



**Coalition équité des pensions aux conjoints survivants  
Surviving Spouses Pension Fairness Coalition**

**UNFINISHED REFORM**

BRIEF submitted to the Standing Committee on Veterans Affairs

*As part of the Study of Survivor Pension Benefits  
(Marriage after 60) and the impact of the Veterans Survivors Fund*

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# UNFINISHED REFORM

## 1. A BRIEF HISTORY OF PENSION LEGISLATION

### 1.1 Federal legislation

The “marriage after 60 years” clause that deprives many surviving spouses of pensions has been on the books for 121 years! On May 23, 1901, it appeared in the ***Militia Pension Act***, which was promulgated by King Edward VII. At that time, Canada was fighting alongside Great Britain in the Second Boer War (1899-1902) in South Africa.

The Act contained two other grounds of exclusion related to marriage: if the officer “married after retirement” or if he “was more than twenty-five years older than his wife.” There were additional conditions concerning some widows who would not be granted a pension if they were considered “unworthy of it” or already “wealthy.” Not only that, but a widow receiving a pension could lose it if she ever became unworthy or wealthy! What a patriarchal, puritanical and misogynist society.

This Canadian legislation was based on US legislation targeting young women marrying elderly veterans of the American Civil War (1861-1865). They were perceived as seeking a long-lasting widow’s pension and were branded as “gold-diggers.”

From our 1901 law, the military pension legislation has retained only the “over 60 years” ground for exclusion. This condition also appears in the *Royal Canadian Mounted Police Superannuation Act*.

The “after retirement” criterion was adopted for the *Public Service Superannuation Act* and the *Pension Benefits Standards Act*, which

regulates the pension plans in the private sector and some Crown corporations.

The “after retirement “ rationale is characterized by the fact that the retiree no longer contributes to the fund. In fact, the two (after 60, after retirement) overlap and many, if not most, veterans who married after 60 were already retired.

### **1.2 A strange option**

In federally regulated pension plans, a retiree affected by one of the restrictions may opt to ensure a pension to the surviving spouse provided that the cost is financed by a reduction of 30 to 50% of the retiree’s own pension. This is an unacceptable condition. In fact, less than 1% of the affected veterans have taken the option.

### **1.3 It is different in Quebec!**

Across Canada, provincial pension legislation is generally modelled on the federal legislation, and the “after retirement marriage” clause is standard in both the public and private sectors.

In Quebec, it is not the case. In the public sector, the spouse at the time of the retiree’s death is eligible for a survivor pension regardless of the date of the marriage, according to the *Act respecting the Government and Public Employees Retirement Plan*. Civil servants and employees in the health and education sectors participate in the GPERP.

In the private sector, the *Supplemental Pension Plans Act* allows the plan sponsors to choose between two spouse eligibility criteria, either the date of retirement or the date of the pensioner’s death. In addition to the private sector, this legislation covers municipal and university employees.

#### **1.4 In Ontario, one remarkable exception**

In the public sector, the Ontario legislation contains the same option provided by the federal legislation for a retiree married after retirement, a reduced pension to cover the cost of a survivor pension. Major pension plans in the education (Teachers) and healthcare (HOOPP) sectors offer this option.

There is a major exception in the municipal area, with the *Ontario Municipal Employees Retirement System Act*. The benefits of the plan are determined by the OMERS Sponsors Corporation composed of representatives of the municipalities. In their plan, the spouse at the time of the pensioner's death is eligible for a survivor pension, without reference to the date of their union.

## **2. THE BEGINNING OF REFORM**

### **2.1 A commitment**

In November 2015, Prime Minister Trudeau included in the Minister of Veterans Affairs and Associate Minister of Defence's mandate letter the priority to "eliminate the 'marriage after 60' clawback clause..." We were happy that the unfairness of the legislation was recognized. And we believed that it was a first step and that the other unfair laws on pensions would be revised afterward.

As stated in a letter dated July 10, 2018, from Seamus O'Regan, Minister of Veterans Affairs, National Defence is responsible for the *Canadian Forces Superannuation Act*, "...Department of National Defence staff is assessing requirements...(for the commitment)." The assessment lasted three years and the results were not made public, but we can conclude that staff decided that a change in the legislation was not possible. We were, of course, very disappointed, and more so because their reasons were not

disclosed. There are questions as to whether their study was rigorous. More on this below.

## **2.2 A half measure**

But the government recognized its responsibility regarding the surviving spouses already deprived of a pension. They made another commitment, this one to support those survivors living with inadequate resources, with the announcement of the **Veterans Survivors Fund** in the 2019-2020 Budget, providing \$150 million over 5 years, under the responsibility of Veterans Affairs.

It took three more years to develop this program. A research project was undertaken to track down those survivors and interview them to determine their financial situation and their need for assistance. It was conducted with the collaboration of Statistics Canada and the Canadian Institute for Military and Veteran Health Research, and the results were submitted to VAC in February 2021.

Highlights: 4,490 persons were found, almost exclusively women, aged 70 years and over. It would be interesting to have the distribution by age groups and by the year of the veteran's death.

Since then, the department has been preparing the program, establishing the eligibility criteria, the range of financial allowances, etc. The program launch date is still unknown. It would be interesting to know how many of these 4,490 widows will be eligible and the size of the allowances they will receive.

## **2.3 About financing aspects**

It should be noted that the VSF program is entirely financed by public funds. By comparison, survivor pensions are partly financed by public funds (government-employer contributions), by employee contributions and, to a

large extent, by returns on investments of the pension fund (under the management of the Public Sector Pension Investment Board).

### **3. PURSUING THE REFORM**

#### **3.1 Analysis work done by National Defence**

From 2015 to 2018, DND experts are believed to have analyzed the possible impacts of eliminating the “after 60 years” clause. They were certainly aware that such a change would have repercussions on the other parts of the legislation which limit the right to a survivor pension, especially since, in DND itself, there are about 20,000 civilian employees participating in a pension plan containing the other exclusion criteria. This is also the case for thousands of public servants in Veterans Affairs!

For example, they could have contacted the managers of the Quebec GPERP to enquire about the impact of allowing all spouses access to the survivor pension. They could have made the same enquiry of the organization administering Ontario’s OMERS.

They certainly have tried to estimate the additional costs of extending pension benefits to all surviving spouses, and they consulted actuaries. They would have analyzed the characteristics of the marriages concerned: the number of pensioners currently married after 60; the age of each spouse when they married; the number of deaths in recent years; the age of the spouse when the retiree died, etc.

This data would have been - and still could be - used to make actuarial analyses of the potential costs of abolishing the after-60 clause and providing survivor pensions. We can expect that the after-60 surviving spouses are, on average, older than the before-60 survivors and that they

would have a shorter life expectancy, again on average. Consequently, the pension costs could be relatively less!

### **3.2 A new rule?**

Did the government experts examine other assumptions than the standard pension amount for survivors of after-60 marriages, which is 50% of the veteran's pension?

Considering the demographic differences between the surviving spouses of before- and after-60 marriages, one could imagine different terms for the survivor pensions, aiming for real progress toward equity while keeping the cost at a reasonable level.

One possibility would be to grant all survivors a pension reduced by a defined percentage. But given the above-mentioned differences in average age and life expectancy, another possibility could be a rule to determine **the level of the pension in proportion to the length of the relationship.**

This suggested rule does not exist apparently, as we do not know of any precedent. But we do think it is important that the staff responsible for the file, at National Defence, examine it seriously, as well as any other possible alternatives.

**Maintaining the total deprivation of a pension  
to surviving spouses is unfair and unacceptable.**

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## *Epilogue*

*This Standing Committee has heard, from us and others, various historical considerations and viewpoints on the Canadian Forces Superannuation Act and the impact of the Veterans Survivors Fund. We think it is important to remember that, at the end of the day, these issues are about people.*

*To conclude our presentation, we present as an appendix an actual situation involving a now deceased Canadian war hero, which conclusively demonstrates the irony of legislation rooted in the concept of preventing "gold diggers." We hope you will take the time to read it.*

## Appendix

### Commander Terry Goddard, DSC

Commander Terry Goddard was a Canadian WWII hero with an impressive list of achievements as a warrior and leader in many battles over several oceans and campaigns. He was forced down at sea twice.

Terry was one of the incredibly brave navy flyers who participated in the famous "Swordfish Attack" on the German battleship Bismarck in 1941.

To put this high seas drama into perspective, the Swordfish was a slow moving biplane typically used as a torpedo bomber against Nazi U-boats. In June 1941 fifteen brave Swordfish aviators flew these fabric-covered aircraft directly into furious anti-aircraft barrages from the guns of the Bismarck, the most powerful battleship the world had ever seen.

One of their torpedoes hit the Bismarck's rudder, seriously affecting its ability to steer. This damage allowed Royal Navy warships, along with more torpedo attacks, to sink the Bismarck.

After the sinking, the British Board of the Admiralty stated, "...there can be no doubt that had it not been for the gallantry, skill, and devotion to duty of the Fleet Air Arm in both Victorious and Ark Royal, our objective might not have been achieved."

And how did Canada reward this war hero? When Terry retired, he inquired about a surviving spouse benefit for his wife Cora. He was told that, to provide her with a \$761.46 monthly payment, his pension would be cut by 40% for life.

Terry could not afford the draconian 40% cut so, after serving his country with extraordinary gallantry, Terry spent his retirement fighting the archaic legislation. Terry passed on March 3, 2016, and that unfair legislation now denies a pension to 84 years-old Cora, his wife of 30 years.

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