

Schedule A

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The Honourable George R. Strathy
Commissioner
Fourth Associate Judges Remuneration Commission

Dear Commissioner Strathy,

The Lieutenant Governor in Council (“LGIC”) has given full consideration to the recommendations of the Report of the Fourth Associate Judges Remuneration Commission (the “Commission”). I am writing to thank the Commission for its important work and to convey to you the LGIC’s response to those recommendations.

Overview

The LGIC agrees that an increase in salary, improvements to group insured benefits and the judicial allowance, and recommended pension changes, be provided to Associate Judges for the Commission’s mandate period of April 1, 2024 to March 31, 2028.

As such, it accepts the Commission’s recommendation that the salary of Associate Judges be linked to 85% of the salary of a Superior Court Judge and be adjusted annually by the Industrial Aggregate Index of Canada. It also accepts the Commission’s recommendations regarding pension matters and judicial allowances and the Commission’s alternative group insured post-retirement benefits recommendation and the Commission’s recommendation related to enhancements to psychological services benefits.

It does not, however, accept the Commission’s recommendation regarding the effective date of the recommended salary linkage, nor does it accept the Commission’s recommendation regarding parking for those Associate Judges who work at the Courthouse at 393 University Avenue in Toronto.

For the reasons set out further below:

- Associate Judges will receive salaries that are linked to the salary of a Superior Court Judge in a phased-in manner beginning April 1, 2024, ultimately achieving the recommended linkage of 85% by April 1, 2027, and be adjusted annually by the Industrial Aggregate Index of Canada.
- The Associate Judges Supplemental Pension Plan (“AJSPP”) will be replaced with a Retirement Compensation Arrangement (“RCA”) of equivalent value. Alternatively, if Canada Revenue Agency does not accept an accrual rate of 3.5%, then Associate Judges will participate in the Public Service Pension Plan Retirement Compensation Arrangement, without diminishing the pension entitlement of Associate Judges. Further, the Associate Judges’ pension contribution rates to the Public Service Pension Plan will be increased in accordance with the Commission’s recommendation.
- Ontario Regulation 485/16 will be updated to clarify the existing linkage of post-retirement benefits to the general PRB Legacy Plan as described in the PRB OIC 1933 /2016. Furthermore, coverage for psychological services will include psychotherapists, and the entitlement increased to \$80 per half hour of service with an annual cap of \$1,600.
- Associate Judges will be entitled to a judicial allowance in the amount of \$6,000 *per annum* in respect of the twelve-month period commencing on the 1st day of April each year, prorated where an Associate Judge does not serve for the full twelve-month period.
- Associate Judges who work at the Courthouse at 393 University Avenue in Toronto will continue to have access to paid parking spaces in accordance with existing arrangements, but will not be reimbursed for additional costs they may incur for reserved parking if it is available and they choose to obtain same.

Recommendation – Salary

The LGIC has given careful consideration to the Commission Report and accepts the Commission’s recommendation that the most useful comparator group to Associate Judges is Superior Court Judges. The LGIC accepts the Commission’s recommendation that the salary of Associate Judges be linked to 85% of the salary of a Superior Court Judge and be adjusted annually by the Industrial Aggregate Index of Canada. It does not, however, accept the Commission’s recommendation that this linkage be effective as of April 1, 2024.

For the reasons set out further below, the LGIC has determined that the salary linkage should be phased-in over the mandate period, such that the Commission’s recommended linkage rate of 85% of the salary of a Superior Court Judge is fully achieved as of April 1, 2027.

The salary of an Associate Judge during the mandate period will therefore be adjusted annually by the Industrial Aggregate Index of Canada and be linked to the salary of a Superior Court Judge in accordance with the following rates:

April 1, 2024 – 80.2%

April 1, 2025 – 80.4%

April 1, 2026 – 82.3%

April 1, 2027 – 85.0%

The LGIC also accepts the Commission's finding that the justice system is hierarchical, and that each level has a range of responsibilities, some of which may overlap and some of which are unique. The Commission correctly noted that the work of Provincial Court Judges carries greater responsibilities and greater demands than the work of Associate Judges, and that the same observation applies when comparing the work and remuneration of Superior Court Judges to that of Provincial Court Judges.

It agrees with the Commission that the responsibilities of Associate Judges, their role in the justice system, the need to attract and retain excellent candidates, and balancing compensation including among Superior Court Judges and Provincial Court Judges, are all important considerations that underpin determinations of fair and reasonable Associate Judge salaries.

Further, as acknowledged by the Commissioner, while the outcome of the Civil Rules Review remains to be determined, an increase to the salary of Associate Judges is appropriate given the vital role they play in making Ontario's civil justice system more efficient and expeditious.

The LGIC accepts the Commission's recommendation that the compensation of Associate Judges should be linked at a rate of 85% of the salary of Superior Court Judges and should be adjusted annually by the Industrial Aggregate Index of Canada.

However, the LGIC disagrees that this linkage to 85% of a Superior Court Judge salary must be fully achieved as of April 1, 2024. In particular, the Commission failed to place sufficient weight on the relevant criteria related to economic conditions in the province as well as recent Ontario public sector compensation trends.

While the Commission did not provide any detailed rationale for its recommendation that the linkage rate of 85% of a Superior Court Judge salary should be effective immediately as of April 1, 2024, consideration of these relevant criteria support a phased-in approach to implementation over the mandate period.

As such, an approach that achieves this linkage incrementally by April 1, 2027 would provide fair and reasonable remuneration, while also more closely respect the relevant criteria the Commission is required to consider.

The LGIC agrees with the Commission's determination that Ontario and Canada are facing economic uncertainty, particularly given ongoing uncertainty related to Canada-US trade relations and other global events, such as major conflicts in the Middle East and Ukraine. Furthermore, since the time the Commission Report was released, such uncertainty has only increased.

However, the Commission failed to consider this relevant context and place sufficient weight on criteria related to Ontario's economic conditions when recommending the effective date for its salary recommendation.

Ongoing geopolitical turmoil poses significant risks to Ontario's economy and has an impact on Ontario's economic performance. Ontario's annual real GDP growth is projected to fall from 1.2% in 2025 to 1.0% in 2026, and growth projections for 2027 and 2028 have fallen during the time between the 2025 and 2026 Ontario Budgets. Additionally, Ontario's deficit is projected to be \$12.3 billion for 2025-26 and \$13.8 billion for 2026-27.

While Ontario is on a path to balance the budget, it must continue to invest responsibly to build a strong province. These fiscal indicators, amongst others, underscore the need for the Government of Ontario to take a responsible, targeted approach to spending.

The government's responsibility for prudently superintending Ontario's fiscal affairs continues to grow in importance in light of the increasingly uncertain economic conditions that face Ontario. An approach to Associate Judge's salary increases that is incremental – not immediate – is warranted in these challenging financial circumstances.

The Commission also failed to place sufficient weight on the criteria related to recent Ontario public sector compensation trends when it recommended an effective date of April 1, 2024 for its salary recommendation.

Linking the salary of an Associate Judge to 85% of the salary of a Superior Court Judge as of April 1, 2024 would result in a salary increase of 10.07% from the previous salary. This is significantly higher than annual increases for Provincial Court Judges, Justices of the Peace and Deputy Judges, and to an even greater extent for public sector employees during the same period. Phasing-in the linkage by providing incremental increases during the mandate period would thus be more in line with recent increases for other judicial offices in Ontario.

This phased-in approach is also consistent with the recent historical approaches taken with both Provincial Court Judges and Justices of the Peace. Between April 1, 2018 and April 1, 2021, Provincial Court Judge salaries increased incrementally from 93.47% to 95.27% of the salary of a Superior Court Judge. From April 1, 2018 to April 1, 2022, Justice of the Peace salaries increased incrementally from 46.5% to 50% of the salary of a Provincial Court Judge. In neither case was the ultimate linkage rate effective immediately as of the beginning of the relevant commission period.

For the reasons set out above, the LGIC has accepted the Commission's recommendation that the salary of Associate Judges be linked to the salary of a Superior Court Judge and be adjusted annually by the Industrial Aggregate Index of Canada. This linkage will be implemented in a phased-in manner, ultimately achieving the recommended linkage rate of 85% of the salary of a Superior Court Judge as of April 1, 2027. Doing so respects both the Commission's ultimate recommendation and the relevant criteria that must be considered.

Recommendations – Pension, Benefits and Judicial Allowances

The LGIC accepts the Commission's recommendations regarding pension matters and judicial allowances. To align all pension changes, the initial pension contribution rate increase will be effective at the same time as the RCA implementation date, which is targeted for 2028. The subsequent pension contribution rate increase will be effective 6 months following the implementation date of the initial contribution rate increase.

The LGIC accepts the Commission's alternative recommendation regarding group insurance benefits, such that Ontario Regulation 485/16 will be updated to clarify the existing linkage of post-retirement benefits to the general PRB Legacy Plan as described in the PRB OIC 1933/2016. Furthermore, the LGIC accepts the Commission's recommendation that coverage for psychological services include psychotherapists, and the entitlement increased to \$80 per half hour of service with an annual cap of \$1,600.

Recommendation – Parking at 393 University Avenue

The LGIC agrees with the Commission that the question of how to address parking for Associate Judges who work at the Courthouse at 393 University Avenue in Toronto is an operational matter that should be left to the Association and the government to discuss outside of the Commission process.

The government is committed to ensuring that all Associate Judges who work at 393 University Avenue continue to have access to safe and secure paid parking spaces. However, the Commission failed to place sufficient weight on the relevant criteria related to providing fair and reasonable remuneration to Associate Judges as part of its recommendation on parking.

On this basis, the LGIC rejects the Commission's recommendation that Associate Judges should be reimbursed for additional costs they would incur for reserved parking at 393 University Avenue in Toronto, if it is available and they choose to obtain same.

Providing for an entitlement to individually reserved parking spaces for these Associate Judges would set them apart from Superior Court Judges and Provincial Court Judges who work in the immediate vicinity, as neither have access to individually reserved parking spaces.

It is also unclear how the designation of a specific parking space within the lot at 393 University Avenue as reserved for a particular Associate Judge is a necessity for either practical or security reasons.

Various security measures are in place in the parking lot at 393 University Avenue – which is not a government-owned building – including security patrols and cameras. These security measures apply regardless of whether or not an Associate Judge parks in a reserved parking space, so there is no clear basis by which an individually reserved parking space within this parking lot would be any more secure.

On this basis, the LGIC rejects the Commission's recommendation that Associate Judges who work at the Courthouse at 393 University Avenue be reimbursed for additional costs they incur for reserved parking, if it is available and they choose to obtain same.

Conclusion

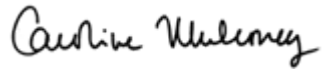
For the reasons set out above, the LGIC accepts the Commission's recommendation that the salary of Associate Judges be linked to 85% of the salary of a Superior Court Judge and be adjusted annually by the Industrial Aggregate Index of Canada. It also accepts the Commission's recommendations regarding pension matters and judicial allowances and the Commission's alternative group insured post-retirement benefits recommendation and the Commission's recommendation related to enhancements to psychological services benefits.

In light of the LGIC's disagreements with the extent to which the Commission weighed the relevant criteria and the increasingly uncertain economic conditions that face Ontario, it does not, however, accept the Commission's recommendation regarding the effective date of the recommended salary linkage. Consequently, the recommended linkage of 85% will be achieved in a phased-in manner by April 1, 2027 instead of immediately effective April 1, 2024.

It also does not accept the Commission's recommendation regarding parking for those Associate Judges who work at the Courthouse at 393 University Avenue in Toronto, who will instead continue to have access to paid parking spaces in accordance with existing arrangements but will not be reimbursed for additional costs they may incur for reserved parking if it is available and they choose to obtain same.

On behalf of the LGIC, I wish to reiterate my gratitude to the Commission for carrying out its important work of reviewing and making recommendations for the remuneration of Ontario's Associate Judges. While the LGIC has not accepted all of the Commission's recommendations in full, the Commission's thorough consideration of the issues has strongly informed the LGIC's determination of the appropriate level of remuneration for Associate Judges as shown by the LGIC's acceptance of the majority of the Commission's recommendations.

Sincerely,

A handwritten signature in black ink that reads "Caroline Mulroney". The signature is written in a cursive, flowing style.

The Honourable Caroline Mulroney
President of the Treasury Board

c: Steven Barrett, Counsel to the Ontario Superior Court Associate Judges' Association
Colleen Bauman, Counsel to the Ontario Superior Court Associate Judges' Association
David Campbell, Commission Counsel