

Chapter 3: Eligibility and Enrolment

Part 3.1 Definitions and Interpretation

3.1.1 In this chapter:

"Appellant" means anyone who appeals a Committee decision under section 3.5.14 or 3.10.9;

"Board" means the Inuit membership appeal board established under section 3.10.1;

"Board Member" means an individual appointed to the Board under section 3.10.2;

"Commission" means the enrolment appeal commission established under section 3.5.1;

"Commissioner" means an individual appointed to the Commission under section 3.5.2;

"Committee" means an Enrolment Committee or a Membership Committee;

"Criteria" means the standards for eligibility to be enrolled on the Register that are set out in section 3.3.2, 3.3.3, 3.3.4, 3.3.5 or 3.3.6;

"*Federal Court Act*" means the *Federal Court Act*, R.S.C. 1985, c. F-7 as amended by c. 8 of the Statutes of Canada, 1990;

"Inuit" means all those members of the aboriginal people of Labrador, sometimes known as Eskimos, that has traditionally used and occupied and currently uses and occupies the lands, waters and sea ice of the Labrador Inuit Land Claims Area, or any Region. "Inuit" does not include beneficiaries of:

- (a) the "James Bay and Northern Québec Agreement";
- (b) the "Inuvialuit Final Agreement"; or
- (c) the "Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada";

"Inuk" is the singular of Inuit;

"Kablunângajuit" is the plural of Kablunângajuk;

"Kablunângajuk" means an individual who is given that designation according to Inuit customs and traditions and who has:

- (a) Inuit ancestry;

- (b) no Inuit ancestry but who settled permanently in the Labrador Inuit Land Claims Area before 1940; or
- (c) no Inuit ancestry, but:
 - (i) is a lineal descendant of an individual referred to in clause (b); and
 - (ii) was born on or before November 30th, 1990;

"Membership Committee" means a Regional committee established under section 3.9.1 for the ongoing enrolment of Beneficiaries;

"Permanent Resident" means an individual who has lived in a place for a period of not less than 180 consecutive days as his or her main place of residence and who continues to live there. An individual can be a Permanent Resident of only one place at a time. Temporary absence from a place does not affect an individual's place of residence;

"Preliminary List" means the list referred to in subsection 3.4.7(c) of individuals eligible to be enrolled on the Register;

"Region" means one of the following Inuit land use regions within the Labrador Inuit Land Claims Area:

- (a) Nain and north of Nain;
- (b) Hopedale;
- (c) Makkovik and Postville; and
- (d) Rigolet and Lake Melville; and

"Regional Membership List" means the part of the Register that lists the Beneficiaries who are Permanent Residents of, or who are connected to, a Region and that is maintained by the Membership Committee for that Region under subsection 3.9.3(c).

3.1.2 For purposes of this chapter, an individual who is not a Permanent Resident of the Labrador Inuit Settlement Area is connected to the Labrador Inuit Settlement Area if he or she:

- (a) was born in the Labrador Inuit Land Claims Area; or
- (b) is the child of an individual who was born in the Labrador Inuit Land Claims Area; or
- (c) is the grandchild of at least two individuals who:
 - (i) were born in the Labrador Inuit Land Claims Area; and

- (ii) are Permanent Residents of the Labrador Inuit Land Claims Area or were Permanent Residents of the Labrador Inuit Land Claims Area when they died; and
 - (d) has associations with the Labrador Inuit Land Claims Area or a Region and close kinship ties to Inuit or Kablunângajuit who are Permanent Residents of the Labrador Inuit Land Claims Area, and those associations and ties are recognized by Inuit or Kablunângajuit other than that individual's kin who are Permanent Residents of the Labrador Inuit Land Claims Area.
- 3.1.3 For purposes of clause 3.1.2(c)(ii):
 - (a) an individual is deemed to be a Permanent Resident of the Labrador Inuit Land Claims Area if he or she was a Permanent Resident of the Labrador Inuit Land Claims Area but moved outside the Labrador Inuit Land Claims Area to obtain nursing or other support services in a home or facility for the care of the elderly or for medical care in a health care facility; and
 - (b) an individual referred to in subsection (a) is deemed to be a Permanent Resident of the Labrador Inuit Land Claims Area at the time of his or her death if he or she died outside the Labrador Inuit Land Claims Area in a facility referred to in subsection (a).
- 3.1.4 If an individual is connected to the Labrador Inuit Settlement Area under section 3.1.2 but a full sibling of that individual is not, the sibling is absolutely deemed to be connected to the Labrador Inuit Settlement Area for purposes of the Criteria, despite anything in subsections 3.1.2(a), 3.1.2(b) and 3.1.2(c).
- 3.1.5 For purposes of this chapter, an individual is absolutely deemed to have been born in the Labrador Inuit Land Claims Area if:
 - (a) that individual was born outside the Labrador Inuit Land Claims Area solely because that individual's mother had to leave the Labrador Inuit Land Claims Area in order to give birth; and
 - (b) that individual's mother or father was a Permanent Resident of the Labrador Inuit Land Claims Area at the time of that individual's birth.
- 3.1.6 For purposes of this chapter:
 - (a) anyone who is a Permanent Resident of Davis Inlet, also known as Utshimasits, or Natuashish is absolutely deemed to be a Permanent Resident of the Labrador Inuit Settlement Area; and
 - (b) anyone who was born in one of those communities is absolutely deemed to have been born in the Labrador Inuit Land Claims Area.

Part 3.2 Enrolment Functions of the Nunatsiavut Government

- 3.2.1 The Nunatsiavut Government is generally responsible for coordinating the enrolment procedures set out in this chapter and, for that purpose, may make laws that are not inconsistent with this chapter.
- 3.2.2 The Nunatsiavut Government shall, without limitation:
- (a) publish, in English and Inuktitut, the Criteria and the enrolment procedures and time limitations established under this chapter;
 - (b) prepare and provide information in English and Inuktitut that is needed by the Committees to conduct the initial and the ongoing enrolment of Beneficiaries;
 - (c) redirect applications for enrolment submitted directly to it, or made to an inappropriate Committee, to the appropriate Committee; and
 - (d) carry out other appropriate duties and functions.
- 3.2.3 The Nunatsiavut Government may delegate responsibility for the administration of Inuit Laws under section 3.2.1 to the Committees.

Part 3.3 Eligibility Criteria

- 3.3.1 An individual is eligible to be enrolled on the Register if that individual meets the Criteria.
- 3.3.2 An individual shall be enrolled on the Register if, on the Effective Date, that individual is alive and is:
- (a) a Canadian citizen or a permanent resident of Canada under federal Legislation;
 - (b) an Inuk pursuant to Inuit customs and traditions and is of Inuit ancestry, or is a Kablunângajuk; and
 - (c) either:
 - (i) a Permanent Resident of the Labrador Inuit Settlement Area; or
 - (ii) a Permanent Resident of a place outside the Labrador Inuit Settlement Area but is connected to the Labrador Inuit Settlement Area.
- 3.3.3 An individual who has at least one-quarter Inuit ancestry is eligible to be enrolled on the Register if that individual is a Canadian citizen or a permanent resident of

Canada under federal Legislation despite anything in section 3.3.2 or 3.3.4 to the contrary.

3.3.4 Anyone who is born after the Effective Date who is a lineal descendant of someone who was enrolled or eligible to be enrolled on the Register under section 3.3.2 or 3.3.3 shall be enrolled on the Register if that individual is:

- (a) a Canadian citizen or a permanent resident of Canada under federal Legislation;
- (b) an Inuk pursuant to Inuit customs and traditions and is of Inuit ancestry or is a Kablunângajuk under clause (a) of the definition of “Kablunângajuk”; and
- (c) either:
 - (i) a Permanent Resident of the Labrador Inuit Settlement Area; or
 - (ii) a Permanent Resident of a place outside the Labrador Inuit Settlement Area but is connected to the Labrador Inuit Settlement Area.

3.3.5 Anyone who is not an Inuk or Kablunângajuk and who:

- (a) was adopted as a minor prior to the Effective Date by an individual who is eligible to be enrolled on the Register under section 3.3.2 or 3.3.3, or who would have been eligible to be enrolled under one of those sections if that individual had been alive on the Effective Date; or
- (b) is adopted as a minor by a Beneficiary after the Effective Date,

is absolutely deemed to be a lineal descendant of his or her adoptive parents and to have the same ancestry that he or she would have had if he or she were a natural child of the adoptive parents.

3.3.6 No individual can be enrolled as a Beneficiary under the Agreement while that individual is enrolled under another Canadian aboriginal land claims agreement.

3.3.7 Anyone who is eligible to be enrolled under both the Agreement and another Canadian aboriginal land claims agreement may choose to be enrolled under the Agreement if that individual gives up his or her rights, benefits or privileges under the other agreement while enrolled under this Agreement.

Part 3.4 Enrolment Committees

3.4.1 The Nunatsiavut Government shall establish an enrolment committee for each Region on the Effective Date.

- 3.4.2 Each Enrolment Committee must consist of at least three and no more than six members appointed by the Nunatsiavut Government.
- 3.4.3 All members of the Enrolment Committees must be Inuit or Kablunângajuit.
- 3.4.4 At least one member of each Region’s Enrolment Committee must be an Inuk or Kablunângajuk from that Region who is a Permanent Resident of a place outside the Labrador Inuit Settlement Area.
- 3.4.5 The Province and the federal Minister may each appoint one individual to each of the Enrolment Committees as an observer and each observer:
- (a) must be given written notice of all meetings of the Enrolment Committee;
 - (b) must be given access to all records pertaining to proceedings and decisions of the Enrolment Committee; and
 - (c) may attend all meetings and observe all proceedings of the Enrolment Committee.
- 3.4.6 An observer is not a member of an Enrolment Committee for any purpose and shall not participate in the proceedings or decisions of an Enrolment Committee.
- 3.4.7 Each Enrolment Committee shall:
- (a) consider all applications for enrolment properly before it;
 - (b) decide if each applicant for enrolment is entitled to be enrolled on the Register; and
 - (c) make a preliminary list of people who are Permanent Residents of, or who are connected to, its Region who are entitled to be enrolled on the Register.
- 3.4.8 Before the expiry of 180 clear days from the Effective Date each Enrolment Committee shall:
- (a) complete its determination as to which individuals are entitled to be Beneficiaries under part 3.3;
 - (b) deliver the Preliminary List to the Nunatsiavut Government; and
 - (c) publish the Preliminary List.
- 3.4.9 Each Enrolment Committee shall deliver to its Region’s Membership Committee all documents and other information in its possession or control.
- 3.4.10 The Enrolment Committee for each Region shall dissolve when the Region’s Membership Committee has been established and the Enrolment Committee has met the requirements of section 3.4.9.

Part 3.5 Enrolment Appeal Commission

- 3.5.1 On the Effective Date an enrolment appeal commission shall be established to hear and determine:
- (a) all appeals referred to in section 3.5.14;
 - (b) all matters referred back to it by the Federal Court; and
 - (c) applications referred to in section 3.11.12.
- 3.5.2 The Commission must consist of seven commissioners appointed as follows:
- (a) one Inuk or Kablunângajuk from each Region appointed by the Nunatsiavut Government;
 - (b) one Inuk or Kablunângajuk from outside the Labrador Inuit Settlement Area appointed by the Nunatsiavut Government;
 - (c) one appointed by the Province; and
 - (d) one appointed by the Minister of Indian Affairs and Northern Development.
- 3.5.3 No member of the Nunatsiavut Government and no Committee member may be appointed as a Commissioner.
- 3.5.4 A Commissioner holds office until the Commission is dissolved or until the Commissioner resigns, dies or is removed for cause by the Government that appointed the Commissioner. A vacancy shall be filled promptly by the Government that appointed the Commissioner.
- 3.5.5 The Commissioners shall select a chairperson from among their number.
- 3.5.6 Subject to section 3.5.7, the Commissioners appointed by the Province and the Minister of Indian Affairs and Northern Development are entitled to participate fully in all hearings and decisions of the Commission.
- 3.5.7 The Commissioners appointed by the Province and the Minister of Indian Affairs and Northern Development may not participate in hearings or decisions about the existence, content or application of Inuit customs and traditions but may observe all such hearings and the making of all such decisions.
- 3.5.8 A panel of Commissioners comprising the Commissioners appointed by the Nunatsiavut Government has the exclusive jurisdiction to hear and decide all matters respecting the existence, content or application of Inuit customs and traditions that relate to appeals, matters and applications before the Commission under section 3.5.1 and the Commission as a whole has the exclusive jurisdiction

to hear and decide all other matters that may be raised in an appeal, matter or application before the Commission under section 3.5.1.

- 3.5.9 Upon determining an appeal the Commission shall give the reasons, in writing, for its decision to the Appellant and written notice of its decision to the Nunatsiavut Government.
- 3.5.10 The Commission must make best efforts to hear and determine all appeals referred to in section 3.5.14 within one year of the Effective Date.
- 3.5.11 The Commission may establish rules for conducting its proceedings consistent with this part and may extend the time referred to in section 3.5.16.
- 3.5.12 The Commission is dissolved 60 clear days from hearing and determining all appeals, matters and applications before it under section 3.5.1.
- 3.5.13 Prior to its dissolution, the Commission shall deliver to the Board all its records.
- 3.5.14 Anyone whose enrolment as a Beneficiary is directly affected by a final decision of an Enrolment Committee may appeal that decision to the Commission in accordance with this part.
- 3.5.15 An appeal shall proceed as a re-hearing at which the Appellant may introduce additional evidence.
- 3.5.16 An appeal must be made within 30 clear days from the date on which the Appellant received the written reasons referred to in subsection 3.11.10(c). An appeal must be made by filing a written notice of appeal with the Commission.

Part 3.6 The Labrador Inuit Enrolment Register

- 3.6.1 The Nunatsiavut Government shall prepare and maintain a register that contains the name of each individual who is determined to be a beneficiary of the Agreement under this chapter.

Part 3.7 Publication of Register

- 3.7.1 The Nunatsiavut Government shall publish the Register within one year from the Effective Date. The Nunatsiavut Government shall give a copy of the Register to each of Canada and the Province.
- 3.7.2 After the Register is published under section 3.7.1, the Nunatsiavut Government shall:
 - (a) update the Register at least once a year; and

- (b) give a copy of the updated Register to each of Canada, the Province and the Membership Committees.

3.7.3 If requested, the Nunatsiavut Government shall make the Register or extracts from it available to the public. It may charge a reasonable fee to recover its administrative costs for doing so.

Part 3.8 Removal of Names From Register

3.8.1 An individual may choose not to be enrolled on the Register by giving written notice to the Nunatsiavut Government. The name of that individual must either not be entered on the Register or be removed from the Register.

3.8.2 If a Membership Committee or, in the case of an appeal, the Board determines that an individual enrolled on the Register is not eligible to be enrolled on the Register under the Criteria, that individual must be removed from the Register. In making such a determination the Membership Committee or Board shall follow the procedures set out in part 3.11.

Part 3.9 Membership Committees

3.9.1 On the date the Register is published under section 3.7.1 the Nunatsiavut Government shall establish a membership committee for each Region in accordance with this part.

3.9.2 Members of each Membership Committee must be Beneficiaries who are enumerated on the Regional Membership List for the relevant Region.

3.9.3 Each Membership Committee must:

- (a) consider all applications for enrolment properly before it;
- (b) decide if an applicant for enrolment is entitled to be enrolled on the Register under the Criteria;
- (c) maintain the list of Beneficiaries who are Permanent Residents of or connected to the Region;
- (d) inform the Nunatsiavut Government of the individuals who:
 - (i) the Membership Committee determines are to be enrolled on or to have their names removed from the Register or transferred to or from another Regional Membership List; or
 - (ii) have enrolled as a beneficiary of another Canadian aboriginal land claims agreement; and

- (e) perform the functions assigned to it in section 3.8.2.

Part 3.10 The Inuit Membership Appeal Board

- 3.10.1 On the date the Register is published under section 3.7.1, the Nunatsiavut Government shall establish the Inuit membership appeal board to hear and determine:
- (a) all appeals referred to in section 3.10.9;
 - (b) all matters referred back to it by the Federal Court; and
 - (c) applications referred to in section 3.11.12.
- 3.10.2 The Board must have one member who is a Beneficiary enumerated on the Regional Membership List for each Region appointed by the Nunatsiavut Government and one other Beneficiary.
- 3.10.3 No member of the Nunatsiavut Government and no Committee member may be appointed as a Board Member.
- 3.10.4 A Board Member holds office for two years or until a successor is appointed, whichever is the longer, unless prior to that time the Board Member resigns, dies or is removed from office.
- 3.10.5 The Board members shall select a chairperson from among their number.
- 3.10.6 The Board has the exclusive jurisdiction to hear and decide all appeals, matters and applications referred to in section 3.10.1.
- 3.10.7 Upon determining an appeal the Board shall give the reasons, in writing, for its decision to the Appellant and written notice of its decision to the Nunatsiavut Government.
- 3.10.8 The Board may establish rules for conducting its proceedings consistent with this part and may extend the time referred to in section 3.10.11.
- 3.10.9 Anyone whose enrolment as a Beneficiary is directly affected by a final decision of a Membership Committee may appeal that decision to the Board in accordance with this part.
- 3.10.10 An appeal shall proceed as a re-hearing at which the Appellant may introduce additional evidence.
- 3.10.11 An appeal must be made within 30 clear days from the date on which the Appellant received the reasons under subsection 3.11.10(c). An appeal must be made by filing a written notice of appeal with the Board.

Part 3.11 Enrolment Procedures

- 3.11.1 Anyone who wishes to enrol as a Beneficiary must apply to the appropriate Committee and provide all necessary information in support of his or her application.
- 3.11.2 Anyone enumerated on the Official Voters List will be considered for enrolment as a Beneficiary and does not have to supply any further information unless asked to do so.
- 3.11.3 The parent or guardian of someone under a legal disability may act on that individual's behalf for purposes of this chapter.
- 3.11.4 Anyone who was enrolled on the Register as a minor must reapply for enrolment on the Register upon reaching the age of majority and must meet the Criteria for enrolment at that time.
- 3.11.5 All proceedings and written records of each Committee, the Commission and the Board shall be in Inuktitut and English.
- 3.11.6 If a Committee makes a preliminary decision that an individual:
- (a) is not entitled to be enrolled on the Register under part 3.3; or
 - (b) should have his or her name removed from the Register under section 3.8.2,
- then, before the Committee makes a final decision, it shall, by written request, ask the individual to make oral or written representations to the Committee explaining why he or she should be enrolled on, or should not have his or her name removed from, the Register.
- 3.11.7 Anyone who receives a request referred to in section 3.11.6 has 30 clear days from receipt of the request to make written representations to the Committee or to request a date to make oral representations to the Committee. A Committee may extend the time referred to in this section.
- 3.11.8 A Committee must set a date to hear oral representations no later than 60 clear days from receiving a request.
- 3.11.9 An individual is deemed to have received a request from a Committee seven clear days from the date on which the request is made.
- 3.11.10 A Committee must:
- (a) make a decision on a matter referred to in section 3.11.6;
 - (b) give the reasons for its decision in writing;
 - (c) give a copy of the reasons to the individual affected by the decision; and

- (d) notify that individual in writing of his or her right to appeal the Committee's decision and of the body to which the appeal must be made.
- 3.11.11 Every order, decision or ruling of a Committee, other than a preliminary decision referred to in section 3.11.6, is final and shall not be appealed or reviewed except in accordance with part 3.5 or 3.10.
- 3.11.12 If a Committee does not make a decision referred to in subsection 3.11.10(a) within 60 clear days from the date on which it makes a preliminary decision referred to in section 3.11.6 or received representations under section 3.11.7, whichever is the later, the affected individual may apply to the Commission or the Board, as appropriate, to make the decision.
- 3.11.13 Subject to sections 3.11.11 and 3.11.12, a Committee has the exclusive jurisdiction to hear and determine all matters properly before it.

Part 3.12 Judicial Review of Commission and Board Decisions

- 3.12.1 No order, decision or ruling of the Commission or the Board may be appealed. Every order, decision or ruling of the Commission or the Board is final and may not be reviewed in any court except as permitted by this part.
- 3.12.2 Notwithstanding sections 3.5.8 and 3.10.6, an application for judicial review of an order, decision or ruling of the Commission or the Board may be made to the Federal Court by the individual directly affected by the order, decision or ruling within 30 clear days from the date on which the order, decision or ruling was received by that individual, or within any additional time that a judge of the Federal Court may allow.
- 3.12.3 After hearing an application under section 3.12.2 the Federal Court may:
 - (a) order the Commission or the Board to do anything it has unlawfully failed or refused to do or has unreasonably delayed in doing;
 - (b) decide a decision, order, act or proceeding of the Commission or the Board to be invalid or unlawful;
 - (c) quash, set aside or set aside and refer back for determination in accordance with any directions it considers to be appropriate a decision, order, act or proceeding of the Commission or the Board; or
 - (d) prohibit or restrain a decision, order, act or proceeding of the Commission or the Board.
- 3.12.4 The Federal Court may grant a remedy referred to in section 3.12.3 if it is satisfied that the Commission or the Board:

- (a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;
- (b) failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by Law to observe;
- (c) erred in Law in making a decision or an order, whether or not the error appears on the face of the record;
- (d) based its decision or order on an error of fact made in a perverse or capricious manner or without regard for the material before it;
- (e) acted, or failed to act, as a result of fraud or perjured evidence; or
- (f) acted in any other way contrary to Law.

3.12.5 Subject to sections 3.12.2, 3.12.3 and 3.12.4, the *Federal Court Act* applies to an application for judicial review under this part as if the Commission or the Board were a federal board, commission or other tribunal under the *Federal Court Act*, except that subsections 18.1(1), 18.1(2) and 18.3(2) of the *Federal Court Act* do not apply.

Part 3.13 Proof of Enrolment

- 3.13.1 The Nunatsiavut Government must provide each Beneficiary with a card that identifies that individual as a Beneficiary.
- 3.13.2 The card referred to in section 3.13.1 is non-transferable and is rebuttable proof that the individual named on it is a Beneficiary.
- 3.13.3 In any Legal Proceeding a copy of, or extract from, the Register shall be admitted as evidence of the Register or extract if it is proved by the affidavit of an officer of the Nunatsiavut Government. It is not necessary to prove the signature or official status of the individual making the affidavit if the official status of that individual is set out in the affidavit.

Part 3.14 Evidence and Immunity

- 3.14.1 The Committees, the Commission and the Board are not bound by strict rules of evidence.
- 3.14.2 In any proceeding before a Committee, the Commission or the Board, evidence about the existence or content of Inuit customs and traditions is admissible in the proceeding if the individual giving the evidence has special knowledge or experience of Inuit customs and traditions even though the evidence may be hearsay or opinion.

- 3.14.3 If, in any proceeding before a Committee, the Commission or the Board, evidence is to be given about Inuit customs and traditions the Committee, Commission or Board must, if requested, make arrangements so that two or more individuals can give the evidence together.
- 3.14.4 No action or proceeding may be brought against a Party, a Committee, the Commission or the Board or a member or observer of a Committee, the Commission or the Board in respect of anything done or omitted to be done by any of them in the performance of any duties or functions under this chapter.