



Judicial Tribunal Interim Rules of Procedure

Purpose

The purpose of these Interim Rules of Procedure (hereafter “Interim Rules”) is to establish governance over the proceedings of the Otipemisiwak Métis Government Judicial Tribunal until such time as permanent Rules of Procedure are adopted and published as set out in section 31 of the *Judicial Branch Act*.

Definitions

(1) For the purposes of this procedure, the following definitions apply:

“**Alternative dispute resolution**” means less formal ways to resolve a dispute other than a full hearing, but that still use the help of a third party, such as a mediator.

“**Application Form**” means one of the prescribed forms approved by the Judicial Tribunal for filing.

“**Arbitration**” means a formal method of dispute resolution where a third party known as an arbitrator assesses evidence from opposing parties to reach a binding decision. Arbitration is usually/typically more formal and more expensive than mediation, but less formal and less expensive than a full hearing.

“**Chairperson**” means the person appointed to the position of chairperson of the Judicial Tribunal under section 14 of the *Judicial Branch Act*.

“**Complainant**” means a person who submits a complaint to the Judicial Tribunal.

“**Judicial Branch**” means a branch of the Otipemisiwak Métis Government as provided for under the Constitution, which includes the Judicial Tribunal and any other body as defined in the *Judicial Branch Act*.

“**Judicial proceedings**” means the decision-making processes of a body of the Judicial Branch.

“**Judicial Tribunal**” means the Otipemisiwak Métis Government Judicial Tribunal established under section 12 of the *Judicial Branch Act*.

“**Mediation**” means an informal method of dispute resolution where a third party called a mediator assists opposing parties to reach a mutually agreeable resolution. Mediation is less formal and less expensive than arbitration.



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“Member” means a person appointed as a member of the Judicial Tribunal under section 14 of the *Judicial Branch 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.

“Oath” means a formal declaration or affirmation made by a party to affirm the truthfulness of their statements or the sincerity of their intentions.

“Otipemisiwak Métis Government Authority” means any Department, Institution (Affiliate) of the Otipemisiwak Métis Government. Where notice or service is required to be provided to an Otipemisiwak Métis Government Authority, such notice or service shall be provided to the Senior Executive Officer, and the Director of a Department, or Senior Official of an Affiliate or institution.

“Parties” means the applicant, any persons named in an Application, any relevant Otipemisiwak Métis Government authority, and any other person deemed appropriate by the Judicial Tribunal.

“Person” means a natural or legal person.

“Respondent” means a person who is a party to a complaint to the Judicial Tribunal and is responding to a complaint made against them.

- (2) Except where otherwise stated, words and phrases in these Interim Rules have the meaning given to them in the *Judicial Branch Act*.

Application and Scope

- (1) These Interim Rules are made pursuant to the Otipemisiwak Métis Government Constitution and the *Judicial Branch Act* and align with their content to define the standard of ethical conduct of members of the Judicial Tribunal.
- (2) The application of these Interim Rules must be consistent with the Constitution, and, if inconsistent, are of no force and effect to the extent of the inconsistency.
- (3) These Interim Rules apply to all proceedings of the Judicial Tribunal, subject to Otipemisiwak Métis Government Law.

Limitations

- (1) These Interim Rules do not apply to the Office of the Ombudsman.



- (2) These Interim Rules do not apply to past decisions made by the Métis Judicial Council.

Guidelines

- (1) These Interim Rules confirm the high standard and confidentiality maintained by the Judicial Tribunal.

PART I: GENERAL RULES

1 Measures to Promote Access to Justice

- (1) The Tribunal may waive specific requirements under these Interim Rules if the Tribunal determines that enforcing the rule will unfairly limit access to justice or will otherwise conflict with requirements under the *Constitution* and Otipemisiwak Métis Government Law. The Tribunal may also waive specific requirements under these Interim Rules if the Tribunal determines that there is an identifiable risk to a party's safety, security, or dignity.

2 Duty to be Fair and Prompt

- (1) These Interim Rules are to be interpreted and applied with every intent to resolve each matter in a manner that is fair and prompt.

3 Proceedings in English and Interpreter or other Accommodation Services

- (1) Proceedings before the Judicial Tribunal will take place 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 that 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.
- (4) The parties may request an interpreter in one of the other three official languages of the Otipemisiwak Métis Government: French, Cree, or Michif.
- (5) Any party who requires an interpreter or other accommodation services must notify the Judicial Tribunal in writing as part of a filed application.
- (6) The Judicial Tribunal will provide an interpreter as requested by a party, at no cost to the party.



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- (7) A party may agree to an interpreter for an opposing party or apply to reject an interpreter for an opposing party for cause.

4 Exceptions

- (1) In the interest of fairness and to maintain consistency with Métis traditional values and customs, the Judicial Tribunal may vary, dispense with, or supplement an existing rule.
- (2) Where the Interim Rules do not provide guidance on a process or procedure, the Judicial Tribunal may invoke any process or procedure it considers suitable on a case-by-case basis.

PART II: APPLICATIONS

5 Form Requirements

- (1) An application filed with the Judicial Tribunal must:
- be in writing, in the prescribed form;
 - be signed by the applicant and dated;
 - include the name and contact information of the applicant;
 - include the name of the other parties;
 - include the grounds for making the application; and
 - include all documents that are in the applicant's possession and referred to in the application.
- (2) Applicants must use the prescribed Application form to file an application with the Judicial Tribunal.
- (3) The Application form may be accessed:
- as a digital form available on a website designated by the Judicial Tribunal; or
 - as a physical form, available in the appropriate office(s) as designated by the Judicial Tribunal.
- (4) Acceptable methods of filing an application and subsequent documentation with the Judicial Tribunal include:
- by email to the email address of the Judicial Tribunal;
 - in person at the appropriate office(s) as designated by the Judicial Tribunal.
 - By mail to the Office of the Judicial Tribunal



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- (5) The Judicial Branch will provide reasonable access to procedural assistance to applicants with completing and filing an application but will not provide legal advice or subject matter information.

6 Service and Filing – Otipemisiwak Métis Government

- (1) Each party must file the documents with the Judicial Tribunal prior to serving the documents, except where otherwise set out in legislation. Where the respondent is the Otipemisiwak Métis Government or an Authority of the Otipemisiwak Métis Government, the Judicial Branch must serve all documents the applicant intends to use in a hearing on all other parties and their representatives, if any parties are represented.
- (2) Where notice or service is required to be provided to an Otipemisiwak Métis Government Authority, such notice or service shall be provided to the Senior Executive Officer, and the Director of a Department, or Senior Official of an Affiliate or Institution.
- (3) Accepted methods of service include:
 - a. by email to an email address provided by a party;
 - b. by registered mail or by courier;
 - c. in person;
 - d. by fax if the document does not exceed 20 pages; or
 - e. electronically to a website or email address designated by the Judicial Tribunal.

7 Service and Filing – Non-Affiliated Parties

- (1) Each party must file the documents with the Judicial Tribunal prior to serving the documents, except where otherwise set out in legislation. Where the respondent is not affiliated with the Otipemisiwak Métis Government, each party must serve all documents they intend to use in a hearing on all other parties and their representatives, if any parties are represented.
- (2) Accepted methods of service include:
 - a. by email to an email address provided by a party, if the respondent provides confirmation of receipt;
 - b. by registered mail or by courier;
 - c. in person;
 - d. by fax if the document does not exceed 20 pages; or



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- e. electronically to a website or email address designated by the Judicial Tribunal.
- (3) Parties must serve the application copy to the respondent that was filed with the Judicial Tribunal.
- (4) Parties must file written proof of service before the matter will be set down for a hearing or otherwise dealt with by the Judicial Tribunal.
- (5) If all appropriate methods of service have been exhausted, a party may make an application before the Judicial Tribunal for approval of an alternative method of service.
- (6) Upon receipt of an application for substitutional service, the Judicial Tribunal may direct any manner of service as deemed appropriate.
- (7) In the event there is no response to a properly served application, the Judicial Tribunal retains the discretion to determine the course of action for the application.

8 Limitation Period

- (1) Unless otherwise stated in Otipemisiwak Métis Government Law, the Judicial Tribunal may refuse to hear a matter if it relates to any actions, inactions, or decisions the applicant has had knowledge of for more than 12 months before the complaint is received by the Judicial Tribunal.

9 Response

- (1) A respondent may respond to an Application by filing a response in the prescribed form within 30 days from the date of service of an application, or such further period as may be allowed by the Tribunal.
- (2) Under a response to be filed, a respondent may:
 - a. Admit to all or some of the facts cited under an Application;
 - b. Agree to all or some of the relief sought by the applicant under an Application;
 - c. Dispute some or all of the facts cited under an Application; and/or
 - d. Dispute some or all of the relief sought by the applicant under an Application.



10 Disclosures

- (1) The Judicial Tribunal may, on its own motion or at the request of a party, order another party to produce additional documents or other evidence.

11 Discoveries

- (1) The Judicial Tribunal may, at any stage of the application proceedings, give direction or order discoveries of a party on such terms as deemed appropriate.

PART III: REVIEW OF APPLICATION

12 Review and Hearing of an Application

- (1) The Judicial Tribunal will review an application to determine whether the application is within the limitation period, and within the Ombudsman's or the Judicial Tribunal's jurisdiction.
- (2) 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. is made prior to the applicant exhausting all other dispute resolution procedures under section 37 of the *Judicial Branch Act*.
- (3) If the application is not within the limitation period or is within the Ombudsman's jurisdiction, the Judicial Tribunal must reject the application and inform the applicant in writing of its decision under subsection 41 (2) of the *Judicial Branch Act* and the reasons for that decision.
- (4) If the application is within the Ombudsman's jurisdiction, the Judicial Tribunal may reject the application and inform the applicant in writing of its decision under subsection 41 (2) of the *Judicial Branch Act* and the reasons for that decision.



13 Pre-Hearing Conference

- (1) If the Judicial Tribunal determines that an application should be heard, the Judicial Tribunal may order a pre-hearing conference to streamline processes or clarify the issues and attempt to resolve the matter.

PART IV: ALTERNATIVE DISPUTE RESOLUTION

14 Alternative Dispute Resolution

- (1) The Judicial Tribunal shall screen all applications to identify those suitable for alternative dispute resolution.
- (2) An application may be dealt with using an alternative dispute resolution procedure, if deemed appropriate by the Judicial Tribunal.
- (3) The Judicial Tribunal must encourage the use of alternative dispute resolution procedures for applications being reviewed by the Judicial Tribunal, when appropriate.
- (4) 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.
- (5) The Judicial Tribunal will refer applications suitable for alternative dispute resolution to the appropriate channels, such as mediation or an Elder, and provide appropriate timelines for resolution.
- (6) Should the alternative dispute resolution be unsuccessful, the application will revert to the default arbitration process that existed prior to the direction of the Judicial Tribunal.

PART V: HEARINGS

15 Hearing Procedure

- (1) If the Judicial Tribunal determines that a hearing be held as per section 44 of the *Judicial Branch Act*, the Judicial Tribunal must determine:
 - a. the date, time, and place of the hearing, which must be held in Alberta;and



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- 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 the hearing date.
- (3) The Judicial Tribunal may proceed with the hearing in the event of the non-attendance of any party if satisfied that notice of the hearing was given in accordance with the *Judicial Branch Act*.
- (4) Subject to subsection (5) and Otipemisiwak Métis Government Law, all hearings must be open and accessible to Citizens.
- (5) The Judicial Tribunal may, on a motion by a party or on its own motion, order that all or part of a hearing be held 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.
- (6) Subject to the availability of the Judicial Tribunal, hearings will be scheduled following a triage process, except for matters that are scheduled on an emergency basis, to allow for timely access to justice.
- (7) Hearings of the Judicial Tribunal will adhere to the following operations, unless otherwise deemed appropriate by the Judicial Tribunal:
 - a. A panel of Judicial Tribunal members will attend hearings in person;
 - b. Witnesses may attend hearings in person, by electronic means, or a combination thereof;
 - c. A party may attend hearings in person, by electronic means, or a combination thereof, and no prejudice shall arise to a party based on their choice to participate either in person or by electronic means; and
 - d. Citizens may attend to observe hearings in person, subject to capacity limitations or other directives specified by the Judicial Tribunal.

16 Orders

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

17 Hearing Operations

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



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- (2) Upon the 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.
- (3) The Judicial Tribunal must give effect to the rules of privilege as recognized by law but is otherwise 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.
- (4) A person who gives oral testimony at a hearing must do so under oath as prescribed by the Judicial Tribunal.
- (5) All parties must be provided with the opportunity to present evidence and respond to evidence.

18 Costs Orders

- (1) The Judicial Tribunal may make an order requiring a party to pay all or part of the costs of another party in an amount and manner that is in accordance with rules related to cost orders which must be established and maintained by the Judicial Tribunal.
- (2) In considering the amount of costs to award, the Judicial Tribunal may consider:
 - a. success of a party on the matter before the Judicial Tribunal;
 - b. success of any party on a significant issue before the Judicial Tribunal;
 - c. conduct which has unduly increased the length or expense of a hearing;
 - d. conduct which has been improper, vexatious, frivolous or abusive;
 - e. the financial situation of both parties; and
 - f. other factors which in the opinion of the Judicial Tribunal are relevant to the amount of costs.

19 Judicial Tribunal Decisions

- (1) As set out under section 48(1) of the *Judicial Branch Act*, a decision of the Judicial Tribunal must be in writing, provided to the parties, state the reasons for the decision, and be signed by the deciding member(s) of the Judicial Tribunal.
- (2) A decision the Judicial Tribunal must indicate whether the decision was unanimous or a majority decision, and must indicate which members(s) dissented, if any.
- (3) The Chairperson of the Judicial Tribunal or their designated acting Chairperson may sign on behalf of all deciding members of the Tribunal on any decision that



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is unanimous and may sign on behalf of the deciding members in the case of a majority decision, with any dissenting member(s) signing separately.

- (4) As set out under section 48(2) of the *Judicial Branch Act*, the clerk of the Judicial Branch must deliver a copy of the decision to the Public Registry as soon as practicable.

PART VI: APPEALS

20 Notice of Appeal – Elections and Referenda

- (1) A notice of appeal must:
- be in writing;
 - include the appellant's name, address, and telephone number and/or email;
 - state the grounds for the appeal under section 112 of the *Elections and Referenda Act* and the facts upon which the appeal is based;
 - include one or more solemn declarations of persons having personal knowledge of the facts stated in the notice of appeal; and
 - include a statement from the appellant that copies of the notice of appeal have been delivered in accordance with subsection (1) of section 114 of the *Elections and Referenda Act*.
- (2) Within five (5) days of receiving a notice of appeal under section 114 of the *Elections and Referenda Act*, the Judicial Branch must:
- decide whether the appeal will be determined by oral or written submissions;
 - give written notice to the applicant, Chief Electoral Officer, the Otipemisiwak Métis Government, and any other parties to the appeal:
 - of its decision under paragraph (a); and
 - any procedural directions for determining the appeal that the Judicial Branch considers necessary or advisable.
- (3) Within 30 days of the filing of the notice of appeal, the Judicial Branch must determine whether the election, the referendum, or the individual result arising therefrom subject to appeal is invalid pursuant to section 112 of the *Elections and Referenda Act*.



21 Notice of Appeal – Ombudsman

- (1) A party must file an appeal under section 37 of the *Ombudsman Act* with the Judicial Branch no later than 30 days following the date of the notice of the Ombudsman's decision that is being appealed.
- (2) A notice of appeal of a decision by the Ombudsman must include:
 - a. the appellant's name and address;
 - b. any documents submitted to the Ombudsman;
 - c. copies of all correspondence with the Ombudsman, including the Ombudsman's written decision being appealed;
 - d. the grounds of appeal; and
 - e. the appellant's signature.
- (3) A notice of appeal of a decision by the Ombudsman must be served on the Otipemisiwak Métis Government and any other parties to the decision.

22 Notice of Appeal – Citizenship

- (1) A notice of appeal of a decision by the Registrar under sections 26 or 36 of the *Citizenship Act* must include:
 - a. the appellant's name and address;
 - b. the appellant's completed citizenship application and any additional documents submitted to the Registrar;
 - c. copies of all correspondence with the Registrar, including the Registrar's written decision being appealed;
 - d. the grounds of appeal; and
 - e. the appellant's signature.
- (2) Within 30 days of receiving a notice of appeal under section 42 of the *Citizenship Act*, the Judicial Branch must give written notice to the appellant, Registrar, and any other affected parties stating:
 - a. whether the appeal will be determined by oral or written submissions; and
 - b. any procedural directions for determining the appeal that the Judicial Branch considers necessary or advisable.

FORMS

- (1) The Judicial Tribunal will provide prescribed forms to facilitate the operations of the Judicial Tribunal, including but not limited to:
 - a. Application Form
 - b. Appeals Form



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- c. Response Form
 - d. Proof of Service Form
- (2) Where there is no applicable section on the Application form, an applicant may submit a written application to the Judicial Tribunal using the “Other” section of the Application form.