

***Judicial Compensation
and Benefits Commission***



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

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**Ruling Respecting Recommendation 8(5)(c) of the Report of the Sixth
Quadrennial Judicial Compensation and Benefits Commission**

February 24, 2023

The Judicial Compensation and Benefits Commission (the Commission) delivered the Sixth Report and Recommendations of the Commission to the Minister of Justice of Canada on August 30, 2021.

The Commission has received correspondence dated February 13, 2023, from counsel for the Canadian Superior Courts Judges Association and the Canadian Judicial Council (the Judiciary) together with correspondence dated February 16, 2023 from counsel for the Government of Canada with respect to the Judiciary seeking direction as to the implementation of Recommendation 8(5)(c) of the Commission's Final Report and Recommendations. The correspondence are attached as Schedule A to this Ruling.

Recommendation 8(5)(c) of the Report reads as follows:

8. The following preparatory work should begin now so that the Seventh Quadrennial Commission has before it adequate and appropriate additional data from which to work:

...

5. In addition to the data currently available, the Office of the Commissioner for Federal Judicial Affairs begin preparation now of statistical data for each province and territories as to:

...

(c) compensation levels of appointees immediately prior to their appointment;

...

all during the current quadrennial period and provide data over a sufficient time span to identify material trends.

The Commission notes that the Judiciary stated in paragraph 64 of its Submission to the Commission, filed on March 29, 2021, that "... all indications are that the decline in appointments from private practice reflects a drop in interest in judicial appointment among lawyers in private practice. A major cause of that drop in interest is necessarily the income gap between what outstanding candidates earn in private practice and the judicial salary."

The Commission notes the timing of this issue being raised with it in relation to the duration of this Commission's mandate.

In order to properly determine how best to ensure that Recommendation 8(5)(c) can be usefully implemented for the benefit of future Commissions, this Commission directs that:

1. Counsel for the Judiciary file any written submissions in favour of the position that it wishes the Commission to take with respect to the implementation of Recommendation 8(5)(c) by April 10, 2023;
2. Counsel for the Government of Canada file any response by May 10, 2023;
3. Any other hearing participant file any submissions by May 10, 2023;
4. Counsel for the Judiciary file any reply to the Government of Canada submission, and any response to any submission of any other party, by May 19, 2023;
5. Counsel for the Government of Canada file any response to any submission of any other party by May 19, 2023; and,
6. Where any party takes a view that there is alternative evidence gathering relevant to assisting future Commissions in assessing the impact of pre-appointment income levels on applications for judicial appointments, a description of this type of evidence should be included in the written submissions.

The submissions should be delivered in a form that would support a determination by the Commission in writing and without the need for an oral hearing.

If any party wishes an oral hearing, it should make that request, recognizing that the Commission will determine after receipt of the written submissions whether an oral hearing is necessary.