

The Supreme Court of Canada hearing in Hislop is tentatively scheduled for May 16, 2006.

At the July 11th court appearance Justice Macdonald adjourned the hearing of the issues because of the outstanding appeals but more importantly, because the Government of Canada committed to commence paying CPP survivor's pensions to those of our class members who filed a "complete and qualifying" application that meets one of the following criteria:

1. A complete and qualifying application was submitted after December 19, 2003 (i.e. the date when Justice Macdonald released her judgment), or
2. There was an appeal pending before the Review Tribunal or the Pension Appeals Board on December 19, 2003, or
3. A complete and qualifying application was submitted before December 19, 2003 and it was not denied.

The government said they were going to do this even though there are outstanding legal issues before the Supreme Court of Canada.

Therefore all those who meet the criteria set out above should start receiving ongoing payments shortly. They should also be entitled to 11 months of arrears from the date of the filing of the "complete and qualifying" application. Therefore, for instance, if you filed an application in July, 2004 and did not receive a "rejection" letter, you should be entitled to ongoing payments (presumably starting in August 2005) and 23 months of arrears (i.e. 12 months since the date of the application till August 2005 plus 11 months of arrears for the period before the application was filed – August 2003 to July 2004).

The government will not pay any arrears before February 2003 (i.e. any application that would fall into category 2 or 3 will be deemed to have been received in the month of December 2003). Your entitlement to full arrears will thus be subject to the decision of the Supreme Court of Canada.

Please note that the restrictions on arrears that are being applied are restrictions that are being imposed by the government, and not by the Court or by us. We did not agree to any such restrictions. Neither did Justice Macdonald. However, she had no objections to the government's interim proposal. We agreed that we would not use the fact the government is making these payments against it in the Supreme Court of Canada proceedings. We also agreed that your lawyers would not make a claim for our fees against these amounts.

If you are not certain if your application qualifies under these criteria, we suggest that you make an inquiry with Social Development Canada. The toll free number is 1-800-277-9914. The address for the B. C. regional office is:

Social Development Canada
P.O. Box 1177
Victoria, B. C. V8W 2V2

Since it is a unilateral decision by the government, we do not have any means to monitor the processes of reviewing the applications, establishing if an application meets "complete and qualifying" criteria or calculating actual arrears and payments. However, we will be available to assist you should you encounter any problems. We would also like to know the results of your inquiries with Social Development Canada so we know what problems are developing, if any. Contact us at Smith & Hughes, telephone 604-683-4176, email admin@smith-hughes.com.

Please note that in the event that the Supreme Court of Canada decides that the Court of Appeal was mistaken in awarding the pensions, it is possible that the recipients will have to repay the amounts received. This is due to the fact that despite agreeing to start making these payments, the government still continues to argue that our class members should not be entitled to any CPP survivor's pensions.

We believe it is unlikely that you will be called on to repay the amount you receive. If you do not apply now, the 11 month limit on arrears might mean that you may be losing some pension payments forever. If you haven't sent in your application, please do so now!

All pensions are taxable. As we indicated earlier, receipt of pensions may impact your entitlement to social assistance. Under B. C. law people on disability may be able to put this money in a Trust. However, filing your application for survivor's benefits or not remains your decision.

Given this turn of events, we would like to encourage you once again to make sure that your application is complete and filed with your local Social Development Canada office. Also, if you know of anyone who might qualify to be a class member under this lawsuit, but has not registered with us, please encourage them to do so.