

## SCHEDULE B – Long Form Notice

### LEGAL NOTICE

#### **Do you collect a disability-related benefit administered by Veterans Affairs Canada?**

**A proposed class action settlement may affect you.  
Please read this notice carefully.**

*The Federal Court has authorized this notice.  
This is not a solicitation from a lawyer or a lawsuit against you.*

Your legal rights are affected by a proposed settlement (“**Settlement**”) even if you do nothing. Please read this notice carefully.

The Government of Canada has agreed to settle a class proceeding (“**Class Action**”) involving an alleged miscalculation of certain disability pensions and benefits administered by Veterans Affairs Canada (“**VAC**”) payable to members or former members of the Canadian Armed Forces (“**CAF**”) and the Royal Canadian Mounted Police (“**RCMP**”) and their spouses, common-law partners, survivors, and other related individuals.

If you received any of the disability-related benefits listed in this notice at any time between 2003 and 2023, you may be entitled to benefit from the Settlement. As the executor, estate trustee, administrator, or beneficiary of an estate of a deceased class member who collected VAC-administered disability benefits, you may also be able to claim on behalf of the estate.

The Federal Court will hold an approval hearing for the Settlement commencing at 10:00 a.m. EST on **December 18, 2023**, at 90 Sparks St. in Ottawa, Ontario and by videoconference.

#### **YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT**

- 1. DO NOTHING:** If you agree with the Settlement, there is nothing more to do. By doing nothing, you give up any right to object to the Settlement.
- 2. STATEMENT OF SUPPORT:** Class Counsel welcome any statement of support for the Settlement sent to: [info@vetspensionerror.ca](mailto:info@vetspensionerror.ca).
- 3. OBJECT:** If you disagree with the Settlement, you can file a completed Objection Form. The Objection Form is located online at: <https://vetspensionerror.ca/>. Class Counsel must receive your completed Objection Form by mail to Murphy Battista LLP, 2020-650 W Georgia Street, Vancouver, BC, Canada, V6B 4N7 or email ([info@vetspensionerror.ca](mailto:info@vetspensionerror.ca)) on or before December 1, 2023. If Class Counsel do not receive your completed Objection Form on or before December 1, 2023, you will not be entitled to speak to the Court, and the Court will not consider your objection at the Settlement approval hearing.

- 4. GOING TO THE HEARING:** Anyone is free to attend the hearing commencing at 10 a.m. EST on December 18, 2023, at the Federal Court, 90 Sparks Street, in Ottawa, or by videoconference.

More information is available on Class Counsel's website: <https://vetspensionerror.ca/>.

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## BASIC INFORMATION

### 1. Why did I get this notice?

The Federal Court has authorized this Notice to inform you about the Settlement and your options before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

### 2. What is a class action?

In a class action, one or more people called “**Representative Plaintiffs**” sue on behalf of those who have similar claims. All of these people are called a “**Class**” or “**Class Members.**” The courts resolve the issues for everyone affected by the class action, except for those who exclude themselves, or "opt-out" of, the lawsuit.

### 3. What are VAC-administered disability benefits?

Many current and former members of the CAF or the RCMP and their family members receive, or received, some kind of disability benefit, pension, or related payment administered by VAC. If you are a current or former member of the CAF or the RCMP, or you are related to a current or former member, including deceased former members, you may have received (or are currently receiving) one or more of the following benefits:

- *Pension Act* pension for disability
- *Pension Act* pension for death
- *Pension Act* attendance allowance
- *Pension Act* allowance for wear and tear of clothing or for specially made apparel
- *Pension Act* exceptional incapacity allowance
- *Civilian War-related Benefits Act* war pensions and allowances for salt water fishers, overseas headquarters staff, air raid precautions works, and injury for remedial treatment of various persons and voluntary aid detachment (World War II)
- *Flying Accidents Compensation Regulations* flying accidents compensation
- RCMP Disability Benefits awarded in accordance with the *Pension Act*

If you have a My VAC Account, you can check online for the types of benefits you receive.

#### **4. What is this lawsuit about?**

Each year, VAC is required to calculate an annual adjustment in monthly disability benefits to account for inflation and changes in the cost of living. The annual adjustment is mandated by s. 75 of the *Pension Act*.

The Class Action alleges that since 2003 VAC has made errors in calculating increases in annual adjustments, meaning that Class Members have been underpaid by small amounts each month over many years. In this lawsuit, the benefits that have been affected by annual adjustment calculation errors are referred to as the "**Affected Benefits**". A list of Affected Benefits is included in the response above to Question 3.

#### **5. Why is there a Settlement?**

The Plaintiffs and Canada have agreed to settle the Class Action. The Settlement is not binding unless approved by the Federal Court. By agreeing to settle the lawsuit, the parties avoid the costs, uncertainty, and delay of going to trial and obtaining judgment. In this case, it also means that Class Members will not need to testify in court and prove each necessary element of their case. Settlement also means that Class Members will have the certainty of knowing their entitlement to payments under the Settlement, and will receive payments more quickly under a timeline approved by the Federal Court.

The Representative Plaintiffs and the lawyers for the Class ("**Class Counsel**") believe the Settlement is fair, reasonable, and in the best interests of the Class.

#### **WHO IS INCLUDED IN THE SETTLEMENT?**

#### **6. Who is Included in the Settlement?**

The Settlement affects any person who falls under the Class Definition. The Court certified a Class Definition on January 8, 2021 as:

All members and former members of the Canadian Armed Forces and Royal Canadian Mounted Police, and their spouses, common law partners, dependents, survivors, orphans, and any other individuals, including eligible estates of all such persons, who received – at any time between 2002 and the present – disability pensions, disability awards, and other benefits from Veterans Affairs Canada that were affected by the annual adjustment of the basic pension under section 75 of the *Pension Act* including, but not limited to, the awards and benefits listed above.

## **SETTLEMENT BENEFITS**

### **7. What does the settlement provide?**

A document called the “Final Settlement Agreement” (“FSA”) will be available online by November 8, 2023 at <https://vetspensionerror.ca/> which will provide the Settlement details.

### **8. What happens if the recipient of the benefit is deceased?**

If the Class Member who received Affected Benefits at any time from 2003 to 2023 is deceased, then an executor, estate trustee, administrator, or beneficiary of an estate of that Class Member may apply to the Claims Administrator to receive the Settlement amount. However, if that Class Member has a survivor who is currently in receipt of VAC-administered benefits and has a current payment arrangement, that survivor will automatically receive the deceased Class Member’s entitlement without the need to make a claim with the Claims Administrator.

### **9. Am I responsible for legal fees?**

You are not responsible for payment of legal fees. Class Counsel’s fees are payable only if the Federal Court approves both the Settlement and Class Counsel’s legal fee request. These legal fees will be automatically calculated and deducted from the settlement amount you are entitled to before the payment is issued.

In this case, Class Counsel (the five law firms who acted for the Representative Plaintiffs) have retainer agreements that provide for payment of fees on a sliding scale: 30% of the first \$10,000,000 recovered for Class Members, 20% of any amount recovered for Class Members between \$10,000,001 and \$20,000,000, and 15% of any amount over \$20,000,001. The FSA will provide additional details about the legal fees once it is published on or before November 8, 2023 (available online at: <https://vetspensionerror.ca/>).

At the approval hearing for the Settlement, Class Counsel will ask the Federal Court to approve their fees, taxes on their fees, disbursements, and payment for the Claims Administrator.

### **10. How can I receive a payment?**

If you are already receiving VAC-administered disability benefit payments as a Class Member, then VAC will calculate the amount owing to you under the Settlement and pay you in the same way that you normally receive benefit payments. For example, if you are registered for direct deposit, you will automatically receive a payment under the Settlement as an additional amount in a future deposit. As noted above in paragraph 8, survivors of a deceased CAF or RCMP Class Member who have an active payment arrangement with VAC will automatically receive that CAF or RCMP Class Member’s payment through a second, separate deposit.

Any Class Members who received Affected Benefits between 2003 to 2023 but who do not have a current payment arrangement with VAC will be required to make a claim with the Claims Administrator. This includes all Class Members who are deceased, and where an executor, estate trustee, administrator, or beneficiary of an estate is making a claim on behalf of that Class Member.

### **11. When will I receive my payment?**

The timing of payments to Class Members will depend on how long it takes the Court to approve the Settlement and the type of payment entitlement under the Settlement. Class Members with a current payment relationship with VAC will receive payments under the Settlement sooner than those who will need to apply to the Claims Administrator and submit the required documentation.

Specific statements about how long the Court may take to approve the Settlement are not possible. Generally, Class Members with a current payment relationship can expect to receive payments automatically sometime in 2024. Class Members applying to the Claims Administrator will likely see payments begin in late 2024 or early 2025.

### **12. What am I giving up in the settlement?**

Unless you have previously opted out, the Settlement requires you to surrender the right to pursue specific individual claims against Canada. Under the Settlement, you are “releasing” Canada from liability, which means you, or someone on your behalf, cannot sue Canada for underpayment of Affected Benefits based on the annual adjustment errors alleged in the Class Action.

It is important to read the release language within the FSA carefully. If you have any questions, you can speak with a representative of one of the law firms listed as Class Counsel at the end of this form.

### **13. Can I remove myself from the settlement?**

No. The deadline to exclude yourself as a Class Member, or "opt-out", expired on October 28, 2021. You may fill out an Objection Form to object to the Settlement, but an objection will not exclude you from the Settlement, if approved by the Federal Court.

## **THE LAWYERS REPRESENTING YOU**

### **14. Who are Class Counsel, the lawyers for the Class?**

Class Counsel are:

- Gowling WLG of Toronto;
- McInnes Cooper of Halifax;
- Koskie Minsky LLP of Toronto;
- Michel Drapeau Law Office of Ottawa; and
- Murphy Battista LLP of Vancouver.

If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense.

## **OBJECTING TO THE SETTLEMENT**

### **15. How do I tell the Court if I approve, or object, to the Settlement?**

If you agree with the Settlement there is nothing more to do. Class Counsel nonetheless encourage statements in support of the Settlement. You may email statements in support of the Settlement to [info@vetspensionerror.ca](mailto:info@vetspensionerror.ca) or by mail to Murphy Battista LLP, 2020-650 W Georgia Street, Vancouver, BC, Canada, V6B 4N7.

If you object to the Settlement, you may download an Objection Form from <https://vetspensionerror.ca/>. If you do not have access to a computer, you may call 1-866-545-9920 and an Objection Form will be mailed to you.

You can send your completed Objection Form by email to [info@vetspensionerror.ca](mailto:info@vetspensionerror.ca) or by mail to Murphy Battista LLP, 2020-650 W Georgia Street, Vancouver, BC, Canada, V6B 4N7. Class Counsel must receive an Objection Form no later than December 1, 2023. If your Objection Form is not received by the deadline, you will not be entitled to speak at the Settlement approval hearing. Filing an Objection Form does not mean you have opted out of the Class Action.

In your Objection Form, you may ask to speak at the hearing either in person or by videoconference. You may also file an Objection Form without appearing at the hearing. Class counsel will make Objection Forms received on or before December 1, 2023 available to the Court even if you do not appear in person or by videoconference.

## **THE APPROVAL HEARING**

### **16. When and where will the court decide whether to approve the settlement?**

The Federal Court will hold a hearing commencing at 10:00 a.m. EST on December 18, 2023, at 90 Sparks St. Ottawa, Ontario, to decide whether to approve the Settlement and Class Counsel's request for legal fees and disbursements. You may attend the hearing in person or by videoconference and

ask to speak, but attendance is not required. If you intend to object to the Settlement, Class Counsel must receive your completed Objection Form by the December 1, 2023 deadline.

There will be a videoconference link allowing you to watch the Settlement approval hearing online. If the hearing is re-scheduled, the videoconference link may be changed. If you intend to participate by videoconference, it is a good idea to check <https://vetspensionerror.ca/> the day before the hearing to make sure you have the correct link.

**17. Do I have to attend the hearing?**

No. Class Counsel will answer any questions the Court may have. If you wish to observe, you are welcome to attend the hearing in person or by videoconference. You may also have your own lawyer attend at your expense, but attendance is not necessary.

**18. May I speak at the hearing?**

Yes. You may ask the Court for permission to speak at the approval hearing. To be entitled to speak at the hearing, your Objection Form must be received by the December 1, 2023 deadline and indicate that you wish to speak to the Court at the approval hearing.

**19. What happens if I do nothing?**

If you do nothing, you are choosing, by default, not to object to the Settlement. The Settlement approval hearing will proceed and the Federal Court will consider whether the Settlement is fair, reasonable, and in the best interests of the Class, and whether Class Counsel's fees should be approved, without considering your views. If you agree with the Settlement, nothing further is required, although Class Counsel welcomes statements in support of the Settlement by email to [info@vetspensionerror.ca](mailto:info@vetspensionerror.ca) or by mail to Murphy Battista LLP, 2020-650 W Georgia Street, Vancouver, BC, Canada, V6B 4N7.

**GETTING MORE INFORMATION**

This notice summarizes the Settlement. More details are in the Final Settlement Agreement (or FSA) to be published by November 8, 2023. To get a copy of the Settlement Agreement (FSA) or to speak with Class Counsel, please obtain details at <https://vetspensionerror.ca/>, send an email to [info@vetspensionerror.ca](mailto:info@vetspensionerror.ca), or call 1-866-545-9920 toll free.