

BILL C-12: JUDGES ACT AMENDMENTS

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LEGISLATIVE HISTORY OF BILL C-12

HOUSE OF COMMONS

Bill Stage	Date
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SENATE

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N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print**.

Legislative history by Peter Niemczak

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BILL C-12: JUDGES ACT AMENDMENTS*

INTRODUCTION

On 21 February 2001, Bill C-12, An Act to amend the Judges Act, was introduced in the House of Commons by the Minister of Justice, Anne McLellan. The bill essentially deals with judicial salaries and allowances, judicial annuities and other benefits. It will also make some technical amendments to the *Judges Act*. For ease of reference, the description and analysis portion of this paper will consider the bill's proposed amendments under these headings.

Bill C-12 is an implementation of the Government's response to the May 2000 Report and Recommendations of the 1999 Judicial Compensation and Benefits Commission.⁽¹⁾ Pursuant to the amendments made in 1998 to section 26 of the *Judges Act*, the "Drouin Commission" (chaired by Richard Drouin, O.C., Q.C.) is the first judicial remuneration commission mandated to review judges' salaries and benefits every four years.

The Commission is comprised of three members: one person nominated by the judiciary; one person nominated by the Minister of Justice; and a chairperson nominated by the first two members. The Commission is required to commence an inquiry on 1 September of every fourth year and submit a report with recommendations to the Minister of Justice within nine months of its commencement. In conducting its inquiry, the Commission is required by section 26(1.1) of the Act to consider:

* Notice: For clarity of exposition, the legislative proposals set out in the Bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent and come into force.

(1) The Commission report can be found at <http://www.quadcom.gc.ca/> and the Government response at <http://www.canada.justice.gc.ca/en/news/nr/2000/juge.html>. The Government accepted Recommendations 1-7 and 9-21 of the Commission's report; however, it was not prepared to accept Recommendation 8 relating to supernumerary judges until further work is done in this area. As well, the Government did not accept Recommendation 22 pertaining to judicial representational costs. Instead, the Government chose to propose an alternative formula in clause 18 of Bill C-12.

- (a) the prevailing economic conditions in Canada, including the cost of living, and the federal government's overall economic and current financial position;
- (b) the role of the judiciary's financial security in ensuring judicial independence;
- (c) the need to attract outstanding candidates to the judiciary; and
- (d) any other objective criteria that the Commission considers relevant.

Upon receipt of the Commission's report, the Minister is thereafter required to table a copy in Parliament within ten sitting days, and respond to the Commission's recommendations within six months.

The new quadrennial process emerged partly in response to the Supreme Court of Canada's 1997 decision in *Reference Re Remuneration of Judges*,⁽²⁾ and partly as a result of the work of previous triennial commissions (Scott (1996), Crawford (1993), Courtois (1990), Guthrie (1987), and Lang (1983)). These commissions found that the idea of an independent body to review and make recommendations on the salaries and benefits of federally appointed judges, although sound in theory, was not put into practice under the triennial system. Successive governments largely ignored the extensive work of these bodies, except to lay commission reports before Parliament, almost as if by doing so, they had absolved themselves of their constitutional obligations in the area of judges' compensation.

The Supreme Court of Canada in the *Reference* case also recognized that government delays or complete inaction in responding to the reports of judicial compensation commissions can diminish judges' morale and the independence of the judiciary. The Court reiterated that judicial independence is a fundamental constitutional tenet containing three core characteristics: security of tenure; financial security; and administrative independence. The financial security aspect is critical, not only for maintaining judicial independence and impartiality, but also for attracting persons most suited by their experience and ability to be excellent candidates for the Bench. The Court held that governments are therefore under a constitutional obligation to establish independent, effective and objective judicial compensation

(2) [1998] 1 S.C.R. 3.

commissions, i.e., bodies which are necessary to prevent political interference by the executive and legislative branches of government in the determination of judicial remuneration. Specifically, the Court held that a government must formally respond to a commission's report within a specified period of time and, where the government chooses not to accept one or more of the commission's recommendations, it must provide a reasonable justification for its decision. The reasonableness of the government's response can be subject to review by the courts on the basis of the legal standard of "simple rationality."

DESCRIPTION AND ANALYSIS

A. Judges' Salaries – Clauses 1-16

Currently, sections 9 to 22 of the *Judges Act* set out the salaries to be paid to federally appointed judges on a court-by-court basis. Section 25 of the Act provides the formula for the periodic adjustment and revision of those salaries. Essentially, the adjustment is made annually, on 1 April, by multiplying the previous year's salary for judges by the Canadian Industrial Aggregate Index, up to a maximum of 7%. In addition to this annual adjustment, sections 25(5) and (6) provided a phased-in increase to judicial salaries of 8.3% over a two-year period commencing 1 April 1997. This increase was in response to recommendations of the 1996 Scott Commission Report.

The Drouin Commission salary recommendations (Recommendations 1 and 2) differ with respect to three categories of judicial office: 1) puisne judges⁽³⁾; 2) Chief Justice and Associate Chief Justice; and 3) Chief Justice of Canada and Supreme Court of Canada Justices. According to Department of Justice officials, the best way to implement these recommendations is to amend two parts of the legislation. Amendments to sections 9 to 22 of the *Judges Act* (clauses 1-14 of the bill) set out judges' final salaries effective 1 April 2000; they also add a method for calculating final salaries for the periods commencing 1 April 2001, 1 April 2002 and 1 April 2003. Section 25 is amended (proposed new section 25(1)) to provide the formula for calculating the annual adjustment necessary to determine final salaries in new sections 9 to 22

(3) The term *puisne* means "ranked after" and it refers to all federally appointed judges who do not have the title Chief Justice or Associate Chief Justice.

for the three-year period commencing 1 April 2001. The effect of these amendments will be an 11.2% increase in judicial salaries as of 1 April 2000. Effective 1 April 2004, the current method of calculating statutory indexing, as well as judges' final salaries, within section 25 of the *Judges Act* will resume pursuant to a new section 25(2) (clause 16 of the bill).

The Appendix of this paper sets out how the salaries of federally appointed judges will be determined for the years commencing 1 April 2000, 2001, 2002 and 2003 if Bill C-12 becomes law. Bill C-12 will also affect the salaries of such officers of Parliament as the Auditor General, the Privacy Commissioner, the Information Commissioner, the Commissioner of Official Languages and the Chief Electoral Officer, whose salary levels are deemed by their governing legislation to be equal to that of certain federal judicial offices.

Under the bill, puisne judges will each receive \$198,000, inclusive of statutory indexing as of 1 April 2000. Effective 1 April 2001, 2002 and 2003, these judges will receive \$2,000 plus statutory indexing. The statutory indexing for each year will be determined pursuant to the formula set out in a new section 25(1) (clause 16 of the bill), which essentially multiplies the previous year's salary for these judges, plus \$2,000, by the Canadian Industrial Aggregate Index. In arriving at these salary recommendations, the Drouin Commission considered a combination of comparative factors, including the salaries and performance bonuses of the most senior level of deputy ministers in the Government (DM-3s), the earnings of private-sector lawyers, and the significance of judicial annuities in recruiting outstanding candidates to the bench. It also heard arguments from representatives of the judiciary that judicial salaries be increased by 26.3%, a position which contrasted with the Government's submission that a 5.7% increase as of 1 April 2000 was the maximum that could be justified.⁽⁴⁾

The Commission also considered and recommended (Recommendation 2) the continuation of the approximate 10% differential that has long existed between the salaries of puisne judges and Chief/Associate Chief Justices. Indeed, no party before the Commission suggested that this differential be altered. Thus, clauses 2-13 of Bill C-12 set the salaries of Chief Justices and Associate Chief Justices at \$217,100, inclusive of statutory indexing, as of

(4) In its submission, the Government argued that the current level of judicial salaries, coupled with automatic annual adjustments mandated by the statutory indexation provision in section 25 of the *Judges Act*, reflects an adequate and acceptable level of judicial remuneration. The Government stated that if the Commission concluded that an increase in judicial salaries was necessary, the maximum increase that could be justified would be 5.7%.

1 April 2000. For the years commencing 1 April 2001, 2002 and 2003, Chief Justice and Associate Chief Justice salaries will reflect the proportionate relationship that exists between their proposed salary and that of puisne judges as of 1 April 2000.⁽⁵⁾ Clause 1 of the bill provides the Chief Justice of Canada with a salary of \$254,500, inclusive of statutory indexing, as of 1 April 2000. Also effective that date, Justices of the Supreme Court of Canada will receive \$235,700. For the next three years, these salaries will be increased to maintain the same proportionate relationship as \$254,500 and \$235,700, respectively, bear to the salary of puisne judges as of 1 April 2000.⁽⁶⁾ There is no separate annual adjustment calculation (i.e., statutory indexing) for any of these salaries because they are based on the puisne judges' final salary, which already includes the annual adjustment.

B. Judicial Allowances – Clause 19

Section 27 of the *Judges Act* provides judges with various annual allowances:

- The incidental allowance permits them to purchase items and equipment – such as robes, law books and computers – which assist in the execution of judicial duties.
- The Northern allowance is intended to compensate for the higher cost of living in the territories.
- The representational allowances reimburse Chief Justices and other senior judges for travel and expenses actually incurred as they discharge such extra-judicial obligations as representing their courts at conferences or public events.

Clause 19 implements the recommendations of the Drouin Commission (Recommendations 3-5) that as of 1 April 2000:

- increase incidental allowances from a maximum of \$2,500 to \$5,000 per year;
- adjust Northern allowances from a yearly allowance of \$6,000 to \$12,000 per year; and
- increase representational allowances from \$10,000 to \$18,750 for the Chief Justice of Canada; \$7,000 to \$12,500 for the Chief Justices of the Federal Court of Canada and the Chief Justice of each province; and \$5,000 to \$10,000 for Supreme Court of Canada Puisne Judges, Trial Chief Justices and Other Designated Chief Justices and Senior Judges.

(5) This ratio is 109.64%.

(6) The ratio in terms of the Chief Justice of Canada is 128.53%; for Justices of the Supreme Court of Canada, it is 119.04%.

Incidental and Northern allowances have not been increased since 1989. Representational allowances have not changed since 1985.

In 1990, the Courtois Commission recommended that representational allowances be increased to \$15,000, \$10,000 and \$8,000 respectively. These recommendations were reflected in Bill C-50, which received first reading in December 1991 and died on the *Order Paper* in 1993. In 1993, the Crawford Commission endorsed the Courtois Commission's recommendations concerning representational allowances. In Recommendation 5 of its report, the Drouin Commission indexed the Courtois Commission's recommendations, as if implemented in 1990, to 1999 levels using both the Industrial Aggregate Index and the Consumer Price Index.

C. Judicial Annuities – Clauses 20-25

1. Cessation of Contributions – Clause 25

Before 1975, federally appointed judges did not have to contribute towards the cost of their statutory annuities; however, amendments to the *Judges Act* resulted in a set of requirements for judges' contributions pursuant to section 50. Judges appointed before 1975 must contribute 1.5% of their annual salary in order to offset the costs of annuities for their surviving spouses and children; they do not have to contribute to the cost of their own annuities. Judges appointed after 1975 must contribute 6% of their annual salary toward the cost of their own annuities as well as to those of their surviving spouses and children. Also, judges appointed after 1975 must contribute 1% of their salary towards indexing their pensions as provided for by the *Supplementary Retirement Benefits Act*.

After considering submissions by representatives of the judiciary and the Government,⁽⁷⁾ the Commission concluded that contributions toward judges' annuities should not continue past the point where a judge is eligible to receive that annuity. The Commission found that, at present, additional contributions were being required in circumstances where no

(7) Representatives of the judiciary had proposed that contributions to the annuity scheme cease after 15 years of service, whether or not a judge is then eligible to retire. The Government submitted that contributions should be reduced from 7% to 1% of salary at the time that a judge becomes eligible for a full annuity.

additional benefit was forthcoming, something that is not the case in employer-sponsored pension plans.

In recognition of the fact that the current 7% contribution includes 1% towards the indexing of judges' pensions, the Commission recommended (Recommendation 6) that contributions toward a judicial annuity be reduced from 7% of salary to 1% for the period during which a judge is entitled to receive a full annuity but continues to work in either a full-time or supernumerary capacity. Clause 25 of Bill C-12 amends section 50 of the *Judges Act* to implement this recommendation. New section 50(2.1) applies the same cessation of contributions provision to Supreme Court of Canada judges who fall under the special retirement provisions proposed by clause 20 of the bill (see Part 2.b. below).

2. Early and Special Retirement Provisions – Clauses 20-21

a. Early Retirement – Clause 21

Currently, judges are not permitted early retirement benefits. A judge must serve at least 15 years on the Bench, with a combined age and years of service that total 80, before she or he can qualify for a full annuity. If the judge serves any less time, the only compensation is a return of her or his contributions with interest (section 51 of the *Judges Act*).

The Drouin Commission found this lack of an early retirement option to be inflexible and unfair, especially because judges' contributions account for only a small portion of the value of their annuities and they are denied RRSP room for the entire time they are making contributions to the annuity program. The Commission also believed that many of the alleged inequities in the judges' annuity scheme would become substantially less difficult if judges could elect to retire with some pension benefits after a reasonable period of service. Moreover, the Commission believed that consideration of early retirement benefits should be made in light of the changing demographic and gender characteristics of today's judicial appointments.

Clause 21 of Bill C-12 implements Recommendations 9-12 of the Drouin Commission Report by introducing an early retirement option for judges based on a pro-rated benefit. Proposed section 43.1 of the *Judges Act* will allow a judge, who has served at least

ten years and is at least 55 years of age,⁽⁸⁾ to take early retirement and exercise the option of receiving an immediate or a deferred annuity. The amount of a deferred annuity is calculated by multiplying two-thirds of the judge's salary at the time of the early retirement election by a fraction calculated as the number of years of service divided by the number of years of service necessary for that judge to become eligible for a full pension. Pursuant to the *Supplementary Retirement Benefits Act*, the pension would not be payable before the age of 60 and it would be indexed by the Consumer Price Index in each of the years for which it was deferred. If a judge wants to elect a pro-rated annuity that is payable immediately, the deferred annuity's value will be reduced by 5% per year for every year that the annuity is paid in advance of age 60. Finally, proposed section 43.1(5) provides that where a judge had been granted a deferred annuity, or is in receipt of an immediate annuity, and the judge dies, the judge's survivor will be granted an annuity that is calculated as if the judge was in receipt of a deferred annuity.

b. Special Retirement Provisions for Justices of the Supreme Court of Canada – Clause 20

Justices of the Supreme Court of Canada are required by law to participate in the deliberative process and judgement-writing on cases they have heard, for a period of up to six months after retirement.⁽⁹⁾ Recommendation 16 of the Drouin Commission Report proposed that these Justices should, with the certification of the Chief Justice, be eligible for full salary and pro-rated allowances for the period of time they are called upon to complete their work. Clause 20 of Bill C-12 will create these special retirement provisions. Proposed section 41.1 of the *Judges Act* specifies that a retired Supreme Court Justice, who is participating in judgements, shall receive her or his salary less any amount otherwise payable under the Act. In short, this is a top-up provision whereby the judge's pension would be topped up to the judge's salary level for the specified time period. The portion of incidental or representational allowances that a judge would receive for this time period is covered by proposed subsections 41.1(2)(b) and (c) of the Act.

(8) The Drouin Commission noted that it is the norm among most pension plans in both the private and public sectors to set age 55 as a threshold for early retirement eligibility.

(9) Subsections 27(1) and (2) of the *Supreme Court of Canada Act*.

3. Survivor Benefits – Clauses 22-24

Section 44 of the *Judges Act* provides for the payment of survivor annuities. The survivor of a judge who dies while still in office receives an annuity equal to one-third of the judge's salary. On the death of a retired judge already in receipt of an annuity, the survivor receives an annuity equal to one-half of that granted to the judge. Section 44(3), however, prevents a survivor of more than one judge from collecting more than one survivor's benefit.

The judiciary, for a long time, has sought to increase survivor annuities to 40% of salary in the case of a judge who dies in office, and 60% of the annuity where the judge is retired. The Guthrie (1987) and Courtois (1990) Commissions both recommended that survivor benefits be increased; however, neither addressed the issue of who would pay for the benefit enhancement. Proposed amendments to increase this benefit were contained in Bill C-50, which died on the *Order Paper* in 1993. In 1996, the Scott Commission took note of this long-standing issue, but chose not to make any recommendations at that time because it believed that a salary increase was a higher priority.

Although the Drouin Commission supported increasing survivors' benefits, it was cognizant of the question of who should pay for this enhancement. After due consideration of the costing information it received from the Government and from Statistics Canada in relation to the treatment of survivors' benefits in public and private pension plans, the Commission recommended (Recommendation 13) that effective 1 April 2000, the annuity provisions of the *Judges Act* be amended to provide judges with the option to elect a survivor's benefit of 60% of the judicial annuity, with a consequent reduction in the initial benefit calculated to minimize any additional cost to the annuity plan. In Recommendation 14, the Commission supported the ability of a judge to elect a higher survivor benefit up to 75% of the annuitant's pension with an actuarial reduction to initial benefits that would make the election as close to cost neutral as possible. It is interesting to note, however, that the Drouin Commission did not refer in its recommendations to the judiciary's proposal that annuities be increased for survivors of judges who die in office.

Although clause 23 of Bill C-12 implements the specific recommendations of the Drouin Commission, the system proposed in the bill is designed to minimize the cost and ensure

that the election will be as close to cost neutral as possible. This would be achieved in three ways.

- First, the survivors' benefit option will be exercisable at the time of retirement, with a limited extended time period for currently retired judges to elect an enhanced survivor benefit.
- Second, an exercising of the option will be void if the judge dies within one year after making the election. In that case, original entitlements would be reinstated.
- Third, a formula for actuarial reduction will be established by regulation based on mortality tables adjusted over time to reflect the actual experience of the judicial constituency.

Although the Drouin Commission recommended that its survivors' benefit recommendation be implemented as of 1 April 2000, the Government did not find it feasible to provide for the retroactive application of this benefit. Indeed, clause 27 of the bill provides for the coming into force of this provision on a date to be fixed by Order in Council. Clause 27 is necessary to ensure that appropriate regulations are in place to support the implementation of clause 23.

In accordance with Recommendation 15 of the Drouin Commission Report, clause 22 of the bill repeals the limitation contained in section 44(3) of the *Judges Act* which prevents a survivor of more than one judge from collecting more than one survivor's benefit. According to the Commission, there is no justifiable basis for the continuation of this provision. By way of example, no such limitation exists with respect to public-sector workers or Parliamentarians.

Finally, clause 24 of the bill makes some proposed wording changes to section 44.2 of the *Judges Act* and adds a new section 44.2(3.1) to the legislation. Section 44.2 of the Act allows a judge in receipt of an annuity to reduce the amount he or she received in order to provide for a surviving spouse who would not otherwise qualify for an annuity under section 44. Given that Bill C-12 introduces an early retirement option, including deferred annuities, to the *Judges Act*, the current wording "in receipt" in section 44.2 must be changed to "granted" to reflect this amendment. Proposed new section 44.2(3.1) introduces the limitation that an election made pursuant to section 44.2 is void if the judge dies within one year after making the election. As with the survivor benefits provisions in Bill C-12 (clause 23), the

Government believes that this limitation provision is necessary to ensure the survivor election is as close to cost neutral as possible.

D. Other Benefits – Clause 20

1. Life Insurance – Proposed Section 41.2(1)

Currently, federally appointed judges participate in non-statutory insurance benefits available under the Public Service Management Insurance Plan (PSMIP). In contrast, full-time Order-In-Council appointees and other senior public service executives are covered under an executive group life insurance plan (the “Executive Plan” available under the framework of the PSMIP) from which they receive different benefits. For instance, whereas benefits available to judges provide coverage of one or two times salary, at the option and expense of the judge,⁽¹⁰⁾ basic life insurance coverage under the Executive Plan is available at two times salary at no cost to the participants. Similar benefits are available, without cost to the participants, to Parliamentarians under their subplan of the PSMIP Executive Plan.

In their submissions to the Drouin Commission, – the Canadian Judges Conference, the Canadian Judicial Council and the Government agreed on the need to improve life insurance benefits available to the judiciary. The issue, however, was how to structure an improved plan. For example, the question of compulsory participation in the plan raised equality issues pursuant to section 15 of the *Canadian Charter of Rights and Freedoms*. As well, submissions considered the question of whether compulsory participation could be accommodated within the umbrella of the PSMIP. After hearing all submissions on these and other issues, the Commission recommended (Recommendations 17 and 18) that a separate plan, under the general framework of the PSMIP, be created for the judiciary to provide benefits equivalent to those now enjoyed by members of the Executive Plan. In addition, incumbent judges, at the time of the introduction of the plan, should be able to opt out of life insurance coverage or elect to accept coverage at 100% of salary, rather than 200% of salary.

In its response to the Commission’s life insurance recommendations, the Government agreed to accept Recommendations 17 and 18. It undertook to create a separate life insurance plan for the judiciary and to take all possible steps to create the plan under the general

(10) Variable premiums apply to judges based on the age and gender of the participant in the plan.

framework of the PSMIP.⁽¹¹⁾ Proposed section 41.2 in clause 20 of the bill provides the necessary amendments to the *Judges Act* to fulfil the Government's commitment, and clause 27 of the bill defers the coming into force of these provisions until a new plan is contracted under the PSMIP.

2. Health and Dental Benefits – Proposed Section 41.3

Clause 20 of Bill C-12 proposes a new section 41.3 of the *Judges Act* to implement the Drouin Commission recommendations (Recommendations 19 and 21) concerning health and dental benefits for the judiciary. Specifically, the Commission had accepted the judiciary's proposal that the current hospital benefit of \$60.00 per day be upgraded to \$150.00 per day to accord with hospital benefits available to Deputy Ministers and similar Executives at no cost to the participants in the plan. As well, the Commission had recommended that retired judges be eligible to participate in the public servants' dental plan for retirees on the same terms and conditions as other retirees. Currently, dental coverage available to the judiciary is identical to that provided to all public-sector workers.

3. Survivor Benefits Following Death on Duty – Proposed Section 41.4

Recommendation 20 of the Drouin Commission Report concerns survivor benefits resulting from an accidental or violent death of a judge during the performance of his or her judicial duties. The Commission noted that such survivors currently receive limited benefits relative to Deputy Ministers and other senior members of Government who die in like circumstances. The Commission therefore recommended that benefits for accidental death and death caused by acts of violence be provided to survivors of members of the judiciary at the maximum level and on the same basis as now provided for the most senior category of public-sector workers.

Clause 20 of Bill C-12 seeks to implement this recommendation in a new section 41.4 of the *Judges Act*. According to the Government's Response to the Drouin Commission Report, the accidental death benefit would be consistent with the benefit derived

(11) The PSMIP is a plan established and insured contractually with a private insurer. As such, it is administered by a board of Trustees. The Government must therefore obtain both the consent of the insurer and the concurrence of the Board to establish a new plan under the PSMIP.

using the formula provided in the *Government Employee Compensation Act*. The slain on duty benefit would be consistent with the benefit derived using the same formula as contained in the “Public Service Income Benefit Plan for Survivors of Employees Slain on Duty.”

E. Funding of Representational Costs of Judges – Clause 18

Clause 18 of Bill C-12 sets out a formula for providing costs payable to representatives of the judiciary participating in the commission process on a solicitor/client basis. Accordingly, section 26.3 subjects the judiciary’s legal representational costs to review by an assessment officer of the Federal Court of Canada for reasonableness, and the Government would then pay 50% of the resulting total.

The formula set out in clause 18 contrasts the Drouin Commission recommendation (Recommendation 22) that the Government pay 80% of the total representation costs of the Canadian Judges Conference and the Canadian Judicial Council that were incurred in connection with their participation in the commission inquiry. The Commission, however, capped this amount at \$230,000, inclusive of the \$80,000 that had already been contributed by the Government on an *ex gratia* basis.

COMMENTARY

Bill C-12 has attracted little attention and has therefore not been the object of widespread public commentary.

Interestingly, however, a number of studies seem to be evolving from the work of the Drouin Commission. For example, although the Government was prepared to implement the Commission’s annuity-related recommendations, it believes that a comprehensive review of the current judicial annuity regime is required. In the Government’s view, such a study would lay the groundwork for a longer term reform of the judicial annuity scheme, consistent with the *Judges Act* requirement of “adequacy” in support of judicial independence, the current or changing demographics of the judiciary, and the evolution of contemporary pension policy in response to societal changes. The review would be designed with input from all interested persons and groups with the hope that this undertaking would allow the next quadrennial Commission to better address these issues.

Also in its response to the Drouin Commission Report, the Government notes the difficulty in establishing a true salary comparator for the judiciary. It therefore proposed that steps be taken to improve the information base upon which salary assumptions and comparisons can be made by the next quadrennial review.

Finally, the Government stated that it was not prepared to accept the Commission's recommendation (Recommendation 8) pertaining to supernumerary status for judges. In its response, the Government points out that this recommendation would have implications not only for the federal Government, but also for the provinces and territories. Given that the Commission itself identified the need for better information-gathering with respect to the contribution of supernumerary judges to the workload of the courts, the Government believes that this should be another element of the broader study that it has proposed be undertaken in preparation for the next quadrennial Commission.

APPENDIX

SALARIES OF FEDERALLY APPOINTED JUDGES

(1) Puisne Judges

The following chart illustrates how the salaries of puisne judges will be determined for 2000 to 2003. According to Statistics Canada, the Industrial Aggregate percentage for 1 April 2001 is 2.33%. For illustration purposes, this chart assumes the following statutory indexing rates: 3.6% for 2002; and 3.7% for 2003. The official figures of the Industrial Aggregate percentages are available only as of April of each year.

YEAR	BASE SALARY	ECONOMIC INCREASE	ANNUAL ADJUSTMENT	FINAL SALARY
2000	\$198,000 (<i>incl. statutory indexing</i>)			\$198,000
2001	\$200,000		\$4,660 (<i>s. 25(1)</i>)*	\$204,660
2002	\$204,660 [<i>previous year salary</i>]	\$2,000	\$7,440 (<i>s. 25(1)</i>) *	\$214,100
2003	\$214,100 [<i>previous year salary</i>]	\$2,000	\$7,996 (<i>s. 25(1)</i>)*	\$224,096

(*section 25(1) formula: Salary in previous year + \$2,000 x Industrial Aggregate Percentage = Annual Adjustment)

(2) Chief Justices and Associate Chief Justices

The Commission set the final salary (inclusive of statutory indexing) in the amount of \$217,100 as of 1 April 2000 for this category of judge. For the following years, 2001-2003, the salary will be increased to maintain the same proportionate relationship as \$217,100 bears to the salary of the puisne judge as of April 2000 (\$198,000). This ratio is 109.64 %. The salary is based on the puisne judge's salary for the same year multiplied by the ratio, and therefore the annual adjustment is built into the final salary of the Chief Justices and Associate Chief Justices. The following chart illustrates the method by which the salaries of Associate Chief Justices and Chief Justices will be determined for 2001-2003.

YEAR	BASE SALARY	RATIO	FINAL SALARY
2000	\$217,100 (<i>incl. statutory indexing</i>)		\$217,100
2001	\$204,660 (<i>final salary of puisne judge in 2001</i>)	x 1.096	\$224,307
2002	\$214,100 (<i>final salary of puisne judge in 2002</i>)	x 1.096	\$234,654
2003	\$224,096 (<i>final salary of puisne judge in 2003</i>)	x 1.096	\$245,609

(3) Chief Justice of Canada and Justices of the Supreme Court of Canada

As with the Chief Justices and Associate Chief Justices, the Commission set the final salary for the Chief Justice of Canada and the Justices of the Supreme Court of Canada as of 1 April 2000. The Chief Justice of Canada will receive (inclusive of statutory indexing) \$254,500, while the Justices of the Supreme Court of Canada will each receive \$235,700. For the following years, 2001-2003, the Chief Justice of Canada's salary and the Justices of the Supreme Court of Canada's salaries will be increased to maintain the same proportionate relationship as \$254,500 and \$235,700 respectively, bear to the salary of the puisne judge as of April 2000 (\$198,000). The ratio, in terms of the Chief Justice of Canada, is 128.53%; for Justices of the Supreme Court of Canada, it is 119.04%. The salary is based on the puisne judge's salary for the same year multiplied by the ratio, and therefore the annual adjustment is

built into the final salary of the Chief Justices and Associate Chief Justices. The following chart illustrates the method by which the salaries of the Chief Justice of Canada and the Justices of the Supreme Court of Canada will be determined for 2001-2003.

Chief Justice of Canada:

YEAR	BASE SALARY	RATIO	FINAL SALARY
2000	\$254,500 (<i>incl. statutory indexing</i>)		\$254,500
2001	\$204,660 (<i>final salary of puisne judge in 2001</i>)	x 1.285	\$262,988
2002	\$214,100 (<i>final salary of puisne judge in 2002</i>)	x 1.285	\$275,119
2003	\$224,096 (<i>final salary of puisne judge in 2003</i>)	x 1.285	\$287,963

Justices of Supreme Court of Canada:

YEAR	BASE SALARY	RATIO	FINAL SALARY
2000	\$235,700 (<i>incl. statutory indexing</i>)		\$235,700
2001	\$204,660 (<i>final salary of puisne judge in 2001</i>)	x 1.190	\$243,545
2002	\$214,100 (<i>final salary of puisne judge in 2002</i>)	x 1.190	\$254,779
2003	\$224,096 (<i>final salary of puisne judge in 2003</i>)	x 1.190	\$266,674

Source: Justice Canada.