

CSL M-2
MEMBERSHIP COMMITTEES' RULES OF PRACTICE

CSL M-2 (31-03-2017)

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**REGULATION TO ESTABLISH RULES OF PRACTICE AND PROCEDURE FOR THE
MEMBERSHIP COMMITTEES**

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Schedule A Membership Committees' Rules of Practice and Procedure

WHEREAS the First Minister of the Nunatsiavut Government has sought the advice of the Chairpersons of the Membership Committees with respect to the Rules of Practice and Procedure for the Membership Committees annexed hereto as Schedule A;

The Nunatsiavut Executive Council acting on the advice of the First Minister of the Nunatsiavut Government is pleased to enact the following regulations:

Authority

1

These regulations are made under clause (g) of section 44 of the *Beneficiaries Enrolment Act*.

Short Title

2

These regulations and the Membership Committee Rules of Practice annexed hereto as Schedule A may be cited as the *Membership Committees' Rules of Practice*.

Membership Committees' Rules of Practice

3

The Rules of Practice and Procedure for the Membership Committees annexed hereto as Schedule A are hereby established as the rules of practice and procedure for the Membership Committees.

SCHEDULE A

MEMBERSHIP COMMITTEES' RULES OF PRACTICE AND PROCEDURE

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Definitions and Interpretation

1. (1) In the *Membership Committees' Rules of Practice*:
 - “Act” means the *Beneficiaries Enrolment Act* as amended from time to time;
 - “Agreement” means the Labrador Inuit Land Claims Agreement;
 - “Applicant” refers to an individual who has made an application for enrolment on the Register under subsection 7(1) of the Act and includes:
 - (i) the parent or guardian of an Applicant where the Applicant is under a legal disability, and
 - (ii) the representative of the Applicant or of the parent or guardian of an Applicant who is under a legal disability;

“Beneficiary” refers to an individual who is enrolled on the Register and includes:

- (i) the parent or guardian of the Beneficiary where the Beneficiary is under a legal disability, and
- (ii) the representative of the Beneficiary or of the parent or guardian of a Beneficiary who is under a legal disability;

“Chair” means the Chairperson of a Committee;

“Committee” means a Membership Committee;

“hearing” means a Committee proceeding in relation to an individual’s eligibility to be enrolled on the Register at which

- (a) Application Forms and other written evidence are received and considered, or
- (b) oral information, evidence, or submissions are heard in person or by means of telephone conference call;

“hearing officer” means the Director of Legal Services for the Nunatsiavut Government or a person appointed in writing by the Director of Legal Services to act as hearing officer;

“Member” means a member of a Committee and includes the Chair;

“party” means an Applicant, a Beneficiary and, where the Nunatsiavut Government has served notice that it intends to participate in a hearing, the Nunatsiavut Government and its representative;

“Rules” means these *Membership Committees’ Rules of Practice*; and

“Supplemental Rules” means rules made by a Committee under subsection 2(1) of the Rules.

- (2) In the Rules terms that begin with a capital that are not defined in subsection (1) have the meaning given to them in the Act or the Agreement.
- (3) Where the Rules require or permit a thing to be done in writing it may be done electronically.

Supplemental Rules

- 2. (1) A Committee may supplement these Rules by adopting rules to provide for matters not dealt with in the Rules.
- (2) The Chair must provide a copy of the Supplemental Rules to the Registrar.
- (3) Supplemental Rules must be consistent with the Rules, the Act and the Agreement.

Rules must be provided to Applicants or Beneficiaries

- 3. The Chair must provide a copy of the Rules and the Committee’s Supplemental Rules, if any, to an Applicant or Beneficiary who asks for a copy.

Responsibility of Applicant or Beneficiary to supply information

- 4. An Applicant or Beneficiary is responsible for making sure that a Committee has all the information it needs in order to determine whether he or she is eligible to be enrolled on

the Register and must supply all information requested by the Committee that is available to him or her.

Hearings are informal

5. The Committee's procedures and hearings will be informal.

Hearings Generally proceed on the basis of written information

6.
 - (1) Except where oral hearings are specifically required under the Agreement, hearings proceed on the basis of the Application Form and information, evidence and submissions made to the Committee in writing.
 - (2) Written information and evidence need not be supported by affidavit or solemn declaration unless required pursuant to subsection (3).
 - (3) When asked to do so by a Committee, a party must support written evidence by means of affidavit or solemn declaration.
 - (4) Where information or evidence is submitted in the form of a document the document need not be original or certified but the Chair may require that the authenticity of the document be certified or otherwise established.
 - (5) If information is submitted in an affidavit or statutory declaration, the party who submits the information must, if asked to do so, make the witness available to answer questions from the Committee or other party with respect to the affidavit or declaration.

Information to be filed in Registry

7. Any letter, notice, reply, affidavit, declaration submission or other written document in relation to a hearing, including a letter from a party to a Committee or a Chair, must be filed with the Registrar for the attention of the relevant Committee or Chair.

Confidentiality of Information

8.
 - (1) Written information received or sent by the Registrar or a Committee in connection with an application or eligibility review will be kept with the relevant individual's application or Beneficiary file in the Registry.
 - (2) Applications, additional information in support of applications and other personal information obtained and held by the Registrar in relation to the eligibility of an Applicant or Beneficiary to be enrolled on the Register are confidential and will not, without the consent of the Applicant or Beneficiary, be disclosed to any person other than:
 - (a) members of the Committees and individuals hired by the Nunatsiavut Government to provide advice or administrative support to a Committee;

- (b) a party;
- (c) the Inuit Membership Appeal Board in connection with an appeal; or
- (d) in compliance with a law or court order.

Committees may consider additional Information

9. (1) A Committee may take notice of information known to one or more Members.
- (2) A Committee may, when it considers that it is necessary to do so in order to determine whether an individual is eligible to be enrolled, make its own inquiries from individuals other than a party or a party's witnesses for purposes of verifying or clarifying any information provided to the Committee in support of an application, or for purposes of deciding:
- (a) a question related to Inuit customs and traditions;
 - (b) whether the Applicant or Beneficiary or one of their ancestors is an Inuk;
or
 - (c) whether the Applicant or Beneficiary is connected to the Labrador Inuit Land Claims Area or a Region.
- (3) If a Committee considers that information known to the Committee or a Member or obtained from its own inquiries may lead to a decision that an individual is not eligible to be enrolled on the Register, it will advise the Applicant or Beneficiary of that fact, the information it intends to rely on, and the source or sources of the information, and give the Applicant or Beneficiary an opportunity to reply to and rebut the information.

Hearings are closed

10. (1) Hearings are not open to the public.
- (2) Despite subsection (1) a member of the public may attend an oral hearing at which information, evidence, or submissions are presented orally in person if a party asks the Chair in writing for leave to invite the member of the public at least 72 hours in advance of the meeting and the Chair grants the request.

Translation

11. A Committee will make English/Inuktitut translation services available at an oral hearing if requested by a party in writing at least 14 days in advance of the hearing.

Personal representatives

12. (1) An Applicant or Beneficiary may be represented by an agent or counsel.

- (2) If an Applicant or Beneficiary is represented by an agent or counsel the Applicant or Beneficiary will not be allowed to make representations, to address the Board or to speak except as a witness.

Quorum must be present for hearings

13. The majority of the Members constitute a quorum at a hearing.

Decision-making

14.
 - (1) All Committee decisions made during or following a hearing are made in private.
 - (2) A Committee may take as much time as it needs to consider its decision with respect to the eligibility of an individual to be enrolled on the Register.
 - (3) Decisions of a Committee will be made by consensus but if in the opinion of the Chair a consensus is not possible a decision may be made by a majority of the Members who participated in the hearing.
 - (4) In the event that a vote is taken for purposes of a decision each Member has one vote.
 - (5) In the event of a tie vote the Chair has a second, deciding vote.
 - (6) There will be no minority or dissenting decision.

Preliminary decisions

15. Before a Committee makes a decision that an Applicant or a Beneficiary is not eligible to be enrolled on the Register it must make a preliminary determination that the Applicant or Beneficiary is not eligible to be enrolled.

Notice of right to be heard following a Preliminary Decision

16. Where a Committee makes a preliminary determination that an Applicant or Beneficiary is not eligible to be enrolled on the Register the Committee must give the Applicant or Beneficiary written notice that they are entitled to make verbal or written representations to the Committee explaining why they are eligible to be enrolled on the Register.

Time Limit

17. An Applicant or Beneficiary has 30 clear days from the date on which he or she receives a notice referred to in Rule 16 to:
 - (a) submit written representations to the Committee; or
 - (b) give the Committee written notice that he or she wishes to make oral representations.

Extension of time

- 18.** (1) An Applicant or Beneficiary may ask for an extension of the time limit referred to in Rule 17 by making a written request to the Chair.
- (2) A Committee or the Chair may extend the time limit referred to in Rule 17.

Registrar to give notice to Nunatsiavut Government

- 19.** Where an Applicant or Beneficiary gives notice that he or she or his or her agent or counsel will make written submissions or oral representations the Registrar must give notice to the hearing officer.

Nunatsiavut Government may participate

- 20.** (1) The hearing officer may, by giving at least 5 days written notice to the Chair, the other party and the Registrar, make submissions or introduce evidence or information for purposes of the Committee's final decision.
- (2) Where the hearing officer gives notice that he or she intends to participate in proceedings related to a Committee's final decision the Registrar must immediately supply the hearing officer with a copy of the record relating to the proceeding.

Setting the date for an Oral Hearing

- 21.** (1) An Applicant or Beneficiary who wishes to be heard orally must make a written request to the Committee for an oral hearing within the time limit set out in Rule 17.
- (2) An oral hearing must be held within 60 clear days of the date on which the Committee receives the request for an oral hearing.
- (3) The Chair will make reasonable efforts through communications with the parties to set a date, time and place that is convenient for the Committee and the Applicant or Beneficiary wishing to be heard orally.
- (4) Where the date, time and place for an oral hearing cannot be established by mutual agreement, an Oral hearing will be held on 14 days written notice from the Chair to the parties.
- (5) A Committee may, with the written agreement of the Applicant or Beneficiary, extend the time limit set out in subsection (2).

Written information at Oral Hearings

- 22.** (1) Were an Applicant or Beneficiary has asked for an oral hearing, information may be submitted in writing and orally.
- (2) A party must submit written information that it wishes the Committee to consider at an oral hearing at least 72 hours prior to the hearing.

Oral Hearing by Conference Call

- 23.** (1) A hearing may be held by telephone conference call if the Applicant or Beneficiary asks for the hearing to be held by telephone conference call.
- (2) Where a hearing is held by telephone conference call:
- (a) the parties must be able to hear all Members and all witnesses at all times; and
 - (b) all Members must be able to hear the parties and witnesses at all times except when there is a confidential conversation between the Applicant or Beneficiary and his or her representative.
- (3) The Chair must be satisfied as to the identity of a witness or the person who is speaking before allowing that person to proceed.
- (4) The Chair may require that a witness takes an oath or makes a solemn declaration to tell the truth before being heard.

Oral Hearings in Person

- 24.** When receiving oral information from or on behalf of an Applicant or Beneficiary the Board will proceed in the following manner:
- (1) The Chair will tell the Applicant or Beneficiary the Committee's preliminary decision and the reasons for the preliminary decision and then ask the Applicant or Beneficiary to present information or evidence that may convince the Committee to change its preliminary decision.
 - (2) Oral information must be provided by witnesses.
 - (3) A witness must be fully identified and must either swear or affirm to tell the whole truth based on personal knowledge and information.
 - (4) After a witness has presented their information the Chair will invite the hearing officer, if the Nunatsiavut Government is participating, to ask any questions he or she may have and will give the witness a chance to respond to each question after it is asked.
 - (5) After the hearing officer has asked any questions he or she may have, the Chair will invite each Member to ask any questions that he or she may have and will give the witness a chance to respond to each question after it is asked.
 - (6) After the other Members have asked their questions the Chair may ask any question he or she feels necessary.
 - (7) After all oral information has been given, the hearing officer followed by the Applicant or Beneficiary will be given an opportunity to make further representations in the form of a short summary statement before the Committee considers its decision.

- (8) The Chair may, at the request of a party or a Member, request that the parties submit written briefs consisting of a summary of relevant facts and arguments and may set the time or times, and the procedure, to be followed in submitting written briefs.

Chair to Maintain Order

25. (1) The Chair shall maintain order at oral hearings and may make any procedural ruling or order necessary to deal with a matter not provided for in the Rules or Supplemental Rules or to enforce the Rules or Supplemental Rules.
- (2) The Chair will hear from the parties participating in a hearing before making a procedural ruling.
- (3) The Chair may consult the Committee in private before making a procedural ruling.

Time for Committee decisions

26. (1) Before adjourning an oral hearing for purposes of making its final decision the Chair must tell the parties whether the Committee:
 - (a) will give its final written decision before adjourning the hearing;
 - (b) will give its final decision orally before adjourning the hearing with written reasons to follow; or
 - (c) will take some time to consider its decision and will give its written decision and reasons later.
- (2) The Committee's final decision and written reasons for the Committee's final decision must be given to the Applicant or Beneficiary within 75 days of the date on which the hearing is held or the date on which all written submissions have been received pursuant to Rule 24(8).

Costs of Oral Hearings

27. A party who presents information in person or through witnesses is responsible for paying all his or her costs and all costs of his or her witnesses.