

Schedule A

Annex to Ruling 2018 CHRT 4

Amendments to the Ontario specific orders for clarity and implementation flexibility

I. Context

On December 18, 2017, the Tribunal sent the parties a confidential copy of a draft ruling with its reasons and orders for discussion and potential suggestions for clarity and flexibility in the implementation phase and, in the hope this exercise would generate meaningful discussions and collaboration between the parties moving forward. The parties had to provide their suggested changes no later than January 30, 2018 given that the anticipated date for the public release of the ruling was February 1, 2018. The intent was to consider the suggested changes and if accepted by the Panel, to make the changes and release a final version of the ruling on February 1, 2018. On January 30, the Chiefs of Ontario (COO) provided some suggested changes and the Nishnawbe Aski Nation (NAN) provided some suggested changes on February 6, 2018 after the ruling's release. For clarity, the suggested changes were not included in the parties' requested orders at the time of the hearing. Given that the Ontario specific deadlines fall on February 15, 2018, the Panel had little time to address the amendment requests while considering all submissions from the parties involved. Therefore, the parties had until February 12, 2018 to indicate if they consented to the suggested amendments sought by the COO and the NAN, if they took no position or, if they objected to the amendments.

The Tribunal received submissions from all the parties in regards to the COO's suggested changes and it received submissions from all the parties except the AFN in regards to the NAN's suggested changes. The COO, the NAN and Canada have all indicated that their discussions are ongoing. This being said, the importance of the parties working together and making progress towards implementation of the orders outweighs any administrative issues arising from this process. Finally, none of the suggested changes aim to modify the spirit or the substance of the Tribunal's orders.

This Schedule A is the Panel's choice to respond to amendment requests in a clear and expeditious manner. The Panel intends to use this format in the future should there be additional amendment requests.

Upon consideration, The Panel agrees with the suggested changes and amends its orders as indicated below.

II. Mental Health Orders (Ontario)

Original order in paras. 306 and 426:

The Panel, pursuant to Section 53 2 (a) and (b) of the CHRA orders Canada to fund actual costs of mental health for services to First Nations children and youth in Ontario with CFI or otherwise retroactive to January 26, 2016 by February 15, 2018.

Amended order in paras. 306 and 426:

The Panel, pursuant to Section 53 2 (a) and (b) of the CHRA, orders Canada to fund actual costs of mental health services to First Nations children and youth from Ontario, including as provided by First Nations, Tribal Councils, First Nations Child and Family Services Agencies, parents/guardians or other representative entities retroactively to January 26, 2016, by February 15, 2018, or within 15 business days after receipt of the documentation of expenses.

III. Band Representative Orders (Ontario)

Original order in paras. 336 and 427:

The Panel, pursuant to Section 53 2 (a) and (b) of the CHRA, orders Canada to fund Band Representative Services for Ontario First Nations, at the actual cost of providing those services retroactively to January 26, 2016 by February 15, 2018 and until such time as studies have been completed or until a further order of the Panel.

Amended order in paras. 336 and 427:

The Panel, pursuant to Section 53 2 (a) and (b) of the CHRA, orders Canada to fund Band Representative Services for Ontario First Nations, Tribal Councils or First Nations Child and Family Services Agencies at the actual cost of providing those services, retroactively

to January 26, 2016 by February 15, 2018 or within 15 business days after receipt of the documentation of expenses and until such time as studies have been completed or until a further order of the Panel.

The Panel agrees with the Caring Society and the Commission's comments on the appropriate interpretation of the words "documentation of expenses ". The Panel directs that the words "documentation of expenses ", should not be applied in a legalistic and narrow manner stripping the order of its significance. Therefore, it should also include where invoices/receipts are unobtainable and the service provider is not able to provide documentation that the service was rendered, Canada is prepared to reimburse expenses incurred between January 26, 2016 and February 1, 2018 where the requestor declares that the expenses were incurred and the invoice/receipt is unobtainable.

Signed by

Sophie Marchildon
Panel Chairperson

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
February 13, 2018