

Law Commission of Canada

Report on Plans and Priorities

2005-2006 Estimates



The Honourable Irwin Cotler
Minister of Justice and Attorney General of Canada

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Acting President's Message

The Law Commission of Canada has entered a period of transition and dynamic change during this past year. With the change of leadership in the organization, an opportunity has been provided for reflection on what has been accomplished to date and consideration of new paths for the future. The Commission has been in existence for seven years and has gained recognition for its willingness to take risks through cutting-edge research and innovative approaches to law reform. Having achieved a greater awareness of our work - both domestically and internationally, the Commission continues to expand its network of contacts and partnerships and this momentum will continue in the year ahead.

In year 2005-2006, the Commission will continue its work in many areas as well as embark on projects in new initiatives that are also particularly important for Canadians:

Canadians as Citizens of the World

The Law Commission will continue work on its project *Governance Beyond Borders* to study how our legal concepts must be adapted to reflect Canada's position as a nation in an interdependent world. In keeping with Canada's diversity, the Law Commission will explore the interaction between cultural traditions and practices and the formal legal system, including values contained in the *Canadian Charter of Rights and Freedoms*. In partnership with community groups, the Law Commission will also examine issues of importance to new immigrants.

Security

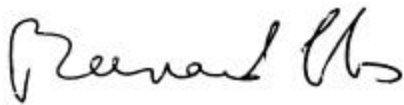
Following the events of 9/11, recent situations of conflict and natural disasters around the world, Canadians, like many others, are looking for some sense of security. The Law Commission's work on public police and private security reflects some of these trends towards increased security and will recommend ways to improve relationships between Canadians, the police and private security agencies.

Is Work Working?, the Law Commission's project on vulnerable workers, will study the ways in which law facilitates or impedes people seeking economic security. The Law Commission will also capitalize on its existing studies of law and risk and further explore the role of governments, individuals, the private sector and the public in the balance of risk and responsibility and the reduction of harm.

Law and Indigenous Traditions

The Law Commission is working with Aboriginal Canadians to ensure that the law responds to their needs. In its project on *Indigenous Legal Traditions*, the Law Commission is exploring how Canadian law can benefit from Indigenous laws and legal traditions. The Law Commission will also study how to overcome the difficulties faced by Aboriginal peoples on reserve who seek loans secured by property.

The Commission also remains committed to a vision that ensures that the promises of law become realities, and that laws are not only coherently drafted but that they meet the needs of all Canadians - today and in the future. The work of law reform is one of on-going dialogue about the way in which law is lived by Canadians and how it can be improved to better fulfil Canadians' expectations. In order to achieve these goals, the Commission will continue to review administrative practices and work effectively, maintain fiscal responsibility in its operations and enhance accessibility by Canadians to the organization and its work.

A handwritten signature in black ink, appearing to read "Bernard Colas". The signature is fluid and cursive, with the first name "Bernard" written in a larger, more prominent script than the last name "Colas".

Bernard Colas
Acting President

Summary Information

The mandate of the Law Commission of Canada is derived from the *Law Commission of Canada Act*, which came into force in April 1997. The mandate of the Commission is “to study and keep under systematic review, in a manner that reflects the concepts and institutions of the common and civil law systems, the law of Canada and its effects.”

The Commission is directed under section 3 of the *Law Commission of Canada Act* to focus on four orientations:

- **New Concepts of Law:** The Commission is to work toward the development of new concepts of law and new approaches to law.
- **Efficiency and Accessibility:** The Commission is to consider measures to make the legal system more efficient, economical and accessible.
- **Stimulating Critical Debate:** The Commission is charged with stimulating critical debate about the law and how it operates in Canadian society. It is encouraged to forge productive networks with academic and other communities to ensure cooperation and coordination in law reform initiatives.
- **Eliminating Obsolescence and Anomalies:** The Commission is to work toward the elimination of obsolescence and anomalies in the current law.

The *Law Commission of Canada Act* can be found on the Commission’s web site at www.lcc.gc.ca/en/about/lcca.asp.

Financial Resources

(thousands of dollars)

2005-2006	2006-2007	2007-2008
3,161.0	3,163.0	3,163.0

Human Resources

2005-2006	2006-2007	2007-2008
13	13	13

Departmental Priorities

Priorities	Type	Planned Spending (thousands of dollars)		
		2005-2006	2006-2007	2007-2008
1. Make recommendations for law reform	Ongoing	600.0	1,500.0	600.0
2. Engage Canadians in law reform	Ongoing	1,211.0	613.0	1,213.0
3. Conduct leading-edge research	Ongoing	1,350.0	1,050.0	1,350.0
Total		3,161.0	3,163.0	3,163.0

Priority 1

Make recommendations for law reform

Description

Canadians have great expectations when it comes to their laws and legal systems. They want their laws to operate with justice and to be adapted to new realities. Social and economic changes continually test the capacity of the law to adequately respond to these expectations. The Law Commission of Canada works towards this goal and has a mandate to provide advice and recommendations on how to modernize and improve the law in Canada.

Plans

The Law Commission plans to issue the following reports to Parliament:

- 2005-2006: *In Search of Security* - about the relationship between public police and private security.
- 2006-2007: *Is Work Working?* - about promoting economic security for vulnerable workers;
Does Age Matter? - about intergenerational relationships and age as a criteria in law;
What Is a Crime? - about the response to unwanted behaviour.
- 2007-2008: *Indigenous Legal Traditions* - about recognizing and creating space for these traditions;
Governance Beyond Borders - about creating new tools of governance in the context of globalization.

Risks and Challenges

The timing for the issuance of reports can be affected by:

- The number of issues arising from consultations that require further study prior to the preparation of recommendations.
- The number of stakeholders to be consulted on a given topic and the ease with which groups and members of the public can be assembled for consultations.
- The small size of the Commission, staff and Commissioner turnover.

Priority 2

Engage Canadians in law reform

Description

The vision of the Law Commission is that the promises of law become realities, and that laws are not only coherently drafted but meet the needs of all Canadians - today and in the future. The work of law reform is one of on-going dialogue about the way in which law is lived by Canadians and how it can be improved to better fulfil Canadians' aspirations. The Law Commission has developed innovative consultation methodologies that focus on citizen participation in law reform issues and providing opportunities to exchange ideas and opinions. The Commission's aim is to facilitate the contribution of citizens in the creation of a living law which meets their needs and their continuing involvement in justice issues.

Plans

- Introduce innovative ways to attract / engage Canadians in the enterprise of law reform.
- Provide expanded consultation opportunities to rural and remote areas of the country, as well as urban centres, throughout the year.
- Implement a new content management system for its website.
- Issue discussion papers for the following topics:
 - 2005-2006: *Indigenous Legal Traditions; Governance Beyond Borders*
 - 2006-2007: *Legal Pluralism*, about the accommodation and integration of customary and traditional practices.

Risks and Challenges

Expanding the Commission's ability to consult with Canadians requires resources either in the form of funds for travel, promotion of events or appropriate electronic technology. The Commission has been limited to the same overall budget since its inception and its ability to consult more broadly is limited. Since the Commission is a small Ottawa-based organization, linking to members of the public or stakeholders in regions of Canada depends on our ability to find an appropriate local partner with networks and to interest the local media. The production of discussion papers depends on early reactions to proposed topics by stakeholders, experts and members of the Commission's Advisory Council. The Commission's desire to be responsive to new and emerging issues results in a short planning timeframe for new projects.

Priority 3

Conduct leading-edge research

Description

Research efforts by the Commission are multidisciplinary and inclusive. Based on empirical data, they are at the cutting-edge of knowledge on social changes, and also assess the solutions that have been developed and tested in Canada and throughout the world.

Partnerships and co-sponsorships have continued to prove beneficial to the work of the Law Commission, and have greatly facilitated the advancement of research and law reform in the country. The Commission links to the work of provincial commissions through the Federation of Law Reform Agencies of Canada and works with government departments on research into coordinated policy responses to law reform issues. The Commission has reached out to international agencies, such as the New Zealand Law Commission, to exchange information and knowledge on issues of common interest. The Commission also partners with many organizations to conduct research, organize or participate in fora and conferences, and publish and distribute research material.

The Commission will increase efforts to engage researchers from a variety of disciplines typically removed from law reform, such as economics, psychology, actuarial science and history, to name a few.

Plans

Establish new, and enhance existing, partnerships with individuals, agencies and organizations both in Canada and around the world, including the following:

- A partnership with Community Foundations of Canada to engage a Community Scholar in Law Reform.
- A Memorandum of Understanding with the Canadian Bar Association under their Law for the Future Fund initiative to encourage strategic research, dissemination, networking and partnership with non-profit organisations.
- Collaboration with the Canadian Political Science Association and its other partners, Justice Canada and the Canadian Federation for Humanities and Social Sciences, on the *Nathalie Des Rosiers Audacity of Imagination Award*.
- Projects with the Conference Board of Canada and the Voluntary Initiative Forum.

Risks and Challenges

The Law Commission's ability to form partnerships depends on determining a topic of mutual interest and agreeing to mutual responsibilities. The success of the Commission in attracting scholars from a variety of disciplines requires proactive marketing of an economic and socio-legal approach to law reform that goes beyond legal texts and analysis. Human resources must be available to build up a list of scholars in key areas related to the work of the Commission who can be advised of upcoming opportunities in their field.

Analysis by Program Activity

Strategic Outcome: Advice on Law Reform

The strategic outcome of the Commission is the provision of independent advice on reforming Canadian laws, institutions and procedures to ensure that they are aligned with the changing needs of individual Canadians and society.

Given the nature of the Commission's mission and mandate, and the research and discussion required to achieve the strategic outcome, results are defined in relation to the Commission's ability to stimulate research and discussion on matters of public interest, to advance new concepts of law, and to develop recommendations for consideration.

Ultimate outcomes such as renewal of the law require a long-term perspective and depend on the agenda of various governments and other actors and their willingness to implement the Commission's recommendations. Such ultimate outcomes are therefore not considered to be directly within the Commission's control.

To achieve its strategic outcome, the Commission conducts activities in four key target areas. These areas reflect issues of concern for Canadians and get to the heart of Canadians' relationship with the law and legal system.

- **Personal Relationships**

Much of Canadian law is based on assumptions about how people organize their private lives, and how they relate to their partners, parents, children and others close to them. These assumptions may not adequately or accurately reflect the reality of current relationships. The Commission examines how laws can be designed to respond more effectively to Canadians' personal relationships.

- **Governance Relationships**

Canadians are disengaging from public institutions, and are more sceptical about the capacity of institutions to respond to legitimate expectations. Increasingly, Canadians expect their public institutions to embrace values such as pluralism, choice and diversity. These expectations suggest a change in how Canadians perceive "citizenship". Increasingly, citizenship is perceived as active participation in democratic politics within the context of Canada's position in the global community.

- **Economic Relationships**

The changing character of the workplace, the creation of new forms of property and wealth, the recognition of the significance of both paid and unpaid work, new methods of doing business, globalization, and the emergence of a knowledge-based economy all have important consequences for those entering the labour market, and for those whose current employment is threatened. The Commission explores how best to structure the law to enhance Canada's economic strength while protecting fundamental social values.

▪ **Social Relationships**

Harmonious and healthy social relationships are built on trust, interdependence and respect. Disagreement and conflict are inevitable products of everyday life and human interaction. The law often relies on public institutions such as the criminal justice system and the police to resolve conflict and ensure security. Increasingly, however, Canadians are relying on more informal methods of conflict resolution and on private institutions to ensure their security. Such a framework emphasizes the supremacy of relationships and the supporting role of the law in the type of relationships between individuals in modern society. It is these very relationships and not specific rules in the law, which constitute the starting point of the research. Our studies analyse relationships not as passive reflections of legal concepts, but rather as dynamic social institutions.

The Commission will continue work on a fundamental question that involves all four key target areas: *What is a Crime?* The objective of this research is to identify why certain behaviours are conceptualized as crimes, and to determine the impact of this conceptualization on personal, social, economic and governance relationships.

The next section presents a summary of commitments, activities and expected results for each key target area.

Planned Activities and Expected Results

Key Target Area: Personal Relationships		
Commitment	Main Activities	Expected Results
<p><i>Does Age Matter? Law and Relationships Between Generations</i></p> <p>Throughout 2004, the Law Commission of Canada engaged Canadians on whether healthy, respectful relationships between generations could be better supported by eliminating age distinctions in law and policy that are inappropriate, over- or under-inclusive or stereotypical. Research was carried out in a number of areas to explore the impact of using age distinctions.</p> <p>Canadians have raised a myriad of ways in which these laws and policies touch their lives and the Law Commission will continue to explore these with a view to making concrete recommendations.</p>	<p>In 2005-2006, the Commission will continue to meet Canadians and, in particular, hold intergenerational forums so different age groups can hear each others' perspectives.</p> <p>Additional research will be commissioned to address newly identified issues of importance to Canadians with a view to producing a report in 2006-2007.</p>	<p>Recognizing that people are interdependent throughout their lives and that there are many similarities across, and differences within age groups, this project will provide a framework to support healthy intergenerational relationships by verifying if age is the best criteria in each instance to provide benefits or impose restrictions in law.</p>

Key Target Area: Economic Relationships		
Commitment	Main Activities	Expected Results
<p><i>Is Work Working?</i></p> <p>The Commission is studying the ways in which the law allows people to attain economic security or the manner in which it impedes them in achieving this security. The law plays an important role in determining the types of work that are recognized, valued and rewarded, as well as those that are downgraded, poorly regarded and prohibited.</p> <p>In 2004-2005, the Commission published a discussion paper titled <i>Is Work Working? Work Laws That Do A Better Job</i>, which will engage Canadians on whether and how the law should evolve to recognize and value non-standard work arrangements and protect vulnerable workers.</p>	<p>In 2005-2006, the Commission will:</p> <ul style="list-style-type: none"> ▪ Consult broadly with Canadians through public forums and a variety of citizen engagement activities. ▪ Conduct research and engage in partnerships to explore new issues that arise. 	<p>This project will provide a useful framework for evaluating the various policy and regulatory options available in order to ensure adequate and appropriate support for the promotion of economic security of those engaged in work in the broad sense of the term.</p>
<p><i>Security on Reserves</i></p> <p>As a result of property-related provisions in the <i>Indian Act</i>, people living on reserves are unable to use their property to secure loans.</p> <p>The Commission will explore solutions to this situation which creates a systemic barrier to the management of personal finances.</p>	<p>In 2005-2006, the Commission will engage in research to explore possible solutions.</p>	<p>This project will provide recommendations to address the issue of equitable access to financial resources for those living on reserves.</p>

SECTION II – ANALYSIS BY PROGRAM ACTIVITIES

Key Target Area: Governance Relationships		
Commitment	Main Activities	Expected Results
<p><i>Indigenous Legal Traditions</i></p> <p>Although many communities in Canada demonstrate ongoing commitment to concepts and values from Indigenous laws and traditions, frequently such concepts and values have been ignored or overruled by non-Indigenous law. Canada has been able to benefit from the enrichment of two legal traditions, civil law and common law. It should also benefit more from Aboriginal heritage and legal traditions.</p>	<p>In 2005-2006, the Commission will:</p> <ul style="list-style-type: none"> ▪ Publish a discussion paper that will develop a broader framework for understanding and respecting Indigenous legal traditions, including the issue of institutional change, the capacity of Canadian governments and society to address it, and the choice of tools to effect this change. ▪ Consult broadly with Canadians. ▪ Conduct research to explore ways of creating space within the Canadian legal structure to permit such traditions to be recognized, validated, and more fully utilized (Legal Dimensions Initiative). 	<p>This project will provide a framework for creating space and recognition for Indigenous legal traditions in Canada.</p>
<p><i>Governance Beyond Borders</i></p> <p>A dynamic law reform agenda must work within a framework that recognizes the interdependence between local and international as well as between domestic and foreign aspects. It is in this context that the Law Commission is examining how Canadian law and policy have an impact on the world, and how the world has an impact on Canadian law and policy.</p>	<p>In 2005-2006, the Commission will:</p> <ul style="list-style-type: none"> ▪ Launch a discussion paper to engage Canadians in a critical debate of how shifting territorial boundaries and power have influenced their lives and those of other citizens around the world and how best to manage these. ▪ Partner with the Conference Board of Canada to research concrete actions to address corporate social responsibility. ▪ Work with the Department of Justice to examine how domestic and international law interact. 	<p>This project will explore new tools of governance to enhance democracy, transparency and accountability given the increasing interdependency of countries and the greater influence of actors other than national governments.</p>

SECTION II – ANALYSIS BY PROGRAM ACTIVITIES

Key Target Area: Social Relationships		
Commitment	Main Activities	Expected Results
<p><i>In Search of Security</i></p> <p>Over the past two decades, there has been a gradual loosening of the connection between policing and the state. Today, the state remains a significant player in the delivery and regulation of policing, but there is now a range of private policing organizations that are actively engaged in maintaining order, as well as investigating and preventing crime in public spaces.</p> <p>The Commission is exploring the complex relationships that are emerging between public police and private security enterprises in Canada.</p>	<p>In 2005-2006, the Commission will table a report to Parliament that will make recommendations related to the relationship between public police and private security and the implications this has on the lives of Canadians.</p>	<p>This project will stimulate debate in the government, the media, in other policy forums and in policing institutions about the role of private security firms and how they should be regulated.</p> <p>The Report to Parliament will identify the need for better communication and partnerships among the police and private security agencies, and will recommend steps to make this happen.</p>
<p><i>Legal Pluralism</i></p> <p>The Commission has undertaken to look at how other customary practices and traditions co-exist with the formal legal system, and the extent to which they can be accommodated in keeping with the values of human rights, equality, freedom of religion and multiculturalism.</p>	<p>In 2005-2006, the Commission will:</p> <ul style="list-style-type: none"> ▪ Fund empirical and theoretical research on diverse communities and cultural practices in Canada. ▪ Complete research with partners on Sharia law and Hawala banking. 	<p>This project seeks to provide a systematic framework to address the accommodation and integration of customary and traditional practices within the Canadian legal system.</p>

SECTION II – ANALYSIS BY PROGRAM ACTIVITIES

Other Target Area		
Commitment	Main Activities	Expected Results
<i>What Is a Crime?</i> The objective is to understand the reasons why certain patterns of behaviour are identified under the concept of crime, and to check the impacts of such a concept on personal, social, economic and governance relationships, by assessing the various options available for regulating undesirable behaviour.	In 2005-2006, the Commission will: <ul style="list-style-type: none">▪ Continue consultations with members of the general public.▪ Consolidate current research and begin writing a report with a view to tabling it in 2006-2007.	The aim of the project is to provide policy makers with a framework that can be used to assess the consequences of choosing the criminal law and other intervention strategies as a response to unwanted behaviour.

Management Representation Statement

I submit for tabling in Parliament, the 2005-2006 Report on Plans and Priorities (RPP) for Law Commission of Canada.

This document has been prepared based on the reporting principles contained in the *Guide to the preparation of Part III of the Estimates: Reports on Plans and Priorities*.

- It adheres to the specific reporting requirements outlined in the TBS guidance;
- It uses an approved program activity structure;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to the Commission; and
- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat.

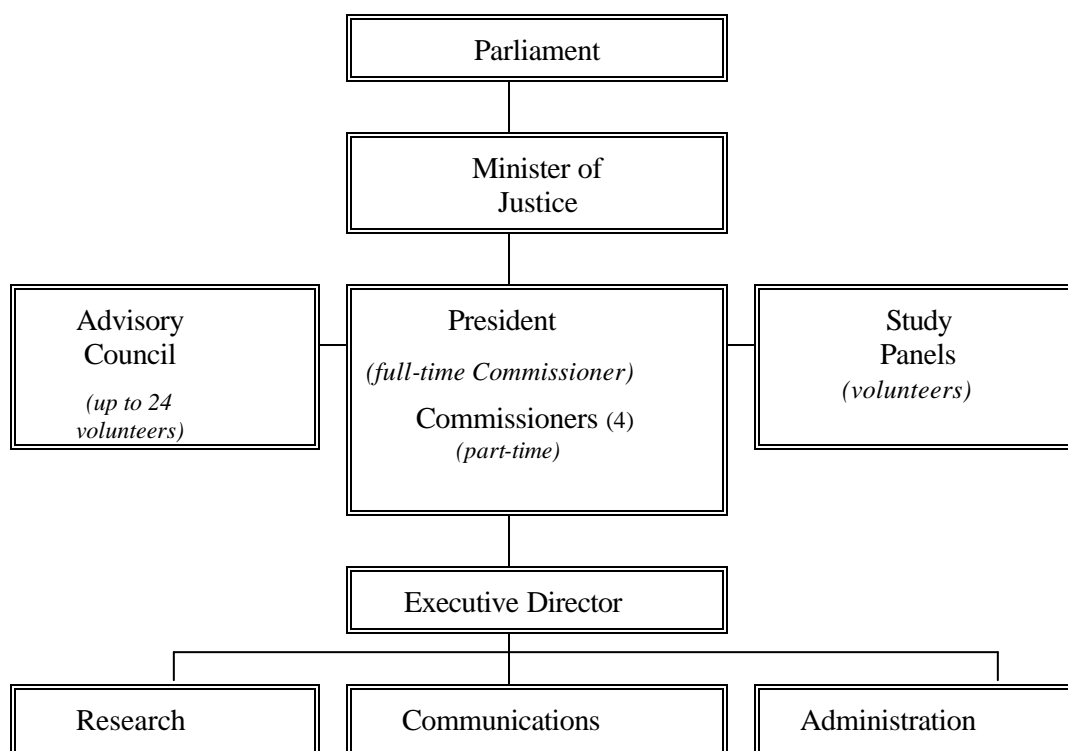


Bruno Bonneville
Executive Director

February 18, 2005

Organizational Information

The Law Commission is an independent departmental corporation accountable to Parliament through the Minister of Justice. The Governor in Council appoints the President and four part-time Commissioners on the recommendation of the Minister for terms not exceeding five years. The Commission is supported by a small Secretariat headed by an Executive Director.



The Commission has an Advisory Council of up to 24 volunteers who reflect Canada's socio-economic and cultural diversity and represent a broad range of disciplines. The Council provides advice on the Commission's strategic direction, long-term research program, performance review and other relevant matters.

Study panels are appointed as needed to provide advice on specific research projects. Each panel is headed by a Commissioner and comprises volunteer experts from multiple disciplines and members of affected communities. To support the study panels, research contracts are given to recognized experts in the private sector and academia.

SECTION III – SUPPLEMENTARY INFORMATION

Table 1: Commission Planned Spending and Full Time Equivalents

(thousands of dollars)	Forecast Spending 2004-2005*	Planned Spending 2005-2006	Planned Spending 2006-2007	Planned Spending 2007-2008
Recommendations on Law Reform	3,150.0	3,142.0	3,142.0	3,142.0
Budgetary Main Estimates (gross)	3,150.0	3,142.0	3,142.0	3,142.0
Non-Budgetary Main Estimates (gross)	-	-	-	-
Less: Respendable revenue	-	-	-	-
Total Main Estimates	3,150.0	3,142.0	3,142.0	3,142.0
<i>Adjustments:</i>				
Supplementary Estimates:				
Operating Budget Carry Forward	147.1	-	-	-
Funding received for salary increases resulting from collective bargaining agreements	21.0	20.0	21.0	21.0
Budget Announcement:				
ERC exercise **	-	(10.0)	-	-
<i>Total adjustments</i>	168.1	10.0	21.0	21.0
Total Planned Spending	3,318.1	3,152.0	3,163.0	3,163.0
Total Planned Spending	3,318.1	3,152.0	3,163.0	3,163.0
Less: Non-Respendable revenue	-	-	-	-
Plus: Cost of services received without charges	181.8	178.7	183.2	190.1
Net Cost of the Commission	3,499.9	3,330.7	3,346.2	3,353.1
Full Time Equivalents	11	13	13	13

* Reflects the best forecast of total net planned spending to the end of the fiscal year.

** This reflects the reductions to the Commission's planned spending as a result of the ERC exercise and which were announced in the 2005 Budget – more information will be provided in the next Supplementary Estimates.

The major difference between the planned spending of 2004-2005 and 2005-2006 is due to the 2003-2004 carry forward of \$147,150 included in the 2004-2005 forecast.

SECTION III – SUPPLEMENTARY INFORMATION

Table 2: Program Activities

Program Activity	2005-2006				
	Budgetary			Total	Total
	Operating	Gross	Net	Main Estimates	Planned Spending
(thousands of dollars)					
Recommendations on Law Reform	3,142.0	3,142.0	3,142.0	3,142.0	3,152.0
Total	3,142.0	3,142.0	3,142.0	3,142.0	3,152.0

Table 3: Voted and Statutory Items Listed in Main Estimates

Vote or Statutory Item	Description	Current Main Estimates	Previous Main Estimates
(thousands of dollars)			
35	Program expenditures	2,970.0	2,966.0
(S)	Contributions to employee benefit plans	172.0	184.0
Total for the Commission		3,142.0	3,150.0

The decrease of \$8,000 between the current and the previous Main Estimates is mainly attributed to the reduction by 1.5% of the employee benefit plans rate.

SECTION III – SUPPLEMENTARY INFORMATION

Table 4: Net Cost of Commission

(thousands of dollars)	Total
Net Planned Spending (Total Main Estimates plus Adjustments as per the Planned Spending Table)	3,152.0
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada	108.5
Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board Secretariat (excluding revolving funds)	70.2
Worker's compensation coverage provided by Social Development Canada	-
Salary and associated expenditures of legal services provided by Justice Canada	-
	178.7
Less: Non-respendable Revenue	-
2005-2006 Net Cost of Commission	3,330.7

Table 5: Resource Requirement by Branch

2005-2006		
(thousands of dollars)	Recommendations on Law Reform	Total Planned Spending
Commissioners	440.8	440.8
Administration	791.9	781.9
Communications	778.7	778.7
Research	1,150.6	1,150.6
Total	3,162.0	3,152.0

Statute Administered by the Law Commission of Canada

Law Commission of Canada Act (S.C., 1996, c. 9)

Contacts for Further Information

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