

SECTION 18

Administration of Justice – Crees

18.0.1 The Minister of Justice of Québec shall be responsible for the administration of Justice throughout the Territory.

18.0.2 The actual judicial district of Abitibi is modified in order to include the territory of Abitibi, Mistassini and New-Québec, including Great Whale River and the area covered by the James Bay Region Development Act (S.Q., 1971, c. 34), but not including Schefferville, Gagnonville and Fermont, hereinafter called the “judicial district of Abitibi”. The adjacent judicial districts shall be modified accordingly.

JBNQA, par. 18.0.2

A. corr.

18.0.3 All concurrent jurisdictions of other judicial districts existing in virtue of the Courts of Justice Act are abolished.

18.0.4 The Minister of Justice of Québec shall not effect any changes to the territorial limits of the “judicial district of Abitibi” without consulting the local authorities of Cree communities that would be affected by any such changes.

18.0.5 The courts to be established, judges and legal officers who will be designated for the “judicial district of Abitibi” have jurisdiction in all civil, criminal, penal and statutory matters.

18.0.6 Appeals from judgments rendered in the “judicial district of Abitibi” are presented before the Court of Appeal sitting in Québec.

18.0.7 The Minister of Justice of Québec shall designate one or more judges or other persons required to dispense justice in the “judicial district of Abitibi”. The said judges or persons must be cognizant with the usages, customs and psychology of the Crees.

18.0.8 The persons appointed to dispense justice shall be empowered and have the combined duties of a judge of the Provincial Court, of a judge of the Social Welfare Court, of a judge of the Court of Sessions of the Peace, with powers to hear infractions punishable under the Summary Convictions Act of the Province of Québec, of a magistrate under Part XVI of the Criminal Code, of a magistrate under Part XXIV of the Criminal Code and of a justice of the peace appointed under section 107 of the Indian Act. They may have special or administrative jurisdictions.

JBNQA, par. 18.0.8

A. corr.

18.0.9 Justices of the peace, preferably Crees, are appointed in order to deal with infractions to by-laws adopted by Cree local authorities and other offences contemplated in section 107 of the Indian Act. These appointments are subject to the approval of the interested Cree local authority.

18.0.10 With the authorization of the Deputy Minister of Justice of the Province of Québec, the justices of the peace referred to in paragraph 18.0.9 in addition to their regular functions are empowered to receive oaths and informations, issue summonses, confirm or cancel appearance notices and recognizances, issue subpoenas, proceed to the adjournment of appearances and of cases, order the release of persons upon the signing of a promise to appear, or upon recognizance or bail.

JBNQA, par. 18.0.10

A. corr.

18.0.11 The chief place of the “judicial district of Abitibi” is situated at Amos or at such other place that the legislator may designate.

18.0.12 The Lieutenant-Governor in Council may, by proclamation, authorize the court, tribunals, bodies and commissions whether or not they have been constituted by the Courts of Justice Act, to sit outside the chief place of the “judicial district of Abitibi” in the various Cree communities and Cree permanent establishments of the said district.

18.0.13 The tribunals are itinerant and the judges mentioned in paragraph 18.0.8, each time as the circumstances permit it, shall hold hearings in the various Cree communities and other Cree permanent establishments of the district.

18.0.14 The judges and other persons designated to render justice in the “judicial district of Abitibi” may establish from time to time rules of practice required for the proper administration of justice after having consulted with the Cree Regional Authority.

JBNQA, par. 18.0.14
A. corr.

18.0.15 The rules of practice for the “judicial district of Abitibi” must take into consideration the particular circumstances of the district, the customs, usages and way of life of the Crees in order to facilitate the administration of justice and render justice more accessible to the Crees. The said rules of practice should stipulate special provisions respecting :

- a) the accessibility to records and registers;
- b) the postponement for hearings and trials;
- c) the days and hours for hearings, trials and examinations on discovery;
- d) the procedures for the filing of proceedings and the issuance of writs.

18.0.16 The Minister of Justice of Québec shall establish insofar as it is practical to do so and as quickly as it is feasible to do so, buildings, premises and the facilities required for the proper functioning of the tribunals, courts, bodies and commissions in the “judicial district of Abitibi”.

18.0.17 The Minister of Justice of Québec shall establish from time to time programs to train non-Native persons who are designated as judges or public officers, responsible to render justice in the said judicial district, including the non-Native personnel and staff of the courts, tribunals, bodies and commissions, in the particular problems of the “judicial district of Abitibi” as well as respecting the usages, customs and psychology of the Crees in the said district.

18.0.18 Subject to the amendments required to give effect to the provisions of the present Section, the Code of Civil Procedure, as amended from time to time, shall apply in the “judicial district of Abitibi”.

18.0.19 The provisions of the Code of Civil Procedure, the Criminal Code and the Canada Evidence Act shall be amended, insofar as this may be necessary to adopt such provisions to the circumstances, usages, customs and way of life of the Crees and in order to deal adequately with the difficulties of the “judicial district of Abitibi”. In particular, for cases where a Cree is the defendant or the accused, amendments shall be adopted to qualify Crees as jurors, notwithstanding that such Cree might not qualify accordingly to the applicable laws and rules and notwithstanding that such Cree might not speak French or English.

JBNQA, par. 18.0.19
A. corr.

18.0.20 In accordance with paragraph 18.0.12, sub-offices of the courts for the “judicial district of Abitibi” shall be established, as required, within the Cree communities and Cree permanent settlements of the district after consultation with the interested Cree local authorities or with the Cree Regional Authority. To the extent feasible, Crees shall be engaged on a part-time or full-time basis and trained as

deputies to the clerks of the Provincial Court, of the Social Welfare Court, of the Court of Sessions of the Peace, as well as deputy to the sheriff of the said “judicial district of Abitibi”.

JBNQA, par. 18.0.20

A. corr.

18.0.21 The officers of the itinerant court are accompanied by officers having authority to issue writs of the Superior Court. Where the Superior Court is empowered to sit elsewhere than in the chief place of the “judicial district of Abitibi”, the issuance of writs is authorized.

JBNQA, par. 18.0.21

A. corr.

18.0.22 The Minister of Justice of Québec must establish from time to time programs to train Crees to act initially as stenographers of the itinerant Provincial Court and eventually for the other courts, tribunals, bodies and commissions of the “judicial district of Abitibi”.

18.0.23 In the “judicial district of Abitibi”, in all civil, criminal, penal and all statutory matters where a Cree person is a party to the suit, case of proceedings, or is the accused, the following provisions apply :

- a) interpreters shall be provided as of right without costs to such Cree party;
- b) on demand of either one of the two parties, the written motivated judgments, which were not rendered orally at the sitting of the court, tribunal, body or commission, are translated as of right into Cree without cost to the Cree parties for information purposes only;
- c) all verbal decisions and judgments or pronouncements, rulings, statements and comments of the presiding judge shall be simultaneously translated into Cree at no cost and for information purposes only;
- d) all of the depositions, admissions, objections to evidence and the decisions thereon shall be simultaneously translated into the Cree language at no cost and for information purposes only;

JBNQA, par. 18.0.23

A. corr.

18.0.24 The attorney-general of Québec shall designate Crown attorneys for the “judicial district of Abitibi” for such term of office and upon such conditions as are required to meet the circumstances in the said district.

18.0.25 It is recognized that most of the Crees in the “judicial district of Abitibi” qualify at the present time for the benefit of legal aid services. The Crees as individuals are entitled as of right to receive legal aid services in all matters provided they meet the criteria of the Québec Legal Services Commission, which criteria shall be modified to take into consideration the cost of living, the distances involved and other factors particular to the said judicial district.

JBNQA, par. 18.0.25

A. corr.

18.0.26 As quickly as possible after the execution of the Agreement and after consultation with Cree local authorities, the appropriate detention institutions will be established within the “judicial district of Abitibi” so that Crees subject to imprisonment, committal or detention, shall not be imprisoned, committed or detained in any institution below the 49th parallel of latitude, except where they are detained pending trial or pending their sentence or judgment before a court having jurisdiction below the 49th parallel of latitude. However, Crees who, after their sentence, are imprisoned, committed or detained in any place whatsoever, have the right, if they so desire, to be imprisoned, committed or detained in small institutions

situated within the territory of James Bay, if such institutions are appropriate taking into consideration all circumstances.

JBNQA, par. 18.0.26
A. corr.

18.0.27 All institutions, penitentiaries and places of detention in the “judicial district of Abitibi” for the Crees and non-Native persons shall be staffed totally or in part by Crees taking into account the available Cree manpower suitable. For such purposes, programs shall be established to train Crees as staff, correctional or detention officers and as officers required for probation, parole, rehabilitation and aftercare services.

JBNQA, par. 18.0.27
A. corr.

18.0.28 When a Cree is arrested or detained, he must be informed in the Cree language, if he does not comprehend either French or English, of his basic rights and has a right to communicate with his family and to obtain the services of a lawyer of his own choice.

18.0.29 In accordance with a federal-provincial agreement with respect to costs of the programs of services referred to in this Section, it shall be provided:

- a) that Crees who are sentenced by any court to imprisonment for life or for a number of years not less than two (2) or for imprisonment to less than two (2) years may be detained in a place of detention situated and established in the James Bay Territory, including Great Whale River after consultation with the Cree local authority of the “judicial district of Abitibi”;
- b) that Crees who are found to be or become mentally ill at any time during their confinement in a penitentiary or place of detention be detained in the appropriate facilities in the James Bay Territory, including Great Whale River;
- c) that suitable facilities be provided within the James Bay Territory including Great Whale River to receive and care for persons detained who, during their term of detention, become seriously ill or contract infectious or contagious diseases;
- d) that facilities be provided for detention, training and rehabilitation of young Cree offenders under the age of twenty-one (21) years and under the age of sixteen (16) years;
- e) that establishments for the temporary detention of persons, public prisons, rehabilitation and reformatory institutions, almshouses, workhouses, refuges for women, reformatory institutions for women and other institutions for training, rehabilitation and readaptation of persons detained be provided for;
- f) that special rehabilitation programs be created for the treatment, training and rehabilitation of detained Crees taking into account the age and conditions of the persons detained, as well as their way of life and culture;
- g) that special programs, both during detention and after release, be created in order to facilitate the return of the Crees to, and their reintegration into, their families and communities.

JBNQA, par. 18.0.29
A. corr.

18.0.30 Probation, parole, rehabilitation and aftercare services are provided to Crees, in the Cree language, if possible, taking into account their culture and way of life.

18.0.31 Studies for the revision of sentencing and the detention practices of Crees should be undertaken with their cooperation, taking into account their culture and way of life.

18.0.32 The presiding judge of the itinerant court of the “judicial district of Abitibi” shall have available, when necessary or when appropriate, probation officers, preferably Crees, trained for and cognizant of the problems in the said judicial district and problems concerning the Crees who live therein.

JBNQA, par. 18.0.32
A. corr.

18.0.33 In order to ensure that Cree people do not misunderstand the intervention of the judicial authority or of the legal system, Crees will receive special training to act as information officers and be stationed in the Cree communities.

JBNQA, par. 18.0.33
A. corr.

18.0.34 After consultation with the Cree local authorities or Cree Regional Authority, and when it will be appropriate to do so, Crees will be recruited, trained and hired in order to assume the greatest number possible of positions in connection with the administration of justice in the “judicial district of Abitibi”.

18.0.35 Information programs shall be established and financed by Québec to help Crees understand the law, to train court workers and detention liaison officers in order to help Crees obtain legal advice and to assist them in all of the phases of the judicial process and to give the Cree communities information concerning the law. Crees shall be engaged and trained for these purposes as soon as possible after the execution of the Agreement.

JBNQA, par. 18.0.35
A. corr.

18.0.36 Programs must be provided for non-Native persons engaged in the various aspects of the judicial and legal system of the said district so that such persons be familiar with the language, customs, needs and aspirations of the Crees.

18.0.37 A judicial advisory committee will be established and financed by Québec after the execution of the Agreement. It will be composed of representatives of Québec, the Crees and other specialists whose participation is deemed necessary. The said committee shall advise on a permanent basis the authorities with respect to the administration of justice respecting Crees in the “judicial district of Abitibi” including the following:

- a) the participation of Crees in all the phases of the judicial, para-judicial or legal process, including the planning and delivery of judicial services which are destined for them;
- b) the studies and research projects required to properly implement the provisions of the present Section;
- c) the courts, officers and staff required;
- d) the buildings and facilities required;
- e) the laws from time to time required or their amendments in order to give effect to the provisions of this Section;
- f) the establishment of more frequent and more systematic communications with the Crees;
- g) the establishment of a system of legal education, information and discussion with the Crees.

JBNQA, par. 18.0.37
A. corr.

18.0.38 The provisions of this Section can only be amended with the consent of Canada and the interested Native party, in matters of federal jurisdiction, and with the consent of Québec and the interested Native party, in matters of provincial jurisdiction.

Legislation enacted to give effect to the provisions of this Section may be amended from time to time by the National Assembly of Québec in matters of provincial jurisdiction, and by Parliament in matters of federal jurisdiction.

18.0.39 However, the native interested party hereby recognizes that for a sound administration of justice, the provisions of this Section and of Section 20 shall be read together and, to the extent possible, administered and implemented uniformly.

A. corr.