

1988, chapter 60

**AN ACT TO AMEND THE ACT RESPECTING
INCOME SECURITY FOR CREE HUNTERS AND
TRAPPERS WHO ARE BENEFICIARIES UNDER THE
AGREEMENT CONCERNING JAMES BAY AND NORTHERN
QUÉBEC**

Bill 59

Introduced by Mr André Bourbeau, Minister of Manpower and Income Security

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Assented to 23 December 1988

Coming into force: 23 December 1988

Act amended:

Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2)





CHAPTER 60

An Act to amend the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec

[Assented to 23 December 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. S-3.2,
s. 1, am.

1. Section 1 of the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2) is amended

(1) by adding, after subparagraph vii of paragraph *b*, the following subparagraph:

“viii. the work carried out as a member of a local committee, not exceeding ten days per year;”;

(2) by replacing, in the English version of paragraph *i*, the words “or who is an unattached individual, eighteen years old or over” by the words “or the beneficiary who is an unattached person eighteen years old or over”.

c. S-3.2,
s. 6, am.

2. Section 6 of the said Act is amended

(1) by replacing what precedes paragraph *a* of the first paragraph by the following:

Eligibility
for benefits

“6. A beneficiary unit is eligible to receive income security benefits if, in cases where the Board has been informed in accordance with section 31.3 of the existence of a local committee, the name of its head appears on the list submitted to the Board not later than 21 June each year or, as the case may be, on the list revised in accordance with

section 31.11 and submitted to the Board not later than 1 August each year, and if during the year preceding the submission of the application contemplated in section 32:";

(2) by replacing paragraph *e* of the first paragraph by the following paragraph:

"(e) it was eligible under paragraph *a* or *b* and its head was forced to abandon or diminish his harvesting and related activities by reason of government action or development activities or in order to allow animal populations to increase to a harvestable level, which resulted in such unit's not being eligible under paragraph *a* or *b*;"

(3) by adding, after paragraph *g* of the first paragraph, the following paragraph:

"(h) it was eligible under paragraph *a* or *b* and its head was unable to participate in harvesting and related activities by reason of her pregnancy, the aftereffects of her pregnancy or the care required by her child, thereby rendering the unit ineligible under paragraph *a* or *b*.";

(4) by replacing the words "to the effect that" in the fifth line of the second paragraph by the words "pursuant to a unanimous recommendation of the Board to the effect that".

c. S-3.2,
s. 7.1, added

3. The said Act is amended by adding, after section 7, the following section:

Death of
head of unit

"7.1 A beneficiary unit shall continue to be entitled to income security benefits during the current year despite the death of the head of the unit."

c. S-3.2,
s. 9, am.

4. Section 9 of the said Act is amended by replacing

(1) the figure "\$1 293" wherever it appears in paragraph *a* by the figure "\$2 654";

(2) the figure "\$517" wherever it appears in paragraphs *b*, *c* and *d* by the figure "\$1 064".

c. S-3.2,
s. 10, am.

5. Section 10 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

"(a) the income of the beneficiary unit from the sale of furs for an amount established by by-law or, in the absence of a by-law, in excess of \$750 for every adult member of the beneficiary unit;"

(2) by inserting the words “net income not in excess of \$3 000 paid to a dependent child supplementary to his studies, payments received by the unit in respect of child care,” after the word “except” in the second line of subparagraph *e* of the first paragraph;

(3) by adding the words “and any other income from a source determined by regulation” at the end of the said subparagraph *e*.

c. S-3.2,
s. 11,
replaced
Exceptions

6. Section 11 of the said Act is replaced by the following section:

“11. Every beneficiary unit is entitled to receive an amount of \$31.35 per adult for every day spent by an adult in the bush in harvesting or related activities, for every day, not exceeding ten days per year, during which an adult participates as a member in the work of a local committee set up under section 31.1 and for every day during which an adult carries out land development activities which have been the subject of a decision of the Minister pursuant to the second paragraph of section 6, except

(a) days for which the head of the unit receives a salary for such activities;

(b) days for which the head of the unit receives unemployment insurance benefits or manpower training allowances;

(c) days for which the head of the unit receives benefits under an Act as income replacement indemnity;

(d) days for which the head of the unit receives a salary for work other than harvesting or related activities.

Consort
benefits

Moreover, where a consort receives benefits, allowances or a salary referred to in the first paragraph, the beneficiary unit is not entitled to receive, in respect of the consort, the amount referred to in the first paragraph for any day for which the consort receives such benefits, allowances or salary.

Maximum
number of
days

The maximum number of days for benefit is 240.”

c. S-3.2,
division,
added

7. The said Act is amended by inserting, after Division III of Chapter II, the following division:

“DIVISION III.1

“MATERNITY BENEFITS

Maternity
benefits

“11.1 Where the woman who is the head of a beneficiary unit or the consort of the head of the unit is unable to participate in harvesting

or related activities by reason of pregnancy, the aftereffects of her pregnancy or the care required by her child, the beneficiary unit is entitled to maternity benefits to the extent and on the conditions provided in this Act and the by-laws of the Board.

Criteria **"11.2** Notwithstanding section 11.1, maternity benefits shall be paid only from such time as it has been established by the Board, on criteria it determines by by-law, that the woman who is otherwise qualified to receive such benefits would have participated in harvesting and related activities, provided she is not receiving benefits under a maternity allowance programme of general application in Québec.

Computation **"11.3** Maternity benefits shall be computed in accordance with section 11.

By-law **"11.4** The amount of maternity benefits and the number of days for which such benefits are payable shall be determined by by-law of the Board; the by-law must provide for benefits that are equivalent to those granted pursuant to any maternity allowance programme of general application in Québec.

Medical certificate **"11.5** Every application for maternity benefits must be accompanied with a medical certificate certifying the pregnancy of the applicant and the anticipated date of delivery.

Content If the application is made following a pregnancy or by reason of the care required by the child, the medical certificate must certify the condition or the fact that the care is required."

**c. S-3.2,
s. 12, am.** **8.** Section 12 of the said Act is amended

(1) by inserting, after the first paragraph, the following paragraphs:

Application for payment "However, the Board shall pay directly to the consort who applies therefor any amount to which that person is entitled, in accordance with the terms and conditions it determines.

Decision of the Board The Board may also, if it deems it expedient and according to the terms and conditions it determines, pay to the consort rather than to the head of the beneficiary unit all amounts owed to the unit or any part of such amounts as may be attributable to the consort.";

(2) by inserting the words "or the consort" after the word "unit" in the first line of the last paragraph.

c. S-3.2,
s. 13, am.

9. Section 13 of the said Act is amended by replacing the first paragraph by the following paragraph:

Reimburse-
ment
of over-
payment

“13. Where the beneficiary unit has received an amount that exceeds the amount payable for one year, the overpayment must be reimbursed in accordance with the terms and conditions established by by-law of the Board within the two years following the subsequent application for income security benefits.”

c. S-3.2,
s. 14, am.

10. Section 14 of the said Act is amended by inserting the words “or his consort” after the words “head of a beneficiary unit” in the first, second and third paragraphs.

c. S-3.2,
s. 28.1,
added

11. The said Act is amended by adding, after section 28, the following section:

By-law of
the Board

“28.1 The Board may also by by-law

(a) determine, for the purposes of paragraph *a* of section 10, the amount of income of the beneficiary unit from the sale of furs; this amount may vary according to categories of beneficiaries determined by the by-law, the income of the beneficiary unit and the territories where harvesting and related activities are carried out or the manner in which such activities are carried out;

(b) determine the other sources of income to be excluded pursuant to subparagraph *e* of the first paragraph of section 10;

(c) determine conditions for the payment of maternity benefits and factors to be considered in establishing, for the purposes of section 11.2, if a woman would ordinarily have participated in harvesting and related activities, had it not been for her pregnancy, the aftereffects of her pregnancy or the care required by her child;

(d) determine the amount of the daily allowance, which cannot exceed the amount set out in section 11, and the maximum number of days for which a beneficiary unit may receive maternity benefits, which cannot exceed 120;

(e) determine the terms and conditions and the criteria according to which any overpayment referred to in section 13 is reimbursed.

Adoption

Such by-laws must be adopted by unanimous decision of the Board and be submitted for approval to the Government.”

c. S-3.2,
s. 31, am.

12. Section 31 of the said Act is amended

(1) by replacing subparagraph *a* of the second paragraph by the following subparagraph:

“(a) receive the applications for income security benefits submitted for the year in the settlement where he carries on his duties;”;

(2) by inserting the words “or to consorts” after the word “units” in subparagraph *b* of the second paragraph.

c. S-3.2,
ss. 31.1 to
31.19, added

13. The said Act is amended by inserting, after section 31, the following chapter:

“CHAPTER IV.1

“LOCAL COMMITTEES

“DIVISION I

“ESTABLISHMENT

Local
committee

“31.1 A Cree community within the meaning of the Act respecting Cree, Inuit and Naskapi Native persons may set up a local committee to establish a list identifying the persons who, according to community custom, are practising harvesting and related activities as a way of life in accordance with the harvesting traditions and the rules of the community.

Composition

“31.2 A local committee shall be composed of not fewer than three nor more than seven members. They shall be chosen for a period determined in accordance with the custom of that community by and from among the adults who are current or former beneficiaries of the programme. However, one member may be designated by the band council within the meaning of the Cree-Naskapi of Québec Act (S.C. 1983-84, chapter 18) from among its members.

Continuance
in office

Notwithstanding the expiration of their terms, the members shall remain in office until they are replaced or reappointed.

Notice

“31.3 Upon its establishment, the local committee shall transmit to the Board the names of its members and shall post a notice of its formation in a public place within the community.

Responsibili-
ties

The document shall identify for the Board the member who shall direct the activities of the committee, coordinate its work and act as liaison between the committee and the Board.

Quorum

“31.4 The quorum at sittings of a local committee shall be at least a majority of the members.

Rules of
procedure

"31.5 Every local committee shall adopt rules of procedure for the implementation of this chapter. The rules shall be transmitted to the Board. They shall come into force upon being posted by the local committee in a public place within the Cree community concerned.

List of eligi-
ble persons

"31.6 Every local committee must, not later than 21 June each year, transmit the list of eligible persons to the Board and post it in a public place within the community.

List not
transmitted

If the Board has not received the list on the prescribed date, the Board shall be deemed not to have been informed in accordance with section 31.3 of the existence of a local committee.

"DIVISION II

"REVIEW

Application
for review

"31.7 Every person who believes himself aggrieved owing to a decision of a local committee may, if no appeal is brought under section 31.12, apply to the local committee for a review of the decision.

Filing

"31.8 The application for a review of a decision must be filed with the local committee within 15 days following the posting of the list referred to in section 31.6.

Representa-
tions

"31.9 Before making a decision concerning a review, the local committee shall give the person concerned the opportunity to present his views.

Decision

"31.10 When reviewing a decision, the local committee may maintain or cancel its decision.

Unfavour-
able decision

An unfavourable decision by a local committee must be in writing and include the reasons on which it is based. It shall be transmitted to the interested person together with a notice informing him of his right to appeal.

List
amended

"31.11 In the case of a favourable decision, the local committee shall amend the list and transmit it to the Board not later than 1 August.

"DIVISION III

"APPEAL

Appeal

"31.12 Every person who believes himself aggrieved owing to a decision of a local committee may appeal to the general meeting of the persons whose names appear on the list prepared by the local

committee within fifteen days following the posting of the list or within five days of the receipt of the decision of the local committee on the review.

General meeting The person in charge of the local committee shall convene the general meeting.

Representations **"31.13** Before rendering a decision, the general meeting shall give the person concerned the opportunity to present his views.

Decision **"31.14** The general meeting may confirm or quash a decision submitted to it.

Transmission The person designated by the general meeting shall transmit the decision to the person concerned and to the local committee.

List amended **"31.15** In the case of a favourable decision, the local committee shall amend the list and transmit it to the Board not later than 1 August.

Appeal **"31.16** Every person who believes himself aggrieved owing to a decision of the general meeting may appeal to the Board.

Provisions applicable The fourth, fifth and sixth paragraphs of section 39, adapted as required, apply to an appeal made pursuant to the first paragraph.

Decision quashed or confirmed **"31.17** The Board may confirm or quash a decision submitted to it.

Appeal **"31.18** Every person who believes himself aggrieved owing to a decision of the Board rendered pursuant to section 31.17 may appeal therefrom to the Commission des affaires sociales in accordance with section 40.

Execution **"31.19** An appeal under this division does not suspend the execution of a decision made by the local committee, the general meeting or the Board."

c. S-3.2, s. 34, replaced **14.** Section 34 of the said Act is replaced by the following section:

Transmission of applications **"34.** Applications for income security benefits must be transmitted to the Board by the local administrator not later than 1 August."

c. S-3.2, s. 35, am. **15.** Section 35 of the said Act is amended by replacing the words "The Board shall examine the lists and applications;" in the first line by the words "The Board shall examine, in conjunction with the lists

prepared and submitted by the local committees, the applications transmitted by the local administrator and shall draw up a definitive list of beneficiaries eligible for the programme;”.

c. S-3.2,
s. 37, am.

16. Section 37 of the said Act is amended by replacing the words “shall transmit” in the first line of the first paragraph by the words “may transmit”.

c. S-3.2,
s. 38, am.

17. Section 38 of the said Act is amended by inserting the words “or their consorts” after the word “units” in the fourth line.

c. S-3.2,
s. 39, am.

18. Section 39 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

Review

“39. Notwithstanding paragraphs *a* to *h* of section 6, if a beneficiary considers that, having regard to the nature and objectives of the programme, he should be considered eligible and receive income security benefits, the Board may, at the request of such beneficiary, examine or review the file, as the case may be, and determine if the reason put forward by such beneficiary is consistent with the nature and objectives of the programme and decide that such beneficiary is to be considered eligible for the programme and may receive such benefits. The decision of the Board must be unanimous.”;

(2) by inserting the words “or his consort” after the word “unit” in the first line of the second paragraph;

(3) by inserting, after the second paragraph, the following paragraph:

Review

“A head of a beneficiary unit or a consort who believes himself aggrieved owing to a decision rendered by the Board pursuant to the second or third paragraph of section 12 may apply to the Board for a review.”

c. S-3.2,
s. 43, am.

19. Section 43 of the said Act is amended by replacing the date “30 November” in the first line of the first paragraph by the date “31 January”.

c. S-3.2,
s. 46, am.

20. Section 46 of the said Act is amended by replacing the words “and in paragraph *a* of section 10” in the first and second lines of the first paragraph by the words “and in paragraphs *a* and *e* of section 10”.

c. S-3.2,
s. 48, am.

21. Section 48 of the said Act is amended

(1) by replacing the number "286 000" in the fourth line of the first paragraph by the number "350 000";

(2) by replacing the number "150 000" in the first line of the second paragraph by the number "185 000 ".

c. S-3.2,
ss. 51 to 58,
repealed

22. Sections 51 to 58 of the said Act are repealed.

Coming into
force

23. This Act comes into force on 23 December 1988.