

Cree-Naskapi (of Quebec) Act

1984, c. 18

[Assented to June 14, 1984]

An Act respecting certain provisions of the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement relating principally to Cree and Naskapi local government and to the land regime governing Category IA and Category IA-N land

Preamble

WHEREAS the Government of Canada is obligated, pursuant to section 9 of the James Bay and Northern Quebec Agreement and section 7 of the Northeastern Quebec Agreement, to recommend to Parliament special legislation to provide for an orderly and efficient system of Cree and Naskapi local government, for the administration, management and control of Category IA and Category IA-N land by the Cree and Naskapi bands respectively, and for the protection of certain individual and collective rights under the said Agreements;

AND WHEREAS this Act is not intended to preclude the James Bay Crees and the Naskapis of Quebec from benefitting from future legislative or other measures respecting Indian government in Canada that are not incompatible with the said Agreements;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Cree-Naskapi (of Quebec) Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"Agreements"
« *Conventions* »

"Agreements" means the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement;

"band"
« *bande* »

"band" means a band incorporated by section 12 or 14;

"building"
« *bâtiment* »

"building" includes a permanent structure of any kind and also includes a mobile home;

"Canada"
« *Canada* »

"Canada" means Her Majesty in right of Canada;

"Category IA land"
« *terre de catégorie IA* »

"Category IA land" means

(a) until the transfer to Canada by Quebec by final deed referred to in paragraph (b), the land referred to in sections 4 and 5 of the James Bay and Northern Quebec Agreement of which the administration, management and control was transferred to Canada by Quebec by temporary deed by Quebec Order in Council No. 1851-79 of June 27, 1979, pursuant to section 21 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), and accepted by Canada by Canada Order in Council P.C. 1979-2178 of August 16, 1979,

(b) after the transfer to Canada by Quebec by final deed pursuant to sections 4 and 5 of the James Bay and Northern Quebec Agreement and section 22 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec), the land described in such final deed,

(c) any land set aside as Category IA land pursuant to paragraph 125(1)(d) of this Act, and

(d) any other land set aside by the Governor in Council as Category IA land for the exclusive use and benefit of a Cree band,

and, in relation to any particular Cree band, means

(e) land described in paragraph (b), (c) or (d) set aside for the exclusive use and benefit of that

	band, or
	(f) land described in paragraph (a) set aside for the exclusive use and benefit of that band's predecessor <i>Indian Act</i> band;
"Category IA-N land" « terre de catégorie IA-N »	<p>"Category IA-N land" means</p> <p>(a) until the transfer to Canada by Quebec by final deed referred to in paragraph (b), the land referred to in sections 4.4 and 5 of the Northeastern Quebec Agreement of which the administration, management and control was transferred to Canada by Quebec by temporary deed by Quebec Order in Council No. 394-81 of February 12, 1981, pursuant to sections 191-3 and 191-5 of <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec) for the exclusive use and benefit of the <i>Indian Act</i> Naskapis de Schefferville band, and accepted by Canada by Canada Order in Council P.C. 1981-809 of March 26, 1981,</p> <p>(b) after the transfer to Canada by Quebec by final deed for the exclusive use and benefit of the Naskapi band pursuant to sections 4.4 and 5 of the Northeastern Quebec Agreement and section 191-6 of <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec), the land described in such final deed,</p> <p>(c) any land set aside as Category IA-N land pursuant to paragraph 125(1)(d) of this Act for the exclusive use and benefit of the Naskapi band, and</p> <p>(d) any other land set aside by the Governor in Council as Category IA-N land for the exclusive use and benefit of the Naskapi band;</p>
"Category II land" « terre de catégorie II »	"Category II land" means the land established and allocated as Category II land pursuant to the James Bay and Northern Quebec Agreement and <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec);
"Category II-N land" « terre de catégorie II-N »	"Category II-N land" means the land established and allocated as Category II-N land pursuant to the Northeastern Quebec Agreement and <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec);
"Category III land" « terre de catégorie III »	"Category III land" means the land established as Category III land pursuant to the James Bay and Northern Quebec Agreement and <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec);
"chief" « chef »	"chief" in relation to a band, means the person holding the office of chief of that band pursuant to Part II;
"council" « conseil »	"council" means the continuing body of persons described in section 25;
"council member" « membre du conseil »	"council member", in relation to a band, means the chief or a councillor of that band;
"councillor" « conseiller »	"councillor" means a person holding office as councillor of a band pursuant to Part II;
"Cree band" « bande crie »	"Cree band" means a band incorporated by section 12;
"Cree beneficiary" « bénéficiaire cri »	"Cree beneficiary" means a person who is enrolled or entitled to be enrolled as a Cree beneficiary pursuant to section 3 of the James Bay and Northern Quebec Agreement;
"Cree Regional Authority" « Administration régionale crie »	"Cree Regional Authority" means the Cree Regional Authority established by <i>An Act respecting the Cree Regional Authority</i> (Quebec);
"elector" « électeur »	"elector" means a member of a band who is eighteen years of age or over and not declared mentally incompetent under the laws of the Province;
"Inuk of Fort George" or "Inuit of Fort George" « Inuk de Fort George »	<p>"Inuk of Fort George" (in the singular) or "Inuit of Fort George" (in the plural) means a person who</p> <p>(a) is enrolled or entitled to be enrolled on the official list for the Inuit community of Fort George published by the Enrollment Commission pursuant to section 3 of the James Bay and Northern Quebec Agreement,</p> <p>(b) is a legitimate or an illegitimate descendant of a person described in paragraph (a),</p> <p>(c) is an adopted child of a person described in paragraph (a) or (b),</p> <p>(d) is married to a person described in paragraph (a), (b) or (c), where the marriage was solemnized in accordance with, or is recognized under, the laws of the Province, or</p> <p>(e) has,</p> <p>(i) between January 31, 1978 and the coming into force of this section, with the written consent of the <i>Indian Act</i> Fort George Band, or</p>

	(ii) after the coming into force of this section, with the written consent of the Chisasibi Band, become affiliated with the Inuit community of Fort George pursuant to subparagraph 3.5.5f) of the James Bay and Northern Quebec Agreement;
"James Bay and Northern Quebec Agreement" « <i>Convention de la Baie James et du Nord québécois</i> »	<p>"James Bay and Northern Quebec Agreement" means the agreement between the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association, the Government of Quebec, la Société d'énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique de Québec and the Government of Canada, dated November 11, 1975, as amended by</p> <p>(a) any agreement not described in paragraph (b) or (c) made in accordance with the applicable amending provisions of the James Bay and Northern Quebec Agreement,</p> <p>(b) the agreement between those parties dated December 12, 1975, tabled in the House of Commons by the Minister on July 13, 1976 and recorded as part of document number 301-5/180C, and</p> <p>(c) any other agreement, whether made before or after the coming into force of this section, referred to in</p> <p>(i) paragraph 4(1)(a) of the <i>James Bay and Northern Quebec Native Claims Settlement Act</i>, or</p> <p>(ii) section 3 of <i>An Act approving the Agreement concerning James Bay and Northern Quebec</i> (Quebec);</p>
"Matimekosh Reserve" « <i>réserve Matimekosh</i> »	"Matimekosh Reserve" means the area of land described in Quebec Order in Council No. 2718 of August 21, 1968;
"member" « <i>membre</i> »	<p>"member", in relation to a band, means a member of a band as provided in</p> <p>(a) section 17, in the case of a Cree band, or</p> <p>(b) section 20, in the case of the Naskapi band;</p>
"Minister" « <i>ministre</i> »	"Minister" means the Minister of Indian Affairs and Northern Development;
"Naskapi band" « <i>bande naskapie</i> »	"Naskapi band" means the band incorporated by section 14;
"Naskapi beneficiary" « <i>bénéficiaire naskapi</i> »	"Naskapi beneficiary" means a person who is enrolled or entitled to be enrolled as a Naskapi beneficiary pursuant to section 3 of the Northeastern Quebec Agreement;
"Naskapi Development Corporation" « <i>Société de développement des Naskapis</i> »	"Naskapi Development Corporation" means the Naskapi Development Corporation established by <i>An Act to establish the Naskapi Development Corporation</i> (Quebec);
"Northeastern Quebec Agreement" « <i>Convention du Nord-Est québécois</i> »	<p>"Northeastern Quebec Agreement" means the agreement between the <i>Indian Act</i> Naskapis de Schefferville band, the Government of Quebec, La Société d'énergie de la Baie James, La Société de développement de la Baie James, La Commission hydroélectrique de Québec, the Grand Council of the Crees (of Quebec), the Northern Quebec Inuit Association and the Government of Canada, dated January 31, 1978 and referred to in Canada Order in Council P.C. 1978-502 of February 23, 1978, as amended by</p> <p>(a) any agreement not described in paragraph (b) made in accordance with the applicable amending provisions of the Northeastern Quebec Agreement, and</p> <p>(b) any other agreement, whether made before or after the coming into force of this section, referred to in section 3 of <i>An Act approving the Northeastern Quebec Agreement</i> (Quebec);</p>
"ordinary band meeting" <i>Version anglaise seulement</i>	"ordinary band meeting" means any band meeting other than a special band meeting;
"prescribed" <i>Version anglaise seulement</i>	"prescribed" means prescribed by regulation;
"Province" « <i>province</i> »	"Province" means the Province of Quebec;
"Quebec" « <i>Québec</i> »	"Quebec" means Her Majesty in right of Quebec;
"referendum" « <i>référendum</i> »	"referendum" means a referendum of a band referred to in sections 83 to 88;
"special band meeting" « <i>assemblée</i> »	"special band meeting" means a band meeting referred to in sections 83 to 88.

extraordinaire »

"*Indian Act*" band

(2) A reference in this Act to an "*Indian Act*" band is a reference to a "band" within the meaning of the *Indian Act*.

References to "natural resources" and "land"

(3) The reference to "natural resources" in certain provisions of this Act is for emphasis only and shall not be construed as affecting in any way the meaning of the word "land" as including natural resources in those provisions or in any other provision of this Act or the regulations.

References to Quebec statutes

(4) Unless otherwise indicated in this Act, a reference to an Act of the legislature of Quebec or to a provision thereof is a reference to that Act or provision as amended from time to time.

INCONSISTENCY WITH FEDERAL OR PROVINCIAL LAW

Federal Acts

3. (1) Subject to subsection (2), where there is any inconsistency or conflict between the provisions of this Act and any other Act of Parliament, this Act shall prevail to the extent of the inconsistency or conflict.

James Bay and Northern Quebec Native Claims Settlement Act

(2) Where there is any inconsistency or conflict between the provisions of this Act and the *James Bay and Northern Quebec Native Claims Settlement Act*, the *James Bay and Northern Quebec Native Claims Settlement Act* shall prevail to the extent of the inconsistency or conflict.

Provincial laws of general application

4. Provincial laws of general application do not apply to the extent that they are inconsistent or in conflict with this Act or a regulation or by-law made thereunder or to the extent that they make provision for a matter that is provided for by this Act.

APPLICATION OF INDIAN ACT

Application of *Indian Act*

5. Except for the purpose of determining which of the Cree beneficiaries and Naskapi beneficiaries are "Indians" within the meaning of the *Indian Act*, the *Indian Act* does not apply to Cree bands or the Naskapi band, nor does it apply on or in respect of Category IA or IA-N land.

BAND BY-LAWS AND RESOLUTIONS

Territorial limits of band by-laws

6. A by-law of a band made under this Act may have application within the following territorial limits:

(a) that band's Category IA or IA-N land; and

(b) Category III land situated within the perimeter of that band's Category IA or IA-N land and the ownership of which was ceded by letters patent or by any other method

(i) prior to November 11, 1975, in the case of Category III land within the perimeter of Category IA land, or

(ii) prior to January 31, 1978, in the case of Category III land within the perimeter of Category IA-N land.

By-law may require licence or permit

7. A by-law of a band made under this Act may require the holding of a licence or permit and may provide for the issuance thereof and the fees therefor.

By-law may prohibit activities

8. A by-law of a band made under this Act may prohibit an activity.

Statutory Instruments Act not to apply

9. The *Statutory Instruments Act* does not apply to a by-law or resolution of a band made under this Act.

REGULATIONS

Regulations

10. The Governor in Council may make regulations

(a) prescribing anything that by this Act is to be prescribed; and

(b) generally for carrying out the purposes and provisions of this Act.

INCORPORATION BY REFERENCE OF PROVINCIAL LAWS

Incorporation by reference of provincial laws

11. (1) For the purpose of applying the portion of paragraph 5.1.13 of the James Bay and Northern Quebec Agreement and of paragraph 5.1.13 of the Northeastern Quebec Agreement dealing with the leasing of lands and the granting of real rights to non-Natives, the Governor in Council may make regulations for the purpose of making provincial law in force in the Province applicable to leasehold interests or other real rights in Category IA or IA-N land granted to non-beneficiaries for periods exceeding five years, including any renewal thereof.

Meaning of "non-beneficiary"

(2) For the purposes of subsection (1), a non-beneficiary is a person who is not

(a) a Cree beneficiary, Naskapi beneficiary or Inuk of Fort George;

- (b) a corporation or other body established pursuant to either of the Agreements;
- (c) a corporation or other body the majority of whose shareholders or members are Cree beneficiaries, Naskapi beneficiaries or Inuit of Fort George; or
- (d) a corporation or other body in which Cree beneficiaries, Naskapi beneficiaries or Inuit of Fort George participate, as shareholders or members or otherwise, and that is prescribed.

PART I

LOCAL GOVERNMENT

INCORPORATION OF BANDS

Incorporation of eight Cree bands	<p>12. (1) Pursuant to subparagraph 9.0.1a) of the James Bay and Northern Quebec Agreement, the <i>Indian Act</i> Cree bands of</p> <ul style="list-style-type: none"> (a) Great Whale River, (b) Chisasibi, (c) Old Factory, (d) Eastmain, (e) Rupert House, (f) Nemaska, (g) Waswanipi, and (h) Mistassini <p>are hereby separately constituted as corporations bearing the names set out in paragraphs (2)(a) to (h), respectively, subject to section 16.</p>
Names of incorporated Cree bands	<p>(2) The bands incorporated by subsection (1) may, respectively, be legally designated by any of their English, French or Cree names, as follows:</p> <ul style="list-style-type: none"> (a) Great Whale River Band, Bande de Poste-de-la-Baleine, Whapmagoostoo Aeyouch; (b) Chisasibi Band, Bande de Chisasibi, Chisasibi Eeyouch; (c) Wemindji Band, Bande de Wemindji, Wemindji Eeyou; (d) Eastmain Band, Bande de Eastmain, Wapanoutauw Eeyou; (e) Waskaganish Band, Bande de Waskaganish, Waskaganish Eeyou; (f) Nemaska Band, Bande de Nemiscau, Nemaskauw Eenouch; (g) Waswanipi Band, Bande de Waswanipi, Waswanipi Eenouch; and (h) Mistassini Band, Bande de Mistassini, Mistasini Eenouch.
Predecessor <i>Indian Act</i> bands cease to exist	<p>13. On the coming into force of this Part, the <i>Indian Act</i> Cree bands listed in paragraphs 12(1)(a) to (h) cease to exist, and all their rights, titles, interests, assets, obligations and liabilities, including those of their band councils, shall vest, respectively, in the bands listed in paragraphs 12(2)(a) to (h).</p>
Incorporation of Naskapi Band of Quebec	<p>14. (1) Pursuant to paragraph 7.1.1 of the Northeastern Quebec Agreement, the <i>Indian Act</i> Naskapis de Schefferville band is hereby constituted as a corporation bearing the name of Naskapi Band of Quebec (in English), Bande Naskapi du Québec (in French), and Kobac Naskapi-aeyouch (in Naskapi), subject to section 16.</p>
Legal designation	<p>(2) The band incorporated by subsection (1) may be legally designated by any of its names mentioned in that subsection.</p>
<i>Indian Act</i> Naskapi band ceases to exist	<p>15. On the coming into force of this Part, the <i>Indian Act</i> Naskapis de Schefferville band ceases to exist, and all its rights, titles, interests, assets, obligations and liabilities, including those of its band council, shall vest in the Naskapi Band of Quebec.</p>
Change of band name	<p>16. (1) A band may, by by-law approved by the electors of the band at a special band meeting or referendum at which at least five per cent of the electors voted on the matter, change its English, French or Cree or Naskapi name, but no such by-law is valid unless approved by the Governor in Council.</p>
Effective date of by-law	<p>(2) A by-law made under subsection (1) and approved by the Governor in Council takes effect on the date of its publication in the <i>Canada Gazette</i> or on such later date as is specified in the by-law.</p>

MEMBERSHIP OF BANDS

Membership of Cree bands	17. The members of each of the Cree bands are the Cree beneficiaries who are enrolled or entitled to be enrolled on the community list in respect of that band pursuant to section 3 of the James Bay and Northern Quebec Agreement.
Special provision for Indians who are not Cree beneficiaries	<p>18. A person who, immediately before the coming into force of this Part, was a member of one of the <i>Indian Act</i> Cree bands mentioned in subsection 12(1) but was not a Cree beneficiary</p> <p>(a) shall be deemed to be a member of that band's successor band listed in subsection 12(2) for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1);</p> <p>(b) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the successor band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2), but is not eligible to be elected chief of that band; and</p> <p>(c) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the successor band for the purposes of section 81, except where the matter submitted to a vote is a matter referred to in Part VI, VII, VIII or IX.</p>
Special provision for Inuit of Fort George	19. (1) An Inuk of Fort George shall be deemed to be a member of the Chisasibi Band for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1), and shall be deemed to be a resident of the Category IA land of the Chisasibi Band for the purpose of paragraph 22(2)(b).
Idem	(2) An Inuk of Fort George, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, shall be deemed to be an elector of the Chisasibi Band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2).
Idem	(3) Notwithstanding subsection (2), an Inuk of Fort George is not eligible to be elected chief of the Chisasibi Band.
Membership of Naskapi band	20. The members of the Naskapi band are the Naskapi beneficiaries.
Special provision for Indians who are not Naskapi beneficiaries	<p>20.1 A person who, immediately before the coming into force of this Part, was a member of the <i>Indian Act</i> Naskapis de Schefferville band but was not a Naskapi beneficiary</p> <p>(a) shall be deemed to be a member of the Naskapi band for the purposes of paragraph 21(f), section 45, subsection 55(1), paragraphs 90(2)(a) and (b), subsections 94(3) and (4) and subsection 103(1);</p> <p>(b) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the Naskapi band for the purposes of section 63, subparagraph 66(1)(a)(i), sections 68 and 75 and subsection 97(2), but is not eligible to be elected chief of that band; and</p> <p>(c) shall, if eighteen years of age or over and not declared mentally incompetent under the laws of the Province, be deemed to be an elector of the Naskapi band for the purposes of section 81, except where the matter submitted to a vote is a matter referred to in Part VI, VII, VIII or IX.</p>

OBJECTS AND POWERS OF BANDS

Objects of bands	<p>21. The objects of a band are</p> <p>(a) to act as the local government authority on its Category IA or IA-N land;</p> <p>(b) to use, manage, administer and regulate its Category IA or IA-N land and the natural resources thereof;</p> <p>(c) to control the disposition of rights and interests in its Category IA or IA-N land and in the natural resources thereof;</p> <p>(d) to regulate the use of buildings on its Category IA or IA-N land;</p> <p>(e) to use, manage and administer its moneys and other assets;</p> <p>(f) to promote the general welfare of the members of the band;</p> <p>(g) to promote and carry out community development and charitable works in the community;</p> <p>(h) to establish and administer services, programs and projects for members of the band, other residents of Category IA and IA-N land and residents of the Category III land referred to in paragraph 6(b);</p> <p>(i) to promote and preserve the culture, values and traditions of the Crees or Naskapis, as the case may be; and</p> <p>(j) to exercise the powers and carry out the duties conferred or imposed on the band or on its predecessor <i>Indian Act</i> band by any Act of Parliament or regulations made thereunder, and by the</p>
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Agreements.

Legal capacity of bands	22. (1) A band has, subject to this Act and the regulations, the capacity, rights, powers and privileges of a natural person.
Restriction on band's commercial activities	(2) A band shall not engage, directly or indirectly, in any commercial activity, except in so far as it is related to (a) the management or administration of (i) its Category IA or IA-N land or the natural resources thereof, or (ii) its buildings or other immovable assets on its Category IA or IA-N land; or (b) the provision of public services to or in respect of its Category IA or IA-N land or residents thereof.
Band may own shares in corporations	(3) Notwithstanding subsection (2), a band may own shares in corporations that carry on commercial activities.
Band may not be continued under <i>Canada Business Corporations Act</i>	23. (1) Section 261 of the <i>Canada Business Corporations Act</i> does not apply to a band.
<i>Canada Corporations Act</i>	(2) The <i>Canada Corporations Act</i> does not apply to a band.
Application of certain other Acts	(3) Where provisions of an Act of Parliament specifically applicable to corporations, other than the Acts mentioned in subsections (1) and (2), would apply to a band, the Governor in Council may by order declare that such Act or any provision thereof does not apply to a band.

HEAD OFFICE OF BAND

Head office of band	24. The head office of a band shall be located at such place on its Category IA or IA-N land as is fixed by the band.
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BAND COUNCIL

Band council	25. The council of a band is a continuing body consisting of the council members holding office pursuant to Part II.
Band acts through its council	26. A band shall act through its council in exercising its powers and carrying out its duties under this Act.
Resolutions and by-laws	27. A council shall act by resolution, except where required to act by by-law.
Chief	28. The chief of a band is the principal representative and chief executive officer of that band and shall perform any duties assigned to him by the regulations and the by-laws of the band.
Deputy chief	29. (1) In each band, one councillor shall hold office as deputy chief in accordance with an election by-law made under section 64 or in accordance with regulations made under paragraph 67 (1)(a).
Duties and powers of deputy chief	(2) The deputy chief shall perform the duties assigned to him by the regulations and the by-laws of the band, and, in the event that the chief is absent or incapacitated or if the office of chief is vacant, has and may exercise all the powers and duties of the chief.

COUNCIL MEETINGS

Council meetings	30. By-laws may be enacted or resolutions adopted only at council meetings.
Use of Cree or Naskapi language at council meetings	31. In addition to any other rights relating to the use of the Cree or Naskapi language, a Cree band may conduct its council meetings in the Cree language and the Naskapi band may conduct its council meetings in the Naskapi language.
Language of by-laws and resolutions	32. (1) A by-law or resolution of a Cree band or the Naskapi band shall be enacted or adopted in either the English or the French language, and may also be enacted or adopted in the Cree language or the Naskapi language, as the case may be.
Where versions two or more languages	(2) Where a by-law is enacted or a resolution is adopted in more than one of the English, French, Cree or Naskapi languages, all versions in which it is enacted or adopted are equally authoritative and, where there is any inconsistency between the different versions, subsection 8(2) of the <i>Official Languages Act</i> applies, with such modifications as the circumstances require.
Quorum of council	33. (1) Except as provided in subsection (2), a quorum of a council consists of a majority of the number of positions of council member, subject to subsection 38(5).
Idem	(2) Where, at any time, vacancies on the council result in there being in office fewer council

	members than constitute a quorum under subsection (1), the council members remaining in office constitute a quorum, subject to subsection 38(5), for the limited purpose of enabling the council to act in a care-taker capacity until such time as enough vacancies on the council have been filled pursuant to Part II to restore the quorum referred to in subsection (1).
Filling of vacancies	(3) Nothing in this section shall be construed to relieve the band of its obligation to call elections as required by subsections 76(1) and (2).
Where general election called	(4) Notwithstanding the length of the term of office of council members fixed pursuant to section 64 or 65 and notwithstanding the band's obligation under subsection 76(1), where a general election of the band is called, the council of the band in office immediately before the calling of that general election continues in office until the date fixed for that general election.
Chairmanship of meeting	34. (1) The chief or, in his absence, the deputy chief shall act as chairman at council meetings.
Idem	(2) In the event that both the chief and deputy chief are unable to act as chairman at a council meeting, the council shall designate another councillor to so act.
Voting	35. (1) The approval of any matter by a council requires the affirmative votes of the majority of the council members present when the vote is taken, subject to subsection (2) and subsection 38(5).
Idem	(2) For the purposes of subsection (1), in any vote, where a council member present does not indicate either an affirmative vote or a negative vote or an abstention, he shall be deemed to have voted in the affirmative.
Where tied vote	(3) In the event of a tied vote, the chairman may, except where disqualified from voting under section 38, cast a second vote to determine the question.
Inuit of Fort George	36. (1) For any period during which the council of the Chisasibi Band does not include an Inuk of Fort George, the Inuit of Fort George are entitled to have one Inuk of Fort George present as an observer at meetings of the council of the Chisasibi Band.
Regulations respecting Inuk observer	(2) The Governor in Council may make regulations respecting the manner of selection and term and tenure of the Inuk observer referred to in subsection (1).
Rights of Inuk observer	(3) The Inuk observer selected pursuant to this section and the regulations shall be notified of, and has the right to attend, all council meetings, and has the right to participate in the deliberations of the council, as if he were a council member, but he does not have the right to vote.
When council must meet	37. (1) A council shall meet at least once in every calendar quarter.
Meetings public	(2) Subject to subsection (3), council meetings shall be open to the public.
Decorum	(3) The chairman of a council meeting may cause to be expelled and excluded from that meeting any person whom he considers guilty of improper conduct at the meeting.
Conflict of interest	38. (1) A council member shall disclose to the council any pecuniary interest that he has in any matter before the council and shall not take part in deliberations of the council on that matter or vote on that matter.
Where disagreement	(2) Where a disagreement arises as to whether a council member has a pecuniary interest in a matter before the council, the council shall decide by vote whether the council member has such an interest, and the council member in question may not take part in that vote.
Idem	(3) Where the council decides pursuant to subsection (2) that a council member has a pecuniary interest in a matter before the council, the council member in question shall not take part in deliberations of the council on that matter or vote on that matter.
Where chairman is disqualified	(4) Where, pursuant to this section, the chairman is prohibited from taking part in deliberations and from voting, he may nevertheless continue to act as chairman.
Effect of disqualification	(5) A council member who, pursuant to this section, is disqualified from taking part in deliberations and from voting shall be considered not to be present for the purposes of <ul style="list-style-type: none"> (a) determining a quorum under subsection 33(1) or (2); and (b) determining a majority under subsection 35(1).
Offence	(6) A council member who contravenes subsection (1) or (3) is guilty of an offence.
Application of section to Inuk observer	(7) This section, in so far as it is applicable to an Inuk observer referred to in section 36, applies to such an observer as if he were a council member.
By-laws respecting council meetings	39. A band may make by-laws respecting procedures relating to council meetings, including, without limiting the generality of the foregoing, by-laws respecting notices of meetings, agenda, procedure at meetings and voting.

COMMITTEES OF A COUNCIL

By-laws respecting committees	<p>40. (1) A band may make by-laws</p> <p>(a) establishing such committees as the band considers necessary to assist in the administration of the affairs of the band; and</p> <p>(b) setting out the composition and functions of such committees.</p>
Membership of committees	(2) By-laws made under subsection (1) may provide for the membership on committees of persons who are not council members.
Powers of committees	(3) Committees may exercise only advisory or administrative functions and are responsible to the council for the performance of their functions.

BAND BODIES, OFFICERS, EMPLOYEES AND AGENTS

Bodies, officers, employees and agents	<p>41. (1) A band, by resolution or by-law,</p> <p>(a) shall appoint a band secretary and a band treasurer and fix their remuneration;</p> <p>(b) may prescribe duties for the band secretary and band treasurer in addition to the duties described in sections 42 and 43; and</p> <p>(c) may appoint or engage or provide for the appointment or engagement of such bodies and such officers, in addition to the band secretary and band treasurer referred to in paragraph (a), employees or agents as are necessary for the proper conduct of the affairs of the band, and shall prescribe the duties and fix the remuneration of any body or person so appointed or engaged.</p>
Multiple office-holders	(2) A person may hold concurrently more than one office referred to in subsection (1).
Employment agreements	(3) A band may enter into employment agreements with its officers and employees.
Duties of band secretary	<p>42. (1) The band secretary is responsible for</p> <p>(a) the safekeeping of all the books, records and documents of the band; and</p> <p>(b) the preparation of the minutes of all council meetings and band meetings.</p>
Secretary may certify band documents	(2) The band secretary has the power to issue certified copies of any by-law or resolution of the band, and of minutes of council meetings, special band meetings and ordinary band meetings of the band.
Exercise of secretary's powers	(3) The powers referred to in subsection (2) may also be exercised by the chief and by any other person designated by by-law of the band.
Duties of band treasurer	43. The band treasurer is the chief financial officer of the band, is responsible for the receipt and deposit of band moneys and for all aspects of the financial administration of the band.
Return of band property	44. (1) Where a person who is a council member, officer or employee of a band ceases, for any reason, to hold office as such, he shall forthwith return to the band any money, keys, books, documents, records or other property of the band that is in his possession by virtue of that office.
Failure to comply	(2) Any person who fails to comply with subsection (1) is guilty of an offence.

BY-LAWS RESPECTING LOCAL GOVERNMENT

Power to make by-laws respecting local government	<p>45. (1) Subject to this section, a band may make by-laws of a local nature for the good government of its Category IA or IA-N land and of the inhabitants of such land, and for the general welfare of the members of the band, and, without limiting the generality of the foregoing, may make by-laws respecting</p> <p>(a) the administration of band affairs and the internal management of the band;</p> <p>(b) the regulation of buildings for the protection of public health and safety, including the construction, maintenance, repair and demolition of buildings;</p> <p>(c) health and hygiene, including</p> <p>(i) the prevention of overcrowding of residences,</p> <p>(ii) the sanitary condition of public and private property,</p> <p>(iii) the control or prohibition of activities or undertakings that constitute a danger to public health,</p> <p>(iv) the construction, operation and regulation of waste disposal systems and the collection, removal and disposal of waste generally, and</p> <p>(v) subject to the laws of the Province, the establishment, maintenance and operation of cemeteries;</p>
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	<p>(d) public order and safety, including</p> <ul style="list-style-type: none"> (i) the establishment, maintenance and operation of fire departments, (ii) the discharge of firearms or of arms discharged by compressed air or any other means, (iii) the keeping of animals, (iv) curfews, (v) the prohibition of the sale or exchange of alcoholic beverages, (vi) the possession or consumption of alcoholic beverages in public places, and (vii) the control of public games, sports, races, athletic contests and other amusements; <p>(e) the protection of the environment, including natural resources;</p> <p>(f) the prevention of pollution;</p> <p>(g) the definition of nuisances and the control and prohibition of nuisances;</p> <p>(h) the taxation for local purposes, otherwise than by means of an income tax,</p> <ul style="list-style-type: none"> (i) of interests in its Category IA or IA-N land, except those of Canada and Quebec, and (ii) of occupants and tenants of its Category IA or IA-N land, except Canada and Quebec, <p>subject to subsections (2) and (3) and subject to and in accordance with regulations made under subsection (4);</p> <p>(i) subject to subsection (5), the establishment, maintenance and operation of local services, including services relating to water, sewers, fire protection, recreation, cultural activities, roads, garbage removal and disposal, lighting, heating, power, transportation, communication or snow removal, and respecting user charges for any such service;</p> <p>(j) roads, traffic and transportation, including</p> <ul style="list-style-type: none"> (i) the operation and speed of vehicles, (ii) the maintenance, construction and operation of roads, (iii) the regulation of traffic of all kinds, (iv) the transportation of dangerous substances, and (v) the establishment, maintenance and operation of wharves, harbours, drydocks and other landing places; <p>(k) the operation of businesses and the carrying on of trades; and</p> <p>(l) parks and recreation.</p>
Taxation by-laws	<p>(2) A band</p> <ul style="list-style-type: none"> (a) may not make taxation by-laws other than those described in paragraph (1)(h); and (b) may not make by-laws under paragraph (1)(h) until there are in force regulations made under subsection (4).
Idem	<p>(3) A by-law made under paragraph (1)(h) must be approved by the electors of the band at a special band meeting or referendum at which at least ten per cent of the electors of the band voted on the matter.</p>
Regulations respecting taxation power	<p>(4) The Governor in Council may make regulations respecting the exercise, pursuant to paragraph (1)(h), of a band's power of taxation, including, without restricting the generality of the foregoing, regulations respecting</p> <ul style="list-style-type: none"> (a) assessments and the determination of tax rates; (b) contestation of assessments; (c) collection of taxes; (d) contestation of taxation; and (e) enforcement procedures.
User charge by-laws	<p>(5) A by-law described in paragraph (1)(i) respecting a user charge for a service may differentiate on an equitable basis between different categories of users and different categories of land that benefit from the service, but</p> <ul style="list-style-type: none"> (a) may not delegate to anyone the power to prescribe user charges or user charge rates but must itself prescribe the user charges or the user charge rates; and (b) may not prescribe user charges or user charge rates that exceed the total actual or anticipated

	cost of providing the service.
Payment in forms other than money	(6) A band may accept payment of a tax referred to in paragraph (1)(h) or a user charge referred to in paragraph (1)(i) in a form other than money.
By-laws re land and resource use and planning	<p>46. (1) A band may make by-laws respecting land and resource use and planning, including, without limiting the generality of the foregoing, by-laws respecting</p> <p>(a) the inventory, use and management of its Category IA or IA-N land and the natural resources thereof;</p> <p>(b) the adoption of land use plans and resource use plans in relation to its Category IA or IA-N land; and</p> <p>(c) use permits relating to its Category IA or IA-N land and buildings located thereon, and the conditions relating to the issuance, suspension or revocation of such permits.</p>
Where plan approved by electors	(2) Where a land use plan or resource use plan adopted pursuant to subsection (1) has been approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, any by-law or resolution of the band, whether made or adopted previously or subsequently, that is inconsistent with such land use plan or resource use plan is inoperative to the extent of the inconsistency.
Zoning by-laws	<p>47. (1) A band may make by-laws respecting zoning, including, without limiting the generality of the foregoing, by-laws respecting</p> <p>(a) the division of all or part of its Category IA or IA-N land into zones for the purpose of regulating the use of the land, natural resources thereof, and buildings; and</p> <p>(b) the implementation of a land use plan or resource use plan referred to in subsection 46(1) that was approved by the electors of the band under subsection 46(2).</p>
Approval of band electors required	(2) A zoning by-law other than one described in paragraph (1)(b) is subject to the approval of the electors of the band at a special band meeting or referendum at which at least fifteen per cent of the electors vote on the matter.
By-laws on hunting, fishing, trapping, wildlife protection	<p>48. (1) Subject to this section, a band may make by-laws respecting hunting, fishing and trapping and the protection of wildlife, including, without limiting the generality of the foregoing, by-laws respecting</p> <p>(a) the exercise of the right to harvest referred to in section 24 of the James Bay and Northern Quebec Agreement and in <i>An Act respecting hunting and fishing rights in the James Bay and New Quebec territories</i> (Quebec);</p> <p>(b) matters described in sections 85 and 86 of that Act;</p> <p>(c) residence requirements relating to sport hunting and sport fishing by persons other than Cree or Naskapi beneficiaries, as contemplated by section 37 of that Act; and</p> <p>(d) the right of persons of Cree or Naskapi ancestry to harvest for personal use, as contemplated by sections 38 and 38.1 of that Act.</p>
Proposed by-laws to be submitted to Coordinating Committee	(2) Subject to subsection (3), a copy of each by-law described in subsection (1) that a band proposes to make shall, a reasonable period of time before its enactment, be submitted by the band to the Coordinating Committee referred to in section 24 of the James Bay and Northern Quebec Agreement and in <i>An Act respecting hunting and fishing rights in the James Bay and New Quebec territories</i> (Quebec), in order to enable that Committee to make representations to the band with respect thereto, but the band is not bound by any such representations.
Exceptions	<p>(3) Subsection (2) does not apply in respect of a proposed by-law that</p> <p>(a) has previously been submitted to the Coordinating Committee pursuant to that subsection, whether or not it has been changed as a result of representations made pursuant to that subsection; or</p> <p>(b) makes no substantive change to an existing by-law.</p>
Approval of band electors required	(4) A by-law described in subsection (1) is subject to the approval of the electors of the band at a special band meeting or referendum at which at least ten per cent of the electors vote on the matter.
Minister may disallow certain by-laws	(5) A by-law described in paragraph (1)(b) shall come into force on the day on which a copy thereof, certified by the band secretary, is received by the Minister, but the Minister may disallow the by-law at any time within ninety days after receiving it.

PROCEDURE FOR MAKING BY-LAWS AND RESOLUTIONS

Approval by band electors may be stipulated	49. Where a by-law or resolution is not required by this Act to be approved by the electors of the band, the by-law or resolution may nevertheless provide that it does not come into force unless approved by the electors of the band at a special band meeting or referendum at which the minimum percentage of electors specified in the by-law or resolution vote on the matter.
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Original to be signed	50. (1) The original copy of any by-law of a band must be signed by (a) the chairman of the council meeting at which it was enacted; and (b) the band secretary or such other person as is designated by by-law.
Minutes of council meetings	(2) The minutes of a meeting of a band council are not valid unless adopted by the council by resolution and signed by (a) the chairman of the meeting at which they are adopted; and (b) the band secretary or such other person as is designated by by-law.
Where approval of band electors required	(3) Where a by-law or resolution is required to be approved by the electors of the band at a special band meeting or referendum, the band secretary (a) in the case of a by-law, shall attach to the original copy of the by-law a statement signed by him indicating the date when such approval was given; or (b) in the case of a resolution, shall cause a statement signed by him indicating the date when such approval was given to be recorded in the minutes of the first council meeting following such approval.
Non-compliance	(4) Non-compliance with this section does not invalidate a by-law or resolution.
Coming into force of resolutions	51. (1) Subject to subsection (2), a resolution comes into force on the day on which it is adopted by a band or on such later day as is specified in the resolution.
Idem	(2) Where a resolution is required to be approved by the electors of the band at a special band meeting or referendum, that resolution comes into force on the day on which such approval is given or on such later day as is specified in the resolution.
Posting of by-laws	52. (1) Within one week after a by-law has been enacted by a band, or has been enacted by a band and approved by the electors of the band at a special band meeting or referendum (where such approval is required), the band secretary shall post a copy of the by-law on the band's Category IA or IA-N land at a public place designated by the band.
Coming into force of by-laws	(2) A by-law enacted by a band shall come into force on the day on which it is posted, whether or not it is posted within the time set out in subsection (1), or on such day, subsequent to the day on which it is posted, as may be specified in the by-law.
Register of by-laws	53. (1) The band secretary shall maintain a register of by-laws in which shall be kept the original copy of all by-laws of the band, including by-laws that have been repealed or are no longer in force.
Recording of resolutions	(2) The band secretary shall record the full text of every resolution adopted by the band in the minutes of the council meeting at which the resolution was adopted.
By-laws to be sent to Minister	(3) Within thirty days after the coming into force of a by-law, the band shall forward a copy thereof to the Minister.
Non-compliance	(4) Non-compliance with this section does not affect the validity of a by-law or resolution.
Obtaining copies of by-laws and resolutions	54. Any person is entitled to obtain a copy of a by-law or resolution of a band on payment of such reasonable fee as is fixed by the band.

CHALLENGES TO BY-LAWS OR RESOLUTIONS

Applications for quashing of by-law or resolution	55. (1) Subject to section 56, a member of a band or any other interested person may make application to the Provincial Court or Superior Court of Quebec to have a by-law or resolution of the band quashed, in whole or in part, for illegality or for irregularity in the manner or form of its enactment or adoption.
Exclusion of Federal Court's jurisdiction	(2) Notwithstanding the <i>Federal Courts Act</i> , the Federal Court does not have the jurisdiction to hear applications described in subsection (1). 1984, c. 18, s. 55; 2002, c. 8, s. 133(E).
Time limit for applying	56. (1) An application made under section 55 based on an irregularity in the manner or form of the enactment of a by-law or the adoption of a resolution may not be brought after ninety days after the coming into force of the by-law or resolution.
Idem	(2) An application made under section 55 based on the illegality of the by-law or resolution may not be brought after six months after the coming into force of the by-law or resolution.
Subsequent actions	57. Where a by-law or resolution is quashed, any action for anything done under that by-law or resolution lies only against the band and not against any other person.

TRANSITIONAL

Cree Transitional Provisions

Existing councils of <i>Indian Act</i> Cree bands	58. Subject to section 59, the council of an <i>Indian Act</i> Cree band that is in office pursuant to the <i>Indian Act</i> immediately before the coming into force of this Part becomes the council of its successor band under this Act on the coming into force of this Part, and continues in office as such until the expiration of its term of office under the <i>Indian Act</i> or until a day two years after the coming into force of this Part, whichever occurs first.
Provisions of this Act to apply	59. For the transitional period described in section 58, the council has the powers and duties of a band council elected under this Act, and the provisions of this Act and the regulations apply, with such modifications as the circumstances require, to that council as if it had been elected under this Act.
Continuation in force of by-laws of <i>Indian Act</i> Cree bands	60. The by-laws of an <i>Indian Act</i> Cree band listed in subsection 12(1) that are in force immediately before the coming into force of this Part remain in force on the territory of that band's successor band described in section 6 for a period of one year after the coming into force of this Part, unless repealed during that period pursuant to this Act.

Naskapi Transitional Provisions

Existing council of <i>Indian Act</i> Naskapi band	61. Subject to section 62, the council of the <i>Indian Act</i> Naskapis de Schefferville band that is in office pursuant to the <i>Indian Act</i> immediately before the coming into force of this Part becomes the council of the Naskapi band on the coming into force of this Part, and continues in office as such until the expiration of its term of office under the <i>Indian Act</i> or until a day two years after the coming into force of this Part, whichever occurs first.
Provisions of this Act to apply	62. For the transitional period described in section 61, the council has the powers and duties of a band council elected under this Act, and the provisions of this Act and the regulations apply, with such modifications as the circumstances require, to that council as if it had been elected under this Act.

PART II

BAND ELECTIONS

Each elector entitled to vote	63. (1) Subject to subsection (2), each elector of a band is entitled to vote in any election of council members held by that band, whether the election is conducted pursuant to an election by-law made under section 64 or pursuant to regulations made under paragraph 67(1)(a).
Exception	(2) An elector who is appointed a Returning Officer or a Deputy or Assistant Returning Officer under section 71 in respect of an election is not entitled to vote in that election.

ELECTION BY-LAWS

Election by-law	64. Subject to section 65 and subsection 66(1), a band may make by-laws respecting the election and term of office of its council members.
Required minimum content of by-law	65. A by-law made under section 64 shall include provision for (a) the calling of elections and notices of elections; (b) the number of positions of council member; (c) the length of the term of office of council members; (d) the method of electing council members; (e) the basis on which one of the council members shall hold the office of chief; (f) the basis on which one of the councillors shall hold the office of deputy chief; (g) nomination procedures; (h) election method and procedure; and (i) the recording and certification of election results.
Coming into force and application of election by-law	66. (1) A by-law made under section 64, or any amendment thereto or repeal thereof, (a) does not come into force until it has been approved by (i) the electors of the band at a special band meeting or referendum at which at least twenty per cent of the electors voted on the matter, and (ii) the Minister; and (b) applies only in respect of elections called after its coming into force.
Minister's approval of	(2) The Minister shall approve a by-law made under section 64 if it

election by-law	<p>(a) is within the power of the band under section 64; and</p> <p>(b) includes provision for the matters listed in section 65.</p>
Where Minister disallows by-law	(3) Where the Minister disallows an election by-law, he shall forthwith inform the band in writing of the reasons why, in his opinion, the by-law does not meet the requirements mentioned in paragraphs (2)(a) and (b).
Where Minister deemed to have approved by-law	(4) The Minister shall be deemed to have approved an election by-law if he does not, within thirty days of receiving a copy thereof, either approve or disallow it.
Regulations respecting elections	<p>67. (1) The Governor in Council may make regulations</p> <p>(a) respecting the election of council members and their term of office, including the matters listed in section 65; and</p> <p>(b) prohibiting acts that are detrimental to the conduct of free and fair elections.</p>
Application of regulations	(2) The regulations made under paragraph (1)(b) apply to all elections, but those made under paragraph (1)(a) apply only where, at the time of the calling of the election, there was not in force an election by-law made under section 64.

ELIGIBILITY TO BE ELECTED AND TO SERVE AS COUNCIL MEMBER

Eligibility to be elected council member	<p>68. Any elector of a band is eligible to be elected to the office of council member of that band unless he</p> <p>(a) has been convicted of contravening a regulation made under paragraph 67(1)(b) within the two year period preceding the date fixed for the holding of the election for that office or, where the most recent election for that office took place before that two year period, in respect of the most recent election for that office;</p> <p>(b) has been appointed as a Returning Officer or as a Deputy or Assistant Returning Officer in respect of the election for that office;</p> <p>(c) is the band secretary or band treasurer referred to in section 41;</p> <p>(d) is a judge to which the <i>Judges Act</i> applies or is a Crown prosecutor;</p> <p>(e) is, on the day fixed for the holding of the election for that office, undergoing a term of imprisonment as a result of having been convicted of an indictable offence; or</p> <p>(f) in the case of a Naskapi beneficiary, resides on the Matimekosk Reserve.</p>
Circumstances in which office becomes vacant	<p>69. Apart from general elections referred to in section 74, an office of council member becomes vacant immediately on the occurrence of one of the following events, and only the following events:</p> <p>(a) the election of the office-holder to that office is declared invalid pursuant to subsection 78(7);</p> <p>(b) the office-holder</p> <p>(i) dies or submits his resignation in writing to the council,</p> <p>(ii) is convicted of contravening a regulation made under paragraph 67(1)(b),</p> <p>(iii) is appointed band secretary or band treasurer pursuant to section 41,</p> <p>(iv) is appointed a judge to which the <i>Judges Act</i> applies or a Crown prosecutor,</p> <p>(v) commences a term of imprisonment as a result of having been convicted of an indictable offence, or</p> <p>(vi) is declared mentally incompetent in accordance with the laws of the Province;</p> <p>(c) the office-holder's term of office expires, whether pursuant to this Act, a by-law made under section 64 or regulations made under paragraph 67(1)(a);</p> <p>(d) in the case of a Naskapi beneficiary, the office-holder resides on the Matimekosk Reserve; or</p> <p>(e) the office is declared vacant pursuant to section 70.</p>
Removal of council member for absence	70. (1) Where a council member has, without permission from the council, been absent from three or more consecutive council meetings otherwise than by reason of illness or incapacity, any fifteen electors of the band may file a petition with the band secretary requesting that a special band meeting be convened for the purpose of deciding whether the office of that council member should be declared vacant.
Electors to decide question	(2) Forthwith after the filing of a petition under subsection (1), the band shall call a special band meeting, to be held as soon as possible, for the purpose of deciding whether the office of the council member in question should be declared vacant, and if, with at least twenty per cent of the electors of the band voting on the question, the special band meeting decides that that office should be declared vacant, that office thereupon becomes vacant.

RETURNING OFFICERS

Returning Officers	71. (1) Each band shall appoint a person who is not a council member of that band as Returning Officer, and shall fix his tenure and term of office.
Deputy and Assistant Returning Officers	(2) The Returning Officer of each band shall appoint a Deputy Returning Officer and may appoint such Assistant Returning Officers as are necessary to assist him in the performance of his duties.
Absence, etc., of Returning Officer	(3) Where the Returning Officer of a band is absent or incapacitated or the office of Returning Officer is vacant, the Deputy Returning Officer of the band has and may exercise all the powers and duties of the Returning Officer.
Absence, etc., of both Returning Officer and Deputy Returning Officer	(4) In the event of the absence or incapacity of both the Returning Officer and the Deputy Returning Officer of a band or if both such offices are vacant, the band secretary has and may exercise all the powers and duties of the Returning Officer of the band.
Eligibility to be appointed	72. A person is not eligible to be appointed a Returning Officer or a Deputy or Assistant Returning Officer if he <ul style="list-style-type: none"> (a) is not of the age of majority under the laws of the Province; (b) is undergoing a term of imprisonment as a result of having been convicted of an indictable offence; or (c) has, at any time, been convicted of contravening a regulation made under paragraph 67(1)(b).
Circumstances in which office becomes vacant	73. A Returning Officer or Deputy or Assistant Returning Officer ceases to hold office forthwith if he <ul style="list-style-type: none"> (a) is convicted of contravening a regulation made under paragraph 67(1)(b); (b) commences a term of imprisonment as a result of having been convicted of an indictable offence; or (c) is declared mentally incompetent under the laws of the Province.

CALLING OF ELECTIONS

Meaning of "general election"	74. (1) Where a general election of a band is held, the term of office of every council member expires on the day of that general election.
Band may call general election	(2) A band may hold a general election at any time.
Electors may request general election	75. (1) Any ten electors of a band may, subject to subsection (2), file a petition with the band secretary requesting that a special band meeting be convened for the purpose of deciding whether a general election of the band should be held.
Limitation	(2) A petition may not be filed under subsection (1) within one year after the previous general election or within one year after the filing of the most recent valid petition under that subsection.
Electors may require band to call general election	(3) Within ten days after the filing of a valid petition under this section, the band shall call a special band meeting, to be held as soon as possible, for the purpose of deciding whether a general election of the band shall be held, and if, at that special band meeting, <ul style="list-style-type: none"> (a) at least fifty per cent of the electors of the band vote on that question, (b) the majority of those voting vote in favour of holding a general election, and (c) the majority referred to in paragraph (b) consists of at least one-third of the total number of electors of the band, the band shall forthwith hold a general election.
Individual election	76. (1) A band shall hold an election for a position of council member forthwith after the expiration of the term of office of that council member.
Idem	(2) Where a position of council member becomes vacant more than six months before the expiration of the term of office of that council member, the band shall forthwith hold an election for that position.
Idem	(3) Where a position of council member becomes vacant less than six months before the expiration of the term of office of that council member, the band may hold an election for that position.
Where no quorum due to vacancies	(4) Where a position of council member becomes vacant less than six months before the expiration of the term of office of that council member, and that vacancy results in there being in office less than the number of council members required to constitute a quorum under subsection 33 (1), the band shall, unless it holds an election for that position or a general election, hold an ordinary

band meeting within ten days for the purpose of appointing a sufficient number of council members to restore the quorum.

Method of appointment	(5) The appointment of council members referred to in subsection (4) shall be made by a vote of the electors of the band.
Eligibility rules apply	(6) Section 68 applies, with such modifications as the circumstances require, to appointments pursuant to subsection (5).
Term of appointed council member	(7) A council member appointed pursuant to subsection (5) remains in office for the balance of the term in respect of which the vacancy occurred.
Where band fails to hold election	77. (1) Where a band fails to hold an election pursuant to subsection 75(3) or subsection 76(1) or (2) within ten days after its obligation to do so has arisen, the Returning Officer of the band shall hold the election in question.
Idem	(2) Where a band fails to hold an election or a special band meeting pursuant to subsection 76(4) within ten days after its obligation to do so has arisen, the Returning Officer of the band shall hold the election or special band meeting.

CONTESTATION OF ELECTION RESULTS

Contestation of election	78. (1) Any candidate for election as council member of a band or any fifteen electors of a band may, within five days of the day of any election held by that band, contest the election of any council member or council members elected thereat by submitting to the Returning Officer of the band a written notice to that effect.
Grounds for contesting election	(2) The election of a council member may be contested on the grounds that (a) a regulation made under paragraph 67(1)(b) was contravened in respect of the election of that council member, whether or not anyone has been prosecuted or convicted for such contravention; (b) there was non-compliance with this Act, a by-law made under section 64 or a regulation made under paragraph 67(1)(a) in respect of the election of that council member; or (c) the person elected council member was ineligible to be elected to that office.
Petition to judge	(3) On receipt of a notice under subsection (1), the Returning Officer shall, within two weeks, prepare and submit to a judge of the Provincial Court or Superior Court of Quebec (hereinafter in this section referred to as "the judge") a petition in prescribed form setting out the name of the person or persons whose election is being contested, the name of the person or persons contesting the election and the grounds on which the election is being contested.
Deposit must accompany petition	(4) A petition described in subsection (3) must be accompanied by a deposit of two hundred dollars, which, except as provided in subsection (5), shall be refunded to the person or persons contesting the election forthwith after the judge has made a decision on the petition, whether or not the judge declares the election invalid.
When deposit forfeited	(5) Where the judge is of the opinion that the petition was not made in good faith, he may order the deposit forfeited and, where he so orders, the moneys forfeited shall be applied toward the cost of the court proceedings.
Inquiry into allegations	(6) The judge shall inquire into the correctness of the allegations contained in the petition, and for such purposes may exercise all the powers of a commissioner under Part I of the <i>Inquiries Act</i> .
Judge may declare election invalid	(7) Where, after hearing the petition, the judge is satisfied, in respect of the election of one or more council members whose election has been contested, that a ground for contestation contained in the petition has been established and that, in the case of the grounds described in paragraph (2) (a) or (b), the offence or non-compliance materially affected the result of the election, he shall declare invalid the election of the council member or council members in respect of whose election he is so satisfied.
Duplication barred	(8) The election of any particular council member cannot be contested a second time on the same ground in respect of the same election.
Effect on office-holder	(9) A council member whose election is contested under this section is entitled to remain in office until such time as the judge has declared his election invalid under subsection (7).

PART III

MEETINGS AND REFERENDA OF THE BAND

Who may attend band meetings	79. Only electors of the band have a right to attend ordinary band meetings and special band meetings, but other persons may attend with the permission of the band.
Use of Cree or Naskapi language	80. In addition to any other rights relating to the use of the Cree or Naskapi language, a Cree band may conduct ordinary band meetings, special band meetings and referenda in the Cree

language and the Naskapi band may conduct ordinary band meetings, special band meetings and referenda in the Naskapi language.

Each elector may vote **81.** Each elector of a band is entitled to vote in respect of any matter submitted to a vote at an ordinary band meeting, special band meeting or referendum of that band.

ORDINARY BAND MEETINGS

Ordinary band meetings **82.** (1) A band shall hold at least one ordinary band meeting each calendar year.

By-laws respecting ordinary band meetings (2) A band may make by-laws respecting ordinary band meetings, including, without limiting the generality of the foregoing, by-laws respecting the calling of meetings, the conduct of meetings, quorums, voting, and the preparation and keeping of records of votes taken.

SPECIAL BAND MEETINGS AND REFERENDA

Requirements for approval of measures **83.** (1) Except as provided in subsections 75(3) and 144(1), a matter shall be deemed to have been approved by the electors of a band at a special band meeting or referendum if

(a) the required minimum percentage of electors voted on the matter; and

(b) the majority of those voting voted in favour of the matter.

Abstentions (2) In any vote at a special band meeting or referendum, an elector who does not cast an affirmative vote or a negative vote or who spoils his ballot shall be deemed not to have voted.

Notice of special band meeting or referendum **84.** Where a band wishes to hold a special band meeting or a referendum, it shall cause to be posted in a public place in the community, at least ten days prior to the date fixed for such meeting or referendum, a notice specifying the date, time and place of the special band meeting or referendum and containing a brief description of the matters to be decided at that special band meeting or referendum.

Presiding officer **85.** (1) A presiding officer shall be appointed by the band for any special band meeting or referendum.

Duties of presiding officer (2) A presiding officer appointed pursuant to subsection (1) is responsible for the fair and orderly conduct of the special band meeting or referendum, and for the preparation of a statement, attested to by at least one witness, certifying the results of the special band meeting or referendum.

Preservation of fair and orderly conduct (3) The presiding officer may take such measures as are necessary to ensure the fair and orderly conduct of a special band meeting or referendum, and may cause any person engaging in disorderly conduct to be ejected from a special band meeting.

Assistants (4) The presiding officer may engage such other persons as are necessary to assist him in carrying out his duties under subsections (2) and (3).

Band by-laws re special band meetings and referenda **86.** (1) A band may make by-laws respecting special band meetings and referenda, including, without limiting the generality of the foregoing, by-laws respecting the calling of meetings and referenda, the conduct of meetings and referenda, voting at meetings and in referenda, and the preparation and keeping of records of votes taken.

By-laws raising percentage voting requirements (2) Where a provision of this Act, other than subsection (3), stipulates that a matter requires the approval of the electors of a band at a special band meeting or referendum at which a specified minimum percentage of the electors must vote on the matter, the band may make by-laws, subject to subsection (3), fixing a different minimum percentage, not lower than that specified in the relevant provision of this Act.

Percentage vote required for by-law under subsection (2) (3) A by-law made under subsection (2) requires the approval of the electors of the band at a special band meeting or referendum at which the same minimum percentage of electors voted on the matter as the minimum specified in the relevant provision of this Act referred to in that subsection.

Copy of by-law to Minister (4) A band shall forward to the Minister a copy of any by-law made under this section, within thirty days after its enactment.

Regulations respecting special band meetings and referenda **87.** (1) The Governor in Council may make regulations respecting special band meetings and referenda, including, without limiting the generality of the foregoing, regulations respecting any of the specific matters referred to in subsection 86(1).

Where regulations apply (2) The regulations made under subsection (1) apply in respect of a special band meeting or referendum only if, at the time of the calling of that special band meeting or referendum, there is not in force any applicable by-law made under subsection 86(1).

Where regulation or by-law not complied with **88.** Non-compliance with a by-law made under section 86 or a regulation made under section 87 does not affect the validity of the result of a vote unless such non-compliance materially affected that result.

PART IV

FINANCIAL ADMINISTRATION OF BANDS

Fiscal year of band	89. (1) The fiscal year of a band begins on April 1 of each year and ends on March 31 of the following year, unless otherwise provided by by-law made pursuant to subsection (2).
By-law changing fiscal year	(2) A band may, by by-law, (a) adopt a fiscal year different from that provided for in subsection (1); or (b) where the band has adopted a different fiscal year pursuant to paragraph (a), revert to the fiscal year provided for in subsection (1).
Transition between old and new fiscal years	(3) Where a by-law is made under subsection (2), the fiscal year provided for in the by-law cannot commence until after the end of the fiscal year in which the by-law came into force.
Idem	(4) Where a by-law is made under subsection (2), the period between the end of the fiscal year in which the by-law came into force and the commencement of the fiscal year provided for in the by-law shall be deemed to be a separate fiscal year for the purposes of this Part.
Budget	90. (1) A band shall, by resolution, prior to the beginning of each fiscal year, adopt a budget for that fiscal year, and may, if it deems necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.
Explanation and distribution	(2) Forthwith after adopting a budget or supplementary budget, a band shall (a) explain the budget or supplementary budget to the members of the band at an ordinary band meeting; (b) make a copy thereof available at the head office of the band, for inspection by members of the band at reasonable hours; and (c) send a copy thereof to the Minister.
Where delay in adopting budget	(3) Where a band fails to adopt a budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.
By-laws	(4) A band may make by-laws respecting the preparation and implementation of budgets.
Authorization to spend moneys	(5) A band may not expend moneys or commit itself, by contract or otherwise, to expend moneys, unless (a) such expenditure is authorized by or under a by-law or resolution; and (b) a certificate is issued by the band treasurer stating that moneys are available for such expenditure.
Position of other party	(6) Non-compliance by a band with subsection (5) does not affect the validity or enforceability, with respect to the other party, of a band's commitment to expend moneys, if the other party took reasonable steps to satisfy itself that the band had complied with subsection (5).
Where inconsistency with budget	(7) Where a by-law or resolution referred to in subsection (5) is inconsistent with the band's budget or a supplementary budget, the by-law or resolution shall so state, but a non-compliance with this subsection does not affect the validity of the by-law or resolution.
Books of account and financial records	91. (1) A band shall keep books of account and financial records that (a) contain, as a minimum, (i) an account of all moneys received and disbursed, (ii) an account of revenues and expenditures, (iii) a record of accounts payable and receivable, (iv) an account of assets and liabilities, and (v) an account of all other transactions that may affect the financial position of the band; (b) conform with generally accepted accounting principles; and (c) permit a comparison between (i) revenues and expenditures as shown in the books of account and financial records, and (ii) the projected revenues and expenditures as shown in the budget and any supplementary budget.
Access to books and records	(2) The Minister, a council member or elector of a band, or any person authorized in writing by the Minister or by a council member or elector may, at any reasonable time, inspect the books of

account and financial records of the band, and any person who

(a) obstructs such person, or

(b) having control or possession of such books or records, fails to give all reasonable assistance to such person

is guilty of an offence.

Band to prepare annual financial statement

92. Within two months after the end of each fiscal year, a band shall prepare a financial statement in comparative form, containing, as a minimum,

(a) a balance sheet;

(b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the band's budget and any supplementary budget; and

(c) any other information necessary for a fair presentation of the financial position of the band.

AUDIT

Appointment of auditor

93. (1) For each fiscal year, the electors of a band shall, at a special band meeting or referendum at which at least five per cent of the electors voted on the matter,

(a) appoint a duly accredited auditor and fix or provide for his remuneration; or

(b) authorize the council to appoint a duly accredited auditor and to fix or provide for his remuneration.

Where band fails to make appointment

(2) Where no auditor has been appointed under subsection (1) within three months after the beginning of a fiscal year, the Minister may appoint an auditor for that fiscal year and fix his remuneration.

Term of office

(3) The auditor appointed pursuant to subsection (1) or (2) holds office until he is re-appointed, or a new auditor is appointed, under subsection (1) or (2).

Where vacancy occurs

(4) Where a vacancy occurs during the term of the auditor, the band shall forthwith appoint a new auditor for the remainder of the term of the former auditor and shall fix the new auditor's remuneration.

Where band fails to act

(5) Where a band fails to act pursuant to subsection (4), the Minister may appoint a new auditor and fix his remuneration, and shall so inform the band in writing.

Band to pay remuneration

(6) In all cases the auditor's remuneration shall be paid by the band.

Duty of auditor

94. (1) The auditor shall, within four months after the end of the band's fiscal year, prepare and submit to the band (with a copy to the Minister) a report on the band's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the band in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Where report delayed

(2) Where the auditor has not been able to prepare the report within the period mentioned in subsection (1), he shall notify the band and the Minister of the reasons for the delay.

Explanation of auditor's report

(3) A band shall present and explain the auditor's report to the members of the band at an ordinary band meeting.

Copy of auditor's report to be made available for inspection

(4) A band shall make a copy of the auditor's report available at the head office of the band, for inspection by members of the band at reasonable hours.

Auditor's access to records, etc.

95. For the purpose of preparing his report under subsection 94(1), the auditor may at all reasonable times inspect the financial records, accounts, books, minutes vouchers and receipts of the band, its subsidiaries and any person or body who administers money on behalf of the band (in so far as the records or other documents relate to the money being administered on behalf of the band), and any person who

(a) obstructs the auditor in the performance of his duties, or

(b) having control or possession of any such documents, fails to give the auditor all reasonable assistance in the performance of his duties

is guilty of an offence.

BORROWING POWERS OF BAND

Borrowing limitations

96. (1) A band may not borrow money on either a short-term or long-term basis otherwise than in accordance with section 97 and the regulations made under section 98.

Short-term and long-

term borrowing	<p>(2) For the purposes of this section and sections 97 and 98,</p> <p>(a) money shall be deemed to be borrowed on a short-term basis only if</p> <p>(i) it is borrowed for the purpose of meeting the normal operating expenditures of the band,</p> <p>(ii) it is to be repaid within one year from the day on which it is borrowed, and</p> <p>(iii) the band has, prior to borrowing the money, identified the source of revenue from which the money is to be repaid; and</p> <p>(b) all borrowing that is not on a short-term basis shall be deemed to be on a long-term basis.</p>
Repayment of loan	(3) Where a source of revenue has been identified pursuant to subparagraph (2)(a)(iii), moneys received by the band from that source shall be applied to the repayment of the loan in question.
Borrowing by-laws	<p>97. (1) Each borrowing by a band, whether on a short-term basis or on a long-term basis, must be authorized by a by-law of the band, which by-law must specify</p> <p>(a) the amount to be borrowed and the purpose of borrowing; and</p> <p>(b) the manner and terms of repayment and the repayment date or dates.</p>
Long-term borrowing	(2) A by-law made under subsection (1) authorizing long-term borrowing must be approved by the electors of the band at a special band meeting or referendum at which at least twenty per cent of the electors voted on the matter.
Idem	(3) A band may not borrow on a long-term basis until regulations made under section 98 are in force.
Regulations re long-term borrowing	98. The Governor in Council may make regulations respecting long-term borrowing by bands.

CONTRACTS

By-laws re contracts and tenders	99. A band may make by-laws respecting procedures for the awarding of contracts and the calling of tenders in relation thereto, and such by-laws may take into account the preferential contract and employment benefits for Cree and Naskapi beneficiaries contained in the Agreements or established pursuant to the Agreements.
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APPOINTMENT OF ADMINISTRATOR

When administrator may be appointed	<p>100. (1) Where, as a result of an inspection by the Minister or a person authorized by him pursuant to subsection 91(2), the auditor's report under subsection 94(1), or any non-compliance with the provisions of this Part, the Minister is of the opinion that the financial affairs of a band are in serious disorder, he may give written notice to the band of his intention to appoint an administrator to administer the financial affairs of the band, setting out his reasons for so doing.</p>
Band's opportunity to remedy situation	(2) Where a band receives a notice under subsection (1), it shall forthwith take corrective measures to remedy the situation referred to in the notice.
Appointment of administrator	(3) At any time between sixty days and one year after giving notice under subsection (1), the Minister may, if he is of the opinion that the situation referred to in the notice has not been adequately remedied, appoint, by order, an administrator to administer the financial affairs of the band, and the order shall set out the duties of the administrator.
Effect of appointment	(4) Where an administrator has been appointed pursuant to subsection (3), no person shall expend moneys of the band without the consent of the administrator, and any person who violates this subsection is guilty of an offence.
Administrator's term	(5) The administrator appointed pursuant to subsection (3) holds office for a term of four months from the date of his appointment.
Extension of term	(6) At the expiration of the administrator's term of appointment referred to in subsection (5), the Minister may, where he is of the opinion that the financial affairs of the band continue to be in serious disorder, reappoint the administrator, or appoint a new administrator, for a further period not exceeding four months.
Idem	(7) The Minister's power under subsection (6) applies also at the expiration of the term of appointment of an administrator appointed or re-appointed under that subsection.

PART V

RESIDENCE AND ACCESS RIGHTS ON CATEGORY IA AND IA-N LAND

General prohibition against residing, etc.	101. No person may reside on, enter or remain on Category IA or IA-N land otherwise than in accordance with a residence or access right under this Part.
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Rights subject to by-laws	102. (1) The exercise of residence or access rights conferred by sections 103 to 106 is subject to any by-law made under subsection (2).
By-laws respecting the exercise of residence and access rights	(2) A band may make by-laws for the purpose of regulating, on its Category IA or IA-N land, the exercise of residence or access rights conferred by sections 103 to 106, but, except in the case of an authorization to reside under paragraph 103(2)(a) or an authorization of access under paragraph 105(5)(e), such a by-law may not, notwithstanding section 8, unreasonably restrict or, except as provided by subsection 103(3) effectively deny any such residence or access right.

RESIDENCE RIGHTS

Right to reside on IA or IA-N land	103. (1) The following persons have the right to reside on the Category IA or IA-N land of a band: (a) a member of that band; (b) the member's consort, within the meaning of section 174; and (c) the family to the first degree of a person described in paragraph (a) or (b).
Special categories of persons who may reside on IA or IA-N land	(2) In addition to persons described in subsection (1), the following persons may reside on the Category IA or IA-N land of a band: (a) a person so authorized in writing by that band or by a by-law of that band; (b) a person so authorized by virtue of a grant from that band under Part VIII; (c) an administrator holding office pursuant to section 100; and (d) subject to subsection (3), a person engaged in administrative or public duties approved by that band or scientific studies approved by that band.
Band's control over number of outsiders	(3) A band may prohibit a person described in paragraph (2)(d) from residing on its Category IA or IA-N land where the number of such persons would be such as to significantly alter the demographic composition of the community.
Pre-Agreement residence and occupation rights not affected	104. (1) A person who is not a Cree beneficiary and who (a) was, immediately before November 11, 1975, residing on or occupying, by virtue of a right of residence or occupancy, land that became Category IA land by virtue of the James Bay and Northern Quebec Agreement, and (b) continues to reside on or occupy that land by virtue of that right at the coming into force of this Part may continue to reside on or occupy that land in accordance with that right until the expiry of that right.
Idem	(2) A person who (a) is not a Naskapi beneficiary, (b) was, immediately before January 31, 1978, residing on or occupying, by virtue of a right of residence or occupancy, land that became Category IA-N land by virtue of the Northeastern Quebec Agreement, and (c) continues to reside on or occupy that land by virtue of that right at the coming into force of this Part may continue to reside on or occupy that land in accordance with that right until the expiry of that right.

ACCESS RIGHTS

Right of access to IA land	105. (1) The following persons have a right of access to any Category IA land: (a) any Cree beneficiary; (b) that beneficiary's consort, within the meaning of section 174; and (c) the family to the first degree of a person described in paragraph (a) or (b).
Indians who are not Cree beneficiaries	(2) A person who, immediately before the coming into force of this Part, was a member of one of the <i>Indian Act</i> Cree bands mentioned in subsection 12(1) but was not a Cree beneficiary has a right of access to the Category IA land of the band of which he is deemed by paragraph 18(a) to be a member.
Inuit of Fort George	(3) The Inuit of Fort George have a right of access to the Category IA land of the Chisasibi Band.
Right of access to IA-N land	(4) The following persons have a right of access to any Category IA-N land: (a) any Naskapi beneficiary;

	<p>(b) that beneficiary's consort, within the meaning of section 174;</p> <p>(c) the family to the first degree of a person described in paragraph (a) or (b); and</p> <p>(d) a person deemed by paragraph 20.1(a) to be a member of the Naskapi band.</p>
Special categories of persons who are permitted access to IA or IA-N land	<p>(5) In addition to persons described in subsections (1) to (4), the following persons are permitted access to Category IA or IA-N land of a band to the extent required in order to exercise their rights or functions referred to below, subject to the terms and conditions of the right or function in question:</p> <p>(a) a person who is authorized by a government body or any other public body, established by or under an Act of Parliament, an Act of the legislature of Quebec or a by-law of the band to perform a public function, establish, operate or administer a public service, construct or operate a public installation or conduct a technical survey thereon;</p> <p>(b) a holder of a right or interest granted under Part VIII in Category IA or IA-N land or in a building situated thereon;</p> <p>(c) a person who has an authorization for commercial exploitation of forest resources referred to in subsection 111(2);</p> <p>(d) a holder of a mining right or other subsurface right referred to in section 114 or 115 or a person exercising a right under subsection 113(3); and</p> <p>(e) a person authorized in writing by the band or by a by-law of the band.</p>
Public's access to public facilities	<p>106. Any member of the public is permitted access to the public facilities and installations mentioned in sections 63 and 191-45 of <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec), where all or any part of such a facility or installation is located on Category IA or IA-N land.</p>

GENERAL

Special provision for Naskapis	<p>107. Notwithstanding the <i>Indian Act</i>, a Naskapi beneficiary who, immediately before the coming into force of this section, resided on the Matimekoshe Reserve has the right to continue to reside on, and enjoy access to and movement about, the said reserve, subject to subsection 20.25A of the Northeastern Quebec Agreement.</p>
Obstruction and trespass	<p>108. (1) Every person who</p> <p>(a) unlawfully interferes with a person's residence or access right under this Part, or</p> <p>(b) resides on, enters or remains on Category IA or IA-N land otherwise than in accordance with a residence or access right under this Part</p> <p>is guilty of an offence.</p>
Other remedies preserved	<p>(2) Subsection (1) does not affect any right or remedy that, but for that subsection, would be available in respect of a contravention of section 101.</p>

PART VI

RIGHTS OF BANDS, QUEBEC AND OTHERS IN RELATION TO CATEGORY IA AND IA-N LAND

Quebec retains bare ownership	<p>109. (1) Quebec retains the bare ownership of Category IA and IA-N land.</p>
Band's rights re its land and resources	<p>(2) Subject to this Act, a band has the exclusive use and benefit of its Category IA or IA-N land and the natural resources thereof, and may administer, manage, control, use and enjoy that land and the natural resources thereof for community, commercial, industrial, residential or other purposes, as if it were the owner thereof.</p>

SOAPSTONE DEPOSITS

Band ownership of soapstone deposits	<p>110. All deposits of</p> <p>(a) soapstone, and</p> <p>(b) any other similar material used for traditional arts and crafts of the Crees or Naskapis</p> <p>on Category IA or IA-N land of a band are the property of the band.</p>
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FOREST RESOURCES

Band's rights subject to provincial control	<p>111. (1) A band has the exclusive right to the commercial exploitation of forest resources on its Category IA or IA-N land without the payment of stumpage dues, but it may not exercise the right conferred on it by this subsection, either directly or through persons authorized by the band, unless it</p>
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obtains from the provincial Minister responsible therefor, cutting rights or a licence to cut timber, as required by section 58 (in the case of a Cree band) or section 191-40 (in the case of the Naskapi band) of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec).

Where approval required at band meeting	(2) An authorization from a band to a person for commercial exploitation of forest resources on the band's Category IA or IA-N land requires the approval of the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.
Right of member of band	(3) Subject to any by-law of the band made under section 45 restricting or prohibiting the use of forest resources, a member of a band may use forest resources on the Category IA or IA-N land of his band for personal or community purposes.

GRAVEL

Gravel	112. A band, where it has obtained a permit from the ministre de l'Énergie et des Ressources of Quebec pursuant to section 56 (in the case of a Cree band) or section 191-38 (in the case of the Naskapi band) of <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec), may use, in accordance with that permit, gravel and other similar material generally used for personal or community earthworks.
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MINERAL, SUBSURFACE AND MINING RIGHTS

Mineral and subsurface rights	113. (1) Subject to this Act, Quebec retains the ownership of all mineral rights and subsurface rights on Category IA and IA-N land.
Consent and compensation requirements	(2) Subject to subsection (3), after November 11, 1975 (in the case of Category IA land) or January 31, 1978 (in the case of Category IA-N land) no mineral right or subsurface right on Category IA or IA-N land of a band may be granted or exercised and no mineral or other subsurface material or substance may be mined or extracted from such land without the consent of the band and payment to the band of compensation agreed to by the band.
Exception	(3) A holder of an exploration permit described in section 114 or of a right or title described in section 115 may, without the consent and payment referred to in subsection (2) but subject to section 116 and the payment of compensation as set out in that section, explore for and exploit minerals on adjacent Category IA or IA-N land if those minerals extend continuously from the minerals that are the object of the permit, right or title.
Where approval required at band meeting	(4) The following require approval by the electors of a band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter: <ul style="list-style-type: none"> (a) the giving by the band of the consent referred to in subsection (2); (b) a grant by the band of a right or interest in its Category IA or IA-N land in connection with the giving of the consent referred to in subsection (2); and (c) the band's agreement as to the type and amount of the compensation referred to in subsection (2).
Société de développement de la Baie James	114. Where an exploration permit was granted by Quebec to the Société de développement de la Baie James prior to November 11, 1975 for land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement, the Société de développement de la Baie James may, in accordance with that exploration permit and subject to subsections 116(1) and (2), use that Category IA land to carry out exploration activities and exploit mineral deposits.
Holders of prior rights or titles to minerals	115. (1) A holder of a right or title (including a mining claim, development licence, exploration permit, mining concession and mining lease) to minerals ("minerals" as defined in the <i>Mining Act</i> (Quebec) as it read on November 11, 1975) granted before November 11, 1975 on land surrounded by or adjacent to land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement may, subject to subsections 116(1) and (2), use that Category IA land to the extent necessary for the exercise of his right or title.
Idem	(2) A holder of a right or title (including a mining claim, development licence, exploration permit, mining concession and mining lease) to minerals ("minerals" as defined in the <i>Mining Act</i> (Quebec) as it read on January 31, 1978) granted before January 31, 1978 on land surrounded by or adjacent to land that subsequently became Category IA-N land pursuant to the Northeastern Quebec Agreement may, subject to subsections 116(3) and (4), use that Category IA-N land to the extent necessary for the exercise of his right or title.
Manner in which rights must be exercised	116. (1) The rights conferred by subsection 113(3), section 114 and subsection 115(1) may not be exercised otherwise than in accordance with Division XXII of the <i>Mining Act</i> (Quebec) as it read on November 11, 1975, except that the expropriation of servitudes provided for by that Division shall be restricted to temporary servitudes.
Compensation to band	(2) Where Category IA land is used pursuant to subsection 113(3), section 114 or subsection 115(1), compensation shall be paid to the Cree band in question

	<p>(a) in the form of an equal area of land, where the Category IA land is used for a purpose other than exploration; or</p> <p>(b) where the Category IA land is used for the purpose of exploration, in an amount equivalent to that paid to Quebec for the use of its land in similar cases.</p>
Manner in which rights must be exercised	(3) The right conferred by subsection 115(2) may not be exercised otherwise than in accordance with Division XXII of the <i>Mining Act</i> (Quebec) as it read on January 31, 1978, except that the expropriation of servitudes provided for by that Division shall be restricted to temporary servitudes.
Compensation to band	<p>(4) Where Category IA-N land is used pursuant to subsection 113(3) or 115(2), compensation shall be paid to the Naskapi band</p> <p>(a) in the form of an equal area of land, where the Category IA-N land is used for a purpose other than exploration; or</p> <p>(b) where the Category IA-N land is used for the purpose of exploration, in an amount equivalent to that paid to Quebec for the use of its land in similar cases.</p>
Procedure re replacement land	(5) Where compensation is payable under paragraph (2)(a) or paragraph (4)(a), sections 125 and 126 apply, with such modifications as the circumstances require.

PRE-EXISTING RIGHTS AND INTERESTS ON CATEGORY IA AND IA-N LAND

Certain pre-existing rights on IA land to continue until expiry	<p>117. (1) A holder of any lease, occupation permit or other grant or authorization the term of which lease, permit, grant or authorization had not expired at the coming into force of this Part, granted in writing by Quebec before November 11, 1975 on land that subsequently became Category IA land pursuant to the James Bay and Northern Quebec Agreement, may continue to exercise his rights under such lease, permit, grant or authorization, as if the land were Category III land, until the end of the term fixed therein, or, where the term is renewed on or after November 11, 1975, until the end of the renewal period.</p>
Certain pre-existing rights on IA-N land to continue until expiry	<p>(2) A holder of any lease, occupation permit or other grant or authorization the term of which lease, permit, grant or authorization had not expired at the coming into force of this Part, granted in writing by Quebec before January 31, 1978 on land that subsequently became Category IA-N land pursuant to the Northeastern Quebec Agreement, may continue to exercise his rights under such lease, permit, grant or authorization, as if the land were Category III land, until the end of the term fixed therein, or, where the term is renewed on or after January 31, 1978, until the end of the renewal period.</p>
Replacement of previously held rights and interests	<p>(3) Where, immediately before the coming into force of this Part, a person held a right or interest, lawfully granted by the Minister or by an <i>Indian Act</i> Cree band,</p> <p>(a) in Category IA land,</p> <p>(b) in land that became Category IA land by virtue of the James Bay and Northern Quebec Agreement, or</p> <p>(c) in a building situated on land described in paragraph (a) or (b),</p> <p>that band's successor band under this Act shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest that is equivalent to the person's former right or interest, whereupon the person's former right or interest expires; and where the person does not make the request within two years after the coming into force of Part VIII, that person's former right or interest expires at the end of that period.</p>
Idem, for IA-N land	<p>(4) Where, immediately before the coming into force of this Part, a person held a right or interest, lawfully granted by the Minister or by the <i>Indian Act</i> Naskapis de Schefferville band,</p> <p>(a) in Category IA-N land,</p> <p>(b) in land that became Category IA-N land by virtue of the Northeastern Quebec Agreement, or</p> <p>(c) in a building situated on land described in paragraph (a) or (b),</p> <p>the Naskapi band shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest that is equivalent to the person's former right or interest, whereupon the person's former right or interest expires; and where the person does not make the request within two years after the coming into force of Part VIII, that person's former right or interest expires at the end of that period.</p>
Previous possession or occupation	<p>(5) Where, immediately before the coming into force of this Part, a person was in possession of, or occupied, with the explicit consent of an <i>Indian Act</i> Cree band,</p> <p>(a) Category IA land of that band,</p> <p>(b) land that became Category IA land of that band by virtue of the James Bay and Northern Quebec Agreement, or</p>

	<p>(c) a building owned by that band and situated on land described in paragraph (a) or (b),</p> <p>but that person was not a holder of a right or interest in that land or building referred to in subsection (1) or (3), that band's successor band under this Act shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest in such land or building that is equitable in the circumstances, taking into account that possession or occupation and all other relevant factors.</p>
Idem, for IA-N land	<p>(6) Where, immediately before the coming into force of this Part, a person was in possession of, or occupied, with the explicit consent of the <i>Indian Act</i> Naskapis de Schefferville band,</p> <p>(a) Category IA-N land of that band,</p> <p>(b) land that became Category IA-N land of that band by virtue of the Northeastern Quebec Agreement, or</p> <p>(c) a building owned by that band and situated on land described in paragraph (a) or (b),</p> <p>but that person was not a holder of a right or interest in that land or building referred to in subsection (2) or (4), the Naskapi band shall, if that person so requests within two years after the coming into force of Part VIII, forthwith grant to that person under that Part a right or interest in such land or building that is equitable in the circumstances, taking into account that possession or occupation and all other relevant factors.</p>
Certain restrictions applicable	<p>(7) Subsections 132(2) and (4) and section 137 apply, with such modifications as the circumstances require, in respect of a grant by a band of a right or interest in land pursuant to subsection (3), (4), (5) or (6).</p>

PART VII

EXPROPRIATION OF CATEGORY IA OR IA-N LAND BY QUEBEC

Definition of "expropriating authority"	<p>118. In this Part, "expropriating authority" means</p> <p>(a) Quebec; or</p> <p>(b) any public body having the power of expropriation under the laws of the Province and specifically authorized by Quebec to carry out the expropriation in question.</p>
Expropriations	<p>119. (1) An expropriating authority may not expropriate any Category IA or IA-N land or any interest therein except as provided by this Part.</p>
Quebec <i>Expropriation Act</i>	<p>(2) The <i>Expropriation Act</i> (Quebec) applies to expropriations under this Part, except to the extent that it is inconsistent with or in conflict with this Act, in which case this Act prevails to the extent of the inconsistency or conflict.</p>
Expropriation of IA and IA-N land for public services or structures	<p>120. (1) Subject to this Part, an expropriating authority may expropriate in full ownership any Category IA or IA-N land or any building thereon, or may expropriate a servitude over any Category IA or IA-N land, but only for the purpose of, and to the extent necessary for, the establishment of the following public services or structures:</p> <p>(a) infrastructures, such as regional roads and arteries, bridges, airports, maritime structures and protection and irrigation facilities;</p> <p>(b) services normally provided by local or municipal governments, including water systems, sewers, purification plants, treatment plants and fire protection services;</p> <p>(c) public utilities, including electricity, gas and oil, and telephone and other types of telecommunications;</p> <p>(d) gas or oil pipelines, and energy transmission lines, subject to subsection (2); and</p> <p>(e) any other service or structure similar to those mentioned in paragraphs (a) to (d) established pursuant to the laws of the Province.</p>
Pipelines and transmission lines	<p>(2) An expropriating authority may expropriate for a purpose mentioned in paragraph (1)(d) only if</p> <p>(a) the expropriating authority has previously made all reasonable efforts to locate the pipeline or transmission line on</p> <p>(i) Category III land,</p> <p>(ii) Category II land, in the case of an expropriation of Category IA land or of a servitude over Category IA land, or</p> <p>(iii) Category II-N land, in the case of an expropriation of Category IA-N land or of a servitude over Category IA-N land</p> <p>and has been unable to do so at a cost substantially equivalent to or lower than the cost of locating the pipeline or transmission line on Category IA or IA-N land, as the case may be; and</p>

	(b) the pipeline or transmission line is to be located as far as possible from the centre of any residential area located on Category IA or IA-N land, and, in the case of Category IA land, at least eight kilometres from such centre.
What may be expropriated	121. (1) Except as provided in subsections (2) and (3), an expropriating authority may expropriate only servitudes.
Expropriation in full ownership where necessary	(2) Where a service or structure mentioned in subsection 120(1) cannot be established without a taking of the full use and enjoyment of the Category IA or IA-N land, the expropriating authority may expropriate the land in full ownership.
Expropriation in full ownership required in certain cases	(3) Where the expropriation of a servitude for the establishment of a service or structure mentioned in subsection 120(1) would effectively prevent the use or enjoyment by the band or its members of the land on which the service or structure is to be established, the expropriating authority may not expropriate the servitude in question but may only expropriate the land in full ownership.
Band entitled to compensation	122. (1) Subject to section 123, a band is entitled to compensation from the expropriating authority in accordance with this section.
Compensation in land	(2) A band is entitled to be compensated with an equal area of land where the expropriation is for a purpose mentioned in paragraph 120(1)(d).
Compensation in money	(3) A band is entitled to be compensated in money in respect of an expropriation of a servitude for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e), and the amount of compensation must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.
Compensation in land or money or both	(4) A band is entitled to be compensated with an equal area of land or in money, or partly with land and partly in money, at the band's option, in respect of land expropriated in full ownership for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e), and the type and amount of compensation must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.
Special provision for Naskapi band	(5) Notwithstanding subsections (2) and (4), the expropriating authority may compensate the Naskapi band exclusively in money in the circumstances described in the third paragraph of section 191-22 of <i>An Act respecting the land regime in the James Bay and New Quebec territories</i> (Quebec).
Where no compensation payable	123. A band is not entitled to any compensation where the expropriation is for a purpose mentioned in paragraph 120(1)(a), (b), (c) or (e) and the service or structure in question is of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.
Services deemed to be of direct benefit	124. (1) For the purposes of section 123, the following services or structures shall be deemed to be of direct benefit under that section: <ul style="list-style-type: none"> (a) services expressly requested by a band from the expropriating authority; (b) essential services for the use of the members of a band as a community; (c) local services normally provided by a municipal or local government, including local roads, bridges, airports and other similar services; and (d) local services normally provided by a public utility.
Statement on expropriation notice	(2) An expropriating authority shall indicate on an expropriation notice whether or not the service or structure to be established on the land being expropriated is, in the opinion of the expropriating authority, of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.
Idem	(3) Where the expropriating authority referred to in subsection (2) fails to indicate its opinion in accordance with that subsection or indicates that, in its opinion, the service or structure referred to in subsection (2) is not of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land, the service or structure shall be deemed, for the purposes of this Part, not to be of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land.
Disputes referable to Tribunal de l'expropriation du Québec	(4) Where a band and an expropriating authority disagree as to whether a service or structure is of direct benefit to the members of the band as a community or to a significant portion of the band's Category IA or IA-N land, or disagree as to whether a service or structure is one described in paragraphs (1)(a) to (d), the issue shall be determined by the Tribunal de l'expropriation du Québec, unless the parties have agreed to submit the matter to final and binding arbitration.
Burden of proof on expropriating authority	(5) In any disagreement referred to in subsection (4), the burden of proof lies on the expropriating authority.
Factors to be considered	(6) In determining whether a service or structure is one described in paragraph (1)(b), (c) or (d) or

whether a service or structure not described in subsection (1) is of direct benefit to the members of a band as a community or to a significant portion of the band's Category IA or IA-N land, regard shall be had to the potential use by the members of the band as a community of the service or structure, the advantages of the service or structure to the members of the band as a community, and the anticipated benefit of the service or structure to the Category IA or IA-N land of the band.

Rules governing compensation wholly or partly in land

125. (1) Where a band is entitled to be compensated with land under paragraph 116(2)(a), paragraph 116(4)(a) or subsection 122(2) or elects to be compensated wholly or partly with land under subsection 122(4), the following rules apply:

(a) as soon as possible after service of the expropriation notice (where the band has not contested the right to expropriate) or after the final judgment on the right to expropriate (where the band has contested that right), the band shall indicate to the expropriating authority its preference as to the selection of replacement land, which preference must have been agreed to by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter;

(b) if the selection of replacement land proposed by the band under paragraph (a) is not acceptable to Quebec, Quebec shall, taking into account the preference of the band as expressed under that paragraph, propose to the band alternative replacement land that

(i) is

(A) Category II land of the band or Category III land, in the case of a Cree band, or

(B) Category III land, in the case of the Naskapi band,

(ii) is adjacent to Category IA or IA-N land of the band, as the case may be, and

(iii) is double the area of, and has characteristics reasonably similar to those of the expropriated land;

(c) the band may select from the alternative replacement land proposed by Quebec under paragraph (b) an area of land equal to the area of the expropriated land, and such selection must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter;

(d) once replacement land has been accepted by the band, the necessary measures shall forthwith be taken by Quebec and Canada to set aside that replacement land as Category IA or IA-N land of the band, as the case may be, unless other arrangements are agreed to between Quebec and the band and approved at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter; and

(e) where no agreement is reached between Quebec and the band as to the selection of replacement land within one hundred and twenty days after service of the expropriation notice (where the band has not contested the right to expropriate) or after the final judgment on the right to expropriate (where the band has contested that right), the compensation to the band shall be in the form of money instead of replacement land, and where the parties cannot agree on the amount of money, which amount must be approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, section 127 applies.

Replacement of Category II land

(2) Where, pursuant to clause (1)(b)(i)(A), Category II land is offered by Quebec and accepted by the band, that Category II land shall itself be replaced in accordance with section 74 of *An Act respecting the land regime in the James Bay and New Quebec territories* (Quebec).

Reclassification of expropriated land that is no longer required

126. Where

(a) a band has been compensated with replacement land pursuant to paragraph 116(2)(a), paragraph 116(4)(a), subsection 122(2) or subsection 122(4), or

(b) no compensation was paid to the band pursuant to section 123,

and subsequently the expropriated land is no longer required by the expropriating authority for the purpose for which it was expropriated, Canada and Quebec shall forthwith, if requested by the band by resolution approved by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter, take the necessary measures to reclassify the expropriated land as Category IA or IA-N land, as the case may be, and, in the situation described in paragraph (a), shall take the necessary measures to return the replacement land to its former classification.

Determination of amount of money compensation referable to Tribunal de l'expropriation du Québec

127. Where compensation is payable wholly or partly in money pursuant to subsection 122(3) or (4) or paragraph 125(1)(e), and the parties cannot agree on the amount of such compensation, the amount shall be determined by the Tribunal de l'expropriation du Québec in accordance with the *Expropriation Act* (Quebec), unless the parties submit the matter to final and binding arbitration.

When work may begin on service or structure

128. In any expropriation under this Part, the establishment of the service or structure or the commencement of construction related thereto may proceed after sixty days from service of the expropriation notice (where the band has not contested the right to expropriate) or from the final

judgment on the right to expropriate (where the band has contested that right), even if negotiations concerning compensation have not been concluded.

When expropriated land ceases to be IA or IA-N land

129. Where Category IA or IA-N land has been expropriated in full ownership under this Part, the expropriated land ceases to be Category IA or IA-N land

(a) in the case where the band is not entitled to any compensation, as of the later of the two following dates:

(i) the date of the final judgment on the contestation of the right to expropriate or, where there is no such contestation, as of the day following the last day on which a motion of contestation may be presented, and

(ii) where the band claims a right to compensation, the date of the final judgment declaring that the band is not entitled to any compensation;

(b) in the case where the band is entitled to compensation in money, or elects pursuant to subsection 122(4) to be compensated in money, the day on which an agreement respecting compensation is concluded or, where there is no agreement as to compensation, as of the date of the final judgment on the amount of compensation pursuant to section 127;

(c) in the case where the band is entitled to compensation in the form of land, or where the band elects pursuant to subsection 122(4) to be compensated entirely in land, the latest of the following days:

(i) the day on which Canada sets aside the replacement land as Category IA or IA-N land of the band,

(ii) the day on which an agreement on money compensation pursuant to paragraph 125(1)(e) is concluded, and

(iii) the day of the final judgment on the amount of money compensation, where there has been no agreement on money compensation under paragraph 125(1)(e); or

(d) in the case where the band elects, pursuant to subsection 122(4), to take compensation partly in the form of land and partly in money, the latest of the following days:

(i) the day on which Canada sets aside replacement land as Category IA or IA-N land of the band,

(ii) the day on which an agreement on money compensation is concluded,

(iii) the day on which, failing an agreement as to replacement land, an agreement on money compensation pursuant to paragraph 125(1)(e) is concluded, and

(iv) the day of the final judgment on the amount of money compensation, where the amount of money compensation is not agreed on.

PART VIII

DISPOSITIONS OF RIGHTS AND INTERESTS IN CATEGORY IA AND IA-N LAND AND BUILDINGS

Definitions

130. (1) In this Part,

"lease"
« *bail* »

"lease" does not include an emphyteutic lease;

"transfer"
« *transfert* »

"transfer" means a transfer made directly or indirectly, but does not include a transfer by testamentary or intestate succession.

Deemed transfer of corporation's right or interest

(2) For the purposes of this Part, where a corporation holds a right or interest in Category IA or IA-N land and subsequently there is a change in the effective voting control of that corporation (otherwise than by testamentary or intestate succession), a transfer of that right or interest shall be deemed to have occurred.

Civil Codes

(3) In construing the nature and extent of the rights and interests listed in subsection 132(1), reference shall be had to the *Civil Code of Quebec* and the *Civil Code of Lower Canada* to the extent that they are not inconsistent with this Act or with the provisions of the grant of that right or interest.

Quebec landlord and tenant law

131. Unless otherwise provided in the lease, provincial laws relating to the rights and obligations of lessors and lessees do not apply to a lease for residential purposes of a building situated on Category IA or IA-N land.

Grants by band

132. (1) A band may, subject to this Part, grant

(a) with respect to its Category IA or IA-N land, a lease, usufruct, servitude, superficie or other right of use or occupation; and

(b) with respect to its buildings on its Category IA or IA-N land, a lease, emphyteutic lease or

	usufruct, or a right of ownership, co-ownership, use or habitation, or other right of use or occupation or, subject to the approval of the electors of the band described in subsection 193(3), a hypothec or other charge.
Maximum term of land grant	(2) The term of a grant made under paragraph (1)(a) may not exceed seventy-five years.
Band elector approval for non-residential grants in land over 10 years	<p>(3) A grant for a term of ten years or more made under paragraph (1)(a) for non-residential purposes has no effect unless approved by the electors of the band at a special band meeting or referendum at which</p> <p>(a) at least ten per cent of the electors of the band voted on the matter, in the case of a grant for a term of less than twenty-five years; or</p> <p>(b) at least twenty-five per cent of the electors of the band voted on the matter, in the case of a grant for a term of twenty-five years or more.</p>
How term computed	(4) For the purposes of subsections (2) and (3), any period in respect of which a grantee has a right of renewal shall be deemed to be included in the original term of the grant.
Grants to be in writing	133. A grant made or authorization given under this Part has no effect unless it is made in writing by the band and accepted in writing by the person to whom it is given.
Freedom of contract	134. (1) A grant made or authorization given under this Part may contain any terms and conditions not inconsistent with this Act.
Implied terms where grant silent	<p>(2) Unless otherwise provided in writing in a grant made under this Part,</p> <p>(a) the term of a grant for non-residential purposes shall be deemed to be one year, except in the case of a grant of ownership or co-ownership of a building;</p> <p>(b) the term of a grant for residential purposes made to an individual shall be deemed to be fifty years, except in the case of a grant of ownership or co-ownership of a building;</p> <p>(c) the band may terminate the right or interest granted after non-use by the grantee of the right or interest for a continuous period of five years;</p> <p>(d) the right or interest granted includes such ancillary rights as are necessary for the reasonable exercise of the right or interest granted; and</p> <p>(e) the right or interest granted does not include</p> <p>(i) the right of accession,</p> <p>(ii) the right to renew the term of the grant,</p> <p>(iii) the right to reside,</p> <p>(iv) in the case of a right or interest in land,</p> <p>(A) the right to subsequently transfer the right or interest or any part thereof to another person, and</p> <p>(B) the right to construct or own a building on the land or otherwise have a building located on the land, except in the case of a grant of superficies, and</p> <p>(v) in the case of a right or interest in a building originally granted by the band for non-residential purposes, the right to subsequently transfer that right or interest or any part thereof to another person.</p>
Commercial fisheries and outfitting operations	<p>135. (1) A grant by a band relating to its Category IA or IA-N land does not permit the grantee to use that land for</p> <p>(a) a commercial fishery, or</p> <p>(b) an "outfitting operation" within the meaning of <i>An Act respecting hunting and fishing rights in the James Bay and New Quebec territories</i> (Quebec)</p> <p>unless explicit permission for such use is included in the terms of the grant or is subsequently given by the band.</p>
Approval of band electors required	<p>(2) Permission to use Category IA or IA-N land for a purpose mentioned in paragraph (1)(a) or (b), whether included in the terms of the grant or subsequently given by the band, requires the approval of the electors of the band at a special band meeting or referendum at which</p> <p>(a) at least ten per cent of the electors of the band voted on the matter, in the case of permission for a period of less than twenty-five years; or</p> <p>(b) at least twenty-five per cent of the electors of the band voted on the matter, in the case of permission for a period of twenty-five years or more.</p>

SUPERFICIE

Right of superfic	136. (1) For the purposes of this Part, a right of superfic is a right in land that entitles the holder of the right (referred to in this section as the "superficiary") to construct and own buildings on the land.
Termination of a right of superfic	(2) In addition to terminating through the operation of paragraphs 134(2)(a) and (b), a superfic granted under section 132 shall be deemed to expire if the band becomes the superficiary, or if there is a total loss of the land subject to the superfic.
Restoration of land to initial state	(3) Unless otherwise agreed to in writing by the band and the superficiary prior to the expiration of the term of a superfic, the superficiary shall, at his own expense and prior to the expiration of the term of the superfic, (a) remove or demolish any building owned by him on the land; and (b) restore the land as near as possible to the state that it was in at the commencement of the term of the superfic.
Notice to band of intended demolition	(4) At least ninety days before demolishing a building pursuant to paragraph (3)(a), the superficiary shall give notice to the band of his intention to demolish the building.
Band may elect to purchase building	(5) A band shall, within forty-five days after receiving a notice referred to in subsection (4), give notice to the superficiary as to whether the band elects or does not elect to purchase the building, and, where the band fails to give such notice within that period, it shall be deemed to have elected not to purchase the building.
Effect of band's election to purchase building	(6) Where the band elects under subsection (5) to purchase the building, the building becomes the property of the band at the time when the band gives notice to the superficiary of its election to purchase the building, and the band shall forthwith compensate the former superficiary in an amount to be agreed on between the band and the superficiary or, where no agreement can be reached, at the fair market value.
Registration of notice of election to purchase	(7) Where, pursuant to subsection (5), a band gives notice to the superficiary that it elects to purchase the building, the band shall cause a copy of that notice to be registered in the land registry system established by Part X, but non-compliance with this subsection does not affect the validity of the notice.
Where superficiary does not comply with subsection (3) and band does not purchase building	(8) Where a band does not elect to purchase the building pursuant to subsection (5) and the superficiary fails to comply with subsection (3), then the building becomes the property of the band on the expiration of the term of the superfic, with no compensation payable to the superficiary.
Removal and demolition of building	(9) Where a band removes or demolishes a building within one year after becoming the owner thereof pursuant to subsection (8), the former superficiary is liable for reasonable costs incurred by the band in so removing or demolishing the building and in restoring the land, within that one year period, as near as possible to the state that it was in at the commencement of the term of the superfic.

SUBSEQUENT TRANSFERS OF RIGHTS OR INTERESTS

Band approval for transfer of land originally granted for residential purposes	137. (1) Where a right or interest in land was originally granted by a band for residential purposes under paragraph 132(1)(a), a subsequent transfer of that right or interest on any part thereof is of no effect unless authorized by the band, either in the original grant or subsequently.
Approval of electors for transfer of land originally granted for non-residential purpose	(2) Where a right or interest in land was originally granted by a band for non-residential purposes under paragraph 132(1)(a), a subsequent transfer of that right or interest or any part thereof is of no effect unless authorized by the band, either in the original grant or subsequently, with the approval of the electors of the band at a special band meeting or referendum at which the same percentage of electors voted on the matter as would be required if the right or interest being transferred were being granted by the band under paragraph 132(1)(a).
Approval for deemed transfer of corporation's right or interest	(3) Where a transfer of a right or interest of a corporation in Category IA or IA-N land of a band is deemed to have occurred by virtue of subsection 130(2) as a result of a change in the effective voting control of the corporation and that change in the effective voting control had not been previously authorized by the band pursuant to subsection (1) or (2), as the case may be, that right or interest of the corporation reverts to the band as of the date of the change in effective voting control of the corporation.

GENERAL

Consultation requirements before certain projects undertaken	138. (1) A Cree band shall consult with the department or agency of the Government of Quebec or other person designated by Quebec and the Minister before permitting a person other than (a) a Cree beneficiary, (b) a body composed of a majority of Cree beneficiaries, or
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	(c) a party to the James Bay and Northern Quebec Agreement to develop a project of a regional or provincial nature on the band's Category IA land.
Idem	(2) The Naskapi band shall consult with the department or agency of the Government of Quebec or other person designated by Quebec and the Minister before permitting a person other than (a) a Naskapi beneficiary, (b) a body composed of a majority of Naskapi beneficiaries, or (c) a party to the Northeastern Quebec Agreement to develop a project of a regional or provincial nature on the band's Category IA-N land.
Land to be allocated for community services	139. (1) A band shall allocate land necessary for community services provided by Quebec, its agents or mandataries, such as roads, schools, hospitals, police stations and other similar services.
Mode of allocation and fee	(2) The allocation of land by a band pursuant to subsection (1) shall be effected by way of servitude, lease or similar contract, and for a fee not exceeding one dollar.
No prescription	140. No right or interest in Category IA or IA-N land may be acquired by prescription.

PART IX CESSIONS BY BANDS

Definitions	141. (1) In this Part,
"cession" « <i>abandon</i> »	"cession" means the ceding of the whole of the rights and interests of a band in or on any of its Category IA or IA-N land;
"registered" « <i>enregistré</i> »	"registered" means registered in the land registry system referred to in Part X.
Granting of rights or interests under other Parts of Act	(2) For greater certainty, the granting of rights or interests by a band in its Category IA or IA-N land pursuant to any other Part of this Act does not constitute a cession within the meaning of this Part.
Cessions by band	142. (1) A band may make a cession, but only to Quebec and only in accordance with this Part.
Conditional or unconditional cession	(2) A cession may either be unconditional or may be subject to such terms and conditions as are contained in the Instrument of Cession.
Requirements for valid cession	143. (1) A cession is not valid unless (a) it is approved by the band in accordance with section 144; (b) an Instrument of Cession is executed by the band in accordance with paragraph 146(b); (c) the statement and document referred to in paragraphs 146(a) and (b) have been submitted to the Minister in accordance with section 146; (d) the Governor in Council passes an order in council in accordance with section 147 transferring to Quebec the administration, management and control of the land described in the Instrument of Cession; and (e) Quebec has, within six months of the date of the execution of the Instrument of Cession or such longer period as is specified in the Instrument of Cession, (i) accepted the cession in accordance with the terms and conditions specified in the Instrument of Cession, and (ii) accepted the transfer from Canada of the administration, management and control of the land described in the Instrument of Cession.
Effective date of a cession	(2) The effective date of a cession is the date on which Quebec accepts the cession and the transfer of the administration, management and control pursuant to paragraph (1)(e), unless a later date is specified in the Instrument of Cession, in which case the effective date of the cession is that later date.
Cession must be approved by referendum	144. (1) A cession requires the approval of the electors of the band in a referendum in which at least sixty-five per cent of the electors of the band vote in favour of the cession.
Notice of referendum	(2) At least thirty days prior to the day fixed for a referendum in which a proposed cession is to be voted on, a notice described in subsection (3) (a) must be delivered to all holders of registered rights or interests in or on the land subject to the proposed cession by personal service or by registered mail to the holder's address that is registered in the land registry office; and

	(b) must be posted on the band's Category IA or IA-N land at a public place designated by the band.
Contents of notice	<p>(3) The notice referred to in subsection (2) must clearly state that a proposed cession is to be voted on in the referendum, and must clearly set out</p> <p>(a) the time and place of the referendum;</p> <p>(b) a reasonably accurate description of the land subject to the proposed cession; and</p> <p>(c) the principal terms and conditions of the proposed cession.</p>
Rights or interests	145. (1) The existence of rights or interests of persons other than the band in or on Category IA or IA-N land, or in a building located thereon, does not in itself bar a cession of that land.
Effect of cession on certain rights	(2) Except as provided by any agreement to the contrary between the band and Quebec, all rights and interests in or on Category IA or IA-N land subject to a cession and all rights and interests in buildings located thereon, other than rights and interests of Quebec, are extinguished as of the effective date of the cession.
Compensation for extinguished registered rights or interests	(3) Holders of registered rights or interests in or on Category IA or IA-N land, or in buildings located thereon, whose rights or interests have been extinguished by virtue of subsection (2) are entitled to fair compensation by the band for the value (as of the time of the delivery of the notice pursuant to paragraph 144(2)(a)) of the extinguished right or interest, and the amount of compensation, if not agreed on by the band and the holder of the right or interest, shall be determined in accordance with regulations made under Part XI as if that right or interest had been expropriated by the band.
Documents that the band must submit to Minister	<p>146. Where a band has approved a cession pursuant to section 144, it shall cause to be submitted to the Minister or to such person as is designated by the Minister, within twenty days after the date of the referendum in which the cession was approved or such longer period as may be authorized by the Minister,</p> <p>(a) a written statement of the officer responsible for the conduct of the referendum certifying the results of the vote taken therein; and</p> <p>(b) a document specifically designated as an Instrument of Cession, in prescribed form, executed by at least two council members of the band, describing the cession that was approved in the referendum.</p>
Transfer to Quebec of administration, management and control	147. Where section 146 has been complied with, the Governor in Council shall, by order, transfer to Quebec the administration, management and control of the land described in the Instrument of Cession subject to any terms or conditions set out in the Instrument of Cession.
Effect of cession	148. As of the effective date of a cession, the land ceded ceases to be Category IA or IA-N land.
Land registry system	149. A band shall, within sixty days of the effective date of a cession, deposit the Instrument of Cession in the land registry office referred to in Part X, but non-compliance with this section does not affect the validity or effective date of the cession.

PART X

LAND REGISTRY SYSTEM

Enforceability of rights and interests	<p>150. (1) A right or an interest in Category IA or IA-N land or in a building situated thereon granted after the coming into force of this Part, other than</p> <p>(a) an authorization from a band referred to in subsection 111(2),</p> <p>(b) a right or interest granted by a band referred to in paragraph 113(4)(b),</p> <p>(c) a right conferred by section 114 or 115, and</p> <p>(d) a servitude expropriated by an expropriating authority under Part VII,</p> <p>is not enforceable against a third party unless it is registered in accordance with the regulations made under section 151,</p>
Enforceability of hypothecs	(2) A hypothec granted after the coming into force of this Part on an interest in Category IA or IA-N land or in a building situated thereon is not enforceable against that interest unless it is registered in accordance with the regulations made under section 151.
Regulations for establishment and maintenance of land registry system	<p>151. The Governor in Council may make regulations for establishing and maintaining a land registry system, under the control and supervision of the Minister, for the registration of rights and interests in Category IA and IA-N land and in buildings situated thereon, and, without restricting the generality of the foregoing, may make regulations respecting</p> <p>(a) the establishment and maintenance of land registry offices and their hours of operation;</p>

	<p>(b) the administration of the land registry system, including officers and employees and their powers and duties;</p> <p>(c) the procedure for registering rights and interests, including forms and fees;</p> <p>(d) the manner and form in which books and records are to be maintained by the land registry offices;</p> <p>(e) the effects of registering a right or interest, including priorities;</p> <p>(f) the registering of surveys of Category IA or IA-N land;</p> <p>(g) the cancellation of instruments registered in the land registry system; and</p> <p>(h) the keeping by the land registry offices of non-registrable documents for the purpose of facilitating the management or administration of Category IA or IA-N land or of buildings situated thereon.</p>
Duties of band	<p>152. (1) A band shall deposit in the land registry office a copy of</p> <p>(a) every grant by the band made pursuant to section 132,</p> <p>(b) every authorization from the band referred to in subsection 111(2),</p> <p>(c) every grant by the band referred to in paragraph 113(4)(b),</p> <p>(d) every authorization by the band referred to in section 137,</p> <p>(e) every land use plan or resource use plan adopted pursuant to subsection 46(1), and</p> <p>(f) every zoning by-law made under section 47,</p> <p>together with evidence of the approval of the electors of the band where such is required by this Act.</p>
Validity not affected by non-compliance	<p>(2) Failure of a band to comply with subsection (1) does not affect the validity of the grant, authorization, plan or by-law in question.</p>
Deposit does not constitute registration	<p>(3) For greater certainty, the deposit of a document under subsection (1) does not constitute registration of that document.</p>

PART XI

EXPROPRIATION BY BANDS

Rights and interests that a band may expropriate	<p>153. Where regulations made under section 156 are in force, a band may, subject to and in accordance with those regulations, for community purposes or community works, expropriate any right or interest in its Category IA or IA-N land or in any building situated thereon, except for</p> <p>(a) a right or interest of Canada or Quebec;</p> <p>(b) a right conferred by section 114 or 115; and</p> <p>(c) a servitude expropriated by an expropriating authority under Part VII.</p>
Acquisition by mutual agreement	<p>154. The right of a band to expropriate pursuant to this Part does not restrict any right that the band has under this Act to acquire, by mutual agreement, rights or interests in land or buildings.</p>
Compensation	<p>155. A band shall, subject to and in accordance with regulations made under section 156, pay compensation to holders of rights or interests expropriated pursuant to this Part.</p>
Regulations	<p>156. The Governor in Council may make regulations respecting substantive or procedural aspects of expropriations permitted by this Part, including, without limiting the generality of the foregoing, regulations respecting</p> <p>(a) procedure governing expropriation, including the taking of possession, compulsory taking of possession and transfer of title;</p> <p>(b) entitlement to compensation, determination of the amount of compensation and the method for payment of compensation; and</p> <p>(c) contestation of</p> <p>(i) the right of a band to expropriate,</p> <p>(ii) the right of the expropriated party to compensation, and</p> <p>(iii) the amount of compensation.</p>

PART XII

CREE-NASKAPI COMMISSION

Interpretation	157. In this Part,
"Commission" « Commission »	"Commission" means the Cree-Naskapi Commission established by section 158;
"member" « commissaire »	"member" means a member of the Commission;
"representation" Version anglaise seulement	"representation" includes a complaint.
Cree-Naskapi Commission established	158. (1) There shall be a commission, to be known as the Cree-Naskapi Commission, consisting of a maximum of three individuals appointed by the Governor in Council on the recommendation of the Cree Regional Authority and the Naskapi band.
Chairman	(2) The Governor in Council shall designate one member of the Commission as Chairman.
Eligibility	159. A council member, officer, employee or agent of a band is not eligible to be appointed or to continue to serve as a member of the Commission.
Term of office	160. (1) Except as provided by subsection (3), a member shall be appointed for a term of two years.
Tenure	(2) A member may be removed for cause.
Vacancy	(3) Where a member dies or resigns or is removed for cause, a new member shall be appointed for the duration of the unexpired term of the former member.
Eligibility for re- appointment	(4) A member is eligible for re-appointment on the expiration of his term of office.
Temporary substitute member	(5) Where a member is absent or incapacitated, the Governor in Council may, on the recommendation of the Cree Regional Authority and the Naskapi band, appoint a temporary substitute member on such terms as are fixed by the Governor in Council.
Remuneration of members	(6) Members of the Commission shall be paid such remuneration as is fixed by the Governor in Council.
Head office	161. The head office of the Commission shall be in the City of Val d'Or in the Province or at such other place as the Governor in Council, on the recommendation of the Cree Regional Authority and the Naskapi band, may designate.
Staff	162. (1) The Commission may, with the approval of the Treasury Board, employ or engage such officers, employees and agents as are necessary for the proper conduct of the work of the Commission.
Remuneration of staff	(2) Persons employed or engaged under subsection (1) shall be paid such remuneration as is fixed by the Commission with the approval of the Treasury Board.
Not part of federal public administration	(3) The members of the Commission and persons employed or engaged under subsection (1) are not part of the federal public administration by reason only of such membership, employment or engagement.
Financial	(4) The remuneration of the members of the Commission and of persons employed or engaged under subsection (1) shall be paid out of money appropriated by Parliament for that purpose. 1984, c. 18, s. 162; 2003, c. 22, s. 224(E).
Quorum	163. (1) A quorum of the Commission consists of all members.
Majority	(2) Decisions of the Commission shall be made by majority vote, except as provided in section 164.
Rules	(3) The Commission may make rules for the conduct of its business.
Commission may delegate its powers	164. The Commission may, by unanimous decision of its members, delegate its powers or duties, except those referred to in subsection 163(3) and paragraph 165(1)(a), to one or more members thereof.
Duties of Commission	165. (1) The Commission shall (a) prepare biennial reports on the implementation of this Act, in accordance with subsection 171(1); and (b) except as provided by subsections (2) and (3), investigate any representation submitted to it relating to the implementation of this Act, including representations relating to the exercise or non-exercise of a power under this Act and the performance or non-performance of a duty under this Act.

Exception	(2) The Commission shall not investigate or continue to investigate a representation in respect of whose subject-matter judicial proceedings have been commenced.
Commission's discretion	<p>(3) The Commission may refuse to investigate a representation or may discontinue an investigation if it is satisfied</p> <p>(a) that the representation has not been made in good faith;</p> <p>(b) that the person making the representation does not have a sufficient personal interest in the subject-matter of the representation;</p> <p>(c) that, having regard to all the circumstances of the case, an investigation, or the continuation of the investigation, as the case may be, would serve no useful purpose; or</p> <p>(d) that there exists a suitable alternative means by which the representation may be investigated or otherwise pursued.</p>
Commission to state grounds for refusal	(4) Where the Commission refuses to investigate a representation or discontinues an investigation, it shall forthwith, in writing, so inform the person who made the representation, stating and explaining on which of the grounds set out in subsection (2) or (3) the Commission's decision was based.
Notice of investigation	<p>166. (1) Where the Commission decides to investigate a representation, it shall forthwith give notice to</p> <p>(a) the person who made the representation;</p> <p>(b) the band or bands referred to in the representation;</p> <p>(c) any person whose misconduct is alleged in the representation; and</p> <p>(d) the Minister.</p>
Privacy of hearings	(2) An investigation by the Commission under this Part shall be conducted in private unless the Commission is satisfied that the public conduct of the investigation would not be prejudicial to the interests of any person, in which case it may order the investigation to be conducted in whole or in part in public.
Identity of person who made representation	(3) Where a person making a representation to the Commission under this Part so requests, the Commission shall not identify that person in any proceeding under this Part or in any report under section 170 or subsection 171(1).
Commission may request evidence	167. The Commission, where it deems it necessary in the conduct of an investigation under this Part, may request any person to appear before it, give evidence and produce documents and things, but such a person is under no obligation to comply with the request, and the Commission has no power of subpoena.
Protection against negative findings	168. The Commission shall not make any negative finding against a person unless it has given him reasonable notice of his alleged misconduct that might form the subject of such a finding and has allowed him an opportunity to be heard in person or by counsel.
Protection of members of Commission	169. (1) No action lies against the Commission, any member thereof, or any person holding an office or appointment under the Commission, for anything done or reported or said in the course of the exercise or intended exercise of his official functions, unless it is shown that he acted in bad faith.
Protection of witnesses	(2) In the absence of malice, no action for defamation lies against a person for testimony that he has given under oath before the Commission.
Report of investigation	170. At the conclusion of an investigation under this Part, the Commission shall prepare a report stating its findings, conclusions and recommendations in respect of the matter investigated, and shall forthwith send copies of the report to the persons referred to in subsection 166(1) and to any person against whom the Commission has made a negative finding.
Commission's biennial report to Parliament	171. (1) Within two years after the coming into force of this Part and thereafter within six months of every second anniversary of the coming into force of this Part, the Commission shall prepare and submit to the Minister a report, in English, French, Cree and Naskapi, on the implementation of this Act, and the Minister shall cause the report to be laid before each House of Parliament on any of the first ten days on which that House is sitting after the day the Minister receives it.
Circulation of report	(2) Forthwith after a report is laid before each House of Parliament under subsection (1), the Minister shall send a copy of the report to the Cree Regional Authority, the Naskapi Development Corporation, the council of each Cree band and the council of the Naskapi band.
Inquiry into the functioning of the Commission	172. (1) Within six months after the fifth anniversary of the coming into force of this Part, the Governor in Council shall appoint a person or persons to inquire into the powers, duties and operation of the Commission.
Report to be tabled in	(2) The person or persons appointed under subsection (1) shall, within six months after being

Parliament appointed, submit a report to the Minister, containing such recommendations as they consider appropriate, and the Minister shall cause the report to be laid before each House of Parliament on any of the first ten days on which that House is sitting after the day the Minister receives it.

PART XIII

SUCCESSIONS

Application of Part	173. This Part applies only in respect of the succession of a Cree beneficiary or Naskapi beneficiary who dies after the coming into force of this Part and who, at the time of his death, was domiciled on Category IA land (in the case of a Cree beneficiary) or on Category IA-N land (in the case of a Naskapi beneficiary).
Definitions	174. In this Part,
"child" « <i>enfant</i> »	"child" includes an adopted child, where the adoption <ul style="list-style-type: none"> (a) was done in accordance with, or is recognized by, the laws of the Province, or (b) was done in accordance with Cree or Naskapi custom;
"consort" <i>Version anglaise</i> <i>seulement</i>	"consort" means one of two consorts;
"consorts" « <i>conjoints</i> »	"consorts" means <ul style="list-style-type: none"> (a) a man and a woman who are married and whose marriage was solemnized in accordance with, or is recognized under, the laws of the Province, or (b) an unmarried man and an unmarried woman who live together as husband and wife, taking into account Cree or Naskapi custom;
"family council" « <i>conseil de famille</i> »	"family council" means the family council of a deceased Cree beneficiary or a deceased Naskapi beneficiary, composed in accordance with section 182;
"traditional property" « <i>biens traditionnels</i> »	"traditional property" means <ul style="list-style-type: none"> (a) all movable property, excluding money, normally used in the exercise of the right to harvest referred to in <i>An Act respecting hunting and fishing rights in the James Bay and New Quebec territories</i> (Quebec), other than movable property used in commercial fishing, and includes, without limiting the generality of the foregoing, vehicles, boats, motors, guns, traps and camping equipment, and (b) animal products or by-products that are the product of the exercise of the right to harvest described in paragraph (a).
Lawful heirs on intestate succession	175. For purposes of intestate succession, a surviving consort and a surviving child are included in the class of lawful heirs of a deceased Cree beneficiary or Naskapi beneficiary.
Valid forms of wills	176. (1) The following constitute valid wills: <ul style="list-style-type: none"> (a) an instrument that is a valid will under the laws of the Province; and (b) an instrument accepted by the Minister as a will pursuant to subsection (2).
Wills accepted by Minister	(2) The Minister may accept as a will any written instrument signed by a Cree beneficiary or Naskapi beneficiary, or bearing his mark, in which he indicates his wishes or intention with respect to the disposition of his property on his death.
Article 599a of <i>Civil Code</i> not applicable	177. Deeds relating to the acceptance, renunciation or settlement of <ul style="list-style-type: none"> (a) a succession composed wholly or partly of movable, immovable or traditional property located on Category IA or IA-N land, or (b) a succession in which persons suffering legal incapacity are interested are not required to be made in authentic form as required by Article 599a of the <i>Civil Code of Lower Canada</i> , but must be in the form prescribed under this Act.
Representation of minor heirs	178. (1) Where a Cree beneficiary or Naskapi beneficiary who is a minor under the laws of the Province and ordinarily resident on Category IA land, in the case of a Cree beneficiary, or on Category IA-N land, in the case of a Naskapi beneficiary, inherits movable or immovable property by virtue of a testamentary or an intestate succession, the parents of that beneficiary are the legal guardians of that property.
Legal guardians	(2) Legal guardians by virtue of subsection (1) shall act jointly, except where one of them is deceased or under a legal incapacity or fails for any reason to act within a reasonable time, in which case the other may act alone.
Vacant succession	179. Where a Cree beneficiary or Naskapi beneficiary dies leaving no lawful heirs or where all the

heirs renounce the succession, the deceased's movable and immovable property become the property of the band of which the deceased was a member at the time of his death, unless the band renounces such succession, in which case it shall be dealt with as a vacant succession.

Intestacy

180. On an intestacy of a Cree beneficiary or Naskapi beneficiary, a majority of the lawful heirs may appoint the band of which the deceased was a member at the time of his death to administer or provide for the administration of the succession (except as regards traditional property), in which case the band may charge a fee for its services.

DISPOSITION OF TRADITIONAL PROPERTY ON AN INTESTACY

Disposition of traditional property on intestacy

181. (1) Where a Cree beneficiary or Naskapi beneficiary dies intestate leaving traditional property, the family council of the deceased shall meet within one year of his death to decide on the disposition of his traditional property.

Powers of family council

(2) The family council referred to in subsection (1) may dispose of the deceased's traditional property in accordance with its decision, and may appoint a willing individual to administer the deceased's estate accordingly.

Composition of family council

182. (1) The family council of a deceased Cree beneficiary or Naskapi beneficiary shall consist of the following person or persons:

- (a) his surviving consort, if any;
- (b) any surviving children of the age of majority and the legal representatives of any surviving minor children; and
- (c) any surviving parent.

Where no survivors in immediate family

(2) Where a deceased Cree beneficiary or Naskapi beneficiary leaves no survivors described in subsection (1), the family council of the deceased shall consist of the three closest surviving relatives of the age of majority, as determined in accordance with the law of the Province, who are ordinarily resident in the "Territory" as defined in section 2 of the *James Bay and Northern Quebec Native Claims Settlement Act*.

Where family council deadlocked

183. Where the family council is unable to reach a decision on the disposition of any part of the deceased's traditional property, it may request the council of the band of which the deceased was a member at the time of his death to appoint one or more willing persons to act as the deceased's family council in respect of that part of the deceased's traditional property on whose disposition the family council had been unable to reach a decision.

Circumstances in which band council acts as the family council

184. (1) Where the family council has not reached a decision on the disposition of any part of the deceased's traditional property within two years after the deceased's death, the council of the band of which the deceased was a member at the time of his death shall act as the deceased's family council in respect of that part of the deceased's traditional property on whose disposition the family council had not reached a decision.

Idem

(2) Where, on the death of a Cree beneficiary or Naskapi beneficiary,

- (a) the deceased leaves no surviving relatives,
- (b) for any reason a family council cannot be formed, or
- (c) the family council has not met within one year after the deceased's death,

the council of the band of which the deceased was a member at the time of his death shall act as the deceased's family council.

Effect of disposition

185. A disposition of any traditional property of a deceased Cree beneficiary or Naskapi beneficiary by the deceased's family council pursuant to this Part passes the property in question to the recipient as of the moment when the recipient takes possession of the property, and any debt in respect of that property thenceforth becomes the responsibility of the recipient.

Where a recipient renounces traditional property

186. Where any person designated by the family council of a deceased Cree beneficiary or Naskapi beneficiary to receive the deceased's traditional property pursuant to this Part renounces the property in question before taking possession of it, and no other person is designated by the family council within six months of such renunciation, the disposition of that property shall thenceforth be governed by the laws of the Province relating to intestate succession.

PART XIV

TAX EXEMPTIONS

Interpretation

187. (1) In this Part, "Indian" means

- (a) in subsection (2), a Cree beneficiary or Naskapi beneficiary who is an Indian as defined in the *Indian Act*; and

	(b) in section 188, an Indian as defined in the <i>Indian Act</i> .
Idem	<p>(2) For the purposes of this Part, personal property</p> <p>(a) that became the property of a band by virtue of section 13 or 15 and had been purchased by Canada with money appropriated by Parliament,</p> <p>(b) that is purchased by Canada after the coming into force of this Part with money appropriated by Parliament for the use and benefit of Indians or bands, or</p> <p>(c) that is given, after the coming into force of this Part, to Indians or to a band under a treaty or agreement between a band and Canada</p>

shall be deemed always to be situated on Category IA or IA-N land.

Property exempt from taxation	<p>188. (1) Notwithstanding any other Act of Parliament or of the legislature of any province, but subject to any by-laws of a band made pursuant to paragraph 45(1)(h), the following property is exempt from taxation:</p> <p>(a) the interest of an Indian or a band in Category IA or IA-N land; and</p> <p>(b) the personal property of an Indian or a band situated on Category IA or IA-N land.</p>
Ownership, occupation, etc., of exempt property	<p>(2) Notwithstanding any other Act of Parliament or of the legislature of any province,</p> <p>(a) no Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property described in paragraph (1)(a) or (b) or is otherwise subject to taxation in respect of any such property; and</p> <p>(b) no succession duty, inheritance tax or estate duty is payable on the death of any Indian in respect of any such property or the succession thereto if the property passes to an Indian.</p>

PART XV

SEIZURE EXEMPTIONS

Interpretation	189. In this Part, "Indian" means an Indian as defined in the <i>Indian Act</i> .
Property exempt from seizure, etc.	<p>190. (1) Subject to this Part, movable and immovable property situated on Category IA or IA-N land and belonging to a Cree beneficiary, a Naskapi beneficiary or an Indian ordinarily resident on Category IA or IA-N land, and any right or interest of such a person in Category IA or IA-N land, is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person other than a Cree beneficiary, a Cree band or an Indian ordinarily resident on Category IA land (in the case of property of a Cree beneficiary or of an Indian ordinarily resident on Category IA land) or a Naskapi beneficiary, the Naskapi band or an Indian ordinarily resident on Category IA-N land (in the case of property of a Naskapi beneficiary or of an Indian ordinarily resident on Category IA-N land).</p>
Idem	<p>(2) Subject to this Part, movable and immovable property situated on Category IA or IA-N land and belonging to a band is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person other than a Cree beneficiary, a Cree band or an Indian ordinarily resident on Category IA land (in the case of property of a Cree band) or a Naskapi beneficiary, the Naskapi band or an Indian ordinarily resident on Category IA-N land (in the case of property of the Naskapi band).</p>
Idem	<p>(3) The right or interest of a band in its Category IA or IA-N land is not subject to privilege, hypothec or any other charge, or to attachment, levy, seizure or execution, in favour of or at the instance of any person.</p>
Idem	<p>(4) A right or interest in Category IA or IA-N land of a person other than a Cree beneficiary or Naskapi beneficiary or a band, or the immovable property of such person situated on Category IA or IA-N land, is not subject to attachment, levy, seizure or execution in favour of or at the instance of any person other than a Cree beneficiary or a Cree band (in the case of Category IA land) or a Naskapi beneficiary or the Naskapi band (in the case of Category IA-N land), except where the band has authorized that person to pledge, charge or hypothecate that right or interest or immovable property, in which case creditors may exercise their normal remedies in relation to that pledge, charge or hypothecation.</p>
Conditional sales	<p>(5) A person who sells movable property to</p> <p>(a) a Cree beneficiary,</p> <p>(b) a Naskapi beneficiary,</p> <p>(c) an Indian ordinarily resident on Category IA or IA-N land, or</p> <p>(d) a band</p>

under an agreement whereby the right of property or right of possession thereto remains wholly or in

part in the seller may exercise his rights under that agreement notwithstanding that the movable property is situated on Category IA or IA-N land.

Property deemed situated on Category IA or IA-N land

191. For the purposes of section 190, movable property

(a) that became the property of a band by virtue of section 13 or 15 and had been purchased with money appropriated by Parliament,

(b) that is purchased after the coming into force of this Part with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Cree beneficiaries, Naskapi beneficiaries, or bands, or

(c) that is, after the coming into force of this Part, provided to Cree beneficiaries, Naskapi beneficiaries or a band under a treaty or agreement between a band and Canada

shall be deemed always to be situated on Category IA or IA-N land, as the case may be.

Property deemed to be property of a Cree band

192. (1) Where a Cree band has, pursuant to section 11A.0.6 of the James Bay and Northern Quebec Agreement, delegated to the Cree Regional Authority the power to coordinate and administer a program, movable property that

(a) is necessary for the coordination or administration of that program,

(b) is owned by the Cree Regional Authority, and

(c) was purchased with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Cree beneficiaries or Cree bands

shall, for the purposes of section 190, be deemed always to be the property of the Cree band for whose use and benefit it was purchased.

Property deemed to be property of the Naskapi band

(2) Where the Naskapi band has the authority to delegate the power to coordinate and administer a program to the Naskapi Development Corporation and has so delegated, movable property that

(a) is necessary for the coordination or administration of that program,

(b) is owned by the Naskapi Development Corporation, and

(c) was purchased with money appropriated by Parliament or by the legislature of Quebec for the use and benefit of Indians, Naskapi beneficiaries or the Naskapi band

shall, for the purposes of section 190, be deemed always to be the property of the Naskapi band.

Waiver of exemption

193. (1) A Cree beneficiary, a Naskapi beneficiary or an Indian ordinarily resident on Category IA or IA-N land may, in writing, waive the exemption conferred by subsection 190(1) in favour of any person, on such terms and conditions as are agreed to by the parties, but, in the case of a right or interest in Category IA or IA-N land, the consent of the band must be obtained to the waiver and the terms and conditions thereof, and the band's consent must be confirmed by the electors of the band at a special band meeting or referendum.

Quorum requirements

(2) For the purposes of determining the quorum requirement respecting the confirmation of the band's consent referred to in subsection (1), the percentage requirement is the same as if the remaining term of the right or interest in question were being granted by the band under paragraph 132(1)(a).

Waiver by band

(3) A band may, in writing, waive the exemption conferred by subsection 190(2) in favour of any person, on such terms and conditions as are agreed to by the parties, subject to the approval of the waiver and the terms and conditions thereof by the electors of the band at a special band meeting or referendum at which at least twenty-five per cent of the electors voted on the matter.

PART XVI

POLICING

Policing jurisdiction (Crees)

194. (1) For the purposes of the territorial jurisdiction of Cree village municipalities under the *Police Act* (Quebec), the territory of any such municipality shall be deemed to include Category IA land of the band whose members constitute the Cree village corporation of that municipality.

Jurisdiction of municipal police forces

(2) The police force of a municipality referred to in subsection (1) and the members of that force have jurisdiction over the Category IA land of the band for the purpose of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

Policing jurisdiction (Naskapis)

195. (1) For the purposes of the territorial jurisdiction of the Naskapi village municipality under the *Police Act* (Quebec), the territory of that municipality shall be deemed to include Category IA-N land.

Jurisdiction of municipal police force

(2) The police force of the Naskapi village municipality referred to in subsection (1) and the members of that force have jurisdiction over Category IA-N land for the purpose of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

Agreements for policing

196. (1) A band may, with the approval of the Attorney General of Quebec and the provincial

services	Minister responsible for municipal affairs, enter into an agreement with <ul style="list-style-type: none"> (a) Quebec, (b) the Cree Regional Authority, (c) the Kativik Regional Government (within the meaning of <i>An Act concerning Northern Villages and the Kativik Regional Government</i> (Quebec)), (d) a Cree village corporation (within the meaning of <i>The Cree and Naskapi Villages Act</i> (Quebec)), or (e) any other body empowered to provide policing services for the provision of policing services on its Category IA or IA-N land.
Jurisdiction of police forces	(2) A police force and the members thereof providing policing services pursuant to an agreement made under subsection (1) have jurisdiction over the Category IA or IA-N land of the band for the purposes of enforcing the applicable laws of Canada and Quebec and the applicable by-laws of the band.

PART XVII

OFFENCES

Offences under the Act	197. Every person who commits an offence under subsection 38(6), section 44, subsection 91(2), section 95, subsection 100(4) or section 108 is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.
Contravention of regulations	198. (1) Every person who contravenes a regulation made under this Act is guilty of an offence and is liable on summary conviction to the punishment set out in the regulations.
Regulations may fix maximum punishment	(2) The Governor in Council may make regulations stipulating a maximum fine or a maximum term of imprisonment, or both, for contravention of a regulation, but such maximum fine or maximum term of imprisonment may not exceed two thousand dollars or six months, respectively.
Contravention of by-law	199. (1) Every person who contravenes a by-law of a band is guilty of an offence and is liable on summary conviction to the punishment set out in the by-law.
By-law may fix maximum punishment	(2) A by-law of a band may stipulate a maximum fine or a maximum term of imprisonment, or both, for contravention of the by-law, but such maximum fine or maximum term of imprisonment may not exceed two thousand dollars or six months, respectively.
Idem	(3) A by-law made under paragraph 45(1)(h) may not impose a term of imprisonment for non-payment of taxes.

PART XVIII

ADMINISTRATION OF JUSTICE

Jurisdiction of justices of the peace	200. (1) In addition to the courts and persons having jurisdiction in respect of the offences listed in paragraphs (a) and (b), justices of the peace appointed pursuant to section 18.0.9 of the James Bay and Northern Quebec Agreement or section 12.4.1 of the Northeastern Quebec Agreement have jurisdiction in respect of <ul style="list-style-type: none"> (a) offences under subsection 199(1); and (b) offences under the following provisions of the <i>Criminal Code</i>: subsection 245(1) (common assault), section 401 (injuring or endangering animals) and subsection 402(1) (cruelty to animals).
Summary conviction court	(2) For the purpose of exercising their jurisdiction in respect of offences listed in paragraphs (1)(a) and (b), the justices of the peace referred to in subsection (1) are a summary conviction court within the meaning of Part XXIV of the <i>Criminal Code</i> .
References to <i>Criminal Code</i>	(3) The words in parenthesis in paragraph (1)(b) form no part of that paragraph but shall be deemed to have been inserted for convenience of reference only.

PART XIX

GENERAL

Where signatory of document unable to write	201. Where, under this Act or any regulation or by-law made thereunder, a document is required to be signed by a person and that person is unable to write, that person's mark shall constitute his signature if <ul style="list-style-type: none"> (a) the mark is affixed to the document in the presence of a witness who is able to write; and (b) the witness affixes his signature to the document beside the mark of the person for whom he is acting as witness.
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Commissioners of oaths	202. (1) In addition to any person authorized to act as a commissioner of oaths under the laws of Canada or of the Province, the chief of a band and the band secretary are <i>ex officio</i> commissioners of oaths for the purposes of this Act and any regulation or by-law made thereunder.
No fee permitted	(2) The chief and band secretary shall not charge any fee or other compensation whatsoever for acting as a commissioner of oaths pursuant to subsection (1).
Certified copies of documents	203. (1) A band secretary may issue certified copies of any by-law or resolution of the band or of any other document issued under the authority of the band.
Idem	(2) A band treasurer may issue certified copies of all or any part of the books of account and financial records of the band.
Admissibility of certified copies	(3) In every case in which an original document could be received in evidence, a certified copy of that document issued under subsection (1) is receivable in evidence without proof of the signature or the official character of the person or persons appearing to have signed the document.

PART XX

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

204. to 217. [Amendments to other Acts]

COMING INTO FORCE

Coming into force	<p>*218. This Act, or any provision thereof, shall come into force on a day or days to be fixed by proclamation.</p> <p>* [Note: Act, except sections 36 and 157 to 172, in force July 3, 1984, sections 36 and 157 to 172 in force December 1, 1984, see SI/84-129.]</p>
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