

Provincial Judges Pension Fund

Financial Statement

For the Nine Months Ended December 31, 2019

Management Responsibility for Financial Reporting

The financial statement has been prepared in accordance with the financial reporting provisions prescribed by the Memorandum of Agreement between the Ontario Conference of Judges and the Lieutenant Governor in Council, the then Minister of Government Services and the Provincial Judges Pension Board (the Standstill Agreement) dated December 20, 2013 and of necessity include some amounts that are based on estimates and judgments. The financial statement has been properly prepared within reasonable limits of materiality and in light of information available up to June 10, 2020.

Management is responsible for the integrity of the financial statement and maintains a system of internal control designed to provide reasonable assurance that the financial information is accurate and reliable and the Fund's deposits and payments are adequately accounted for. The system includes formal policies and procedures and an organizational structure that provides for appropriate delegation of authority and segregation of responsibilities.

The financial statement has been audited by the Office of the Auditor General of Ontario, whose responsibility it is to express an opinion on whether it has been prepared in accordance with the financial reporting provisions prescribed by the Standstill Agreement. The Independent Auditor's Report that appears as part of the financial statement outlines the scope of the Auditors examination and opinion.

On behalf of management



Mark A. Henry
Director, Managed Plans
Ontario Pension Board

M. Vannelli

Michael Vannelli
Director, Total Compensation Strategies Branch
Centre for Public Sector Labour
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Treasury Board Secretariat



Stefanie Ellul
Director, Pay & Benefits Support Branch
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Ontario Shared Services
Ministry of Government and Consumer
Services



Office of the Auditor General of Ontario
Bureau de la vérificatrice générale de l'Ontario

Independent Auditor's Report

To the Provincial Judges Pension Board and to the Minister of Finance

Opinion

I have audited the statement of changes in fund balance of the Provincial Judges Pension Fund (the Fund), for the nine months ended December 31, 2019, and notes to the statement of changes in fund balance, including a summary of significant accounting policies (together “the financial statement”).

In my opinion, the accompanying financial statement is prepared, in all material respects, in accordance with the financial reporting provisions prescribed by the Memorandum of Agreement between the Ontario Conference of Judges and the Lieutenant Governor in Council, the then Minister of Government Services and the Provincial Judges Pension Board dated December 20, 2013 (the Standstill Agreement).

Basis for Opinion

I conducted my audit in accordance with Canadian generally accepted auditing standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statement* section of my report. I am independent of the Fund in accordance with the ethical requirements that are relevant to my audit of the financial statement in Canada, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Emphasis of Matter

Basis of Accounting

I draw attention to Note 2 to the financial statement, which describes the basis of accounting. The financial statement is prepared to assist the Fund in complying with the financial reporting provisions of the Standstill Agreement. As a result, the financial statement may not be suitable for another purpose. My opinion is not modified in respect of this matter.

Future Change in Fund Structure

I draw attention to Note 1 to the financial statement, which describes the change to the Fund structure in the future. Effective January 1, 2020, Ontario Regulation 290/13 was amended to split the Fund into three different funds (a registered pension plan trust, a retirement compensation arrangement trust, and a supplementary pension account with funds held in a special purpose account in the government's consolidated revenue fund). My opinion is not modified in respect of this matter.

Responsibilities of Management and Those Charged with Governance for the Financial Statement

Management is responsible for the preparation of the financial statement in accordance with the financial reporting provisions prescribed by the Standstill Agreement, and for such internal control

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as management determines is necessary to enable the preparation of a financial statement that is free from material misstatement, whether due to fraud or error.

In preparing the financial statement, management is responsible for assessing the Funds' ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Fund either intends to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statement

My objectives are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statement.

As part of an audit in accordance with Canadian generally accepted auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statement, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statement or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Fund to cease to continue as a going concern.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Toronto, Ontario
June 10, 2020

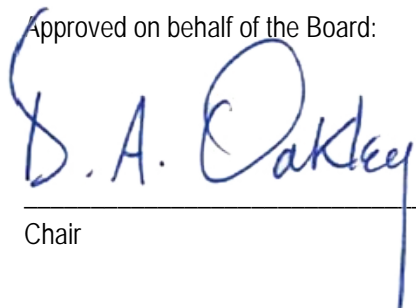
Susan Klein, CPA, CA, LPA
Assistant Auditor General

Provincial Judges Pension Fund
Statement of Changes in Fund Balance
For the Nine Months Ended December 31, 2019

	December 31, 2019 (9 months ended) (\$ 000)	March 31 2019 (12 months ended) (\$ 000)
Deposits		
Contributions		
Participants	4,040	5,098
Province of Ontario (Note 4)	36,750	34,512
Interest earned (note 1 (l))	48,613	48,344
	<u>89,403</u>	<u>87,954</u>
Payments		
Pension payments and survivor allowances	38,153	46,708
Refund of contributions	336	125
	<u>38,489</u>	<u>46,833</u>
Net increase in the Fund	50,914	41,121
Fund Balance with the Minister of Finance		
Beginning of year	1,026,188	985,067
End of year	<u>1,077,102</u>	<u>1,026,188</u>

See accompanying notes to the financial statement.

Approved on behalf of the Board:



 Chair



 Member

Provincial Judges Pension Fund

Notes to Financial Statement

For the Nine Months Ended December 31, 2019

1. Description and Administration of the Fund

The Treasury Board Secretariat is responsible for overall oversight of the Provincial Judges Pension Fund [Fund] including administration of all contributions to the funds and interest earned. The Provincial Judges Pension Board [Board], as originally designated by Ontario Regulation 67/92 of the Courts of Justice Act, is responsible for the administration of pension payments and survivor allowances.

On Oct 31, 2013, Ontario Regulation 67/92 was repealed and was replaced by Ontario Regulation 290/13 under the same legislation. This Regulation split the Provincial Judges Pension Fund into two plans, the Provincial Judges Pension Fund and the Provincial Judges Supplementary Pension Account.

The Fund is registered for income tax purposes and provides for pension benefits up to the limit permitted under the Income Tax Act. The Provincial Judges Supplementary Pension Account provides for pension benefits above the limit prescribed by the Income Tax Act for post-1991 service.

On December 20, 2013, a Court Order was issued, based on an agreement among parties to the litigation challenging the constitutionality of the Provincial Judges Supplementary Pension Account, that effectively ordered management to administer the Fund as one plan with the same administrative practices as were in place under Ontario Regulation 67/92, until the litigation is resolved (Memorandum of Agreement called the “Standstill Agreement”). Pursuant to the direction of the Canada Revenue Agency, the administrative practices for the Provincial Judges Pension Plan were and continue to be to administer the Plan in a manner consistent with the requirements of the Federal Income Tax Act and related Income Tax Act Regulations.

Effective January 1, 2020, Ontario Regulation 290/13 was amended to split the Fund into three different funds (a registered pension plan trust, a retirement compensation arrangement trust, and a supplementary pension account with funds held in a special purpose account in the government’s consolidated revenue fund). This financial statement covers the nine month period from April 1, 2019 to December 31, 2019 when it was still one Fund.

The Fund is held within the Consolidated Revenue Fund of the Province of Ontario and is included as an employee future benefit liability within the consolidated financial statements of the Province.

The Fund is not subject to the reporting requirements under the Pension Benefits Act and Regulations.

The following brief description of the Fund is provided for general purposes only. For more complete information, reference should be made to the Regulations.

(A) GENERAL

The purpose of the Fund is to provide pension payments to retired Provincial Judges who are members of the Plan or survivor allowances to the eligible dependents of these Judges.

(B) FUNDING POLICY

Participants are required to contribute 7% of their salary up to the earlier occurrence of either meeting their basic service requirement or attaining age 70 years.

Provincial Judges Pension Fund

Notes to Financial Statement

For the Nine Months Ended December 31, 2019

1. Description and Administration of the Fund (Continued)

The contribution required from the Province is determined by an actuarial valuation as described in note 4.

(C) PENSION PAYMENTS

A pension payment is available based on the age and the number of years of full-time service for which the participant has credit upon ceasing to hold office and is based on the salary of a full-time judge of the highest judicial rank held by the participant while in office. The participant is entitled to these payments during his/her lifetime.

(D) DISABILITY PENSION PAYMENTS

A full pension is available at age 65 for participants with a minimum of five years of full-time service who are unable to serve in office due to injury or chronic illness.

(E) SURVIVOR ALLOWANCES

A survivor allowance equal to 60% of the qualifying judge's pension payment is paid to the spouse during the spouse's lifetime or to children who meet the age, custody, education or disability criteria defined by Regulation.

(F) DEATH REFUNDS

A death refund can be payable to the personal representative of a participant where there is no further entitlement to a survivor allowance. The amount of the refund is equal to the participant's contributions in the Fund plus interest, less entitlements already paid out.

(G) WITHDRAWAL REFUNDS

Upon ceasing to hold office for a reason other than death, participants not eligible to receive pension payments are entitled to receive a refund of their contributions to the Fund plus interest.

(H) ANNUAL INFLATIONARY ESCALATION OF ENTITLEMENTS

- Judges Retired Before June 1, 2007:

The annual inflationary increase for judges who retired before June 1, 2007 is based on changes in the Average Weekly Earnings published by Statistics Canada and subject to a maximum of 7% in any one year, and is effective on April 1 in every year. In addition, the pensions are adjusted based on the salary increases of sitting judges as recommended by the Provincial Judges Remuneration Commission.

- Judges Retired On Or After June 1, 2007:

The annual inflationary increase for judges who retired on or after June 1, 2007 and elected to be paid under the plan provisions effective on that date is based on changes in the Consumer Price Index, and is effective on January 1 in every year.

Provincial Judges Pension Fund

Notes to Financial Statement

For the Nine Months Ended December 31, 2019

1. Description and Administration of the Fund (Continued)

(i) INTEREST REVENUE

Interest is credited to the account for the Fund, held in the Consolidated Revenue Fund of the Province of Ontario, at the average of the monthly Ontario Borrowing Rates for a 25-year maturity as follows:

- on the net monthly increases to the account accumulating during the fiscal year at the interest rate for the fiscal year; and
- on the net increases to the account for each of the preceding 25 years at the interest rates applicable to those years, providing the funds remain on deposit with the Consolidated Revenue Fund.

2. Significant Accounting Policy – Basis of Accounting

The financial statement is prepared by management in accordance with the Memorandum of Agreement between the Ontario Conference of Judges and the Lieutenant Governor in Council, the then-Minister of Government Services and the Provincial Judges Pension Board (the Standstill Agreement). The basis of accounting prescribed by the Standstill Agreement is consistent with both the repealed Regulation 67/92 and the current Regulation 290/13 under the Courts of Justice Act and consists of contributions and money paid, transferred or credited to the Fund, less money paid out, except for the fact no Supplementary Pension Account was established.

The Standstill Agreement requires that the Provincial Judges Pension Plan be administered and solely funded through the Provincial Judges Pension Fund as it was on October 30, 2013, notwithstanding that Regulation 290/13 requires that the Provincial Judges Pension Plan be funded through the Provincial Judges Pension Fund and a separate Provincial Judges Supplemental Pension Account.

3. Administrative Expenses

Administrative expenses are paid by the Province of Ontario and are not reflected in this financial statement.

4. Liability for Future Benefits

The Provincial Judges Remuneration Commission (Commission) was established under the *Courts of Justice Act* to conduct an independent review of the salary, pension and benefits for all provincial judges. The Commission's salary and non-pension benefits recommendations are binding; recommendations on pension benefits are non-binding. The most recent report of the Commission was the Ninth and Tenth Provincial Judges Remuneration Commission released on April 18, 2018, covering the periods of April 1, 2014 to March 31, 2018 and April 1, 2018 to March 31, 2022 respectively. For the period of April 1, 2014 to March 31, 2018, the report did not recommend any salary increases in addition to the annual inflationary increases already received. The report recommendations for the period April 1, 2018 to March 31, 2022 are included in note 5.

The Province is responsible for the unfunded liability of the Provincial Judges Pension Fund and funds this liability based on recommendations from periodic actuarial valuations of the Plan. An actuarial valuation was prepared as of March 31, 2017 in anticipation of the end of the Standstill Agreement. The Provincially determined contribution as per that valuation

Provincial Judges Pension Fund

Notes to Financial Statement

For the Nine Months Ended December 31, 2019

was 54.5% of judges total salary. The nine months contribution for the period April 1, 2019 to December 31, 2019 was estimated to be \$37.3 million. The actual contribution for this period was \$36.75 million. An actuarial valuation as at March 31, 2019, performed in January 2020, noted that the unfunded liability in the plan was \$37 million. An actuarial valuation as at December 31, 2019 was not done. Subsequent contributions by the Province into the new plan will be based on updated actuarial valuations which will be completed periodically.

Significant assumptions in the March 31, 2019 actuarial valuation and the March 31, 2017 actuarial valuation estimates are as follows:

Assumption	March 2019	March 2017
Expected Return on Plan Assets	3.1%	3.3%
Discount Rate on Future Cash Inflows	3.1%	3.3%
Salary Rate Increases	2.4%	2.6%
Age of Retirement	graduated scale from age 60 to 75	graduated scale from age 60 to 75
Method of Valuation	Projected Unit Credit Method	Projected Unit Credit Method

5. Ninth and Tenth Provincial Judges Remuneration Commission

The Ninth and Tenth Provincial Judges Remuneration Commission recommended that judicial salaries be fixed at 95.27% of federal judicial salaries, to be phased in over the four year period from April 1, 2018 to March 31, 2022.

In addition to the salary recommendations, the report recommended a new pension plan funding design consisting of a fully funded registered pension plan, a partially funded (3 – 5 years' worth of benefits) retirement compensation arrangement, and a supplemental plan funded through a special purpose account in the Consolidated Revenue Fund. While the plan funding design is different, the report did not recommend any changes to the benefits accruals or other pension benefits provided by the pension plan. Commission recommendations on pensions are not binding on the Province of Ontario but the Province of Ontario has agreed to make the recommended plan changes, effective January 1, 2020.