

***Judicial Compensation
and Benefits Commission***



***Commission d'examen de la
rémunération des juges***

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**Ruling Respecting Request for Deferral of Commencement Date of
June 1, 2020**

June 10, 2020

Request for Deferral of Commencement Date: By way of letter of June 1, 2020 from counsel for the Canadian Superior Court Judges Association written with the concurrence and support of the Government of Canada and the Federal Court Prothonotaries, this Commission has been asked to defer the commencement date for the Commission's inquiry as provided for in s. 26(2) of the *Judges Act* from June 1, 2020, to December 1, 2020, pursuant to the discretion granted to the Commission to postpone the date of commencement of a quadrennial inquiry under s. 26(3) of the *Judges Act*.

The grounds for the request, concurred in by all counsel, are based on the uncertainty created by the COVID-19 pandemic, its ramifications through Canadian society and the economy and its effect on certain deadlines necessary between the parties for the exchange of information relevant to their respective positions before the Commission.

The request letter of June 1, 2020 is attached as **Schedule "A"** to this Ruling.

Consent: The federally appointed judiciary (which the *Judges Act* deems to include the Federal Court Prothonotaries) and the Minister of Justice on behalf of the Government of Canada (the "parties") have executed a consent as contemplated by s. 26(3) of the *Judges Act*. The consent is appended to this Ruling as **Schedule "B"**.

It is the expectation of the Commission that a postponement of the commencement date by six months will be adequate to permit the parties to complete their exchange of information and proceed with the inquiry commencing on the postponement date of December 1, 2020.

Decision: The Commission accepts as reasonable the request to postpone the commencement date of the inquiry. The disruption within and around the administration of justice and workplaces coupled with the need of the parties to best place their respective positions before the Commission to assist it in its inquiry all support such an order.

Accordingly the Commission orders that:

1. The commencement date of June 1, 2020 provided for in s. 26(2) of the *Judges Act*, is hereby postponed, pursuant to s. 26(3), to December 1, 2020;
2. The parties shall submit a joint report to the Commission by October 31, 2020 as to the status of their information exchange and to confirm their preparedness to proceed with the inquiry commencing December 1, 2020;
3. The parties will establish deadlines between them for the exchange of information consistent with a December 1, 2020 commencement date.

June 1, 2020

By email

Ms. Martine Turcotte, Chair
Ms. Margaret Bloodworth, Member
Mr. Peter Griffin, Member
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Madam Chair, Members of the Commission:

2020 Quadrennial Commission—Date of Commencement

I am writing to you on behalf of both the judiciary (including the Federal Court Prothonotaries) and the Government of Canada.

At the outset, allow me to express the parties' gratitude to each one of you for agreeing to serve on the federal Judicial Compensation and Benefits Commission. Judicial independence is a pillar of our democracy and regular inquiry into the adequacy of judicial compensation and benefits by an independent commission has been recognized to be an essential component of the constitutional requirements to preserve and promote the independence of Canada's judiciary.

The *Judges Act* provides for June 1, 2020 as the start date of the Commission's next inquiry. However, the COVID-19 crisis has forced the parties to reconsider the statutory schedule. On April 16, 2020, I wrote to Ms. Bloodworth and Mr. Griffin advising them of the possibility that the parties would be requesting a postponement of the start date of the inquiry. On April 23, after the nomination of Ms. Turcotte as Chair of the Commission, Mr. Rupar wrote to confirm that the parties intended to request a postponement of the start date. As you know, s. 26(3) of the *Judges Act* allows for the Commission, with the consent of the Minister of Justice and the judiciary, to "postpone the date of commencement of a quadrennial inquiry".

Having discussed the appropriate time period by which the start date should be postponed, the parties have agreed to request a postponement of 6 months, such that the start date would be changed to December 1, 2020. The other quadrennial-inquiry dates provided for in the Act would be changed in accordance with the new start date, and the parties have agreed that certain deadlines discussed among themselves for the exchange of information prior to the start date would likewise be postponed by 6 months. In light of the uncertainty surrounding the COVID-19 pandemic and its ramifications throughout Canadian society and the economy, the parties have agreed that they would re-visit the question of the start date in early Fall to assess whether the December 1 start date appears to remain adequate.

June 1, 2020



We trust that the present joint request for a postponement of the start date of the inquiry to December 1, 2020 will meet with your approval. The parties remain at your disposal should you have any questions. On a personal level for each of you, the parties trust that you and yours are keeping well in these challenging times.

Sincerely,

A handwritten signature in black ink, appearing to read "Pierre Bienvenu".

Pierre Bienvenu, Ad. E.
Senior Partner

Copy: Ms. Louise Meagher, Executive Director, *Judicial Compensation and Benefits Commission*
Messrs. Christopher Rupar and Kirk Shannon, *Department of Justice, Government of Canada*
Mr. Andrew Lokan, *Paliare Roland Rosenberg Rothstein LLP*
Mr. Azim Hussain, *Norton Rose Fulbright Canada LLP*

JUDICIAL COMPENSATION AND BENEFITS COMMISSION

CONSENT OF THE MINISTER OF JUSTICE OF CANADA AND THE JUDICIARY

Section 26(3) of the *Judges Act*

WHEREAS the *Judges Act*, s. 26(2), provides that the Judicial Compensation and Benefits Commission (the "**Commission**") shall commence its inquiry on June 1, 2020;

WHEREAS the COVID-19 pandemic has compelled the federally appointed judiciary (which the *Judges Act* deems to include the Federal Court Prothonotaries) and the Minister of Justice on behalf of the Government of Canada (the "**Parties**") to reconsider the adequacy of the statutory schedule for the Commission's inquiry;

WHEREAS the *Judges Act*, s. 26(3), provides that the Commission may, with the consent of the Minister of Justice and the judiciary, postpone the date of commencement of a quadrennial inquiry;

WHEREAS the Parties jointly wrote to the Commission on June 1, 2020 to advise it of their agreement to request the Commission to postpone the commencement date of the inquiry to December 1, 2020, subject to a further adequacy assessment to be made by the Parties in Fall 2020 in light of the social and economic situation prevailing at that time as a consequence of the COVID-19 crisis;

WHEREAS the Commission responded on June 3, 2020, to the Parties' joint correspondence and requested an executed consent instrument upon which the Commission can issue its decision regarding the requested postponement;

NOW THEREFORE the Parties, represented herein by their duly appointed counsel, hereby confirm to the Commission their consent to a postponement of the commencement date of the Commission's quadrennial inquiry from June 1, 2020, to December 1, 2020, that date being subject to a further adequacy assessment by the Parties in Fall 2020.

SIGNED:

Montreal, June 8, 2020



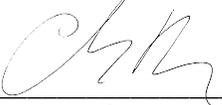
Pierre Bienvenu, Ad. E.
Norton Rose Fulbright Canada LLP
Counsel to the Canadian Superior Courts Judges Association and the
Canadian Judicial Council

Toronto, June 9, 2020



Andrew Lokan
Paliare Roland Rosenberg Rothstein LLP
Counsel to the Prothonotaries of the Federal Court

Ottawa, June 9, 2020



Christopher Rupar
Counsel to the Minister of Justice, Department of Justice, Government
of Canada