

2025 YUKON JUDICIAL COMPENSATION COMMISSION

**SUBMISSION OF THE TERRITORIAL COURT JUDICIARY IN RELATION TO
THE TERRITORIAL COURT JUDGES AND
THE JUSTICES OF THE PEACE**

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OVERVIEW

1. The mandate of this 2025 Judicial Compensation Commission (“**JCC**” or “**Commission**”) is to inquire into and make recommendations concerning judicial remuneration of Territorial Judges (“**Judges**”) and Justices of the Peace (“**JPs**”) for the four-year period from April 1, 2025 to March 31, 2029.¹ To assist the Commission with this task, the judiciary of the Territorial Court, which includes both the Territorial Judges and Justices of the Peace (collectively, the “**Judiciary**”), provide the following submission.

2. Part I provides a brief overview of the work of the Territorial Court and the duties of the Judiciary within the justice system in Yukon.

3. Part II describes the role and purpose of a JCC and provides an abbreviated overview of past JCC processes in the Yukon.

4. Part III addresses each of the factors to be considered by the JCC in assessing what is appropriate compensation for the Judiciary. In considering the relevant factors, the Judiciary rely on the decisions of past JCCs as well as the reasoning of JCCs in other jurisdictions.

5. Part IV details the Judiciary’s recommendations for adjustments to compensation. The following joint recommendations are put forward to this JCC on behalf of both the Judiciary and the Government of Yukon (the “**Government**”):

- a) judicial salaries based on a 90% linkage with the salaries payable to federally appointed judges for the years commencing on each of April 1, 2025, April 1, 2026, April 1, 2027 and April 1, 2028;
- b) increases in the daily rates for Deputy Judges, relative to the salary of Territorial Judges; and

¹ While the legislative amendments implementing the 2022 JCC are not yet completed, the Government and the Judges agree that the mandate is four years, consistent with the binding recommendation of the 2022 Yukon JCC. (2022 JCC Report, Joint Book of Documents, **Tab 9**, para 161)

- c) an increased professional allowance for Judges, effective April 1, 2025.
6. In addition, the Judiciary are seeking the following recommendations on which the Judiciary and the Government are not aligned in their positions:
- a. an increase and change to percentage differentials for the stipends payable to each of the Chief Judge and the Supervising Judge of the JPs;
 - b. a northern allowance for Judges in the amount of \$12,000, to be provided in lieu of the Yukon bonus;
 - c. increased hourly rates for JPs;
 - d. a four-hour minimum for presiding JPs (i.e., the JP3 category only), applicable only on days they are assigned to court duties; and
 - e. the payment of interest on retroactive adjustments to compensation.
7. The Submission below outlines how each of the proposals are appropriate in light of the factors required to be considered by the *Territorial Court Act*² (“the **TCA**”).

PART I –THE TERRITORIAL COURT OF YUKON – A BRIEF OVERVIEW

8. The Territorial Court deals with most adult criminal prosecutions under the *Criminal Code*, the *Controlled Drug and Substances Act*, and other federal statutes. The Territorial Court also hears all young offender matters and prosecutions under territorial laws. It deals with first appearances, bail hearings, receiving pleas of guilty and not guilty, trials and sentencings, in both summary conviction and indictable matters, and conducts preliminary inquiries.
9. The Territorial Court has exclusive jurisdiction over child protection matters under the *Child and Family Services Act*. In addition, unlike many Provincial Courts across

² *Territorial Court Act*, RSY 2002, c. 217, Joint Book of Documents, **Tab 1**

Canada which have no civil jurisdiction, Territorial Judges exercise civil jurisdiction in Small Claims Court in respect of claims for up to \$25,000.

10. The Territorial Court consists of three full-time sitting judges and approximately 27 deputy judges who are sitting or supernumerary judges from Yukon or other jurisdictions. In addition, a justice of the Court of Appeal or a judge of the Supreme Court may sit as a judge of the Territorial Court and, when that justice or judge does so, they are a judge of the Territorial Court.

11. While the Court sits permanently in Whitehorse, it also provides services to 13 other communities on a regular basis. There are three permanent court registries located in Whitehorse, Dawson City and Watson Lake.

12. Judges of the Territorial Court were instrumental in the establishment of the Domestic Violence Treatment Option Court, which has been operating since the year 2000,³ and the Community Wellness Court, which opened in 2007, as an innovative therapeutic court designed to contribute to safer Yukon communities through crime reduction.⁴ The other specialized Court in Yukon is the Youth Criminal Justice Court, which hears all *Criminal Code* charges brought against young persons who are between ages 12 to 18 years.⁵

13. The Justice of the Peace Court is part of the Territorial Court and is staffed by 17⁶ part-time Justices, who are located in Whitehorse and communities throughout Yukon. Justices of the Peace are not required to be lawyers, but they provide a range of valuable

³ <https://www.yukoncourts.ca/index.php/en/courts/domestic-violence-treatment-option-court>

⁴ <https://www.yukoncourts.ca/en/courts/community-wellness-court>

⁵ <https://www.yukoncourts.ca/index.php/en/courts/youth-justice-court-yukon>

⁶ Of the 17, five have had their authority temporarily suspended pending completion of training and two are employed as Trial Coordinators and earn no additional compensation beyond their government salary. Three JP3s and 1 JP2 are located outside of Whitehorse and are not assigned to preside in a courtroom. For practical purposes, there are four JP3s in Whitehorse who are assigned to preside in a courtroom on a regular basis. There are two additional JP3s: one is no longer active and available for emergencies only, and the other is assigned to desk duty and presides only in emergencies.

legal services depending on their training and authorization. As lay officers of the Court, JPs have responsibility to perform specific judicial duties based on authorities granted by the Chief Judge and the judge supervising the JP program.

14. A sample of the Letter of Authorization for JPs is provided as **Tab 3** in the Joint Book of Documents. As set out therein, there are three categories of JP.

15. Justices of the Peace who are so authorized may receive and swear informations, issue search warrants, deal with adjournment applications in court, receive pleas, and conduct sentencing hearings under territorial legislation and in summary conviction matters under federal legislation. Certain JPs conduct trials under territorial legislation, and also hear matters in Youth Court and in child protection cases.

16. All Justices of the Peace are trained before taking on responsibility. As well, a strong program of continuing education is offered under the direction of the Supervising Judge of the JP program and the Yukon Justice of the Peace Association.

PART II – HISTORY AND OVERVIEW OF THE COMMISSION PROCESS IN YUKON

Judicial Compensation Commission: an Overview

17. Every federal, provincial and territorial jurisdiction across Canada has some form of constitutionally established judicial compensation tribunal responsible for making recommendations to government about what is appropriate compensation for judges for the period of that tribunal's mandate. While some jurisdictions had some form of commission process in place prior to 1997, the processes as they now exist are a direct result of the 1997 Supreme Court of Canada ("SCC") decision generally known as the *PEI Reference* case. Each jurisdiction has designed its commission process slightly differently with respect to such things as the timing of the commissions, the length of their respective mandates, the persons eligible for appointment to the commission, and to what degree the commission's recommendations are binding on government.

18. In the *PEI Reference*, the SCC considered cases which originated from Alberta,

Manitoba and PEI, all of which concerned the independence of the judiciary. In his reasons for decision, Chief Justice Lamer commented on the “national scope” of the issues before the Court, which demonstrated that the “proper constitutional relationship between the executive and the provincial court judges ... ha[d] come under serious strain.”⁷

19. In Manitoba, the Provincial Judges’ Association challenged the constitutionality of the reduction in salary for provincial judges that resulted from the enactment of Bill 22, *The Public Sector Reduced Work Week and Compensation Management Act*. The judges alleged that the Bill infringed judicial independence, as protected by section 11(d) of the *Charter*, and argued that the salary reduction was unconstitutional because it effectively suspended the operation of Manitoba’s JCC, a body created under the then *Provincial Court Act*. The judges also alleged that the government’s ordered withdrawal of court staff and personnel on unpaid days of leave interfered with judicial independence. Further, the Association alleged that the government had interfered with the independence of the judiciary by exerting improper pressure in the course of salary discussions in an effort to convince the judges not to launch the constitutional challenge.⁸

20. In Alberta, the situation was slightly different in that the cases eventually determined by the SCC originated with three accused who challenged the constitutionality of their trials, alleging in essence that because of what was effectively a 5% salary reduction imposed by the Government on Provincial Court of Alberta judges’ salaries by *Alberta Regulation 116/94*, the Provincial Court was no longer an independent tribunal as required by section 11(d) of the *Charter*. Further, the accused challenged the constitutionality of changes to the judges’ pension plan that reduced the base salary for calculating pension benefits and limited cost of living adjustments to 60% of the annual

⁷ *Reference re Remuneration of Judges of The Provincial Court of Prince Edward Island; Reference re Independence and Impartiality of the Provincial Court of Prince Edward Island; R. v. Campbell; R. v. Ekmecic; R. v. Wickman; Manitoba Provincial Judges’ Association v. Manitoba (Minister of Justice)*, [1997] 3 S.C.R. 3 (“*PEI Reference*”), Joint Book of Documents, **Tab 4**, para 7

⁸ *PEI Reference*, *supra*, Joint Book of Documents, **Tab 4**, paras 21-22

percentage change in the Consumer Price Index. The accused also challenged the constitutionality of the Attorney General's power to designate court sitting days and judges' place of residence.⁹

21. In Prince Edward Island, the case arose as a reference by the Lieutenant Governor, who referred two constitutional questions to court after numerous accused challenged the constitutionality of the Provincial Court of Prince Edward Island following the passage of provincial legislation which reduced the pay of judges.¹⁰

22. The decision in the *PEI Reference* was a major turning point in the history of the courts in Canada, as it underscored the importance of judicial independence and, in particular, the financial security aspect thereof. Chief Justice Lamer outlined the three aspects of judicial independence: financial security, administrative independence and security of tenure. According to the majority decision, a JCC process is necessary to ensure financial security for judges.

23. As the SCC reiterated in its later 2005 decision referred to as *Bodner*:

“... financial security embodies three requirements. First, judicial salaries can be maintained or changed only by recourse to an independent commission. Second, no negotiations are permitted between the judiciary and the government. Third, salaries may not fall below a minimum level.”¹¹

24. In the *PEI Reference*, as well as in *Bodner*, the SCC outlined the flexible requirements for JCC processes, which must be independent, objective and effective. With respect to the requirement of independence, Chief Justice Lamer explained in the *PEI Reference*:

“The rationale for independence flows from the constitutional function performed by these commissions – they serve as an institutional sieve, to prevent the setting

⁹ *PEI Reference*, *supra*, Joint Book of Documents, **Tab 4**, paras 16-18

¹⁰ *PEI Reference*, *supra*, Joint Book of Documents, **Tab 4**, paras 11-13

¹¹ *Provincial Court Judges' Assn. of New Brunswick v. New Brunswick (Minister of Justice)*; *Ontario Judges' Assn. v. Ontario (Management Board)*; *Bodner v. Alberta*; *Conférence des juges du Québec v. Québec (Attorney General)*; *Minc v. Québec (Attorney General)*, 2005 SCC 44 (“*Bodner*”), Joint Book of Documents, **Tab 5**, para 8, emphasis added

or freezing of judicial remuneration from being used as a means to exert political pressure through the economic manipulation of the judiciary. It would undermine that goal if the independent commissions were under the control of the executive or the legislature."¹²

25. The requirement of objectivity is described as follows:

"They must make recommendations on judges' remuneration by reference to objective criteria, not political expediencies. The goal is to present "an objective and fair set of recommendations dictated by the public interest" ... I recommend (but do not require) that the objectivity of the commission be ensured by including in the enabling legislation or regulations a list of relevant factors to guide the commission's deliberations. These factors need not be exhaustive. A list of relevant factors might include, for example, increases in the cost of living, the need to ensure judges' salaries remain adequate, as well as the need to attract excellent candidates to the judiciary."¹³

26. Chief Justice Lamer went on to discuss the requirement of effectiveness, which he stated must be guaranteed in a number of ways:

"First there is a constitutional obligation for governments not to change (either by reducing or increasing) or freeze remuneration until they have received the report of the salary commission. Changes or freezes of this nature secured without going through the commission process are unconstitutional. The commission must convene to consider and report on the proposed change or freeze. Second, in order to guard against the possibility that government inaction might lead to a reduction in judges' real salaries because of inflation, and that inaction could therefore be used as a means of economic manipulation, the commission must convene if a fixed period of time has elapsed since its last report, in order to consider the adequacy of judges' salaries in light of the cost of living and other relevant factors, and issue a recommendation in its report. Although the exact length of the period is for provincial governments to determine, I would suggest a period of three to five years. Third, the reports of the commission must have a meaningful effect on the determination of judicial salaries."¹⁴

27. Lamer CJC made it clear that before any change can be made to judicial remuneration, the change must be first proposed to a JCC. He wrote at paragraph 287(2):

"Provinces are under a constitutional obligation to establish bodies which are independent, effective, and objective, according to the criteria that I have laid down

¹² *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, para 170, emphasis added

¹³ *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, para 173, emphasis added

¹⁴ *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, paras 174-175, emphasis added

in these reasons. Any changes to or freezes in judicial remuneration require prior recourse to the independent body, which will review the proposed reduction or increase to, or freeze in, judicial remuneration. Any changes to or freezes in judicial remuneration made without prior recourse to the independent body are unconstitutional.” [emphasis and underlining added]¹⁵

28. Chief Justice Lamer explained that while the effectiveness requirement could mean that the JCC’s report is binding on government, a variety of other models would be consistent with judicial independence. Where the JCC recommendations were not binding, the government could refuse to implement the recommendations if it gave legitimate reasons and could justify its decision to reject recommendations, if necessary, in a court of law.¹⁶

29. Section 17(1) of the *TCA* gives the recommendations of this JCC binding effect.¹⁷ As a result, the process in the Yukon has been considerably more efficient, and less costly, than in most other jurisdictions.

30. The process for determining judicial compensation is unique. As the Supreme Court stated in *Bodner*, “the process is neither adjudicative interest arbitration nor judicial decision making”. Rather, the focus must be on what is appropriate remuneration for judges in light of relevant objective factors. The purposes of the process are to protect judicial independence and depoliticize the setting of judicial remuneration.¹⁸

History of the JCC Process in the Yukon

31. A review of previous JCCs in the Yukon provides context for this JCC in making its recommendations. According to the SCC in *Bodner*, past JCC Reports are not binding on a subsequent JCC, but are nonetheless highly relevant:

All relevant issues may be addressed. The process is flexible and its purpose is not simply to “update” the previous commission’s report. However, in the absence of

¹⁵ *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, emphasis added

¹⁶ *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, paras 180-183

¹⁷ Recommendations are binding except in the circumstance set out in s.17(2) of the *Act* (Joint Book of Documents, **Tab 1**), which circumstance is not applicable here.

¹⁸ *Bodner, supra*, Joint Book of Documents, **Tab 5**, paras 14, 31

reasons to the contrary, the starting point should be the date of the previous commission's report.¹⁹

32. The SCC explained further:

Each commission must make its assessment in its own context. However, this rule does not mean that each new compensation commission operates in a void, disregarding the work and recommendations of its predecessors. The reports of previous commissions and their outcomes form part of the background and context that a new compensation committee should consider. A new commission may very well decide that, in the circumstances, its predecessors conducted a thorough review of judicial compensation and that, in the absence of demonstrated change, only minor adjustments are necessary. If on the other hand, it considers that previous reports failed to set compensation and benefits at the appropriate level due to particular circumstances, the new commission may legitimately go beyond the findings of the previous commission, and after a careful review, make its own recommendations on that basis.²⁰

33. An abbreviated history of past processes is provided below, with a focus on the most recent three Commissions.

34. The first Yukon JCC was established in 1998, in furtherance of a recommendation by Mr. E.M. Ted Hughes, K.C., who had been appointed by Government following the decision in the *PEI Reference*, to examine outstanding issues. The *TCA* was amended so that beginning in 2001, and in each third year thereafter, a Commission would be established to address judicial remuneration. Beginning with the 2004 JCC, at least some, if not all, of the proposals made to each successive Commission were brought as joint submissions.

35. A Letter of Understanding was signed in 2005 and continues in effect. The Letter of Understanding promotes a cooperative approach to the JCC process, including proceeding by consensus, where possible, in order to promote cost effectiveness.²¹

¹⁹ *Bodner, supra*, Joint Book of Documents, **Tab 5** para 14

²⁰ *Bodner, supra*, Joint Book of Documents, **Tab 5**, para 15

²¹ Letter of Understanding, 2005, Joint Book of Documents, **Tab 2**

2016 JCC

36. The 2016 JCC was first established pursuant to OIC 2016/22; however, due to health issues of the Commissioner who had been appointed, it was necessary to abolish that Commission and re-establish a new Commission. The 2016 JCC was then established pursuant to OIC 2017/90 dated May 11, 2017. The Commissioner was Timothy S. Preston, Q.C.²²

37. On November 9, 2018, an application was made by the parties to the Commission to approve a joint submission on behalf of the judges and Government on the one hand, and the JPs and Government on the other. The 2016 JCC noted that “[t]he legislative framework or intent is significant in circumstances of a joint application or submission, because it influences the scope of review, or the standard of review, that the commission should apply in such applications”.²³ It continued: “[t]he commission has a role or a duty to ensure that a joint submission complies with the legislation, as well as the principles enunciated in the caselaw.”

38. The 2016 JCC reviewed the provisions in the *TCA* which call for a mediated and consensus approach, and noted that these provisions needed to be understood in light of the Commission’s role, as per Lamer CJ in the *PEI Reference*, as an “institutional sieve”²⁴. It went on to review the Yukon Supreme Court decision in *Cameron*, where Madam Justice Schuler set out the approach to be followed by a Commission in the event of a joint submission being presented:²⁵

Agreement by the parties as to what is appropriate is clearly relevant and if the JCC also considers it appropriate based on the evidence and information provided, there is no reason why a joint submission should not be adopted by the JCC if it is not unreasonable, illogical or otherwise questionable. The JCC clearly is not obliged to adopt a joint submission, but considering, ..., that what the JCC is

²² 2016 JCC Report, Joint Book of Documents, **Tab 7**, page 3

²³ 2016 JCC Report, Joint Book of Documents, **Tab 7**, page 9

²⁴ *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, para 170

²⁵ *Cameron v. Yukon*, [2011] Y.J. No. 37 (“*Cameron*”), para 100, Joint Book of Documents, **Tab 6**, and discussed in 2016 JCC Report, Joint Book of Documents, **Tab 7**, at page 12

dealing with is not an exact science, there is no reason why it should not do so.

39. The Commission concluded that it "...should be cautious in substituting its opinion for that of the parties with respect to issues of remuneration and benefits", and should not do so "...unless it is convinced that same are unreasonable, illogical or otherwise questionable...".²⁶

40. After reviewing the submissions made on each of the points within the joint submission, the 2016 JCC concluded that each of the joint proposals was appropriate and reasonable.

2019 JCC

41. The 2019 JCC was established effective June 24, 2019 and was chaired by Ms. Debra Fendrick. After an adjournment requested by the parties, the Report was issued on March 5, 2021.²⁷

42. The 2019 JCC echoed the reasoning of the 2016 JCC on the approach to be taken by a Commission to a joint submission.²⁸ It identified that the JPs and Government had agreed on a joint submission regarding all aspects of compensation, while the Territorial Judges had agreed on all except salary.

2022 JCC

43. The 2022 JCC was established effective June 14, 2022 and was chaired by Ms. Debbie Hoffman. It was tasked with making recommendations about appropriate compensation for Territorial Judges and Justices of the Peace for the three-year period beginning April 1, 2022.

²⁶ 2016 JCC Report, Joint Book of Documents, **Tab 7**, page 15

²⁷ 2019 JCC Report, Joint Book of Documents, **Tab 8**

²⁸ 2019 JCC Report, Joint Book of Documents, **Tab 8**, pages 5-7

44. Following significant delay in the process, the Report was issued on February 7, 2025, and made recommendations which reflected a joint submission by the parties on all issues. The Commissioner applied the test in *Cameron* and considered that the joint submission was appropriate for remuneration, and was appropriate, reasonable and logical in the circumstances.²⁹

45. The 2022 JCC set out in its Report a careful analysis of each of the relevant factors and made recommendations regarding judicial salaries and stipends for the Chief Judge and Supervising Judge of the JPs, as well as hourly rates for JPs, allowances and rates for training pay, and rates for standby pay. The 2022 JCC also made recommendations for specific amendments to the *TCA* and the *Act to Amend the Territorial Court Judicial Pension Plan Act (2021)*, SY 2021, c.9. The analysis of the 2022 JCC is discussed below, in respect of the specific proposals advanced to this Commission.

The Role of this 2025 JCC

46. As noted, the 2025 JCC is tasked with making recommendations about appropriate compensation for Territorial Judges and Justices of the Peace for the four-year period beginning April 1, 2025. It must make fair and appropriate recommendations for compensation, after considering the various factors set out in section 19 of the *TCA*, including any other matter the Commission considers relevant. In assessing the relevant factors, it should consider the reasoning of past JCCs in light of the particular circumstances before it.

47. As detailed below, while the parties are making joint submissions on certain of the issues, they have divergent proposals on other points. The Supreme Court of Yukon in *Cameron* held that “it is preferable that reasonably detailed reasons be given for a commission’s recommendation, even when it has accepted a joint submission, in part

²⁹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 182

because the reasons may be of assistance to the work of the future commissions.”³⁰

PART III: FACTORS FOR CONSIDERATION

48. No Commission could be expected to make recommendations about appropriate compensation in a vacuum. The whole concept of compensation being appropriate means it must be related to objective criteria or compared with compensation received by comparable groups. Accordingly, this section explores both the principles which guided the Judiciary’s reasoning on proposing changes to certain aspects of compensation, and the specific comparisons which are submitted to be appropriate and supportive of the proposed changes.

49. The *TCA* provides:³¹

In fulfilling its mandate, the commission shall, in addition to considering any matter it considers relevant, address in its report submissions presented to it regarding

- (a) the current financial position of the government;
- (b) the need to provide reasonable compensation to judges;
- (c) the need to build a strong court by attracting qualified applicants;
- (d) the unique nature of the Yukon;
- (e) the compensation provided to judges in the Northwest Territories and British Columbia, Alberta, and Saskatchewan;
- (f) the laws of the Yukon;
- (g) the cost of living in the Yukon; including the growth or decline in real per capita income; and
- (h) any submissions by the public filed under section 26.

50. The *PEI Reference* and *Bodner* decisions are clear that the protection and preservation of judicial independence is the *raison d’être* of a JCC. As such, it must be fundamental to the JCC’s considerations. This underscores the need for recommendations that are based on objective criteria rather than primarily political

³⁰ *Cameron v. Yukon, supra*, as referenced in 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 104

³¹ *Act*, Joint Book of Documents, **Tab 1**, s.19

considerations.³²

51. The factors identified in the *TCA* are considered in turn below.

A) The current financial position of the government

52. The current financial position of the government is stable, having completed 2025 with a forecasted surplus. Budget 2026-27 contemplates deficits in both the 2026 and 2027 fiscal years, albeit much smaller in 2027, and a return to surplus in 2028.³³ This is amidst an economy which will see modest growth over the outlook.³⁴

53. The two primary resources that will assist this Commission to understand the financial position of Government in the fiscal years 2025-26 through 2028-29 are *Yukon Territorial Outlook Spring 2026*, prepared by Signal49 (formerly known as the Conference Board of Canada), dated June 2026 and the most recent Yukon Budget, for the fiscal year 2026-27.

54. The Government's *Fiscal Outlook*, which formed part of the Budget 2026-27 documents, provides a fiscal summary in Table 1. The discussion includes the following main points.

- **Net debt** increased each year between 2022 and 2025, and is forecast to increase further in fiscal years 2026 and 2027, before decreasing in 2028. Despite this, the Government states "...Yukon's ratio remains manageable and well below the median of other provinces and territories."³⁵
- The Government is managing **expenditure** growth so as to see "...a return to surplus by year three of the forecast, improved fiscal metrics, and a reduction in the reliance on short-term borrowing for operational requirements"³⁶.

³² *PEI Reference, supra*, Joint Book of Documents, **Tab 4**, para 173

³³ Yukon Government, *Fiscal Outlook 2026-27*, Joint Book of Documents, **Tab 10(c)**, p.2

³⁴ Yukon Government, *Economic Outlook*, Joint Book of Documents, **Tab 10(d)**, p.1

³⁵ Fiscal Outlook, Joint Book of Documents, **Tab 10(c)**, p.3

³⁶ Fiscal Outlook, Joint Book of Documents, **Tab 10(c)**, p.5

- Projected **revenue** growth is to average 6.7% annually, due to a strong outlook for federal transfers and taxation revenues. This is up substantially from the average growth of 5.7% between 2016-17 and 2024-25.³⁷ Federal transfers are projected to increase 8.5% from Budget 2025-26, declining to a 6.1% increase in 2028-29. Own-source revenue will also increase, with the largest growth coming from personal income tax, given “continued strong expectations for employment and earnings growth” as well as increases in corporate income tax partly due to “strong corporate performance expectations”³⁸.
- The Yukon Government has asked the federal government for an increase in the borrowing limit, and in furtherance of that request, has adopted a plan for fiscal reform to restore balance in the medium-to-long term, which focuses on keeping the net-debt-to-GDP below the average for provinces and territories (which it is well-below already), while remaining within the territorial borrowing limit.³⁹

55. In its *Economic Outlook*, also part of the Government’s Budget 2026-27 documents, the Government makes the following main points.

- Modest growth is expected over the period of the outlook (to 2028/29), due in large part to strong metal prices and higher placer gold production.⁴⁰
- Although there remains uncertainty, Yukon has fared better than most jurisdictions in relation to tariffs.⁴¹
- A potentially significant upside risk to the forecast is the potential sale of the Eagle Gold Mine.⁴²
- Tourism outperformed expectations, with record border crossings and air arrivals with continued steady growth being forecast each year to the end of the decade.⁴³

³⁷ Fiscal Outlook, Joint Book of Documents, **Tab 10(c)**, p.6

³⁸ *Fiscal Outlook*, Joint Book of Documents, **Tab 10(c)**, p.8

³⁹ Fiscal Outlook, Joint Book of Documents, **Tab 10(c)**, p.16

⁴⁰ Economic Outlook, Joint Book of Documents, **Tab 10(d)**, p.1

⁴¹ Economic Outlook, Joint Book of Documents, **Tab 10(d)**, p.1

⁴² Economic Outlook, Joint Book of Documents, **Tab 10(d)**, p.14

⁴³ Economic Outlook, Joint Book of Documents, **Tab 10(d)**, p. 17

- Yukon saw the highest inflation rate of any jurisdiction across the country in 2025, at 3.2%, driven in large part by shelter and food related costs.⁴⁴

56. In the *Yukon Territorial Outlook Spring 2026*, Signal49 highlighted the following points about Yukon's economy.⁴⁵

- Population growth is expected to continue to moderate in the coming years as easing international migration weighs on overall gains, with reliance on newcomers playing a key role in sustaining growth.
- Yukon's labour market looks likely to remain resilient, supported by steady employment growth, low unemployment, and increased demand across several key sectors.
- Whitehorse's inflation rate is expected to remain elevated in the near term, with risk for higher inflation stemming from higher oil prices feeding through transportation costs and broad-based price pressures across goods and services.
- Despite inflation risks, growth in household incomes, lower borrowing costs, and stronger tourism activity are expected to support consumer spending and underpin solid retail sales growth over the next decade.
- Housing remains a key pillar for Yukon's development, with ongoing affordability and supply challenges prompting continued policy support and investment aimed at expanding residential construction.
- Non-residential investment will be centred on major mining projects, with development of Kudz Ze Kayah and Casino expected to drive robust growth later in the decade, while broader federal Arctic investment initiatives present additional upside potential.
- Yukon's labour market remains tight even by historical standards, with a low unemployment rate reflecting sustained employment growth. Strong wage growth

⁴⁴ Economic Outlook, Joint Book of Documents, **Tab 10(d)**, p.8

⁴⁵ Signal49, *Yukon Territorial Outlook Spring 2026*, Joint Book of Documents, **Tab 32**

helped offset some of the impact of higher inflation in Whitehorse over the past year, but in 2026, the conflict in the Middle East is pushing up inflation nationwide.

- Following a series of recent disruptions, Yukon's mining sector is expected to stabilize in 2026 before returning to growth in 2027, with stronger gains anticipated in the 2030s as new projects come online.
- Elevated gold and silver prices are supporting more exploration, though regulatory uncertainty, environmental scrutiny, and project delays continue to pose risks to future development.
- Yukon's spending priorities continue to focus on health and social services, alongside targeted allocations for contingency planning and remediation efforts such as the Eagle Gold Mine cleanup. Capital investment continues to expand at a pace broadly aligned with infrastructure priorities.
- Revenues are expected to grow steadily over the next decade, with federal transfers remaining the primary funding source, while the start-up of two new mines in the early 2030s is expected to broaden Yukon's corporate tax base.
- Risks to the outlook are extensive...At the same time, there are notable upside risks.

57. The chart below shows the Government's forecasted percentage increase in both the real (adjusted for inflation) and nominal Gross Domestic Product (GDP) for Yukon for the years commencing in 2026:⁴⁶

Year	Real GDP % Increase	Nominal GDP % Increase
2026	1.2	4.4
2027	2.6	4.4
2028	1.3	3.1
2029	0.7	2.5

⁴⁶ *Economic Outlook*, Joint Book of Documents, **Tab 10(d)**, page 19

58. Overall, the Government's financial position is stable and the economic forecast is for modest growth over the period of this JCC's mandate. As a result, it is submitted that the Judiciary's proposals can be accommodated within the current and forecasted financial position of the government.

B) The need to provide reasonable compensation

59. In considering this factor, the 2022 JCC agreed that "the best comparator for judges is other judges"⁴⁷.

60. As was accepted by the 2022 JCC,⁴⁸ this factor must be considered in light of the unique role of Territorial Judges and JPs within the Yukon economy. Given the uniqueness of that role, and the difficulty of comparing with the duties and responsibilities of deputy ministers, for example, the Judiciary submit that this factor ought to focus on the attributes of the judicial positions at issue, rather than on comparators within the Yukon civil service. JCCs in other jurisdictions have rejected the use of deputy ministers, for example, as a comparator given the difference in the roles and the requirement that compensation for judicial officers must be determined based on objective criteria, not political expediencies.

C) The need to build a strong court by attracting qualified applicants

61. A strong Court is firmly in the public interest. This factor is considered first as it relates to Judges, and then to JPs.

Judges

62. In considering this factor, the 2022 JCC began by stating:⁴⁹

Competitive salaries and pensions must be offered to attract qualified candidates. The desire to serve the public only goes so far when the position "is far from easy"

⁴⁷ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 63

⁴⁸ 2022 JCC Report, Joint Book of Documents, **Tab 9**, paras 56 to 64

⁴⁹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 68 [footnote citing the 1998 JCC, para 4 omitted]

and takes a personal toll on those who are appointed.

63. For judges, reasonable compensation must take into account that they face restraints on their ability to earn income from other sources or endeavors that are not faced by lawyers in private practice.⁵⁰ A judge has no opportunity to earn income from other sources. Section 12(1) of the *TCA* provides that a judge: “shall not carry on directly or indirectly any occupation, profession, or business other than his or her judicial responsibilities.”⁵¹

64. Prospective applicants for the office of a judge are members of the Bar of at least ten years’ standing.⁵² The experience from across Canada suggests these candidates will in fact be outstanding practitioners who have at least 10 and, more likely, at least 15 years at the Bar. Regard must be had to what lawyers with the requisite ability and years of experience are earning.

65. However, one cannot simply look at the average earnings of lawyers who fall into the group likely to be appointed as judges. It must also be remembered that these lawyers are entering their most lucrative years of practice. This opportunity must be foregone, and that earning potential will be weighed just as heavily as present earnings when a lawyer is considering an appointment to the bench.

66. There is insufficient reliable data available concerning the incomes of private lawyers. For that reason, the Judges do not rely on such data in this process and instead focuses on the other options open to highly desirable candidates. Previous JCC’s have recognized that the tradition in the Yukon has been to seek judges not just from candidates living and working in the Yukon but elsewhere, and judicial earnings elsewhere are therefore a factor to consider in this context as well.⁵³ A comparison with the judicial salaries in the jurisdictions of primary importance is set out below.

⁵⁰ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 69

⁵¹ *TCA*, Joint Book of Documents, **Tab 1**, s.12(1)

⁵² *Act*, Joint Book of Documents, **Tab 1**, s.7(b)

⁵³ 2004 JCC Report, p. 5, available [here](#)

67. In addition, a comparison with federally appointed judicial salaries is appropriate in considering the need to build a strong court, for two reasons. First, both courts recruit from the same pool of candidates, a point which was referenced by both the 2019 and 2022 JCCs in their Reports.⁵⁴ Second, the courts are similar in the level of difficulty and complexity of the respective workloads, skills demanded by the work, and in the qualifications required for appointment as a judge.

68. The nature and function of judicial work shows great similarities among various levels of courts. While one level is purely appellate in nature, and another deals with jury trials as opposed to sitting and deciding as a judge alone, the same qualities of judicial temperament, legal knowledge, and an abiding sense of fairness are required of all judges. It is necessary that judges at all levels of court have the ability to make decisions that will greatly affect people's lives, including the potential loss of freedom, without bending to improper influence, the pressure of public demands and expectations, or a consideration of inadmissible material. The key factor is that judicial decision-making is common to all judges.

69. Cases that come before the Territorial Court of the Yukon are becoming increasingly complex and there are increasing numbers of multi-day trials. As the Judges argued during the last two JCC processes, amendments to the criminal law in recent years have led to a qualitative shift in the case load for the Territorial Court of the Yukon in that the Judges have taken on more of the cases which would previously have gone before the Yukon Supreme Court. Specifically, Bill C-75 limited an accused's right to a preliminary inquiry. In the past, defense counsel used preliminary inquiries to test the evidence of the Crown. Restricting the availability of preliminary inquiries has meant that more cases proceed to trial in the Territorial Court, rather than the Supreme Court. As well, there are increasing opportunities for pre-trial applications, for example, in sexual assault cases under sections 276 and 278 of the *Criminal Code*. These applications have

⁵⁴ 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 133; 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 70

given rise to the need for more comprehensive reasons, very often in writing. Thus, the nature and function of judicial work shows great similarities among various levels of courts.

70. Recognizing the importance of federally-appointed judges as a comparator, Saskatchewan, Ontario, New Brunswick and Nova Scotia have all adopted a linkage between the salary for Provincial Court judges and that for federally appointed judges. In addition, the 2022 Yukon JCC recommended the adoption of a legislative presumption of a 90% salary linkage, effective April 1, 2025.

71. The circumstances in Saskatchewan are discussed further below, as it is a specific comparator identified in s.19(e) of the *TCA*. In Ontario, the most recent JCC recommended a series of salary adjustments such that judicial salaries reached 95.27% of the federally appointed judges' salary in 2021/22.⁵⁵ The next JCC has yet to report. A similar move was the subject of a joint recommendation to the 2023 JCC in Nova Scotia (for a linkage at 80% of the federal salary, a level deemed appropriate based on all relevant criteria in that province).⁵⁶ The most recent 2024 New Brunswick Judicial Remuneration Commission adopted the joint submission of the parties for an 80% linkage, based on all the relevant factors), consistent with the outcome of several past commissions.⁵⁷

72. Federally appointed judges have their compensation determined considering recommendations of the Federal Quadrennial Commission. The 2024/25 Quadrennial Judicial Compensation & Benefits Commission ("the Federal JCC") released its recommendations on July 11, 2025.⁵⁸ The Federal JCC recommended that judges salaries should continue to be increased in accordance with section 25 of the *Judges Act*,

⁵⁵ Report of the 9th and 10th Ontario Provincial Judges Remuneration Commissions (2014-2018, 2018-2022), available [here](#)

⁵⁶ 2023-2026 Nova Scotia Provincial Court Judges' Salaries and Benefits Tribunal Report, available [here](#)

⁵⁷ 2024 New Brunswick Judicial Remuneration Commission Report, available [here](#)

⁵⁸ Federal JCC Report, Joint Book of Documents, **Tab 18**

whereby they are adjusted each year based on the percentage increase in the Industrial Aggregate Index (“IAI”) for Canada (also known as Average Weekly Earnings), over the preceding twelve months.⁵⁹ In addition, the salary should be increased by \$28,000, to be applied after the April 1, 2024 IAI-based increase, followed by the statutory IAI-based increases being applied in each of the three fiscal years thereafter.

73. The Government of Canada responded to the recommendations on November 3, 2025, implemented only the IAI-based increases provided for by the *Judges Act*, and rejected the recommendation for a \$28,000 salary increase in the 2024 fiscal year.⁶⁰ A judicial review of the Government of Canada’s reasons for rejecting the salary recommendation has been initiated, which application is expected to be heard in Federal Court in September 2026. Accordingly, it is currently unknown whether the Government of Canada’s reasons for rejection will be upheld on judicial review, or whether there will be any change in the future to the salaries that have been implemented.

74. The table below shows the yearly salaries of federally appointed puisne judges for the years in issue based on what was implemented by the Government of Canada, and also shows what was recommended by the Federal JCC. The northern allowance received by the federally appointed judges in Yukon, NWT, Nunavut and Labrador is also included in the chart. As the 2022 JCC observed, remuneration must be sufficient to compensate for, among other things, factors such as the social and geographic isolation of living and working in the North.⁶¹

⁵⁹ *Judges’ Act*, RSC 1985, ss. 25, available at [here](#)

⁶⁰ Government of Canada Response to the Federal JCC Report, Joint Book of Documents, **Tab 19**

⁶¹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 74

	Implemented by Government of Canada	Recommended by 2024/25 Federal JCC	Northern Allowance payable to s.96 judges in Yukon, NWT, Nunavut and Labrador
2024	\$396,700	\$424,700	\$12,000
2025	\$414,900	\$444,185	\$12,000
2026	\$429,000	\$459,280	\$12,000
2027	% change in IAI for Canada in 2026	% change in IAI for Canada in 2026	\$12,000

75. Whatever the final outcome of the Federal JCC process, not only is the judicial salary and northern allowance paid to s.96 justices higher than the salary paid to Yukon Judges, the judicial annuity offered to federally appointed judges (including Justices of the Yukon Supreme Court) is also substantially more valuable than the judicial pension paid to Yukon judges. As the 2022 JCC noted in its Report, “[p]rospective candidates... will likely compare the remuneration and benefits offered by both the Supreme and Territorial Courts when applying for judicial appointment.”⁶²

76. First, a federally appointed judge accumulates a full judicial annuity (pension) over only 15 years of service with an accrual rate of 4.4% per annum, while the judicial pension in Yukon requires 23.3 years of service with an annual accrual rate of 3%. A federally appointed judge’s annuity is calculated on the basis of what has already been noted to be a higher salary than the salary paid to a territorially appointed judge.

77. A federally appointed judge’s annuity is calculated based on the salary actually being paid at the moment of retirement. By contrast, the pensionable salary used to calculate the Yukon judicial pension is the average of the two highest consecutive years of salary. The disparity between pensionable salary and the salary actually being paid at the moment of retirement is avoided only if the salary has been constant for the two years before retirement. Where there are significant differences in the territorial salary from year to year, the impact of averaging can be significant.

78. A federally appointed judge has the ability to elect supernumerary status after 15

⁶² 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 70

years (or even earlier in certain circumstances). A supernumerary judge will generally sit two-thirds of the time and, upon full retirement, receives a judicial annuity based on the salary as at the moment of full retirement. No similar program exists for Territorial Judges.

79. A large gap in the compensation paid to judges of the Territorial and Supreme Courts will negatively affect the ability of the Territorial Court to attract the best-qualified applicants. Both Courts will draw applicants from the same pool of lawyers. If the Supreme Court offers overwhelmingly better salary and pension arrangements, lawyers will seek appointment to the Supreme Court, viewing the Territorial Court as a distinctly second-best choice.

80. Lawyers should be encouraged to select judicial appointments that align with their abilities and experience.⁶³ Gross differences between courts in remuneration levels will significantly influence lawyers to choose judicial appointments based on remuneration rather than on what best aligns with their experience and interest. The misalignment of work and experience serves neither the public nor the courts.

81. As many JCC's have already noted,⁶⁴ judicial remuneration must be sufficient not only to attract the best-qualified candidates, but also to retain and motivate those candidates who are appointed.

Justices of the Peace

82. The compensation for JPs must also be sufficient to attract and retain the best possible qualified candidates for the position. JPs play an important role in the administration of justice and, given the challenging conditions across the Yukon, the role of JPs is essential in order to ensure the delivery of justice, including in remote areas.

⁶³ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 73

⁶⁴ See for example the 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 75

D) The unique nature of the Yukon

83. The unique nature of the Yukon has a significant impact on the work of the Territorial Court and the lives of its judges. The 2022 JCC summarized the relevant considerations under this factor, as follows:⁶⁵

The demographics, expansiveness, geographical location, community size, increased scope and jurisdiction of the territorial court and the provision of circuit court in the communities each contribute to the Yukon's unique nature. The social isolation and increased challenges in carrying out judicial responsibilities are also relevant factors when considering what qualifies as reasonable judicial compensation.

84. As noted above, the Court sits permanently in Whitehorse but also provides services to 13 other communities on a regular basis. Delivery of justice through the circuit courts necessitates an extensive travel schedule, which makes the job both physically demanding and exhausting. Put simply, the conditions under which the Judges preside and the facilities for overnight accommodation and meals are not the same as what is available in Whitehorse. Circuit court travelling time and nights away from home have a substantial impact on a judge's family life.

85. Also as noted above, the Justice of the Peace Court is part of the Territorial Court and Justices of the Peace are located either in Whitehorse or other communities throughout the Territory.

86. Whether they are working in Whitehorse or elsewhere, both Judges and JPs must face the daily strain of dealing with difficult and seemingly intractable social problems. The toll is greater because members of the judiciary must consciously strive to avoid becoming jaded, callous and cynical. They must remain sensitive and responsive to the circumstances of the parties before them, while building up sufficient "mental armour" to avoid being overwhelmed by facts and issues that can be profoundly disturbing.

⁶⁵ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 87

87. Governmental policy of community and restorative justice initiatives can place additional demands on the judiciary.⁶⁶ The substantial First Nations population in the Territory requires the judiciary to be familiar with and sensitive to Aboriginal and/or Indigenous culture, practices, mores and conventions, many of which will vary among communities.

88. The efforts of the Court in fostering community justice result in the Judges participating in many meetings and training sessions in addition to the regular court sittings.

89. The small size of the judiciary and the large area served means that members of the judiciary will receive calls at all hours from police officers in Whitehorse, or in any of a dozen rural detachments, seeking search warrants, tele-warrants or Feeney arrest warrants.

90. Social isolation is a factor that was considered by past JCCs.⁶⁷ Given the small population, a greater proportion of cases are reported by the media and court matters, particularly criminal cases, are frequent topics of media, public and political comments. In small communities, members of the Judiciary routinely encounter people they have dealt with in court. For this reason, a judge or JP can also become socially quite isolated, as it is necessary for them to forego many activities and relationships they might otherwise wish to pursue. Just as their freedom of association is curtailed, the Judiciary face a considerable restriction on their freedom of expression. This restriction extends far beyond the obvious necessity to remain silent on political or public policy issues. The rights other citizens take for granted, for example, to write a letter to the newspaper or to sign a community petition, are similarly out of the question. These pressures and constraints add considerably to the stress of what is already a difficulty job.

⁶⁶ 2016 JCC Report, Joint Book of Documents, **Tab 7**, p. 20

⁶⁷ 2016 JCC Report, Joint Book of Documents, **Tab 7**, p. 19; 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 87

E) The compensation provided to Judges and JPs in the Northwest Territories and British Columbia, Alberta, and Saskatchewan Judges

Judges

91. Consideration of the salaries and benefits of provincial and territorial court judges in other jurisdictions in Canada is useful because the judiciary is unique both in constitutional status and job function and is therefore not a “job” that can easily be compared with others in the Yukon. A chart setting out a comparison to all provinces and territories is included as **Tab 15** in the Joint Book of Documents.

92. The key comparators established in the *TCA* are BC, Alberta, Saskatchewan and Northwest Territories.⁶⁸ The table below sets out the salary paid in each of the statutorily defined comparator jurisdictions from 2012 until the most recent data available. Where the data is in **red italics**, the salary shown is what was paid for those years, but may not be a final figure, as there is an ongoing judicial review in that jurisdiction concerning the Government’s decision to reject the JCC’s recommendations. The narrative that follows the chart considers the data in more depth.

⁶⁸ *TCA*, Joint Book of Documents, **Tab 1**, s.19

Fiscal Year	AB	BC	Sask	NWT	Yukon
April 1, 2012	\$263,731	\$231,138	\$248,010	\$249,582	\$250,103
April 1, 2013	\$273,000	\$242,464	\$254,458	\$252,414	\$257,606
April 1, 2014	\$279,825	\$244,889	\$260,819	\$256,055	\$262,758
April 1, 2015	\$286,821	\$248,562	\$272,295	\$260,302	\$268,013
April 1, 2016	\$293,991	\$252,290	\$282,184	\$272,000	\$273,374
April 1, 2017	\$293,392	\$262,000	\$290,848	\$278,828	\$280,208
April 1, 2018	\$302,304	\$266,000	\$295,792	\$289,733	\$287,213
April 1, 2019	\$309,500	\$270,000	\$304,074	\$299,869	\$298,702
April 1, 2020	\$318,500	\$276,000	\$312,685	\$304,699	\$304,676
April 1, 2021	\$321,685	\$282,500	\$316,970	\$304,918	\$307,722
April 1, 2022	\$328,119	\$288,500	\$343,045	\$311,724	\$334,980
April 1, 2023	\$341,244	\$343,000	\$353,590	\$333,456	\$345,330
April 1, 2024	\$372,500	\$360,000	\$364,515	\$350,129	90% of federal salary \$357,030
April 1, 2025	2025 JCC	\$369,360	\$376,865	\$365,885	2025 JCC (joint submission: 90% = \$373,410)
April 1, 2026	2025 JCC	\$377,117	\$394,155	\$374,122	2025 JCC (joint submission: 90% = \$386,100)
April 1, 2027	2025 JCC	\$386,545	\$407,550	CPI	2025 JCC Joint Submission: 90% of federal salary)
April 1, 2028	2025 JCC	\$396,209	2027 JCC	2028 JCC	2025 JCC - Joint Submission: 90% of federal salary

British Columbia

93. The history of judicial salaries in BC has been complex, given the government's rejection of the salary recommendations of four successive JCCs⁶⁹ and ensuing litigation. British Columbia appears to have entered a new era, however, with the government's acceptance in full of the 2022 JCC's recommendations, and a joint submission being advanced on all issues before the 2026 JCC, which conducted its hearing in July 2026 (but has yet to release its report). The salaries shown in italics reflect the joint submission, which it is reasonable to expect will be adopted by the JCC, in which case the salary recommendations will almost certainly be implemented.

Alberta

94. Alberta judges' salaries for the four-years commencing April 1, 2025 will be determined considering recommendations of the 2025 JCC, which was only recently appointed. Accordingly, Alberta salaries for the years within this 2025 Yukon JCC's mandate, will not be known before this Commission issues its Report.

95. The 2021 Alberta JCC made its recommendations on June 30, 2023 and, *inter alia*, recommended increases in judicial salaries in each of the four years commencing April 1, 2021.⁷⁰ On October 26, 2023, the salary recommendations were rejected by the Lieutenant-Governor in Council, which substituted lower salaries than those recommended.⁷¹ A judicial review was filed, and this Order-in-Council was set aside by Justice Lee of the Alberta Court of King's Bench in 2026 ABKB 145.

96. The Government appealed this decision and brought a motion for a stay pending appeal, only to abandon the appeal (and the related stay motion) and offer a second set of reasons on June 18, 2026, by Order in Council 197/2026. While it continued to reject

⁶⁹ The recommendations of the 2010, 2013, 2016, and 2019 JCCs were rejected by the BC Government, which rejections were challenged in Court by the Provincial Court Judges' Association of British Columbia.

⁷⁰ 2021 Alberta JCC, Joint Book of Documents, **Tab 16**

⁷¹ Government of Alberta's Second Response to 2021 Alberta JCC, Joint Book of Documents, **Tab 17**

the 2021 Alberta JCC's salary recommendations for 2021, 2022, and 2023, it accepted the recommendation of \$372,500 effective April 1, 2024. The deadline for filing a judicial review application is 6 months from June 18, 2026.

97. In its second response, the Government accepted the 2021 JCC's recommended salary for the year beginning April 1, 2024, while it continued to reject the salaries recommended for the earlier year. Accordingly, while the final outcome for the first three years of the 2021 Alberta JCC's mandate is unlikely to be known for the purposes of this Commission, the 2024 salary is certain.

Saskatchewan

98. Saskatchewan's Provincial Court Judges are paid a salary equal to 95% of the prior year's federal judicial salary.

99. For the three years commencing with 2020, the 2020 Saskatchewan JCC recommended that the salaries of Saskatchewan judges should be increased each year such that, by April 1, 2022, they would be equal to 95% of the previous year's salary payable to federally appointed judges.⁷² The same was recommended for April 1, 2023.⁷³

100. In addition, similar to what was recommended by the 2022 Yukon JCC, Saskatchewan's *Provincial Court Act*, 1998, P-30.11⁷⁴ was amended to create a presumption of a 95% relationship for the years commencing April 1, 2024 with the exception that the presumption does not apply in "extraordinary circumstances", which include:

- a. a year-over-year increase, for any annual period during the period since the most recent regulations mentioned in clause 41(1)(b) came into force, of 20% or more in the average of the 'all-items' Consumer Price Index for Saskatchewan, as

⁷² 2020 Saskatchewan JCC Report, Joint Book of Documents, **Tab 20**, page 12

⁷³ 2023 Saskatchewan JCC Report, Joint Book of Documents, **Tab 21**

⁷⁴ *Provincial Court Act* (Saskatchewan), 1998 P-30.11, section 38.1, available at: <https://www.canlii.org/en/sk/laws/stat/ss-1998-c-p-30.11/latest/ss-1998-c-p-30.11.html>

reported by Statistics Canada in accordance with the Statistics Act (Canada), that is not reflected in the salary paid to the justices of the Court of Queen's Bench;

b. a decrease over the period commencing on the day on which the most recent regulations mentioned in clause 41(1)(b) came into force, of more than 10% in the nominal gross domestic product for Saskatchewan, as reported by Statistics Canada in accordance with the Statistics Act (Canada);

c. a failure to update the salary paid to the justices of the Court of Queen's Bench as required pursuant to the Judges Act (Canada); and

d. an agreement between the association and the minister that there is an extraordinary situation that warrants commission review.

101. In support of the proposal to set the salary of Saskatchewan judges at 95% of the prior year's federal salary, the Government of Saskatchewan submitted:

"The certainty provided by the link to the federal salary will also assist one of the traditional goals of the Government and the Provincial Court itself, namely attracting and retaining qualified individuals to the Provincial Court."⁷⁵

102. In addition to the base salaries noted in the table above, pursuant to section 5 of the *Provincial Court Compensation Regulations*, some Saskatchewan Provincial Court judges receive an additional 5% of their annual salary as a northern allowance.⁷⁶ This is discussed further below, in relation to the proposal for a northern allowance for Yukon judges.

103. The 2023 Saskatchewan JCC released its Report in December 2023, and recommended the continuation of the linkage based on 95% of the prior year's federal salary.⁷⁷

Nunavut

104. As was noted before the 2022 JCC,⁷⁸ since the *TCA* was passed, the NWT split

⁷⁵ Government of Saskatchewan: 2020 Submission (<https://publications.saskatchewan.ca/#/categories/4793>), page 26, para 55

⁷⁶ The Regulation is available [here](#)

⁷⁷ 2023 Saskatchewan JCC Report, Joint Book of Documents, **Tab 21**, para 131

⁷⁸ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 94

into two jurisdictions. For this reason, the Judges submit that, both as a matter of statutory interpretation and policy, Nunavut must be considered a comparator jurisdiction. In Nunavut, the Territorial and Supreme Courts have been merged into one court. This court provides a practical demonstration of the similarity of the workload and experience required on both courts, as is discussed above. Indeed, a Territorial Court Judge, Justice Kilpatrick, became the Senior Judge of the Nunavut Court when Nunavut was established, although he has now retired. For these reasons, the 2022 JCC found it to be important for the JCC to be made aware of the compensation in Nunavut.⁷⁹

105. The yearly salaries of the judges of the Nunavut Court of Justice are as follows:

- a) 2025: \$414,900 (+ \$12,000 northern allowance);
- b) 2026: \$429,000 (+ \$12,000 northern allowance).
- c) 2027: \$429,000 plus the % change in the IAI for Canada over 2026 (+\$12,000 northern allowance).⁸⁰
- d) 2028: the 2027 salary plus the % change in the IAI for Canada over 2027, (+ \$12,000 northern allowance).

106. As noted above, it is possible that there could be an increase in the salaries for justices of the Nunavut Court of Justice, depending on the outcome of the judicial review filed in respect of the decision by the Government of Canada to reject certain recommendations of the 2024/25 Federal Quadrennial Commission. The federal salaries associated with those recommendations (which would also apply in Nunavut) are set out in the chart on page 26 above.

NWT

107. The 2024 NWT JRC released its recommendations on April 19, 2024.⁸¹ For 2024/25, the Commission recommended that appropriate compensation could be

⁷⁹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 106

⁸⁰ *Judges Act*, RSC 1985, c J-1, ss. 22, 25, 27, available at: <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-j-1/latest/rsc-1985-c-j-1.html>

⁸¹ 2024 NWT JRC Report, Joint Book of Documents, **Tab 31**

achieved through adjustments made over two years: a 5% adjustment in the judicial salary for 2024/25, followed by a 4.5% adjustment for 2025/26. It further recommended a CPI-based adjustment in each of the following two years.

108. The 2024 NWT JRC found that the territorial judges' salaries should remain in the "upper range amongst their peers" in the other provincial and territorial courts. It referred to the broad jurisdiction exercised within a challenging northern context, the high cost of living, and recent inflationary pressures. A review of the chart⁸² of all judicial salaries nationally shows the NWT beginning to lag behind the "upper range" such that an adjustment can be reasonably expected in the next JRC process.

Yukon Analysis

109. The 2022 JCC observed that the joint submission made by the parties to that JCC meant that, without considering Nunavut, the Judges would be paid the second highest among the statutory comparators for 2022-23 and 2023-24, and third highest in 2024-25 (with Yukon moving down a rank if Nunavut is included).⁸³

110. Likewise, the joint submission presented by the parties to this 2025 JCC would result in Yukon judges' salaries ranking second among the comparators (or third, including Nunavut). The relative ranking for the last two years of this JCC's mandate is uncertain, given the fact that judicial salaries in the NWT and Alberta have yet to be established for 2027/28 and salaries for all of NWT, Alberta and Saskatchewan are yet unknown for 2028/29

Justices of the Peace

111. A comparison with the compensation paid to JPs in other jurisdictions is much more challenging because of differences in the work performed, the qualifications required, and whether the compensation has been constitutionally determined, i.e.,

⁸² Chart of Puisne Judge Salaries, Joint Book of Documents, **Tab 15**

⁸³ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 104-105

whether an independent commission has been established to make recommendations about JP compensation.

112. In **British Columbia**, Judicial Justices are required to be legally trained, with at least 5 years of legal experience, and their compensation is determined through a JCC process.

113. The JP salaries for the four-year period commencing April 1, 2027 will be determined by the 2026 BC JCC, which is conducting its hearings in July 2026. The parties have advanced a joint submission for 3% adjustments in each of the four years, and it can be reasonably expected that this recommendation will be made by the JCC and adopted by the Government of BC. The resulting salaries, daily,⁸⁴ and hourly wages for the 2027 and 2028 fiscal year are shown in the chart below, along with what was recommended by the 2022 BC JCC and implemented by Government.

114. The 2022 British Columbia JCC recommended a significant adjustment to the salaries for full-time Judicial Justices for the four years commencing April 1, 2023, noting a looming attraction and retention problem, and the fact that JJ salaries were well below their comparators.⁸⁵ The recommendations were accepted by the BC Government.

Year	Full-time Salary	Per Diem Rate	Hourly (based on 8 hours)
April 1, 2023	\$172,000	\$1,114	\$139.25
April 1, 2024	\$177,000	\$1,143	\$142.88
April 1, 2025	\$182,000	\$1,173	\$146.63
April 1, 2026	\$187,000	\$1,202	\$150.25
April 1, 2027	\$192,610	\$1,235	\$154.38
April 1, 2028	\$198,388	\$1,269	\$158.63

115. In **Alberta**, JPs are required to be legally trained, with at least 5 years of legal experience, and their compensation is determined through a commission process. The

⁸⁴ In BC, the per diem calculation = full-time JP salary +22% in lieu of benefits / 207 working days per year +100 for office and overhead.

⁸⁵ 2022 BC JCC Report, Joint Book of Documents, **Tab 23**

duties of Alberta Justices of the Peace are set out in the *Justice of Peace Act*⁸⁶ and the Justice of the Peace Regulation⁸⁷. The salaries for Alberta Justices of the Peace for the period of this JCC’s mandate have yet to be established, as the 2025 Justices of the Peace Commission (“JPCC”) is still awaiting its appointment.

116. The 2021 JPCC made recommendations for the four years commencing April 1, 2021. The Lieutenant-Governor in Council rejected the JPCC’s salary recommendations and implemented the lower salaries shown below.⁸⁸

Year	Full-time JP Salary	Per Diem Rate ⁸⁹ - based on 8 hr day	Hourly (based on 8 hours per day)
April 1, 2021	\$153,331	\$971	\$121.38
April 1, 2022	\$156,398	\$990	\$123.75
April 1, 2023	\$170,474	\$1077	\$134.63
April 1, 2024	\$175,588	\$1109	\$138.63

117. In **Saskatchewan**, JPs are required to be legally trained and their compensation is properly determined through a JCC. For the years commencing in 2023, the salary for a full-time Justices of the Peace was linked at 51% of the salary paid to a judge of the Provincial Court of Saskatchewan and, in turn, the per diem rate was based on 1/220th of that salary. The 2024 Justices of the Peace Commission made the same recommendation, that the 51% linkage with Saskatchewan’s Provincial Court Judges should continue.⁹⁰ The salaries, per diems, and hourly rates are as follows:

Year	Full-time JP Salary	Per Diem Rate	Hourly
April 1, 2025	\$192,201	873.64	109.21
April 1, 2026	\$201,019	913.72	114.22
April 1, 2027	\$207,851	944.78	118.10
April 1, 2028	51% of Sask PCJ	JP Salary / 220	Per diem / 8

118. **Nunavut** does not require JPs to have legal training. While two full-time JPs in

⁸⁶ Justice of the Peace Act, RSA 2000, c J-4, available [here](#)

⁸⁷ Justice of the Peace Regulation, Alberta 6/1999, available [here](#)

⁸⁸ Order in Council, 44/2025 (“JP Compensation Order”), Joint Book of Documents, Tab 22

⁸⁹ The Alberta JP per diem is calculated based on the following formula: (FT Salary + 13.1% of salary + 20% of salary + \$5,000) / 215.25

⁹⁰ 2024 Saskatchewan JCC Report, **Tab 24**

Nunavut do have legal training, the vast majority (approximately 25-30) are part-time community JPs who are not legally trained and are paid on a fee for service basis at an hourly rate. The hourly rates provided to JPs are prescribed by Commissioners in Council, as this jurisdiction, like the Northwest Territories, does not have the constitutionally required independent process in place. Much of the work is “on call” to hear applications and requests for warrants.

119. The **Northwest Territories** has initiated a significant and broad-ranging review of its JP program, the results of which will not be available during the mandate period of this 2025 Yukon JCC. This is unsurprising in that this is the sole comparator jurisdiction that has yet to adopt the constitutionally required⁹¹ process for determining compensation for JPs. Accordingly, while it is critical to understand that the hourly rate has not been constitutionally determined, the hourly rate currently paid to presiding Justices of the Peace in the NWT is \$83.00.⁹²

Yukon Analysis

120. As detailed below, the 2022 Yukon JCC followed the reasoning of the 2019 JCC in determining that the joint submission on JP salaries made at that time was supported, in part, by the fact that the hourly rates in the process would ensure relative parity with the hourly rates paid to JPs in the NWT, but are lower than the salaries paid to JPs in BC, Alberta and Saskatchewan where, by law or by practice, law degrees and legal experience are required of JPs prior to their appointment.⁹³ While ranking the hourly rates below those paid to JPs in BC, Alberta and Saskatchewan rates makes sense for the reason stated, it is submitted that the hourly rates for the NWT are not a reliable comparator for two reasons. First, there is no independent commission process in place

⁹¹ *Ell v. Alberta*, 2003 SCC 35 and *PEI Reference*, Joint Book of Documents, **Tab 4**

⁹² NWT JP Remuneration Regulation, Joint Book of Documents, **Tab 25**

⁹³ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 225(d)

to ensure that appropriate compensation is provided to JPs in the NWT. Second, and related in part to the first reason, the entire NWT JP program is currently under review.

F) The laws of the Yukon

121. As successive JCCs have recognized, the laws of Yukon give the Judges jurisdiction that is more extensive than that of many provincial court judges. Moreover, because of the small size of the Court, all members are called upon to deal with all of the wide-ranging matters dealt with by the Court. This is in contrast to the situation in many of the provinces, Alberta being one example, where judges may be assigned to specific court divisions (criminal, civil, family or youth).

122. Beyond the interpretation of the *Criminal Code*, the laws of the Territory also place additional and, somewhat unique, responsibilities on the Judiciary. Such duties include:

- a) emergency intervention orders under the *Family Violence Prevention Act*;
- b) reviewing Victim Assistance Orders, and other orders issued by JPs under the *Family Violence Prevention Act*;
- c) acting as review officers for vehicle impoundments and license suspensions under the *Motor Vehicles Act*;
- d) exclusive jurisdiction for child protection matters, including apprehension after hours and on weekends, pursuant to the *Child and Family Service's Act*;
- e) inquests under the *Coroners Act*;
- f) applications under the *Mental Health Act*;
- g) applications under the *Missing Persons Act*; and
- h) hearing prosecutions under the *Environment Act*, the *Waters Act*, the *Forest Resources Act*, the *Wildlife Act*, the *Workers' Safety and Compensation Act* and a large number of other regulatory statutes.

123. Government policy supports community and restorative justice initiatives. This places additional demands on Judges, including attending community meetings and developing alternative court procedures to accommodate the interests of the community. This also includes participation in the Domestic Violence Treatment Option Court and the

Community Wellness Court, both of which include responsibilities that extend beyond simply adjudicating in these courts.

124. As referenced above, recent amendments to criminal law are creating a qualitative shift in the work of Territorial Judges.

G) The cost of living in Yukon including the growth or decline in real per capita income

Changes in the cost of living

125. The impact of inflation is an important consideration which was specifically identified by Lamer CJC in the *PEI Reference*.⁹⁴ Lamer determined that one key to the effectiveness of the JCC process is that the process should be held regularly, such as every three to five years, in order to guard against the erosion of judicial salaries because of inflation.¹⁰⁴

126. Changes in the cost of living are most often discussed in reference to CPI statistics published by Statistics Canada. The CPI tracks changes in the cost of a fixed basket of consumer goods on a monthly basis. Statistics Canada calculates the change in the CPI for, among other things, each province as well as Canada as a whole. In the Yukon, Statistics Canada calculates the CPI only for Whitehorse.

127. The following chart shows the known percentage increases in CPI for Whitehorse and Canada, for the years 2025 to 2028, the most recent year for which annual data is available.⁹⁵ The 2026, 2027 and 2028 forecasts for Whitehorse comes from the Government's Budget,⁹⁶ while the forecasts for Canada come from the Government of Canada's Spring Economic Update.⁹⁷

⁹⁴ *PEI Reference*, *supra*, Joint Book of Documents, **Tab 4**, para 174

⁹⁵ The data are available: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000501>

⁹⁶ *Fiscal and Economic Outlook*, GY's Supplementary Materials, **Tab 2**, page 35

⁹⁷ Canada Strong For All: Spring Economic Update, 2026, available [here](#), p.113.

	Whitehorse	Canada
2025	3.15%	2.05%
2026 (f)	3.0%	2.5%
2027 (f)	2.0%	1.9%
2028 (f)	2.0%	2.0%

Changes in Real *Per Capita* Income

128. As both parties noted to the 2022 JCC, although it continues to be referenced in s.19 of the *TCA*, Statistics Canada has not tracked “real *per capita* income” since 2010. While that statistical measure is no longer available, other measures are available to track the growth or decline in earnings and incomes generally.

129. One available income measure is median total family income. A comparison of median total income of families across Canada reveals that incomes of families in the Yukon are consistently higher than in any other jurisdiction in Canada, with the exception of the NWT and, in one of the years, Nunavut. The most recent data available through the Yukon Bureau of Statistics (released by Statistics Canada in 2025) is for 2023, when Yukon’s median after tax income of census families was \$77,970 in 2023 dollars, up 3.2% from \$73,530 in 2022. In 2023, Yukon’s median after tax income for census families was second highest in Canada, well above the Canadian average of \$62,920.⁹⁸

130. Another measure is Average Weekly Earnings.⁹⁹ The data, in current dollars, for the 2021 to 2025 years reflects that AWEs in Yukon exceed the AWEs for Canada as a whole:

	Yukon	Canada
2021	\$1301.82	\$1130.07
2022	\$1338.04	\$1165.24

⁹⁸ These data from the Yukon Bureau of Statistics are available: [here](#)

⁹⁹ Statistics Canada: Average weekly earnings by industry, annual, Frequency: Annual Table: 14-10-0204-01 (formerly CANSIM 281-0027), Release date: 2026-03-26. Available: [here](#)

2023	\$1379.49	\$1204.92
2024	\$1448.07	\$1260.20
2025	\$1496.14	\$1302.86

131. Another measure is household income. The Yukon Government forecasts that household incomes have increased, or will increase, significantly in each of the years within this JCC's mandate:¹⁰⁰

Year	Change in Primary Household Income
2025	8.2%
2026 (forecast)	5.2%
2027 (forecast)	5.4%
2028	3.2%

132. Yukon is among the leaders in Canada in various income measures and further increases have been seen or are anticipated during the years within this JCC's mandate, and beyond. These considerations support the proposals for increased compensation for Territorial Judges and JPs.

H) Any submissions by the public filed under section 26

133. This factor will be addressed in the oral submissions, should any members of the public make submissions.

I) Other Relevant Considerations

134. The preamble to section 19 makes clear this Commission may consider any matter it considers relevant. The Joint Proposals are clearly relevant considerations, which should be considered. These are reviewed below, along with the proposals on which the parties are not agreed.

¹⁰⁰ Government of Yukon, *Economic Outlook*, Joint Book of Documents, **Tab 10(d)**, p.19

PART IV – RECOMMENDATIONS SOUGHT

135. Each proposal is discussed below in light of the relevant factors, and it is highlighted at the outset of each proposal whether the recommendation is the subject of a joint submission.

1. Salaries for Territorial Court Judges

136. The parties are jointly submitting that this 2025 JCC should recommend the salaries set out in the chart below.

Year	Recommendation Sought	Resulting Dollar Figure
April 1, 2025	90% of the salary paid to federally appointed justices of the Supreme Court of Yukon, for the same period	\$373,410 (note: in the event the federal judicial review is successful, this could increase to as high as \$399,766)
April 1, 2026	90% of the salary paid to federally appointed justices of the Supreme Court of Yukon, for the same period	\$386,100 (note: in the event the federal judicial review is successful, this could increase to as high as \$413,352)
April 1, 2027	90% of the salary paid to federally appointed justices of the Supreme Court of Yukon, for the same period	IAI-based adjustment from 2026 salary
April 1, 2028	90% of the salary paid to federally appointed justices of the Supreme Court of Yukon, for the same period	IAI-based adjustment from 2027 salary

137. This joint recommendation on judicial salaries is consistent with the parties' joint submission made to the 2022 JCC. The 2022 JCC recommended that there should be a Presumption that for each annual period commencing on or after April 1, 2025, the Territorial Judges will receive 90% of the current year salary of federally appointed Justices of the Supreme Court of Yukon. The 2022 JCC noted having considered the following factors¹⁰¹ in coming to that recommendation.

(a) The recommendation that this JCC adopt the Presumption is made by joint submission.

(b) The Presumption is rebuttable and will be the starting point when looking at the

¹⁰¹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 206

factors set out in sections 17(2), 17(3) and section 19 of the TCA.

(c) Past JCC reports and recommendations (like the 2004 and 2010 Yukon JCCs) are informative and highly relevant, however, they are not binding on this JCC (see *Bodner*).

(d) The SCC did not dismiss the government's appeal in *Bodner* because it disagreed with wage parity or partial parity, rather, it held that the government's response could not be struck down for lack of reasonableness on all the facts.

(e) The Presumption will simplify the process. The anticipated result of simplification is greater cost effectiveness and the preservation of judicial independence.

(f) The Presumption encourages the Parties to narrow the discussion at an early stage of the process (as required by the LOU), and it is anticipated this narrowing will encourage consensus decision-making.

138. The legislative amendments required to bring the Presumption into effect are still being considered and are expected to be put before the Legislature in the fall.

139. In the meantime, it is respectfully submitted that the increased salaries shown in the table above are appropriate, logical and reasonable in light of the relevant factors identified in the TCA and the reasoning of past JCCs, in that they:

- take into account the recommendations of the 2022 JCC, consistent with the direction of the SCC in *Bodner*, that the prior report is the starting point for the subsequent JCC.¹⁰²
- fairly reflect the changed circumstances since implementation of the report of the previous commission;¹⁰³
- will maintain Yukon judges' salaries near parity with the salaries of judges in the

¹⁰² *Bodner, supra*, Joint Book of Documents, **Tab 5**, para 14-15

¹⁰³ 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 219

identified comparator jurisdictions, including the NWT;¹⁰⁴

- fairly account for the unique nature of the Yukon and its laws, including that because Whitehorse is a smaller community, social isolation is a reality that is a factor in assessing remuneration;¹⁰⁵
- fairly account for the fact that Judges face restraints on their ability to earn income from other sources or endeavors that are not faced by lawyers in private practice;
- will protect against erosion of judicial salary due to increases in the cost of living;¹⁰⁶
- reflect that others in the Yukon economy earn incomes in the upper range of Canadians generally, which incomes have increased and will continue to increase significantly through the conclusion of this JCC's mandate period;
- are appropriate given the stable nature of the Government's financial position and the modest gains forecast for the economy over the mandate period of this JCC;
- will ensure a strong Court,¹⁰⁷ taking into account that the Territorial and Supreme Courts compete for applicants from the same pool of Yukon lawyers, and lawyers in other nearby jurisdictions; and
- fall within the range of compensation that will protect judicial independence and ensure public confidence in the judiciary.¹⁰⁸

2. Stipends for Territorial Court Judges

140. The Judges propose the Yukon should adopt a percentage stipend for both Chief Judge and the Supervising Judge for the JPs, as opposed to a dollar figure. Specifically, the Judges make the following proposals:

- a. Chief Judge: 7.5% differential, on top of the salary of a puisne judge;
- b. Supervising Judge: 3.75% differential, on top of the salary of a puisne judge.

¹⁰⁴ 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 219

¹⁰⁵ 2016 JCC Report, Joint Book of Documents, **Tab 8**, page 19

¹⁰⁶ 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 219

¹⁰⁷ 2019 JCC Report, Joint Book of Documents, **Tab 8**, para 219

¹⁰⁸ 2016 JCC Report, Joint Book of Documents, **Tab 7**, page 18

141. Each proposal is addressed in turn.

Chief Judge Stipend

142. Further to a joint submission between the parties, the 2022 JCC recommended an increase in the Chief Judge's stipend to \$15,000, from the \$10,000 it had been since April 1, 2007.

143. The joint proposal to the 2022 JCC had been agreed upon before the 2024 NWT JRC released its recommendations moving NWT to a percentage differential for the Chief Judge, similar to the approach in all other jurisdictions across Canada.

144. Adopting a percentage approach will effectively remove the need for future JCCs to consider periodic adjustments to the dollar figure, as it erodes relative to the judicial salary. As an example, since 2022, when the \$15,000 stipend was effectively established, and including the judicial salaries currently known to result from the joint submission to this 2025 JCC, the proportional value of the \$15,000 has already eroded considerably.

Salary	Stipend of \$15,000, as percentage of salary
2022	4.48%
2023	4.34%
2024	4.20%
2025	4.02%
2026	3.89%

145. Not only has there been erosion of the stipend relative to the judicial salary, but the amount of the differential is far out of line with the differentials received by Chief Judges in other jurisdictions, including all of the comparator jurisdictions referenced in the TCA (which are highlighted in bold). The chart below sets out the differentials payable to the Chief Judge in each jurisdiction, along with the other administrative judges.

Jurisdiction	Salary Differential
NWT	CJ – 7.5%
B.C.	CJ – 12% ACJs (x3) – 8%; Regional AJ (x5 – 6%
Alberta	CJ – 10% Deputy CJ – 7.5% ACJ (x9) – 5%
Saskatchewan	CJ – 7.5% ACJ (x2) 5%; Administrative x 4 – 2.5%
Manitoba	CJ – 8% ACJ (x5) – 5%
Quebec	CJ – 12% Other Categories - 11%, 9%, 8% and 6%
Nova Scotia	CJ – 8% ACJ – 5%
New Brunswick	CJ – 8% ACJ – 4%
PEI	CJ – 6%
Newfoundland & Labrador	CJ- 8% ACJ – 4%

146. It is submitted that the adoption of a percentage differential for the Chief Judge in the amount of 7.5% of salary should be recommended by this JCC in that:

- the compensation is reasonable taking into account the financial position of Government and the economic situation generally;
- it is necessary and appropriate to provide a stipend to the Chief Judge, taking into account the increased duties assumed by the judges who undertake these important roles, to the benefit of the public that is served by the Court;
- the stipend will ensure the continuing ability to the Court to attract judges toward undertaking these roles within the Court;
- an increase is necessary to account for erosion due to increases in the cost of living since 2022, when the stipends were last increased; and

- the Chief Judge's current stipend is substantially lower than the stipend paid in the comparator jurisdictions:
 - NWT –the Chief Judge receives a 7.5% differential;
 - BC – the Chief Judge receives a 12% differential; and
 - Alberta and Saskatchewan – the Chief Judge receives an 8% differential;
- the adoption of the percentage stipend will simplify the process and promote cost-effectiveness, consistent with the goals of the 2005 LOU.

147. As noted above, Yukon's closest comparator, the Territorial Court of the NWT, pays its Chief Judge 7.5% of pay (\$28,059 in dollar terms, based on the 2026 NWT salary). This is substantially more than the \$15,000 despite that it too is a small Court (four versus the three judges in Yukon). Vis-à-vis the provincial comparators, despite the small size of the Yukon and NWT territorial courts, the Chief Judges have equivalent responsibility in relation to legal and administrative advancements, and participate equally in the Canadian Council of Chief Judges, and other organizations that advance the administration of justice. While the provinces may have larger numbers of judges, they also have Associate Chief Judges, and in some cases others, who undertake some of the duties performed by Yukon's Chief Judge.

Supervising Judge of the JPs Stipend

148. The Judges further propose that the Supervising Judge of the JPs should receive a 3.75% differential on top of the puisne judge salary, up from the current dollar differential of \$7,500.

149. The Supervising Judge of the JPs is appointed by the Chief Judge pursuant to section 61 of the *TCA*, and is responsible for the supervision and training of all JPs. The Supervising JP is also responsible for referring any concerns about the training and

department of justices to the Judicial Council. These administrative duties are performed into addition to a full sitting schedule as a Judge.¹⁰⁹

150. The 2022 JCC recommended an increase in the stipend for the Supervising Judge of the JPs to \$7,500 per year, up from \$5,000, which had been in place since April 1, 2007.¹¹⁰ The 3.75% differential would maintain the differential at half that paid to the Chief Judge, which has long been the case. Like with the proposed Chief Judge's percentage differential, the intent is to simplify future JCC processes and thereby promote cost efficiencies. Adopting a percentage will mean that the issue is unlikely to need to come before future JCCs, as it will avoid the problem of the stipend eroding relative to the judicial salary and the cost of living. Provision of the stipend will also ensure the continuing ability of the Court to attract judges to undertake this role within the Court.

3. Increase in the Deputy Judge Per Diem

151. The parties are jointly seeking a recommendation for an increase in the per diem payable to Deputy Judges, staggered over the term of this JCC, as set out in the chart below.

Year	Deputy Judge Per Diem Formula, in relation to Judges' salaries
2025/26	1/235
2026/27	1/225
2027/28	1/219
2028/29	1/210

152. A "deputy judge" is defined in the *TCA* as a judge who is not appointed to serve on a permanent basis. Pursuant to section 6 of the *TCA*, a judge who is to be a deputy judge may be appointed for a term of not more than five years recommended by the Minister,

¹⁰⁹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, paras 156 to 159

¹¹⁰ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 160

but is not eligible for re-appointment after the expiration of that term except on the recommendation of the Minister.

153. Deputy judges are judges from other jurisdictions across Canada and, from time to time, include retired judges from those jurisdictions.

154. The chart below sets out the formula used to calculate the deputy judges' per diems in other jurisdictions across Canada, with the statutory comparators highlighted in bold.

Northwest Territories	1/210 of judges' salary
Yukon	1/235 of judges' salary
British Columbia	No per diem judges
Alberta	1/207.5 of judges' salary
Saskatchewan	1/220 of judges' salary
Manitoba	1/218 of judges' salary
Ontario	1/209 of judges' salary
Quebec	\$1500 per day, plus deliberation day at \$1500
New Brunswick	1/220 of judges' salary
Nova Scotia	1/217 of judges' salary
Prince Edward Island	1/220 of judges' salary
Newfoundland & Labrador	1/248 of judges' salary

155. The Judges submit that the proposal set out above is fair and appropriate in light of all the statutory factors, including:

- (a) the current financial position of the government as detailed above;
- (b) the need to provide reasonable compensation to judges, in that the current per diem is well out of step with the compensation of other judges, which are objective markers of reasonableness;
- (c) the need to build a strong court by attracting qualified applicants, in that this will ensure that excellent potential deputy judges will be attracted to make themselves available for appointment in Yukon;
- (d) the unique nature of the Yukon, in that the challenging social issues and isolation underscore the need to attract deputy judges with relevant experience; and

(e) the compensation provided to judges in the Northwest Territories and British Columbia, Alberta, and Saskatchewan, with which the deputy judge per diem in Yukon is woefully out of step.

4. Northern Allowance

156. The Judges are proposing that a northern allowance should be provided for Judges in the amount of \$12,000 per annum. As part of this proposal, Judges would no longer receive the Yukon bonus, a lump sum payment equal to \$2,242 per annum, which is currently paid to unionized and non-unionized government employees as well as Judges. All told this would mean an extra \$9,758 per annum, in compensation, for each of three resident Judges.

157. It is the Judges' position that this proposal is supported by all the statutory factors.

158. The application of the Yukon Bonus to judges is effectively a hold-over from the period prior to the advent of a JCC process, when judges were treated in many respects simply as another category of civil servants. In assessing what is appropriate compensation for judges, the best comparators are other judges.¹¹¹

159. The provision of a northern allowance will assist the Court in attracting qualified applicants. The 2022 JCC stated:¹¹²

Prospective candidates from the resident pool will likely compare the remuneration and benefits offered by both the Supreme and Territorial Courts when applying for judicial appointment. (underlining added)

160. Federally appointed judges, including justices of the Supreme Court of Yukon, are paid a northern allowance of \$12,000, which amount was recommended by the Federal Judicial Compensation and Benefits Commission and is reflected in s.27(2) of the *Judges*

¹¹¹ 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 63

¹¹² 2022 JCC Report, Joint Book of Documents, **Tab 9**, para 70

Act.¹¹³ Although Yukon judges' salaries will be increased to 90% of the salary paid to federally appointed judges, a substantial gap in overall compensation continues to exist. While the bulk of this disparity is driven by the more advantageous pension arrangement for federally appointed judges, the northern allowance amount is also a notable aspect of federal judicial compensation. Reducing the gap in overall compensation would enhance the ability of the Territorial Court to attract the best qualified candidates, who might otherwise choose to apply for a federal appointment.

161. The proposal is supported by a comparison with relevant provincial and other territorial judicial comparators. Focusing first on the statutory comparator group, Justices of the **Nunavut Court of Justice** are paid the northern allowance of \$12,000, the same as that payable to Justices of the Supreme Court of Yukon pursuant to the *Judges Act*.

162. In the **Northwest Territories**, no JCC has yet been asked to consider the issue of a northern allowance. The NWT pays their Territorial Judges a northern allowance of \$3,700, which amount is negotiated by the Union of Northern Workers and the Northwest Territories Teachers' Association and is also paid to non-unionized government employees.¹¹⁴

163. Since it was first recommended by a JCC in 2002, **Saskatchewan** has paid a northern allowance to judges residing in certain northern communities.¹¹⁵ The allowance is 5% of the judicial salary; based on the 2025 Saskatchewan salary, the allowance was \$18,843.25, rising to \$19,707.75 in 2026 and \$20,377.50 in 2027. The \$12,000 proposed for Yukon judges is modest in comparison.

164. Neither BC, nor Alberta pays a northern allowance to members of the judiciary.

¹¹³ Pursuant to section 27(2) of the *Judges' Act*, the allowance is also payable to each judge of the Supreme Court of Newfoundland and Labrador resident in Labrador and each judge of the Supreme Court of the Northwest Territories and of the Nunavut Court of Justice. The *Judges Act* is available: [here](#)

¹¹⁴ See: <https://my.hr.gov.nt.ca/employees/pay/northern-allowance-rates>

¹¹⁵ 2002 Saskatchewan Provincial Court Commission Report, available: [here](#), p.23

165. **Manitoba** pays a northern allowance to its judges who reside in certain northern communities. Pursuant to the recommendation of the 2011 Manitoba JCC,¹¹⁶ judges there receive 5% of salary, which in 2025 was \$17,700.85 in dollar terms. The 2011 Manitoba JCC found that a northern allowance was warranted “based on working conditions in the north and the relatively higher cost of living”, agreeing with the judges’ association that northern judges had additional stress because of the nature of the circuit work they performed. The 2011 Manitoba JCC considered that “tying the allowance to a negotiated amount by [a public sector union] at the bargaining table does not result in a level of compensation appropriate to the judiciary and does not take into account factors unique to judges which may not be relevant to Provincial employees”.

166. **Newfoundland & Labrador** is the only other Canadian jurisdiction which pays a northern allowance, although this aspect of compensation has never been considered by the Salary and Benefits Tribunal (i.e., their JCC). The amount paid to judges residing in Labrador is based on that negotiated by government employees (i.e., \$4,529 for single employees, and \$8,939 for those with dependents, per annum)¹¹⁷.

167. For all these reasons, the Judges state that the statutory factors support the recommendation sought, for a northern allowance in the amount of \$12,000.

5. Increased Judicial Allowance

168. The Parties are jointly proposing an increased judicial allowance of \$4,700, up from \$3,000, effective April 1, 2025.

169. The purchasing power of the \$3,000 amount has eroded considerably due to inflation, since it was first established in 2004. Indeed, according to Statistics Canada, the

¹¹⁶ 2011 Manitoba JCC Report, excerpt only, Joint Book of Documents, **Tab 27**, page 106

¹¹⁷ See the Government of Newfoundland & Labrador’s Policy: [here](#) (Labrador Judges reside in either Wabush or Happy Valley Goose Bay, such that Group 1 rates apply.)

Consumer Price Index for Whitehorse increased 58.8% between 2004 and 2025,¹¹⁸ with further increases thus far in 2026. Simply to account for inflation to 2025, as measured by the Consumer Price Index, the judicial allowance would need to be increased to \$4,765.

170. The judicial allowance covers any reasonable expenses that the proper and fit execution of the office of a judge may require, so long as the expense is approved by the Chief Judge. Most of the expenses reimbursed to judges through the judicial allowance relate to the cost of continuing judicial education, provided through conferences offered by the National Judicial Institute, the Canadian Association of Provincial Court Judges, or the Federation of Law Societies. The cost of conference fees, travel and accommodation have increased considerably over the past few years. Judges also purchase books, subscriptions and other items which assist them in performing their judicial duties and the cost of these items has risen as well.

171. Comparisons with other jurisdictions are challenging, as each jurisdiction has a slightly different arrangement when it comes to which expenses are paid from the overall Court budget versus a professional development and/or education allowance for judges. Focusing on the statutory comparators, **Saskatchewan** judges receive an allowance of \$6,000 per annum, while **Alberta** judges receive \$4,500 per annum. Judges in **British Columbia** have joined with the Government of British Columbia in a joint submission to the 2026 JCC proposing an increase in their allowance to \$5,500. Judges in the **Northwest Territories** notionally receive an allowance of only \$1,000, although a myriad of expenses which elsewhere are funded by a judicial allowance, are funded through the Court budget.

172. It is submitted that the joint proposal is appropriate, logical and reasonable, in light of all of the statutory factors.

¹¹⁸ Statistics Canada, Table: 18-10-0005-01 (formerly CANSIM 326-0021), CPI by Province, Annual, not seasonally adjusted

6. Increased Hourly Rates for Justices of the Peace

173. The JPs make the following proposal for increased hourly rates. In an effort to simplify the JCC processes moving forward, the JPs propose a mechanism whereby the JP hourly rate would be linked to the salary of a Judge, with the result that the pay for each category of judicial officer will maintain the percentage relationship, as it was in 2024, moving forward.

174. The JPs proposal involves determining the percentage relationship between the Judges' "notional hourly rate" and each of the JP classifications' hourly rates for 2024, and maintaining those percentage relationships moving forward. As set out in the chart below, the "notional hourly rate" for judges can be calculated based on the salary, divided by 210 working days, divided by 7.5 hours per day. Then, if the 2024 hourly rates for each of the JP1, JP2 and JP3 classifications are divided into the notional hourly rate for judges, the relative percentages are: 24.38% for JP1, 27.09% for JP2, and 37.38% for JP3. Using those percentages, the proposed hourly rates for 2025, 2026, 2027, and 2028 can be calculated, based on the judges' notional hourly rate for each of those years.

Year	Yukon Judges' Salary	Yukon Judges' Notional Hourly Rate Salary / 210 / 7.5	JP1	JP2	JP3
2024	\$ 357,030	\$226.69	\$55.26 (24.38% of judges' notional hourly rate)	\$61.41 (27.09% of judges' notional hourly rate)	\$85.98 (37.38% of judges' notional hourly rate)
2025	\$ 373,410	\$237.09	\$57.80	\$64.23	\$89.93
2026	\$ 386,100	\$245.00	\$59.77	\$66.41	\$92.98
2027	90% of feds	Hourly rate = salary / 210 / 7.5	24.38% of hourly rate	27.09% of hourly rate	37.38% of hourly rate
2028	90% of feds	Hourly rate = salary / 210 / 7.5	24.38% of hourly rate	27.09% of hourly rate	37.38% of hourly rate

175. To the extent JP hourly rates were to be adjusted using a formula that was is tied to Judges' salaries, there is a risk that the rates would erode relative to Judges' salaries over the course of this JCC. This may occur, to the extent that the Government of Canada decides to increase federal judges' salaries following a successful judicial review of the Government of Canada's decision on the federal JCC's recommendations, such that the Yukon Judges' salaries are then increased.

176. The chart below shows how the hourly rates for JPs would be affected under the JPs' proposal, in the event the Government of Canada were to decide to *fully* implement the recommendation of the Federal JCC for s.96 judges.

	s.96 judges	Yukon judges	Judges' notional hourly rate	JP1	JP2	JP3
2024 salaries if fed JCC recommendations implemented	\$ 424,700	\$382,230	\$242.69	\$55.26	\$61.41	\$85.98
Proposed for 2025 if s.96 judges receive JCC recommendations	\$444,185	\$399,767	\$253.82	\$61.88	\$68.76	\$ 94.88
2026	\$459,280	\$413,352	\$262.45	\$63.98	\$71.10	\$98.10
2027	IAI	90% of feds	Hourly rate = salary / 210 / 7.5	24.38% of hourly rate	27.09% of hourly rate	37.38% of hourly rate
2028	IAI	90% of feds	Hourly rate = salary / 210 / 7.5	24.38% of hourly rate	27.09% of hourly rate	37.38% of hourly rate

177. It is submitted that the proposed hourly rates are modest and reasonable, whether or not the federal salaries increase, when considered relative to the hourly rates of JPs in other jurisdictions. While the hourly rates in each jurisdiction are discussed in detail further above, the summary chart below shows that the JPs' proposal would put the hourly rates

for JP3s below those of presiding JPs in BC, Alberta and Saskatchewan, and closer to those in the NWT (which are not set through an independent, constitutionally required process, and thus are not a fair comparator in any event). As the Saskatchewan JPs' salaries are also calculated based on a percentage relationship (i.e. 51%) with judges' salaries, they are also subject to upward adjustment in the event the federal judicial salaries increase.

JP3 or equivalent	BC	Alberta	Sask.	NWT	Yukon
2024	\$142.88	\$138.63	\$105.63	\$73.00	\$85.98
2025	\$146.63	2025 JPCC	\$109.21	\$73.00	\$89.93
2026	\$150.25	2025 JPCC	\$114.22	\$83.00	\$92.98
2027	\$154.38	2025 JPCC	\$118.10	\$83.00	Formula
2028	\$158.63	2025 JPCC	Per diem / 8	\$83.00	formula

178. The JPs maintain that their proposed hourly rate increases are fair and reasonable in light of all the statutory factors, including that:

- a. the modest increases reflect the stable financial position of Government and the modest economic growth anticipated over the period of this JCC's mandate;
- b. the increases would satisfy the need to provide reasonable compensation for JPs, and thereby ensure the ability to the Court to attract qualified applicant for the role;
- c. the increases would ensure that JPs are fairly compensated as compared with JPs in other jurisdictions;
- d. the increases would ensure that JPs are protected against increases in the cost of living, and would receive increases roughly in line with others in the Yukon economy; and
- e. the adoption of a percentage relationship with judges' salaries would ensure that JPs' hourly rates do not erode as a proportion of judges' salaries over the course of this JCC's mandate, and would thus continue to fairly compensate JPs for the work they perform to the benefit of the public.

7. Four Hour Minimums for JP3s Assigned to Preside In Court

179. The JPs propose that a four-hour minimum should apply for presiding JPs (i.e., JP3s), on days that those JPs are assigned to preside in Court, such that these JPs are paid the greater of no less than four hours or the actual time worked. This proposal would apply to the four JP3s who are assigned to preside in Court regularly and, potentially, to the two other JP3s who are no longer active but who continue to be available for emergencies.

180. The current Presiding JP Schedule for Monday to Friday each week is provided at **Tab 30** in the Joint Book of Documents.

181. Each Monday and Friday, one JP3 is assigned a combination of “desk duty”¹¹⁹ and Court assignments. In addition, and though this is not noted on Tab 30, that presiding JP3 is also on call for reviewing bail orders with the accused and sureties as well as reviewing the recognizance document with a respondent who has been placed on a peace bond. This occurs when the Supreme Court or Territorial trial courts have ordered an accused be released or placed on a common law peace bond. In those instances, which are not unusual, the court clerk calls the assigned JP and asks that they attend the courthouse to deal with the matter.

182. On Tuesday through Thursday each week, one JP3 is assigned to preside in Court, in accordance with the schedule at **Tab 30**, while a second JP3 performs desk duty only. The JP3 assigned to desk duty is on call for the purposes described in paragraph 181 above.

183. The proposal for the four-hour minimum is intended to apply only to those JPs who are assigned to preside in Court (i.e., not those assigned only to desk duty).

¹¹⁹ The term “desk duty” is explained in **Tab 30** in the Joint Book of Documents.

184. At **Tab 29** in the Joint Book of Documents is an example, from May 2026, of the actual hours billed by presiding JPs. On ten of the twenty days in the month, the JP in question billed for less than four hours despite, in some cases, needing to be available for much of the day. This is because the presiding JP only bills for time in Court and the time a Court docket takes is highly variable and difficult to predict.

185. The proposal would ensure a measure of fairness for a JP who has made themselves available, effectively for at least a half-day, but who is often paid for less time.

8. Interest On Retroactive Pay Adjustments

186. The Judiciary seeks the following recommendation, which would apply to both Judges and Justices of the Peace:

- simple interest shall be paid, from April 1, 2025 to the date of any retroactive payment of salary and/or hourly rate increase(s) recommended by the Commission, including the stipends for the Chief Judge and Supervising Judge of the JPs and related per diems for Deputy Judges, based on the prime rate existing for the month preceding the month in which the salary adjustment became effective; and
- notwithstanding the foregoing, no interest shall be payable on any retroactive adjustments that may flow to Judges and/or JPs as a result of an increase, if any, in the salary paid to federally appointed judges for any year(s) within this JCC's mandate, which may follow a successful judicial review of the Government of Canada's response to the Federal JCC.

187. The discussion below begins by setting out the purpose of interest and confirming the jurisdiction of the JCC to make the recommendation. The considerations which strongly favour such a recommendation in the circumstances at hand are then reviewed.

The Purpose of an Interest Award

188. The SCC considered the purpose of judgment interest in *Bank of America Canada v. Mutual Trust Co.*, [2002] 2 S.C.R. 601,¹²⁰ in which the Court considered whether a trial

¹²⁰ *Bank of America Canada v. Mutual Trust Co.*, 2002 SCC 43 (CanLII), [2002] 2 SCR 601, <<https://canlii.ca/t/51s8>>, retrieved on 2026-07-06

judge had jurisdiction to award compound interest.¹²¹ The Court described the concept of the time-value of money which underlies an interest award. On behalf of the Court, Justice Major wrote at paragraphs 21 to 23:

The value of money decreases with the passage of time. A dollar today is worth more than the same dollar tomorrow. Three factors account for the depreciation of the value of money: (i) opportunity cost (ii) risk, and (iii) inflation.

The first factor, opportunity cost, reflects the uses of the dollar which are foregone while waiting for it. The value of the dollar is reduced because the opportunity to use it is absent. The second factor, risk, reflects the uncertainty in delaying possession. Possession of a dollar today is certain but the expectation of the same dollar in the future involves uncertainty. Perhaps the future dollar will never be paid. The third factor, inflation, reflects the fluctuation in price levels. With inflation, a dollar will not buy as much goods or services tomorrow as it does today. (G.H. Sorter, M.J. Ingberman and H.M. Maximon, *Financial Accounting: An Events and Cash Flow Approach* (1990), at p. 14). The time-value of money is common knowledge and is one of the cornerstones of all banking and financial systems.

Simple interest and compound interest each measure the time value of the initial sum of money, the principal. The difference is that compound interest reflects the time-value component to interest payments while simple interest does not. ...

189. At paragraph 36, Justice Major described the theory underlying judgment interest:

In *The Law of Interest in Canada* (1992), at pp 127-28, M.A. Waldron explained that the initial theory underpinning an award of judgment interest was that the defendant's conduct was such that he or she deserved additional punishment. The modern theory is that judgment interest is more appropriately used to compensate rather than punish. At pp. 127-28, she wrote:

Compensation is one of the chief aims of the law of damages, but a plaintiff who is successful in his action and is awarded a sum for damages assessed perhaps years before but now payable in less valuable dollars finds it quite obvious that he has been shortchanged. Equally obviously, payment of interest on his damage award from some relevant date is one way of redressing this problem.

¹²¹ It is acknowledged that an award of compound interest is generally reserved for cases of breach of contract where the parties agreed, knew or ought to have known that compound interest would apply – see paragraph 55 of the decision.

The overwhelming opinion today of Law Reform Commissions and the academic community is that interest on a claim prior to judgment is properly part of the compensatory process. [Citations omitted.]

190. Interest is not punitive against the payor of interest. Rather, an award of interest recognizes the decline in the value of money where payment is delayed, and is accordingly regarded as a proper part of compensation.

JCC's Jurisdiction To Award Interest

191. Section 14 of the *TCA*¹²² empowers the JCC as follows.

The mandate of the commission shall be to inquire into and make recommendations respecting all matters relating to judicial remuneration of judges, and respecting other related matters as the Minister and the chief judge agree to submit to the commission.

192. The 2008 Manitoba JCC was the first JCC across Canada to recommend that interest should be paid on retroactive salary adjustments. It determined that it had jurisdiction to make the recommendation under s.11.1(3)(b) of *The Provincial Court Act*, CCSM c. C275. Section 11.1(3) reads:

Review by compensation committee

11.1(3)

A compensation committee shall investigate, report and make recommendations with respect to the following:

- (a) the salaries to be paid to
 - (i) the Chief Judge,
 - (ii) an Associate Chief Judge, and
 - (iii) a judge of the court, other than the Chief Judge or an Associate Chief Judge; and
- (b) the benefits to be paid, including pensions, vacations, sick leave, disability benefits, travel expenses and allowances, to the Chief Judge, an Associate Chief Judge and a judge of the court.

193. The Government of Manitoba rejected the recommendation and argued, in part, that the JCC lacked jurisdiction to recommend interest. That the JCC did have jurisdiction

¹²² *TCA*, Joint Book of Documents, **Tab 1**

was confirmed by both the Manitoba Court of Queen's Bench¹²³ and the Manitoba Court of Appeal¹²⁴. Steel J.A. discussed the issue of interest at paragraph 114 of her decision and following. After reviewing relevant case law, she concluded that the Act necessarily implied that the JCC had jurisdiction to recommend interest and went on to state:¹²⁵

However having stated that it was within the jurisdiction of the JCC to award interest does not mean that it must be awarded or that it must be awarded in every case or that, if awarded, the Government must accept the recommendation. The Government argues that, even if the JCC had the jurisdiction to award interest, the rejection of that recommendation and the reasons provided by the Government for that rejection were reasonable and should have been afforded deference by the application judge. [emphasis in original]

194. The Manitoba Court of Appeal confirmed that the Government's other reasons for rejecting the recommendation were not legitimate. Steel J.A. referred to the Government's argument that interest was not contemplated because there were timelines in the legislation. She noted that, while they do exist, "those timelines are not always followed, often through no fault of the parties"¹²⁶.

195. Unlike in the Manitoba situation where some of the delay came from the JCCs' late delivery of their reports, the Government's failure to follow the timelines in its own 2005 LOU has been an ongoing issue in Yukon.

196. Despite that the decision of the Manitoba Court of Appeal was still outstanding at the time the 2011 Manitoba JCC's report was released, the 2011 Manitoba JCC also recommended that interest should be paid on the retroactive salary adjustments. It wrote:¹²⁷

¹²³ *Judges of the Provincial Court (Man) v. The Queen*, [2012 MBQB 153 \(CanLII\)](#)

¹²⁴ *Judges of the Provincial Court (Man) v. Manitoba*, 2013 MBCA 74, Joint Book of Documents, **Tab 26**

¹²⁵ *Judges of the Provincial Court (Man) v. Manitoba*, 2013 MBCA 74, Joint Book of Documents, **Tab 26**, para 136

¹²⁶ *Judges of the Provincial Court (Man) v. Manitoba*, 2013 MBCA 74, Joint Book of Documents, **Tab 26**, para 136

¹²⁷ 2011 Manitoba JCC Report (excerpt), Joint Book of Documents, **Tab 27**, page 87

While we are not bound to follow recommendations of past JCCs, we accept that it is open to interpret the Act in such a way as to allow the awarding interest on retroactive salary adjustment.

Further, there is no denying that the judges have suffered from the loss of the use of the money and the Province has had the use of that money.

In light of the above, and to maintain consistency, we are prepared to recommend the payment of interest in the manner requested by the Association.

197. The Government of Manitoba initially rejected the interest recommendation of the 2011 Manitoba JCC, although it did indicate it would be “guided” by the Court of Appeal’s decision on jurisdiction and implemented the recommendation after the Court’s decision was released. Since that time, the 2014, 2017 and 2020 Manitoba JCCs have all made similar recommendations for the payment of interest on retroactive salary recommendations.

198. Relying on analysis of the Manitoba Court of Appeal set out above, interest was recommended by the 2021 Newfoundland & Labrador Salary and Benefits Tribunal on the payment of retroactive adjustments for judges.¹²⁸

Factors Supporting Request for Interest

199. The payment of interest is consistent with an agreed-upon principle set out in the 2005 Letter of Understanding:¹²⁹

Based on previous experience, the parties recognize that unexpected delays can occur and agree that no party should benefit from this.

200. In the absence of interest being paid, the members of the Judiciary suffer from the loss of the use of the money, while the Government has had the use of the money in the

¹²⁸ 2021 Newfoundland & Labrador Salary and Benefits Tribunal Report (excerpt), Joint Book of Documents, **Tab 28**, para 105-107

¹²⁹ 2005 Letter of Understanding, Joint Book of Documents, **Tab 2**, s.4.2

meantime. In other words, the Government benefits from the delay despite the parties specifically agreeing that no party should benefit.

201. The 2005 Letter of Understanding contains specific timeframes for the establishment of the process.¹³⁰ According to those timelines, the Commissioner would have been appointed by January 31, 2025, and the parties would have explored the possibility of a joint submission by August 31, 2025. Given the intervening election, and the need for the new Government to organize itself, Government counsel advised that instructions could not be provided until May, 2026. As it turned out, into July 2026, the Judiciary continued to await the Government's position on certain proposals the Judiciary had advised the Government of almost a year earlier.

202. This 2025 JCC will make recommendations for the period commencing April 1, 2025, will be hearing submissions almost 1.5 years into the mandate period, and will likely issue its report approximately 2 years into the mandate period. In the circumstances, the Judiciary should be compensated for the loss of the use of the money over the intervening period through the payment of interest.

Pattern of Delay in Yukon's JCC Processes

203. The Judges and JPs have routinely waited extended periods before having their compensation determined. Focussing on the last three Commissions, the chart below summarizes the mandate period for each Commission, the date it was established, and the date of the Report. Adjustments to compensation follow after the Report is issued, sometimes taking months for changes to the relevant regulation.

¹³⁰ 2005 Letter of Understanding, Joint Book of Documents, **Tab 2**, section 7

Mandate Period	Date JCC Established	Date of JCC Report	Adjustment Date
April 1, 2016 to March 31, 2019	May 11, 2017 (first Commissioner ill, process restarted)	January 18, 2019	3 years +
April 1, 2019 to March 31, 2022	June 24, 2019	March 5, 2021	2 years +
April 1, 2022 to March 31, 2025	June 14, 2022	February 7, 2025	3 years +

204. There are various reasons for the delays, but the reasons do not change the decline in the value of money over the delay period. In the interim, the Government has use of funds that are ultimately to be paid to Judges and JPs. Especially because the Government designs, and therefore controls, the Commission process, it is not appropriate that the Judiciary should bear the cost of the delay it has chosen to have in the process.

205. For all these reasons, it is respectfully submitted that interest should be recommended in the specific circumstances at hand, as set out above.

CONCLUSION:

206. For the foregoing reasons, the Judiciary submit that all of their proposed recommendations for changes in judicial compensation are reasonable and appropriate in light of the factors set out in the *Act*. In so far as they are the product of a joint submission by the parties, they are appropriate, reasonable, and logical in the circumstances.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 16th DAY OF JULY, 2026



Susan Dawes, Counsel for the
Territorial Court Judges and Justices of the Peace