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NATIVE LAW Woodward Release No. 6, December 2021

Publisher's Special Release Note 2021

The pages in this work were reissued in July 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the July 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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This Release includes important updates to the law, including:

Saugeen: An important new decision about the Honour of the Crown. The Ontario Supreme Court held that an Indian Superintendent had breached the Honour of the Crown during negotiations leading up to the signing of Treaty 72 by saying that he would recommend that the Crown proceed unilaterally with land sales in the absence of a surrender agreement: *Chippewas of Saugeen First Nation et al v. The Attorney General of Canada et al*, 2021 ONSC 4181, 2021 CarswellOnt 11284 (Ont. S.C.J.) at paras. 991-994 and 1066-1067. See § 3:73, Para. 3.1870.

Residence requirements for chief and council. The law continues to evolve regarding whether it is discriminatory to force a person elected to council to move into the community (to reserve or settlement lands). The Yukon Court of Appeal partially overturned Veale, C.J. of the Yukon Supreme Court who had said such a requirement does not infringe equality rights: *Dickson v. Vuntut Gwitchin First Nation*, 2021 YKCA 5, 2021 CarswellYukon 56 (Y.T. C.A.). See § 6:13, Para. 6.620.

Saugeen: Aboriginal title to submerged lands. The Ontario Supreme Court held that two plaintiff First Nations had failed to demonstrate title to claimed portions of the beds of Lake Huron and Georgian Bay, but emphasized that it was not foreclosing the possibility of Aboriginal title to submerged lands altogether, and that “[t]he outcome could be different for other submerged land with different geographic characteristics, historical practices and context.”: *Chippewas of Saugeen First Nation et al v. The Attorney General of Canada et al*, 2021 ONSC 4181, 2021 CarswellOnt 11284 (Ont. S.C.J.) at para. 330. See § 8:5, Paras. 8.520, 8.586 and following.

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