

Preliminary Notice

Notice of Proposed Resolution of the Class Action Regarding the Reduction of SISIP Disability Benefits

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

What is this action about?

Under the terms of the SISIP LTD Plan, a disabled former Canadian Forces member's benefits were reduced by the amount of their *Pension Act* disability pension (the "Offset"). The Plaintiff, Dennis Manuge, brought this class action to challenge the legality of the Offset.

The Supreme Court of Canada approved the case going forward as a class action on December 23, 2010.

The Federal Court ruled that the Offset was not permitted under the SISIP LTD Plan on May 1, 2012. The Defendant did not appeal.

Since then, the Plaintiff and the Defendant have been in negotiations over how the Offset should end, how past Offset amounts should be refunded, and other key details. The Plaintiff and the Defendant have now reached an agreement on these points that are contained in a proposed draft order (the "Agreement").

Why am I getting this notice?

You have been identified as a potential member of the Class. The Agreement affects your rights. The Agreement must be approved by the Federal Court. You are entitled to support, or object to, the Agreement if you choose.

Who are the Class Members?

The Court certified a Class defined as "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."

If the Agreement is approved, this class definition will be expanded to go back to June 1, 1976, the date the Offset began, up to the date the Agreement is approved.

Class Members who previously opted out will have the right to opt in, and Class Members who were added will have the right to opt out within 60 days of the date of the Agreement if it is approved by the Court.

What are the terms of the Agreement?

In summary, the Agreement provides for the following:

- All future payments of benefits will not be reduced by the Offset.
- All debts owing to Manulife by the Class resulting from the Offset will be eliminated.

- There will be a Gross Refund consisting of the following amounts:
 - all Offset amounts going back to June 1, 1976, the date the Offset began (the “Retroactive Offset”);
 - interest on the Retroactive Offset at the following rates:
 - 6% from February 1, 1992 to December 31, 1995;
 - 5% from January 1, 1996 to December 31, 2008;
 - 3% from January 1, 2009 to April 30, 2012; and
 - 5% from May 1, 2012 to the date the amount is paid to McInnes Cooper in Trust; and
 - an additional 3.27% on the Retroactive Offset to ease income tax implications of the Gross Refund.
- The Defendant will also pay \$10 million to a Scholarship Fund for Class Members (or their family member).
- Any disputes over the amounts payable to Class Members or their medical eligibility will be handled by an independent arbitrator.

The full terms of the Agreement are available at leavenovetbehind.ca. The website also contains a number of Affidavits explaining the Agreement, as well as Class Counsel's reasons for recommending the Agreement.

What do I have to do to make a claim?

You do not have to do anything right now.

If the Agreement is approved:

1. Most Class Members will receive their refund automatically through McInnes Cooper;
2. If your benefits under the SISIP LTD Plan were reduced to zero because of the Offset (i.e. you were “Zero Sum”), you may have to provide certain information to show that you were eligible for benefits beyond the initial 24 month “own occupation” period. Under the Agreement, much of the collection of the required information will be automatic. However, you may still have to submit information to prove you are eligible, and at what level. There may be some information you can start collecting or providing now to speed up the process. You can contact Class Counsel for more information on what you can do now. If an award is made in your favour, McInnes Cooper will process and forward your cheque.

Will there be deductions from the Gross Refund?

As always with any SISIP LTD benefits, there will be an amount withheld for taxes. When you file your return, your tax payable may be less than the amount withheld, in which case you could receive a tax refund.

Class Counsel are proposing that there be a deduction for legal fees, taxes and expenses, but these amounts may be tax deductible.

Finally, if you owe SISIP money for any reason other than the Offset, this amount will be deducted.

What are the proposed legal fees?

Class counsel will be asking the Court to approve a legal fee of 15.7% applied only to the Gross Refund.

A further figure of approximately 2% of the Gross Refund will be deducted for the taxes required to be charged all clients on legal fees, and to cover the out of pocket expenses incurred by Class Counsel. This percentage will vary slightly depending on the tax rate in your home province.

As noted above, the amount each Class Member pays for Class Counsel fees and expenses may be deductible on your income tax return.

Note that no legal fee will be applied to any increased SISIP payment received by a class member since July 2012. Nor will any legal fee be applied on any increased future payment. Finally, no legal fee will be applied to any money received by you or your family from the Scholarship Fund.

From their own fees, Class Counsel propose to donate \$1 million to charity for support of access to justice initiatives for veterans, and \$50,000 to Dennis Manuge for all the work he has done in advancing this case on behalf of all veterans.

The estimated total value of the settlement is **\$887.8 million**. This includes the gross refund from which legal fees and expenses will be deducted, which has an estimated total value of \$424.3 million in retroactive payments, including \$82.6 million in interest. The projected legal fees payable to Class Counsel after the donations above is less than \$65.6 million. Such amounts will only be paid if and when class members are paid their refund cheques. Class Counsel will not receive any fee on account of any Class Member unless and until that individual Class Member is paid his or her refund.

The proposed legal fee is **7.5%** of the total value of the settlement when you include the value of the increased future benefits and the Scholarship Fund.

Any legal fees or payments to Class Counsel and Mr. Manuge will have to be approved by the Court as fair and reasonable.

What happens now?

A hearing for final approval of the Agreement will be held at 9:30 am, **February 14, 2013**, at the Law Courts at 1815 Upper Water Street, Halifax, Nova Scotia. The Court will be asked to find that the Agreement is fair, reasonable, and in the best interests of the Class Members, and to approve the percentage proposed to be paid for legal fees, expenses, and taxes.

If you are satisfied with the Agreement and the proposed legal fee percentage, then you do not have to do anything. You will receive a further notice after the hearing.

If you want to show your support for the Agreement or the proposed fee percentage, you can email SISIPLTDsettlement@mcinnescooper.com.

If you want to formally object to the Agreement or the proposed fee percentage you can email SISIPLTDsettlement@mcinnescooper.com. You must include your reasons for objecting so the Court can understand your concerns. You must provide your name with either your support or objection. Anonymous comments will not be submitted to the Court.

All support or objections must be sent to the email address no later than **February 7, 2013**. You can also appear at the hearing with or without legal counsel to make an oral presentation to the Court, but that is not necessary. If you submit your comments, those comments will be brought to the attention of the Court. If you plan to appear at the **February 14, 2013** hearing, please state that in your email to SISIPLTDsettlement@mcinnescooper.com so that the Court will know how much time to allocate at the hearing. If you intend to be represented by legal counsel, please advise of his or her name and contact information.

What if I want more information?

For more information, please contact McInnes Cooper at:

SISIPClassAction@mcinnescooper.com
(902) 444-8417 (English)
(506) 877-0831 (French)

SISIP Class Action
McInnes Cooper
PO Box 730, Halifax, NS
B3J 2V1