



STATUTORY DECLARATION OF EXECUTOR OF A WILL OR ADMINISTRATOR OF AN ESTATE

Concerning the devise or descent of land under the *Indian Act* and the rights of Survivors under the Provisional Federal Rules of the *Family Homes on Reserves and Matrimonial Interests or Rights Act*

Privacy statement

This statement explains the purposes and use of your personal information. Only information needed to respond to program requirements will be requested. Collection and use of personal information is in accordance with the *Privacy Act*. In some cases, information may be disclosed without your consent pursuant to subsection 8(2) of the *Privacy Act* (<https://laws-lois.justice.gc.ca/eng/acts/p-21/index.html>). The collection and use of your personal information for this Statutory Declaration is authorized by sections 21, 24, 28(2), 53(1)(b) of the *Indian Act* (<http://laws-lois.justice.gc.ca/eng/acts/i-5/>) and sections 15-18, 20, 31-32 and 50 of the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (<http://laws-lois.justice.gc.ca/eng/acts/F-1.2/>) and is required for your participation. We will use your personal information, your contact information, for the processing of the form. We share the personal information you give us with Bands (First Nation Governments) for whom Indigenous Services Canada tracks this. The information collected is described in Personal Information Bank "Monitoring and Compliance of Reserve Land Instruments", PPU 096, detailed at [Info Source](https://www.sac-isc.gc.ca/eng/1639748667069/1639748703555#chp37) (<https://www.sac-isc.gc.ca/eng/1639748667069/1639748703555#chp37>), will be retained for a period of 30 years after the last administrative action and then transferred to Library and Archives Canada (LAC) as archival records. As stated in the *Privacy Act*, you have the right to access your personal information and request changes to incorrect information. Contact our office (toll-free) at 1-800-567-9604 to notify us about incorrect information. For more information on privacy issues and the *Privacy Act* in general, you can consult the Privacy Commissioner at 1 (800) 282-1376.

Important: DO NOT complete this form if the person whose estate you are administering died on or before December 15, 2014.

This form must be completed by the Executor or Administrator wanting to distribute the estate of a deceased individual who died after December 15, 2014 and held an interest on reserve, in order to demonstrate compliance with s. 38(1) of the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (FHRMIRA). Pursuant to s. 38(1), an Executor of a Will or an Administrator of an estate must not proceed with the distribution of the estate until one of the following occurs:

- (a) the survivor consents in writing to the proposed distribution;
- (b) the period of **10 months** referred to in subsection 36(1) and any extended period the court may have granted under subsection 36(2) have **expired** and no application has been made under subsection 36(1) within those periods; or
- (c) an application made under subsection 36(1) is disposed of.

Note: Two consents are required where there is both a Surviving Spouse and a Surviving Common-law partner.

1. Legal land description (the Property)

Province/Territory

Reserve name

Legal land description (the Property)

2. Statutory declaration (made pursuant to s. 41 of the *Canada Evidence Act*, R.S. 1985, c. C-5)

I, _____, of _____
Name of Executor/Administrator Name of city/town
in the Province or Territory of _____

SOLEMNLY DECLARE THAT:

1. I am the Executor or Administrator of the estate of _____
Name of deceased and band membership number, if applicable
2. The deceased died on _____. A certified copy of the death certificate is attached, unless previously provided to
Date (YYYYMMDD)

Indigenous Services Canada. If you were appointed to the deceased's estate by Indigenous Services Canada, this document is not required.

3. The deceased held the Property on the date of death.



(Check the applicable boxes)

Consent is required

- ☐ 4A. Consent of the Survivors is required under s. 38(1) of the *FHRMIRA*. Consent is provided in the attached forms.

- OR -

Consent is not required

- ☐ 4B. Consent of the Survivors is not required under s. 38(1) of the *FHRMIRA* because
- ☐ i) to the best of my knowledge, information and belief, the deceased had no Spouse or Common-law partner at the time of his/her death.
 - or -
 - ☐ ii) the Survivors made a court application under s. 36 of the *FHRMIRA* and that application has been finally disposed of. This transfer is consistent with that court resolution. A copy of the court order is attached.
 - or -
 - ☐ iii) the period of 10 months referred to in s. 36 (1) of the *FHRMIRA*, and any extended period the court may have granted under s. 36(2) of the *FHRMIRA*, has expired. No application was made under s. 36(1) within those periods.

5. A court order (other than a court order referred to above, if any) has been made under the *FHRMIRA* with respect to the Property.

- ☐ Yes (attach a copy of the court order) ☐ No (sign below)

AND I MAKE this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at

_____, in the _____, this _____ of _____, _____
City/Town Province/Territory Day Month Year

Signature of declarant

Signature of Commissioner