

## **8. RECOMMENDATIONS:**

The following are the Commission's recommendations. It is understood that, pursuant to s. 4(2) of the Commission Regulation, the effective date of our recommendations, unless otherwise stated, is April 1, 2013. Accordingly, all JP's who were in office for any period of time after the effective date of the recommendation will receive the benefit of the recommendation, even if they leave office prior to its implementation.

**(a) Salaries:** The salaries for full-time JP's be set as follows:

- (i) April 1, 2013 to March 31, 2014-**\$144,830** (increase of **3.5%**)
- (ii) April 1, 2014 to March 31, 2015-**\$148,089** (increase of **2.25%**)
- (iii) April 1, 2015 to March 31, 2016-**\$150,310** (increase of **1.50%**)
- (iv) April 1, 2016 to March 31, 2017-**\$151,813** (increase of **1.00%**)

### **(b) Christmas Closure Days**

As noted in the Society's submissions, Government employees starting in 2014 have not been scheduled to work on the days between Christmas and New Year's Day because Government offices are closed. The number of days Government offices as well as the Provincial Courts are closed during this time varies between 2 and 3 days each year, depending on which day Christmas Day falls in a given year. We agree with the position of the GOA and the Society that the same paid holiday policy which has

been applied to provincial employees with respect to Christmas closure days should be applied retroactively starting in 2014 to JP's.

The Society specifically requests that those full-time JP's who had to take vacation days in order not to work any of the past Christmas closure days since 2014 should be re-credited with the equivalent number of vacation days. For the years 2014 and 2015 only, however, the Society also takes the position that those full-time JP's who did work Christmas closure days should have the choice of taking either a vacation day off in lieu of each Christmas closure day worked or to be paid an amount equal to one day's salary, plus the holiday shift differential, for each Christmas closure day worked.

The GOA agrees with the Society's position with the exception that full-time JP's who worked Christmas closure days in 2014 and 2015 should be paid out for those Christmas closure days, but not have the option of taking vacation days in lieu of payment for those Christmas closure days. The GOA is also in agreement with treating the Christmas Closure days as holidays for the purpose of paying holiday shift premiums, but only to part-time JP's and not to full-time JP's.

In recognition of the time that has transpired since Christmas closure days were first introduced in 2014, and given the ongoing delays in this process, it is our view that those full-time JP's who accepted to work on Christmas closure days-a time when other government employees and judges were off work on vacation-be entitled at their option to a day off in lieu or to one day's salary for those Christmas closure days. Those JP's

who were obliged to use their vacation time in order not to have to work the Christmas closure days beginning in 2014 should be re-credited with the appropriate number of vacation days for those years. The applicable holiday shift premiums should also apply to part-time JP's who worked on those Christmas closure days and to those full-time JPs' who elect to take salary for the years 2014 and 2015 instead of a day off in lieu. In summary, we recommend:

- Effective December 2014, "Christmas Closure" days shall be considered to be paid holidays for full-time JP's, who shall not be scheduled to work on a Christmas Closure day unless he or she agrees to do so. If a full-time JP does work on a Christmas Closure day, he or she shall receive a day off in lieu for each day Christmas Closure day worked without reduction in pay.
- Effective December 2014, Christmas Closure days shall be considered to be a Holiday for the purpose of the relevant shift differential payments payable to part-time or full-time shifts on a Christmas Closure day.
- Notwithstanding the foregoing, for 2014 and 2015, full-time JP's shall be compensated, at their option, with a day off in lieu of each Christmas Closure day they worked or paid an amount equal to one day's salary (plus the shift differentials) at the new salary rate. Full-time JP's who were obliged to use their vacation time to be absent from work on Christmas Closure days in 2014 and 2015 shall be re-credited the appropriate number of vacation days.

**(c) Per Diem:** The per diem amount payable to part-time JP's shall be calculated annually starting on April 1, 2014 and ending March 31, 2017 according to the following formula:

Full-time JP salary + 13.1% per cent (in lieu of pension)  
+20% for office and overhead supplement) + \$5,000 (benefits)

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215.25

The Commission accepts the Society's submission that the previous working days of 218 should be adjusted to reflect the reoccurring "Christmas Closure Days", which were instituted in December 2014. The Christmas Closure Days fluctuate during the period between Christmas and New Years' from year to year. The average is 2.75 days over a 20 year period. Rather than have a fluctuating denominator, the Commission agrees that it is appropriate to reduce the denominator by 2.75 days from the current 218 days to 215.25 days.

**(d) Shift Differentials:** The shift differentials payable for the weekday evening; weekend day and evening; and holiday day and evening shifts, shall be increased on an annual basis starting April 1, 2013 according to the percentage increases set out in 8(a) above.

The shift differentials for night shifts on weekdays, weekends, and holidays shall also increase on an annual basis starting on April 1, 2013 according to the percentage increases set out in 8(a). In addition, there shall be a further one-time adjustment increase of \$25.00 as of April 1, 2013. The increases thereafter starting on April 1, 2014 will be equal to the annual percentage increases for salaries.

Accordingly, the shift differentials shall be as they appear on the following page:

		Existing	Effective April 1, 2013 (3.5 % +\$25)	Effective April 1,2014 (2.25%)	Effective April 1, 2015 (1.5%)	Effective April 1, 2016 (1.0%)
<b>Weekday</b>	<b>evening</b>	\$50.00	\$51.75	\$52.91	\$ 53.71	\$54.25
	<b>night</b>	\$100.00	\$128.50	\$131.39	\$133.36	\$134.69
<b>Weekend</b>	<b>day</b>	\$50.00	\$51.75	\$52.91	\$53.71	\$54.24
	<b>evening</b>	\$76.00	\$78.66	\$80.43	\$81.64	\$82.45
	<b>night</b>	\$150.00	\$180.25	\$184.31	\$187.07	\$188.94
<b>Holiday</b>	<b>day</b>	\$76.00	\$78.66	\$80.43	\$81.64	\$82.45
	<b>evening</b>	\$100.00	\$103.50	\$105.83	\$107.42	\$108.49
	<b>night</b>	\$200.00	\$232.00	\$237.22	\$240.78	\$243.19

We also accept and recommend the joint position of the GOA and the Society that the Friday 7:00 p.m. to 3:00 a.m. shift should be treated as a weekend shift for shift differential purposes.

**(e) Professional Allowances:** Effective April 1, 2016, the annual professional allowance shall increase from \$2000 to \$3500. This recommendation shall apply to all full-time and part-time JP's as of April 1, 2016 and those who were appointed JP's afterwards. The professional allowance shall cover items mentioned in the 2009 JPCC such as conferences, books, memberships and home security systems. The JP's shall

have until March 31, 2018 to spend the additional portion of the allowance of \$1500 (for the fiscal year April 1, 2016 to March 31, 2017).

With respect to carrying over expenses from year to year, we acknowledge the point made by Ms. Smith on behalf of the GOA that carryovers beyond two years become problematic for administrative reasons. Accordingly, we recommend that professional allowances for each fiscal year be spent within two years starting with the year it was allocated. For example, if a JP spends \$2000 of his or her \$3500 allowance for the fiscal year April 1, 2016 to March 31, 2017, they must spend the balance of \$1500 no later than the end of the next fiscal year, March 31, 2018.

**(f) Education Days for Part-time JP's:** Full-time JP's are entitled to education leave of up to 10 days per year, six of which are arranged by the Provincial Court of Alberta. It is in the public interest that members of the judiciary be encouraged to attend legal educational conferences in the same way lawyers are required to demonstrate they keep abreast of the law by attending organized legal education events. As Judge McLellan noted in her brief, for example, the recent Federal Bill C-13 made important changes to the Criminal Code regarding warrants. The Commission recommends that part-time JP's, like their full-time colleagues, be paid their per diem when they attend judicial education events such as those organized annually by the Provincial Court.

**(g) Judicial Attire:** The GOA points out that there is no real dispute in this area as it has been paying for judicial attire during this mandate period and agrees with the effective date of May 1, 2014. The Commission recommends the following proposal of

the Society with respect to replacement of attire (with the exception of ad-hoc JP's who, as counsel for the GOA pointed out, are only appointed for one-year terms):

- Effective May 1, 2014, each newly appointed JP shall receive a set of judicial attire consisting of 1 gown, 1 waistcoat, 3 shirts, 3 tabs and 2 of each skirts or pants.
- Each JP shall thereafter receive a new robe and waistcoat when reasonable and necessary or after 5 years, except that a new robe and waistcoat will not be provided if that JP's tenure is ending within 12 months. In the event a JP is reappointed, that JP is entitled to a new robe and waistcoat in accordance with the foregoing as if his or her tenure was uninterrupted;
- Effective May 1, 2014, the Government will compensate JPs for reasonable costs of repairs to robes or provide for repairs when reasonably necessary and shall also pay the costs of dry-cleaning judicial attire;
- Any JP who, subsequent to May 1, 2014, has paid for judicial attire either personally or through his or her professional allowance shall be reimbursed or have his or her professional allowance replenished by the amount spent on judicial attire, as the case may be. We would add that a JP who is no longer sitting and had not purchased judicial attire since May 1, 2014 shall not receive any form of reimbursement.

**(h) Judicial Indemnity:** The issue of judicial indemnity is of ongoing concern to the Society. It is an issue that was first raised by the Society in the 2013 Judicial Compensation Commission involving the judges of the Provincial Court of Alberta. It is our understanding that it is still an unresolved issue arising from the 2013 JCC proceedings.

The GOA indicated in their oral submissions that it does agree to provide an indemnity to protect JP's from legal proceedings but it requires a Regulation under the *Financial*

*Administration Act* empowering the Minister of Justice to formally do so. A proposed draft Regulation is found in the Recommendations of the 2013 JCC as Schedule “A”. The GOA and the Society have also agreed to a form of Judicial Indemnity for the JP’s in these proceedings, a copy of which is attached as Appendix “A”.

Counsel for the GOA assures the Society and our Commission that it would take steps to defend a JP should such an occasion arise. We have no doubt that the GOA would abide by that commitment. With that clear undertaking, and despite the time that has elapsed since the last Commission, we are reluctant to make any retroactive legislative recommendations regarding this issue.

We are hard-pressed nevertheless to see the reasons for any further delay, particularly given that the GOA and the Society have jointly proposed the provisions to be incorporated in the Indemnity. Accordingly, we recommend the adoption of the Indemnity agreed to between the parties, as per the attached Appendix “A”, to be adopted by October 1, 2017.

**(i) Administrative JP Differential:** The GOA agrees with the Society’s proposal to pay an additional 5% of a full-time JP’s salary to administrative JP’s. In order to assure fairness to those who have been designated as Administrative JP’s in the past, we agree with the Society and recommend that the increase should also apply to any JP who has served as an Administrative JP throughout any part of those years beginning on April 1, 2013. If a JP has served as an Administrative JP for only a part of a year, the



JP will be only paid a pro-rated amount of the differential for the relevant part of the year they occupied the Administrative JP position.

**(j) Ad Hoc JP's:** As noted in the GOA's submission, the *Justices of the Peace Act* was amended in 2011 to permit the appointment of Ad Hoc JP's. The GOA agrees with the Society that Ad Hoc JP's should be paid like part-time JP's. We recommend that Ad Hoc JPs' should be paid like other part-time JP's, including having access to a professional allowance.

**(k) Travel and Subsistence Expenses:** It is our understanding from the GOA that the reimbursement of expenses for any person connected with the justice system-whether that individual is a Provincial Court Judge, JP or a Deputy Minister-are treated the same way and all are subject to the same Expenses Policy<sup>10</sup>. This policy is administered by individual Government Departments. Directives and other expense updates are provided to each Department as required, including to the Department of Justice and Solicitor General. We view this as an appropriate administrative arrangement which should not disadvantage JP's when seeking reimbursement of their travel and subsistence expenses. We therefore recommend that the GOA's travel and subsistence expense claims be administered through the Department of Justice and Solicitor General. This recommendation is not retroactive and shall be effective only as at the date of its implementation.

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<sup>10</sup> See Table 13 of GOA Documents: Travel, Meal and Hospitality Expenses Policy (November 18, 2015)

**(l) On-Call:** This proposal of the GOA was withdrawn during the course of the Commission Hearing on January 20, 2017.

## **9. CONCLUSION**

The panel wishes to express our thanks to both counsel for their efforts in producing thorough briefs for our review in advance of the Commission hearing, as well as their helpful and articulate oral presentations at the hearing on January 19, 20, 2017. We also wish to thank the Honourable Deputy Chief Judge and Coordinator of the Justice of the Peace Program, Lillian K. McLellan, for taking the time to attend the Hearing and to speak to her submission. Finally, we wish to express our thanks to Ms. Cindy Bentz, Legal Counsel Legal and Legislative Initiatives, Alberta Justice and Solicitor General, for her administrative assistance from the outset of this process.

Respectfully submitted,



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**July 26, 2017**