

December 8, 2003

Judicial Compensation and Benefits Commission
9th floor, 99 Metcalfe Street
Ottawa, ON K1A 1E3

Dear Sirs:

**Re: Salary Level for Senior Judges
under s. 22 of *Judges Act***

Please accept this letter as a submission in response to your invitation for written submissions on matters within your mandate, i.e., your inquiry into the adequacy of salaries and benefits payable to judges appointed pursuant to the *Judges Act*. Pursuant to your direction, this submission is being provided in 10 copies as well as in electronic format.

The issue is the salary attached to the position of senior judge of each of the superior trial courts in the three northern Territories. The submission, put simply, is this: The salary attached to the position of senior judge ought to be the same as the salary attached to the position of Chief Justice of the other superior trial courts in Canada. There is no valid reason for it to be otherwise. See the salary structures in sections 12-21 of the *Judges Act* and compare to the salary structures in section 22 of the *Judges Act*.

[As an aside, and for information only, allow us to provide an explanation of a separate and distinct issue, one that we acknowledge is not within the Commission's mandate, i.e., the absence of the position of Chief Justice in each of the superior trial courts in Yukon, Northwest Territories and Nunavut. The legislative assembly of each territory passed legislation, i.e., amendments to its *Judicature Act* — in the case of the Northwest Territories it was in 1995, eight years ago — creating the position of Chief Justice of the superior trial court. Each legislative assembly has the legislative authority to provide for the constitution and organization of the Courts, just as in the provinces, so this is valid legislation. Each territorial government has requested the federal government to enact minor amendments to the *Judges Act* to accommodate the newly enacted provisions of each territory's *Judicature Act*. To date, the federal government has failed to do so. At one point, in May 2000, the then federal Minister of Justice sought and received the concurrence of the Canadian Judicial Council and others to the proposed amendments to the *Judges Act*, but then did not proceed with the proposed amendments. To date, the federal government has merely stated "now is not the appropriate time".]

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The senior judge of each of the superior trial courts — Supreme Court of the Yukon Territory, Supreme Court of the Northwest Territories and Nunavut Court of Justice has the same duties and responsibilities as the Chief Justice of each of the superior trial courts of the provinces. Among the superior trial courts of the provinces, no distinction is made in the *Judges Act* between large courts and small courts. In any event, each of the northern courts has, in addition to full-time resident judges, a large complement of deputy judges (40-50) who are otherwise superior court judges or retired judges in the provinces. And the workload or caseload of the northern superior trial courts is similar to that of the smaller provinces.

This submission is respectfully made on behalf of the senior judges of the northern superior trial courts and our successors in office. This is a compensation inequity that requires rectification and, notwithstanding the continuing inaction of the federal government on the separate and distinct "Chief Justice" issue, ought not be delayed any further on the compensation aspect.

We thank the members of the Commission in anticipation of your due consideration of our submission.

Hon. Justice J.E. Richard,
Senior Judge, Supreme Court of
the Northwest Territories

(and on behalf of:

Hon. Justice B.A. Browne,
Senior Judge,
Nunavut Court of Justice

and

Hon. Justice RS Veale,
Senior Judge, Supreme Court of
Yukon Territory)