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Canada

# **Public Service Income Benefit Plan for Survivors of Employees Slain on Duty**

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employés de la fonction publique tués dans l'exercice de leurs fonctions

# Public Service Income Benefit Plan for Survivors of Employees Slain on Duty

## 1. Introduction

The Public Service Income Benefit Plan for the survivors of employees slain on duty provides an income guarantee to the spouse and children of employees whose death was caused by an act of violence unlawfully committed by another person or persons, occurring in the course of or arising out of the performance by the employees of their duties.

## 2. Administrative

### Date of approval

The provisions of the Public Service Income Benefit Plan for the survivors of employees slain on duty were approved by the Treasury Board on March 8, 1990 (TB 813362).

### Provincial workers' compensation boards

The appropriate provincial workers' compensation board will determine whether the death of employees is duty related.

### The administrator

The plan is administered by Labour Canada whose functions are to adjudicate that an employee was slain on duty, to apply the provisions of the Plan, to inform eligible survivors, and to provide monthly payments.

### Departments and agencies

Departments and agencies are responsible for providing information to employees concerning this benefit; informing the Plan administrator that an employee has been slain on duty; and providing the necessary information required by the Plan administrator to adjudicate and administer the provisions of the plan.

### Treasury Board Secretariat

The Treasury Board Secretariat is responsible for providing a general advisory service to departments, agencies, and Labour Canada on the interpretation of the plan's provisions; issuing guidelines concerning contentious issues, monitoring the plan's application, and recommending applicable changes to the President of the Treasury Board.

### Canada Pension Commission

The Canada Pension Commission will review complaints lodged by the surviving spouses and children of employees slain on duty concerning the amount, refusal or discontinuance of payments; reach a decision; and inform the survivors and the Plan administrator of the decision.

## 3. General provisions

### Benefits

The Public Service Income Benefit Plan for the survivors of employees slain on duty supplements the income eligible survivors receive from various government sources, to guarantee an income level equal to the net salary or the net pension these employees would have received if alive.

### Costs

The costs of the benefits are borne entirely by the federal government, and no direct contributions are made by employees.

### Tax status

Income benefits for the survivors of employees slain on duty are not taxable.

## 4. Specific provisions

### Coverage

All employees of the departments and agencies listed in Schedule I, Part I of the Public Service Staff Relations Act are covered under this plan, including part-time employees working less than one third the normal weekly hours, and term employees

appointed for a period of less than six months.

Members of the Royal Canadian Mounted Police, members of the Canadian Armed Forces, and persons locally engaged outside Canada are not covered under this plan.

## Eligibility for income benefits

The plan administrator adjudicates that employees were slain on duty. Continuing eligibility under this plan is based on the survivors eligibility for compensation under the Government Employees Compensation Act (GECA). When an eligible spouse ceases to receive compensation under the GECA, the terms and conditions of the Pension Act are applied to determine continuing eligibility under the plan. Payments cease when these terms are not met.

## Amount and apportionment of income benefits

The specifics are outlined in appendix A, sections 1, 5, 6, and 7.

## 5. Reference

This chapter replaces chapter 5-4 of PMM volume 16.

## 6. Enquiries

Enquiries concerning the reporting of employees who have been slain on duty and the administration of the plan should be directed to:

Occupational Safety and Health Division  
Injury Compensation  
Labour Canada  
Ottawa, Ontario  
K1A 0J2

Enquiries concerning the plan's provisions and their interpretation should be directed to:

Benefits Group  
General Personnel Policy Development & Compensation Division  
Personnel Policy Branch  
Treasury Board Secretariat  
Ottawa, Ontario  
K1A 0R5

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## Appendix A - Specific Provisions Regarding Income Benefits

Interpretation

1. For the purposes of this plan, the following terms shall have the meanings hereinafter specified:

(a) Commission (Commission) means the Canadian Pension Commission established under the Pension Act;

(b) employee (employé) means a person employed in the Public Service; but excluding:

(i) members of the Royal Canadian Mounted Police;

(ii) members of the Canadian Forces;

(iii) a person locally engaged outside Canada;

(c) maximum age or length of service (âge de la retraite ou nombre maximum d'années de service) means age 65 or such earlier date as of which the employee:

(i) is at least age 55, and

(ii) has completed 35 years of pensionable service for the purposes of the Public Service Superannuation Act;

(d) net pay (revenu net) means the pay of the employee less the total of the amounts which would be deductible from such pay, calculated as though the employee were alive, working and claiming, where and if applicable, normal exemptions for a spouse and any eligible children, for:

(i) contributions under the Public Service Superannuation Act, and the Supplementary Retirement Benefits Act;

(ii) contributions under the Canada Pension Plan or the Quebec Pension Plan,

(iii) contributions under the Unemployment Insurance Act, and

(iv) payment of income tax;

(e) net pension (pension nette) means the gross pension of the employee less the amount deductible from such pension for income tax purposes, which amount shall be calculated as though the employee were living and in receipt of the pension and, if applicable, claiming normal exemptions for a spouse and any eligible children;

(f) pay (revenu) means

(i) at the time of death, the gross annual pensionable pay and allowances of the employee which are then in force, and

(ii) subsequently, the gross annual pensionable pay and allowances which would be payable to the employee, including, from the date they become effective, pay increments or merit increases, general revisions, and revisions resulting from an applicable classification conversion which the employee would have received if the employee were performing in a fully satisfactory manner in the occupational group and level which is the equivalent for the position the employee held at the time of death;

(g) pension (pension) means other than for the purposes of paragraph (l), the pension to which the employee would have been entitled under the Public Service Superannuation Act, Supplementary Retirement Benefits Act, and the Canada Pension Plan or the Quebec Pension Plan if the employee had continued to work until reaching maximum age or service at the group and level which the employee held at the time of death and at the rate of pay as defined for the purposes of this plan;

(h) Plan (régime) means the Public Service Income Benefit Plan for survivors of employees slain on duty;

(i) Plan administrator (administrateur du régime) means any person in Labour Canada designated by the Minister of Labour Canada to apply the provisions of the Plan;

(j) Public Service (fonction publique) means the Departments or other portion of the public service of Canada specified from time to time in Schedule I, Part I of the Public Service Staff Relations Act;

(k) slain on duty (tué dans l'exercice de ses fonctions) means the death of an employee which, in the opinion of the Plan administrator, was caused by an act of violence unlawfully committed by another person or persons, occurring in the course of or arising out of the performance by the employee of his or her duties;

(l) statutory entitlements (montants statutaires) means the gross amount of any survivor benefit paid by way of a pension, annuity, or allowance to or on behalf of the eligible survivors under any of the following:

- The Public Service Superannuation Act;
- The Government Employees Compensation Act;
- Canada Pension Plan;
- The Quebec Pension Plan;
- The Supplementary Retirement Benefits Act; and
- a specific Treasury Board authority approving payments under the terms and conditions of the Pension Act.

1.1 Regardless of the employee's contributory or non-contributory status, the pensionable pay and allowances mentioned in Section 1(f) are those defined as salary under Part 1 of the Public Service Superannuation Act.

1.2 For better certainty, contractors, subcontractors, and any individual working for such persons shall be deemed not to be employees within the meaning of the terms of the plan.

1.3 The minister responsible for the plan is the President of the Treasury Board.

## Eligibility

2. Subject to the conditions hereinafter specified, the surviving spouse or child of an employee slain on duty shall be eligible for benefits under the plan if and while pensions:

(a) are payable under the Government Employees Compensation Act or the Pension Act to or in respect of such spouse or child as the case may be, or

(b) would be payable under the Government Employees Compensation Act or the Pension Act to or in respect of such spouse or child as the case may be if the amounts payable under the plan were not being paid.

## Surviving spouse

3. If the surviving spouse of an employee slain on duty ceases to receive benefits under the Government Employees Compensation Act, but would qualify for a pension under the Pension Act if he or she were subject to that Act, that person will be deemed for the purposes of Section 2 to be a person to whom, or in respect of whom, a pension is payable under the Pension Act.

## Cessation of eligibility

4. If a person described in section 3 would cease to qualify for a pension under the Pension Act, if he or she were subject to that Act, that person shall immediately cease to be eligible for benefits under the plan.

## Method for calculating certain statutory entitlements

5. For the purposes of determining the amount of the monthly income benefit payable under section 6 or Section 7:

- (a) A return of contributions under the Public Service Superannuation Act shall not be considered as income under the Plan.
- (b) Severance pay shall not be considered as income under the plan.
- (c) If a lump sum payment has been paid in lieu of a compensation pension under the Government Employees Compensation Act, it shall be determined as follows:
- (i) The lump sum payment shall be deemed to have been received by the eligible surviving spouse or children in consecutive, equal monthly installments.
- (ii) The rate of monthly installments shall be based on the monthly compensation pension rate previously paid; and where none was paid, it shall be deemed to be the monthly compensation pension rate which would have been payable at the time if that person was subject to the Pension Act.
- (iii) The deemed monthly installments shall commence the month following the month the payment of all or a portion of the statutory entitlement ceased under the Government Employees Compensation Act.
- (iv) The deemed monthly installments shall cease when the aggregate of monthly installments is equal to the amount of the lump sum payment.

#### Amount and apportionment of income benefits

6.1 Where an employee is slain on duty, the eligible surviving spouse of the employee, subject to sections 6.2 and 6.3, shall be entitled to an income benefit, determined as follows:

- (a) For each month, following the month in which the employee's death occurred, subject to Section 6.1(c), the eligible spouse shall be paid an income benefit under the plan in an amount equal to the amount by which the net pay of the employee for that month exceeds the total amount of the statutory entitlements payable to or in respect of the spouses and children of the employee in respect of that month.
- (b) While the surviving spouse remains eligible for benefits under the plan, payment of the amount determined in paragraph (a) shall continue until the end of the month in which the employee would have reached maximum age or length of service.
- (c) For each month, after the month in which the employee would have reached maximum age or length of service, an income benefit shall be paid to the eligible spouse, in an amount by which the net pension in respect of that month exceeds the total of any statutory entitlements payable to or in respect of the spouses and children of the employee in respect of that month.

6.2 Where the survivors are two eligible spouses, the income benefit for each spouse, subject to Section 6.3, shall be apportioned in the same proportion as the total statutory entitlements which are payable to or in respect of each spouse and where applicable, the children domiciled with them, are to the total statutory entitlements referred to in Section 6.1(a) or 6.1(c) as the case may be.

6.3 Where the survivors are an eligible spouse, and an eligible child who is not domiciled with the eligible spouse, the income benefit for the eligible child shall be apportioned in the same proportion as the total statutory entitlements which are payable to or on behalf of this eligible child, are to the total statutory entitlements referred to in section 6.1(a) or 6.1(c) as the case may be.

6.4 Where the survivors are a spouse with a child or children and the spouse subsequently dies or otherwise ceases to be eligible, a payment to the eligible child or children shall be made under the provisions of section 7.

#### Eligible children only

7.1 Where there is no eligible spouse and the employee is survived by an eligible child or children, the child or children shall be entitled to an income benefit determined as follows:

- (a) for each month, following the month in which the employee's death occurred, or in which the spouse died or ceased to be eligible;
- (i) the child shall be paid an income benefit under the plan in an amount such that the total amount of statutory entitlements and the income benefit payable hereunder in respect of that child for that month is equal to 50 percent of the net pay of the employee in respect of that month;
- (ii) where there is more than one eligible child, and subject to section 7.3(b) an income benefit shall be paid under the plan in an amount by which the net pay of the employee in respect of that month exceeds the total amount of statutory entitlements payable to or in respect of the children and in respect of that month, such amount being apportioned equally amongst the eligible children.

7.2 For as long as the child or children remain eligible for an income benefit under the plan, payment of the amounts determined in section 7.1 shall continue until the end of the month in which the employee would have reached maximum age or length of service.

7.3 For each month, after the month in which the employee would have reached maximum age or length of service, an income benefit shall be paid to or in respect of the eligible child or children in an amount equal to:

- (a) in the case of one child, an amount such that the total amount of statutory entitlements and the income benefit payable hereunder to or in respect of that child and in respect of that month is equal to 50 percent of the net pension of the employee in respect of that month; or
- (b) where there is more than one child, the amount by which the net pension of the employee in respect of that month exceeds the total

of statutory entitlements payable to or in respect of the children and in respect of that month, such amount being apportioned equally amongst the eligible children.

7.4 Income benefits payable in respect of any child under the plan shall be paid to the person or agency to whom benefits are payable in respect of that child under the Government Employees Compensation Act or where that Act no longer applies, are payable under the Terms and Conditions of the Pension Act. Such recipient shall be accountable for the disposition of the income benefit in accordance with law.

#### General

8.1 In no case shall the income benefits payable under the plan be in an amount which would cause the total benefits payable, including statutory entitlements in respect of the survivors, to exceed the net pay or net pension, as the case may be, which the employee would have received.

8.2 The plan administrator shall ensure that overpayments are duly recovered.

#### Assignment of payments

9. Payments made under the plan are not assignable.

#### Workers' compensation

10. Payments made under the plan are in the nature of workmen's compensation.

#### Payments

11. (a) Benefits payable under the plan shall be paid monthly in arrears and shall continue until the end of the month during which the recipient dies or otherwise ceases to be eligible.

(b) Where monthly payments are twenty dollars or less, the frequency of payments will be on a quarterly, semi-annual, or annual basis; whichever is determined by the plan administrator to be the most administratively practicable.

#### Condition

12. As a condition of the payment of benefits under the plan, an eligible spouse, or child, or children or other person being paid benefits on behalf of an eligible child or children shall provide or shall authorize the plan administrator to obtain such information as is required to properly administer the terms of the plan.

#### Complaint settlement

13. (a) A surviving spouse or child who is dissatisfied with the amount of payment determined by the plan administrator, or who has been refused a payment or whose payments have been discontinued by the plan administrator, may lodge a complaint in writing with the Commission.

(b) The Commission on receipt of the complaint shall, without delay and in a summary way: review the complaint; reach a decision in the matter; advise the spouse or child of the decision; and, where necessary, direct the plan administrator to take corrective action.