

SECTION 3A

Eligibility – Inuit

3A.1 Application

3A.1.1 Section 3 of the Agreement does not apply to Inuit and Section 3A does not apply to Cree.

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3A.1.2 The present Section does not retroactively affect Inuit beneficiaries' rights acquired under Section 3 of the Agreement.

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3A.2 Definitions

For the purposes of this Section, the following definitions apply:

“Associated with an Inuit community” refers to the familial, residential, historical, cultural or social connections a person has with an Inuit community.

“Inuit community” is one of the existing Inuit communities at Kangiqsualujuaq, Kuujjuaq, Tasiujaq, Aupaluk, Kangirsuk, Quaqaq, Kangiqsujuaq, Salluit, Ivujivik, Akulivik, Puvirnituk, Inukjuak, Umiujaq, Kuujjuaraapik, Chisasibi, future Inuit communities recognized by Québec, and Killiniq (Port Burwell) for the specific purposes mentioned in the Agreement.

“Secretary General” is the secretary general of the *Registre de la Population du Québec*, now identified as the *Registres des bénéficiaires cris, inuits et naskapis de la Baie-James et du Nord québécois et de la Convention du Nord-Est québécois* maintained at the ministère de la Santé et des Services sociaux.

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3A.3 Eligibility

3A.3.1 A person shall be entitled to be enrolled as a beneficiary under the Agreement, subject to paragraphs 3A.3.3 and 3A.3.4, if he or she :

- a) is alive,
- b) is a Canadian citizen,
- c) is an Inuk, as determined in accordance with Inuit customs and traditions,
- d) identifies himself or herself as an Inuk, and
- e) is associated with an Inuit community.

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3A.3.2 For the purpose of sub-paragraph 3A.3.1 d), the parent or tutor of a person who is unable to identify himself or herself as an Inuk may identify that person as an Inuk.

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3A.3.3 No persons shall be enrolled under the Agreement and at the same time enrolled under any other Canadian aboriginal land claims agreement or treaty. A person enrolled under another Canadian aboriginal land claims agreement or treaty who would be entitled to be enrolled as a beneficiary under the Agreement

may enrol if he or she gives up, for the duration of such enrolment under the Agreement, his or her enrolment under the terms of the other Canadian aboriginal land claims agreement or treaty.

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3A.3.4 Notwithstanding paragraph 3A.3.3, Inuit beneficiaries may be enrolled under other agreements or treaties related to Nunavik Inuit rights, notably those agreements or treaties that may be related to the Nunavik Marine Region surrounding Québec and to Labrador and the Labrador offshore area.

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3A.3.5 The beneficiary status of a person whose entitlement to be enrolled was based on his or her status as the lawful spouse of a beneficiary, prior to the coming into force of the present Section, may be reviewed by the interested Community Enrolment Committee provided for in subsection 3A.6 to determine whether this person meets the eligibility requirements of the present subsection, if there are reasonable grounds to believe that he or she no longer has sufficient connection with an Inuit community in the event of divorce, legal separation, de facto separation or the spouse's death, when any one of such events occurs after the coming into force of the present Section. De facto separation shall be evidenced by an affidavit signed by the spouse or another interested beneficiary attesting to the fact that the spouses have been separated for a period of at least one (1) year.

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3A.4 Nunavik Enrolment Office and Inuit Beneficiaries Register

3A.4.1 A Nunavik Enrolment Office, hereinafter "Enrolment Office", is hereby established under the authority of the Makivik Board of Directors and shall be located at the Makivik Head Office.

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3A.4.2 The functions of the Enrolment Office shall be to:

- a) maintain the Inuit beneficiaries register, which includes the *Inuit Beneficiaries List* and the *List of Inuit Beneficiaries Living Outside the Territory for Ten (10) or More Continuous Years*, in accordance with the decisions of the Community Enrolment Committees and of the Nunavik Enrolment Review Committee provided for in subsection 3A.7;
- b) conduct elections for designating the Community Enrolment Committee members in each community where an Inuit Landholding Corporation, established by the *Act Respecting the Land Regime in the James Bay and New Québec Territories*, R.S.Q., c. R-13.1, does not exist;
- c) receive applications for review and notify the persons appointed to the standing list of members called upon to compose the Nunavik Enrolment Review committee;
- d) issue the Inuit beneficiaries register lists in accordance with subsection 3A.9.

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3A.4.3 The Inuit beneficiaries register maintained by the Secretary General shall be transferred to the Enrolment Office. Consequently, the names of beneficiaries enrolled on each of the Inuit beneficiaries register lists maintained by the Secretary General on the date when the transfer occurs, as well as each beneficiary's affiliation to an Inuit community, shall be automatically enrolled on the corresponding Inuit beneficiaries register lists maintained by the Enrolment Office.

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3A.4.4 A beneficiary enrolled on the *Inuit Beneficiaries List* shall be entitled to exercise rights and receive benefits under the Agreement as long as his or her name is enrolled thereon.

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3A.4.5 A beneficiary who has established his or her residence outside the Territory during ten (10) or more continuous years is not entitled to exercise rights or receive benefits under the Agreement and his or her name is transferred to the *List of Inuit Beneficiaries Living Outside the Territory for Ten (10) or More Continuous Years*. Upon such beneficiary re-establishing his or her residence in the Territory, the right of such beneficiary to exercise rights and receive benefits under the Agreement shall revive and his or her name shall be transferred to the *Inuit Beneficiaries List*.

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3A.4.6 Notwithstanding paragraph 3A.4.5, a beneficiary who has established his or her residence outside the Territory during ten (10) or more continuous years for purposes related to education, health or employment with an organization whose mandate is to promote the welfare of Inuit, shall continue to be entitled to exercise rights and receive benefits under the Agreement.

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3A.4.7 For greater certainty, a beneficiary whose entitlement to exercise rights and receive benefits under the Agreement has been suspended under paragraph 3A.4.5 shall continue to be eligible for federal and provincial government programs and funding as an Inuk, subject to the criteria established from time to time for the application of such programs and to general parliamentary approval of such programs and funding.

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3A.4.8 A beneficiary may at any time decide to discontinue enrolment under the Agreement and, upon reception by the Enrolment Office of that beneficiary's written directions to that effect, his or her name shall be removed from the Inuit beneficiaries register.

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3A.4.9 Without restricting the generality of the foregoing and notwithstanding any other provision in this Section, a person shall not be enrolled at the same time as a Cree beneficiary and as an Inuit beneficiary under the Agreement. Upon attaining the age of majority, a person entitled to be enrolled on both the Cree beneficiaries register and Inuit beneficiaries register shall notify the Secretary General as to the register on which he or she wishes to be enrolled, and failing to do so, the Secretary General shall decide the register on which that person shall be enrolled. The Secretary General shall then forward its decision to the Enrolment Office.

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3A.4.10 The Inuit beneficiaries register lists shall indicate the affiliation of a beneficiary to an Inuit community, as provided for in subsection 3A.5.

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3A.5 Affiliation

3A.5.1 A beneficiary shall be affiliated to the Inuit community in which he or she is accepted for enrolment as a beneficiary. Although a beneficiary may be associated with more than one Inuit community, he or she may not be affiliated to more than one Inuit community concurrently.

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3A.5.2 A beneficiary who is affiliated to an Inuit community may request a change of affiliation and become affiliated to another Inuit community with the consent of the latter's Community Enrolment Committee.

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3A.6 Community Enrolment Committees

3A.6.1 A Community Enrolment Committee is hereby established in each Inuit community.

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3A.6.2 A Community Enrolment Committee shall be composed of not less than three (3) and not more than thirteen (13) beneficiaries.

In each community where an Inuit Landholding Corporation exists, the Corporation's Board of Directors and one (1) Elder affiliated to the community shall compose the Community Enrolment Committee. The Elder shall be appointed for a two (2) year term by the Inuit Landholding Corporation, such term being renewable.

In each community where an Inuit Landholding Corporation does not exist, the Enrolment Office shall conduct elections for designating the Community Enrolment Committee members. The members shall be elected for a two (2) year term by the Inuit beneficiaries affiliated to those communities, such term being renewable.

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3A.6.3 The functions of a Community Enrolment Committee shall be to:

- a) decide whether a person applying for enrolment as a beneficiary under the Agreement meets each of the eligibility requirements of sub-paragraphs a), b), c) and d) of paragraph 3A.3.1 and is associated with the Committee's Inuit community in accordance with sub-paragraph e) of paragraph 3A.3.1. If the person meets these requirements, the Community Enrolment Committee shall affiliate the person to the Committee's Inuit community;
- b) decide, upon its own motion, whether the name of a beneficiary affiliated to the Committee's Inuit community should be removed from the Inuit beneficiaries register, as a consequence of that person no longer meeting the eligibility requirements of sub-paragraphs a) or b) of paragraph 3A.3.1;
- c) decide, upon its own motion or upon the request of a beneficiary, whether a person affiliated to the Committee's Inuit community is subject to paragraph 3A.3.5 and, as the case may be, decide whether the person meets the eligibility requirements of subsection 3A.3;
- d) decide, upon the request of a beneficiary affiliated to another Inuit community, whether the beneficiary may become affiliated to the Committee's Inuit community;

- e) decide, upon its own motion, whether a beneficiary affiliated to the Committee’s Inuit community has established his or her residence outside the Territory during ten (10) or more continuous years for purposes other than those referred to in paragraph 3A.4.6;
- f) decide, upon the request of a beneficiary affiliated to the Committee’s Inuit community, whether the beneficiary has re-established his or her residence in the Territory;
- g) notify the Enrolment Office of its decisions without delay.

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3A.6.4 Community Enrolment Committee decisions shall be taken by a majority.

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3A.6.5 No persons shall present an application for enrolment as a beneficiary under the Agreement or an application for a change of affiliation to more than one Community Enrolment Committee concurrently. If an application for enrolment or an application for a change of affiliation is refused, the person who had presented the application may apply to another Community Enrolment Committee in one of the following cases:

- a) a period of twelve (12) months from the date of the first Community Enrolment Committee’s decision has expired;
- b) the person has renounced his or her right to apply for review of the first Community Enrolment Committee’s decision;
- c) the Nunavik Enrolment Review Committee has maintained the first Community Enrolment Committee’s decision refusing the application for enrolment or the application for a change of affiliation.

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3A.6.6 No proceedings may be brought against a Community Enrolment Committee member for acts performed in good faith in the exercise of his or her functions.

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3A.7 Nunavik Enrolment Review Committee

3A.7.1 A Nunavik Enrolment Review Committee, hereinafter “Review Committee”, is hereby established.

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3A.7.2 A standing list of members called upon to compose the Review Committee shall be established. To this effect, the Makivik Board of Directors shall appoint two (2) beneficiaries from each of the three following regions: the Ungava region, the Hudson Straight region and the Hudson region.

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3A.7.3 In no case may a member of a Community Enrolment Committee be appointed to the standing list.

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3A.7.4 The members of the standing list shall be appointed for a three (3) year term, such term being renewable.

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3A.7.5 The term of office of a member of the standing list may terminate prematurely only if he or she resigns or is removed from office for cause by the Makivik Board of Directors.

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3A.7.6 When notified by the Enrolment Office of an application for review, the members of the standing list shall, by a majority of votes, appoint from among themselves three (3) members to compose the Review Committee. The members so appointed must represent each of the three regions referred to in paragraph 3A.7.2.

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3A.7.7 The functions of the Review Committee shall be to:

- a) decide upon any application for review presented by a person applying for enrolment as a beneficiary under the Agreement, following a decision of a Community Enrolment Committee to refuse enrolment. If the Review Committee decides that the person meets the eligibility requirements of sub-paragraphs a), b), c) and d) of paragraph 3A.3.1 and is associated with the Community Enrolment Committee's Inuit community in accordance with sub-paragraph e) of paragraph 3A.3.1, it shall affiliate the person to the Committee's Inuit community;
- b) decide upon any application for review presented by a person, following a decision by a Community Enrolment Committee to remove that person's name from the Inuit beneficiaries register;
- c) decide upon any application for review presented by a beneficiary who had requested, pursuant to sub-paragraph 3A.6.3 c), that the name of another beneficiary be removed from the Inuit beneficiaries register, following a refusal by a Community Enrolment Committee to remove the name;
- d) decide upon any application for review presented by a beneficiary, following a decision of a Community Enrolment Committee to refuse his or her request for affiliation to the Committee's Inuit community;
- e) decide upon any application for review presented by a beneficiary, following a decision of a Community Enrolment Committee that the beneficiary has established his or her residence outside the Territory during ten (10) or more continuous years for purposes other than those referred to in paragraph 3A.4.6;
- f) decide upon any application for review presented by a beneficiary, following a refusal by a Community Enrolment Committee to acknowledge that the beneficiary has re-established his or her residence in the Territory;
- g) notify the Enrolment Office of its decisions without delay.

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3A.7.8 During the review process, the Review Committee may allow further evidence.

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3A.7.9 The quorum of the Review Committee shall be three (3) members and decisions shall be taken by a majority.

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3A.7.10 Applications for review must be presented to the Enrolment Office within twelve (12) months of the date of the Community Enrolment Committee's decision.

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3A.7.11 Every decision of the Review Committee is final and binding.

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3A.7.12 No proceedings may be brought against a Review Committee member for acts performed in good faith in the exercise of his or her functions.

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3A.8 Community Enrolment Committees and Review Committee Proceedings

3A.8.1 Subject to paragraphs 3A.8.2 to 3A.8.4, the Community Enrolment Committees and the Review Committee shall establish rules for conducting proceedings.

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3A.8.2 Prior to making any decision, the Community Enrolment Committees and the Review Committee shall allow directly interested parties an opportunity to make representations.

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3A.8.3 The Community Enrolment Committees and the Review Committee shall give directly interested parties written reasons for each decision within a reasonable time.

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3A.8.4 All proceedings of the Community Enrolment Committees and the Review Committee shall be in Inuttitut and, at the request of a member of a Committee or of a directly interested party, in French or in English.

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Compl. A. no. 18, sch. 1, s. 21

3A.9 Publication of the Inuit Beneficiaries Register Lists

3A.9.1 Subject to the Federal and Québec laws concerning privacy of information, the Enrolment Office shall make the Inuit beneficiaries register lists available to the public for consultation purposes without charge.

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3A.9.2 A free copy of the Inuit beneficiaries register lists shall be supplied annually and at any other time upon request to the Government of Québec and the Government of Canada.

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3A.10 Amendments

3A.10.1 The provisions of this Section may only be amended with the consent of Québec, Canada and the interested Native party.

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3A.10.2 Legislation enacted to implement the provisions of this Section may be amended from time to time by the National Assembly of Québec in matters of its jurisdiction, and by Parliament in matters of federal jurisdiction.

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Compl. A. no. 18, sch. 1, s. 21