SUBMISSION OF THE GOVERNMENT OF YUKON

TO THE

2025 YUKON JUDICIAL COMPENSATION COMMISSION

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I. Introduction

A. The Territorial Court

1. The Yukon Territorial Court[1] ("**Territorial Court**") is akin to a provincial court in Canada. Its constitution and powers are set out in the *Territorial Court Act,* R.S.Y. 2002, c. 217 ("**TCA**" or "**the Act**"). The Territorial Court serves Whitehorse and provides services to 14 other Yukon communities. It has three permanent court registries located in Whitehorse, Watson Lake and Dawson City. It consists of three (3) full-time judges and approximately 27[2] Deputy Judges (full-time or retired judges from other jurisdictions) to provide additional coverage to the Territorial Court.

2. The Territorial Court deals with most adult criminal prosecutions under the Criminal Code and other federal statutes as well as 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. The Territorial Court also has exclusive jurisdiction over child protection matters under the *Child and Family Services Act,* limited jurisdiction over family matters and civil jurisdiction up to $25,000 in Small Claims Court.

3. Justices of the Peace ("**JPs**") also have a role in the functioning of the Territorial Court. JPs are not lawyers, but they provide a range of legal services depending on their training and authorization. JPs 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. They may also hear matters in Youth Court and in child protection cases. In accordance with information provided by the JPs' legal counsel, there are 12 active part-time JPs who are located in Whitehorse and the communities and are remunerated on an hourly basis.

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1 https://www.yukoncourts.ca/en/territorial-court
2 https://www.yukoncourts.ca/en/territorial-court/judges

B. The PEI Reference Case

4. The decision of the Supreme Court of Canada in *Re Provincial Court Judges,* [1997] 3 S.C.R. 3 (the "**PEI Reference Case**") (Joint Book of Documents, Tab 4), recognized financial security as one of the three core characteristics of judicial independence, the other two being security of tenure and institutional independence. Lamer C.J.C. for the majority of the court explained the concept of financial security this way at paragraph 133:

> First, as a general constitutional principle, the salaries of provincial court judges can be reduced, increased, or frozen, either as part of an overall economic measure which affects the salaries of all or some persons who are remunerated from public funds, or as part of a measure which is directed at provincial court judges as a class. However, any changes to or freezes in judicial remuneration require prior recourse to a special process, which is independent, effective and objective, for determining judicial remuneration, to avoid the possibility of, or the appearance of, political interference through economic manipulation.

5. The majority of the Court held that there is a constitutional obligation to establish bodies which are "independent, effective, and objective", indicating at paragraph 287:

> ... 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.

6. And at paragraph 147, Lamer C.J.C. described the constitutional purpose of these independent bodies:

> The constitutional function of this body would be to depoliticize the process of determining changes to or freezes in judicial remuneration.

7. In addition to the requirement that a commission be interposed between the judiciary and the executive of the Government to make recommendations on judicial remuneration, the Court also indicated that financial security requires that judicial remuneration be adequate and that it not fall below a basic minimum level. The reason for this, as noted by the Court at paragraph 135, is as follows:

> Public confidence in the independence of the judiciary would be undermined if judges were paid at such a low rate that they could be perceived as susceptible to political pressure through economic manipulation, as is witnessed in many countries.

8. However, the Court also emphasized that the guarantee of a minimum acceptable level of judicial remuneration is not a means to shield the courts from the effects of deficit reduction. The Court observed:

> Nothing would be more damaging to the reputation of the judiciary and the administration of justice than a perception that judges were not shouldering their share of the burden in difficult economic times (paragraph 196).

9. Moreover, the Court noted that salary increases can also be powerful economic levers and cautioned as follows:

> ... salary increases also have the potential to undermine judicial independence. (paragraph 159)

10. What is required, the Court held, is that an independent commission make recommendations on judicial remuneration that are grounded in objective criteria, not political expediencies, supported by reasons which relate to the public interest, broadly understood.

11. The 2025 Yukon Judicial Compensation Commission (the **"Commission"** or **"JCC"**) is established pursuant to Part 3 of the TCA. The Commission is tasked with inquiring into and making recommendations respecting all matters relating to the judicial remuneration of judges of the Territorial Court of Yukon (the **"TCJs"** or **"Judges"**).

12. The Government of Yukon (**"YG"** or the **"Government"**) respectfully submits this brief to assist the Commission in its deliberations. YG, the TCJs and the JPs ("the Parties") have reached agreement on four issues. However, a number of issues remain unresolved between the Parties and require the Commission's determination. Factors such as limited information and preference to defer matters to the formal JCC process contributed to these matters being unresolved.

13. For the reasons set out below, YG submits that the Commission should reject the TCJs' and/or JPs' proposals on each of the disputed issues and adopt the positions advanced by the Government, which are appropriate, reasonable, and logical in the circumstances.

II. Statutory framework

14. As a result of the PEI Reference Case, Part 3 – Judicial Compensation Commission (sections 13 to 29) of the TCA was enacted (*Territorial Court Act*, R.S.Y. 2002, c. 217, Part 3, ss. 13–29; Joint Book of Documents, Tab 1) to provide for the establishment every third year of a JCC. A recommendation from the 2022 Commission was to extend the term from three years to four. This amendment has not yet been passed but an amendment to the TCA, extending the term to four years, will be introduced in the fall 2026 sitting of the Legislative Assembly.

15. The issue of the Commissioner's jurisdiction was raised and by email dated July 16, 2026, the Commissioner, Debbie Hoffman, determined as follows concerning her jurisdiction:

> In the 2022 JCC, I made a binding recommendation that the term of the JCC be extended from 3 years to 4 years. I understand the legislation implementing that change is anticipated to be passed this fall after the Yukon Legislature reconvenes.
>
> In the interim, by OIC dated April 24, 2025 I was appointed as the 2025 JCC, effective June 14, 2025 to a 3-year term.
>
> In view of the binding recommendations made in the 2022 JCC, the JCC is not limited or linked to the term of its old mandate of 3-years. Rather, the JCC mandate extends, as of the date when the binding recommendations were made, to a 4-year term.
>
> The 2022 JCC recommendation of the 4-year term is binding, and the forthcoming legislation is merely the vehicle by which the binding recommendations are implemented. The 2025 JCC will, accordingly, make recommendations on the basis of a 4-year term.
>
> I also understand that the legislation relating to the 90% linkage and the extraordinary circumstances when the linkage does not apply has also not been implemented. As a result, to the extent to which any party would like to make submissions about the linkage or the extraordinary circumstances, they can do so by making reference to paragraphs 211, 212 (and any other relevant paragraphs) of my 2022 JCC Recommendations.

16. The Commission is mandated to make recommendations respecting all matters of "judicial remuneration" of judges (section 14) which is defined as all forms of compensation involving salaries, pensions, allowances and benefits.

17. The Government and the TCJs have input into the selection of the Commissioner(s) which comprise the Commission in the manner set out in section 21.

18. In developing its recommendations, the Commission is directed by section 19 of the TCA to consider any matter it considers relevant, and in addition, address in its report, submissions made to it regarding the following:

(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, 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.

19. The above factors guide the Commission's analysis and provide the framework within which the Parties' submissions should be assessed. As affirmed in *Cameron v. Yukon*, 2011 YKSC 35 (Joint Book of Documents, Tab 6, at paras. 100, 104), the test is whether the recommendations are "appropriate, reasonable, and logical in the circumstances."

20. As will be set out in the pending legislation, the 90% linkage to the salaries of federally-appointed judges do not apply if the TCJ salaries become either the highest or the lowest of the four comparator jurisdictions of the Northwest Territories (NWT), British Columbia (BC), Alberta and Saskatchewan.

21. The Commission is thus established, as required by the PEI Reference Case, as an independent body to make binding recommendations on judicial remuneration that are justified on an objective basis.

22. The 2025 Commission is the nineth such Commission under the TCA, although there was one commission established by Order-in-Council (OIC) in 1998 prior to the enactment of the TCA. This Commission was established by OIC 2025/0062 dated April 24, 2025, effective June 14, 2025[3] for a three-year term.

23. Section 13 of the TCA allows for a Commission to consist of one or three Commissioners, appointed by the Commissioner in Executive Council. With the Parties agreement, Debbie Hoffman was appointed as the sole Commissioner of the 2025 JCC.

24. As set out in paragraph 161i of the 2022 JCC Report, the 2022 Commission extended the term of the Commission going forward from three years to four, and an amendment to the TCA to this effect will be introduced in the fall 2026 sitting of the Legislative Assembly. The Commissioner has advised she has the jurisdiction to issue recommendations for a four-year term.

III. Overview

25. YG and TCJs have reached agreement on four matters:

    (a) the continuation of the 90% linkage of TCJ salaries to the salaries of federally-appointed judges for the duration of this JCC;

    (b) A percentage-based differential for the Chief Judge rather than an annual stipend of $15,000 (however, the Parties differ in the percentage: YG proposes 6% of TCJs' base salary; TCJs propose 7.5%);

    (c) an increase to Deputy Judges per diems; and

    (d) an increase to the judicial allowance.

[3] 2025-0062_1.pdf

26. The Parties do not agree on the following matters:

(e) That a salary-based differential is appropriate for Yukon's Supervising Judge (YG proposes maintaining the current $7,500 stipend; TCJs propose 3.75% of the TCJ base salary);

(f) Whether TCJs should receive an annual $12,000 Northern Allowance that is available to federally-appointed judges of the Supreme Court of Yukon (YG is not supportive of this request);

(g) An increased hourly rate for JPs as a percentage of the TCJs' base salary (YG is supportive of an increased hourly rate but not linked to the TCJ base salary);

(h) The provision of a four-hour minimum for JPs on weekdays (YG is not supportive of this request);

(i) Whether interest should be payable on retroactive salary and hourly rate adjustments (YG is not supportive of this request);

(j) The discontinuation of the Deputy Judges' medical insurance stipend (YG is supportive of this request); and

(k) The realignment of benefits of the salaried Senior Presiding Justice of the Peace position (YG is supportive of this request).

27. A summary of the Parties' positions on all of the above matters is attached as Schedule 1 to this submission. We discuss each of the matters below.

<u>Matters of Agreement between the Parties</u>

A. 90% Linkage to Federally-Appointed Judges' Salaries

28. The Parties have reached agreement on the continuation of the 90% linkage of TCJ salaries to the salaries of federally-appointed Supreme Court of Yukon judges for the term of this JCC. This linkage was first recommended by the 2022 JCC as a joint submission of the Parties.

29. The 90% linkage provides salaries that place Yukon TCJs among the highest-compensated provincial and territorial court judges in Canada. TCJs' salaries are the third highest nationally behind Ontario and Saskatchewan. For example, provincial and territorial judges' salaries in 2024-25 were: $377,936 in Ontario, $364,715 in Saskatchewan and $357,030 in the Yukon[4] (Spreadsheet of Salaries for Judges across Canada).

30. Federal judges' salaries have not yet been finally determined (only minimum and maximum salary ranges can be projected) pending the outcome of *Canadian Superior Courts Judges Association v. Attorney General of Canada*. The 2024 Judicial Compensation and Benefits Commission recommended that the federal judges' salaries be increased by $28,000, which was to be applied after the April 1, 2024 Industrial Aggregate Index ("IAI") increase, followed by annual IAI-based adjustments effective on April 1st in each of 2025, 2026, 2027 and 2028. The Government of Canada ("Canada") rejected this recommendation and implemented only the IAI-based increases. The section 96 judges have applied for judicial review of Canada's response and a hearing date has yet to be scheduled but is anticipated fall 2026. Notably, the IAI is not yet known for 2026 and beyond.

31. For 2025-26, minimum and maximum salary ranges for TCJs at 90% of federal Supreme Court of Yukon judges' salaries will result in a minimum salary of $373,410.00 and a maximum of $398,610.36.

32. Below is a chart showing minimum and maximum salary ranges of section 96 judges and the calculation at 90% for TCJs. The minimum is based on the amount Canada has agreed to pay to section 96 judges starting April 1, 2024. The maximum is the amount (base salary plus $28,000) under dispute between the Canadian Superior Courts Judges Association and Canada. The IAI as provided by Statistics Canada is reflected in the salaries set out below in 2024-25 to 2026-27. An IAI estimate of 3.5% was used to inform calculations for 2027-28 and 2028-29.

[4] These numbers are based on the lowest possible federal judicial salaries and do not show the potential highest range.

	2024-25	2025-26	2026-27	2027-28	2028-29
Federal / Section 96 Judges' Salary[5]					
Max.[6]	$424,700.00	$442,900.00	$457,000.00	$472,015.00	$487,556.00
Min.	$396,700.00	$414,900.00	$429,000.00	$444,015.00	$459,556.00
Territorial Court Judges' Salary – 90% of Federal Salary					
Max	$382,230.00	$398,610.00	$411,300.00	$424,813.50	$438,799.97
Min	$357,030.00	$373,410.00	$386,100.00	$399,613.50	$413,599.97

33. In the 2022 JCC (Joint Book of Documents, Tab 9), at paragraphs 206, the Commissioner recommended there be a presumption that for each annual period commencing on or about April 1, 2025, the TCJs will receive 90% of the current year salary of federally appointed Justices of the Supreme Court of the Yukon. The Commissioner then set out the factors she relied upon to arrive at her recommendation. The same factors are applicable currently. Accordingly, the same recommendation should be made.

34. It is important to note that if the final outcome of the salaries of the federally-appointed judges is substantially increased by the additional $28,000 annually, such an increase may place the TCJs salaries higher than any other province in Canada except Saskatchewan which has a linkage of 95% to the salaries of federally-appointed judges and Ontario which has a linkage of 95.27% to the salaries of federally-appointed judges.

B. Percentage-based Differential for the Chief Judge

35. Yukon's Chief Judge currently receives an annual stipend of $15,000. This stipend is compensation for the additional duties and responsibilities required for the Chief Judge position. This stipend was raised by 50% from $10,000 to $15,000 in the 2022 JCC.

36. In other jurisdictions, the model of compensation for Chief Judges has changed to be a percentage of base salary rather than an annual set stipend. TCJs proposed that the Chief

[5] IAI in 2025 was 4.59% and 3.4% in 2026. Calculations for 2027-28 and 2028-29 are based on a 3.5% estimate.
[6] High estimates include the $28,000 as recommended by the 2024 Judicial Compensation and Benefits Commission currently under review.

Judge be compensated as a percentage of TCJ base salary and the Government has agreed.

37. However, the Parties have not agreed on the appropriate percentage of additional base salary: the TCJs are seeking 7.5% and YG has offered 6%. See below for further information.

C. Increase in the Deputy Judge Per Diem

38. The current per diem for Deputy Judges is based on 1/235 of the TCJs' base salary. The NWT uses 1/210 to calculate per diem rates for Deputy Judges. Accordingly, the Parties have agreed to the following phased-in approach which will bring the Yukon Deputy Judges per diem rates to a divisor of 1/210, in line with the NWT.

	2025-26	2026-27	2027-28	2028-29
	1/235	1/225	1/219	1/210
Maximum[7]	$1,696.21	$1,828.00	$1,939.79	$2,089.52
Minimum	$1,588.98	$1,716.00	$1,824.72	$1,969.52

39. It is worth noting that in the 2022 JCC, the Deputy Judges also saw a substantial increase in their per diems due to the increase in TCJs' base salary to 90% linkage of federally-appointed judges. Because the Deputy Judges' per diems are also linked to the TCJs' salaries, this resulted in a substantial increase. In the 2025 JCC, the Deputy Judges will receive another additional increase from 1/235 to 1/210 of the TCJ base salary.

D. Increased Judicial Allowance

40. The current annual judicial allowance is $3,000. This allowance was set in 2004 and has remained at that same value since that time.

41. The Parties have agreed to increase the annual judicial allowance to $4,700 per judge starting April 1, 2025.

[7] Based on projected high federal judges' salary at line 32.

Unresolved Matters between the Parties

42. The Government's submissions below outline the unresolved matters between the Parties regarding TCJ and JP remuneration for the 2025 JCC process.

43. It is important to consider judicial remuneration overall and its relative value compared to other jurisdictions, not simply the value of individual aspects of compensation outside of the broader context.

E. Chief Judge Differential

The Parties' Positions

44. As noted previously, the Chief Judge is currently paid a stipend of $15,000 annually. The TCJs seek a differential of 7.5% of the TCJ base salary, mirroring the percentage applied in the NWT. YG agrees to a differential and proposes a Chief Judge differential be linked to 6% of the TCJ base salary.

45. Based on the TCJs' minimum and maximum base salary ranges, the Chief Judge differential in 2025-26 is calculated at:

    (a) YG's proposed 6% amounts to an additional annual amount between approximately $22,404.60 - $23,916.60; and

    (b) The TCJs' proposed 7.5% amounts to an additional annual amount between approximately $28,005.75 - $29,895.75.

	2025-26	**2026-27**	**2027-28**	**2028-29**
YG's Chief Judge Differential Proposed at 6%				
Maximum Salary	$23,916.60	$24,678.00	$25,488.81	$26,328.00
Minimum Salary	$22,404.60	$23,166.00	$23,976.81	$24,816.00
TCJ's Chief Judge Differential Proposed at 7.5%				
Maximum Salary	$29,895.75	$30,847.50	$31,861.01	$32,910.00
Minimum Salary	$28,005.75	$28,957.50	$29,971.01	$31,020.00

YG's Position: 6% Is the Appropriate Differential

46. **Background.** The 2022 JCC increased the Chief Judge stipend by 50% from $10,000 to $15,000. At that time, the Commissioner noted that the $15,000 was set at the same amount as the NWT Chief Judge's stipend and observed that it was "appropriate when the size of the Court is taken into account" (2022 Yukon Judicial Compensation Commission Report at paras. 151, 153; Joint Book of Documents, Tab 9).

47. **The TCJs' proposal is not justified.** The TCJs' proposed 7.5% differential would yield approximately $28,005.75 - $29,895.75 in 2025/26—representing an 87% to 99% increase over the current $15,000 stipend. By contrast, YG's proposed 6% differential would yield approximately $22,404.60 - $23,916.60, which still represents a significant 49% to 60% increase from the current stipend for the Chief Judge. The magnitude of the TCJs' proposed increase to the differential is not justified by any material change in the Chief Judge's role and responsibilities since 2022.

48. **Court size must be considered.** The size of the court over which the Chief Judge presides is a fundamental factor in determining the appropriate differential. The following comparison illustrates the relationship between court size and Chief Judge differential across comparator jurisdictions:

Jurisdiction	Differential	Court Size	Judges/Chief
British Columbia	12%	~122 judges	High
Alberta	10%	~160 judges	High
Saskatchewan	7.5%	~48 judges	Moderate
Northwest Territories	7.5%	4 judges	Small
Prince Edward Island	6%	3 judges	Smallest
Yukon (YG proposal)	**6%**	**3 judges**	**Smallest**

49. The Yukon Territorial Court and Prince Edward Island Provincial Court are the smallest courts in this comparison, with only 3 judges. The administrative burden associated with the office of Chief Judge is proportionally less than in jurisdictions with significantly larger benches. In BC, the Chief Judge must oversee approximately 122 full-time judges across multiple court locations throughout the province. In Alberta, the Chief Judge administers

a court of approximately 160 judges. Even the NWT, with 4 judges, has a larger court than the Yukon.

50. **Prince Edward Island is the most appropriate comparator.** Prince Edward Island (PEI), which like Yukon, has a small provincial court, provides an annual amount of 6% of base salary as compensation for its Chief Judge. Notably, PEI's Chief Judge also maintains a normal caseload in addition to the additional responsibilities of the Chief Judge position which Chief Judges in other Canadian jurisdictions do not. Given the similar court sizes, PEI represents the most appropriate comparator jurisdiction for this purpose.

51. The NWT provides its Chief Judge with 7.5% of base salary as compensation, but that court, though small, is larger than Yukon's and its judges serve a geographically more dispersed territory with greater administrative complexity. It is also noteworthy that as the TCJs' salaries in the NWT are not tethered to federal judges' salaries, their salaries are lower than that of Yukon judges being contemplated in this JCC process. Thus, 7.5% of NWT judges' base salary is equal to less in total dollars than the 6% of base salary being proposed by the YG. For example, with 7.5% of base salary as a differential, in 2024-25, the NWT Chief Judge will receive $21,008. Given the higher salary of the TCJs in the Yukon, 6% of base salary differential will result in the Chief Judge in the Yukon receiving a minimum of $22,040.60, which is about $1,000 more than the NWT Chief Judge.

52. **6% reflects an appropriate balance.** YG's proposed 6% differential recognizes and compensates the additional duties and responsibilities of the Chief Judge while appropriately reflecting the proportionally smaller administrative burden that accompanies overseeing a three-judge court.

Summary on Chief Judge Differential

53. YG submits that a 6% Chief Judge differential is appropriate, reasonable, and logical in the circumstances, having regard to the size of the Yukon Territorial Court, the comparator jurisdictions, and the principles articulated by the 2022 Commissioner regarding the relationship between court size and the Chief Judge's administrative responsibilities.

F. Supervising Judge Differential

The Parties' Positions

54. The TCJs seek a percentage-based differential of 3.75% of the TCJ base salary. YG proposes that the current stipend of $7,500 for the Supervising Judge be maintained. When calculated at the minimum and maximum salary range for 2025/26, $373,410 to $398,610, would equal compensation of approximately $14,003 to $14,948 — nearly double the current annual stipend for the Supervising Judge, and would increase each year as TCJs' base salary increases.

YG's Position: The Current Stipend Should Not be Increased

55. **The 2022 increase was appropriate and recent.** The 2022 JCC increased the Supervising Judge's stipend from $5,000 to $7,500—a 50% increase. This adjustment was made only three years ago and was deemed appropriate by the 2022 Commissioner.

56. **The supervisory role is administrative, not judicial.** The Supervising Judge role relates to the oversight and training of the 12 active part-time JPs. The current stipend of $7,500 already adequately compensates for these additional administrative responsibilities. There is no principled basis for a near-doubling of this amount.

57. **No material changes in duties since 2022.** There is no evidence before the Commission that the duties of the Supervising Judge have materially changed since the 2022 JCC set the stipend at $7,500, which was an increase of 50% from the previous value of the stipend. There is no information provided by the TCJs indicating that there are substantial increases in the responsibilities of the Supervising Judge which would justify an additional increase at this time. In the absence of a demonstrated increase in workload or responsibility, there is no basis for an increase in compensation as proposed.

58. **The Northwest Territories comparator supports YG's position.** The NWT—the most comparable jurisdiction given its geographic and demographic similarities to the Yukon does not currently have a separate, compensated Supervising Judge role on the bench. The absence of such a role in the NWT suggests that the existing Yukon stipend of $7,500 is already generous relative to the Yukon's closest comparator.

Summary on Supervising Judge Differential

59. YG submits that the Commission maintain the current annual stipend of $7,500 for the Supervising Judge. The 2022 increase was recent, the duties have not materially changed, and the most comparable jurisdiction does not have a separately compensated role.

G. Annual Northern Allowance of $12,000

The TCJs' Proposal

60. The TCJs seek a $12,000 annual Northern Allowance, modeled on the allowance provided to federally appointed judges serving in northern Canada pursuant to section 27(2) of the *Judges Act*, RSC 1985, c. J-1. TCJs' counsel has clarified that this allowance is "intended to be in lieu of the Yukon Bonus", a benefit TCJs currently receive which is provided universally to all YG employees.

61. The TCJs have proposed receiving the Northern Allowance in place of the currently provided Yukon Bonus of $2,242.

YG's Position: The Northern Allowance Should Be Rejected

62. YG respectfully submits that the Commission reject the TCJs' request for an annual $12,000 Northern Allowance. YG's position is supported by the following considerations.

63. **The existing Yukon Bonus already addresses northern living.** TCJs currently receive a Yukon Bonus of $2,242, which is the same bonus received by *all* YG employees. It would be inequitable and inappropriate to provide the TCJs with an allowance that vastly exceeds—by approximately five times—the Yukon Bonus that every other YG employee receives. The Yukon Bonus was designed to be an automatic travel benefit for all employees and the TCJs should not be singled out for preferential treatment in this regard.

64. **All federal employees receive a Northern Allowance.** The Northern Allowance is an amount provided to all Government of Canada employees calculated and based on location of residence. As outlined above, providing a universal federal benefit such as the

Northern Allowance only to TCJs, one YG employee group, is not reasonable, logical nor equitable.

65. **Current and past TCJs were already living in Whitehorse.** Current TCJs accepted positions with the Territorial Court knowing the costs of living in the north, having all been resident candidates and living in Whitehorse for many years and/or raised in the Yukon. All three existing judges were former YG Department of Justice staff. There is no information or evidence that current judicial salaries and additional benefits, allowances and pensions are a deterrent to attracting, retaining and motivating good candidates and those who are appointed judges. Further, historically, once TCJs have been appointed, they have served full term of office until the age of 70 years.

66. **TCJ salaries already place them among the highest-paid judges in Canada.** A comparison of puisne judge salaries across comparator jurisdictions demonstrates that Yukon TCJs are above all the statutory relevant counterparts except for Saskatchewan:

Jurisdiction	2025-26 Salary	2026-27 Salary
Yukon (90%)	**$373,410/$398,610**	**$386,100/$411,300**
British Columbia	$369,360	$377,117
Alberta	2025 JCC Pending	—
Saskatchewan	$376,865/$403,465	$394,155/$420,755
NWT	$365,885	$374,122

67. As the table demonstrates, Yukon TCJ salaries already exceed those of judges in BC and the NWT, and are comparable to, but less than, Saskatchewan. The TCJ salaries for Yukon are also higher than all their counterparts in Canada except for Ontario and Saskatchewan. At a minimum, adding $12,000 would increase total TCJ compensation making their compensation among the very highest in Canada. This outcome is not warranted having regard to the factors under section 19 of the Act.

68. Additionally, as stated in the 2024 Report of the Northwest Territories Judicial Remuneration Commission at para 135 (Joint Book of Documents, Tab 31), when considering the compensation for judges, the full package should be considered for an accurate comparison. The Northern Allowance is not to be considered in isolation from the

other compensation being received by the TCJs. When the total compensation is considered, it becomes evident that an additional $12,000 is not warranted, is unreasonable and would be considered unfair.

69. **Cost of living data does not support the allowance.** The change in the CPI for Whitehorse was 3.2% in 2025, according to the Yukon Bureau of Statistics. This figure is modest and consistent with national trends. It does not demonstrate the kind of extraordinary cost-of-living burden that would justify an additional $12,000 annual allowance on top of an already generous salary.

70. **The Saskatchewan comparator is distinguishable.** While the TCJs point to the fact that Saskatchewan judges may receive a 5% Northern Allowance ($18,843 in 2025), it is YG's view that this comparison is misleading. The Saskatchewan Northern Allowance is limited to judges who reside in *two designated northern communities only* (Meadow Lake and La Ronge)—it is not a province-wide allowance applicable to all judges. All Yukon TCJs reside in Whitehorse, which is the territorial capital and enjoys reasonable access to amenities, services, and transportation. Whitehorse is not analogous to the specific remote northern Saskatchewan communities that qualify for that jurisdiction's Northern Allowance.

71. **The Northwest Territories' Northern Allowance is the same for all territorial government employees.** TCJs in the NWT receive a Northern Allowance of $3,700 annually, the same amount as all Government of Northwest Territories (GNWT) employees.

72. **The Alberta Northern Allowance is the same for all provincial government employees.** All Government of Alberta employees employed at a location north of the 57th parallel receive a Northern Allowance pursuant to article 22 of the Master Agreement between the Government of Alberta and the Alberta Union of Provincial Employees at a flat rate of $241.38 bi-weekly and is applicable to non-bargaining unit employees, including the Alberta Judiciary[8].

73. **The Government of Canada provides a northern allowance to all employees in Whitehorse.** The final value of the allowance will vary based on the annual calculations

[8] https://www.alberta.ca/premium-pay-directive#jumplinks-1

of the various allowances; however, all federal government employees are eligible to receive this allowance.

74. **Remoteness and isolation in Alberta and Saskatchewan communities.** Whitehorse is the capital city with a population exceeding 35,000 which serves as the centre for the primary administrative, commercial, transportation and health care services. Hay River, AB, La Ronge, SK, and Meadow Lake, SK have substantially smaller populations, are great distances from urban centres and provide limited access to specialized health care, shopping, cultural and recreational amenities, professional networks and transportation options. The communities also experience greater challenges related to social and professional isolation and the recruitment and retention of qualified judges. This is a level of rurality and remoteness that is materially greater than experienced by TCJs residing in Whitehorse.

75. **Whitehorse is seen by many as a desirable place to live.** Whitehorse is one of the fastest growing cities nationally, offering a northern experience while retaining many amenities of larger city centres. Incentives are not required in many other employment sectors to entice qualified individuals to relocate to Whitehorse. The payment of a Northern Allowance to judges residing in communities like Hay River AB, La Ronge SK and Meadow Lake, SK is reasonable to recruit and retain them and other essential provincial government positions. This is to account for the higher costs of goods and services and additional hardships associated with rural and remote lifestyles.

76. **The unique nature of the Yukon is already reflected in the salary.** Further, section 19(d) of the Act requires the Commission to consider the "unique nature of the Yukon." YG submits that this factor is already adequately reflected in the TCJs' salary, which at 90% of the federally-appointed judges' salaries, represents a substantial premium over many comparator jurisdictions. The 90% linkage itself was designed to account for the unique challenges and circumstances of judicial service in the Yukon. No additional allowance is required to address this factor or further compensate for living in the Yukon.

77. **Public perception of the provision of a Northern Allowance of $12,000**. In the current fiscal environment, the public would reasonably expect that all members of the territorial public service, including TCJs, be allocated salaries and benefits that reflect the current

financial state of government. It is likely that the public will perceive the allocation of a $12,000 northern allowance as excessive and unfair.

Summary on Northern Allowance

78. For the foregoing reasons, the Commissioner should not recommend the Northern Allowance being sought by the TCJs. The existing Yukon Bonus, combined with the 90% salary linkage already provides appropriate and reasonable compensation.

H. Increased Hourly Rate for Justices of the Peace

The JPs' Proposal

79. JPs have requested an increase to their hourly rates of pay based on a proportional relationship to the TCJs' base salary. In support of this view, JPs have proposed calculating the percentage relationship between JP and TCJ hourly rates in 2022, namely 23.2% for JP1s, 25.8% for JP2s, and 36.1% for JP3s.

80. The JPs originally proposed maintaining the 2022 percentage relationship indefinitely; however, after it was identified by YG that this methodology would produce a slight decrease in JP rates relative to the hourly rates actually paid to JPs in 2024, the JPs revised their proposal to instead adopt the percentage relationship that existed in 2024, rather than 2022. The revised proportional rates proposed by the JPs in January 2026 are 24.38% for JP1s, 27.09% for JP2s, and 37.93% for JP3s.

81. Applying the revised 2024 proportional rates to the minimum 2025 TCJs' base salary of $373,410 produces a minimum TCJ hourly rate of $237.09 (salary divided by 210 sitting days and 7.5 hours per day). This proposal would yield 2025 JP hourly rates of $57.80 for JP1s, $64.23 for JP2s, and $89.92 for JP3s. Applying the 2024 revised proportional rates to the maximum 2025 TCJs' base salary of $398,610 produces a minimum TCJ hourly rate of $253.09, the JP's proposal would yield 2025 hourly rates of $61.70 for JP1s, $68.56 for JP2s and $96.00 for JP3s.

YG’s Position: An Increased Hourly Rate Is Appropriate, But Should Not Be Linked to the TCJ Base Salary

82. YG agrees that a meaningful increase to JP hourly rates is warranted and proposes two options for the Commission’s consideration, each providing increases over the four years (see paragraphs 85–88 below).

83. In considering what might be reasonable and fair for hourly increases to JP hourly rates, YG looked to JP hourly rates in the NWT, which is $70 for Administrative JPs (comparable to Yukon’s JP1s and/or JP2s) and $83 for Presiding JPs (comparable to Yukon’s JP3s). The NWT JP program is the closest comparator to Yukon’s JP program given that JPs in both territories do not require law degrees, which is required of JPs by law or practice in all other jurisdictions, and because of the northern demographic.

84. YG does not view JP programs in BC, Alberta and Saskatchewan as appropriate comparators due to the qualifications required in those provinces that are not required in the Yukon for JPs, or the NWT for JPs.

85. YG also considered what the scale of increases that were applied to other YG employee groups, as it is YG’s view that other employee groups are a more suitable comparator to JPs than TCJs.

86. The counsel for the JPs has indicated that of all the active part-time JPs employed with YG, 11 are JP3s and one is a JP2. An increase to the hourly rates as proposed will have the most significant impact on JP3s.

87. Under the first option, JP hourly rates would increase by $5.00 per hour for each JP classification effective in the first year, with a further 2% increase in the fourth year, yielding total increases over the JCC mandate of 11.05% for JP1s, 10.14% for JP2s, and 7.82% for JP3s.

Option 1: Justices of the Peace Salaries - Yukon						
	JP1	Increase	JP2	Increase	JP3	Increase
2024	$ 55.26		$ 61.41		$ 85.98	
2025	$ 60.26	9.05%	$ 66.41	8.14%	$ 90.98	5.82%
2026	$ 60.26	0.00%	$ 66.41	0.00%	$ 90.98	0.00%
2027	$ 60.26	0.00%	$ 66.41	0.00%	$ 90.98	0.00%
2028	$ 61.47	2.00%	$ 67.74	2.00%	$ 92.80	2.00%
Total		**11.05%**		**10.14%**		**7.82%**

88. Under the second option, hourly rates increase in each year of the JCC mandate by amounts ranging from 1.25% to 5.22%, resulting in total percentage increases of: 11.72% for JP1s, 10.34% for JP2s, and 8.47% for JP3s, taking the JP1 rate from $55.26 to $62.00, the JP2 rate from $61.41 to $68.00, and the JP3 rate from $85.98 to $93.50 by 2028. This option was designed to address the JPs' stated preference for annual increases.

Option 2: Proposed Increases to Justices of the Peace Hourly Rates						
	JP1	Increase	JP2	Increase	JP3	Increase
2024	$ 55.26		$ 61.41		$ 85.98	
2025	$ 56.92	3.00%	$ 63.25	3.00%	$ 88.13	2.50%
2026	$ 58.20	2.25%	$ 64.68	2.25%	$ 89.89	2.00%
2027	$ 58.93	1.25%	$ 65.48	1.25%	$ 91.47	1.75%
2028	$ 62.00	5.22%	$ 68.00	3.84%	$ 93.50	2.22%
Total		**11.72%**		**10.34%**		**8.47%**

89. Notably, in both options, the JP3 hourly rate remains, and by the end of the mandate substantially exceeds, the comparable presiding JP rate of $83.00 per hour in the NWT, effective in 2025-26, the closest comparator jurisdiction. (*Justices of the Peace Act* (NWT), *Remuneration and Allowances Regulations* s. 2(1)(b); Joint Book of Documents, Tab 25).

90. YG respectfully submits, however, that it would not be appropriate nor warranted to link JP hourly rates, whether by percentage or otherwise, to the TCJs' base salary, for the following reasons.

91. First, the TCJ base salary is itself derivatively linked to 90% of the salary of federally-appointed Supreme Court of Yukon justices, which remains the subject of ongoing judicial review concerning the federal judge's own compensation. Layering a JP hourly-rate

linkage on top of the TCJ base salary linkage would create a linkage of a linkage, importing volatility from federal judicial compensation litigation that has no bearing on JP duties, workload, or the labour market for JP candidates, and would remove the ability of future Commissions to assess JP compensation on its own merits.

92. Second, in *Bodner v. Alberta*, 2005 SCC 44 (Joint Book of Documents, Tab 5, at paras. 57, 71), the Supreme Court of Canada endorsed the government's position that it was appropriate to reject a proposed link between the salaries of provincially- appointed judges and those of federally-appointed judges, recognizing that compensation for one judicial office should not be tied to that of a different office. The same reasoning applies with even greater force here: JPs are not judges, need not be lawyers, and perform a distinct statutory role, such that there is no principled basis for tying their compensation to the TCJ salary.

93. Third, this reasoning is consistent with the conclusion reached by the 2024 Saskatchewan Justice of the Peace Compensation Commission, which held that because there is no requirement for a JP to be a lawyer, and the statutory framework simply provides that "a JP is a JP," it is not appropriate to tie JP compensation to the salary of a legally-trained comparator such as Crown counsel or a judge (Joint Book of Documents Tab 24), at paragraph 183.

94. Fourth, prior Yukon JCCs have consistently set JP hourly rate increases independently of TCJ salaries, generally through a flat hourly rate increase in the first year as was the case from 2004 to 2018, whether through fixed annual percentage increases, such as the 2% per year adopted by the 2019 JCC, or through CPI-based adjustments, as adopted by the 2022 JCC for only one cycle, rather than through a percentage linkage to TCJ compensation. There is no basis to depart from this established and transparent approach. (Joint Book of Documents Tab 8), (Joint Book of Documents Tab 9).

95. Finally, YG's proposed rates remain appropriate having regard to the comparator jurisdictions identified in section 19(e) of the Act. As found by past Yukon JCCs, Yukon JP hourly rates are properly placed in relative parity with the NWT while remaining below the rates paid in BC, Alberta, and Saskatchewan, where JPs are, by law or practice, required to hold a law degree and years of legal experience that Yukon does not require.

YG's proposed increases preserve this appropriate relative positioning without introducing an unprincipled linkage to TCJ compensation.

96. YG has been made aware by both JP's counsel and the GNWT that a comprehensive review of the JP program is being undertaken; however, this ongoing review currently has no bearing on Yukon's 2025 JCC cycle.

Summary on JP Hourly Rate

97. For the foregoing reasons, YG submits that the Commission should approve a meaningful increase to JP hourly rates as proposed by YG and should decline to adopt any mechanism that links JP hourly rates, as a percentage or otherwise, to the TCJs' base salary.

I. Four-Hour Minimum for Justices of the Peace on Weekdays

The JPs' Proposal

98. The JPs propose a four-hour minimum payment for JP3s who are assigned to preside in a courtroom on a weekday, whether or not the matter proceeds, or where it proceeds but concludes in less than four hours. The proposal applies only to the JP3 classification, and has been proposed as a way to complement, rather than replace, the existing four-hour standby minimum already payable to JP3s assigned to bail hearings on weekends and designated holidays under subsection 3(3) of OIC 2025/183 that was implemented on September 11, 2025.

99. The justification offered by the JPs for a four-hour minimum payment is that in certain circumstances, JP3s who preside in courtrooms may spend portions of their day in between assigned duties and are not able to bill for that time.

100. However, the data provided by the JP3s does not meet that justification. As discussed below, when the JP3s who are presiding in court work less than 4 hours in a day, their work is contiguous. In other words, there is no evidence that JP3s must wait all day and bill less than four hours.

YG's Position: The Four-Hour Minimum Should Not Be Recommended

101. YG respectfully submits that the Commission not recommend a four-hour minimum for JPs on weekdays. This position is grounded principally in the actual hours billed by the presiding JP3 in May 2026, which counsel for the JPs provided and confirmed is generally representative of the day-to-day variability in JP3 workload, even accounting for the fact that workload varies from day to day (see Joint Book of Documents, Tabs 29 and 30).

102. The May 2026 data reflects the following hours billed by the presiding JP3 on each weekday of the month: Friday May 1 - 3.50 hours; Monday May 4 - 3.00 hours; Tuesday May 5 - 3.50 hours; Wednesday May 6 - 7.50 hours; Thursday May 7 - 3.00 hours; Friday May 8 - 3.00 hours; Monday May 11 - 5.50 hours; Tuesday May 12 - 3.50 hours; Wednesday May 13 - 6.00 hours; Thursday May 14 - 2.00 hours; Friday May 15 - 4.00 hours; Tuesday May 19 - 3.25 hours; Wednesday May 20 - 7.50 hours; Thursday May 21 - 2.00 hours; Friday May 22 - 4.00 hours; Monday May 25 - 5.00 hours; Tuesday May 26 - 3.75 hours; Wednesday May 27 - 5.00 hours; Thursday May 28 - 4.00 hours; and Friday May 29 - 5.50 hours.

103. Of the 20 weekdays reflected in this data, the presiding JP3 billed fewer than four hours on 10 separate days, precisely half of the month, with 8 of those 10 days billing more than 3 hours, demonstrating that shifts of less than four hours are not an isolated or unusual occurrence, but a routine and expected feature of the JP3 role.

104. However, on the days the JP3s bill less than four hours, their work is contiguous: i.e., they bill all the hours at one time. They do not, for example bill 2 hours in the morning and then have to wait until late afternoon to bill another 1-2 hours. Whenever they bill less than four hours, they only preside in court for less than four hours, contiguously.

105. The data also shows that the shortfall is not evenly distributed across the week. Every Tuesday sitting in the sample (May 5, 12, 19, and 26) fell below four hours, at 3.50, 3.50, 3.25, and 3.75 hours respectively, while every Wednesday sitting exceeded four hours, in some cases substantially, at 7.50, 6.00, 7.50, and 5.00 hours respectively. A four-hour minimum would therefore provide additional, unearned compensation concentrated on the lighter days of the week, while the presiding JP3 is already fully and separately

compensated, hour-for-hour, for the heavier Wednesday sittings. The proposal would skew total JP3 compensation upward without any corresponding increase in workload.

106. This variability is inherent to the structure of the role, rather than a scheduling failure that a guaranteed minimum should remedy. On Mondays and Fridays, the presiding JP3 is assigned to both courtroom and desk duties, such that time between court appearances can be, and is, filled with other JP work. On Tuesdays, Wednesdays, and Thursdays, a separate JP is assigned to desk duty, distinct from the JP3 assigned to the courtroom, meaning the presiding JP3's lighter days are not, as a matter of course, absorbed by other assigned responsibilities.

107. During weekdays/business days of Monday-Friday, to the extent that presiding JP3s have waiting time on occasions which they cannot bill, this is an issue of how the court functions and schedules. With respect, this is not a matter that should be resolved by setting a minimum amount paid to JP3s. This is different from weekends when there is an expectation JPs will not be working.

108. The existing weekend and holiday standby minimum under OIC 2025/183 was adopted by the 2022 JCC to address a specific and narrow recruitment problem. Historically, only two senior JP3s had been willing to cover weekend and holiday bail court, and by 2022 one had stepped away from the duty while the other had reached the age of 75 and could no longer provide the service, creating a pressing need to attract replacement candidates for that specific assignment. No analogous recruitment or retention crisis has been identified for ordinary weekday presiding duties, which are already covered by the Court's existing complement of JP3s.

109. Finally, on the JPs' own account, the proposal would affect only four, or perhaps five, JPs. While the number of affected individuals is accordingly small, the principle the proposal would introduce, being guaranteed pay divorced from hours actually worked for a position remunerated on an hourly basis, is significant, and should not be adopted without a clearer evidentiary showing of need than the May 2026 data, properly understood, actually provides.

Summary on Four-Hour Minimum

110. For the foregoing reasons, YG submits that the Commission decline to recommend a four-hour minimum for JPs on weekdays. The actual billing data confirms that to the extent JP3s work less than 4 hours, the hours worked are contiguous. The existing scheduling structure, not a guaranteed minimum, is the appropriate mechanism for addressing any resulting variability, pending a future efficiency review.

J. Interest on Retroactive Salary

The TCJs' and JPs' Proposal

111. The TCJs and JPs seek an order that interest at the prime lending rate be paid on all retroactive salary and hourly rate adjustments. They argue that the Government has had the "use of the money" during the period of delay in the JCC process and point to decisions in Manitoba (*Judges of the Provincial Court (Man.) v. Manitoba*, 2013 MBCA 74, Joint Book of Documents, Tab 26, at paras. 114–116, 147–148) and Newfoundland and Labrador (2021 Newfoundland and Labrador Salary and Benefits Tribunal Report (excerpt), Joint Book of Documents, Tab 28) where interest has been awarded on retroactive payments.

YG's Position: Interest Should Not Be Awarded

112. **No statutory entitlement or established practice.** There is no statutory entitlement to interest on retroactive salary or hourly rate adjustments under the *TCA* or any other Yukon legislation nor for any YG employee group. Furthermore, no prior Yukon JCC has ever recommended the payment of retroactive interest. The TCJs' and JPs' request is without precedent in this jurisdiction.

113. **The 90% linkage for TCJs' salaries provides certainty.** The 90% linkage to federal judicial salaries was specifically designed to simplify the JCC process and provide certainty to both Parties. Once federal salaries are known—which occurs on a defined schedule—the TCJ salary for each year is determinable with mathematical precision. There is no ambiguity, outside of extraordinary circumstances, about what judges will be paid. The linkage eliminates the uncertainty that might otherwise justify an interest remedy.

114. **Responsibility for delay is shared.** The delays in the JCC process were not caused solely by the Government. The TCJs and JPs themselves changed counsel during the process, and a territorial election in November 2025 intervened. The Parties share responsibility for any delays in convening and concluding the Commission's work. It would be unjust to impose an interest obligation solely on the Government when the TCJs and JPs contributed to the timeline.

115. **Interest creates a perverse incentive.** Awarding interest on retroactive salary adjustments creates a perverse incentive for Parties to delay the JCC process, knowing that interest will accrue on any eventual adjustment. This is contrary to the public interest in the timely resolution of judicial compensation matters and would undermine the efficiency objectives of the statutory scheme.

116. **The Manitoba and Newfoundland decisions are distinguishable.** The jurisdictions that have awarded interest on retroactive payments—Manitoba and Newfoundland and Labrador (Joint Book of Documents, Tab 26 and Tab 28, respectively)—did so in the context of extreme delays and in circumstances quite different from the present case. In those jurisdictions, significant and protracted government inaction resulted in multi-year delays that were clearly attributable to one party. The delay in the present case does not rise to the level seen in those jurisdictions and does not warrant the extraordinary remedy of the provision of interest.

117. **The TCJs' position is internally inconsistent.** The TCJs' own counsel has acknowledged that interest would not apply to retroactive amounts arising from the federal judicial salary review. This selective application is logically inconsistent—either the principle that TCJs are entitled to interest on delayed payments applies, or it does not. The TCJs cannot have it both ways: if the principle is sound, it should apply equally to all retroactive adjustments. The fact that the TCJs themselves carve out an exception demonstrates that the principle is not one of general application.

118. **Section 28 of the Act already provides for retroactive application.** Under section 28 of the Act, the Commission's recommendations are effective as of the date of the creation of the Commission. The Legislature has already provided the mechanism for retroactive application of salary adjustments. There is no legislative gap that requires filling with an interest remedy. The statutory framework is complete and does not contemplate interest.

Summary on Interest

119. For the foregoing reasons, YG submits that the Commission decline to recommend interest on retroactive salary payments. There is no statutory basis, no established practice, no clear attribution of delay to one party, and the statutory framework already provides for retroactive application without the need for an additional interest component.

K. Discontinuation of the Deputy Judges' Medical Insurance Stipend

120. The current medical insurance stipend for Deputy Judges originated as a joint submission to the 2019 JCC. Under the current arrangement, the Government provides a once-annual stipend of $220.00 to a Deputy Judge attending the Yukon, to cover the cost of medical insurance during travel to and from the Yukon and while working in the Yukon; a Deputy Judge who chooses not to purchase medical insurance or may not need it may keep the payment.

121. Although the stipend was originally intended to be paid to each Deputy Judge, the practice evolved such that it has been paid only on request.

122. In practice, there was only one year where the Government provided the stipend to Deputy Judges for medical insurance coverage. In 2022-23, $3,740 was provided by Government which amounts to 17 payments of $220 to Deputy Judges. No per diems for this purpose have been paid for since.

123. YG supports the discontinuation of this stipend. There is no evidence that any current or prospective Deputy Judge lacks medical insurance coverage or would be unable to obtain it, and the stipend, in its current rarely-used form, no longer serves any demonstrated purpose. Continuing to maintain a standing compensation entitlement that has been accessed in only one fiscal year is not consistent with prudent fiscal stewardship.

124. Counsel for the Judges has proposed that the stipend nonetheless remain available in the rare circumstances it is requested but has not identified any Deputy Judge who currently lacks coverage or any concrete circumstance in which the stipend would likely be claimed going forward. In the absence of such evidence, retaining the stipend serves no practical function and its discontinuation is appropriate.

125. YG's support for discontinuation reflects sound stewardship of public funds under section 19(a) of the Act and does not diminish the actual compensation received by any sitting Deputy Judge, since the stipend was designed as a targeted reimbursement mechanism for a specific and, on the evidence, now largely theoretical need, rather than as a general form of Deputy Judge compensation.

Summary on Medical Insurance Stipend

126. YG respectfully requests that the Commission approve the discontinuation of the Deputy Judges' medical insurance stipend.

L. Realignment of Benefits of the Senior Presiding Justice of the Peace Position

127. YG proposes discontinuing the educational leave benefit and realigning the vacation and pension benefits associated with the salaried Senior Presiding Justice of the Peace position as part of this 2025 JCC process. This position has been vacant since 2014 and it is timely to realign the benefits while the position remains vacant.

128. YG's rationale for this proposal is because the benefits associated with this position are more generous than any other JP position across Canada, which was acknowledged and recognized in previous JCC reports at the time.

129. The Senior Presiding Justice of the Peace receives the pension benefit, travel allowance, educational leave, medical benefit, an incidental expense allowance for professional expenditures, and vacation benefit of 35 days annually. These are the same benefits of TCJs. Like other JPs in the Yukon, this position does not require a law degree and a position that lacks that training/credentials does not need to be remunerated in a fashion comparable to a TCJ.

130. Counsel for the TCJs and JPs has proposed that no action be taken on this issue at this time, pending an analysis of the position that would build on a review of the JP program currently underway in the NWT.

131. Government is of the view that the review being undertaken of the NWT JP program has no bearing on the compensation provided to Yukon's Senior Presiding Justice of the Peace, particularly given that position has been vacant for over a decade.

132. YG respectfully submits that deferral on this basis is not warranted. The Commission is required to consider matters in light of prevailing circumstances at the time of each periodic review, consistent with the constitutional purpose identified in the PEI Reference Case of ensuring remuneration does not remain frozen or misaligned between reviews. Deferring the realignment to the next JCC would leave an issue that both Parties agree warrants attention unresolved for up to another four years, with no corresponding benefit to either Party.

133. YG's position is that the education benefit should be eliminated and the vacation and pension benefits should be realigned to match what the management group at YG receive, rather than aligned with what the TCJs receive. Currently, the Senior Presiding Justice of the Peace is eligible to receive up to one month of paid educational leave annually, 35 days of vacation leave per year and participates in the Territorial Court Judiciary Pension Plan.

134. Because YG affirmatively supports the realignment, proceeding now imposes no prejudice on the JPs; deferral serves only to postpone a change that is not, in substance, contested.

Summary on Realignment of Benefits for Senior Presiding Justice of the Peace Position

135. YG respectfully requests that the Commission approve the realignment of the benefits of the Senior Presiding Justice of the Peace position as part of this 2025 JCC process, rather than deferring the issue to a future Commission.

IV. Section 19 Analysis and Conclusion

136. In conclusion, YG respectfully submits that its positions on each of the disputed issues are consistent with and supported by the factors enumerated in section 19 of the Act.

A. Current Financial Position of the Government (s. 19(a))

137. The Government is projecting a record deficit of $81.8 million in 2026-27 and has sought to increase its borrowing capacity from $1.2 billion to $3 billion. Net debt is estimated at $804,237,000 (Joint Book of Documents, Tab 10C).

138. YG has indicated "tough decisions" will be required to restore balance. In the current fiscal year, YG has implemented it's Path to Balance which is a responsible spending initiative to address the deficit. In support of equality, fiscal restraint should be exercised across all employee groups, including TCJs and JPs (Joint Book of Documents, Tab 10 – Priemer's tabling of the 2026-27 budget speech).

139. The Premier's 2026-27 Budget Speech indicates that "the Yukon is in a period of significant financial pressure" and that the territory's debt level has almost been reached, without the security of sufficient revenue to continue the pattern of spending (Joint Book of Documents, Tab 10). The Government maintained this narrative throughout the spring 2026 sitting of the Legislative Assembly.

140. The 2026-27 Economic Outlook indicates that the territory's economy is entering a period of slower growth and heightened uncertainty. While Yukon has benefitted from population growth, strong public sector investment and a resilient labour market, the territory faces ongoing risks from global economic conditions, labour shortages and uncertainty in the mining sector, suggesting a more constrained fiscal environment necessitating prudent financial management (Joint Book of Documents, Tab 10D).

141. The Yukon Bureau of Statistics projects population growth at a rate of 1.9% each year between 2026 and 2029, bringing the total population to 50,800[9]. Between 2015 and 2025, Yukon's population has increased by 9,760 people, or 25.9%[10]. While this growth results in additional revenues, it also puts pressure on Government's capacity to address matters such as housing, childcare, health care, public safety and policing in a context of increasing operating costs.

[9] https://yukon.ca/sites/default/files/2025-11/fin-population-report-q2-2025.pdf
[10] https://yukon.ca/sites/default/files/2025-11/fin-population-report-q2-2025.pdf

142. According to the 2026-27 Economic Outlook, key economic indicators show a -2.5% change in GDP in 2024 and a 0.6% change forecast for 2025. Inflation remains low in 2025 at 3.2%, is forecasted to be low in 2026 at 3.0% and 2027 to 2029 at 2.0% (Joint Book of Documents, Tab 12).

143. While the Government's financial position is stable, and it has maintained its AA credit rating provided by S&P Global Ratings, prudent fiscal management is the priority.

144. The Government bears responsibility for the stewardship of public funds and must balance the compensation of a small number of judicial officers against the broader needs of Yukoners. Awarding a $12,000 Northern Allowance, an 87% increase in the Chief Judge’s stipend/differential, a near-doubling of the Supervising Judge stipend/differential, and interest on retroactive payments would collectively represent a significant and unjustified increase in expenditures on the TCJs, a group who is already receiving the highest remuneration in Government and third highest nationally.

145. Similarly, discontinuing the Deputy Judges’ medical insurance stipend, which has had no active claimant for some time and declining to introduce a four-hour minimum that would provide payment for hours not worked reflect the same prudent approach to the stewardship of public funds.

B. Reasonable Compensation (s. 19(b))

146. The TCJs are already well-compensated. At $373,410 to $398,610 in 2025-26 and $386,100 to $411,300.00 in 2026-27, their salaries exceed those of judges in BC, Alberta and the NWT, and are comparable to Saskatchewan. The 90% linkage to federal salaries ensures that TCJ compensation remains at a generous and appropriate level. YG's positions on the disputed issues do not compromise the adequacy of the TCJ compensation; rather, they maintain it at a level that is reasonable in all the circumstances.

147. The same is true of the JPs. YG’s proposed hourly rate increases, ranging up to a total of 11.72% for JP1s, 10.34% for JP2s, and 8.47% for JP3s over the JCC mandate, represent reasonable compensation without the need to link JP rates to the TCJ base salary. These increases also align, and in some years exceed, increases applied to other employee

groups, which YG views as comparators to JPs rather than compensation provided to TCJs.

C. Attracting Qualified Applicants (s. 19(c))

148. There is no evidence before the Commission that the current compensation package has created any difficulty in attracting qualified applicants to the Yukon Territorial Court. The existing salary, which places TCJs among the highest-paid provincial and territorial court judges in Canada, is more than sufficient to attract outstanding candidates. No additional allowance or increase is required to serve this objective.

149. Likewise, there is no evidence that the Territorial Court has experienced difficulty attracting or retaining Justices of the Peace at the rates currently paid, or that would be paid under YG's proposed increases; the only historical recruitment difficulty for JPs identified in this record related narrowly to weekend and holiday bail coverage, which has already been addressed through the existing weekend and holiday standby minimum as recommended in the 2022 JCC process.

D. Unique Nature of the Yukon (s. 19(d))

150. The unique nature of the Yukon is already adequately reflected in the 90% linkage to federal judges' salaries, which produces compensation well above most comparator jurisdictions. The Yukon Bonus of $2,242—received by all Government employees—provides additional recognition of the expenses related to northern travel costs. No further allowance is necessary to account for this factor or the costs of northern living in general.

E. Compensation in Comparator Jurisdictions (s. 19(e))

151. As demonstrated throughout this submission, Yukon TCJ compensation already exceeds or is comparable to that in the comparator jurisdictions of BC, Alberta, NWT and Saskatchewan. YG's proposals on each of the disputed issues maintain Yukon's competitive position without pushing total compensation to levels that are disproportionate to comparators or that risk exceeding the statutory cap in section 17(2).

152. The same holds true for the JPs: YG's proposed hourly rates keep Yukon JPs in relative parity with, and ultimately ahead of, the comparable NWT's rates, while remaining

appropriately below the rates paid in BC, Alberta, and Saskatchewan, where legal training is required.

F. Laws of the Yukon (s.19(f))

153. Paragraph 19(f) of the Act requires the Commissioner to consider submissions made to it on the laws of the Yukon.

154. The 2019 JCC noted at paragraph 172 noted was necessary to take appropriate account of the laws of the Yukon generally and in particular as they relate to the Judges interpreting and applying the laws. The latter aspect relates to the Judges' workload.

155. The Government acknowledges that the Territorial Court hears a broad range of matters which require TCJs to be familiar with numerous laws.

156. In her 2025 report, the Commissioner reviewed the laws of the Yukon at length and concluded at paragraph 135 of her report that considering the number, nature and complexity of the laws that the TCJs must interpret and apply, and generally considering the laws of the Yukon in effect, the joint submission on remuneration (which was to link the TCJs salaries to 90% of federal-appointed judges) is appropriate, reasonable, and logical in the circumstances.

157. The Government agrees with the conclusion of the Commissioner in 2025: the linkage of the TCJs salaries to 90% of federally-appointed judges provides adequate compensation in the circumstances.

G. Cost of Living (s. 19(g))

158. The CPI for Whitehorse was 3.2% in 2025, reflecting a modest cost-of-living increase that is already addressed through the 90% linkage to annually adjusted federal salaries. The TCJs' proposals—particularly the $12,000 Northern Allowance and the proposal to nearly double of TCJ stipends—far outstrip any cost-of-living rationale and cannot be justified by reference to this factor.

159. The modest 2025 CPI figure for Whitehorse likewise does not support a four-hour minimum untethered to hours actually worked, nor does it support linking JP hourly rates to a TCJ salary that is, in turn, subject to unrelated federal litigation.

H. Overall Conclusion

160. Applying the test from *Cameron v. Yukon*, 2011 YKSC 35 (Joint Book of Documents, Tab 6, at paras. 100, 104), YG submits that the positions advanced by the Government on each of the disputed matters are "appropriate, reasonable, and logical in the circumstances." Specifically:

(a) The Chief Judge differential should be set at 6%, which appropriately reflects the administrative responsibilities of overseeing a court with two other TCJs and is consistent with comparator jurisdictions of similar size, such as PEI;

(b) The Supervising Judge stipend should be maintained at $7,500, given the recent 2022 increase, the absence of any material change in duties, the lack of a comparable role in the NWT, and the importance of preserving periodic review rather than automatic percentage-based escalation;

(c) The Northern Allowance should be rejected because the existing Yukon Bonus and the generous 90% salary linkage already account for northern living conditions, and TCJ salaries already exceed most comparator jurisdictions;

(d) An increase to JP hourly rates should be approved in accordance with YG’s proposal, without linking those rates to the TCJ base salary because a derivative linkage would import volatility unrelated to JP duties and is inconsistent with the reasoning in *Bodner v. Alberta*;

(e) A four-hour minimum for JPs on weekdays should not be granted because the May 2026 billing data confirms that shifts of under four hours are a routine, not exceptional, feature of the JP3 role;

(f) Interest on retroactive salaries and hourly rates should not be awarded because there is no statutory basis or established practice, responsibility for delay is shared by the Parties, the 90% salary linkage provides certainty, and the statutory framework already provides for retroactive application;

(g) The Deputy Judges' medical insurance stipend should be discontinued because there is no evidence that any current or prospective Deputy Judge lacks medical insurance coverage or would be unable to obtain it, and the stipend, in its current rarely-used form, no longer serves any demonstrated purpose.

(h) The realignment of the Senior Presiding JP position's benefits should proceed now, rather than being deferred pending an unrelated and independent NWT review.

161. YG respectfully requests that the Commission adopt the Government's positions on each of the disputed issues.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: July 17, 2026

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Schedule 1

Government of Yukon's Summary of Matters for Consideration by the 2025 Judicial Compensation Commission

The Government of Yukon (YG) and the Territorial Court Judges (TCJ) / Justices of the Peace (JPs) agree on the following matters:		
Increase in TCJ's Salary		
The 90% linkage of the TCJ salaries to the salaries of the federally-appointed judges for the four-year term of the 2025 JCC.		
Increase in the Deputy Judge Per Diem Formula Rate of TCJ Base Salary		
Increased Deputy Judge per diem rate calculated as a portion of TCJ base salary for each of the four years as follows: 2025-26 = 1/235, 2026-27 = 1/225, 2027-28 = 1/219 and 2028-29 = 1/210.		
Increase in the Judicial Allowance		
The judicial allowance to be increased from $3,000 to $4,700.		
Increased Compensation for the Chief Judge Based on a Percentage of the TCJ Base Salary		
The stipend for the Chief Judge is to be provided annually as a percentage of TCJ base salary rather than a flat rate of $15,000. The percentage is not agreed to by the Parties.		
The Parties do not agree on the following matters:		
	TCJ's / JP's Proposal	**YG's Proposal**
Appropriate Percentage Differential for Chief Judge	7.5% of TCJ base salary	6% of TCJ base salary
Appropriate Compensation for the Supervising Judge	3.75% of TCJ base salary	Maintain existing $7,500 annual stipend
Northern Allowance for Judges	Annual allowance of $12,000 in lieu of the Yukon Bonus of $2,242	No annual Northern Allowance of $12,000. Maintain Yukon Bonus of $2,242

Increased Hourly Rates for JPs	JP hourly rates linked as a percentage of TCJ base salary	Increased JP hourly rates as provided in one of two options proposed. No link in hourly rates as a percentage of TCJ base salary
Four-hour Minimum for Presiding JPs Assigned to Court	Four-hour minimum pay for JP3s assigned to preside in Court on weekdays	Continue to pay for hours worked. No four-hour minimum pay during business hours on weekdays
Interest on retroactive salary and hourly rate payments	Interest to be paid on retroactive salary and hourly rate payments based on prime rate No interest required for adjustments this JCC due to the judicial review of federal judges' salaries	No interest should be paid on retroactive salary and hourly rate payments
Discontinuance of the Deputy Judge's Annual Medical Insurance Stipend of $220	Continue the stipend	Discontinue the stipend
Realignment of the Benefits of the Senior Presiding Justice of the Peace position	Defer	While the position continues to remain vacant (since 2014), realign the benefits for this position to that appropriate for a JP rather than mirroring TCJ benefits