



Same Sex CPP Survivor's Pensions

NOTICE OF INDIVIDUAL PARTICIPATION REQUIRED COURT ORDERED DEADLINE

ALL INDIVIDUALS WHOSE SAME SEX PARTNER CONTRIBUTED TO THE CANADA PENSION PLAN AND DIED AFTER APRIL 17, 1985 AND BEFORE JANUARY 1, 1998, ARE NOW ELIGIBLE TO MAKE A CLAIM FOR A CPP SURVIVOR'S PENSION PURSUANT TO THE SUPREME COURT OF CANADA'S RULING IN *HISLOP et al. v. CANADA*. THE INDIVIDUALS WHO BENEFIT FROM THIS RULING ARE DESCRIBED IN THIS NOTICE AS CLASS MEMBERS.

FAILURE ON THE PART OF ANY CLASS MEMBER TO TAKE STEPS TO CLAIM THEIR SURVIVOR'S PENSION BY SEPTEMBER 30, 2008, WILL RESULT IN THE CLASS MEMBER NOT BEING ELIGIBLE FOR THE FULL AMOUNT OF ARREARS ALLOWED UNDER THE SUPREME COURT OF CANADA'S JUDGMENT WITHOUT LEAVE OF THE COURT.

IT IS IMPERATIVE THAT EACH CLASS MEMBER ENSURE THAT THEY HAVE MADE AN APPLICATION FOR THEIR SURVIVOR'S PENSION.

The common issues in the class proceeding *Hislop et al. v. Canada* have been finally determined. Class members had been barred by statutory restrictions from claiming a survivor's pension because they were in same sex relationships. The Court's ruling struck down those restrictions under the Charter of Rights. As a result, class members are now entitled to claim a CPP survivor's pension on the same basis as survivors of opposite sex relationships.

What This Means to Class Members

Subject to the general eligibility criteria under the CPP, all Class Members are entitled to claim their Survivors' Pension retrospectively, at least to December 21, 2000, and prospectively through ongoing monthly payments.

How To Make A Claim

Each Class Member must file an application for their Survivor's Pension with the department of Human Resources and Social Development Canada ("HRSDC"). All applications are confidential. To obtain an application from HRSDC directly they can be reached at 1-800-311-3820 (In Canada); 1-613-990-2244 (Outside Canada); 1-800-255-4786 (T.T.Y./Teletypewriter Users Only) or visit their website at www.servicecanada.gc.ca.

What if I Already Applied or Made Multiple Applications

If you have already applied and are receiving your pension you do not need to reapply.

If you have recently applied for a survivor's pension and your application has been acknowledged but is still incomplete, you do not need to reapply. You need to provide the missing documents/information HRSDC requested.

If you are experiencing any difficulties with the processing of your application, you may contact class counsel as set out below for assistance.

If you have or had an appeal pending before the CPP Review Tribunal or the Pensions Appeal Board respecting your claim, you should advise HRSDC of the appeal. If you subsequently experience any difficulties with your pension claim, you may consult any lawyer who is representing you in connection with any such appeal or one of the class counsel listed below for assistance.

Am I Entitled to Arrears? (Back Payments)

All Class Members who are qualified for a survivor's pension are entitled to arrears back to December 21, 2000, regardless of whether they have made an application to date. However, if you did make an application for your Pension at any time prior to November 21, 2001, you may be entitled to additional payments back beyond December 21, 2000, but no earlier than August 1999.

It is important to note that regardless of the date of your application, once approved you will be entitled to your pension for the rest of your life.

I Am The Executor of a Same Sex Survivor Who Died Without Collecting A Survivor's Pension. Are the Estates of Same Sex Survivors Entitled to a Survivors Pension?

In the past, Survivors Pensions were not being paid to the surviving partner in same sex relationships. Some survivors died prior to the Supreme Court of Canada ruling without receiving their pension.

An Individual same sex survivor who was alive on October 2, 2003, but who subsequently died may still have their claim made by their executor.

There are some class members who survived their same sex partners but died prior to October 2, 2003. The Supreme Court

has ruled that such class members are not entitled to have a claim made by their executor.

Normal CPP Rules Apply

Not all Canadians are entitled to a Survivor's Pension. There are rules that apply equally to opposite sex and same sex relationships that must be followed in order to obtain a Survivor's Pension. Some of the important rules are as follows:

- (1) the survivor, at the time of their partners death, must have been the legal spouse or common law partner of the deceased contributor;
- (2) the deceased contributor must have contributed for the minimum contributory period; and
- (3) the survivor must have been over the age of thirty five at the time of their partners death or disabled.

Legal Fees

The amount of fees payable to Class Counsel by any individual class member will not exceed the amount of money payable to such individual.

There will be no deduction from your current monthly pension for legal fees. Class Counsel will only be looking to arrears (back payments) for the payment for their fees. You may use your monthly Pension payments to meet your needs as you see fit without any concern about legal fees.

The legal fees will be paid from three sources subject to court approval. First, the government was required to pay a contribution to the costs in respect of the trial and the appeal in this proceeding. This amount has been paid. However, the amount paid was not enough to pay the full legal fees owing by the class to class counsel as approved by the Court. Second, the Supreme Court confirmed that interest is payable on the amounts awarded in this proceeding. Once the interest rate is fixed by the court, the amount available will be used to reduce the amount of money owed by class members to class counsel. It currently appears that the amount that may be paid as interest will not be sufficient to fully reduce the fees owing to Class Counsel. The third potential source is the back payments or arrears. The Court will be asked to rule on the question of whether the balance of legal fees owed to class counsel can be deducted from up to 50 per cent of the arrears payable to class members under the ruling, as requested by class counsel. This payment from the arrears will not be made unless ordered by the Court. Once the court rules on this issue Class Members will be notified of the amount of arrears that they will be receiving and how their share of arrears will be paid. In no case will the legal fees payable by any class member exceed the amount they will receive for arrears or back payments.

Future legal fees will also be subject to court approval.

If you have any questions about this proceeding please contact Class Counsel in your area:

Please DO NOT CALL the registrar of the court or Justice Ellen M. Macdonald. They will not be able to answer your questions about the lawsuit.

In Ontario, Quebec, Northwest Territories, Yukon or Nunavut:

Roy Elliott Kim O'Connor LLP
Attn: Sean M. Grayson
200 Front Street West
P.O. Box #45
Toronto, ON M5V 3K2
T. (416) 362-1989
F. (416) 362-6204
Toll Free: 1(866) 877-0109
e-mail: cpp@reko.ca
website www.reko.ca

In Prince Edward Island, Nova Scotia, Newfoundland & Labrador and New Brunswick

McInnis Cooper
Attn: Jennifer Biernaskie
George Street Office
1600-5151 George Street
P.O. Box 730
Halifax NS B3J 2V1
T. (902) 425-6500
F. (902) 425-6350

In Saskatchewan and Alberta:

Selnes, Kapoor & Klimm
Attn: Bill Selnes
417 Main Street
Box 2200
Melfort, SK S0E 1A0
T. (306) 752-5777
F. (306) 752-2712

In Manitoba:

Chapman Goddard Kagan
Attn: Michael Law
1864 Portage Avenue
Winnipeg, MB R3J 0H2
T. (204) 831-3106
F. (204) 832-3461

In British Columbia:

Camp Fiorante Matthews
Attn: Sharon Matthews
4th Floor, Randall Building
555 West Georgia Street,
Vancouver, BC V6B 1Z6
T. (604) 689-7555
F. (604) 689-7554