

**CREE NATION OF MISTISSINI BY-LAW 221 ON LABOUR STANDARDS IN
THE CONSTRUCTION INDUSTRY**

WHEREAS the Cree Nation of Mistissini deems it appropriate to take measures for the promotion and the improvement of the economic development and of the working conditions in the construction industry of the community of Mistissini;

WHEREAS the Cree Nation of Mistissini considers it necessary to promote the hiring of local workers in the construction industry;

WHEREAS it is appropriate to establish labour standards in the construction industry and to favour local employment;

NOW THEREFORE:

PURSUANT to paragraphs 45 (1) (a), 45 (1) (b), 45 (1) (j) and 45 (1) (k) of the *Cree Naskapi (of Quebec) Act*, the Cree Nation of Mistissini acting through its Council at a meeting held in Mistissini on April 22, 2013, hereby enacts the present By-law on Labour Standards in the Construction Industry.

Section 1. Interpretation

1.1. Unless otherwise indicated by express terms or necessary implication, for the purpose of the present by-law, the following words and expressions shall mean:

“Competent Authority”: Any person designated by the Council of the Cree Nation of Mistissini to enforce the present by-law;

“Construction Activities”: the foundation, erection, maintenance, renewal, repair, alteration and demolition work on buildings and civil engineering works carried out on the job site itself and vicinity including the previous preparatory work on the ground; and the installation, repair and maintenance of machinery and equipment, work carried out in part on the job site itself and in part in the shop, moving of buildings, transportation of employees, dredging, cutting and pruning of trees and shrubs ;

“Database”: A list of every Local Skilled Worker and Enterprise maintained by the Competent Authority;

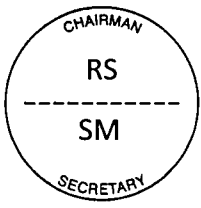
“Enterprise”: Any enterprise carrying out Construction Activities on the Territory of Mistissini;

“Local Enterprise”: has a place of business on the Territory of Mistissini, with a minimum of two employees; the controlling interests are held, directly or indirectly, by or for the benefit of local resident(s); securities of the body corporate to which are attached more than fifty (50) per cent of the votes that may be cast to elect directors of the body corporate are held, other than by way of security only, by or for the benefit of local resident(s) and, the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;

“Local Skilled Worker”: a Skilled Worker who is domiciled on the Territory of Mistissini;

“Skilled Worker”: a person who has some form of Certification issued by the Commission de la Construction du Québec (hereinafter referred to as “CCQ”) or who can alternatively demonstrate his skills in a particular trade through diplomas, certificates or work experience;

“Territory of Mistissini”: the perimeter of the Category IA land of the Cree Nation of Mistissini pursuant to the *Cree-Naskapi (of Quebec) Act*, S.C. 1984, c.18 (hereinafter referred to as *Cree-Naskapi Act*);



“Year of Reference”: That period extends from 1st of May of the preceding year to 30th of April of the current year unless an agreement or decree fixes a different starting date for that period.

Section 2. Scope

- 2.1. The present by-law shall apply to any worker and to any Enterprise that carries out Construction Activities on the Territory of Mistissini.
- 2.2. Nothing in the present by-law relieves a person or an Enterprise from complying with any provision of any other law, regulation or by-law which is not contrary to the provisions of the present by-law.
- 2.3. The present by-law shall not apply to:
 - 2.3.1. a person who has Construction Activities carried out by a licensed contractor whose main activity is the organization or coordination of Construction Activities to be carried out by other persons;
 - 2.3.2. a natural person carrying out or causing to be carried out Construction Activities on a single-family dwelling, or a civil engineering structure intended for his personal use or the use of his family;
 - 2.3.3. a person undertaking works related to Cree traditional activities.

Section 3. General

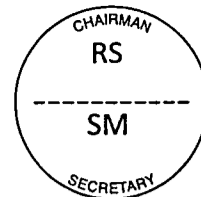
- 3.1. Enterprises are prohibited from employing non-Skilled Workers, except in the context of an internship, apprenticeship or training program.
- 3.2. The Council of the Cree Nation of Mistissini has designated the Community Human Resources Development Officer as the Competent Authority to enforce the present by-law.
- 3.3. Subject to compliance with any health and safety requirements, the Competent Authority shall be authorized to access any construction site and to inspect employment records.
- 3.4. The Competent Authority shall keep an updated Database of all Local Skilled Workers domiciled on the Territory of Mistissini, comprising as well their availability.

Section 4. Priority of Local Manpower

- 4.1. An Enterprise shall be prohibited from employing non-local workers, unless there is no Local Skilled Worker available. Compliance with Section 5. herein shall presume that no Local Skilled Worker is available.
- 4.2. In the event that during the course of a given construction an Enterprise is required to replace a worker or supplement the workforce, the prohibition of Subsection 4.1. and the obligations under Section 5. shall apply *mutatis mutandis*.
- 4.3. An Enterprise is not allowed to hire a non-local worker at a higher rate of wage than the rate given by the Enterprise under Subsection 5.3.3. herein.
- 4.4. An Enterprise is not entitled to offer a rate of wage lower or higher than the rate offered by that Enterprise in regard to a trade anywhere outside the Territory of Mistissini, within the Province of Quebec.

Section 5. Recruitment

- 5.1. All Enterprises undertaking Construction Activities on the Territory of Mistissini shall undertake a recruitment campaign for local labour before the initiation of any Construction Activity.
- 5.2. The recruitment campaign shall consist of:
 - 5.2.1. a duration of a minimum of two (2) weeks prior to the commencement of the works;
 - 5.2.2. the public posting of job opportunities, including local radio station announcements;



5.2.3. the consultation of the local labour Database and contacting of the Local Skilled Workers available.

5.3. The posting of job opportunities shall include:

- 5.3.1. the estimated duration of the employment opportunity;
- 5.3.2. the quantity and type of work needed, including the designation of the specific trade, when applicable;
- 5.3.3. the rate of wage offered.

5.4. Notwithstanding Subsection 5.2.1., the Competent Authority may reduce or exempt the recruitment period for reasons related to safety, to the absence of any available Local Skilled Worker for a specific trade, or to the interests of the community and of the Cree Nation of Mistissini. Any reduction or exemption shall be requested and granted in writing.

Section 6. Labour Standards

Pension Plan

6.1. In accordance with the *Regulation respecting the participation of Indians in the Québec Pension Plan*, RRQ, c R-9, r 4, any Enterprise carrying out Construction Activities on the Territory of Mistissini shall, as an employer, make an irrevocable election in the prescribed form containing the prescribed information and send it to the Minister of Revenue so that the employment of each worker employed by the Enterprise who is an "Indian", within the meaning of the *Cree Naskapis Act*, is considered to be a pensionable employment pursuant to the *Act Respecting the Québec Pension Plan*, RSQ, c R-9 and is entitled to benefit from the Quebec Pension Plan.

Records of Employment

6.2. All entrepreneurs shall, before the 15th of each month, provide the Competent Authority with copies of records of employment for all workers employed on construction sites on the Territory of Mistissini, which shall at least include the following information:

- a) the name of the employer;
- b) the name of the employee;
- c) the identification of the employee's occupation;
- d) the number of hours paid at the prevailing rate;
- e) the number of hours of overtime paid;
- f) the wage rate.

6.3. The obligation to provide a record of employment according to Subsection 6.2. shall only apply to employees who carry on activities on the construction site.

Hours of Work

6.4. For the purposes of computing overtime, the regular workweek is 45 hours.

6.5. An Enterprise may stagger the working-hours of its employees on a basis other than a weekly basis, provided that the average of the working-hours is equivalent to the norm provided in Subsection 6.4.

6.6. Any work performed in addition to the regular workweek entails a premium of 50% of the prevailing hourly wage paid to the employee, except premiums computed on an hourly basis.

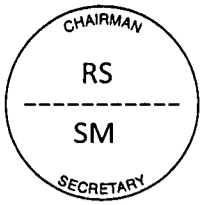
Annual Leave with Pay

Earning of Annual Vacation Paid Leave

6.7. The subsections 6.8. to 6.13. shall not apply to an employee who is entitled to higher standards according to any other regulation or law.

6.8. The employee earns vacation leave during the current reference year, to be taken during the following reference year.

6.9. An employee earns vacation leave according to the following schedule:



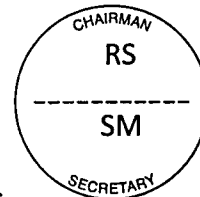
Years of service at end of current reference year	Paid leave days
0 to 1 year	1 day per month of service; for a maximum of 10 days (2 weeks)
1 to 4 years	10 days (2 weeks)
5 years or more	15 days (3 weeks)

Indemnity

- 6.10. If at the end of the following reference year, the employee is absent owing to sickness, an organ or tissue donation for transplant, an accident or a criminal offence or is absent or on leave for family or parental matters, the employer may, at the request of the employee, defer the annual leave to the following reference year. If the annual leave is not so deferred, the employer shall pay the indemnity for the annual leave to which the employee is entitled.
- 6.11. The indemnity relating to the annual leave of the employee who is credited with less than a year to four years of uninterrupted service is equal to 4% of the gross wages of the employee during the reference year, and is equal to 6% of the gross wages of the employee during the reference year when he is credited with five years and more of uninterrupted service.
- 6.12. The indemnity pertaining to the annual leave of an employee shall be paid to him in a lump sum before the beginning of the leave.
- 6.13. If a contract of employment is cancelled before the employee is able to benefit by all days of leave to which he is entitled, the employee shall receive, in addition to the compensatory indemnity determined in accordance with Subsection 6.11. and attaching to the fraction of the leave that he did not enjoy, an indemnity equal to 4% or 6%, as the case may be, of the gross wages earned during the current reference year.

Termination of Employment or Layoff

- 6.14. The subsections 6.15. to 6.20. shall not apply to an employee who is entitled to higher standards according to any other regulation or law.
- 6.15. The employer shall give a written notice to an employee before terminating his contract of employment or laying him off for six months or more.
- 6.16. The notice shall be of one week if the employee is credited with less than one year of uninterrupted service, two weeks if he is credited with one year to five years of uninterrupted service, four weeks if he is credited with five years to ten years of uninterrupted service and eight weeks if he is credited with ten years or more of uninterrupted service.
- 6.17. A notice of termination of employment given to an employee during the period when he is laid off is absolutely null, except in the case of employment that usually lasts for not more than six months each year due to the influence of the seasons.
- 6.18. Sections 6.15., 6.16. and 6.17. do not apply to an employee:
- a) who has less than three months of uninterrupted service;
 - b) whose contract for a fixed term or for a specific undertaking expires;
 - c) who has committed a serious fault;



d) for whom the end of the contract of employment or the layoff is a result of superior force.

6.19. An employer who does not give the notice prescribed by Sections 6.15., 6.16. and 6.17., or who gives insufficient notice, shall pay the employee a compensatory indemnity equal to his regular wage, excluding overtime, for a period equal to the period remaining of notice to which he was entitled.

6.20. The indemnity shall be paid at the time the employment is terminated or at the time the employee is laid off for a period expected to last more than six months, or at the end of a period of six months after a layoff of indeterminate length, or a layoff expected to last less than six months but which exceeds that period.

Section 7. Offences

7.1. Any Enterprise or person who contravenes a provision of the present by-law is guilty of an offence and is liable upon summary conviction to a fine:

- a. for a first time, of one hundred dollars (\$100.00) per day, per infraction, or one thousand dollars (\$1000.00) per day, per infraction where the offender is an enterprise;
- b. in the event of a repeat offence, of three hundred dollars (\$300.00) per day, per infraction, or of two thousand dollars (\$2000.00) per day, per infraction where the offender is an enterprise.

7.2. Any Enterprise which contravenes a provision of the present by-law may be subjected to an order for cessation of operations by the Competent Authority until the necessary corrective measures have been undertaken or the concerned labour standards have been complied with.

Section 8. Coming into force

8.1. The present by-law shall come into force in accordance with the relevant sections of the *Cree-Naskapi Act*.

Section 9. Amendment

9.1. The present By-law amends the By-law no. 220 entitled "Labour Standards in the Construction Industry".

SIGNED THIS 28TH DAY OF AUGUST 2013, MISTISSINI, QUEBEC



CHAIRPERSON



SECRETARY