

## **Government Response to the Standing Committee on Veterans Affairs Ninth Report *Survivor Retirement Pension Benefits (Marriage After 60)***

The Government of Canada (Government) welcomes the opportunity to respond to recommendations made in the ninth report of the Standing Committee on Veterans Affairs (ACVA). The Government would like to thank both ACVA, for this report, as well as the witnesses who appeared before ACVA.

The Government is continuing its efforts to ensure that the Survivor Retirement Pension Benefits for Veterans/former RCMP members are provided in a fair and equitable manner.

The Government is pleased to provide a response to ACVA's recommendations, to clarify key aspects of the CFSA and RCMPSA and highlight the significant efforts that have already been made, and that continue to be made, by the Government to address the concerns.

### **ACVA Recommendation 1**

That the Minister of Veterans Affairs and Associate Minister of National Defence work with the Minister of National Defence and the Minister of Public Safety to issue a declaration that gives a definitive answer to which department is responsible for survivor pension benefits of Veterans.

### **Government Response**

The Government of Canada agrees with this recommendation.

The Government of Canada recognizes that establishing clear departmental responsibilities is important to help Canadians understand and access policies, programs, and services. The Government of Canada confirms that the Department of National Defence is responsible for the administration of *Canadian Forces Superannuation Act* (CFSA)-related survivor pension benefits for Veterans who served in the Canadian Armed Forces, and are entitled to a pension under the CFSA.

The Minister of National Defence, under the CFSA, is responsible for the overall management of the pension plan, including the financial management of the Canadian Armed Forces pension funds. In support of the Minister's role, the Department of National Defence (DND) / Canadian Armed Forces (CAF) are responsible for the oversight of the pension plan, contribution calculations, financial analysis, program advice, and interpretation and preparation of annual reports. This includes the CFSA survivor pension benefits of Veterans. As such, any services related to Survivor Pension Benefits are managed by DND/CAF.

The Minister of Public Safety is responsible for the RCMPSA which offers survivor pension benefits to retired RCMP members, as well as disability awards under Part II of the RCMPSA, administered by VAC on behalf of the RCMP.

The Minister of Veterans Affairs has no authority over any superannuation acts.

While benefits provided to Veterans and former RCMP members (and their survivors) under the CFSA and the RCMPSPA are employee benefits, where both the employer and employee contribute toward the employee's retirement income, VAC's disability programs are government funded programs that provide financial support to CAF members and Veterans as a result of their service-related injury/illness.

### **ACVA Recommendation 2**

That the Government of Canada immediately table a document explaining in detail the reasons for creating and maintaining clauses denying survivors' pensions when the relationship began after the pensioner reached age 60 (CFSA and RCMPSPA).

### **Government Response**

The Government agrees with this recommendation. This response outlines the reasons for the provisions.

It is common among pension plans in Canada to limit eligibility for survivor benefits to the spouse or partners that existed when the plan member was employed. In doing so, pension plans do not take responsibility for changes in a personal status once that person is no longer employed.

In general, as the ACVA report shows, most publicly managed pension plans contain provisions of this type. The existing survivor benefits available in all three pension plans, namely the CFSA, RCMPSPA, and the *Public Service Superannuation Act* (PSSA), were designed with reasonable limitations in order to manage the plans effectively and to deliver benefits to members and their survivors in a cost-effective and fair manner. This clause is not specific only to the Government of Canada, it forms the basis for many other plans that also restrict those who marry after the age of 60.

Like most pension plans, the Marriage After 60 clauses in the CFSA and RCMPSPA are based on pooled risk. As such, the way the "Marriage After 60" clause is drafted allows the pension plan to remain stable, predictable, and sustainable for all other annuitants. Further, the age of 60 was selected to maintain parity with the PSSA, which outlines that survivor benefits are not available to public service members who marry after they retire from the public service. Since the normal retirement age for public service members continues to remain at or around 60-65 years of age, this was deemed an appropriate cut-off age that levels the playing field between the CFSA/RCMPSPA and the PSSA. This policy also ensures that CAF Veterans and former RCMP members, who tend to retire significantly earlier than their public service counterparts, would nevertheless receive survivor benefits that would be equivalent to their PSSA colleagues.

CFSA subsection 31(1) was challenged on the grounds of discrimination on the basis of age and sex. In the Federal Court of Appeal ruling *Sutherland v. Canada, 1997*, the Court ruled that this provision does not discriminate on the basis of age or sex, and is not in breach of section 15 of the *Canadian Charter of Rights and Freedoms*. The restrictions placed are driven by actuarial requirements to contain costs and to fix the plan's liability as of a certain date.

As explained further below in this Government Response, the CFSA and RCMPSPA permit a Veteran/former RCMP member who married on or after age 60 the option to establish an Optional Survivor Benefit (OSB) so as to provide a benefit for their survivor where that survivor is not entitled to a benefit under CFSA subsection 31(1) and under RCMPSPA section 19.

### **ACVA Recommendation 3**

That the Government of Canada immediately adopt regulations to make the Optional Survivor Benefit (OSB) available to both common-law spouses and legally married spouses.

### **Government Response**

The Government of Canada agrees with this recommendation as work is currently underway to amend the regulations under all three of the Federal Pension Plans (CFSA, RCMPSPA, PSSA) to make the Optional Survivor Benefit available to both common-law spouses and legally married spouses.

The CFSA, which governs the Canadian Armed Forces Pension Plans, contains provisions that permit a retired member to marry after retirement allowing the spouse to have survivor benefits upon their death, provided that they were married or entered a common law relationship prior to their 60<sup>th</sup> birthday – an age in line with the compulsory retirement age of a CAF member.

CAF Veterans who are members of the Regular Force Pension Plan and marry after the age of 60, excluding in common-law marriages, can provide this Optional Survivor Benefit for their new spouse if they apply for the Optional Survivor Benefit within one year of their marriage; and, they agree to reduce their current level of pension in exchange for providing a survivor pension to their new spouse in the event of their death. This means that a portion of the retired members' pension would be reallocated to fund their spouses' "survivor benefit." This option is only revocable upon the death of the spouse or divorce and as noted previously is currently not an option for common-law relationships.

A retiree of the RCMP has the option of electing the Optional Survivor Benefit under section 14 of the RCMPSPA should they wish to provide survivor benefits. Both the National Defence and the RCMP are working toward making updates to the regulations to make the OSB available to both common-law and legally married spouses of Veterans/former RCMP members.

### **ACVA Recommendation 4**

That the department responsible for pension benefits return to the Veteran any funds that were put aside through the Optional Survivor Benefit program, upon the death of the spouse of the Veteran, if the spouse passes away before the Veteran.

### **Government Response**

The Government of Canada takes note of this recommendation.

The purpose of the OSB program is to give a Veteran or former RCMP member the ability to provide for a spouse who would otherwise not qualify for a pension survivor benefit. In so doing, the member is reducing their own pension amount so that, at the time of their death, those contributions and the interest earned through the investment of that contribution can provide an annuity to the surviving spouse for as long as they are alive. The death of the spouse before they can draw that pension is similar in principle to a single member who contributes to the fund and at their death sees no return on those contributions to their estate. This is due to the fact that pension plans are based on pooled risks that do not guarantee individual returns equivalent to each member's contributions.

While the annuitant is alive, they can voluntarily accept a reduction of their monthly pension in the event their spouse outlives them. In contrast, should the annuitant outlive their spouse, those funds would remain in the pension fund and the annuitant's pension would return back to its original amount. It is common among pension plans in Canada to limit eligibility for survivor benefits to the spouse or partners that existed when the plan member was employed. In doing so, pension plans do not take responsibility for changes in a personal status once that person is no longer employed. Of note, this program can significantly benefit the spouse of the deceased annuitant. For example, depending on the life span of both the annuitant and their spouse, it is possible that the surviving spouse receives more from the OSB program in their lifetime than the annuitant paid while alive. In addition, the surviving spouse would also continue to receive health care plan benefits.

In addition to the OSB, other benefits are in place to support Canadian seniors such as the Old Age Security program, the Guaranteed Income Supplement, and the Canada Pension Plan.

#### **ACVA Recommendation 5**

That the Department of National Defence and the Department of Public Safety take vigorous action to ensure that members of the Canadian Armed Forces and of the Royal Canadian Mounted Police have all the necessary information about their pension plan, and have access to financial advice to make the most informed financial decisions before they retire.

#### **Government Response**

The Government of Canada agrees with this recommendation.

DND/CAF have a wide variety of services in place to ensure CAF members have access to the necessary information about their pension plan and to financial advices. In addition, members of the CAF continue to have access to a broad range of free financial services and advice throughout the entirety of their careers, including leading up to and during retirement.

Active and retired CAF members have access to a Pension Portal managed by Public Services and Procurement Canada (PSPC). The portal contains a variety of self-service personalized pension tools including a service buy-back calculator, pension estimate calculator, pension benefits statement, and a survivor benefits estimator. It also includes comprehensive information on CAF pension plans, relevant forms, and links to related information.

Canadian Forces Morale and Welfare Services (CFMWS) operates as a social enterprise and delivers programs and services designed to contribute to the operational readiness and effectiveness of the CAF. CFMWS ensures that members and their families achieve physical, social, financial and mental well-being. A division of CFMWS, Service Income Security Insurance Plan (SISIP) Financial focuses on contributing to the financial health and security of members which offers an in-depth understanding of the financial needs of the CAF Community along with a commitment to deliver objective advice.

Thirty-two (32) CAF Transition Centres (CAF TCs) and detachments were established across the country to help members transition from military to civilian life. This includes access to a variety of resources to assist them in their transition to civilian life based on a framework of domains of well-being, one of which is financial wellness. Each transitioning member is assigned a Release Administrator from the local CAF TC who provides personalized assistance to guide and assist them in relation to their pension and related benefits as an integral part of the release process. Each transitioning member is also assigned a Transition Advisor (TA) who works closely with the member to assist them in preparing an individualized Transition Plan that best meets the member's needs in terms of the various domains of well-being, including financial aspects. Further information on the transition to civilian life can be found online at My Transition Guide - Canada.ca. ([www.canada.ca/en/department-national-defence/corporate/reports-publications/my-transition-guide.html](http://www.canada.ca/en/department-national-defence/corporate/reports-publications/my-transition-guide.html))

The TA further ensures members have awareness of and can register for Second Career Assistance Network (SCAN) seminars. SCAN seminars were created for CAF members and their families to provide education that empowers and enriches a member's transition to civilian life. The seminars contain a section on the CAF Pension Plan and are easily accessible to members and their families both on-site and in an online format so they can participate at anytime from anywhere. In addition, by spring of 2024, each CAF TC will provide Long Term Planning (LTP) seminars that members can access upon reaching the Occupational Functional Point (OFP) which occurs when the member has completed their initial training courses following enrolment in the CAF including the Basic Military Qualification, Occupation, and Environmental training. A portion of the LTP seminars will be devoted to financial aspects to ensure members are aware of their financial benefits at an early stage of their careers and to better equip them with tools that can assist them with planning their financial wellness at every stage of their careers.

Similarly, the RCMP ensures that all members of the RCMP have the necessary information about their pension plan to make the most informed financial decisions before they retire. Members are also encouraged to seek independent financial advice before making any pension decisions. Materials are easily accessible online, and members can also contact the Government of Canada Pension Centre to ask questions and receive specific information. Training on pension plans, provided by pension experts, is also offered to members to ensure that they have the right information to make decisions related to their pension plan.

**ACVA Recommendation 6**

That Veterans Affairs Canada use the research and data provided by Statistics Canada and the Canadian Institute for Military and Veteran Health Research to identify survivors and immediately distribute the \$150 million Veterans Survivors Fund, focusing on those most in financial need, and publicly provide the formula and calculations for the funding allotment.

**Government Response**

The Government of Canada agrees with this recommendation in principle.

The intent of the Veterans Survivors Fund (VSF) is to provide financial support to survivors of CAF Veterans who married or entered into a common-law relationship after the Veteran reached the age of 60.

The Statistics Canada research received in 2021 reported that there were a total of 4,490 living survivors of CAF Veterans who entered into a relationship on or after the Veteran's 60<sup>th</sup> birthday. Of these survivors, 90% were age 70 or older and 19% (850 survivors) had incomes below the 2018 Low Income Measure (LIM) of \$24,890 before-tax. With enhancements to the Old Age Security (OAS) program in 2022, VAC anticipates that the number of survivors living below the 2018 LIM of \$24,890 will be lower. In 2023, VAC forecasted that the size of the overall impacted survivor population was 3,954.

VAC is currently using the research and data provided by Statistics Canada and the Canadian Institute for Military and Veteran Health Research to determine how best to support these survivors, including those who are most in financial need. Once this direction is confirmed, VAC will provide an update on the VSF.

**ACVA Recommendation 7**

That the Government of Canada recognize that pension benefits must be modernized to ensure that the survivors of CAF and RCMP Veterans, mostly senior women, are not pushed into a life of poverty because their partner died without being able to leave them survivor pension benefits.

**Government Response**

The Government of Canada agrees with this recommendation in principle.

The Government agrees that pension benefits and supports to Veterans' and former RCMP members' survivors should be reviewed and adjusted when required.

Financial security is important for all retired Canadians. The Government of Canada has a number of programs that can provide assistance to seniors such as the Registered Retirement Savings Plan, Tax-Free Savings Account, Retirement Investment Fund, the Canada Pension Plan, the OAS program, and the Guaranteed Income Supplement (GIS). Of note, as of July 2022, the OAS pension has been increased by 10% for seniors aged 75 and older.

This increase was designed to recognize the fact that, as seniors get older, they tend to have lower income, and often face higher health-related expenses because of the onset of illness or disability. This vulnerability is further compounded by a reduced ability to supplement income with paid work, by the risk of outliving savings, and the risk of becoming a widow or widower as they age. The increase will strengthen the financial security of 3.3 million seniors, 56% of whom are women.

The factors that impact a survivor's financial situation are complex and not solely attributable to their status under the CFSA subsection 31(1), or the RCMPSPA subsection 19(1), as they may have other income sources including their own pension or retirement savings. The current survivor benefits under both the CFSA and the RCMPSPA are similar to most pension plans and provide added options with the Optional Survivor Benefit that isn't offered by most other pension plans. Efforts are underway for planned expansion of the OSB to common law spouses.

#### **ACVA Recommendation 8**

That the Minister of Veteran Affairs work with the RCMP and the RCMP Veterans Association to ensure survivors of RCMP Veterans will receive an equitable portion of the Veterans Survivors Fund.

#### **Government Response**

The Government of Canada takes note of this recommendation.

VAC will work closely with the RCMP to explore options to possibly include the survivors of former RCMP members as eligible recipients under the Veterans Survivor Fund.

#### **ACVA Recommendation 9**

That the Government of Canada repeal the "Marriage After 60" clause in both the *Canadian Forces Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act*, and make survivor benefits proportional to what the pensioner was receiving rather than the unreduced benefit that they would have received, and as needed, adjust the contribution rates and percentage applicable to the survivor benefit to adequately reflect the resulting reduction in financial liability.

#### **Government Response**

The Government of Canada takes note of this recommendation.

The survivor pension benefits were designed with reasonable limitations, such as the "Marriage After 60" clause, in order to manage the plans effectively and to deliver benefits to members and their survivors in a cost-effective and fair manner.

As outlined in response to recommendation #2, age 60 was selected to maintain parity with the PSSA since the normal retirement age for public service members remains around 60-65 years of age. This levels the playing field among the three pension plans and ensures that CAF and

RCMP members who tend to retire significantly earlier than their public service counterparts, receive benefits equivalent to their PSSA colleagues.

Making important changes to two of the public service plans (CFSA and RCMPSA), as recommended in the ACVA report, would introduce significant inequities across the different federally managed pension regimes, notably with public service members (PSSA) who would still be subject to a “marriage after retirement” provision. Such a change would need to be considered in light of the government-wide (including the PSSA) and Canada-wide pension landscapes (including the PSSA) to ensure fairness and more analysis would also be needed to ensure that it does not have any unexpected effect on Veterans’ pensions.

Additionally, given that CAF and RCMP member contribution rates are pegged to PSSA member contribution rates, the extra contributions would need to be paid by the employer, which would constitute an important change in the existing share of employer / employee contributions to the pension plans under the CFSA and the RCMPSA. The recommended changes could inadvertently impact all contributors of all three public sector pension plans, even though they are not part of the targeted population that the report aims to address and could increase Government liabilities substantially.

The Government is committed to supporting surviving spouses, particularly those with low income. Tools are in place to respond to concerns heard during ACVA’s study. The CFSA and RCMPSA offer the OSB option for retirees who wish to provide survivor benefits for a spouse who would otherwise not qualify for a pension survivor benefit. The OSB is to be expanded to common law spouses. Other measures to tackle senior poverty include the aforementioned 10% increase to the OAS pension for seniors over 75.