Establishment of a Common-Law Partnership

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Purpose

The purpose of this policy is to provide direction respecting the policy and evidence required to determine the existence of a common-law partnership for Canadian Armed Forces (CAF) members and Veterans pursuant to the *Veterans Well-being Act* and the *Pension Act*.

This policy also provides direction respecting an exception to the policy that is applicable in certain circumstances when a CAF member dies in Special Duty Service.

Policy

Establishment of a Common-law Partnership

1. To become a "common-law partner", the following criteria must be met:
    a. **The couple must "cohabit"** - the CAF member/Veteran and their partner must live together in a conjugal relationship for a period of at least one year; and,
    b. **The relationship must be "conjugal"** - there must be a commitment on the part of both the member/Veteran and their partner to live in a marriage-like state, thereby assuming those marital rights, duties and obligations typically applied to married couples.

Application

2. This policy respecting common-law partners is applicable to CAF members and Veterans.

Evidence

3. Evidence must be provided that indicates the date the member/Veteran and their partner began cohabitation in the conjugal relationship.
4. In addition, evidence must be provided that the member/Veteran and their partner are cohabiting in a conjugal relationship that is permanent in nature, and that the couple are living in the same household and are sharing expenses and chores. The evidence should indicate that the relationship is not merely a casual relationship such as roommates. Evidence could include but is not limited to the following:
    a. Evidence of joint contributions towards expenses and chores;
    b. Certificates issued by a Province or Territory certifying a common-law relationship, domestic partnership or civil union;
    c. Income Tax and Benefit Returns;
    d. Provincial registration forms;
    e. Cohabitation or Prenuptial Agreements;
    f. Proof of joint wills, bank accounts, charge accounts, utility accounts, loans, insurance policies, real estate papers, rental records, bills, receipts or contracts;
    g. RRSP's or other investments naming the other beneficiary in the case of death;
    h. Prescription, medical or hospital records indicating the nature of the relationship;
    i. Child custody or school records;
    j. Records showing the same address such as a driver's license, tax, electoral, census records, lease, mail, government ID, etc.; and/or,
    k. Any other type of record which reflects the nature of the relationship may be considered as evidence.
5. There should be no evidence to the contrary to indicate an intention on the part of either party to terminate their relationship.

Temporary Interruptions in Cohabitation During the Initial One Year Qualifying Period

6. Actual cohabitation in the same household is required for the full one year qualifying period to meet the definition and establish a common-law partnership.
7. If there is an interruption in the period of cohabitation for any work or non-work related reason by either the member/Veteran or their partner, the "clock" stops on the one year cohabitation.
8. If the cohabitation resumes after the temporary interruption, it is considered to ratify the continuance of the relationship and the period of interruption can then be counted towards establishing the one year period required to establish the common-law partnership.
9. If the cohabitation does not resume after the temporary interruption, either by choice or by death, then the time apart cannot be counted towards establishing the one year period required to establish the common-law partnership.

Temporary Interruptions in Cohabitation After the Common-law Partnership has Been Established

10. Once a member/Veteran and their partner meet the minimum one year period of cohabitation and the parties are established as common-law partners, they will not cease to be common-law partners should they live apart for the reasons that are specified in the legislation as follows:
    a. injury or disease/one or both of them having to reside in a health care facility;
    b. circumstances of a temporary nature; or
    c. other circumstances not within the control of the member or Veteran or their common-law partner.

Exception Applicable to CAF Members Who Die in Special Duty Service

11. A CAF member and their partner may be considered common-law partners at the time of a CAF member's death even if the couple were not actually living together at the time of death if:
    a. The death of the CAF member occurred more than 12 months after the couple first began to cohabit in a conjugal relationship and before the parties could resume cohabitation; and,
    b. The physical separation was not voluntary but was due to a mandatory and temporary deployment of the CAF member (deployment for the purpose of the policy means deployment to Special Duty Service); and,
    c. There is evidence that the member and their partner continued their relationship throughout the deployment and there is no evidence to the contrary to indicate an intention on the part of either party to terminate their relationship.
12. In addition to the evidence that must be provided pursuant to paragraph 4 above, evidence that the member and their partner continued their relationship throughout the deployment must be provided and may include, but is not limited to, evidence that:
    a. the parties planned on getting married upon the CAF member's return;
    b. the parties kept in regular contact via telephone and internet during deployment;
    c. the partner who remained in Canada maintained the parties joint household;
    d. the partner who remained in Canada continued to raise the parties' children (if there were any); and/or,
    e. the parties continued to pay their joint bills.
13. Each case must be determined on a case by case basis based on the unique facts and circumstances associated with that particular couple.

References

Veterans Well-being Act, subsections 2(1) and 2(2)

Pension Act, subsections 3(1) and 3(3)