

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 34

An Act respecting Cree and Inuit Native persons

First reading
Second reading
Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The main objects of this bill are to enable the Government to provisionally delimit Category I, IA, IB, II and III lands, including Special Category I lands and Special Category IB lands, which are the subject of the Agreement concerning James Bay and Northern Québec, and to determine on what conditions the Crees and Inuit may be considered beneficiaries under the said Agreement.

Division II, after having specified the territory to which the Act applies (section 2), determines that the territory is divided into lands of various categories, namely Category I, IA, IB, II and III lands, including Special Category I lands and Special Category IB lands, and that these lands will be delimited in conformity with Bill 29, an Act respecting the land regime in the territories of James Bay and New Québec (section 3).

By section 4, the Government, so long as the said lands have not been delimited in conformity with the said act, will be able to delimit them provisionally by a special order.

Division III determines the conditions on which a person is qualified to be enrolled as a Cree beneficiary or as an Inuk beneficiary, and that he must fulfill to invoke his rights, privileges and benefits recognized by the act (sections 5 to 14).

Division IV provides for the registration of persons who claim the status of beneficiaries. To that effect, the General Secretariat established by the Regulation respecting eligibility for the benefits of the Agreement concerning James Bay and Northern Québec sees its existence and powers confirmed by law (sections 15 and 26); the Secretary General already in office will continue to keep the Cree register and the Inuit register and to enter in them the names of the Cree and Inuit beneficiaries (sections 16 to 20).

Division V provides for an appeal from the decisions rendered by the Secretary General, in favour of persons who are not satisfied with certain decisions of the Secretary General, before an Appeal Board composed of one judge of the Provincial Court designated by the Government (sections 21 to 25).

Bill 34

An Act respecting Cree and Inuit Native persons

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) "beneficiary, "Cree beneficiary" or "Inuk beneficiary", as the case may be, means a person contemplated in Division III;

(b) "Québec Native Appeal Board" means the appeal board established by section 21;

(c) "Enrollment Commission" means the Commission established, by the application of section 3.3.3 of the Agreement, by the Regulation respecting eligibility for the benefits of the Agreement concerning James Bay and Northern Québec adopted by order in council number 2932 of 1976, under subsection 6 of section 2 of the Act approving the Agreement concerning James Bay and Northern Québec (1976, chapter 46);

(d) "Cree community" means a group consisting of all members of a Cree band, within the meaning of the Indian Act (R.S.C., 1970, chapter I-6), in the territory, as well as all other persons who are entitled to be enrolled as Cree beneficiaries under the terms of this act and who are recognized by the said band as belonging to such group;

(e) "Inuit community" means one of the Inuit communities, existing on 15 November 1974, at Fort George, Great Whale River, Inukjuaq (Port Harrison), Povungnituk, Akulivik, Ivujivik, Sugluk, Maricourt (Wakeham Bay), Koartak, Bellin (Payne Bay), Aupaluk, Tasiujaq, Fort-Chimo, Port-Nouveau-Québec and Killi-

nek (Port Burwell), and any Inuit community formed thereafter and recognized by the Government by an order in council published in the *Gazette officielle du Québec*;

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

(g) "Secretary General" means the Secretary General contemplated in section 15;

(h) "territory" means the territory contemplated in section 2.

DIVISION II

TERRITORIAL APPLICATION

2. The territory to which this act applies is formed by the territories defined by the Québec boundaries extension acts, as evidenced by chapter 6 of the statutes of 1897/1898 and chapter 7 of the statutes of 1912 (1st session).

3. The territory is divided into lands of various categories, namely Categories I, I-A, I-B, II and III lands, including Special Category I lands and Special Category I-B lands. These lands are delimited in conformity with the Act respecting the land regime in the territories of James Bay and New Québec (1978, chapter *insert here the chapter number of Bill 29*) and shall be disposed in conformity with the said act.

4. Notwithstanding section 3, the Government may, so long as the lands contemplated therein have not been delimited in conformity with the said section, delimit them provisionally by a special order made under this section, published in the *Gazette officielle du Québec*. The special order ceases to have effect, in whole or in part, on any date fixed by an order of the Government published in the *Gazette officielle du Québec*.

Any reference in an act, order in council or other document to the Act respecting the land regime in the territories of James Bay and New Québec (1978, chapter *insert here the chapter number of Bill 29*) accompanied with the mention of one of the categories of lands contemplated in section 3 is considered a reference to the said special order, so long as it is in force. The same rule applies to any mention of the said categories of lands, in any manner whatever, in any act, order in council or document.

DIVISION III

BENEFICIARIES

5. In order to invoke, as a beneficiary, his rights, privileges and benefits recognized by this act, a person must fulfil the conditions set forth in this division, unless specially provided otherwise.

6. A person is entitled to be enrolled as a Cree beneficiary if, on 15 November 1974, he was

(a) under the terms of the Indian Act (R.S.C., 1970, chapter I-6), a member or a person entitled to be a member of one of the eight Cree Indian bands of Québec designated on the said date under the names of Waswanipi, Mistassini, Old Factory, Fort George, Eastmain, Rupert House, Nemaska and Great Whale River;

(b) a person of Cree ancestry ordinarily resident in the territory;

(c) a person of Cree or Indian ancestry recognized by one of the Cree communities as having been a member thereof;

(d) the adopted child of a person mentioned in paragraph *a*, *b* or *c*.

7. On and after 16 November 1974, a person is also entitled to be enrolled as a Cree beneficiary and is entitled to benefit therefrom as a member of one of the Cree communities, if he is

(a) a legitimate or illegitimate descendant in the male or female line of a person contemplated in section 6 or 8;

(b) the adopted child of a person contemplated in section 6 or in paragraph *a* of this section, provided that such child is a minor at the time of the adoption.

8. Every Cree community may, at its discretion, direct the Secretary General to enroll as a Cree beneficiary any person of Cree ancestry, provided that such person

(a) was born in the territory, or

(b) is ordinarily resident in the territory, and

(c) would have been entitled to be enrolled with his descendants under sections 6 and 7 but, through inadvertence or otherwise, was omitted from the official lists of Cree beneficiaries prepared by the Enrollment Commission.

9. A person is entitled to be enrolled as an Inuk beneficiary if, on 15 November 1974, he was

(a) a person of Inuit ancestry, born in Québec or ordinarily resident in Québec or, if not ordinarily resident in the territory, recognized by one of the Inuit communities as a member thereof;

(b) a person of Inuit ancestry, recognized by one of the Inuit communities as having been a member thereof at that date;

(c) the adopted child of a person contemplated in paragraph *a* or *b*.

10. On and after 16 November 1974, a person is also entitled to be enrolled as an Inuk beneficiary, if he is

(a) a legitimate or illegitimate descendant in the male or female line of any person contemplated in section 9 or 11;

(b) the adopted child of any person contemplated in section 9 or in paragraph *a* of this section, provided that such child is a minor at the time of the adoption;

(c) the lawful spouse of any person contemplated in section 9, in paragraph *a* or *b* or in section 11.

11. Every Inuit community may, from time to time at its discretion, direct the Secretary General to enroll as an Inuk beneficiary any person of Inuit ancestry, provided that such person

(a) was born in Québec, or

(b) is ordinarily resident in the territory, and

(c) would have been entitled to be enrolled with his descendants under sections 9 and 10 but, through inadvertence or otherwise, was omitted from the official lists of Inuit beneficiaries prepared by the Enrollment Commission.

12. Any beneficiary contemplated in sections 6 to 11 who is absent from the territory for ten consecutive years and is domiciled outside the territory is not entitled to exercise his rights, or to receive benefits granted by the Agreement, as a beneficiary.

Upon such person's re-establishing his domicile in the territory, his entitlement to exercise his rights and to receive benefits as a beneficiary revives.

13. A Cree community recognizes a person as one of its members by a resolution approved by a majority of the members of the band council.

An Inuit community does likewise by a resolution approved by a majority of the members of the board of directors of an Inuit land holding established by the Act respecting the land regime in the territories of James Bay and New Québec (1978, chapter *insert here the chapter number of Bill 29*) or, until such corporation is

established, the majority of the members of the existing Inuit community council.

14. Adoption as considered in this act is that effected in conformity with the laws relating to adoption in force in Canada or in conformity with the Cree or Inuit customs, as the case may be.

DIVISION IV

REGISTRATION OF BENEFICIARIES

15. A secretary general, appointed to the Ministère des affaires sociales, is entrusted with the registration of beneficiaries.

16. The Secretary General must keep a Cree register and an Inuit register in which are respectively recorded the names of the Cree beneficiaries and of the Inuit beneficiaries. In the case of the Crees, the register contains the community lists referred to in section 18.

The Cree and Inuit registers kept by the Secretary General indicate the date on which each name is entered thereon or deleted therefrom.

17. The Secretary General may at any time add to or delete from the registers the name of any person who is entitled or not entitled to have his name included in the registers.

18. (1) Every Cree beneficiary is also enrolled on one of the lists established for each community.

(2) No Cree beneficiary may be enrolled in more than one Cree community at a time.

(3) Every Cree beneficiary enrolled as a band member is enrolled in the Cree community in respect of which he is registered under the Indian Act (R.S.C., 1970, chapter I-6).

(4) Every Cree beneficiary who is not a band member is enrolled in the Cree community in which he has been granted affiliation, in conformity with paragraph *b*, *c* or *d* of section 6 or section 7 or 8, or failing this, in the Cree community in which one of his parents is enrolled. In the latter case, the choice of the Cree community is at the option of the person having the legal or *de facto* custody of that beneficiary, if a minor, or at his option if he has reached the age of eighteen.

(5) Every Cree beneficiary born of parents who are members of different Cree communities is enrolled in his father's Cree com-

munity. Upon his majority, that beneficiary has the right to be enrolled in either Cree community and notifies the Secretary General as to the Cree community in which he wishes to be enrolled, failing which, he remains a member of his father's Cree community.

(6) Every Cree beneficiary marrying a member of another Cree community may retain membership in his community of origin.

(7) Every Cree beneficiary enrolled in a Cree community may be admitted as a member of another Cree community with the consent of the latter. The decision to that effect is made by a majority of the members of the community present at a meeting of the community called for that purpose; the decision is recorded in a council resolution and forwarded to the local registry officer contemplated in subsection 8.

(8) A qualified Cree beneficiary is appointed local registry officer by the Government, for each Cree community.

That local registry officer keeps and maintains the Cree community list and immediately notifies the Secretary General of all changes in the list necessitating changes in the Cree register.

19. (1) The Inuit register kept by the Secretary General indicates, in the case of Inuit beneficiaries, the Inuit community to which those beneficiaries are affiliated.

(2) Every Inuk beneficiary is affiliated

(a) to the Inuit community in which he is accepted for enrollment by the Enrollment Commission,

(b) to the Inuit community in which he is accepted for enrollment in conformity with section 11 or 17, or

(c) to the Inuit community to which one of his parents is affiliated, subject to subsections 3 and 4.

(3) An Inuk beneficiary shall not be affiliated to more than one Inuit community at any given time.

(4) Every Inuk beneficiary born of parents affiliated to different Inuit communities is deemed affiliated to his father's Inuit community. Upon his majority, that Inuk beneficiary has the right to be enrolled in either community and notifies the Secretary General of the Inuit community in which he wishes to be enrolled, failing which, he remains a member of his father's Inuit community.

(5) When two Inuit beneficiaries affiliated to separate Inuit communities marry, they retain affiliation to their respective Inuit communities of origin.

(6) Every Inuk beneficiary affiliated to an Inuit community may be affiliated to another community with the consent of the latter. That consent is given in the form of a resolution approved by a majority of the members of the board of directors of the Inuit land holding corporation of that community present at a meeting called for that purpose. The said resolution is immediately forwarded to the local registry officer contemplated in subsection 8.

(7) Notwithstanding the foregoing, every Inuk beneficiary who has established permanent residence in an Inuit community for at least three years may be affiliated of right to that community. This right extends to his consort and minor unmarried children.

(8) An Inuk beneficiary in each Inuit community is appointed local registry officer by the Government.

That local registry officer keeps and maintains the Inuit community list and immediately notifies the Secretary general of all changes in the list necessitating changes in the Inuit register.

20. No person may be enrolled on more than one list. Upon his majority, every person entitled to be enrolled on both the Cree and Inuit lists must indicate to the secretary general the list on which he wishes to be enrolled, and on his failing to do so, the Secretary General decides on which list that person shall be enrolled.

DIVISION V

APPEAL

21. A Québec Native Appeal Board is established to hear all appeals made in accordance with this division. This appeal board is composed of one judge of the Provincial Court designated by the Government for that purpose.

22. Within six months after the notification by the Secretary General that the name of a person has been added to or deleted from the Cree or Inuit register or within six months after the notification by the Secretary General of his refusal to include the name of a person on that register, an appeal from his decision lies to the Québec Native Appeal Board.

23. An appeal provided for in this division shall not be made more than once.

24. The following persons may appeal to the Québec Native Appeal Board:

(a) every person whose name has been omitted, excluded or deleted from or included in the lists;

(b) every person whose name has been added to or deleted from the Cree or Inuit registers;

(c) every person whose application has been refused by the Secretary General;

(d) a council of one of the Cree bands or an Inuit community council, or their successors.

25. The Minister of Indian Affairs and Northern Development shall be notified by the Secretary General of all appeals under this division and has the right to intervene on his own behalf, or, at the request of the appellant, on the appellant's behalf."

26. Until otherwise provided, the office of Secretary General established by this act shall continue to be filled by the person responsible for the "Registre de la population" at the Ministère des affaires sociales, in accordance with paragraph *j* of section 1 of the Regulation respecting eligibility for the benefits of the Agreement concerning James Bay and Northern Québec adopted by order in council number 2932 of 1976, by application of section 3.3.3 of the Agreement under subsection 6 of section 2 of the Act approving the Agreement concerning James Bay and Northern Québec (1976, chapter 46).

27. The judge of the Provincial Court appointed under section 23 of the regulation mentioned in section 26 shall continue to exercise his functions under section 21.

28. Every other appointment made under the regulation mentioned in section 26 is valid for the corresponding function established by this act.

29. This act will come into force on the date to be fixed by proclamation of the Government.