



**Reply Submission of the  
Judicial Justices Association of British Columbia  
Compensation Commission 2016**

**June 30, 2016**

## A. Introduction

- [1] The Judicial Justices Association of British Columbia (the "Association") makes the following submission in response to the Submissions of the Government of British Columbia dated June 14, 2016 and June 23, 2016.
- [2] The Association respectfully submits that the Government's submission does not support the recommendations that it is making to this Commission. Nor does the Government's submission have sufficient regard to the findings reached by previous Commissions or to the principles applicable to the determination of judicial compensation enunciated in the relevant case authorities.
- [3] Government has taken the position that modest increases to the existing compensation for Judicial Justices are reasonable. In doing so, the Government has failed to provide valid reasons in support of that contention, but instead relies on considerations that are not appropriate or relevant to the determination of judicial compensation.

## B. Assessment of Reasonable Compensation

- [4] Prior Commission reports provide context to the assessment of reasonableness of compensation in determining where Judicial Justices should fit within the judicial hierarchy in terms of financial security.
- [5] The Government states at paragraph 75 of its submission that because there has been a change in legislative criteria for the Commission to consider under the *Judicial Compensation Act* (the "*Act*"), this Commission is not bound by the recommendations of prior Commissions. However, the Government goes on to recognize the importance of the general principles articulated in *Bodner* and *PEI Reference* and does in fact consider previous Commission recommendations. The Association submits that despite the change in enumerated compensation criteria under the *Act*, the overall objectives of these criteria remain the same – to assist the Commission in determining what is reasonable compensation for Judicial Justices. As noted by the Government in its submissions at paragraph 8,

the six current statutory criteria can really be grouped into three “themes”, and these “themes” are equally applicable to previous statutory criteria applied by prior Commissions. Therefore the Association submits that recommendations made by prior Commissions are of fundamental importance and significance to this Commission and must be taken account of.

- [6] According to the Government’s submission, Provincial Court Judges currently receive an annual salary of \$244,112. Thus, even taking into account the increase to Judicial Justices salary resulting from the facilitated discussions recently concluded, Judicial Justices enter this Commission process with an annual salary equal to only 45% of that of a Provincial Court Judge. In its initial submission, the Association pointed out that the relationship of compensation with Provincial Court Judges was as high as 65% in 1978 and 62% in 1991, but has steadily fallen since that time.
  
- [7] The Association has submitted that this Commission should recommend the base full time salary for a Judicial Justice be increased to \$125,000 as of April 1, 2017<sup>1</sup>, with 2-3% increases for each year of the Commission’s mandate thereafter. This would bring the base salary of a Judicial Justice closer to 50% of that of a Provincial Court Judge<sup>2</sup>, which the Association submits is a more appropriate reflection of the two roles than is reflected by the current wage gap.
  
- [8] If the Government’s recommendation of a 1.5% increase is accepted, then the *gap* between annual salary of Judicial Justices and Provincial Court Justices would remain at 55% over the term of this Commission’s mandate. Consideration of whether the relationship that currently exists, and the 45% that would exist if the Government’s salary recommendation was accepted, is reasonable can be informed by prior Commission reports.

---

<sup>1</sup> An increase of approximately 14% using \$110,249 as the base.

<sup>2</sup> Subject of course to changes to annual salary for Provincial Court Judges arising from this Commission process.



[9] In 2002, the Hughes Commission noted, at page xxi, that:

In 1989, the salary for a sitting Justice of the Peace was set at a figure that was 61% of a Provincial Court Judge's salary. That approximate ratio was maintained for about 5 years. It dropped below 50% in 1999 and to a low of 44-45% in 2001 and 2002.

[10] With respect to that relationship, the Commission held at page xxx:

The relationship between the roles of Provincial Court Judge and Judicial Justice of the Peace leads the Committee to the view that it is unreasonable to pay a JJP a salary that is 45 or 46% of that paid to a Judge. This set of figures will begin to redress that imbalance. Future Compensation Committees, operating within the economic climate of their day, will have the opportunity to further that redress. (emphasis added)

[11] What that Commission was saying, applied to the current context, is that the existing compensation of Judicial Justices is unreasonable and that the salary increase that Government recommends in its submission is also unreasonable.

[12] In 2007, the Taylor Commission made the same finding. At page 35 it held:

It is established that reasonable compensation in this context means such compensation as will assure "financial security" to judicial office-holders and enable them to maintain themselves appropriately to their occupation. The function of an independent compensation commission is to hear the appointees, government and other interested parties in public and make a report to the legislature with recommendations which can be publicly debated and only rejected, in whole or part, on a rational basis. The purpose is to ensure that those performing judicial functions cannot reasonably be thought to exercise their duties under financial pressure, or have reason to show favour toward government, or toward those connected with government, or to any other party. The importance of the process in the present context is readily apparent. Judicial justices of the peace are the lowest paid of those to whom judicial independence is constitutionally assured, but exercise important criminal law authority. Government in some capacity is a party in almost every matter that comes before them - as prosecutor, or applicant for search warrants, or the respondent on bail applications - as well as being the collector of revenues derived from the fines they impose.

In the *Prince Edward Island Judges* reference, [1997] 3 SCR 3, Chief Justice Lamer says (at pp. 115-117) that judicial salaries must not permit the perception that "the judiciary could be tempted to adjudicate cases in a particular way in order to secure a higher salary from the executive or the legislature or to receive benefits from one of the litigants." The Chief Justice cites United Nations declarations that describe "adequate remuneration" of judges as compensation "commensurate with

the status, dignity and responsibilities of their office". Speaking of the effect on judicial salaries of continuing uncompensated inflation, the Chief Justice says (at pp. 89-90): "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." (emphasis added)

- [13] The Commission held that the remuneration of fulltime JJP's was "unreasonably low" (page 38). The Commission reached that conclusion as follows:

This appears particularly from: (i) the extent to which their salary has been eroded by uncompensated inflation; (ii) the widening disparity between their pay and that of judges of the Provincial Court, the only other persons who can perform their function; (iii) the disparity between their remuneration and that recently recommended for similar judicial officers performing the same *Criminal Code* functions, in Ontario and Alberta; (iv) the increase in the scope of their duties during the last three years, which is expected to continue; (v) recent recognition of the importance of their work by the raising of qualifications for their office; (vi) the need to achieve compensation equity with the newly appointed lawyer-JJP's now being trained by them, and beside whom they will now be performing the same work.

- [14] The 2010 Nielson Commission reached a similar conclusion in the context of a bleak financial picture facing government following the 2008 global financial crisis:

Given the weight of evidence before us and the instructive guidance of JJPCC precedent, we are not prepared to accept the government's proposal for what is essentially a complete freeze on JJ remuneration to March 31, 2014. This course of action, in our considered view, would lock the JJs into an unwarranted and unfair compensation position into the second quarter of 2014.

- [15] Notwithstanding the Commission's finding that freezing Judicial Justices' salaries through to March 31, 2014 "would lock the JJs into an unwarranted and unfair compensation position into the second quarter of 2014", that is precisely what the Government did when it rejected the Commission's salary recommendation.

- [16] The 2013 Commission, chaired by Murray Clemens, Q.C., also confirmed the close relationship between the role of Judicial Justices and Provincial Court Judges. At paragraph 100 of that Commission's report and recommendations, Mr. Clemens stated that the Commission's proposed salary increases would



achieve a “very modest closing of the gap” between the salaries of Judicial Justices and Provincial Court Judges, but would at least be a start “in recognizing that the existing gap is too wide and results in unreasonably low remuneration for [Judicial Justices]”. That gap is not closed by the facilitated increase to be implemented for 2013-14 as the Judicial Justices will receive the same increase for that year as received by Provincial Court Judges. The gap will only be closed if the proposals made by the Judicial Justices are recommended by this Commission, and if the Government accepts those recommendations.

- [17] The Association also highlights the comments set out in its initial submissions at page 15, in particular the comments of the 2015 *Sixth Ontario Justices of the Peace Remuneration Commission*.
  
- [18] The point to be drawn from this review is that four previous Commissions have held that Judicial Justice compensation is unreasonably low in the context of the work they do on the Provincial Court when measured against the compensation of Provincial Court Judges. The reasoning of those Commissions makes it obvious that the existing compensation of Judicial Justices is unreasonable (contrary to the submission of Government) and, furthermore, that the 1.5% increase recommended by Government is also unreasonable. This Commission should continue the efforts of the Clemens' Commission in bridging the gap between the Judicial Justices and the Provincial Court Judges, and it can do so in the context a strong economic forecast and a balanced budget.
  
- [19] The frustration experienced by Judicial Justices is in wondering how many Compensation Commission reports will be required before Government will accept this conclusion and implement salaries that meet the test of reasonableness. To do otherwise renders the Compensation Commission process ineffective.

### C. Effective Commission Process

- [20] In the *P.E.I. Reference* the Supreme Court of Canada explained the concepts of independence, objectivity and effectiveness of the commission process that must be respected and maintained to ensure the independence of the judiciary in matters of compensation.

The rationale for independence flows from the constitutional function performed by these commissions - they serve as an institutional sieve, to prevent the setting or freezing of judicial remuneration from being used as a means to exert political pressure through the economic manipulation of the judiciary. It would undermine that goal if the independent commissions were under the control of the executive or the legislature.

(at para 170)

...

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

(at para 173)

- [21] Chief Justice Lamer discussed the third requirement of "effectiveness"; the requirement that commission recommendations have "meaningful effect".

Finally, and most importantly, the commission must also be effective. The effectiveness of these bodies must be guaranteed in a number of ways. First, there is a constitutional obligation for governments not to change (either by reducing or increasing) or freeze judicial remuneration until they have received the report of the salary commission. Changes or freezes of this nature secured without going through the commission process are unconstitutional. The commission must convene to consider and report on the proposed change or freeze. Second, in order to guard against the possibility that government inaction might lead to a reduction in judges' real salaries because of inflation, and that inaction could therefore be used as a means of economic manipulation, the commission must convene if a fixed period of time has elapsed since its last



report, in order to consider the adequacy of judges' salaries in light of the cost of living and other relevant factors, and issue a recommendation in its report. Although the exact length of the period is for provincial governments to determine, I would suggest a period of three to five years.

(at para 174)

[22] At paragraph 178, Chief Justice Lamer, held that:

The fact that the report need not be binding does not mean that the executive and the legislature should be free to ignore it. On the contrary, for collective or institutional financial security to have any meaning at all, and to be taken seriously, the commission process must have a meaningful impact on the decision to set Judges' salaries.

[23] These principles were recently applied in the *Provincial Court Judges' Association* decision at Tab 9 of the Association's initial submission. Mr. Justice Macaulay cited the above noted passages at paragraph 30 to 32 of his decision. He then went on to quote from the *Bodner* decision on the question of ensuring that the commission process had a meaningful effect. Drawing from the passages from *Bodner* set out at paragraph 35 of his reasons, Mr. Justice Macaulay made the following points:

- The Government's response must be complete, must respond to the recommendations themselves and *must not simply reiterate earlier submissions that were made to and substantively addressed by the Commission.*
- The Government must respond to the Commission's recommendations and give legitimate reasons for departing from or varying them.

[24] At paragraph 40, he held that:

Neither a "bald expression of disagreement" with a recommendation nor a "mere assertion that judges' current salaries are 'adequate'" will suffice.

[25] That is essentially what we have in the Government's submission in our case – a bald assertion that Judicial Justices' salaries are adequate, based on a reiteration of earlier submissions that have been substantively addressed by prior Commissions. In some instances, the Government simply says it does not accept a proposal but offers no rationale at all for its position.



- [26] As stated in the Association's initial submission, the facts of the *Provincial Court Judge's Association* case parallel those of the Judicial Justices' 2010 Commission and the Government's response thereto. In both cases, the Government had focused its submissions before the Commission on its net zero mandate for the public sector. In both cases, the Commissions proposed salary increases for the third year of their mandate, and in both cases the Government rejected the Commission's recommendations for reasons connected to the net zero mandate. Mr. Justice Macaulay held at paragraph 74:

In the result, the continuing invocation and repetition by Government at all stages of the process primarily consisting of the "net zero" mantra is neither legitimate nor rational under Bodner.

By taking the approach it did, "Government rendered the process largely pointless" (at paragraph 79).

- [27] Our review of these principles is to point out that history may be at risk of repeating itself. The Government submission to this Commission continues to reflect Government bargaining mandates tying the rationale for its recommendation to public sector compensation<sup>3</sup>.
- [28] It is important therefore that the Commission consider Government's position in this case against the findings of previous Commissions (if they are to be meaningful and effective), and against the principles set out in the case authorities to ensure that this process remains independent and objective and not be influenced by Government's policy determinations and collective bargaining mandates.
- [29] As Mr. Justice Macaulay stated at paragraph 78:

The Government reliance on the net zero mandate cannot be permitted to trump the constitutional obligations applicable to setting judicial remuneration. The mandate is only a negotiating position for bargaining with public sector unions. Judges are not constitutionally permitted to participate in collective bargaining with government. The JCC understood that it was not bound by the net zero mandate of government.

---

<sup>3</sup> See in particular paragraphs 193 – 199 of the Government's submission dated June 14, 2016.

#### D. The Government's Submission

- [30] With these principles in mind, it is respectfully submitted that the Government's submission does not support the recommendation that it puts forward to the Commission. The recommendation is based on a perspective of the role of Judicial Justices that does not conform with the findings of prior Commissions, nor does Government's submission provide any reasons based on the factors set out in the *Act* that would support its recommendation; a recommendation that would maintain Judicial Justice compensation at an unreasonable level.
- [31] We turn then to respond to the submissions made by the Government in support of its recommendations.

#### ***Duties and Responsibilities of Judicial Justices***

- [32] Government has recognized the importance of the role of Judicial Justices in administering justice in BC (Government Submission para 47) although seeks to limit this importance to "within their [i.e. judicial justices] jurisdiction". It is not clear what is meant by this limitation apart from an attempt to minimize the significance of the role of Judicial Justices within the overall judicial system in BC. The Association submits that the role of Judicial Justices is integral to the administration of justice throughout the judicial system in BC. As submitted by the Association in its initial submission, Judicial Justices are often the first and only interaction that the public has with the judicial system.
- [33] At page 13 of its June 14, 2016 submission, Government tends to downplay the jurisdiction of Judicial Justices. The reality is that the consideration of Bail (judicial interim release) and Search Warrants involve fundamental rights protected by the Canadian Charter of Rights and Freedoms. Judicial Justices sitting in court deal with not only traffic matters but are responsible for adjudication of municipal bylaws and over 77 provincial statutes, including the *Missing Persons Act* (2015). Their jurisdiction may be circumscribed, but it is one that significantly affects the rights and obligations of citizens in the province.



### ***The Need to Maintain a Strong Court***

- [34] The Government, at paragraph 112 of its submission, suggests that the best indicator of whether compensation is sufficient to attract qualified candidates is whether the Court is experiencing unmet need in the number of applicants approved and recommended by Judicial Council. The Association disagrees and submits that the best indicator is the number of applicants for the role. In the Association's submission, whether or not there are "unmet needs" is not a relevant consideration in determining whether current remuneration is sufficient to attract qualified candidates.
- [35] The Government makes no response at all to the submission of the Association regarding the pending expiration of 9 appointments of Judicial Justices. In 2007 there were only 28 applications when a Notice to the Profession went out. Since then only one candidate has been interviewed in 2016, yet the Government states, at paragraphs 128 and 129, that a roster of one is sufficient to meet the needs of the court. Clearly the existing compensation of Judicial Justices is insufficient to attract highly qualified applicants.

### ***Current and Expected Economic Conditions in BC***

- [36] The overview of the Government's current and expected economic conditions at pages 51 through 56 of its submission does not suggest that there is any reason to weigh this criterion against the need to provide reasonable compensation to Judicial Justices. We say that for the following reasons.
- [37] First, Government is projecting surpluses in all years of the Commission's mandate. Although the Government's past financial position has been adversely affected by the 2008 global crisis, this factor played significantly into the recommendations of the 2010 and 2013 Commissions. The adverse effect has been mitigated as evidenced by the \$1.7 billion surplus in 2014/15 and projected surpluses thereafter.

- [38] Second, as Government points out, its debt level is comparatively low in contrast to other Provinces.
- [39] Third, as Government concedes, it is conservative in its forecasting.
- [40] Fourth, with respect to identified risks to its fiscal plan, at paragraph 202, there is no suggestion that those risks are likely to materialize.
- [41] As Government acknowledges at paragraph 17 “the compensation costs of Judges and Judicial Justices are within the fiscal capacity of Government to pay.”
- [42] Throughout the Government’s submission regarding sections 5(e) and (f) of the *Judicial Compensation Act* there is a tone of caution and concern for future major risks. In paragraph 202 there is a list of six potential factors that could affect the fiscal plan including a change to generally accepted accounting principles. The Association submits the list could be endless. The Association submits that the Commission is not bound to place weight on any of these items. They are not quantified, nor are they current or expected. The Commission should place weight only on factors that would identify specifically:
- s. 5 (e) the generally accepted *current and expected* economic conditions in British Columbia;
  - s. 5 (f) the *current and expected* financial position of the government over the three fiscal years that are the subject of the report.

### ***Compensation in Respect of Similar Judicial Positions in Canada***

- [43] The Government has agreed with the Association’s submission that it is appropriate to compare Judicial Justices in BC with Judicial Justices/Justices of the Peace in other Canadian jurisdictions. This comparison is also in accordance with comments made by past Commissions, and as set out the Association’s initial submissions at page 8.
- [44] However, in the Association’s respectful submission, the Government places too much emphasis on minor differences between the roles in order to justify



significantly lower incomes for Judicial Justices when compared to equivalent roles in in Alberta, Ontario, Quebec and Saskatchewan. Indeed, some of the duties listed in paragraph 146 purporting to distinguish the work being performed by justices of the peace in other jurisdictions are, in fact, assigned to Court Services Justices of the Peace in British Columbia; i.e. they are within the assignment of duties of Judicial Justices.

- [45] The Government in its June 14, 2016 submission at paragraph 149 notes that the 2015 median salary for a Judicial Justice/Justice of the Peace in Canada was \$128,114 and the average salary was \$126,323. These figures would be even higher if BC's Judicial Justices were not included.
  
- [46] The Association submits that its salary proposals as set out in its initial submission, would bring the salary of a Judicial Justice in BC more into line with (although still below) equivalent roles in other provinces, thus making this particular factor under the *Act*, weigh strongly in favour of the Association's salary proposals.
  
- [47] The Government at paragraph 151 of its submissions indicates that although salaries for equivalent positions in Ontario and Alberta are higher, these should not be seen as benchmarks because their high salaries are "threatened" due to the current economic situation in those provinces. With respect, there is no basis upon which to "assume" that these higher salaries are in any way threatened. Furthermore, the economic outlook in BC is far superior to that of Ontario and Alberta and yet the salary for Judicial Justices in BC lags considerably behind these provinces. If anything, this factor weighs in favour of increased remuneration for BC's Judicial Justices to bridge the gap with other provinces.

### ***Changes In The Compensation of Others Paid by Public Funds***

- [48] At page 50 of its submission the Government sets out a table containing the pay scale for administrative tribunals that are grouped according to various criteria. The Government does not explain how this could be used as an appropriate

comparator for Judicial Justices. Moreover, this comparison was rejected by the 2007 Commission chaired by Martin Taylor, Q.C. At page 40, the 2007 Commission said the following about the comparison with administrative tribunals:

We have considered the level of remuneration of full-time members of administrative tribunals in British Columbia, ranging from \$74,000 to \$124,000 according to the group in which their tribunal is classified. Of 26 tribunals listed, 22 are in Group 1, three in Group 2 and only one - the Labour Relations Board - in the highest classification, Group 3. The basis on which the classification has been done is unclear. It is notable that two tribunals dealing with important individual rights, the Mental Health Review Board and the *Criminal Code* Review Board, are classified at the lowest level, while tribunals dealing with utilities, workers' compensation and labour relations are in the higher groups. It is notable also that others who carry out judicial functions under provincial jurisdiction — Provincial Court judges and Supreme Court masters — are remunerated at a level 60 per-cent above the highest administrative tribunal category. We do not think it appropriate on the evidence we have heard to single out a single administrative tribunal or other civil service category as comparable to the JJP function despite differences involved, reject others *because of* differences, and adopt the salary approved by government for the chosen category as that appropriate to judicial justices. We have instead considered occupations in this and other provinces that have some significant relevance, accepting that differences exist in every case and giving to each such weight as seems proper in that light. In this context we give weight to the fact that the midpoint on the current provincial administrative tribunal scale is \$99,000 per annum, or 26 percent higher than the present remuneration of full-time JJPs. (emphasis in original)

- [49] It is notable that based on the table provided in the Government's submission at page 50, the Chair of the lowest level of Administrative Tribunal currently earns a minimum of \$118,000 and a maximum of \$135,000, so potentially \$25,000 per annum more than a Judicial Justice. It would appear that approximately the same differential exists today as existed in 2007 when the Taylor Commission made its recommendation for substantial salary increases of 20%, 2.5% and 2.5%, which the Government accepted.
- [50] The Government relies on past minimal wage increases for unionized public sector employees as a justification for future minimal increases to judicial salaries. This is a result of the Government applying a net zero mandate to the



unionized bargaining sector. The Association points out that by Government rejecting the salary increases in past Compensation Commission reports, Judicial Justices have experienced similar minimal increases to the extent that other provinces' average and median salary remuneration for Justices of the Peace have far exceeded British Columbia.

**E. The Province's Submission on Recommended Compensation**

- [51] The Government's recommendation regarding salary for Judicial Justices over the three year mandate does not address the fact that salaries today are woefully inadequate and do not meet the constitutional test of reasonableness. As submitted earlier, the Government's call for significant restraint in public sector compensation is an impermissible rationale upon which to base its recommendation.
- [52] The Government has not taken a clear position with respect to the Association's proposal to link the salary of Judicial Justices to that of Provincial Court Judges. The Association submits that its position should be adopted by this Commission.

***Facilitated Discussions***

- [53] The Association agrees with the Government's comments regarding the outcome of facilitated discussions as set out at paragraphs 2 and 3 of the Government's submissions of June 23, 2016. This relates to both an increase in salary of 4.9% for the 2013/2014 fiscal year and the achievement of parity for part time Judicial Justices. The Association submits that the consensus reached with Government corresponds to recommendations made by the 2010 Commission and therefore is in conformity with the compensation principles set out in the *Judicial Compensation Act*.
- [54] The Association agrees that a 4.9% increase in base salary for the 2013/2014 fiscal year will result in current base salary increasing to \$110,249, as suggested by the Government at paragraph 4 of its June 23, 2016 submissions.

[55] The Association supports the position put forward by the Government with respect to parity between per diem and ad hoc Judicial Justices. The Association adds that parity will be achieved by all part time Judicial Justices being compensated in accordance with the formula per diem Justice Justices are compensated at – as set out at page 16 of the Association's main submissions and repeated below for ease of reference:

- Full time Judicial Justice salary / 207 (days of work) + 20% (in lieu of benefits) + \$80 (office overhead)

[56] The Association notes that despite the consensus reached between the parties as a result of the facilitated discussions, it remains for the Legislature to vote on and accept the Government's proposed motion. Therefore, the Association respectfully requests that this Commission include a statement of support for the implementation of this consensus in its report and recommendations.

***Professional Development Allowance; Shift Premium***

[57] The Government has rejected the Association's submission of an increase in Professional Development Allowance ("PDA") from \$1,500 to \$2,500 without providing any explanation for this rejection. Similarly the Government rejects the Association's proposal of a shift premium.

[58] The Government's rejections of these items are devoid of reasons and not at all responsive to the justification put forward by the Association for the proposals. Rather, the Government simply relies on its general statements regarding the factors identified in the *Act*. With respect, the Government has not suggested how an increase to the PDA or a shift premium are in any way offside with the compensation factors set out in the *Act*, whereas the Association has put forward considered reasons for its proposals.

[59] It is not open to the Government, to provide a rationale, or a different rationale, for the first time in a rejection of the Commission's recommendations.



### ***Pension***

- [60] The Government has rejected the Association's submission for the Judicial Justices to be enrolled in a pension plan equivalent to the Provincial Court Judges, without providing a sufficient explanation for this rejection. The Government submits that status quo should be maintained, without justification for this position.
- [61] Judicial Justices are currently enrolled in the Public Service Pension Plan ("PSPP") pursuant to Section 15 of the *Act*. The Association submits that Judicial Justices should be entitled to the same pension benefits as are enjoyed by Judges pursuant to Part 3 of the *Act*. In particular, sections 17 through 23 of the *Act* improve upon the PSPP with respect to, amongst other things, rates of contribution and retirement benefits. This recognizes the fact that appointments to the court are made later in one's career.
- [62] There is no principled basis why Judicial Justices should not participate in the same pension plan as Provincial Court Judges, particularly in light of the recognized nexus between the two roles as set out above.
- [63] As noted in the Association's initial submissions, currently only nine (9) full time Judicial Justices would be eligible for enrollment in this pension plan, and therefore the financial impact to Government would be minimal.

### ***Costs***

- [64] The Association acknowledges it made no initial submission for costs, however the PCJ Association has made a convincing submission regarding legal fees and disbursements including expert evidence. The Association submits the Compensation Commission is at liberty to make any such order in favour of costs equally applicable to the Association.

***Final Comments***

[65] The Association submits that despite previous Judicial Compensation Commission Reports recommending salary and benefits increases, the Government has arbitrarily imposed its predetermined position without regard to the Compensation process. We request this Commission in its Report and Recommendations make it clear the compensation hearing process is a legislated process, not merely a formality. Without restating fundamental principles, this process runs the risk that the Government will simply apply the considerations and reasons set out in its submission, when it comes to consider this Commission's report and recommendations

[66] The Association submits that its proposals should be adopted by this Commission.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

June 30, 2016



---

Thomas A. Roper, Q.C.



Counsel for the Judicial Justices Association of B.C.