

6 DISPUTE RESOLUTION

6.1 GENERAL

- 6.1.1** The provisions of this chapter apply to any dispute which is not resolved by discussion and negotiation.
- 6.1.2** Subject to the provisions of this chapter, the Supreme Court of the Northwest Territories has jurisdiction in respect of any action arising out of this agreement including any application for judicial review in respect of any board established pursuant to this agreement.
- 6.1.3** The Supreme Court of the Northwest Territories shall have jurisdiction to review a decision of the arbitrator or arbitrators in 6.3.7 on a question of law or jurisdiction.
- 6.1.4** Except in respect of disputes arbitrated under this chapter, nothing in this chapter limits the jurisdiction of any court.
- 6.1.5** The panel described in 6.2 shall have jurisdiction to arbitrate in respect of:
- (a) any matter which this agreement stipulates is to be determined by arbitration; and
 - (b) any matter concerning the interpretation or application of this agreement where the parties agree to be bound by an arbitration decision in accordance with this chapter.
- 6.1.6** Where a participant has a right of action in relation to this agreement, the Sahtu Tribal Council may bring that action on behalf of such participant with the consent of the participant.
- 6.1.7** Nothing in this chapter shall prevent parties to a dispute from agreeing to refer it to an alternate dispute-resolution mechanism such as mediation or arbitration pursuant to the *Arbitration Act*, R.S.N.W.T. 1988, c. A-5.

6.2 ARBITRATION PANEL

- 6.2.1**
- (a) An arbitration panel ("the panel") shall be established to resolve disputes in accordance with this agreement.
 - (b) The panel is established when:
 - (i) Canada, as represented by the Minister of Indian Affairs and Northern Development, the Government of the Northwest Territories as represented by the Minister of Justice and the Sahtu Tribal Council agree in writing that it is established; or
 - (ii) Canada and the Government of the Northwest Territories have each appointed at least one member and the Sahtu Tribal Council has appointed at least two members to the panel,whichever comes first.

- 6.2.2** The panel shall have eight members including a chairperson and a vice-chairperson, both of which shall be chosen by a majority of the panel. Subject to 6.3.5, the panel may establish rules and procedures for the implementation of this chapter.
- 6.2.3**
- (a) Canada, the Government of the Northwest Territories and the Sahtu Tribal Council shall consult and attempt to reach consensus as to the persons to be appointed to the panel.
 - (b) If a consensus is not reached under (a) within one year of the date of settlement legislation, Canada and the Government of the Northwest Territories may each appoint two members and the Sahtu Tribal Council may appoint four members.
 - (c) The term of appointment shall be five years.
- 6.2.4** Upon the departure of a panel member from the panel, the party which appointed the departing member may appoint a new member to the panel and, where the departing member was jointly appointed, Canada, the Government of the Northwest Territories and the Sahtu Tribal Council shall consult and attempt to reach consensus as to the appointment of the new member.
- 6.2.5** A quorum of the panel shall be four members, which in the case of a panel appointed under 6.2.3(b) shall consist of one member appointed by each of Canada and the Government of the Northwest Territories and two members appointed by the Sahtu Tribal Council.
- 6.2.6** Any staff of the panel shall be provided by government. The panel shall prepare an annual budget, subject to review and approval by government. The approved expenses of the panel shall be a charge on government.
- 6.2.7** Appointments by Canada under this chapter shall be made by the Minister of Indian Affairs and Northern Development. Appointments by the Government of the Northwest Territories shall be made by its Minister of Justice.
- 6.3** PROCEDURE FOR ARBITRATION
- 6.3.1** A dispute shall be arbitrated by:
- (a) one arbitrator drawn from the panel if agreed to by the parties to the arbitration; or
 - (b) three arbitrators drawn from the panel, one of whom shall be appointed by the party making the submission to arbitration, one by the other party to the submission and the third to be selected by the two appointed arbitrators from the other members of the panel. Failing agreement, the third arbitrator shall be appointed by a judge pursuant to the *Arbitration Act*, R.S.N.W.T 1988, c. A-5, who shall not be restricted to members of the panel when making such appointment.
 - (c) Unless otherwise agreed, arbitrators shall be selected from the panel.
- 6.3.2** An arbitration, in respect of any matter referred to in 6.1.5(a), shall be convened by a submission to arbitration filed with the panel by any person having a right to arbitration under this agreement. The submission shall name the other party to the dispute, set out the nature of the dispute, a summary of the facts, describe the issue to be arbitrated, name an arbitrator from the panel and describe the relief sought.

- 6.3.3** In the case of an arbitration convened pursuant to 6.3.2, the other party to the dispute shall file a reply within 30 days responding to the submission, agreeing to the arbitrator named in the submission or naming another arbitrator from the panel and describing any relief sought. Where the other party to the dispute fails to file a reply within the prescribed time, that party shall be deemed to have agreed to the arbitrator named in the submission and shall be deemed to be a party to the arbitration.
- 6.3.4** (a) The Sahtu Tribal Council, Canada or the Government of the Northwest Territories may participate in any arbitration as a party on notice to the arbitrator or arbitrators.
- (b) The arbitrator or arbitrators shall allow any other person, on application and on such terms as the arbitrator or arbitrators in their discretion may order, to participate in an arbitration if in the opinion of the arbitrator or arbitrators the interest of that person may be affected by the arbitration.
- 6.3.5** The arbitrator or arbitrators shall have jurisdiction, after hearing the parties, to determine all questions of procedure, including the method of giving evidence, and to make an award, including interim relief, payment of interest and costs in accordance with this agreement.
- 6.3.6** It is intended that the process of arbitration will resolve disputes submitted to it in an expeditious and, where appropriate, informal manner.
- 6.3.7** The decision of the arbitrator or arbitrators shall be conclusive and binding on the parties to the arbitration and shall not be challenged by appeal or review in any court except on the ground that the arbitrator or arbitrators have erred in law or exceeded their jurisdiction.
- 6.3.8** If the arbitrator or arbitrators make no decision as to costs, each party to an arbitration shall bear its own costs and an equal share of the other costs of the arbitration including the remuneration and expenses of the arbitrator or arbitrators.
- 6.3.9** The *Arbitration Act*, R.S.N.W.T. 1988, c. A-5, shall apply to any arbitration to the extent not inconsistent with this chapter.
- 6.3.10** A public file of arbitration decisions shall be maintained by the panel unless the parties to the arbitration agree that the proceedings, including the decision, shall remain confidential.
- 6.4** TRANSITIONAL
- 6.4.1** Until an arbitration panel is established, the *Arbitration Act*, R.S.N.W.T. 1988, c. A-5, applies to any arbitration described in 6.1.5.