

# **Class Action Suit – Reduction of S.I.S.I.P. Long Term Disability Benefits by the Amount of *Pension Act* Payments**

**Manuge v. Her Majesty the Queen  
Court No. T-463-07**

The Federal Court of Canada has certified the above case as a class action. If you are a former member of the Canadian Forces whose S.I.S.I.P. Long Term Disability plan benefits ("SISIP LTD") have been reduced by the amount of your monthly VAC Disability Pension payable under the *Pension Act*, you may be a member of the class in this action. If the action succeeds or is settled, your entitlement to an award will depend upon your individual circumstances.

## **What is the action about?**

Under the terms of the SISIP LTD plan, an amount equal to 75% of the disabled former member's pay at release is payable, but is reduced by payments received from the VAC disability pension.

The class action challenges the authority of the Government of Canada to lawfully reduce SISIP LTD benefits by the amount of VAC disability benefits payable, and further challenges the reduction as being discriminatory, contrary to the Canadian *Charter of Rights and Freedoms*. The claim also alleges breach of fiduciary duty, unjust enrichment, breach of public duty and bad faith on the part of the Government of Canada.

The class action seeks, among other things, a declaration by the court that the Government of Canada acted improperly in reducing the SISIP LTD benefits, and repayment of the amounts reduced, as well as punitive, exemplary, and aggravated damages.

All class members will be bound by the judgment, whether favourable or unfavourable, in the class action.

## **Who are the class members?**

The class has been defined by the Federal Court, by Order dated May 20, 2008, as follows:

"All former members of the Canadian Forces whose long term disability benefits under S.I.S.I.P. Policy No. 901102 were reduced by the amount of their VAC disability benefits received pursuant to the *Pension Act* from April 17, 1985 to date."

The person who brought the lawsuit and who is a class member and the representative plaintiff in the class action is Dennis Manuge, c/o Peter Driscoll, McInnes Cooper, 1300 - 1969 Upper Water Street, Purdy's Wharf Tower II, PO Box 730, Halifax, Nova Scotia, B3J 2V1.

## **What do I need to do to take part in the class action:**

All class members have a right to participate in the class action. You do not need to do anything to participate. You are automatically included in the class action. *If you do not want to*

*participate* you must opt-out, by completing an opt-out notice available from McInnes Cooper. If you elect not to participate, your opt-out notice must be received by the offices of McInnes Cooper by no later than December 8, 2008. McInnes Cooper can help you confirm whether you are a class member. McInnes Cooper can be reached at the following address: McInnes Cooper, 1300 - 1969 Upper Water Street, Purdy's Wharf Tower II, PO Box 730, Halifax, Nova Scotia, B3J 2V1

Tel: (902) 425-6500 begin\_of\_the\_skype\_highlighting (902) 425-6500  
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Fax: (902) 425-6350  
E-mail: [SISIPclassaction@mcinnescooper.com](mailto:SISIPclassaction@mcinnescooper.com)

When contacting McInnes Cooper, please provide:

- Your name;
- Your address;
- Your dates of service in the Canadian Forces;
- Your date of medical release from the Canadian Forces;
- The date upon which you commenced receiving a VAC disability benefit under the *Pension Act*;
- The date you commenced receiving S.I.S.I.P. Long Term Disability plan benefits
- The amount by which your SISIP LTD benefits were reduced by your VAC Disability benefits.

## **Do I need to pay anything?**

You do not have to pay any direct legal fees out of your own pocket. If the case is not successful, no legal fees will be charged.

By agreement with the representative plaintiffs, counsel fees may be calculated at 30% of any amounts recovered. If a settlement, judgment, voluntary payment or execution or other benefit is obtained, the lawyers will apply to court for approval of a fee that is consistent with the terms of this agreement, or some lesser amount. The court will decide what amount is fair.

This arrangement compensates the lawyers for the risk they have assumed in advancing the case and performing the legal work. The lawyers do not receive any money unless the case is successful. Even if the class action does not succeed, class members are not responsible for the fees of any of the lawyers involved in the case.

## **Who are the lawyers for the class?**

Peter Driscoll, McInnes Cooper, 1300 - 1969 Upper Water Street, Purdy's Wharf Tower II, PO Box 730, Halifax, Nova Scotia, B3J 2V1

Ward Branch, Branch MacMaster, 1210 - 777 Hornby Street, Vancouver, BC, V6Z 1S4

## **Whom do I contact for more information?**

For more information or to opt out of the class action, please contact McInnes Cooper at the address set out above. You can also monitor the McInnes Cooper website at [www.mcinnescooper.com](http://www.mcinnescooper.com) (Opens in a New Window).