

## **Metis Settlements General Council**

(Metis Settlements Act)

### **METIS SETTLEMENTS GENERAL COUNCIL REVIEW POLICY (GC-P0408)**

#### **PART I – CONTEXT**

##### **1.1 Background**

Prior to May 11, 2004 the General Council adopted most of its policies by unanimous resolution. On May 11, 2004 the Alberta Legislature passed amendments to the *Metis Settlements Act* requiring General Council policies to be passed by special resolution. Section 222(1)(jj) of the Act also provides that the General Council can, after consultation with the Minister, make a policy authorizing, in accordance with prescribed criteria, settlement councils to request a review by the Appeal Tribunal of newly adopted General Council policies considered to unfairly disadvantage their members.

##### **1.2 Purpose**

The purpose of this policy is to provide criteria authorizing the review of General Council Policies adopted by the General Council after May 11, 2004.

##### **1.3 Definitions**

In this policy:

- (a) Act means the *Metis Settlements Act*;
- (b) Policy means General Council policy as defined in the Act;
- (c) Request for review means a request made to the Appeal Tribunal pursuant to section 2.1 of this policy

and the terms defined in the *Metis Settlements Act* or in regulations made under it have the same meaning when used in this policy unless the context makes such an interpretation unreasonable.

##### **1.4 Rules and Procedures**

- (a) Applications referred to in this policy must be made in accordance with the rules and procedures of the Appeal Tribunal, including, but not limited to, setting application fees and awarding costs.
- (b) Notwithstanding section (a), applications referred to in this policy will be given priority by the Appeal Tribunal.

PART 2 - REQUEST FOR REVIEW

- 2.1 Where a settlement council considers the settlement members of its settlement to be unfairly disadvantaged by a policy, that settlement council may make a request to the Appeal Tribunal for a review of the policy.
- 2.2 Two settlement councils may make a joint request for review.
- 2.3 A request for review must be commenced no later than 30 days after the policy comes into effect under the Act.
- 2.4 A request for review is commenced upon the Appeal Tribunal and the General Council receiving a request for review in writing.
- 2.5 The Appeal Tribunal may, on the application of one or more of the settlement councils making the request for review, extend the time for commencing the request for review.

PART 3 - APPEAL TRIBUNAL AUTHORITY

- 3.1 The Appeal Tribunal shall assess requests for review and grant or deny leave to review.
- 3.2 The Appeal Tribunal shall only grant leave to review a policy, where the settlement council making the request for review satisfies the Appeal Tribunal that the Settlement members of its settlement:
  - (a) are experiencing disadvantage as a result of the operation of the policy; or
  - (b) can be reasonably expected to experience disadvantage as a result of the operation of the policy.
- 3.3 If leave for review is granted under section 3.1 or 3.2 of this Policy, the Appeal Tribunal shall not find the settlement members are unfairly disadvantaged if the General Council can satisfy the Appeal Tribunal:
  - (a) The objective of the policy under review is intended to achieve is of sufficient importance to warrant disadvantaging the settlement members;
  - (b) The policy under review is designed to achieve the objective in question and is not based on arbitrary or irrational considerations; and
  - (c) The policy under review disadvantages the settlement members as little as possible to achieve the intended objective.
- 3.4 If leave for review is granted, the Appeal Tribunal may confirm, reverse or vary the policy under review or refer the matter back to the General Council, with or without suggestions or recommendations.

PART 4 - ESTOPPEL

- 4.1 A settlement council which voted in favour of a policy may not proceed with a request for review of that policy unless the settlement council satisfies the Appeal Tribunal there has been a material change in circumstances affecting its settlement members since the date the settlement council voted in favour of the policy.
- 4.2 As set out in section 4.1, a material change in circumstances includes any change or effect that is material to the settlements' business, financial or legal condition, its assets, properties or operations, which would be further affected by operation of the policy.

PART 5 - REQUEST FOR  
REVIEW NOT AN AUTOMATIC STAY OF POLICY

- 5.1 Subject to section 5.2 of this policy, a request for review will not operate as a stay of the policy under review.
- 5.2 When considering whether to grant leave to review under Part 3, the Appeal Tribunal may, on the application of one or more of the settlement councils making the request for review, stay the operation of the policy in circumstances where the settlement council making the request for review satisfies the Appeal Tribunal:
- (a) a *prima facie* case for the merits of the review exists;
  - (b) irreparable harm will be caused to the members of a settlement or settlements if the stay was not granted; and
  - (c) that the balance of convenience lies with granting the stay.

PART 6 - APPLICATION OF THIS POLICY

- 6.1 Pursuant to section 222 (4) of the *Metis Settlements Act*, SA 2004, this Policy only applies to policies or amendments thereto that come into effect after May 11, 2004.

PART 7 - REVIEW

- 7.1 Unless otherwise repealed by General Council in accordance with its authority under the Act, this Policy will be reviewed by General Council no later than 2 years from the date it is approved by the Minister.
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