



NOTICE

June 18, 2019

The Judicial Compensation and Benefits Commission (the Commission) was established in 1999 with the mandate to inquire every four years into the adequacy of the salaries and other amounts payable to federally-appointed judges under the *Judges Act* (the *Act*) and into the adequacy of judges' benefits generally. In 2014, the *Act* was amended to provide that for the purposes of the inquiry the prothonotaries of the Federal Court be considered as judges. Under the provisions of the *Act*, the Commission must submit a report containing its recommendations to the Minister of Justice, who shall respond to the report within four months after receiving it.

The *Act* also provides that the Minister of Justice may at any time refer to the Commission for its inquiry a matter within its mandate. Pursuant to this, in a letter dated May 31, 2019, the Minister asked the Commission to undertake an inquiry on the following:

“the effects on the adequacy of federal judicial compensation and benefits, if any, of an amendment to the *Judges Act* that would stop the accrual of pensionable service for any judge whose removal from office has been recommended by the Canadian Judicial Council (CJC).”

Further details on the proposed amendment are outlined in the Minister's letter, attached hereto as Annex A, which also fixes October 31, 2019 as the date for the Commission to file its report.

The Commission invites parties wishing to comment on the matter to forward their written submissions, in either official language, preferably in electronic format, to: info@quadcom.gc.ca. Paper versions of submissions will also be accepted at the Commission's offices located at 99 Metcalfe Street, 8th floor, Ottawa, Ontario, K1A 1E3. Submissions must be filed no later than July 18, 2019. The Commission is not anticipating a need to hold an oral hearing. However, should it determine from the written submissions that one is required, it will issue a notice to that effect.

All submissions will be posted on the Commission's web site at following link: <http://www.quadcom.gc.ca/>.

Chairperson
Gil Rémillard

Commissioners
Margaret Bloodworth
Peter Griffin

Executive Director
Louise Meagher

Minister of Justice
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Ministre de la Justice
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MAY 31 2019

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Dear Members of the Commission:

I am writing pursuant to s. 26(4) of the *Judges Act* to ask you to undertake an inquiry on a matter I consider important and urgent: the effects on the adequacy of federal judicial compensation and benefits, if any, of an amendment to the *Judges Act* that would stop the accrual of pensionable service for any judge whose removal from office has been recommended by the Canadian Judicial Council (CJC).

As you know, the *Judges Act* entitles federally-appointed judges to an annuity equal to two-thirds of their salary upon retirement. A judge automatically qualifies for a full annuity by meeting one of three statutory conditions setting out minimum years of service. Where judges do not qualify for a full annuity, they may qualify for a reduced (pro-rated) annuity upon fulfilling certain other minimum eligibility criteria. The amount of the reduced annuity will vary depending on the judge's age and how long they have been in office, but the annual amounts at stake are substantial. Judges who leave office before meeting these minimum requirements are only entitled to a return of their contributions.

In the context of judicial conduct proceedings, the nature of these arrangements may give rise to a perceived incentive for a judge who is the subject of a judicial conduct complaint to prolong the proceedings in order to reach their date to qualify for either a full or reduced judicial annuity. Even where this is not the judge's intention, the perception may remain that the judge launched the challenge primarily with a view to benefiting financially. This risks undermining public confidence in the integrity of Canada's federally-appointed judiciary.

The amendment I propose would suspend the counting of the judge's years continued in judicial office as of the date on which the CJC issues a report recommending the judge's removal. The amendment would be made applicable on Royal Assent to any sitting judge whose removal has already been recommended, or is recommended in the future.

However, the amendment would also include a provision to restore the calculation of years continued in judicial office as if it had never been interrupted, in the event that the recommendation for removal is either overturned by a court or rejected, such that the judge is able to continue in office.

Such an amendment would protect a judge seeking to challenge a CJC recommendation for removal from the allegation that the challenge was being launched simply with a view to benefiting financially. It would also ensure that a judge is not penalized for launching such a challenge, where that challenge is ultimately upheld.

Fixing a reporting date

Section 26(4) of the *Judges Act* gives the Minister of Justice the ability to initiate an inquiry on any matter, outside the full compensation review process that marks the beginning of each quadrennial cycle. The provision authorizes the Minister to determine the timelines for such an inquiry, in consultation with the Commission. Officials from my Department have been in touch to seek your views in this regard.

Since this matter is relatively narrow in scope, it is my hope that it can be dealt with expeditiously – ideally by late summer. In your exchanges with my officials, you have indicated that, subject to certain caveats, a 90 day period should suffice. However, you have also indicated your preference not to report while the federal election scheduled for this fall is under way. I appreciate your concerns.

Section 26(5) of the *Judges Act* requires extensions to a reporting date that has already been fixed to be granted by the Governor in Council. Should unforeseen delays require a longer reporting period, granting an extension once the House of Commons has adjourned for the summer may prove challenging. Accordingly, I am fixing the date for your report

as no later than October 31, 2019, but would welcome receiving it prior to the beginning of the writ period, if reasonably possible.

I thank you in advance for undertaking consideration of this important matter.

Respectfully,

Original signed by /
Original signé par

The Honourable David Lametti, P.C., Q.C., M.P.
Minister of Justice and Attorney General of Canada

c.c.: Justice Julie Dutil
President, Canadian Superior Courts Judges Association

Me Norman Sabourin
Executive Director and General Counsel, Canadian Judicial Council

Prothonotary Mandy Ayles,
Representative of the Prothonotaries of the Federal Court

Louise Meagher
Executive Director, Judicial Compensation and Benefits Commission