



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 16

**An Act to amend the Act respecting
Cree, Inuit and Naskapi Native persons
and other legislative provisions**

Introduction

**Introduced by
Mr. Geoffrey Kelley
Minister for Native Affairs**

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EXPLANATORY NOTES

This bill amends the Act respecting Cree, Inuit and Naskapi Native persons in order to introduce new rules pursuant to Complementary Agreement No. 18 to the James Bay and Northern Québec Agreement. The new rules relate to the entitlement and enrollment of Inuit beneficiaries, the register of Inuit beneficiaries and the review of decisions made by an authority responsible for enrollment.

The bill provides that the criteria of entitlement for enrollment as an Inuit beneficiary will include, in particular, being an Inuk as determined by Inuit customs and traditions, and having family, residential, historical, cultural or social ties with an Inuit community.

Under the bill, the status of a beneficiary may be reviewed in the case, for example, of a divorce or the death of an Inuit spouse. Furthermore, an Inuit beneficiary will not lose his rights in that capacity if he maintains his principal residence outside the territory for 10 or more consecutive years for health reasons, to pursue education or to hold employment with an organization promoting Inuit well-being.

The bill also proposes new provisions regarding the enrollment of Inuit beneficiaries. For example, a community enrollment committee is to be created in each Inuit community to examine the applications of persons wishing to be enrolled on a list of Inuit beneficiaries or applications to have the name of an enrolled beneficiary removed.

The register of Inuit beneficiaries is placed under the responsibility of the Nunavik Enrollment Office created within the Makivik Corporation. That register is to consist of two lists, and Inuit beneficiaries will be able to consult certain information on the lists.

The bill also provides for the creation of the Nunavik Enrollment Review Committee whose function it will be to decide applications for review made by persons who are dissatisfied with a decision of a community enrollment committee.

Lastly, the bill includes consequential amendments and certain amendments specific to the Act respecting health services and social services.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Cree, Inuit and Naskapi Native persons (R.S.Q., chapter A-33.1);
- Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting the Makivik Corporation (R.S.Q., chapter S-18.1).

Bill 16

AN ACT TO AMEND THE ACT RESPECTING CREE, INUIT AND NASKAPI NATIVE PERSONS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting Cree, Inuit and Naskapi Native persons (R.S.Q., chapter A-33.1) is amended

- (1) by replacing “Inuk” in paragraph *a* by “Inuit”;
- (2) by adding “or Division V.1” at the end of paragraph *a*;
- (3) by replacing paragraph *e* by the following paragraph:

“(e) “Inuit community” means one of the existing Inuit communities of Kangiqsualujjuaq, Kuujjuaq, Tasiujaq, Aupaluk, Kangirsuk, Quaqtaq, Kangiqsujaq, Salluit, Ivujivik, Akulivik, Puvirnituk, Inukjuak, Umiujaq, Kuujjuaraapik, Chisasibi and Killiniq (Port Burwell), and any Inuit community formed after 1 May 2006 and recognized by the Government;”.

2. The heading of Division III of the Act is amended by inserting “CREE AND NASKAPI” before “BENEFICIARIES”.

3. Section 5 of the Act is amended by striking out “, Inuit beneficiaries” in the second line and in the fifth line.

4. Sections 9 to 11 of the Act are repealed.

5. Section 12 of the Act is amended by striking out “, Inuk” in the first line and the last line of the first paragraph and in the last line of the second paragraph.

6. Section 13 of the Act is amended by striking out the second paragraph.

7. Section 14 of the Act is amended by replacing “the Cree, Inuit or Naskapi customs, as the case may be” in the last line by “Cree or Naskapi customs”.

8. The heading of Division IV of the Act is amended by inserting “CREE AND NASKAPI” before “BENEFICIARIES”.

9. Section 15 of the Act is amended by inserting “Cree and Naskapi” before “beneficiaries” in the second line.

10. Section 16 of the Act is amended

- (1) by striking out “, an Inuit register” in the first line of the first paragraph;
- (2) by striking out “, as Inuit beneficiaries” in the third line of the first paragraph;
- (3) by striking out “, Inuit” in the first line of the second paragraph.

11. Section 19 of the Act is repealed.

12. Section 20 of the Act is amended

- (1) by replacing “either a Cree beneficiaries list or an Inuit beneficiaries list as well as on the Naskapi beneficiaries list” in the first and second lines of the second paragraph by “more than one list of beneficiaries established under this Act”;
- (2) by replacing “sections 18 and 19” in the second line of the third paragraph by “this Act”;
- (3) by replacing “and an Inuit list” in the first and second lines of the fourth paragraph by “list and an Inuit list provided for in Division V.1”;
- (4) by striking out “des bénéficiaires cris ou des bénéficiaires inuit” in the third line of the fourth paragraph of the French text.

13. The heading of Division V of the Act is amended by adding “FOR CREE AND NASKAPI BENEFICIARIES” at the end.

14. Section 21 of the Act is amended by striking out “, in Inuttituut under the name of: “QUEBECMINUNALITUQAIT QINUGIAQANIVININGANUT KATIMAYINGIT”” in the second and third lines of the second paragraph.

15. Section 22 of the Act is amended by striking out “, Inuit” in the second line.

16. Section 24 of the Act is amended

- (1) by striking out “, Inuit” in the first and second lines of subparagraph *b* of the first paragraph;
- (2) by striking out “or an Inuit community council,” in the first and second lines of subparagraph *d* of the first paragraph;

(3) by striking out “, the successor of an Inuit community council is, from its creation, the council of an Inuit landholding corporation established by the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1),” in the second paragraph.

17. The Act is amended by inserting the following division after section 25:

“DIVISION V.1

“ENTITLEMENT AND ENROLLMENT OF INUIT BENEFICIARIES

“§1. — *Entitlement*

“25.1. A person is entitled to be enrolled as an Inuit beneficiary and to invoke the rights and receive the benefits granted to Inuit beneficiaries if that person

(a) is living;

(b) is a Canadian citizen;

(c) is an Inuk according to Inuit customs and traditions;

(d) identifies himself as an Inuk; and

(e) has family, residential, historical, cultural or social ties with an Inuit community.

For the purposes of subparagraph *d* of the first paragraph, a relative or tutor may identify as an Inuk a person unable to do so himself.

“25.2. Despite section 25.1, a person entitled to be enrolled as an Inuit beneficiary may not be so enrolled if the person is already enrolled under another land claims agreement in Canada, unless it is an agreement affecting the Inuit of Nunavik, including an agreement relating to the Nunavik Marine Region bordering on Québec, to Labrador or to the Labrador offshore area, or the person demonstrates that he has abandoned the prior enrollment.

“25.3. If the Secretary General makes a decision under section 20 on behalf of a person entitled to be enrolled, the Secretary General shall send it to that person and to the Enrollment Office established under section 25.13.

“25.4. The status of beneficiary of a person who, before 1 May 2006, was enrolled or entitled to be enrolled because of the person’s status as the legal spouse of an Inuit beneficiary may be reviewed by the appropriate community enrollment committee provided for in section 25.7, if there are reasonable grounds to believe that the person no longer has sufficient ties with the Inuit community following a divorce, a legal separation, a *de facto* separation

or the death of the person's spouse having occurred on 1 May 2006 or after that date.

De facto separation is proven by a declaration under oath signed by the spouse or another interested beneficiary attesting that the spouses have been separated for at least one year.

“25.5. An Inuit beneficiary who has maintained his principal residence outside the territory for 10 or more consecutive years is not entitled to exercise rights or receive benefits as an Inuit beneficiary, and his name is transferred to the list of Inuit beneficiaries who have resided outside the territory for 10 or more consecutive years provided for in section 25.14. If a beneficiary re-establishes his principal residence in the territory, his entitlement to exercise rights and receive benefits as an Inuit beneficiary revives and his name is then transferred to the list of Inuit beneficiaries provided for in section 25.14.

However, the first paragraph does not apply to an Inuit beneficiary who has maintained his principal residence outside the territory for 10 or more consecutive years for health reasons, to pursue studies or to hold employment in an organization promoting Inuit well-being.

“§2. — *Affiliated beneficiary*

“25.6. For the purposes of this division, a beneficiary is affiliated with the Inuit community in which he is accepted for enrollment.

“§3. — *Community enrollment committees*

“25.7. A community enrollment committee is created for each Inuit community.

The committee consists of not less than 3 and not more than 13 beneficiaries, and committee decisions are made by a majority vote.

“25.8. In the case of Inuit communities for which a landholding corporation has been established in accordance with the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1), the community enrollment committee consists of the members of the board of directors of the landholding corporation formed under section 11 of that Act and of a beneficiary affiliated with that community who is considered to be an elder according to Inuit customs and traditions, and who is designated by the landholding corporation for a renewable two-year term.

“25.9. In the case of Inuit communities for which there is no landholding corporation, the members of the community enrollment committee are elected for a renewable two-year term by the Inuit beneficiaries affiliated with the community concerned.

The Enrollment Office created under section 25.13 is responsible for holding the election.

“25.10. The community enrollment committee of an Inuit community has the following functions in respect of the community for which it was created:

(a) to receive and examine the application of a person who wishes to be enrolled as an Inuit beneficiary with that community in order to determine whether the person meets the enrollment criteria listed in section 25.1, and, if he is not prevented from enrolling by section 25.2, to affiliate the person with that community;

(b) to delete, even on its own initiative, the name of a beneficiary affiliated with that community who no longer meets the enrollment criteria set out in paragraphs *a* and *b* of section 25.1;

(c) to examine, even on its own initiative, the case of a person affiliated with that community in order to determine whether section 25.4 applies to that person and, if necessary, whether the person meets the other enrollment criteria listed in section 25.1;

(d) to decide, at the request of a beneficiary affiliated with another Inuit community, whether that beneficiary may become affiliated with that community;

(e) to decide, even on its own initiative, for the purposes of section 25.5, whether a beneficiary has maintained his principal residence outside the territory for 10 or more consecutive years for reasons other than those mentioned in the second paragraph of that section;

(f) to decide, on the application of a beneficiary affiliated with that community, whether that beneficiary has re-established his principal residence in the territory; and

(g) to inform the Enrollment Office of its decisions without delay so that the lists provided for in section 25.14 may be kept up to date.

“25.11. A beneficiary may not be affiliated simultaneously with more than one Inuit community.

However, a beneficiary may apply to the community enrollment committee of an Inuit community other than that with which he is affiliated and obtain its consent to become affiliated with that other community.

“25.12. A person may not submit an application contemplated in paragraph *a* or *d* of section 25.10 to more than one community enrollment committee simultaneously.

If a committee refuses an application, a new application may be submitted to the community enrollment committee of another community if

(a) twelve months have elapsed since the first community enrollment committee's decision to refuse the application;

(b) the person waives the right to apply to the Nunavik Enrollment Review Committee for a review under section 25.23 of the first community enrollment committee's decision; or

(c) the Nunavik Enrollment Review Committee has rendered a decision upholding the refusal of the first community enrollment committee under section 25.23.

“§4. — Nunavik Enrollment Office

“25.13. The Nunavik Enrollment Office is created within the Makivik Corporation constituted by the Act respecting the Makivik Corporation (chapter S-18.1).

“25.14. The Enrollment Office maintains the register of Inuit beneficiaries.

This register contains the names of the Inuit beneficiaries entitled to be enrolled under this Act in accordance with the decisions of the community enrollment committee of each Inuit community under section 25.10 or the decisions of the Nunavik Enrollment Review Committee under section 25.23. It consists of two lists, the list of Inuit beneficiaries and the list of Inuit beneficiaries who have resided outside the territory for 10 or more consecutive years.

The lists give the name, sex, date of birth, civil status and place of residence of each beneficiary and the name of the Inuit community with which the beneficiary is affiliated under section 25.10.

“25.15. Every year and whenever so required, the Enrollment Office must send the lists of beneficiaries prepared under section 25.14, free of charge, to the departments and bodies of the governments of Québec and Canada, to the extent that the information on the lists is necessary for carrying out the responsibilities of those departments and bodies.

The Enrollment Office must send the lists on request and free of charge to any other person or body for which the information is necessary to exercise functions or implement a program under its management.

The Enrollment Office must also allow Inuit beneficiaries to consult free of charge the names of beneficiaries included in each list and the name of the community with which those beneficiaries are affiliated.

“25.16. On a written request by an Inuit beneficiary for cancellation of enrollment, the Enrollment Office must delete the name of that beneficiary from the register of Inuit beneficiaries maintained under section 25.14.

“25.17. The Enrollment Office receives applications for review made under section 25.23 and notifies the persons appointed under section 25.18 that they are to establish the Nunavik Enrollment Review Committee in accordance with section 25.22.

On receiving notice that the Review Committee has been duly established, the Enrollment Office sends it the file of any person who has made an application for review.

“§5. — Nunavik Enrollment Review Committee

“25.18. The Nunavik Enrollment Review Committee is created.

The committee is established in accordance with section 25.22 from a permanent list of six members appointed by the Makivik Corporation from among the Inuit beneficiaries enrolled on the list of Inuit beneficiaries. They must come, in equal numbers, from the Ungava region, the Hudson Strait region and the Hudson region.

“25.19. A person designated or elected as a member of a community enrollment committee under section 25.8 or 25.9 may not be appointed under section 25.18.

“25.20. The members are appointed under section 25.18 for a three-year term which may be renewed.

“25.21. The mandate of a member appointed under section 25.18 may not be revoked by the Makivik Corporation without good reason.

“25.22. Following notice given by the Nunavik Enrollment Office under section 25.17, the members appointed under section 25.18 designate three members from among themselves to form the Review Committee. Each of the three regions mentioned in section 25.18 must be represented on the Review Committee.

“25.23. The Review Committee’s function is to decide applications for review made by persons who are dissatisfied with a decision of a community enrollment committee under section 25.10.

The Review Committee must notify the Enrollment Office without delay of a decision under the first paragraph.

“25.24. An application for review under section 25.23 must be sent to the Enrollment Office within 12 months after the date of the community enrollment committee’s decision.

“25.25. The Review Committee may agree to consider documents and information other than those contained in the file sent to it under the second paragraph of section 25.17.

“25.26. The quorum of the Review Committee is three members and its decisions are made by a majority vote.

The decisions of the Review Committee are final and binding.

“§6. — Provisions applicable to community enrollment committees and to the Nunavik Enrollment Review Committee

“25.27. Community enrollment committees and the Nunavik Enrollment Review Committee set the rules for the conduct of their proceedings.

Before making a decision, however, community enrollment committees and the Review Committee must give an applicant and, if applicable, a person whose enrollment is being examined the opportunity to submit observations.

They must conduct their proceedings in Inuttitut and, on request by a committee member or a person mentioned in the second paragraph, in French or English.

“25.28. Community enrollment committees and the Review Committee must send a substantiated decision in writing and within a reasonable time to an applicant and, if applicable, to a person whose enrollment has been examined.

“25.29. No proceedings may be brought against a member of a community enrollment committee or the Review Committee for an act performed in good faith in the exercise of the functions of office.

“DIVISION V.2

“TRANSITIONAL PROVISIONS FOR 1978 AND 1979”.

18. The Act is amended by inserting the following division after section 31:

“DIVISION V.3

“TRANSITIONAL PROVISIONS FOR 2006

“31.1. The register of Inuit beneficiaries kept by the Secretary General in accordance with section 16 is transferred on 1 May 2006 to the Nunavik Enrollment Office created under section 25.13.

That register then becomes the register of Inuit beneficiaries provided for in section 25.14, and the names and other information relating to the persons

enrolled on the register of Inuit beneficiaries or on the list of Inuit beneficiaries not entitled to exercise the rights or receive the benefits granted to them as Inuit are transferred to one or the other of the lists mentioned in section 25.14.

The Minister of Health and Social Services may, subject to the conditions and in the manner determined in an agreement with the Makivik Corporation, provide storage services for the information contained in the register of Inuit beneficiaries.”

AMENDING AND FINAL PROVISIONS

19. Section 116 of the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1) is amended by inserting “, their non-Inuit spouses and the members of their families to the first degree” after “beneficiaries” in the first line of the third paragraph.

20. Section 19 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), amended by section 1 of chapter 32 of the statutes of 2005, is again amended by inserting “19.0.3,” after “19.0.2,” in the first line of paragraph 7.

21. The Act is amended by inserting the following section after section 19.0.2:

“**19.0.3.** An institution that transfers a user to another institution must send the other institution a summary of the information necessary to take the user in charge within 72 hours after the transfer.”

22. Section 1 of the Act respecting the Makivik Corporation (R.S.Q., chapter S-18.1) is amended by replacing paragraph *a* by the following paragraph:

“(a) “Inuit community” means one of the existing Inuit communities of Kangiqsualujjuaq, Kuujjuaq, Tasiujaq, Aupaluk, Kangirsuk, Quaqtaq, Kangiqsujuaq, Salluit, Ivujivik, Akulivik, Puvirnituk, Inukjuak, Umiujaq, Kuujjuaraapik, Chisasibi and Killiniq (Port Burwell), and any Inuit community formed after 1 May 2006 and recognized by the Government;”.

23. Section 13 of the Act is amended by replacing everything after “Inuit communities” in the second line of the first paragraph by “with which they are affiliated according to the register of Inuit beneficiaries maintained in accordance with the Act respecting Cree, Inuit and Naskapi Native persons.”

24. Section 16 of the Act is amended by replacing “reconnu comme membre de” in the third line of the French text by “affilié à”.

25. Sections 1 to 19 and 22 to 24 have effect from 1 May 2006.

26. This Act comes into force on (*insert the date of assent to this Act*).

