I like the way they have things organized in their community councils and also with the executive, with senators, with regional councillors. I especially like the fact that they have a post-secondary representative and a youth representative.”

MPP Norm Miller, PC Aboriginal Affairs Critic
Comments from the Legislature (December 9, 2015)

“It’s a well-established principle in international law that each nation should have the right to choose how they should be sovereignly ruled. They have that right to determine their own existence, to determine their own governance… The Métis Nation is, in fact, a nation of people. It is a nation of people that now is moving towards stronger established governance… One of the fundamental things about recognizing the sovereign rights of self-governance is ensuring that there are democratic structures, that there’s nation-building, that governance structures are in place, and that’s what this bill will ensure happens. I want to take a side note to acknowledge the fact that the Métis Nation has taken particular attention to encouraging youth to be involved in governance, which is very progressive and forward-thinking... It’s something that we should all look towards as a model, the fact that they’re working so hard to incorporate their youth. That’s the way of the future.”

MPP Jagmeet Singh, Deputy Leader of the NDP
“This has helped me, and I thank you. I thank the leadership of the Métis Nation for embracing me and I appreciate it very much.”

MPP Dave Levac, Speaker of the Ontario Legislative Assembly
Community Information Sessions

- **Thunder Bay** – Regions 1 & 2 - February 6th
- **Penetanguishene** – Region 7 - February 7th
- **Timmins** – Region 3 - February 20th
- **Sudbury** – Regions 4 & 5 - February 21st
- **Toronto** – Regions 6, 8 and 9 - February 27th
“Guided by our spiritual values, we aspire to attain our highest potential”

from the MNO Statement of Prime Purpose

Merci - Thank You - Marsee