

# LETTER OF UNDERSTANDING

on the process for Judicial Compensation Commissions among the Government of Yukon, the Yukon Territorial Court Judges, the Senior Presiding Justice of the Peace, and the Justice of the Peace Association.

## 1.0 Definitions

"JCC" means a Judicial Compensation Commission as defined in the *Territorial Court Act* and may mean a single commissioner or three commissioners, depending on the context;

"parties" means the Government of Yukon, the Yukon Territorial Court Judges, the Senior Presiding Justice of the Peace and the Justice of the Peace Association;

"Yukon" means the Government of Yukon;

"Act" means the *Territorial Court Act*; and

"representation costs" means lawyer's fees and disbursements.

## 2.0 Background

As a result of previous JCC experiences and their related high costs, the parties agreed to explore an informal JCC procedure that is consistent with the principles referred to in the *Act*.

## 3.0 Purpose

The purpose of this Letter of Understanding is to establish such an informal procedure that will apply to the establishment and conduct of a JCC.

If, with respect to the establishment and conduct of a particular JCC the informal procedure proves unworkable, the formal procedure established by the *Act* applies.

## 4.0 Principles

The parties agree to the following principles:

- 4.1 The JCC procedure should be cost effective, involving minimal use of legal counsel and proceeding by way of consensus whenever possible.
- 4.2 Based on previous experience, the parties recognize that unexpected delays can occur and agree that no party should benefit from this.
- 4.3 Cost effectiveness can be achieved by the parties in a number of ways, including but not limited to the following.

- 4.3.1 The parties will identify outstanding issues at an early stage of the proceedings.
- 4.3.2 The parties will agree at an early stage on the information (reports, data, etc) to be provided to the JCC.
- 4.3.3 If a consultant is required to provide advice or a report on an issue, the parties will make every attempt to agree on one consultant who will be the JCC's witness.
- 4.3.4 The parties will make full disclosure of all relevant information.

## **5.0 Single Commissioner**

Unless otherwise agreed, the parties will make every attempt to agree on a single commissioner, preferably one with mediation experience.

## **6.0 Effective Date of JCC Recommendations**

The recommendations of a JCC will be effective April 1st, of the year in which the JCC is established.

## **7.0 Summary Process**

The parties agree on the following summary process for the establishment and conduct of a JCC:

- 7.1 By November 30 of the year preceding the JCC, the parties will identify an individual or individuals (representatives) who have authority to make decisions on their behalf.
- 7.2 By December 31 the representatives will generate a list of possible commissioners with a view to agreeing on a single commissioner for the JCC.
- 7.3 By January 31 of the JCC year, the parties will agree on a single commissioner, and Yukon will proceed with the appointment of this individual in accordance with the Act.
- 7.4 Between January and March, the representatives will meet in order to disclose information (reports and data) and identify the issues they believe will be relevant to the JCC process.

- 7.5 The representatives will identify any additional information that should be obtained and how it should be obtained. This may include a discussion about the use of outside consultants. All relevant information obtained by one representative must be disclosed to the others, whether it is intended to be relied upon or not.
- 7.6 By May 31 the parties will advise each other of their position and rationale on issues they intend to put to the JCC. Each party will endeavor to provide its written response as quickly as possible.
- 7.7 By August 31, the representatives will meet with a view to identifying common ground and exploring the possibility of joint submissions on agreed upon issues.
- 7.8 During September, the JCC will convene to informally address any outstanding issues among the parties.
- 7.9 If agreement on outstanding issues cannot be reached informally, then a formal hearing will be conducted as and when directed by the JCC.
- 7.10 By mutual agreement, the parties may change the dates set out in this section.

#### 8.0 Costs

- 8.1 With the exception of representation costs and subject to an appropriation by the Legislature, one hundred percent of the reasonable summary process costs for all of the parties will be paid by Yukon.
- 8.2 Subject to an appropriation by the Legislature, Yukon agrees to pay one hundred percent of the combined reasonable representation costs of the Territorial Court Judges, Senior Justice of the Peace and the Justice of the Peace Association related to a JCC up to a maximum of \$50,000 (fifty thousand dollars).
- 8.3 If these representation costs exceed \$50,000, the remainder shall be paid in accordance with the formula set out in the Act.

#### 9.0 Modification or Termination

- 9.1 By agreement of the parties, the informal procedure set out in this letter with respect to the establishment and conduct of a JCC may be modified.
- 9.2 This Letter of Understanding may be terminated by any party, with written notice to all other parties at least twelve (12) months prior to the date of the intended termination.

D Cooley

Dennis Cooley, Deputy Minister of Justice  
On behalf of Yukon

Jan. 13, 2005  
Date

Heino Lilles

Chief Judge Heino Lilles  
On behalf of the Territorial Court Judges

January 12, 2005  
Date

A Cameron

Dean Cameron, Senior Presiding Justice of the Peace

Jan 12-05  
Date

[Signature]

Justice of the Peace Gary Burgess  
On behalf of the Justice of the Peace Association

Jan 13/05  
Date