

## Chapter 14: Harvesting Compensation

### Part 14.1 Definitions

#### 14.1.1 In this chapter:

"Claim" means a claim for Compensation under section 14.5.1;

"Claimant" means an Inuk;

"Compensation" means

- (a) monetary payment in a lump sum or in periodic payments;
- (b) non-monetary compensation such as the repair, replacement or substitution of damaged or lost property or equipment, restoration in kind, or relocation or transportation of Inuit and their equipment to different harvesting locations; or
- (c) a combination of (a) and (b);

"Developer" means:

- (a) a Person undertaking a Development;
- (b) the operator or general partner of a Development being undertaken by two or more Persons; or
- (c) a Person or fund referred to in section 14.4.1; and

"Development" means, notwithstanding clause (f) of "Development" in section 1.1.1, Development and an activity referred to in subsection 14.3.1(c).

### Part 14.2 General

14.2.1 This chapter shall be interpreted in a manner consistent with Canada's sovereignty, sovereign rights, jurisdiction and international obligations.

14.2.2 Nothing in this chapter prevents the Nunatsiavut Government and a Developer from entering into an agreement that would replace the Developer's liabilities and obligations under this chapter. Any such agreement shall be binding on all Inuit.

14.2.3 Nothing in this chapter is intended or is to be construed so as to limit or reduce the liability of a Developer to carry out or pay for Mitigation, compensation or remedial measures under other chapters of the Agreement or under applicable Laws.

14.2.4 Nothing in this chapter shall be construed as limiting or restricting any right of recourse that a Developer who is liable under section 14.5.1 may have against any Person other than the Claimant.

**Part 14.3 Application of Chapter**

14.3.1 This chapter applies to:

- (a) Developments in Labrador Inuit Lands;
- (b) Major Developments in the Labrador Inuit Settlement Area outside Labrador Inuit Lands; and
- (c) marine transportation in the Zone only where the marine transportation is directly associated with:
  - (i) Developments in Labrador Inuit Lands;
  - (ii) Major Developments in the Labrador Inuit Settlement Area outside Labrador Inuit Lands;
  - (iii) Petroleum Exploration in the Zone; or
  - (iv) Petroleum Developments in the Zone.

14.3.2 This chapter does not apply to:

- (a) Harvesting of Wildlife or Plants under chapter 12 or a decision or activity related to management of Wildlife or Plants under chapter 12; or
- (b) Harvesting of Fish or Aquatic Plants under chapter 13 or a decision or activity related to management of Fish or Aquatic Plants under chapter 13.

**Part 14.4 Marine Transportation**

14.4.1 Canada shall specify a Person, a fund, or both, capable of assuming liability for marine transportation under subsection 14.3.1(c).

14.4.2 In respect of commercial marine transportation in or through the Labrador Inuit Settlement Area or Waters Adjacent to the Zone, other than marine transportation to which this chapter applies under subsection 14.3.1(c), Inuit are entitled to Compensation for losses or damages of the kind set out in section 14.5.1 under federal and Provincial Laws. Subject to section 14.4.3, provision for such Compensation under federal or Provincial Laws in the Labrador Inuit Settlement Area and Waters Adjacent to the Zone shall provide protection for Inuit at least as favourable as that afforded to Harvesters in other marine areas under federal or provincial Laws.

14.4.3 Nothing in section 14.4.2 shall be construed so as to apply or extend any federal Legislation to any marine area to which that Legislation does not apply by virtue of its own provisions.

**Part 14.5 Absolute Liability**

14.5.1 A Developer is liable absolutely, without proof of fault or negligence, for loss or damage suffered by a Claimant as a result of a Development, in respect of:

- (a) loss or damage to property or equipment used in Harvesting, or to Wildlife, Fish, Plants or Aquatic Plants reduced into possession;
- (b) present and future loss of Wildlife, Fish, Plants or Aquatic Plants Harvested in the Inuit Domestic Harvest or the Inuit Domestic Fishery;
- (c) present and future loss of income from the Harvesting of Wildlife, Fish or Aquatic Plants; and
- (d) present and future loss of income from the commercial Harvesting of Plants on Labrador Inuit Lands.

14.5.2 Notwithstanding section 14.5.1, a Developer is not liable where that Developer establishes that the loss or damage was wholly the result of an act of God, war, hostilities, civil war or insurrection.

14.5.3 Section 14.5.1 does not apply to a Developer whose Development is in operation on the Effective Date unless that Development is substantially expanded or modified after that date.

14.5.4 For purposes of section 14.5.1, Claimants shall make all reasonable attempts to mitigate the loss or damage referred to in that section.

**Part 14.6 Legislation Limiting Liability**

14.6.1 The Nunatsiavut Government may make laws in Labrador Inuit Lands in relation to the limitation of liability under part 14.5.

14.6.2 If federal or Provincial Legislation provides for the limitation of liability of Developers under this chapter or for methods of setting limits on the liability of such Developers, the Legislation:

- (a) shall require proof of financial responsibility and provide for security deposits by such Developers;
- (b) shall set limits on liability at levels sufficient to cover reasonably foreseeable damages in relation to various Developments; and

- (c) may provide for any other matters not inconsistent with this chapter.
- 14.6.3 Recognizing Inuit concerns regarding collection of Compensation, Governments shall give consideration to including enforcement mechanisms in Legislation to implement this chapter.
- 14.6.4 Subject to section 14.6.5, if there is a Conflict between an Inuit Law under section 14.6.1 and a federal or Provincial Law under section 14.6.2, the Inuit Law prevails to the extent of the Conflict.
- 14.6.5 If there is a Conflict between an Inuit Law under section 14.6.1 and a federal Law with respect to marine transportation, the federal Law prevails to the extent of the Conflict.

**Part 14.7 Procedure for Making a Claim**

- 14.7.1 A Claimant may pursue a Claim alone, together with other Claimants, or through the Nunatsiavut Government.
- 14.7.2 A Claimant shall give written notice of a Claim to a Developer within three years from the date on which the loss or damage occurred or within three years from the date on which the loss or damage became known to the Claimant, whichever is the later, and if not given within that time, no Claim may be made.
- 14.7.3 If a Claim is not settled within 30 clear days from the date of receipt by the Developer of the notice referred to in section 14.7.2, a Claimant may refer the Claim to an Arbitration Panel.
- 14.7.4 An Arbitration Panel, in hearing a Claim, shall give weight to Inuit traditional knowledge and shall take into account the social, cultural, economic, and commercial importance of Wildlife, Plants, Fish and Aquatic Plants to Inuit.
- 14.7.5 An Arbitration Panel, within 30 clear days from the date of completing the hearing of a Claim, shall determine:
  - (a) liability under part 14.5 with respect to the Claim; and
  - (b) Compensation.
- 14.7.6 In determining an amount of Compensation to be awarded for loss or damage referred to in section 14.5.1, an Arbitration Panel may take into account any act by the Claimant which contributed to the Claimant's loss or damage.
- 14.7.7 As a general principle, Compensation shall not be a guaranteed annual income in perpetuity. A Compensation award may be reviewed by an Arbitration Panel at the request of any party to the arbitration that is affected by the award but only at such time as new facts or circumstances may arise or new evidence may become available.

- 14.7.8            When an Arbitration Panel decides where to hold a hearing, the convenience of the Claimant shall be a major factor.
- 14.7.9            If an Arbitration Panel determines that loss or damage referred to in section 14.5.1 resulted from the Development of more than one Developer, those Developers shall be jointly and severally liable for the whole loss or damage.
- 14.7.10           This chapter is without prejudice to any other rights or remedies that the Claimant may have under Laws of General Application with respect to loss or damage arising out of a Development. However, a Claimant who makes a Claim may not pursue any rights or remedies under Laws of General Application with respect to any loss or damage for which the Claim is made.
- 14.7.11           If a Claim against a Developer is dismissed, the same Claim may not be made again against the same Developer, but the Claimant may initiate another Claim against another Developer.