
MÉTIS VOICES. OTIPEMISIWAK MÉTIS GOVERNMENT.



JUDICIAL BRANCH ACT

Journey to Otipemisiwak Métis Government

SEPTEMBER 2023

Otipemisiwak Métis Government Judicial Branch Act

Table of Contents

PREAMBLE.....	1
PART I: INTRODUCTORY PROVISIONS	2
Short title.....	2
Application.....	2
Definitions.....	2
Interpretation.....	3
PART II: THE JUDICIAL BRANCH.....	3
Authority of the Judicial Branch	3
Judicial Branch.....	3
Clerk of the Judicial Branch.....	4
Staff.....	4
Budget.....	4
Accommodation	4
Annual report.....	4
PART III: JUDICIAL TRIBUNAL.....	4
Establishing the Judicial Tribunal.....	4
Authority of the Judicial Tribunal.....	4
Appointment of members	5
Term of member.....	5
Qualifications of members	5
Duties of members.....	6
No political influence.....	6
Confidentiality.....	6
Duties of the chairperson.....	6
Acting chairperson	7
Remuneration	7
Expenses of members.....	7
Suspension.....	7
Removal	8
Vacancy.....	8
Effect of vacancy.....	8
PART IV: JUDICIAL TRIBUNAL PROCEDURE.....	8

Decision-making	8
Records of the Judicial Tribunal	8
Communication in writing	9
Rules of procedure.....	9
APPLICATION PROCEDURE.....	9
General authority and case management	9
Forms.....	9
Filing an application	9
Grounds for application	10
Standard of proof.....	10
Exhaustion of remedies	10
Limitation period.....	10
Stays	10
Suspension.....	10
Review of application	10
Summons and examination	11
Access to information	11
Opportunity to make representations.....	11
Convening hearing	11
Orders	12
Costs	13
Judicial Tribunal decisions	13
HEARING PROCEDURE.....	13
Notice of hearing	13
Public hearings	13
Parties may be represented.....	14
Role of Elder or Knowledge Keeper	14
Language	14
Recordings.....	14
RULES OF EVIDENCE.....	14
Admissibility of evidence.....	14
Communication of written representations and evidence	14
Testimony under oath	15
Witnesses.....	15
PART V: ALTERNATIVE DISPUTE RESOLUTION.....	15

Voluntary alternative dispute resolution.....	15
Statements not admissible	15
PART VI: APPEALS	15
Appeals.....	15
Technical irregularity	15
PART VII: REFERENCES	16
References	16
PART VIII: TRANSITION	16
Decisions of the Métis Judiciary Council	16
Transition	16
Term of members	16
PART IX: GENERAL	17
Power to make regulations	17
Immunity	17
Not compellable	17
Commencement.....	17
SCHEDULE A: OATH OF JUDICIAL BRANCH MEMBERS	18

PREAMBLE

WHEREAS section 11.1 of the *Otipemisiwak Métis Government Constitution* provides that the Judicial Branch is a branch of the Otipemisiwak Métis Government;

WHEREAS the goal of the Judicial Branch Otipemisiwak Métis Government is to promote justice, fairness and economy in resolving disputes which come before it;

WHEREAS section 17.1 of the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government shall maintain one or more laws establishing one or more impartial bodies to decide and prescribe the resolution of disputes and addressing the following matters:

- (a) citizenship in the Métis Nation within Alberta;
- (b) election of leadership of the Otipemisiwak Métis Government;
- (c) the validity, application, and interpretation of laws, regulations, policies, actions, or decisions of the Otipemisiwak Métis Government or its Institutions;
- (d) any other matter as identified in an Otipemisiwak Métis Government law;
- (e) appeals of decisions of the bodies comprising the Judicial Branch; and
- (f) where decisions of the bodies comprising the Judicial Branch are final and cannot be appealed;

WHEREAS section 31.1 of the *Otipemisiwak Métis Government Constitution* provides that wherever the *Otipemisiwak Métis Government Constitution* provides that the Otipemisiwak Métis Government shall maintain a law regarding a matter, the Métis Nation of Alberta Association's Provincial Council shall adopt such laws by resolution, which will be considered laws of the Otipemisiwak Métis Government, prior to the coming into force of the Constitution;

NOW THEREFORE the Otipemisiwak Métis Government enacts as follows:

PART I: INTRODUCTORY PROVISIONS

Short title

1 This Act may be cited as the *Judicial Branch Act*.

Application

2 This Act applies to:

- (a) the authority of the Judicial Branch; and
- (b) the establishment, operation, and procedures of the Otipemisiwak Métis Government Judicial Tribunal.

Definitions

3 In this Act:

- (a) “**Act**” means the *Otipemisiwak Métis Government Judicial Branch Act* including any amendments to the Act;
- (b) “**applicant**” means a person who files an application with the Judicial Tribunal under section 34 of this Act;
- (c) “**application**” means an application filed with the Judicial Tribunal under section 34 of this Act;
- (d) “**clerk**” means the person hired as the clerk of the Judicial Branch under section 7 of this Act;
- (e) “**Chair**” means the person appointed to the office of the Chair of the Otipemisiwak Métis Government;
- (f) “**chairperson**” means the person appointed to the position of chairperson of the Judicial Tribunal under section 14 of this Act;
- (g) “**Constitution**” means the Otipemisiwak Métis Government Constitution;
- (h) “**hearing**” means a hearing of the Judicial Tribunal convened under section 45 of this Act;
- (i) “**Institution**” means an Institution of the Otipemisiwak Métis Government;
- (j) “**Judicial Branch**” means a branch of the Otipemisiwak Métis Government as provided for under the Constitution;
- (k) “**Judicial Tribunal**” means the Otipemisiwak Métis Government Judicial Tribunal established under section 12 of this Act;

(l) “**member**” means a person appointed as a member of the Judicial Tribunal under section 14 of this Act and, unless otherwise indicated, includes the chairperson. For greater certainty, a member of the Judicial Tribunal is also considered a member of the Judicial Branch;

(m) “**Ombudsman**” means the person appointed to the office of Ombudsman of the Otipemisiwak Métis Government;

(n) “**parties**” means the applicant(s) and respondent(s) named in an application; and

(o) “**person**” means a natural or legal person.

Interpretation

4 Unless otherwise specified in this Act, a reference to the Judicial Branch in an Otipemisiwak Métis Government Law is, where appropriate, a reference to the Judicial Tribunal.

PART II: THE JUDICIAL BRANCH

Authority of the Judicial Branch

5 (1) The Judicial Branch is the dispute resolution branch of the Otipemisiwak Métis Government, including with respect to disputes arising out of the affairs of the branches of the Otipemisiwak Métis Government, its Institutions, and Citizens.

(2) The Judicial Branch is the final Métis judiciary authority of the Métis Nation within Alberta.

(3) Without limitation to subsection (1), the Judicial Branch may decide and prescribe the resolution of disputes regarding the following matters:

(a) citizenship in the Métis Nation within Alberta;

(b) election of leadership of the Otipemisiwak Métis Government;

(c) the validity, application, and interpretation of laws, regulations, policies, actions, or decisions of the Otipemisiwak Métis Government or its Institutions;

(d) any other matter as identified in an Otipemisiwak Métis Government law; and

(e) appeals of decisions of the bodies comprising the Judicial Branch.

Judicial Branch

6 The Judicial Branch is comprised of:

(a) the Judicial Tribunal; and

(b) any other impartial body of the Judicial Branch established in accordance with the Constitution.

Clerk of the Judicial Branch

7 The Judicial Branch must employ a clerk who must:

- (a) cause to be kept a record of each file in accordance with section 29 of this Act; and
- (b) perform any other duties assigned to them by regulation or policy.

Staff

8 The Judicial Branch may employ or retain persons as considered necessary for the operation and administration of the Judicial Branch, including:

- (a) independent legal counsel to assist the Judicial Branch in the performance of their duties under this Act; and
- (b) persons to facilitate access to justice.

Budget

9 The Citizens' Council must ensure that the Judicial Branch is allocated the funds required for the Judicial Branch to exercise its authority under this Act.

Accommodation

10 The Judicial Branch must make reasonable accommodations to ensure that proceedings are accessible to all parties and interested persons.

Annual report

11 Within 60 days following the end of each fiscal year, the Judicial Branch must submit a report to the Citizens' Council on the Judicial Branch's operations and activities during the preceding fiscal year.

PART III: JUDICIAL TRIBUNAL

Establishing the Judicial Tribunal

12 The Judicial Tribunal of the Otipemisiwak Métis Government is hereby established.

Authority of the Judicial Tribunal

13 The Judicial Tribunal has the authority to decide and prescribe the resolution of disputes regarding the following matters:

- (a) citizenship in the Métis Nation within Alberta;
- (b) election of leadership of the Otipemisiwak Métis Government;
- (c) the interpretation and application of the Constitution;

(d) the validity, application, and interpretation of Otipemisiwak Métis Government Law, regulations, or policies;

(e) actions, inactions, or decisions of the Otipemisiwak Métis Government or its Institutions; and

(f) contraventions of the Constitution or Otipemisiwak Métis Government Law.

Appointment of members

14 (1) The Judicial Tribunal is composed of six (6) members, including the chairperson.

(2) The Citizens' Council must appoint the members by ordinary resolution.

(3) The Citizens' Council may re-appoint a member to the Judicial Tribunal.

Term of member

15 (1) The term of a member:

(a) commences on the date they deliver a written acceptance of their appointment to the Chair; and

(b) ends on the date their term expires, except if:

(i) they resign by delivering a written resignation to the Chair; or

(ii) they are removed in accordance with section 25 of this Act.

(2) Subject to section 66 of this Act, a member of the Judicial Tribunal must be appointed for a four (4) year term.

Qualifications of members

16 (1) To be a member of the Judicial Tribunal, a person must:

(a) be a Citizen;

(b) be a minimum of 25 years old at the time of their appointment;

(c) not have been convicted of an indictable offence under the *Criminal Code* for which they have not received a pardon or record suspension that has not been revoked or ceased to have effect; and

(d) demonstrate fair-mindedness and wisdom in decision-making.

(2) Members other than the chairperson are appointed from each Territory and must be ordinarily resident in that Territory.

(3) The chairperson:

- (a) must have a legal education, or legal experience or training; and
- (b) must be ordinarily resident in Alberta.

(4) A member of the Judicial Tribunal must not hold an elected position with the Otipemisiwak Métis Government.

Duties of members

17 A member of the Judicial Tribunal must:

- (a) before exercising their duties under this Act, take the oath of office in Schedule A of this Act;
- (b) faithfully and impartially exercise their duties under the Constitution and Otipemisiwak Métis Government Law to the best of their judgment, skill and abilities, and according to their oath of office; and
- (c) perform all duties assigned to them under this Act and Otipemisiwak Métis Government Law.

No political influence

18 (1) A member must make decisions and perform their duties independently from political influence.

(2) A member must not engage in political or campaign activity on behalf of any campaign, candidate, or in favour or against an answer to a referendum question while the person is so appointed.

Confidentiality

19 A member must maintain confidentiality in respect of all matters that come to their knowledge in the exercise of their duties under this Act, except that a member may disclose in an order any matters that in the member's opinion ought to be disclosed to establish the grounds for the order.

Duties of the chairperson

20 (1) In addition to the duties under section 17 of this Act, the chairperson's duties include:

- (a) overseeing the Judicial Tribunal's process;
- (b) ensuring proper application of the rules of procedure of the Judicial Tribunal;
- (c) assigning duties to members of the Judicial Tribunal;
- (d) taking any other administrative steps that they consider necessary for the proper functioning of the Judicial Tribunal; and

(e) performing any other duties assigned to them under Otipemisiwak Métis Government Law.

(2) The chairperson may delegate, in writing, any of the chairperson's powers or duties to another member.

Acting chairperson

21 As soon as practicable after being appointed, the chairperson must designate a member as acting chairperson to fulfill the duties of the chairperson in the event:

- (a) the chairperson is temporarily unable to fulfill their duties;
- (b) the chairperson is in a conflict of interest; or
- (c) of a vacancy in the office of the chairperson.

Remuneration

22 (1) A member is entitled to receive remuneration payable at a rate set by the Citizens' Council.

(2) The Citizens' Council must determine a member's remuneration after considering a report prepared by the Senior Executive Officer on the remuneration of persons having similar authority and responsibility elsewhere in Canada.

Expenses of members

23 A member is entitled to be paid reasonable travel and accommodation expenses and any other expenses if:

- (a) the expense is incurred while performing the member's duties; and
- (b) the claim for an expense is made in accordance with Otipemisiwak Métis Government Law.

Suspension

24 (1) The Judicial Tribunal may order that a member be suspended from their office if:

- (a) the member is subject to an investigation under an Otipemisiwak Métis Government Law, for no longer than the duration of the investigation; or
- (b) the member breaches an Otipemisiwak Métis Government Law that provides for a member's suspension.

(2) Subject to an order of the Judicial Tribunal, the member must cease all duties and activities related to their office during a suspension.

Removal

25 (1) A member's appointment is automatically revoked, and their office is vacant if any of the following occur:

- (a) the member is no longer a Citizen; or
- (b) the member no longer resides in the Territory they represent.

(2) The Citizens' Council may, by special resolution, revoke a member's appointment for cause or incapacity.

(3) The Judicial Branch may order that a member be removed if:

- (a) the member breaches an Otipemisiwak Métis Government Law that provides for a member's removal; or
- (b) the member is convicted of an indictable offence under the *Criminal Code* during their term.

Vacancy

26 In case of a vacancy in the office of a member, the Citizens' Council must appoint a person to that office as soon as practicable.

Effect of vacancy

27 No vacancy of an office of a member shall invalidate any of the Judicial Tribunal's proceedings or prevent the Judicial Tribunal from meeting and operating.

PART IV: JUDICIAL TRIBUNAL PROCEDURE

Decision-making

28 In its decision-making, the Judicial Tribunal must uphold the Constitution, Otipemisiwak Métis Government Law, and Métis customs, traditions, and values.

Records of the Judicial Tribunal

29 The Clerk must cause a record of each file to be kept which must contain:

- (a) all notices issued by the Judicial Tribunal to any party;
- (b) the application and all documents submitted by the parties including written submissions;
- (c) if a hearing is held:
 - (i) names of all witnesses testifying;
 - (ii) the exhibits entered into the record;

- (d) all written orders or decisions of the Judicial Tribunal in relation to the application; and
- (e) any other document as deemed appropriate.

Communication in writing

30 When this Act requires that the Judicial Tribunal issues a notice or makes a request pursuant to this Act, the Judicial Tribunal must do so in writing.

Rules of procedure

31 Subject to Otipemisiwak Métis Government Law, the Judicial Tribunal may adopt rules governing its practices and procedures. The Judicial Tribunal must make such rules public.

APPLICATION PROCEDURE

General authority and case management

32 (1) The Judicial Tribunal has all the powers necessary to exercise its jurisdiction.

(2) Subject to this Act, the Judicial Tribunal may, on its own initiative or on motion by a party, issue orders, impose conditions, and give directions as it considers just with respect to the case management, practice, or procedure of a proceeding before the Judicial Tribunal.

(3) For greater certainty, the Judicial Tribunal may make such orders as are appropriate to deal with situations for which no solution is provided in law.

Forms

33 (1) An application or other procedure must be filed with the Judicial Tribunal in accordance with Otipemisiwak Métis Government Law and any Judicial Tribunal policy.

(2) The Judicial Tribunal may issue prescribed forms for an application, or any other procedure filed with the Judicial Tribunal.

Filing an application

34 (1) An application filed with the Judicial Tribunal must:

- (a) be in writing, in the prescribed form, if any;
- (b) be signed by the applicant and dated;
- (c) include the name and contact information of the applicant;
- (d) include the name of the other parties;
- (e) include the grounds for making the application; and
- (f) include all documents that are in the applicant's possession and referred to in the application.

(2) A person must deliver their application to the Judicial Tribunal and notify the parties of their application in accordance with any policies enacted by the Judicial Tribunal.

Grounds for application

35 A person may file an application on any matter within the authority of the Judicial Tribunal pursuant to section 13 of this Act.

Standard of proof

36 Unless otherwise provided for in an Otipemisiwak Métis Government Law, the standard of proof for determining an application is proof on a balance of probabilities.

Exhaustion of remedies

37 A person may not file an application with the Judicial Tribunal until they have exhausted all applicable dispute resolution procedures under any applicable Otipemisiwak Métis Government Law, except if the Judicial Tribunal is satisfied that special circumstances exist.

Limitation period

38 Otipemisiwak Métis Government Law may provide a limitation period for filing an application with the Judicial Tribunal.

Stays

39 Unless otherwise provided for in an Otipemisiwak Métis Government Law, the filing of an application does not suspend the effect of the decision or Otipemisiwak Métis Government Law that is being contested in the application, except if the Judicial Tribunal is satisfied that special circumstances exist.

Suspension

40 The Judicial Tribunal may order that an elected official, officer, or employee of the Otipemisiwak Métis Government or an Institution alleged to have contravened an Otipemisiwak Métis Government Law in an application be suspended from their official duties for no longer than the duration of the proceeding, if the Judicial Tribunal is satisfied that:

- (a) the application is on its face well founded; and
- (b) without a suspension, there is a possibility of serious harm or injustice to any person.

Review of application

41 (1) The Judicial Tribunal must review an application to determine whether to:

- (a) hear the application; or
- (b) refuse to hear an application if the Judicial Tribunal is satisfied that the application:

- (i) is not within the jurisdiction of the Judicial Tribunal;
- (ii) is frivolous, vexatious, trivial, gives rise to an abuse of process, made in bad faith, or filed for an improper purpose; or
- (iii) the applicant did not exhaust all other dispute resolution procedures under section 37 of this Act.

(2) The Judicial Tribunal must inform the applicant in writing of its decision under subsection (1) and of the reasons for that decision.

(3) The Judicial Tribunal may request additional information from an applicant before making a determination under this section.

Summons and examination

42 The Judicial Tribunal may summon and examine under oath any Citizen, elected official, officers, or employees of the Otipemisiwak Métis Government and its Institutions that the Judicial Tribunal believes can give information relevant to an application.

Access to information

43 The Judicial Tribunal may:

- (a) require any Citizen, elected official, officer, or employee of the Otipemisiwak Métis Government or an Institution to provide information or produce a document or thing that the Judicial Tribunal believes is relevant in any Citizen, elected official, officer, or employee of the Otipemisiwak Métis Government or an Institution's possession or control that relates to an application, whether or not that person is a past or present Citizen or employee of an Otipemisiwak Métis Government or Institution; or
- (b) take possession of any document or thing and make copies of information provided or a document or thing produced under this section.

Opportunity to make representations

44 If the Judicial Tribunal agrees to hear an application, the Judicial Tribunal must provide the parties with an opportunity to make representations. Those representations may be either written or oral representations, at the Judicial Tribunal's discretion.

Convening hearing

45 (1) For greater certainty, the Judicial Tribunal has the discretion to decide whether to convene a hearing.

(2) If the Judicial Tribunal convenes a hearing, the Judicial Tribunal must give at least 21 days' notice to the parties of the date of the hearing.

Orders

46 (1) After the Judicial Tribunal offers the parties an opportunity to make representations under section 44 under this Act, the Judicial Tribunal must, as soon as practicable, make an order dismissing or granting the application in whole or in part.

(2) If the Judicial Tribunal grants an application in the case of a review of an Otipemisiwak Métis Government decision, the Judicial Tribunal may:

- (a) confirm, vary, or revoke the decision;
- (b) refer the decision back to the decision-maker, with or without instructions; or
- (c) any other order it deems appropriate.

(3) If the Judicial Tribunal grants an application challenging the validity of an Otipemisiwak Métis Government Law, the Judicial Tribunal may:

- (a) declare the Otipemisiwak Métis Government Law or a portion of it invalid; and
- (b) may suspend the effect of a declaration under subsection (3)(a) for a reasonable time to allow the Otipemisiwak Métis Government sufficient time to remedy the defect in Otipemisiwak Métis Government Law.

(4) If the Judicial Tribunal grants an application alleging a contravention of an Otipemisiwak Métis Government Law, the Judicial Tribunal may:

- (a) order that any of the penalties in that Otipemisiwak Métis Government Law be imposed; or
- (b) make any order the Judicial Tribunal deems appropriate, having due regard to the following considerations:
 - (i) the legacy of colonialism and generational trauma;
 - (ii) restorative justice;
 - (iii) restitution;
 - (iv) rehabilitation;
 - (v) deterrence; and
 - (vi) the specific circumstances of any party.

(5) For a type of application other than the types in subsections (2)–(4), the Judicial Tribunal may make any order it deems appropriate.

(6) The parties must take whatever steps are necessary to implement the Judicial Tribunal's orders.

Costs

47 The Judicial Tribunal may make an order requiring a party to pay all or part of the costs of the hearing of another party in an amount and manner in accordance with rules related to cost orders which must be established and maintained by the Judicial Tribunal.

Judicial Tribunal decisions

48 (1) A decision of the Judicial Tribunal under section 46 of this Act must:

- (a) be in writing;
- (b) be provided to the parties;
- (c) state the reasons for the Judicial Tribunal's decision; and
- (d) be signed by the deciding member(s) of the Judicial Tribunal.

(2) As soon as practicable, the clerk must deliver a copy of the decision to the Public Registry.

HEARING PROCEDURE

Notice of hearing

49 (1) If the Judicial Tribunal determines under section 44 of this Act that a hearing be held, the Judicial Tribunal must determine:

- (a) the date, time, and place of the hearing, which must be held in Alberta; and
- (b) if the hearing will be conducted in person, by electronic means, or a combination thereof.

(2) The Judicial Tribunal must give the parties at least 21 days' notice of its determination under subsection (1).

(3) The Judicial Tribunal may proceed with the hearing in the event of the non-attendance of any party if notice of the hearing is given in accordance with this Act.

Public hearings

50 (1) Subject to subsection (2) and Otipemisiwak Métis Government Law, all hearings must be open and accessible to Citizens.

(2) The Judicial Tribunal may, on a motion by a party, order that all or part of a hearing be heard in private and may exclude all other persons except the parties and their representatives, if the Judicial Tribunal is satisfied that the possibility of serious harm or injustice to any person justifies a departure from the general principle that hearings should be open to Citizens.

Parties may be represented

51 (1) A party or person required to appear before the Judicial Tribunal may be represented by any person including a lawyer at their own expense.

(2) A non-lawyer representative must take an oath prescribed by the Judicial Tribunal before representing a party.

Role of Elder or Knowledge Keeper

52 The Judicial Tribunal may appoint an Elder or Knowledge Keeper who may assist the Judicial Tribunal with any or all aspects of the hearing, including the swearing of oaths, in a manner acceptable to the parties and the Judicial Tribunal.

Language

53 (1) Subject to subsection (2), a hearing must be conducted in English.

(2) If the Judicial Tribunal is satisfied that a party or a witness is unable to understand evidence or submissions presented in English at a hearing, the Judicial Tribunal may order simultaneous interpretation into and from an official language of the Métis Nation within Alberta be provided at the hearing.

(3) The interpreter must swear an oath prescribed by the Judicial Tribunal prior to acting as an interpreter.

Recordings

54 (1) The Judicial Tribunal must record their hearings or proceedings.

(2) On request of any of the parties and after payment of any prescribed fees by the party making the request, the Judicial Tribunal must provide a transcript of that recording.

RULES OF EVIDENCE

Admissibility of evidence

55 (1) Subject to subsection (2), the Judicial Tribunal is not bound by the rules of evidence in a court of law and may admit all evidence that possesses probative value and is relevant to the application.

(2) The Judicial Tribunal must give effect to the rules of privilege as recognized by law.

Communication of written representations and evidence

56 (1) Prior to a hearing and in accordance with any timeline set by the Judicial Tribunal, a party must submit to the Judicial Tribunal and all other parties any written representations or evidence intended for use at the hearing.

(2) If a party fails to communicate representations or evidence in accordance with subsection (1), the Judicial Tribunal may refuse to allow those representations or evidence to be accepted and submitted into the record for consideration.

Testimony under oath

57 A person who gives oral testimony at a hearing must do so under oath as prescribed by the Judicial Tribunal.

Witnesses

58 (1) The Judicial Tribunal may restrict the number of witnesses called by any party, for reasons of redundancy or relevance.

(2) The Judicial Tribunal may question a witness who gives oral testimony in a hearing.

PART V: ALTERNATIVE DISPUTE RESOLUTION

Voluntary alternative dispute resolution

59 (1) If all parties to an application agree, an application may be dealt with using an alternative dispute resolution procedure.

(2) The Judicial Tribunal must encourage the use of alternative dispute resolution procedures for applications before the Judicial Tribunal, when appropriate.

(3) The Judicial Tribunal must enact a policy governing alternative dispute resolution procedures for matters before the Judicial Tribunal.

Statements not admissible

60 Anything done and all statements made by the parties during the attempted settlement of the matter using an alternative dispute resolution procedure must be on a confidential basis and without prejudice, except on consent of the parties.

PART VI: APPEALS

Appeals

61 A decision of the Judicial Tribunal is final and is not subject to appeal or review, subject to any right of appeal of a decision of the Judicial Tribunal to a body within the Judicial Branch provided for under Otipemisiwak Métis Government Law.

Technical irregularity

62 A proceeding of the Judicial Tribunal under this Act is not invalid because of any defect in form or any technical irregularity.

PART VII: REFERENCES

References

63 (1) The Citizens' Council, a District Council, or a Citizen may refer a question of law to the Judicial Tribunal regarding:

- (a) the interpretation and application of the Constitution;
- (b) the constitutionality, validity, interpretation, and application of an Otipemisiwak Métis Government Law or proposed Otipemisiwak Métis Government Law; or
- (c) the powers of the Otipemisiwak Métis Government or an Institution, whether or not the power in question has been exercised.

(2) Subject to subsection (3), the Judicial Tribunal must provide a written opinion on any question referred to the Judicial Tribunal in accordance with subsection (1).

(3) The Judicial Tribunal may refuse to provide an opinion on a question referred to the Judicial Tribunal under subsection (1) for any reason under section 41 of this Act.

PART VIII: TRANSITION

Decisions of the Métis Judiciary Council

64 The decisions of the Métis Judiciary Council may not be appealed to or reviewed by the Judicial Tribunal.

Transition

65 (1) As of the date the Constitution comes into force:

- (a) the Judicial Tribunal becomes the successor to the Métis Judiciary Council; and
- (b) despite any other section in this Act, the members of the Métis Judiciary Council become the members of the Judicial Tribunal.

(2) An application filed with the Judicial Tribunal after the date the Constitution comes into force or filed with the Métis Judiciary Council before the date the Constitution comes into force must be governed by this Act and any applicable Otipemisiwak Métis Government Law.

Term of members

66 (1) Notwithstanding the Pre-Constitution MNA Bylaws or this Act, the term of a member of the Métis Judiciary Council ends when the Citizens' Council appoints a person as a member of the Judicial Tribunal in accordance with this Act to replace that member of the Métis Judiciary Council.

(2) After the date the Constitution comes into force, the members of the Judicial Tribunal referred to under subsection (1) must appoint from amongst themselves a member to serve as interim chairperson.

(3) For the first appointments to the Judicial Tribunal following the date the Constitution comes into force:

(a) three (3) members must be appointed for a two (2) year term; and

(b) three (3) members, including the chairperson, must be appointed for a four (4) year term.

PART IX: GENERAL

Power to make regulations

67 (1) The Cabinet may make regulations it considers necessary or advisable for the purposes of this Act, including regulations governing:

(a) measures to promote access to justice;

(b) the expenses to which a person summoned by the Judicial Tribunal under this Act may be entitled;

(c) the fees for requesting a transcript and the public's access to transcripts of Judicial Tribunal hearings; and

(d) the reimbursement of expenses a person incurs as a result of complying with a request of the Judicial Tribunal for production of documents or other information under this Act.

Immunity

68 No proceedings lie against a member of the Judicial Branch, the clerk, or against a person acting for or under the direction of such persons, for anything done, or omitted to be done:

(a) in accordance with Otipemisiwak Métis Government Law; and

(b) in good faith in the exercise or performance or the intended exercise or performance of a power, duty, or function under this Act.

Not compellable

69 Neither a member of the Judicial Branch, any employee of the Judicial Branch, or any person acting under the authority of the Judicial Branch is competent or compellable to give evidence before the Judicial Branch, or in any court or in any proceeding of an administrative, judicial, or quasi-judicial nature, with respect to anything coming to that person's knowledge in the exercise or performance of that person's powers and duties under this Act.

Commencement

70 This Act comes into force on the date the Constitution comes into force.

**SCHEDULE A:
OATH OF JUDICIAL BRANCH MEMBERS**

I, _____, of the City of _____, in the Province of Alberta, MAKE
OATH AND SAY:

That I will execute according to the Constitution and Otipemisiwak Métis Government Law, and to the best of my ability, the duties required of me as a member of the Judicial Tribunal of the Otipemisiwak Métis Government; and

That I will not, outside my role as a member of the Judicial Tribunal, disclose or make known any matter or thing which comes to my knowledge, by reason of my appointment to the Judicial Tribunal of the Otipemisiwak Métis Government.

