



**BRIEF OF THE
GRAND COUNCIL OF THE CREES (EYYOU ISTCHEE) /
CREE NATION GOVERNMENT**

**TO THE COMMITTEE ON ECONOMY AND LABOUR
OF THE NATIONAL ASSEMBLY OF QUÉBEC**

**REGARDING
BILL 51 (2024), *AN ACT TO MODERNIZE THE CONSTRUCTION INDUSTRY***

QUÉBEC CITY

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I. INTRODUCTION

1. The purpose of this brief is to provide comments and recommendations of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government regarding Bill 51 (2024), *An Act to modernize the construction industry* (“**Bill 51**”) which provides for amendments to an *Act respecting labour relations, vocational training, and workforce management in the construction industry* (chapter R-20) (“**Act R-20**”) and certain applicable regulations.
2. The Grand Council of the Crees (Eeyou Istchee) (“**GCC(EI)**”) is the political body that represents the Crees of Eeyou Istchee, the traditional homeland of the Cree in Eeyou Istchee.
3. The GCC(EI) is a party to the *James Bay and Northern Québec Agreement* treaty of 1975 (“**JBNQA**”)¹. It acts generally as the representative of the Crees of Eeyou Istchee, including with respect to the implementation of the JBNQA and related legislation.
4. The Cree Nation Government, previously designated the “Cree Regional Authority”, is the “Cree Native Party” for the purposes of the JBNQA. Pursuant to Section 11 of the JBNQA, the Cree Nation Government is a legal person established in the public interest by *An Act respecting the Cree Nation Government*.²
5. The objects of the Cree Nation Government under this Act, include, among others, to: (i) work toward the solution of the problems of the James Bay Cree and, for such purposes, to deal with all governments, public authorities and persons; (ii) assist the James Bay Cree in the exercise of their rights and in the defence of their interests; and, (iii) foster, promote, protect and assist in the preservation of the way of life, the values and the traditions of the James Bay Cree.
6. Sections 28.10.3 and 28.10.4 of the JBNQA mandate Québec and Canada to take “all reasonable measures” to establish Cree priority in employment and contracts related to development in the Territory. More precisely, sections 28.10.3 and 28.10.4 of the JBNQA provide that:

¹ Given force of law by section 1 of the *Act Approving the James Bay and Northern Quebec Agreement*, CQLR, C-67.

² CQLR, c. G-1.031.

“ **28.10.3** For projects initiated or conducted by Canada or Québec or their agencies, delegates, or contractors, and for projects by any proponent a major purpose of which is to provide goods or services to or for the benefit of Cree communities the governments shall take all reasonable measures to establish Cree priority in respect to employment and contracts created by such projects :

- a) In respect to employment on such projects, Canada and Québec shall, inter alia :
 - i) interpret requirements for various categories of jobs so that Cree people able to perform the work shall be deemed to be eligible;
 - ii) advertise available jobs in the Cree Community or in employment offices therein at the same time as such jobs are advertised to the general public;
 - iii) to the extent permissible under government contract regulations hire a qualified Cree person before hiring a non-Native person for each available job;
 - iv) provide Cree employees on-the-job training needed for job advancement.

- b) In respect to contracts arising from such projects, including requirements that the proponents:
 - i) design contract packages to provide to the Crees a reasonable opportunity to submit competitive tenders;
 - ii) post calls for tenders in a public place in all Cree communities on the date on which the general public is made aware of such calls for tenders;
 - iii) set the date, location, terms, and conditions for tendering so that Cree individuals or groups may reply with reasonably ease.”

“ **28.10.4** Québec and Canada shall take all reasonable measures, including but not limited to regulations, to establish priority to available and duly qualified local persons or entrepreneurs in respect to contracts and employment created by development in the Territory.”

II. CONTEXT – CONSTRUCTION INDUSTRY IN EEYOU ISTCHEE

- 7. Construction activities hold an important place in the JBNQA territory, including large-scale civil engineering and roadwork projects, mining projects and major commercial and institutional projects.

- 8. However, in the past decades, the regime related to the *Commission de la construction du Québec* (“CCQ”) as provided in Act R-20 and its regulations has failed to address the needs the Cree communities and promote a qualified Cree workforce.

- 9. For decades, under the previous rules provided by Act R-20, and its regulations, the CCQ mobility and referral region referred to as “James Bay” under the *Regulation respecting the*

*hiring and mobility of employees in the construction industry*³ was considered to be in perpetual state of lack of manpower, allowing, employers from outside the regional to being allowed to bring their workers, without having to prioritize local workers. The resulted in years of local Cree workers not being prioritized in their own region as it was the case for workers in the rest of the Province of Québec.

10. Moreover, the lack of adapted resources, assistance in accessing, maintaining, or even verifying Cree workers CCQ status, and lack of tools to prioritize Cree workforce in the communities, have caused distrust of many leaders and workers towards the CCQ regime.
11. Over the past decades, these grievances towards the CCQ regime have caused its application in Cree communities of Eeyou Istchee to be sporadic and irregular, considering that it is the Cree First Nations, as local government that have the jurisdiction to adopt laws governing their Category IA lands in the area of trade, professional activities as well as business operations⁴.
12. Over the years, construction works managed and awarded by local governments did not usually involve the CCQ regime. This created situations where Cree workers with significant hours of experience did not have all their hours recorded with the CCQ and did not benefit the advancement the CCQ regime provides.
13. As per construction works awarded and managed by provincially regulated entities, such as the Cree School Board or the Cree Board of Health and Social Services of James Bay, the application of the CCQ regime was normally applied, and tolerated by Cree First Nations.
14. In order to address the needs and grievances of the Crees with respect to the CCQ Regime, a Working Group composed of Cree Nation Government, CCQ and Jamesians representatives was established in 2018 with the mandate to provide recommendations regarding namely the prioritization of the local workforce in the Eeyou Istchee James Bay territory, access to basic training programs for construction trades and to upgrading activities in the Eeyou Istchee

³ chapter R-20, r. 6.1

⁴ *Agreement on Cree Nation Governance between the Crees of Eeyou Istchee and the Government of Canada*, section 6.2

James Bay region, and the creation of a new CCQ mobility and referral region corresponding to the Eeyou Istchee James Bay region and the related administrative services, as well as the implementation of transitional measures.

15. In 2020, the Working Group submitted a report providing various recommendations including proposed legislative and regulatory amendments (“**CNG-CCQ-Jamesians Working Group Report (2020)**”).

III. COMMENTS REGARDING BILL 51

a. **Proposed Modifications to Section 1 of Act R-20: New Definition of a “Person who is Representative of the Diversity of Québec Society”**

16. Section 1 of Bill 51 proposes to add a new paragraph (p.3) at the first paragraph of Section 1 of Act R-20 providing for a definition of “person who is representative of the diversity of Québec society” as “Indigenous person, a person belonging to a visible or ethnic minority, an immigrant or a person with a disability”.
17. This proposed definition is included to designate the individuals underrepresented in the construction industry that should benefit from the measures proposed namely by the sections 63, 66, 67, 68 and 69 of Bill 51, through modifications to the *Regulation Respecting the Issuance of Competency Certificates*⁵, and the *Regulation respecting the hiring and mobility of employees in the construction industry*⁶, implemented to promote access to the members of these designated groups to the construction industry.
18. The measures provided in sections 63, 66, 67, 68 and 69 of Bill 51 are generally in compliance with the recommendations made in the CNG-CCQ-Jamesians Working Group Report (2020).

⁵ Chapter R-20, r.5

⁶ Chapter R-20, r. 6.1.

19. While we are satisfied that the recommended measures of the CNG-CCQ-Jamesians Working Group Report (2020) were included in Bill 51, we would recommend that the definition of a “person who is representative of the diversity of Québec society” be modified.
20. We would recommend that a distinct definition for First Nations and Inuit be provided separately, rather than be included under the umbrella definition of “person who is representative of the diversity of Québec society”.
21. First Nations and Inuit, as the first people of this country, benefit from distinct legal protections and rights, under the *Constitution Act, 1982*⁷, treaties and other governance agreements, and it is crucial that they be designated independently in a provincial legislation.
22. We submit that the definition of “person who is representative of the diversity of Québec society” should be limited to “a person belonging to a visible or ethnic minority, an immigrant or a person with a disability”.
23. Thus, we ask that all occurrences of “Woman” in Bill 51 be replaced by a “Woman, a member of a First Nation or an Inuk, and person who is representative of the diversity of Québec society”.
24. In addition, we submit that this proposed terminology is consistent with recently added sections of Québec laws such as the *Charter of the French Language*⁸, and the *Act to create a court specialized in sexual violence and domestic violence*⁹, which both refer to members of First Nations and the Inuit.

b. Proposed Modifications to Section 107.1 of Act R-20: Labour-Referral Service Licence

25. Section 30 of Bill 51 proposes to amend section 107.1 of the Act R-20 allowing namely the Kativik Regional Government, the Cree Nation Government, and the Eeyou Istchee James Bay Regional Government to become the holder of a referral licence and participate in the

⁷ *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK)

⁸ CQLR c C-11, see the Preamble and section 87.

⁹ CQLR c T-15, see section 1.

labour referral service established by the CCQ pursuant to the *Regulation respecting the Service de référence de main-d'oeuvre de l'industrie de la construction*¹⁰.

26. Section 30 of Bill 51 provides the following:

“**30.** Section 107.1 of the Act is amended

(1) by replacing the second paragraph by the following paragraph:

Only an association listed or described in any of subparagraphs a to c.2 of the first paragraph of section 1, an association of employees affiliated with a representative association, an Indigenous entity having entered into an agreement with the Government under Division I.1 of Chapter III of this Act, the Kativik Regional Government, the Cree Nation Government and the Eeyou Istchee James Bay Regional Government may hold such a licence.”;

(2) by adding the following paragraph at the end:

“For the purposes of this division, the Indigenous entity referred to in the second paragraph, the Kativik Regional Government, the Cree Nation Government and the Eeyou Istchee James Bay Regional Government are, with the necessary modifications, considered to be associations.”

27. The *Service de référence de main-d'oeuvre de l'industrie de la construction* is a voluntary-based service that would allow the Cree Nation Government to refer to employers to its qualified Cree workforce.

28. While this measure appears to be based on the recommendation No. 2 of the CNG-CCQ-Jamesians Working Table Report (2020), we believe it is important to include, at section 107.1, a statement to the effect that it is the Cree Nation Government who may refer Cree workers in the Eeyou Istchee James Bay region to facilitate their hiring priority in compliance with the requirements provided for in the JBNQA and section 36 of the *Regulation respecting the hiring and mobility of employees in the construction industry*¹¹.

¹⁰ CQLR, chap. R-20, r 14.1.

¹¹ Chapter R-20, r. 6.1

29. It is the Cree Nation Government that is entrusted with the protection of the rights of the Cree people of Eeyou Istchee, and that has the necessary resources to be able to identify the qualified workers through its Apatisiwin Skills Development Department.

30. Hence, we would recommend adding a paragraph at the end of the amended section 107.1 as follows:

“ For the purpose of this division the Cree Nation Government shall be responsible for referral of Cree workers in the Eeyou Istchee James Bay region to facilitate their hiring priority in compliance with the *James Bay and Northern Québec Agreement* and section 36 of the Regulation respecting the hiring and mobility of employees in the construction industry (Chapter R-20, r. 6.1).”

IV. ADDITIONAL REQUEST: ESTABLISHMENT OF THE EIJB CCQ MOBILITY REGION

31. The Eeyou Istchee James Bay region is currently located within the three (3) following mobility and referral regions pursuant to the *Regulation respecting the hiring and mobility of employees in the construction industry*: Abitibi-Témiscamingue region, James Bay region, and the Saguenay-Lac-Saint-Jean region.

32. One of the key recommendations of the CNG-CCQ-Jamesians Working Group Report (2020) was to provide for the amendments of Schedule 4 of *Regulation respecting the hiring and mobility of employees in the construction industry* to modify the territorial boundaries of the current James Bay region and created a region that represents the Eeyou Istchee James Bay Region.

33. This request is in compliance with section 28.10.3 of the JBNQA which namely commands the Québec government to implement reasonable measures to establish Cree priority in respect to employment, and with section 28.10.4 which requires the Québec government to “take all reasonable measures, including but not limited to regulations, to establish priority to available and duly qualified local persons or entrepreneurs in respect to contracts and employment created by development in the Territory”.

34. Moreover, this recommendation was also made to comply with the *Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec* (2012), which provides that “as soon as possible after the coming into force of this Agreement, the Parties shall consult and agree with a view to the regionalization of the services, programs and offices of Québec in the Territory in order to improve the provision of services of Québec in the Territory and to ensure a more equitable distribution of such services, programs and offices in the Territory, taking into account, in particular, the special context and the expanse of the Territory”, including with respect with the Commission de la construction du Québec¹².
35. The modification of the CCQ mobility and referral region to represent the territorial boundaries of the Eeyou Istchee James Bay Region would have an impact on regional hiring and employment priority, on the application of mobility rules for outside workers, and would also result in ensuring the regionalization of the CCQ’s services and a greater collaboration with Cree institutions such as the Apatisiwin Skills Development Department of the Cree Nation Government.
36. The CNG-CCQ-Jamesians Working Group Report (2020) included a proposed wording for a Government Decree modifying the current “James Bay” region boundaries to the “Eeyou Istchee James Bay” boundaries pursuant to the *Regulation respecting the hiring and mobility of employees in the construction industry*.
37. The proposed modifications submitted by the CNG-CCQ-Jamesians Working Group Report (2020) are provided for in Schedule A of this Brief.
38. Hence, we would like to take the opportunity of the revision of Bill 51 to ask the addition of these modifications to the *Regulation respecting the hiring and mobility of employees in the construction industry* for the establishment of a new mobility and referral region equivalent to the Eeyou Istchee James Bay.

¹² *Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec* (2012), section 151.

39. The Cree Nation Government/GCC(EI) thank the Committee for the opportunity to submit this brief and are pleased to respond to any questions that the Committee may have.

Meegwetch.

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V. SCHEDULE A – PROPOSED NEW EYYOU ISTCHEE JAMES BAY CCQ MOBILITY REGION

Extract of the CNG-CCQ-Jamesians Working Group Report (2020)

Request 9: Creation of a new region for the purpose of mobility and referral in the EIJB region that complies with the boundaries of the region as enacted IN the JBNQA

Regulation respecting the hiring and mobility of employees in the construction industry CQLR, chap. R-20, r 6.1:

[Proposed Decree:]

The regulation is amended in Schedule 4, by replacing the first paragraph with the following:

“Except the “Mingan” subregion, and the “Eeyou Istchee James Bay” and “Nunavik” regions, the regions and subregions were defined under Construction Industry Decree (O.C. 1287-77, 77-04-20), published in the Gazette officielle du Québec of 27 April 1977, and do not take into account the mergers or modifications made to the territorial limits of cities, municipalities, villages and electoral districts. The cities, municipalities, villages and electoral districts determined as being included in the “Mingan” subregion and in the “Eeyou Istchee James Bay” region are established under Construction Industry Decree (O.C. [Numeric designation of future decree]), published in the Gazette officielle du Québec of 27 April 1977, and do not take into account the mergers or modifications made to them.”

The regulation is amended in Schedule 4, by replacing “Region: Baie-James” and “Subregion: Baie-James” with “Region: Eeyou Istchee James Bay” and “Subregion: Eeyou Istchee James Bay”.

The regulation is amended in Schedule 4, with the following change to the region:

“EYYOU ISTCHEE JAMES BAY REGION”
Subregion: Eeyou Istchee James Bay

The area in Québec south of the 55th parallel of latitude (excluding the area in the vicinity of Schefferville south of the 55th parallel) and west of the 69th meridian of longitude, including the category I lands and the category II lands of the Whapmagoostui First Nation. The territory is bounded to the west by the western boundary of Québec, to the south by the parallel of latitude of 49°00’ North, to the east by the electoral districts of Roberval, Dubuc and Saguenay and by the extension northerly of the western boundary of the Saguenay electoral district and to the north by the parallel of latitude 55°00’ North.

The regulation is amended in Schedule 4 by removing from the Abitibi subregion the localities of “Lebel-sur-Quévillon” and “Matagami”. In addition, the municipalities of “Chapais” and “Chibougamau” are removed from the Roberval subregion.

The regulation is amended so that the designation “James Bay” be changed to “Eeyou Istchee James Bay” in Sections 1 and 36.

Request 12: Implementing transitional measures for workers traditionally based in the different CCQ regions impacted by the creation of a new mobility and referral region and boundary changes.

Regulation respecting the issuance of competency certificates, CQLR, chap. R-20, r 5:

The regulation is amended by the addition after Section 34, of the following section:

35. On [Date of coming into effect], the Commission automatically issues, with no fee, an apprentice competency certificate to a person 16 years of age or older who meets all of the following criteria:

- (1) On that date, the person is domiciled in the Eeyou Istchee James Bay region;
- (2) The person has an exemption from the obligation to hold an apprentice competency certificate issued by the Commission and valid on that date or has held such exemption in the past 5 years;
- (3) On that date, the person has provided an attestation that he or she has successfully completed a health and safety course required under the Safety Code for the construction industry (Chapter S-2.1, r. 4).

The certificate so issued corresponds to the trade concerned by the exemption and may be renewed subject to the conditions set out in this regulation.

However, on [Date to be determined], any competency certificate initially issued pursuant to this section is cancelled and may not be renewed, regardless of any provision to the contrary, if its holder does not show proof that he or she meets, on that date, the admission conditions for an educational program established under the Education Act (Chapter I-13.3), related to study programs leading to a vocational studies diploma (DEP) connected to the trade concerned by this request.

At the same time as the Commission issues a certificate under this section, it cancels the exception concerned in subparagraph 2 of the first paragraph.

36. On [Date of coming into effect], the Commission automatically issues, with no fee, an occupation competency certificate to a person 16 years of age or older who meets all of the following criteria:

- (1) On that date, the person is domiciled in the Eeyou Istchee James Bay region;
- (2) The person has an exemption from the obligation to hold an occupation competency certificate issued by the Commission and valid on that date;

(3) On that date, the person has provided an attestation that he or she has successfully completed a health and safety course required under the Safety Code for the construction industry (Chapter S-2.1, r. 4).

The occupation competency certificate so issued is renewed subject to the conditions set out in this regulation.

At the same time as the Commission issues an occupation competency certificate under this section, it cancels the exemption concerned in subparagraph 2 of the first paragraph.

37. Until [DATE], regardless of sections 3 and 3.1, the Commission may issue an apprentice competency certificate to a person 16 years of age or older who is domiciled in the territory described in subparagraph 1 of the first paragraph of section 35:

(1) who has provided an attestation that he or she has successfully completed a health and safety course required under the Safety Code for the construction industry (Chapter S-2.1, r. 4).

(2) who shows proof that he or she meets the admission conditions for an education program established under the Education Act (Chapter I-13.3), related to study programs leading to a vocational studies diploma (DEP) connected to the trade concerned by this request; and

(3) in respect of whom an employer registered with the Commission files a workforce request, guarantees that person employment for not less than 150 hours over a period not exceeding 3 months and provides the Commission with proof of the guarantee.

38. Until [DATE], regardless of sections 4.2 and 4.3, the Commission may issue an occupation competency certificate to a person 16 years of age or older who is domiciled in the territory described in subparagraph 1 of the first paragraph of section 30:

(1) who has provided an attestation that he or she has successfully completed a health and safety course required under the Safety Code for the construction industry (Chapter S-2.1, r. 4); et

(2) in respect of whom an employer registered with the Commission files a workforce request, guarantees that person employment for not less than 150 hours over a period not exceeding 3 months and provides the Commission with proof of the guarantee.