

November, 1998

MEMORANDUM OF UNDERSTANDING

BETWEEN

The Attorney General of Ontario
(hereinafter called the "Minister")

AND

The Chief Judge of the Ontario Court (Provincial Division)
(hereinafter called the "Chief Judge")

PREAMBLE

The Minister and the Chief Judge are both committed to the principle of judicial independence and the furtherance of the efficiency of the courts and the administration of justice. It is therefore mutually agreed that it is desirable to define in a Memorandum of Understanding the authority and responsibility of the Office of the Chief Judge for financial and administrative matters. This memorandum amends the original Memorandum of Understanding signed on June 21, 1993 (by the Honourable Marion Boyd, Attorney General, and the Honourable Sidney B. Linden, Chief Judge) and the amended Memorandum of Understanding signed on January 22, 1996 (by the Honourable Charles Harnick, Attorney General, and the Honourable Sidney B. Linden, Chief Judge).

1.0 INTRODUCTION

1.1 Purpose of Memorandum of Understanding

The purpose of this Memorandum of Understanding is to define the financial and administrative authority and responsibility of the Office of the Chief Judge and to clarify the operational and administrative relationships between the Ministry and the Office of the Chief Judge.

1.2 Definitions

In this Memorandum:

"judiciary" means all judges of the Ontario Court (Provincial Division) and all justices of the peace;

"Ministry" means the Ministry of the Attorney General; and

"Office of the Chief Judge" means all persons and activities associated with the Ontario Court (Provincial Division) funded through the Judicial Services Activity administered by the Executive Coordinator under the direction of the Chief Judge.

1.3 Legislative Authority

In the event of any conflict between this Memorandum of Understanding and any statute, the statute prevails.

1.4 Approval

This Memorandum of Understanding will take effect on the date of its signature by both the Minister and the Chief Judge and will be implemented as outlined in paragraphs 6.1 and 6.2.

1.5 Processes for Review and Amendment

This Memorandum will be reviewed by the Minister and the Chief Judge upon the appointment of either a new Attorney General or a new Chief Judge. If the new incumbent agrees with the content of this Memorandum, both the Minister and the Chief Judge will initial it. If there is disagreement by the incumbent with the content of this Memorandum, it shall continue in effect until amended in writing with joint agreement by both parties.

This Memorandum may be reviewed at any time by the parties upon the request of either the Minister or the Chief Judge.

This Memorandum shall be reviewed from time to time for the purpose of determining whether any exclusive responsibilities should be added or removed from the scope of paragraph 2.4. If, as a result of this review, it is determined that the scope of paragraph 2.4 should be altered, this Memorandum shall be amended to reflect any such changes.

2.0 FINANCIAL AND ADMINISTRATIVE ARRANGEMENTS

2.1 Funding

The operations of the Office of the Chief Judge are funded out of the Consolidated Revenue Fund through the annual Estimates process.

2.2 Executive Coordinator, Office of the Chief Judge

The financial and administrative responsibilities of the Office of the Chief Judge as set out in paragraphs 2.4 and 3.2 shall be exercised through a Public Service position known as the Executive Coordinator, Office of the Chief Judge (hereinafter called the Executive Coordinator) who will take direction from the Chief Judge. The Executive Coordinator will meet on a regular basis with the Deputy Attorney General and the Assistant Deputy Attorney General for Courts Services to discuss issues of mutual concern.

2.3 Preparation of Annual Budget

The Office of the Chief Judge will prepare an operating budget for inclusion in the estimates of the Ministry. The Office of the Chief Judge shall deliver this budget to the Minister in accordance with the Ministry's budget planning cycle.

The Minister and the Chief Judge agree that no charges to the Chief Judge's operating budget shall be made without prior consultation with the Office of the Chief Judge.

2.4 Exclusive Responsibilities of Office of the Chief Judge

The Office of the Chief Judge shall have exclusive responsibility for all support services for judges of the Provincial Division and justices of the peace out of its annual budget, as outlined below:

- judge and justice of the peace salaries and benefits
- judicial training and education
- operational travel
- parking
- judicial expense allowances
- per diem judge program
- hospitality
- relocation expenses
- ceremonial expenses
- furniture, furnishings, supplies and equipment for the Offices of the Chief Judge, Associate Chief Judges, Regional Senior Judges, and Regional Senior Justices of the Peace
- support staff in the Offices of the Chief Judge, Judicial Research Centre, Regional Senior Judges, and Regional Senior Justices of the Peace which include salaries and benefits, transportation and communications, training and education, furniture, furnishings, supplies and equipment

The offices which are the exclusive responsibility of the Office of the Chief Judge are:

Office of the Chief Judge and Associate Chief Judges - 1 Queen Street East
in Toronto

Judicial Research Centre - 60 Queen Street West in Toronto

Office of the Regional Senior Judge - Central East Region

Office of the Regional Senior Judge - Central West Region

Office of the Regional Senior Judge - East Region

Office of the Regional Senior Judge - Northeast Region

Office of the Regional Senior Judge - Northwest Region

Office of the Regional Senior Judge - Toronto Region

Office of the Regional Senior Judge - West Region

Office of the Regional Senior Justice of the Peace - Central East Region

Office of the Regional Senior Justice of the Peace - Central West Region

Office of the Regional Senior Justice of the Peace - East Region
Office of the Regional Senior Justice of the Peace - Northeast Region
Office of the Regional Senior Justice of the Peace - Northwest Region
Office of the Regional Senior Justice of the Peace - Toronto Region
Office of the Regional Senior Justice of the Peace - West Region

It is acknowledged by the Minister and the Chief Judge that additional support services to judges of the Provincial Division and justices of the peace are currently being provided by various branches of the Ministry, and that budget funds are currently allocated to various Ministry function codes and budget centre codes for this purpose. The Minister and the Chief Judge further acknowledge that some of these additional support services may more appropriately be the responsibility of the Office of the Chief Judge, but that it is not possible to make this determination at this time. These will be identified through an ongoing review of Support services by the Implementation Committee established in paragraph 6.1.

2.5 Policies and Procedures

Financial and administrative policies and procedures of the Office of the Chief Judge shall correspond with Management Board of Cabinet Directives and Guidelines and the Ministry's support services policies and procedures. For the purpose of financial and administrative management, the Executive Coordinator shall have Authority I delegated under the *Public Service Act*.

2.6 Confidentiality

The confidentiality of all information held by the Minister or the Ministry of the Attorney General and its officials pertaining to the judiciary shall be governed by the *Freedom of Information and Protection of Privacy Act*.

2.7 Ministry Presentations

The Office of the Chief Judge will be invited to attend and participate in formal inter-ministry meetings and presentations that directly affect the operations of the Office of the Chief Judge and the Ministry will ensure that the results of any such meetings and presentations are delivered to the Office of the Chief Judge. The Office of the Chief Judge will also be invited to participate on any intra-ministry committees involved with functions which affect the operation of the Office.

2.8 Support Services

A full range of financial and administrative support services will be provided by the Ministry to the Office of the Chief Judge as outlined below:

- a) financial and administrative services including accounting operations, technical advice and compensation advice will be provided by the Financial and Administrative Services Branch;
- b) human resources services including benefits administration, classification, advice and consultation regarding redeployment/recruitment, and staff relations will be provided by the Human Resources Branch;
- c) advice/consultation on information technology and telecommunications services will be provided on request by the Integrated Justice Information Technology Division;
- d) internal audit services will be provided by the Audit Services Branch on the request of the Office of the Chief Judge and in accordance with the Ministry's annual internal audit plan.
- e) accommodation planning and relocation services will be provided by the Facilities Management Branch;
- f) services of the Freedom of Information and Privacy program will be provided by the Freedom of Information and Privacy Unit;
- g) French language services will be provided by the French Language Services Unit in accordance with Ministry policy;
- h) judicial support services which are not allocated to the Chief Judge by this Memorandum of Understanding will be provided by the Judicial Support Section of the Program Development Branch; and
- i) regular and special statistical information and services provided by the Information Planning and Court Statistics Section of the Program Development Branch.

3.0 ROLES AND RESPONSIBILITIES

3.1 Role of the Minister

The Minister is responsible for:

- a) presenting the budget of the Office of the Chief Judge as part of the estimates of the Ministry;

- b) reporting to the legislature; and
- c) ensuring that the Office of the Chief Judge is informed of Ministry and Government financial and administrative policies which apply to the operations of the Office of the Chief Judge.

3.2 **Role of the Office of the Chief Judge**

For the purpose of all exclusive responsibilities allocated to the Office of the Chief Judge under paragraph 2.4, and for establishing and implementing policies and procedures under paragraph 2.5, the Office of the Chief Judge is responsible for:

- a) advising the Minister, as appropriate, on matters affecting the financial and administrative responsibilities of the Office of the Chief Judge;
- b) effectively and efficiently managing the operations of the Office of the Chief Judge; and
- c) managing all human resource functions for employees of the head Office of the Chief Judge, the Offices of the Regional Senior Judges, the Offices of Regional Senior Justices of the Peace and any other employees assigned to the Office of the Chief Judge as a result of the implementation of this Memorandum of Understanding.

3.3 **Appointment of Associate Chief Judges and Regional Senior Judges**

Pursuant to section 42 of the *Courts of Justice Act* the Lieutenant Governor in Council is responsible for the appointment of Associate Chief Judges and Regional Senior Judges. The Attorney General is responsible for taking these appointments to the Lieutenant Governor in Council.

It is agreed that the Chief Judge shall recommend, to the Attorney General, names for appointment for each vacant position of Associate Chief Judge or Regional Senior Judge. The Chief Judge's recommendation shall be based upon full consideration of those judges of the Provincial Division who have expressed an interest in such an appointment.

In addition, the Chief Judge, prior to making a recommendation to the Attorney General, shall consult with those persons who may be affected by such an appointment. Without limiting the nature of the consultation, the Chief Judge will consult with the current or previous incumbent, representatives of the Ontario Judges Association and the Ontario Family Law Judges Association, individual judges as appropriate and any other persons who are expected to work closely with the person appointed.

The Chief Judge's recommendation to the Attorney General, of names for each vacancy shall be made prior to the completion of an incumbent's term, in order to allow for an orderly transition.

3.4 **Trial Coordination**

While trial coordinators and designates are within the Court Services Division in terms of Ontario Public Service reporting requirements, the trial coordinator or designate when performing duties as trial coordinator has the function and responsibility of providing support and assistance to the Office of the Chief Judge and the Offices of the Regional Senior Judges. Accordingly, the day to day direction of the trial coordinator and/or designate, as it pertains to the execution of those duties, is a function and responsibility of Offices of the Regional Senior Judges. All decisions related to the staffing of the office of trial coordinator are to be made and all performance management contracts and evaluations are to be completed in conjunction with the Offices of the Regional Senior Judges.

3.5 **Courts Services Division and the Judiciary**

There are a number of functions which currently are managed by the Courts Services Division in providing services in courthouses throughout Ontario to the Ontario Court (Provincial Division). The carrying out of those functions requires close cooperation between the Ministry and the judiciary, at head office, regional offices and local court locations.

4.0 **STAFFING**

4.1 **Conditions of Employment**

The staff of the Office of the Chief Judge are public servants appointed under the *Public Service Act*. The position of Executive Coordinator is a complement position within the staff complement of the Ministry, and all staff transferred to the Office of the Chief Judge from the Ministry under this Memorandum of Understanding shall retain their employment status within the Ministry at the time of the transfer. Public service staffing policies, superannuation and other employee benefits and conditions of employment apply to all staff of the Office of the Chief Judge in the same manner as other employees of the Ministry.

5.0 **AUDITING ARRANGEMENTS**

5.1 **Provincial Auditor**

The financial and administrative affairs of the Office of the Chief Judge may be audited by the Provincial

Auditor as part of any audit conducted with respect to the Ministry. Correspondence with the Provincial Auditor pertaining to the Provincial Auditor's Report will be forwarded to the Chief Judge by the Minister and any response made by the Minister to the Provincial Auditor shall be subject to prior consultation with the Chief Judge.

6.0 IMPLEMENTATION

6.1 Establishment and Mandate of Implementation Committee

There may be established from time to time an Implementation Committee comprised of co-chairs nominated by the Deputy Attorney General and the Chief Judge and such other members as agreed upon by the Deputy Attorney General and the Chief Judge. This Committee will recommend to the Minister and the Chief Judge:

- a) policies, structures and procedures necessary to give effect to this Memorandum;
- b) a review of additional support services which are more appropriately the responsibility of the Office of the Chief Judge and for which budgetary allocations should be transferred to the Office of the Chief Judge;
- c) standards for support services which will continue to be supplied by the Ministry;
- d) duties and responsibilities of the Executive Coordinator; and
- e) other matters as determined by the Deputy Attorney General and Chief Judge from time to time.

6.2 Review of Implementation Committee Recommendations

The Minister and the Chief Judge will review the recommendations of the Implementation Committee and will append to this Memorandum any recommendations agreed upon.

7.0 ONTARIO JUDICIAL COUNCIL AND JUSTICES OF THE PEACE REVIEW COUNCIL

7.1 Independence

The Ontario Judicial Council (OJC) and the Justices of the Peace Review Council (JPRC) operate as independent bodies as established by the *Courts of Justice Act* and the *Justices of the Peace Act*.

7.2 Financial and Administrative Authority

The Executive Coordinator exercises the same financial and administrative responsibilities on behalf of the OJC and the JPRC as he/she does for the Office of the Chief Judge.

Dated at the City of Toronto on November 24, 1998.

The Honourable Charles Harnick
Attorney General

The Honourable Sidney B. Linden
Chief Judge
Ontario Court (Provincial Division)