



Non-derogation clauses in federal legislation in relation to upholding section 35 rights

The following 12 examples of non-derogation clauses are already included in existing federal legislation in relation to upholding section 35 rights. Consult the [Justice Laws website](#) for more information.

Existing non-derogation clauses in federal legislation	Occurrences
<p>“Nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the <i>Constitution Act, 1982</i>.”</p>	<p><i>Canada Petroleum Resources Act</i>, R.S.C. 1985, c. 36 (2nd Supp.), s.3</p>
	<p><i>Canada-Newfoundland and Labrador Atlantic Accord Implementation Act</i>, S.C. 1987, c. 3, s.48 [“Nothing in this <u>Part...</u>”]</p>
	<p><i>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i>, S.C. 1988, c. 28, s.50 [“Nothing in this <u>Part...</u>”]</p>
<p>“For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the members of the Sechelt Indian Band, or any other aboriginal peoples of Canada, under section 35 of the <i>Constitution Act, 1982</i>.”</p>	<p><i>Sechelt Indian Band Self-Government Act</i>, S.C. 1986, c. 27, s. 3</p>
<p>“For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing Aboriginal or treaty rights of the Aboriginal peoples of Canada under section 35 of the <i>Constitution Act, 1982</i>.”</p>	<p><i>Migratory Birds Convention Act, 1994</i>, S.C. 1994, c. 22, subs. 2(3)</p>
	<p><i>Canada Wildlife Act</i>, R.S.C. 1985, c. W-9, subs. 2(3) (as added by S.C. 1994, c. 23, s.4)</p>
	<p><i>Firearms Act</i>, S.C. 1995, c. 39, subs. 2(3)</p>
	<p><i>Oceans Act</i>, S.C. 1996, c. 31, s. 2.1</p>
	<p><i>First Nations Fiscal Management Act</i>, S.C. 2005, c. 9, s. 3</p>

Existing non-derogation clauses in federal legislation	Occurrences
<p>“For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the application of section 35 of the <i>Constitution Act, 1982</i> to existing aboriginal or treaty rights of the aboriginal peoples of Canada.”</p>	<p><i>Canada Marine Act</i>, S.C. 1998, c. 10, s. 3</p>
<p>“For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the <i>Constitution Act, 1982</i>.”</p>	<p><i>Mackenzie Valley Resource Management Act</i>, S.C. 1998, c. 25, subs. 5(2)</p>
	<p><i>Canadian Environmental Protection Act, 1999</i>, S.C. 1999, c. 33, s. 4</p>
	<p><i>Canada National Parks Act</i>, S.C. 2000, c. 32, subs. 2(2)</p>
	<p><i>International Boundary Waters Treaty Act</i>, R.S.C. 1985, c. I-17, s. 21.1 (as added by S.C. 2001, C. 40, s. 1</p>
	<p><i>Yukon Act</i>, S.C. 2002, c. 7, s. 3</p>
	<p><i>Canada National Marine Conservation Areas Act</i>, S.C. 2002, c. 18, s. 2(2)</p>
	<p><i>Species at Risk Act</i>, S.C. 2002, c. 29, s. 3</p>
<p>“This Act does not address any aboriginal or treaty rights of the Mohawks of Kanesatake. Nothing in this Act is intended either to prejudice such rights or to represent a recognition of such rights by Her Majesty in right of Canada.”</p>	<p><i>Kanesatake Interim Land Base Governance Act</i>, S.C. 2001, c. 8, s. 3(2)</p>

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<p>“For greater certainty, the repeal of section 67 of the Canadian Human Rights Act shall not be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982.”</p>	<p><i>Canadian Human Rights Act</i>, R.S.C., 1985, c. H-6, 2008, c. 30, s. 1.1 (RELATED PROVISIONS)</p>
<p>“For greater certainty, nothing in this Act or the regulations is to be construed so as to abrogate or derogate from any existing Aboriginal or treaty rights of the Aboriginal peoples of Canada under section 35 of the <i>Constitution Act, 1982</i>, except to the extent necessary to ensure the safety of drinking water on First Nation lands.”</p>	<p><i>Safe Drinking Water for First Nations Act</i>, S.C. 2013, c.21, s. 3</p>
<p>“For greater certainty, nothing in this Act is to be construed as abrogating or derogating from the protection provided for the rights of the Indigenous peoples of Canada by the recognition and affirmation of those rights in section 35 of the <i>Constitution Act, 1982</i>.”</p>	<p><i>Impact Assessment Act</i>, S.C. 2019, c. 28, s. 1</p>
	<p><i>Canadian Energy Regulator Act</i>, S.C. 2019, c. 28, s. 10</p>
	<p><i>Canadian Navigable Waters Act</i>, R.S.C. 1985, c. N-22, s. 2.2</p>
	<p><i>Oil Tanker Moratorium Act</i>, S.C. 2019, c. 26, S. 3.1</p>
<p>“For greater certainty, the amendments made by this Act to the Criminal Code, the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act shall not be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of these rights in section 35 of the Constitution Act, 1982.”</p>	<p><i>Ending the Captivity of Whales and Dolphins Act</i> S.C. 2019, c. 11, s. 6, (amending legislation)</p>
	<p><i>Criminal Code</i> R.S.C. 1985, c. C-46</p>
	<p><i>Fisheries Act</i> R.S.C. 1985, c. F-14</p>
	<p><i>Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act</i> S.C. 1992, c. 52</p>

Existing non-derogation clauses in federal legislation	Occurrences
<p>“This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i>, and not as abrogating or derogating from them.”</p>	<p><i>Indigenous languages Act</i>, S.C. 2019, c. 23, s.3</p>
	<p><i>An Act respecting First nations, Inuit and Métis children, youth and families</i>, S.C. 2019, c. 24, s.2</p>
	<p><i>An Act to amend the Fisheries Act and other Acts in consequence</i>, S.C. 2019, c. 14, s. 2.3 (amending legislation)</p>
	<p><i>Fisheries Act</i>, R.S.C., 1985, c. F-14</p>
<p>“This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i>, and not as abrogating or derogating from them.”</p>	<p><i>An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples</i>, S.C. 2021, c. 14, s. 2(2)</p>