

SCHEDULE "B"

CLASS ACTION REGARDING DEDUCTION OF *PENSION ACT* PAYMENTS FROM EARNINGS LOSS BENEFIT, CFIS BENEFIT, AND WAR VETERANS ALLOWANCE

Toth v. Her Majesty the Queen
Court No. T-1068-14

The Federal Court has certified the above case as a class action. If you are a former member of the Canadian Forces who was entitled to receive Earnings Loss Benefit or Canadian Forces Income Support Benefit, or a war veteran who was entitled to receive War Veterans Allowance, and the amount of your benefits were reduced because of disability payments under the *Pension Act*, you may be a member of the class. If you are the spouse, dependant, survivor, or orphan of an individual entitled to receive one or more of these benefits, you may also be a member of the class. If the action succeeds or is settled, your entitlement will depend on your individual circumstances.

WHAT IS THE CLASS ACTION ABOUT?

The new *Veterans Charter* created two benefits payable to qualified Canadian Forces members, veterans, and their families: Earnings Loss Benefit ("ELB") and Canadian Forces Income Support Benefit ("CFIS").

Individuals who were eligible for, applied for, or received a disability pension under the *Pension Act* before 1 June 2006, and who received ELB or CFIS, had the amount of their disability pension deducted from their ELB and/or CFIS payments. Similarly, recipients of War Veterans Allowance ("WVA") payments under the *War Veterans Allowance Act* had the amount of their disability payments deducted from their WVA on or after 17 April 1985.

The class action seeks, among other things, a declaration that the deduction of disability benefits from ELB, CFIS and WVA was discriminatory on the basis of disability contrary to s. 15 of the *Canadian Charter of Rights and Freedoms*. The class action seeks a refund of all disability benefits deducted and/or damages.

WHO ARE THE CLASS MEMBERS?

The Federal Court has defined the class as follows:

(a) all Canadian Forces members and veterans, and their spouses, dependants, survivors, and orphans who received a reduced Earnings Loss Benefit or Canadian Forces Income Support Benefit between 1 April 2006 and 29 May 2012, or received no benefit at all during that time, because of the deduction of disability benefit entitlements under the *Pension Act*; and

(b) all veterans, their spouses, dependants, survivors, and orphans who, between 17 April 1985 and 29 May, 2012, received a reduced allowance under the War Veterans Act or did not receive a veterans allowance at all because of the deduction of disability benefit entitlements under the *Pension Act*.

The person who brought the lawsuit and who is a class member and the representative plaintiff is Raymond Michael Toth, c/o Malcolm Ruby, Gowling WLG (Canada) LLP, 100 King St. W., Suite 1600, Toronto, ON, M5X 1G5

WHAT DO I NEED TO DO TO TAKE PART?

All class members have the right to participate in the class action. You are automatically included in the class action *unless* you opt-out of participating. You do not need to do anything if you wish to participate. *If you wish to opt-out* you must do so by completing an opt-out notice available from Gowling WLG (Canada) LLP. Your opt-out notice must be received no later than **31 May 2016**. If you opt-out, you will not be affected by any decision the Court makes on the common issues in the class action, and will not be eligible to receive any payment from a settlement or judgment in favour of the class.

Gowling WLG (Canada) LLP can be reached at:
100 King St. W., Suite 1600, Toronto, ON, M5X 1G5
Attn: Malcolm Ruby
Tel: 416-862-4314
Fax: 416-862-7661
Email: Veterans@gowlingWLG.com

Gowling WLG (Canada) LLP can help you confirm whether you are a class member. When contacting Gowling WLG (Canada) LLP please provide as much of the following as possible:

- Your name, address, telephone and/or email
- The dates of your service in the Canadian Forces
- The date upon which you commenced receiving ELB, CFIS or WVA.
- The amount by which your ELB, CFIS or WVA was reduced by your disability benefits.

DO I NEED TO PAY ANYTHING?

You do not need to pay any legal fees directly out of your pocket. If the case is unsuccessful, no legal fees will be charged. By agreement with the representative plaintiff, a scaled legal fee of up to 30% of any amounts received may be paid to class counsel. If any settlement, judgment, or other benefit is obtained, class counsel shall apply to the Federal Court for approval of its fees.

WHO ARE THE LAWYERS FOR THE CLASS?

Malcolm Ruby and Erica Maidment, Gowling WLG (Canada) LLP, 100 King St. W., Suite 1600, Toronto, ON, M5X 1G5

Michel Drapeau and Joshua Juneau, Michel Drapeau Law Office, 192 Somerset West, Ottawa ON K2P 0J4

WHERE CAN I FIND MORE INFORMATION?

For more information or to opt-out of the class action, please contact Gowling WLG (Canada) LLP at the address above.