

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 27

An Act to establish the Makivik Corporation

First reading

Second reading

Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

In order to enforce the Agreement concerning James Bay and Northern Québec, this bill creates, under the name of "Makivik Corporation", a corporation charged with receiving and administering the compensation payable to the Inuit in virtue of the said agreement.

The Makivik Corporation must promote the welfare, education and advancement of the Inuit; it must protect their institutions, way of life, values and traditions.

The Corporation must, during a ten-year period, invest 75% of the compensation intended for the Inuit in the categories of investments described in the schedule to this bill; the percentage will be reduced to 50% for the following ten years; at the end of this twenty-year period, the Corporation may use the funds it administers, according to its own objects.

The Corporation may invest directly or through its wholly owned corporations.

Bill 27

An Act to establish the Makivik Corporation

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

DIVISION I

INTERPRETATION

1. In this Act, unless the context indicates otherwise,

(a) "Inuit community" means each of the following Inuit communities existing on 15 November 1974: Fort George, Poste-de-la-Baleine, Inukdjouac (Port Harrison), Povungnituk, Akulivik, Ivujivik, Saglouc, Maricourt (Wakeham), Koartac, Bellin (Payne), Aupaluk, Tasiujaq, Fort-Chimo, Port-Nouveau-Québec and Killiniq (Port Burwell), as well as any Inuit community formed thereafter and recognized by the Government in an order published in the *Gazette officielle du Québec*;

(b) "board of directors" or "board" means the board of directors created by section 15;

(c) "Agreement" means the Agreement contemplated in section 1 of the Act approving the Agreement concerning James Bay and Northern Québec (1976, chapter 46);

(d) "Corporation" means the Corporation established by section 2.

DIVISION II

INCORPORATION AND OBJECTS OF THE CORPORATION

2. A corporation is incorporated under the name of "Société Makivik". It may be designated in Inuttituit and in English as "Makivik Corporation".

3. Only the Inuit beneficiaries under the Act respecting Cree and Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*) are or may be members of the Corporation.

4. The Corporation is a non-profit corporation without share capital and governed, subject to the provisions of this Act, by Part III of the Companies Act (Revised Statutes, 1964, chapter 271) as it exists at the coming into force of this act, save that the enumeration in section 220 of the said act of sections which do not apply to the Corporation reads as follows: sections 1 to 17 and 23 to 27, paragraph *q* of section 29, sections 34 to 40, 42 to 73, 76 to 79, 81, the first three paragraphs of section 83, sections 84 and 85, subsection 3 of section 86, paragraphs *a* and *b* of subsection 2 of section 88, sections 89 to 91, paragraphs *j* and *k* of subsection 3 of section 95, section 99, subsection 2 of section 100, paragraphs *d* and *e* of subsection 1 and subsection 2 of section 101, and sections 117 to 119.

5. The objects of the Corporation are:

(a) to receive, administer, use and invest the part, intended for the Inuit, of the compensation provided for in subsections 25.1 and 25.2 of the Agreement and the revenues therefrom, as well as all its other funds, in accordance with this act;

(b) to relieve poverty and to promote the welfare and the advancement of education of the Inuit;

(c) to develop and improve the Inuit communities and to improve their means of action and the related institutions;

(d) to exercise the functions vested in it by other acts or the Agreement;

(e) to foster, promote, protect and assist in preserving the Inuit way of life, values and traditions.

6. The Corporation shall have its head office in the Territory, within the meaning of this expression in the Act respecting Cree and Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*), at such place as it determines by by-law.

Such by-law shall come into force upon its publications in the *Gazette officielle du Québec*.

DIVISION III

POWERS AND DUTIES OF THE CORPORATION

7. The Corporation must,

(a) until 31 October 1997, invest directly or through one or more of its wholly owned corporations incorporated, either by

special act of the Assemblée nationale or under Québec laws of general application, at least fifty per cent of that part intended for the Inuit of the compensation provided for in subsection 25.1 of the Agreement, from time to time as it is received, in the investments described in the schedule;

(b) until 31 October 1987, invest directly or through one or more of its wholly owned corporations incorporated, either by special act of the Assemblée nationale or under Québec laws of general application, at least twenty-five per cent, in addition to the minimum of fifty per cent contemplated in paragraph *a*, of that part intended for the Inuit of the compensation referred to in subsection 25.1 of the Agreement, from time to time as it is received, in the investments described in the schedule.

8. The Corporation may

(a) set aside or transfer to one or more of its wholly owned holding or venture capital corporations incorporated, either by special act of the Assemblée nationale or under Québec laws of general application, not more than twenty-five per cent of that part of the compensation intended for the Inuit referred to in subsection 25.1 of the Agreement, from time to time as it is received, for the following purposes:

(i) to assist in the creation, financing or development of businesses, resources, properties and industries belonging to the Inuit;

(ii) to initiate, expand and develop opportunities for the Inuit to participate in the economic development of their society through the application of their skills and capital; and

(iii) to invest in the securities of any corporation owning property or carrying on business intended to directly relate to the economic or other interests of the Inuit;

(b) set aside or transfer to one or more of its wholly owned or wholly controlled corporations incorporated, either by special act of the Assemblée nationale or under Québec laws of general application, or, with the approval of the Government, to some form of wholly owned or wholly controlled non-corporate entity, any amount which, when added to the amount set aside or transferred pursuant to paragraph *a*, does not amount to more than twenty-five per cent of that part intended for the Inuit of the compensation referred to in subsection 25.1 of the Agreement, from time to time as it is received, that must be used exclusively for educational, community and other charitable activities of the Inuit;

(c) subject to sections 10 and 11, administer, conserve, invest, reinvest, distribute and use all revenues derived from the investment of the said compensation and any part of the said compensation not required to be invested under section 7 or the setting aside

or transfer of which has not been made in accordance with paragraphs *a* and *b* as well as all its other funds, and, after the expiration of the periods referred to in paragraphs *a* and *b* of section 7, any part of the compensation therein referred to, as it deems appropriate;

(*d*) at its discretion, use its assets to reimburse the Northern Québec Inuit Association for debts contracted or expenses incurred by the latter for the general benefit of the Inuit until the coming into force of this act.

9. When, in accordance with section 7 or 8, the Corporation invests part of the compensation through corporations or transfers part of it to partnerships, corporations or other entities, these must invest these amounts or use them in accordance with the said sections.

10. The Corporation and the legal entities referred to in sections 7 and 8 must use their assets exclusively for community purposes and other activities of general benefit to the Inuit; such assets shall not be distributed to an Inuit community except for its general benefit, and not for the individual benefit of any member of the Corporation.

11. The Corporation and the legal entities contemplated in sections 7 and 8 shall not distribute their assets, make gifts, or give any other benefit to any individual as distinct from the Inuit community, unless such assets are to be used for the benefit of the Inuit community as a whole.

12. The investments made pursuant to section 7 by the Corporation or the legal entities contemplated in the said section, and the securities of the said legal entities which are owned by the Corporation are exempt from seizure, save in respect of debts and obligations relating directly to such investments, and shall not be used as real security or alienated.

13. The Corporation shall prepare each year a list of members and of major members arranged in alphabetical order and indicating the Inuit communities to which they are affiliated, on the basis of the Inuit Register established and maintained, in accordance with the Act respecting Cree and Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*), by the Secretary General contemplated in the said act.

Each member is entitled to consult this list as provided in the by-laws of the Corporation.

14. Within the six months following the end of each of its first twenty fiscal years, the Corporation shall file copies of its audited financial statements with the minister responsible for the application of this act and with the Minister of Indian Affairs and Northern Development.

DIVISION IV

THE BOARD OF DIRECTORS OF THE CORPORATION

15. The affairs of the Corporation shall be managed by a board of directors consisting of not under seventeen nor over twenty-five persons.

Should the number of Inuit communities increase or decrease from the present level of fifteen, these minimum and maximum numbers will automatically be adjusted upwards or downwards, as the case may be, by the amount of that increase or decrease.

16. The board of directors shall consist of at least one representative elected by each Inuit community. Each representative must, at the time of his election, be affiliated with the community that he represents, in accordance with the Act respecting Cree and Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*), and be ordinarily resident therein.

17. Until 31 October 1985, the board of directors shall include three representatives appointed, after consultation with the other members of the board, by the governmental authorities, namely, two representatives by the Government of Québec and one by the Minister of Indian Affairs and Northern Development. These members have the status of members of the board but receive no remuneration or reimbursement of expenses from the Corporation.

Such representatives may remain in office until 31 October 1987 upon the affirmative vote of four other members of the board, at a meeting of the board of directors duly convened to consider the question.

18. The election of the other members of the board who are not elected or appointed in accordance with section 16 takes place at the annual general meeting of the members of the Corporation.

19. All members of the board must be major and, save for the representatives of the Government appointed in accordance with section 17, must be members of the Corporation.

20. The term of each member of the board of directors commences at the termination of the annual general meeting immediately following his election or appointment or at which he is elected, as the case may be.

Such term shall not exceed three years in the case of elected members and two years in the case of representatives of the Government appointed in accordance with section 17.

21. Should any of the Inuit communities fail to elect a representative to the board of directors, or should the annual general meeting elect an insufficient number of representatives to the board, or should the representatives mentioned in section 17 not be appointed, a vacancy on the board of directors exists until an election or appointment is made as provided for in sections 16 to 20.

22. Save as provided in section 21, vacancies on the board of directors shall be filled as follows:

(a) should the unexpired portion of the term of any member elected by an Inuit community exceed one year, elections must be held in this community in the manner provided for in section 27; otherwise, the remaining directors may fill such vacancy by appointing to the council a person who must, at the moment of his appointment, be affiliated with the Inuit community that he represents and be ordinarily resident therein;

(b) should the unexpired portion of the term of any such member elected at an annual general meeting exceed one year, reckoned from the date of the next annual general meeting of members, an election for his replacement shall be held at such meeting; in the meantime, the remaining directors fill the vacancy until the termination of the next annual general meeting of members;

(c) should the unexpired term of any such member contemplated in paragraph *b* be less than one year, reckoned from the date of the next annual general meeting of members, the remaining directors fill the vacancy;

(d) vacancies created by representatives appointed in accordance with section 17 shall be filled by those who made the appointment.

The members of the board of directors so elected or appointed, save in the case of an appointment made by the members of the board pursuant to paragraph *b*, remain in office for the unexpired portion of the term of the members they replace.

23. Where a vacancy is filled, the term commences either on the date a member representing an Inuit community is elected,

at the termination of the annual general meeting in the case of a member elected at such a meeting or on the date of appointment in the case of a member appointed in accordance with section 17 or appointed by the other members of the board of directors to fill the vacancy.

24. The quorum for meetings of the board of directors is a majority of the elected or appointed members, representing at least the majority of the Inuit communities who have elected representatives to the board of directors.

25. Seven days prior notice must be given to each member of the board of directors in respect of any meeting of the board requiring notice. Such notice may be given in writing, by telephone, by telex or by any other means of telecommunication.

26. Subject to this act, the by-laws of the Corporation may provide for:

- (a) the number of members of the board of directors;
- (b) the term of office of each member of the board of directors, not including Government representatives appointed in accordance with section 17, so as to provide for the election by turns of a given number of members each year following the first election of directors;
- (c) the period during which elections for the representatives of each Inuit community to the board of directors must be held;
- (d) the quorum at meetings of the board of directors;
- (e) the quorum at meetings of members and the method of reimbursement of the expenses incurred by the representatives of each Inuit community because of their participation in these meetings;
- (f) the percentage of votes required to validly elect a representative of each Inuit community to the board of directors;
- (g) the terms and conditions governing the use of the assets of the Corporation.

Any amendment to the foregoing by-laws comes into force only upon ratification by special resolution adopted by a majority of at least two-thirds of the votes from the major members of the Corporation having voted in person or by proxy at a meeting of the members duly summoned to examine that resolution.

DIVISION V

ELECTIONS

27. When required, elections for representatives of each Inuit community to the board of directors are held in each community during the ninety-day period preceding the date fixed for the annual general meeting of the members or during the ninety-day period following the creation of any vacancy on the board of directors which must be filled by election in accordance with paragraph *a* of section 22.

28. The elections provided for in section 27 shall be held under the supervision of a returning-officer appointed by the board. A member of the board cannot be returning-officer.

29. Only major Inuit members affiliated with each Inuit community, in accordance with the Act respecting Cree and Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*), may vote in the election of a representative of such community to the board. Each major member has only one vote and may vote in person or by proxy. Only a member entitled to vote may act as proxy.

30. Voting at an election held in an Inuit community continues until a candidate receives the majority of the votes cast.

31. The election for the representative of an Inuit Community is not valid unless at least fifteen per cent of the members entitled to vote have voted in person or by proxy.

DIVISION VI

GENERAL MEETINGS OF MEMBERS

32. The annual general meeting of members of the Corporation shall be held within six months after the fiscal year-end of the Corporation.

33. Only a major member may vote at general meetings of the Corporation and each member has only one vote; such vote may be made in person or by proxy; only a major member may act as proxy.

34. A quorum at general meetings of members is formed of the major members present in person who are affiliated with an Inuit community in accordance with the Act respecting Cree and

Inuit Native persons (1978, chapter *insert here the chapter number of Bill 34*); that quorum is thirty-five members representing at least the majority of the Inuit communities that have elected representative to the board.

35. The Corporation shall provide the funds necessary to cover the justifiable expenses incurred in attending any general meeting of at least two representatives from each Inuit community.

DIVISION VII

TRANSITIONAL PERIOD PROVISIONS

36. From the coming into force of this act until the termination of the first annual general meeting of members, a provisional board of directors, consisting of twenty-four persons, is constituted as follows: one representative of each Inuit community appointed at a meeting of the community council or local authority of each of the fifteen existing Inuit communities, six representatives appointed by the Northern Québec Inuit Association, and three other representatives appointed in accordance with section 17.

Should any member of the provisional board of directors not be appointed in accordance with the preceding paragraph, a vacancy remains on the board until an appointment is made.

The remaining members of the board fill vacancies other than those provided for in the preceding paragraph, in the case of representatives already appointed by the community councils and the Northern Québec Inuit Association. Vacancies created by representatives appointed in accordance with section 17 shall be filled by the person who made the appointment.

The term of members of the provisional board of directors so appointed or appointed as substitutes commences on the date of their appointment.

37. Until the termination of the first annual general meeting of members, the Corporation shall deposit the compensation contemplated in subsection 25.1 of the Agreement with a Canadian chartered bank carrying on business in Québec, and the revenues therefrom shall be received by the Corporation and managed and used by it in accordance with this act. Until such meeting of members, the Corporation, in addition to the other restrictions contained in this act, shall not:

(a) borrow any money in excess of the total of the accrued but unpaid interest which might at any time and from time to time be owing to the Corporation under the province of Québec debent-

tures issued to the Corporation pursuant to subsection 25.2 of the Agreement;

(b) anyway encumber any of its assets;

(c) make any agreement having a term in excess of one year or containing any commitment, financial or otherwise, that will not be fully discharged within such period.

38. Subject to this division, the other divisions of this act apply, *mutatis mutandis*, to the provisional board of directors. For that purpose, the reference,

(a) in section 16, to a representative elected by each of the Inuit communities is a reference to a representative appointed by each of the Inuit communities; and,

(b) in sections 24 and 34, to the majority of the Inuit communities who have elected representatives to the board of directors, is a reference to the majority of the Inuit communities who have appointed representatives to the board of directors.

DIVISION VIII

FINAL PROVISIONS

39. No voluntary winding-up or dissolution of the Corporation may take place without prior government approval of the plan for distribution, after it has discharged its debts, of its assets to the Inuit communities for community purposes, other undertakings of general benefit to the Inuit or one or more prescribed charitable organizations contemplated in the Taxation Act (1972, chapter 23).

40. The Corporation is not entitled to the interest accrued, until the coming into force of this act, on the part of the compensation referred to in subsection 25.1 of the Agreement and paid to the Northern Québec Inuit Association for the general benefit of the Inuit. The Northern Québec Inuit Association must, however, give an account to the Corporation of its use of such interest and remit to the latter the portion of such interest remaining at the time of the coming into force of this act.

41. The Makivik Corporation is the legal entity contemplated in subsections 1.11 and 27.01 of the Agreement. Every mention of the legal Inuit entity in the Agreement or in any other act or document to which the Government is a party designates the Makivik Corporation.

42. Section 21 of the Intergovernmental Affairs Department Act (1974, chapter 15) does not apply to the Corporation, nor to the legal entities contemplated in sections 7 and 8.

43. The Government shall designate the minister responsible for the application of this act.

44. This act comes into force on a date to be fixed by proclamation of the Government.

SCHEDULE

AUTHORIZED INVESTMENTS

(1) Bonds or other evidences of indebtedness issued or guaranteed by the government of the province of Québec, of Canada or a province of Canada, of the United States of America or of any state thereof, by the International Bank for Reconstruction and Development, by a municipal or school corporation in Canada, or by a "fabrique" in the province of Québec;

(2) bonds or other evidences of indebtedness issued by a public authority having as its object the operation of a public service in Canada or any province thereof and entitled to impose a tariff for such service;

(3) bonds or other evidences of indebtedness secured by the transfer to a trustee of an undertaking by Canada or any province of Canada to pay sufficient subsidies to meet the interest and principal at their respective maturities;

(4) bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by a first mortgage, charge or hypothec to a trustee or to the Corporation upon any, or any combination, of the following assets:

(i) real estate or leaseholds;

(ii) the plant or equipment of a corporation that is used in the transaction of business; and

(iii) bonds, debentures or other evidences of indebtedness, shares of a class authorized hereunder as investments, or cash balances, if such bonds, debentures, other evidences of indebtedness, shares or cash balances are held by a trustee;

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized hereunder as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

(5) bonds or certificates issued by a trustee to finance the purchase of transportation equipment, for a corporation incorporated in Canada or the United States, to be used on airlines, railways or public highways, if the bonds or certificates are fully secured by

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the corporation;

(6) bonds, debentures or other evidences of indebtedness

(i) of a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by paragraph 8 or 9; or

(ii) of, or guaranteed by, a corporation whose total earnings for a period of five (5) years ended less than one year before the date of investment were at least ten (10) times, and in each of any four (4) of the five (5) years, were at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by that corporation other than indebtedness classified as a current liability, under generally accepted accounting principles, in the balance sheet of the corporation; and if the corporation at the date of investment owns directly or indirectly more than fifty per cent (50%) of the common shares of another corporation, the earnings of the corporations during the said period of five (5) years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporations shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation; and, for the purposes of this subparagraph, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability under generally accepted accounting principles;

(7) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the common shares or the preferred shares of the trust company are authorized as investments by paragraph 8 or 9, certificates of deposit and bearer discount notes of any Canadian chartered bank or any savings and credit union;

(8) the preferred shares of a corporation if

(i) the corporation has paid a dividend, in each of the five years immediately preceding the date of investment, at least equal to the specified annual rate on all its preferred shares, or

(ii) the common shares of the Corporation are, at the date of investment, authorized as investments by paragraph 9;

(9) the fully paid common shares of a corporation that, during a period of five (5) years that ended less than one year before the date of investment has either

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares, of at least four per cent (4%) of the average value at which the shares were carried in the capital account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(10) real estate or leaseholds for the production of income in Canada, if

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the government of Canada or of any of the provinces, or an agency of the said governments, or

(B) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by paragraph 8 or 9,

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent (85%) of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of the Corporation hereunder in any one parcel of real estate or in any one leasehold does not exceed two per cent (2%) of the book value of the total assets of the Corporation;

and the Corporation may hold, maintain, improve, lease, sell or otherwise alienate or dispose of the real estate or leasehold;

(11) real estate or leaseholds for the production of income in Canada, if

(i) the real estate or leasehold has produced, in each of the three (3) years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would

be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least eighty-five per cent (85%) of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of the Corporation hereunder in any one parcel of real estate or in any one leasehold does not exceed two per cent (2%) of the book value of the assets of the Corporation;

and the Corporation may hold, maintain, improve, lease, sell or otherwise alienate or dispose of the real estate or leasehold;

(12) debts secured by mortgages, charges and hypothecs, upon improved real estate or leaseholds in Canada, notwithstanding that the amount paid for such debts so secured by mortgage, charge or hypothec exceeds three-quarters of the value of the real estate or leasehold, if the loan for which the hypothec, mortgage or charge is security, is an approved loan or an insured loan under the National Housing Act (Revised Statutes of Canada, 1970, chapter N-10) or any equivalent provincial legislation;

(13) debts secured by hypothec or mortgage on real estate in Canada:

(i) if payment of principal and interest is guaranteed or assured by the government of Canada or of any province of Canada, or by any public authority therein; or

(ii) if the hypothec or mortgage ranks first and the amount of the debt is not more than seventy-five per cent (75%) of the value of the real estate securing payment thereof;

(14) where the Corporation owns securities of a corporation and as a result of investments made hereunder and as a result of a bona fide arrangement for the reorganization or winding up of the corporation or for the amalgamation of the corporation with another corporation, such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not authorized as investments by the foregoing provisions of this schedule, the Corporation may accept such bonds, debentures or other evidences of indebtedness or shares;

(15) the total book value of the investments of the Corporation in common shares authorized in this schedule shall not exceed fifty per cent (50%) of the book value of the assets of the Corporation;

(16) the total book value of the investments of the Corporation in real estate or leaseholds for the production of income authorized in this schedule shall not exceed ten per cent (10%) of the book value of the assets of the Corporation;

(17) the Corporation shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default;

(18) in order to secure total or partial payment of any amount owed to it, the Corporation may acquire and alienate the real estate which secures such payment, and such real estate is not subject to the restrictions prescribed in paragraph 10, 11 or 16;

(19) the Corporation may invest the funds described in section 8 of this act otherwise than as authorized in this schedule, provided that the total amount of such investment does not exceed seven per cent (7%) of the book value of the assets of the Corporation and that, in the case of investment in real estate, the total real estate investment in a single undertaking does not exceed one per cent (1%) of the book value of the total assets of the Corporation.