

NOTICE OF CLASS ACTIONS REGARDING SUPPLEMENTARY DEATH BENEFITS UNDER FEDERAL SUPERANNUATION LEGISLATION

Withler v. Attorney General of Canada
(Court No. L010910)

Fitzsimonds v. Attorney General of Canada
(Court No. L011356)

The British Columbia Supreme Court has certified the above cases as class actions. If you received or were entitled to receive a Supplementary Death Benefit under the federal *Public Service Superannuation Act* ("the PSSA") or *Canadian Forces Superannuation Act* ("the CFSA") between April 17, 1985 and November 2, 2001, you may be a member of the classes in these actions.

WHAT ARE THE ACTIONS ABOUT?

Under the PSSA and the CFSA, a Supplementary Death Benefit is payable to beneficiaries of deceased federal Public Servants and Canadian Forces members. Until late 1999, the amount of the benefit payable was reduced by 10% per year for covered members who died after age 60. Since 1999, the 10% yearly reduction under the PSSA applies after age 65, rather than age 60.

The class actions challenge the age-related benefit reduction as discriminatory, contrary to the *Canadian Charter of Rights and Freedoms*. A similar case brought on an individual basis in the Federal Court of Canada by Mrs. Ruth Margolis resulted in a judgment for the plaintiff. The class actions are brought on behalf of all persons who are members of the defined classes.

WHO ARE THE CLASS MEMBERS?

The classes in the two actions include persons presently resident in Canada to whom Supplementary Death Benefits under the PSSA or the CFSA were paid or became payable where:

- a) The participants in respect of whom the benefits were paid or payable died between April 17, 1985 and November 2, 2001, and
- b) The amount of the benefit was reduced due to the age reduction provisions of the PSSA or the CFSA.

WHAT DO I NEED TO DO TO TAKE PART IN THE CLASS ACTIONS?

If you do not live in British Columbia, you must contact the law firm of Giaschi & Margolis at the address below by **May 19, 2002** if you want to participate in the actions. If you do not contact them, you will not be able to share in any money that the Court may award in the class actions.

If you live in British Columbia, you do not need to do anything to participate. You are automatically included in the class actions. If you do not want to participate, you must opt out by **May 19, 2002** by completing an opt-out notice available from Giaschi & Margolis at the following address. Giaschi & Margolis

can help confirm whether you are a class member.

Giaschi & Margolis, 401-815 Hornby Street, Vancouver BC V6Z 2E6

Tel: (866) 274-6547 (Toll Free)

Fax: (604) 681-4260

E-mail:

publicserviceclassaction@giaschimargolis.ca

or

canadianforcesclassaction@giaschimargolis.ca

When contacting Giaschi & Margolis, please provide:

- Your name and/or the name of the estate you represent;
- Your address;
- Your relationship to the deceased;
- The deceased's name and date of death.

DO I NEED TO PAY ANYTHING?

You do not have to pay any direct legal fees out of your own pocket. If the cases are 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 cases and performing the legal work. The lawyers do not receive any money unless the cases are successful. Even if the class actions do not succeed, class members are not responsible for the fees of any of the lawyers involved in the cases.

WHO ARE THE LAWYERS FOR THE CLASSES?

Giaschi & Margolis, 401-815 Hornby Street, Vancouver BC, V6Z 2E6

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

Arvay Finlay, 4th Floor, 888 Fort Street, Victoria BC, V8W 1H8

WHO DO I CONTACT FOR MORE INFORMATION?

For more information or to opt into or out of the class actions, please contact Giaschi & Margolis at the address set out above. You can also monitor Branch MacMaster's website at:

<http://www.branmac.com/pages/publicservice.html>

or

<http://www.branmac.com/pages/canadianforces.html>