

**NOVA SCOTIA PROVINCIAL COURT JUDGES'
SALARIES & BENEFITS TRIBUNAL**

2026-2029

**REASONS FOR RECOMMENDATIONS OF THE
TRIBUNAL**

Tribunal Members:

Scott Sterns, Chair
David J. Roberts
John C. MacPherson, KC

Andrew Taillon on behalf of the Honourable
Minister of Justice and Attorney General
Nova Scotia Department of Justice
1690 Hollis Street
Halifax, NS B3J 2L6

Justin Adams on behalf of the Nova Scotia Provincial Judges Association
Burchell Wickwire Bryson
1900-1801 Hollis Street
Halifax, NS B3J 3N4

INTRODUCTION

1. Pursuant to Section 21A of the *Provincial Court Act* (“the Act”):
 - (1) There shall be a tribunal to recommend the salaries and benefits for judges of the Provincial Court, including the Chief Judge and the Associate Chief Judge of the Court.
 - (2) A tribunal shall be composed of three persons
 - (a) One of whom shall be appointed by the Association;
 - (b) One of whom shall be appointed by the Minister; and
 - (c) One of whom shall be appointed by the persons referred to in Clauses A and B.
2. The original appointee pursuant to Section 21A, 2(a) was unable to act. A vacancy was created. David Roberts was appointed pursuant to Section 21A(7). John MacPherson was appointed pursuant to Section 21A, 2(b). Scott Sterns was appointed pursuant to Section 21A, 2(c).
3. A hearing was held in Halifax on September 29, 2025. During the hearing, oral submissions were received from the Nova Scotia Provincial Judges Association and the Minister of Justice for the Province of Nova Scotia. In addition to the oral submissions, significant documentary evidence was presented by the parties which included the relevant legislation, caselaw, reports of previous tribunals, the Province’s fiscal brief, comparisons from across Canada, and written submissions of the parties. The material available to this Tribunal is voluminous.
4. Having reviewed all of the material before it, and confirming the significant agreement between the parties, this Tribunal provided recommendations by document dated September 29, 2025. The September 29, 2025 Recommendations cover the core of the legislative responsibilities of the Tribunal. The Tribunal recommends that the September 29, 2025 Recommendations be forward to the Minister.
5. In its September 29, 2025 Recommendations, the Tribunal undertook to provide reasons to follow. These are those reasons.

THE ROLE OF THE TRIBUNAL

6. The Tribunal is responsible for considering and recommending the salary and benefits conferred on Provincial Court judges for the Province of Nova Scotia. Section 21E(1) of the *Provincial Court Act* (The “Act”) states:

Duties of tribunal

21E (1) A tribunal shall inquire into and prepare a report containing recommendations with respect to

- a. the appropriate level of salaries to be paid to judges of the Provincial Court including the chief judge and associate chief judge;
- b. the appropriate level of *per diem* payments, or payments for part of a day, made to judges for presiding in the Provincial Court or the Family Court where those judges are not receiving salaries;
- c. the appropriate vacation and sick-leave benefits to be provided to judges of the Provincial Court;
- d. pension benefits and increases thereto in respect of increases in the cost of living, long-term disability benefits or salary continuation, life insurance and health and dental benefits for judges of the Provincial Court and the respective contributions of the Province and the judges for such benefits; and
- e. other non-discretionary benefits for judges of the Provincial Court and the Family Court.

7. The role of the Tribunal was discussed in *Provincial Court Judges' Association of New Brunswick v. New Brunswick Minister of Justice et al.*, [2005] 2 SCR 286, at paragraphs 14 and 15 :

[14] The [PEI] *Reference* laid the groundwork to ensure that provincial court judges are independent from governments by precluding salary negotiations between them and avoiding any arbitrary interference with judges' remuneration. The commission process is an "institutional sieve" (*Reference*, at paras. 170, 185 and 189) – a structural separation between the government and the judiciary. The process is neither adjudicative interest arbitration nor judicial decision making. Its focus is on identifying the appropriate level of remuneration for the judicial office in question. All relevant issues may be addressed. The process is flexible and its purpose is not simply to "update" the previous commission's report. However, in the absence of reasons to the contrary, the starting point should be the date of the previous commission's report.

[15] Each commission must make its assessment in its own context. However, this rule does not mean that each new compensation commission operates in a void, disregarding the work and recommendations of its predecessors. The reports of previous

commissions and their outcomes form part of the background and context that a new compensation committee should consider. A new commission may very well decide that, in the circumstances, its predecessors conducted a thorough review of judicial compensation and that, in the absence of demonstrated change, only minor adjustments are necessary. If on the other hand, it considers that previous reports failed to set compensation and benefits at the appropriate level due to particular circumstances, the new commission may legitimately go beyond the findings of the previous commission, and after a careful review, make its own recommendations on that basis.

8. In exercising their role, section 21E (3) (a)-(j) of the *Act* lists the factors that the tribunal must consider:

(3) When making recommendations pursuant to this Section, a tribunal shall take into consideration the following:

- (a) the constitutional law of Canada;
- (b) the need to maintain the independence of the judiciary;
- (c) the need to attract excellent candidates for appointment as judges;
- (d) the unique nature of the judges' role;
- (e) the manner in which salaries and benefits paid to judges in the Province compares to judicial compensation packages in other jurisdictions in Canada, including the federal jurisdiction, having regard to the differences between those jurisdictions;
- (f) the provision of fair and reasonable compensation for judges in light of prevailing economic conditions in the Province and the overall state of the Provincial economy;
- (g) the adequacy of judges' salaries having regard to the cost of living and the growth or decline in real *per capita* income in the Province;
- (h) the relevant submissions made to the tribunal;
- (i) the nature of the jurisdiction and responsibility of the court;
and
- (j) other such factors as the tribunal considers relevant to the matters in issue. 1998, c. 7, s. 1; 2001, c. 5, s. 34; 2013, c. 27, s. 2.

ISSUES

9. It must be mentioned at the outset that the parties to this proceeding, the Minister of Justice for the Province of Nova Scotia, and the Nova Scotia Provincial Judges Association, are to be commended for their level of cooperation and professionalism. Both parties cooperated throughout this proceeding. There was significant agreement on all of the major issues. The Tribunal commends both parties.
10. By way of joint submission the parties agreed on all issues raised by Sections 21E (1)(a)(b)(c)(d) of the *Act*. As a result, by document dated September 29, 2025, this Tribunal accepted the joint submissions of the parties and provided its recommendations related to Sections 21E (1)(a)(b)(c)(d).
11. There was disagreement between the parties on an issue related to moving expenses, which has raised questions regarding Section 21E (1)(e). The issues regarding moving expenses and Section 21E(1)(e) will be dealt with separately by this Tribunal.

THE SECTION 21E FACTORS

THE CONSTITUTIONAL LAW OF CANADA

12. The parties agree and recognize the constitutional requirement for judicial independence. The parties agree and recognize that negotiations between the Government and the judiciary are not permissible, thus the role of this Tribunal. The parties also agree and recognize that judicial independence is a cornerstone of Canadian democracy and an important element of Canadian constitutionalism.
13. The Tribunal is both bound by, and guided by, *Reference re Remuneration of Judges of the Provincial Court to Prince Edward Island*, [1997] 3 SCR 3:

9 Although these cases implicate the constitutional protection afforded to the financial security of provincial court judges, the purpose of the constitutional guarantee of financial security — found in s. 11(d) of the Charter, and also in the preamble to and s. 100 of the Constitution Act, 1867 — is not to benefit the members of the courts which come within the scope of those provisions. The benefit that the members of those courts derive is purely secondary. Financial security must be understood as merely an aspect of judicial independence, which in turn is not an end in itself. Judicial independence is valued because it serves important societal goals — it is a means to secure those goals.

10 One of these goals is the maintenance of public confidence in the impartiality of the judiciary, which is essential to the effectiveness of the court system. Independence contributes to the perception that justice will be done in individual cases. Another social goal served by judicial independence is the maintenance of the rule of law, one aspect of which is the constitutional principle that the exercise of all public power must find its ultimate source in a legal rule. It is with these broader objectives in mind that these reasons, and the disposition of these appeals, must be understood.

14. The Tribunal agrees and places significant weight on the constitutional requirement of judicial independence and the constitutional barrier that prevents judges from negotiating directly. The Tribunal accepts as fundamentally important that the Court must be separate in authority and function from all other participants in the justice system.

JUDICIAL INDEPENDENCE

15. Judicial independence is a fundamental principal which informs all recommendations of the Tribunal. The Tribunal accepts and endorses the comments at pages 7 – 8 of the 2008 Tribunal when reviewing this factor:

...the Tribunal has concluded the current salaries of Nova Scotia Provincial and Family Court judges are not below the “minimum level” referred to by the Supreme Court which would give rise to immediate pressures capable of jeopardising judicial independence as safeguarded by Canadian constitutional law. Thus, at this point in time the Tribunal, while cognizant of the importance of factors (a) and (b) of section 21E(3), does not see them as having a determinative impact on the present need for adjustment of judicial salaries...

16. We also accept the comments of the 2014-2017 tribunal at paragraph 8:

The first two factors in Section 21E(5) [*sic*] of the *Act*, (a) constitutional law of Canada and (b) the need to maintain the independence of the judiciary, were alluded to in the introduction to this Report. This is not the place to engage in a full exegesis of Canadian constitutional law in so far as it impacts on the judiciary. Suffice it to repeat that the Nova Scotia system for establishment of salaries and benefits for provincially appointed judges is compliant with constitutional requirements. This is a proposition over which there was no dispute among those making submissions to the Tribunal, and which has been common ground over the past 15 years of deliberations by various incarnations of the Tribunal. It is also common ground that the current salaries, benefits, working conditions and institutional arrangements for Nova Scotia’s provincial judges are

generally such as to protect judicial independence, in relation to the executive branch of government and in relation to private litigants who appear before our judges. These are the main concerns with respect to the capacity of the Province's judges to maintain their neutrality and objectivity when dealing with those who come before them, so as to sustain and promote the rule of law in our corner of Canada's constitutional democracy. Thus, while constitutional law and the need to maintain judicial independence are foundational to this whole exercise, these factors are not determinative for resolving the particular questions which relate to the issues under consideration in this round of recommendations.

17. It is our view that judicial independence must be maintained and the recommendations of this Tribunal must meet that goal. Judicial independence is a fundamental factor when the Tribunal presents its recommendations.

EXCELLENT CANDIDATES

18. Subsection 21E(3)(c) of the *Provincial Court Act* requires the Tribunal to take into account "the need to attract excellent candidates for appointment as judges" in any recommendations it makes. The rationale for this factor is obvious; no compensation scheme can meet the public interest if it does not result in continued competence in the ranks of the judiciary. This factor should be assessed in terms of the many qualities that can define an excellent candidate, including relevant experience, depth of knowledge, standing in the legal community, and the need for a diverse bench in terms of gender balance, minority representation, geographical representation, and bilingualism.
19. The current provincial and family judiciary in Nova Scotia is one that can clearly be held in high regard, indicating that the salary and benefits available to provincial court judges has met the goal of attracting excellent candidates. The Minister directs the Tribunal to the biographical information of the judges appointed since the previous Tribunal sitting. The Minister points to these appointments as evidence that the ability of the current compensation scheme to attract excellent candidates continues.
20. The Tribunal is alive to the need to attract excellent candidates and believes its recommendations achieve that goal.

THE UNIQUE NATURE OF THE JUDGES' ROLE

21. When considering this matter, the Tribunal is grateful that in many areas, the parties are in agreement, including the unique nature of the judges role. The Tribunal reiterates and accepts its endorsement in the 2023-2026 Recommendations at paragraph 20:

[35] “Provincial... Court judges have a great responsibility to and authority over the individuals appearing before them. The Minister appreciates the burden placed upon the shoulders of the judiciary in terms of the significance and impact of their decisions. The Association has highlighted the emotional stress inherent in the position, as noted in the 2008-2011 Tribunal Report, paragraph 13:

... In addition, the Association emphasized that besides this economic price of the lost professional opportunities for judges there are also social and emotional costs. Among these are the emotional stresses of having to make daily decisions which have lasting implications for the lives and families of those who appear before provincial judges as well as society as a whole. The judges do this under the constant pressure of having to work “error free” in the eyes of courts of appeal and the “court of public opinion” in order to maintain the credibility of the administration of justice, yet still ensuring judicial independence.

[36] The 2008-2011 Tribunal Report reviewed the elements which contribute to the uniqueness of the position of judges in our community. These include the emotional weight of their significant work, the social isolation and requirement to maintain public confidence in the justice system, as well as the respect and privilege bestowed upon them. Following its review and reflection on this statutory criterion, the Tribunal commented at paragraph 15:

The Tribunal is alert to the Association’s arguments on the unique economic, social and emotional circumstances in which the judges may find themselves. It is also cognizant of the fact that while civil servant salaries and the salaries of other public servants are not formally a relevant comparator group under the Act, their current salaries could generally be said to reflect their unique status as public servants in the largest sense. During this round of Tribunal deliberations, we have thus concluded that this factor cannot be seen to have a determinative impact one way or the other as to adjustment of salaries.

[37] The 2017-2020 Tribunal Report stated as follows regarding the unique role of the judiciary:

It is well known that Provincial Court judges are the segment of the judiciary in this Province who are, for the most part, the true criminal law specialists, whose expertise and experience in the field can be relied upon. By comparison, other judges in the Province deal with criminal matters on a more occasional basis. Day in and day out, Provincial Court judges mete out criminal justice and struggle with the question of whether accused persons are guilty or not, and if guilty,

what the sentence should be. The liberty and security of the person of significant numbers of Nova Scotian citizens is in the hands of the Provincial Court on a constant basis. This is unique, and stressful, work.”

22. Because of this unique and challenging role, a higher wage is necessary to reflect this stressful work. Consistent with the constitutional requirements, the judicial branch must be set above and apart from others in both the private and public sector, including the executive branch of government.

COMPARATOR TO OTHER JURISDICTIONS

23. A significant component of the review and recommendations of this Tribunal is the data providing inter-jurisdictional comparisons. This information provides a strong basis for this Tribunal’s recommendations.
24. The Tribunal is pleased to note that this data has resulted in the agreement of the parties, and the recommendation of the Tribunal that the annual salary share be an amount not less than eighty percent (80%) of the Federally Appointed Judge Salary Rate.

FAIR AND REASONABLE COMPENSATION

25. The Tribunal accepts that it is a requirement that judicial salaries should be set based on objective criteria, not political expediencies. The Tribunal is thankful for the data and information provided by the parties which provide helpful information on the overall state of the economy in Nova Scotia. As was the case with previous tribunals, this Tribunal was provided with the fiscal brief prepared by the Province. This information provided to the Tribunal, with helpful background on the prevailing economic conditions, and the state of the Nova Scotia provincial economy, has been considered in full.
26. The Tribunal is mindful of the inflationary pressures that apply to all Nova Scotians, including provincial court judges.
27. Having considered the significant data provided by the parties, particularly by the Province, the Tribunal believes its recommendations satisfy Section 21E(3)(f) requirement of fair and reasonable compensation for judges in light of prevailing economic conditions in the province and the overall state of the provincial economy.

THE ADEQUACY OF JUDICIAL SALARIES HAVING REGARD TO THE COST OF LIVING

28. Inflation is impacting all Nova Scotians including judges. As it will with all Nova Scotians, inflation will have a significant impact on the buying power of provincial judges.

29. The Tribunal has considered the adequacy of judicial salaries having regard to the cost of living. There is no dispute, the cost of living is rising. Provincial judges' compensation should rise as well. The recommendations of this Tribunal reflect that.

THE NATURE OF THE JURISDICTION AND RESPONSIBILITY OF THE COURT

30. The Tribunal believes that the nature of the criminal jurisdiction of the Provincial Court is critical to the administration of justice for Nova Scotians. The Tribunal highlights the use of the term critical. We acknowledge and agree that provincial judges are the front line. The Tribunal also accepts from its 2023-2026 submissions:

“Changes in the common law and the *Criminal Code* of Canada continue to have profound impacts on the work of Nova Scotia’s provincial judges...”

“...the provincial court continues to struggle with the pressures brought about by the Supreme Court’s decision in *R. v. Jordan*, 2016 SEC 27...”

31. When these significant factors are combined with the residual impact of COVID 19, it is clear that the nature of the jurisdiction and responsibilities of the court are significant.
32. Given the challenges inherent in the jurisdiction and responsibility of the court, the Tribunal is confident that its recommendations fully consider this issue.

OTHER FACTORS

33. The Tribunal has considered the voluminous information and submissions of the parties in reaching its recommendations. The Tribunal is aware of no other factors.

RECOMMENDATIONS

34. After full consideration of the submissions of the parties, the *Provincial Court Act*, particularly s.21E(3)(a)-(i), the Tribunal reiterates its recommendations provided to the parties on September 29, 2025:

Recommendation 1 – Salaries

The Tribunal recommends that Nova Scotia Provincial Judges’ salaries for the period from April 1, 2026 to March 31, 2029 be established in the following manner:

- From April 1, 2026 to March 31, 2027, the annual salary of a Nova Scotia provincial judge shall be increased to an amount equal to not less than eighty percent (80%) of the Federally Appointed Judge Salary Rate for that period;

- From April 1, 2027 to March 31, 2028, the annual salary of a Nova Scotia provincial judge shall be increased to an amount equal to not less than eighty percent (80%) of the Federally Appointed Judge Salary Rate for that period; and
- From April 1, 2028 to March 31, 2029, the annual salary of a Nova Scotia provincial judge shall be increased to an amount equal to not less than eighty percent (80%) of the Federally Appointed Judge Salary Rate for that period.

Recommendation 2 – Professional Allowance for Full-Time Judges:

The Tribunal recommends that the professional allowance of full-time judges should increase to \$4,500.00 per year.

Recommendation 3 – Professional Allowance for *Per Diem* Judges:

The Tribunal recommends that the Chief Judge can authorize, at their discretion, reimbursement to a *per diem* judge for their professional development expenses incurred up to \$4,500.00.

Recommendation 4 – Scope of Professional Allowance for *Per Diem* Judges


The Tribunal recommends that *per diem* judges should be permitted to use their professional allowance in the same manner as full-time judges are permitted, including but not limited to, all reasonable incidental expenditures that the fit and proper execution of the office of a judge may require, including out of province travel, judicial attire, judges' professional development, membership dues and fees, and other miscellaneous items (including dry cleaning).

Recommendation 5 – Pension Indexation


The Tribunal recommends that the rate of pension indexation for Provincial Judges for the period April 1, 2026 to March 31, 2029 continue to be 75% of the Consumer Price Index for the appropriate preceding calendar year to a maximum of 5%.

Recommendation 6 – The General Issue of Continuity

The Tribunal recommends that all matters of judicial compensation referred to in Section 21E(1) of the *Provincial Court Act* not made the subject of recommendations in this Report shall be governed by the current terms and conditions for the Provincial Court Judges as recommended by the 2023-2026 Tribunal or by previous Tribunals, where applicable.



Scott Sterns, Chair



David Roberts
Member



John C. MacPherson, KC
Member