

**Supplemental Submission of the Government of British Columbia
to the 2022 Judicial Compensation Commission
regarding matters specific to the Judicial Justices Association**

March 6, 2023

1. At the close of hearings on February 16, 2023, the Commission requested the Government of British Columbia (the “Government”), the Provincial Court Judges’ Association (the “Provincial Court Judges”) and the Judicial Justices Association (the “Judicial Justices”) to address any outstanding matters as soon as possible, rather than waiting until the virtual hearing on March 11, 2023 to do so.
2. As a result of that request, the Government provides these further supplemental submissions to address two matters largely specific to the Judicial Justices:
 - a. the potential consideration by the Commission of the impacts of Bill S-4 as “another factor” under s. 5(5.2) of the *Judicial Compensation Act* (the “Act”); and
 - b. the Government’s revised proposed salary recommendation for Judicial Justices.

Counsel for the Judicial Justices and the Provincial Court Judges were provided with a summary of the Government’s position on these matters on February 28, 2023.

3. The Government has also appended a revised executive summary table of the parties’ proposed recommendations to reflect changes outlined in this and other submissions since February 16, 2023.
4. The Government and the Judicial Justices continue to discuss the definition of “holidays” proposed by the Judicial Justices in their January 12, 2023 Submission, and will advise the Commission on that matter as soon as possible.

A. The potential consideration of the impacts of Bill S-4 as “another factor”

5. On February 17, 2023, Commission counsel asked if any party wished to make additional submissions in the event the Commission decides to address the impact of Bill S-4 as “another factor” relevant to its consideration under s. 5(5.2) of the *Act*.

6. At this time, the Government does not wish to make proactive submissions on that point, but reserves the right to consider potential responding submissions to points another party may raise on this issue.

B. Revised proposed salary recommendation for Judicial Justices

7. After reflecting on the arguments and information provided to the Commission during the week of February 13-16, 2023, the Government has revised its proposed salary recommendation for the Judicial Justices.
8. The Government initially proposed a recommendation for a total nominal increase to the salaries of Judicial Justices of 13.9% over four years, set out as follows at para. 8 of the Government's January 12, 2023 Submission:

Fiscal Year (FY)	Salary	% increase from Previous FY
2022/23	\$133,501	N/A
2023/24	~\$141,000	5.3%
2024/25	~\$146,000	3.9%
2025/26	~\$150,000	2.7%
2026/27	~\$153,000	2.0%
Total	~\$19,499	13.9%

9. The Government had initially proposed an increase of 5.3% in Year 1 for the Judicial Justices (compared to the 7.8% increase in Year 1 proposed for the Provincial Court Judges) on the basis that they received a greater increase over the 2019 cycle, and therefore did not fall as far behind in terms of actual inflation over the previous three years. As a result, the Government's initial rationale was that the salaries for the Judicial Justices required a lesser degree of "catch-up" in Year 1.¹
10. Reflecting on the submissions and information provided to the Commission, the Government has recognized that its original proposal would effectively penalize the Judicial Justices for the greater increase, by using it to discount the inflationary catch-up the Government's initial position sought to provide. The Government's stated intention in providing that greater increase was to address the findings of the 2019 Commission, including challenges with

¹ The Government's initial rationale was set out at paras. 26-27 and in footnote 23 of the Government's February 3, 2023 Reply Submission.

recruitment.² The greater level of increase was not provided in order to guard against anticipated inflation.

11. Accordingly, the Government’s revised proposed salary recommendation for the Judicial Justices is for a total nominal increase of 16.4% over four years – consistent with the proposed increase for the Provincial Court Judges. The revised proposal is as follows:

Fiscal Year (FY)	Salary	% increase from Previous FY
2022/23	\$133,501	N/A
2023/24	~\$143,915	7.8%
2024/25	~\$149,527	3.9%
2025/26	~\$153,564	2.7%
2026/27	~\$156,636	2.0%
Total	~\$23,135	16.4%

12. The Government’s revised proposal for the Judicial Justices also means that rather than the salary differential between Judicial Justices and Provincial Court Judges decreasing to 45.2%, the salary differential would remain at 46.3% of the Government’s proposed recommendation for Provincial Court Judges’ salaries.
13. The Government has considered the additional information provided to the Commission during the February 13-16, 2023 hearings about the operational impacts of Bill S-4 experienced in the first month following its coming into force. The Government maintains that the impact of Bill S-4 does not constitute a “change in jurisdiction”. Just as the Judicial Justices properly admitted that dealing with applications via SFTS is not a change in “jurisdiction” per se, nor is the ability to hear applications via telecommunication that could previously only be heard in person. However, the Government accepts that the Commission may consider other factors it deems relevant under s. 5(5.2) of the *Act*.
14. The Government recognizes that there may be a need to increase the overall complement of Judicial Justices in response to Bill S-4, but maintains that it is still very early to effectively assess the longer-term implications, and too early to conclude that Bill S-4, by itself, warrants an increase in salaries.

² Government’s Proposed Response to the Judicial Compensation Commission 2019 Final Report in Respect of Provincial Court Judicial Justices, p. 14: Joint Book of Documents, Vol. 1, Tab 20.

15. In any event, the Government submits that the revised proposed salary recommendation outlined above, together with the other proposed recommendations that are now agreed³ or supported in principle,⁴ are collectively sufficient to assist with recruitment and retention needs. This is particularly so in light of the Judicial Justices' admission that these additional measures to which the Government has agreed will assist with attracting highly qualified applicants, alleviating workload pressures and providing necessary recognition.⁵

Revised Executive Summary Table of Parties' Proposed Recommendations

16. To reflect the changes captured in this supplemental submission, as well as the joint proposed recommendation on non-judicial pensions and the Government's written costs submissions, the Government has prepared a revised version of the table that originally appeared at page 3 of its February 3, 2023 Reply Submission. An updated version of that table was marked as Exhibit 11 during the Government's oral submissions on February 16, 2023. The revised version of the table is appended to this supplemental submission.
17. The appended version of the table also corrects an error recently identified in relation to the total dollar figure increase from the Government's proposed salary recommendation for the Provincial Court Judges. The Provincial Court Judges, Judicial Justices and Chief Judge of the Provincial Court of British Columbia have been advised.
18. In the right-hand column of the first substantive row, both the original table and Exhibit 11 listed a total dollar figure increase of \$55,500 over four years for the Provincial Court Judges. That figure was taken from a table in paragraph 8 of the Government's January 12, 2023 Submission.
19. The \$55,500 figure in the table at paragraph 8 was calculated based on a typographical error with respect to the 2022/23 salary for the Provincial Court Judges. The error with respect to the 2022/23 salary (\$288,500, rather than \$282,500) was identified in paragraph 109 and

³ The Government and the Judicial Justices are agreed on proposed recommendations respecting: 1) changes to the per diem formula; 2) an increase to the holiday shift premium for Christmas Day; and 3) recognition of three additional holidays that attract the holiday shift premium.

⁴ In principle, the Government supports a recommendation for a weekend shift premium, but has proposed that the recommendation be for a \$25 premium: see the Government's February 3, 2023 Reply Submission at para. 72.

⁵ See January 12th Submission of the Judicial Justices, at paras. 175 and 177.

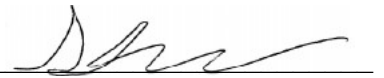
footnote 93 of the Government's February 3, 2023 Reply Submission, and addressed in oral submissions on February 16, 2023.

20. The Government's proposed salary recommendation is for a 16.4% increase, but the correct total dollar increase is \$49,500.⁶ The correct figure is reflected in the appended revised table.
21. The middle column of the table at paragraph 8 of the Government's January 12, 2023 Submission should also be adjusted to read \$49,500, rather than \$55,500.
22. The Government apologizes for the error and any inconvenience it may have caused.

All of which is respectfully submitted this 6th day of March 2023.



Karrie Wolfe
Counsel for the Government of British Columbia



Steven Davis
Counsel for the Government of British Columbia

⁶ The total dollar increase is calculated as follows: \$338,000 (proposed salary in Year 4) - \$288,500 (current 2022/23 salary) = \$49,500.

Revised Executive Summary Table of Parties' Proposed Recommendations

Recommendations of the Judiciary		Government Recommendations	
Provincial Court Judge Recommendations			
Salary:			
2023-24 (Y1): \$350,860		2023-24 (Y1): \$311,000	
2024-25 (Y2): \$364,547		2024-25 (Y2): \$323,000	
2025-26 (Y3): \$373,296		2025-26 (Y3): \$332,000	
2026-27 (Y4): \$381,509		2026-27 (Y4): \$338,000	
Total increase over 2022 cycle: \$93,009 (30.1%)		Total increase over 2022 cycle: \$49,500 (16.4%)	
Common Recommendations			
Interest on Retroactive Salary Payments:			
Government to pay interest on retroactive payment.		Do not oppose.	
Participation Costs:			
Government to pay 100% of reasonable legal costs (including any expert evidence). In the alternative (<i>Judicial Justices only</i>), significant increase to reimbursed costs through regulation or amendment.		Do not support a recommendation on participation costs; statutory costs formula should govern.	
Judicial Justice Recommendations			
Salary:			
2023-24 (Y1): \$175,000		2023-24 (Y1): \$143,915	
2024-25 (Y2): \$180,000		2024-25 (Y2): \$149,527	
2025-26 (Y3): \$185,000		2025-26 (Y3): \$153,564	
2026-27 (Y4): \$190,000		2026-27 (Y4): \$156,636	
Total increase over 2022 cycle: \$56,499 (39.43%)		Total increase over 2022 cycle: \$23,135 (16.4%)	
Per Diem Formula:			
a. increase percentage received in lieu of benefits from 20% to 22% (<i>accepted Govt proposal</i>); and		a. support an increase to 22% in lieu of benefits; and	
b. increase overhead amount from \$75 to \$100.		b. support an increase to overhead rate to \$100.	
Shift Premiums:			
a. add \$245 shift premium for Easter Monday, National Day for Truth and Reconciliation, and Boxing Day; pay premium for any portion of shift that falls on holiday and on court closure days;		a. add \$245 shift premium for Easter Monday, Boxing Day, and National Truth and Reconciliation Day; pay premium for any portion of shift that falls on holiday;	
b. add \$75 weekend premium; and		b. add weekend premium of \$25; and	
c. increase Christmas Day shift premium to \$320.		c. increase Christmas Day shift premium to \$320.	
Travel Policy:			
Any changes to the travel policy of Provincial Court Judges be mirrored for Judicial Justices.		As no changes sought by Provincial Court Judges or Chief Judge, maintain current policy.	
Professional Development Allowance:			
Increase to \$4,500 per fiscal year		Do not support an increase.	
Government Recommendations on Flexible Benefits			
Provincial Court Judges support specific proposed enhancements and proposal to automatically implement future enhancements.		a. some enhancements for Provincial Court Judges;	
Judicial Justices do not support alignment of their plan to that of Provincial Court Judges.		b. align Judicial Justices' flexible benefits plan with Provincial Court Judges; and	
		c. automatically implement future enhancements to excluded employees' flexible benefits for the judiciary (contingent on agreement).	

Joint Government and Provincial Court Judge Recommendation on Non-Judicial Pensions
Joint recommendation (with support of Chief Judge) to amend <i>Judicial Compensation Act</i> to align non-judicial pensionable service provisions with 2018 and 2022 Public Service Pension Plan rule changes in respect of: <ul style="list-style-type: none">• benefit accrual rates;• past service benefit enhancement / bridge benefit; and• early retirement factor (all for specific time periods).

Matters in relation to which no changes are proposed
<i>Salary Differentials</i>
Provincial Court Judges, Chief Judge and the Government all support the current salary differentials for the Chief Judge, Associate Chief Judges and Regional Administrative Judges remaining the same.
Judicial Justices, Chief Judge and the Government all support the current salary differentials for Administrative Judicial Justices remaining the same.
<i>Judicial Pension Accrual Rate</i>
The Provincial Court Judges and the Government support the existing 3% accrual rate remaining the same.
<i>PDA for Provincial Court Judges</i>
The Provincial Court Judges and the Government support maintaining the existing \$4500 PDA overall and the current allowance health and wellness-related expenditures under the PDA.
<i>Travel per diem for Provincial Court Judges</i>
The Provincial Court Judges and the Government support maintaining the current travel reimbursement for Provincial Court Judges (which is the same level as for Members of the Legislative Assembly).