

NOTICE OF CERTIFICATION AND SETTLEMENT IN THE CANADIAN ARMED FORCES AND DEPARTMENT OF NATIONAL DEFENCE SEXUAL MISCONDUCT CLASS ACTION (LONG FORM)

If you experienced sexual harassment, sexual assault or discrimination based on your sex, gender, gender identity or sexual orientation while serving in the Canadian Armed Forces or while employed for the Department of National Defence or for the Staff of the Non-Public Funds, Canadian Forces, this lawsuit may affect you. Please read this notice carefully.

The Federal Court authorized this notice. This is not a solicitation from a lawyer.

Seven former members of the Canadian Armed Forces (the “**Representative Plaintiffs**”) initiated class action lawsuits against the Government of Canada (“**Canada**”) alleging sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation (“**Sexual Misconduct**”) in connection with their military service. On consent of the parties, on November 25, 2019, the Federal Court certified the lawsuits as class proceedings and approved a settlement agreement that provides compensation to current and former members the Canadian Armed Forces (“**CAF**”) and current and former employees of the Department of National Defence (“**DND**”) and Staff of the Non-Public Funds, Canadian Forces (“**SNPF**”) who experienced Sexual Misconduct. The settlement is not be construed as an admission of liability on the part of Canada.

To learn more about this settlement go to:
<https://www.caf-dndsexualmisconductclassaction.ca>

All current or former CAF members, employees of DND and/or SNPF who have experienced Sexual Misconduct may be able to claim under the settlement. To be eligible to participate in the settlement, you must be a member of the class. **Class Members** have been defined by the Approval Order granted by the Federal Court on November 25, 2019 as follows:

“**CAF Class Members**” are defined as:

All current or former CAF members who experienced Sexual Misconduct up to and including the Approval Date who have not opted out of the Heyder or Beattie Class Actions.

“**DND/SNPF Class Members**” are defined as:

All current and former employees of DND and of the Staff of the Non-Public Funds, Canadian Forces, who experienced Sexual Misconduct up to and including the Approval Date who have not Opted Out of the Heyder or Beattie Class Actions.

This notice sets out how Class Members can make claims for compensation and the deadline for doing so.

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Veterans Affairs Canada (“VAC”) has updated and clarified its approach to claims for disability arising from sexual assault and harassment

VAC has updated and clarified its approach and policies for determining claims for CAF members applying for benefits involving an injury or disease resulting from sexual assault and sexual harassment connected to your military service. You may be able to apply to VAC for review or reconsideration even if you have already been denied VAC benefits in relation to past claims arising from sexual assault or sexual harassment. If you haven't applied before, you may also want to consider applying for VAC benefits under the updated policies. More information about the updates to VAC's policies relating to injuries from sexual assault and sexual harassment are available here: <https://www.veterans.gc.ca/eng/about-vac/legislation-policies/policies>. See Recent Updates 1447, 1578 and 1584.

What does the settlement provide?

The settlement provides:

- a) financial compensation for certain Class Members who experienced Sexual Misconduct connected with their military service and/or employment for DND/SNPF;
- b) the option to participate in a restorative engagement program for survivors to share their experiences of Sexual Misconduct with senior CAF or DND representatives;
- c) changes to CAF policies and other measures addressing Sexual Misconduct in the CAF; and
- d) updates to VAC policies related to eligibility for disability payments and reconsideration of claims by a dedicated unit of employees established to assist with these claims.

What are your legal rights and options?

Do nothing	If you do nothing, you will give up the right to collect under the settlement and you will give up your right to sue Canada or others on your own or bring a Human Rights complaint in relation to any Sexual Misconduct you experienced while serving in the military or as a DND employee or SNPF.
Submit a Claim Form	In order to make a claim for financial compensation, and/or seek to participate in the restorative engagement program, you must submit an Individual Application / Claim Form together with all supporting documentation to the Administrator by the Claims Deadline. Claim Forms are available from the Claims Administrator. Submit your claim using the fast, secure and easy website: www.caf-dndsexualmisconductclassaction.ca , or download the printable version of the claim form found on the website and submit your completed application by regular mail to: CAF-DND Sexual Misconduct Class Action, c/o Epiq, P.O. Box 507, STN B, Ottawa, Ontario, K1P 5P6 Claim Forms may also be submitted electronically to: info@caf-dndsexualmisconductclassaction.ca Claims

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	<p>will be accepted as of March 25, 2020. The deadline to file a Claim Form is September 25, 2021.</p>
<p>Opt Out</p>	<p>If you don't want to be bound by the settlement, you can Opt Out of the class action. You will have until February 24, 2020 to submit your Opt Out Form to the Administrator. Opt Out Forms are available from the Administrator: CAF-DND Sexual Misconduct Class Action, c/o Epiq, P.O. Box 507, STN B, Ottawa, Ontario, K1P 5P6, or by calling the toll free number 1- 888-626-2611 and may also be printed electronically here: www.caf-dndsexualmisconductclassaction.ca and sent by email to: info@caf-dndsexualmisconductclassaction.ca If you Opt Out, you will not be entitled to any financial compensation from the settlement, but you will keep your right to sue Canada or others on your own or bring a Human Rights complaint in relation to any Sexual Misconduct you experienced while serving in the military, or as a DND employee or SNPF, subject to any time or other legal limitations applying to your claim.</p> <p>If you have commenced a legal proceeding against Canada for damages resulting from the Sexual Misconduct covered by this settlement and you do not discontinue it before February 24, 2020, you will be automatically deemed to have Opted Out of the settlement and you will not be able to claim compensation.</p> <p>Class Members who died before March 15, 2019 are not eligible for compensation under the settlement. Estates of Class Members who died before March 15, 2019 that wish to seek compensation through other legal avenues should seek legal advice promptly regarding their options.</p>

What kind of compensation am I eligible for?

Your payment will depend on the type of Sexual Misconduct you experienced in connection with your military service and/or DND/SNPF employment and an assessment of the harm you suffered. It will also depend on how many Class Members submit claims. The range of individual compensation for most Class Members could be between five thousand dollars (\$5,000) and fifty-five thousand dollars (\$55,000). Class Members who experienced exceptional harm (and in the case of those who are denied VAC benefits in respect of that harm, including those who have previously been denied VAC benefits in respect of that harm and whose application for reconsideration is also denied), may be eligible for amounts up to one hundred and fifty-five thousand dollars (\$155,000). Details are explained in the settlement agreement. A copy of the court approved settlement agreement is available here: www.caf-dndsexualmisconductclassaction.ca

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Basic information

1. Why did I get this notice?

While not admitting liability, Canada agreed to a settlement of proposed class action lawsuits commenced by former members of the CAF alleging sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation ("Sexual Misconduct") in connection with their military service. The Parties have agreed to include the DND/SNPF Class Members to ensure that certain persons working alongside the CAF Class in the Military Workplace are eligible for compensation through this settlement.

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On November 25, 2019, the Federal Court certified the lawsuits as class proceedings and approved the settlement agreement entered into by the Parties. If you have received this notice, you may have legal rights and interests that are affected by the settlement. This notice explains what is happening, and what actions you can choose to take.

2. What is a class action?

In a class action, one or more people called “**Representative Plaintiffs**” sue on behalf of people who have similar claims. All of the people who have similar claims are called a “**Class**” or “**Class Members.**” The court resolves the issues for everyone affected, except for those who exclude themselves from the lawsuits by Opting Out.

3. What is this class action about?

The class action relates to CAF members and DND/SNPF employees who have experienced sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation in connection with their military service and/or DND/SNPF employment. Canada has not admitted liability, however, it has agreed to a settlement that has now been approved by the Federal Court.

4. Why is there a settlement?

The Representative Plaintiffs and Canada have agreed to a settlement of the lawsuits. By agreeing to the settlement, the parties avoid the costs and uncertainty of a trial and delays in obtaining a judgment, and Class Members receive financial compensation and access to a restorative engagement program, which are described in this notice and the settlement agreement. In this case, it also means that the Class Members will not need to testify in court in order to obtain compensation.

Who is included in the settlement?

5. Who are the Representative Plaintiffs in this class action?

The four former members of the CAF that initiated the lawsuits in the Federal Court are Sherry Heyder, Amy Graham, Nadine Schultz-Nielsen and Larry Beattie. The contact information for Class Counsel is available here: www.caf-dndsexualmisconductclassaction.ca Other similar class actions were filed in Nova Scotia, Quebec, and British Columbia. The plaintiffs in these class actions are Glynis Rogers, Alexandre Tessier, and Nicola Peffers. The Federal Court certified the Heyder and Beattie lawsuits as class proceedings and approved the settlement on behalf of the Class Members.

6. Who else is included in the Settlement?

The settlement includes the members of the CAF Class who are defined as follows:

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All current or former CAF Members who experienced Sexual Misconduct up to and including the Approval Date who have not opted out of the Heyder or Beattie Class Actions.

CAF Members include officers and non-commissioned members of all components of the Canadian Armed Forces (Regular and Reserve), and any individual who served in any branch, corps, service or another group within or forming part of, the Sovereign's armed or military forces for Canada.

For greater clarity, "member" includes a recruit undergoing basic training and "Reserve Force" includes the Primary Reserve, Cadet Organizations Administration and Training Service (COATS), Canadian Rangers and Supplementary Reserve.

The settlement also includes employees of the Department of National Defence and Staff of Non-Public Funds, Canadian Forces, who are defined as follows:

All current and former employees of DND and of the Staff of the Non-Public Funds, Canadian Forces, who experienced Sexual Misconduct up to and including the Approval Date, who have not Opted Out of the Heyder or Beattie Class Actions.

For greater clarity, "employee" includes members of the federal public service of all tenures including indeterminate, determinate, casual, and students but does not include members of the federal public service in an employment relationship with other federal departments or agencies that work with the CAF or DND.

All Class Members except those who validly Opt Out of the settlement will be bound by the court approved settlement and will be covered by the releases in the settlement agreement.

7. What if I don't want to be included in the lawsuit or settlement?

If you do not want to be part of the class action or be bound by the terms of the settlement, you can choose to "**Opt Out**" of the class action. If you wish to Opt Out, you must submit your Opt Out Form by February 24, 2020 to the attention of the Claims Administrator, CAF-DND Sexual Misconduct Class Action, c/o Epiq, P.O. Box 507, STN B, Ottawa, Ontario, K1P 5P6. Opt Out Forms may also be submitted by email to: info@caf-dndsexualmisconductclassaction.ca

If you Opt Out, you will not be entitled to any financial compensation from the settlement, but you will keep your right to sue Canada or others on your own or bring a Human Rights complaint about the same legal claims in the lawsuit, subject to any time or other legal limitations applying to your claim.

You may have already commenced a legal proceeding against Canada for damages resulting from Sexual Misconduct suffered in connection with your military service and/or DND/SNPF employment. If you do not

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discontinue it on or before February 24, 2020, you will automatically be deemed to have Opted Out of the settlement.

8. What if I'm not sure whether I'm included in the settlement?

There are people who can help you understand your legal rights and next steps. If you are not sure whether you are included in the settlement, you may call 1-888-626-2611 with questions or visit www.caf-dndsexualmisconductclassaction.ca

Settlement benefits

9. What does the settlement provide?

The settlement provides:

- a) financial compensation for certain Class Members who experienced Sexual Misconduct connected with their military service and/or employment for DND/SNPF;
- b) the option to participate in a restorative engagement program for survivors to share their experiences of Sexual Misconduct with senior CAF and/or DND representatives;
- c) changes to CAF policies and other measures addressing Sexual Misconduct in the CAF; and
- d) changes to Veteran's Affairs Canada (VAC) policies related to eligibility for disability payments and reconsideration of claims by a dedicated unit of employees established to assist with these claims.

Summary of Compensation Terms

Canada has agreed to pay a maximum of eight hundred million dollars (\$800 million) in respect of the CAF Class Members ("**Aggregate Compensation Cap – CAF Class**") and a maximum of one hundred million dollars (\$100 million) in respect of the DND/SNPF Class Members ("**Aggregate Compensation Cap – DND/SNPF Class**") who are eligible for compensation, as follows (the "**Individual Payments**"):

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Category	Compensation Level	
A. Sexual harassment, gender-based and LGBTQ2+-based discrimination limited to women and those who identify as LGBTQ2+ limited to incidents occurring after April 17, 1985	\$5,000	
B1. Targeted or ongoing or severe sexual harassment and/or sexual assault in the form of unwanted sexual touching	Low Harm	\$5,000
	Medium Harm	\$10,000
	High Harm	\$20,000
B2. Sexual assault in the form of sexual attack or sexual activity where no consent or unable to consent	Low Harm	\$30,000
	Medium Harm	\$40,000
	High Harm	\$50,000
C. Enhanced Payment: Class Members who suffer or suffered from PTSD or other diagnosed mental injuries, or physical injuries arising from sexual assault or sexual harassment for which, for CAF Class Members, VAC benefits have been applied for and denied and/or have sought reconsideration and been denied.	Low Harm	\$50,000
	Medium Harm	\$75,000
	High Harm	\$100,000

More detailed information about Class Member eligibility, the harm thresholds and limitations on eligibility can be found in the settlement agreement, which is available here: www.caf-dndsexualmisconductclassaction.ca

If the total amount of payments to CAF Class Members is less than two hundred million dollars (\$200 million), CAF Class Members may receive up to an additional 15% of the amounts payable to each person. If the total payable to CAF Class Members is still less than \$200 million, then Canada will make available an amount equal to the difference so long as it does not exceed twenty five million dollars (\$25 million) which will be used for collective measures aimed at increasing awareness and culture change as agreed by the Parties. If the total amount of payments to CAF Class Members exceeds \$200 million, Canada will make available two-million dollars (\$2 million) which can be used for collective measures aimed at increasing awareness and culture change as agreed by the Parties. The total amount of individual payments to CAF Class Members cannot exceed \$800 million. If the total amount of payments to CAF Class Members exceeds \$800 million, the individual payments to CAF Class Members will be reduced on a *pro rata* basis so that the total amount of payments to CAF Class Members does not exceed \$800 million.

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If the total amount of payments to DND/SNPF Class Members is less than twenty-five million dollars (\$25 million), DND/SNPF Class members may receive up to an additional 15% of the amounts payable to each person. If the total amount of payments to DND/SNPF Class Members exceeds \$100 million, the individual payments to DND/SNPF Class Members will be reduced on a *pro rata* basis so that the total amount of payments to DND/SNPF Class Members does not exceed \$100 million.

If either the total amount of payments to the CAF Class or the DND/SNPF Class exceeds the funds available for each group, but the total amount of payments to the other Class does not exceed the funds available, funds may be transferred for the benefit of the other Class, provided that this does not deprive that Class of the 15% increase to each Individual Payment.

Canada will only pay the amounts assessed as owing to Class Members and the amount agreed upon for collective measures.

Restorative Engagement

Class Members may also request to participate in a program of restorative engagement, facilitated by specially-trained restorative practitioners that has been designed to allow Class Members to share their experiences of sexual harassment, sexual assault, and/or discrimination based on gender or LGBTQ2+ status with senior CAF and/or DND representatives in a safe and respectful environment. The aim is to allow Class Members to be heard and acknowledged, to contribute to culture change by increasing awareness and understanding of the experiences of Class Members and to begin the process of restoring the relationship between Class Members and the CAF and DND. This program will be developed by the Sexual Misconduct Response Centre, in consultation with external experts. Participation in restorative engagement will be completely voluntary.

CAF Measures

The settlement also includes several policy measures and initiatives intended to provide support and increase awareness around the issue of Sexual Misconduct within the CAF.

These include consultations with plaintiff representatives on support for survivors of Sexual Misconduct, as well as efforts to increase gender representation and diversity in the CAF. The Government of Canada has agreed to conduct a comprehensive external review to assess the progress made by the CAF in addressing issues of Sexual Misconduct through Operation HONOUR and the Sexual Misconduct Response Centre.

More details are in the settlement agreement, which is available at www.caf-dndsexualmisconductclassaction.ca

10. How will the lawyers be paid?

As part of the settlement, Canada agreed to pay Class Counsel's legal fees in the amount of \$26.56 million, plus repayment of reasonable disbursements and applicable tax. The Federal Court determined that the

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legal fees are fair and reasonable. These amounts will be paid directly by Canada and will not be deducted from any amounts that eligible Class Members may receive.

Who are the lawyers representing you?

11. Who are the lawyers for the Plaintiffs?

The lawyers for the Plaintiffs (Class Counsel) are:

- Koskie Minsky LLP of Toronto, Ontario;
- Raven, Cameron, Ballantyne & Yazbeck LLP of Ottawa, Ontario;
- Wagners of Halifax, Nova Scotia;
- Acheson Sweeney Foley Sahota LLP of Victoria, British Columbia; and
- Quessy Henry St-Hilaire, avocats of Quebec City, Quebec.

You are welcome to seek legal advice from these lawyers concerning the settlement and your claim – at any time and at no cost to you. If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense.

GETTING MORE INFORMATION

12. How do I get more information?

This notice summarizes the settlement, the process for submitting a claim for compensation under the settlement and the process for Opting Out of the settlement. More details are in the settlement agreement. You can get a copy of the agreement at www.caf-dndsexualmisconductclassaction.ca You can send your questions to **CAF-DND Sexual Misconduct Class Action**, c/o Epiq, P.O. Box 507, STN B, Ottawa, Ontario, K1P 5P6 or by email at info@caf-dndsexualmisconductclassaction.ca You may also call the toll-free number 1-888-626-2611.

You may also seek legal advice from the lawyers for the Plaintiffs concerning the settlement and your claim at any time at no cost to you.