



**CONGRESS OF UNION RETIREES OF CANADA**

## **BRIEF TO THE EXPERT COMMISSION ON PENSIONS**

### **(ONTARIO)**

The Congress of Union Retirees of Canada (CURC) was founded in 1993 and has more than 500,000 members affiliated through the retiree chapters of most major unions in the country. It continues the work of earlier organizations of retired workers whose formation goes back to the 1930s and, in some cases, to the early part of the last century.

We maintain our head office in Ottawa with a full-time National President and an ongoing program of activities throughout the country. CURC meets every two years at our general convention to elect officers and establish policies. CURC is directly involved on a day-to-day basis in defending and promoting the rights of retired members of Employee Pension Plans, and the elderly population in general.

In addition to speaking out on pension issues, we actively engage in public policy debates on a full range of issues affecting older Canadians: health care, housing, taxation, homecare and the defense of seniors at risk.

CURC requested the opportunity to appear before this Commission because we understand that you will examine all aspects of the legislation which governs the funding of Employee Pension Plans, and in particular, the balance of rights and obligations amongst employers, employees and pensioners. We agree that a new evaluation is long overdue, given the recent instability of pension funding status and the shifting balance of pension liabilities between active and retired plan members. Our primary concern is to safeguard the security and value of pension benefits for retired Canadians in all jurisdictions.

### **FULL DISCLOSURE ON AN ANNUAL BASIS**

From the outset, we want this Commission to recognize that retired plan members deserve a clear-cut commitment to full disclosure of pension funding status on a basis which clearly reports the extent of risks to the security and value of their monthly incomes. This disclosure should occur on an annual basis in statements mailed directly to retired members with their pension cheques for the month of July.

We recognize that financial statements and actuarial reports, which would form the basis of annual disclosure, require time to prepare. However, in this modern world of rapid communications, there is no substantial excuse for a lag of more than 6 months between the effective date of such statements and their delivery date.

We will also argue for direct representation of pensioners in the administration of pensions, but we should all recognize that representation is of little value without a fully informed membership. For us, full disclosure is step one in the process of building a more effective and secure pension system.

## **PENSION FUNDING ISSUES**

CURC recognizes that the majority of pension plans and pension funds in Canada are administered on a responsible basis in the sense that they conform with the law of the land, and in particular, the funding rules established by Pension Benefits legislation – in Ontario, the Pension Benefits Act. At the same time, we want to encourage the Financial Services Commission of Ontario to renew its efforts to ensure compliance with the rules as they stand.

Failure of individual plan sponsors to meet the requirements in a timely fashion prejudices the interests of plan members. Any shortcomings in this regard should be incorporated into the proposed

annual statements of funding status. This Commission should put its technical resources to work and determine a practical threshold, beyond which, the plan administrator would be required to send an extraordinary notice to plan members, reporting failure to comply and potential consequences for the security and value of their pension incomes.

Over the past several years, the most common issue amongst employers, employees and pensioners has been the distribution of funding surpluses. The battles have been most acute in the case of plan wind-up, and on this front, we have obtained a measure of recognition for pensioners' interests. In practical terms, it is difficult to distribute surplus in the case of wind-up without agreement amongst the three parties to the pension fund – the employer, the employees, and the pensioners. We believe this principle should be extended to ongoing plans.

During the 1980s and 1990s when funding surpluses were common, a great bulk of those surpluses was used to fund contribution holidays and, in many cases, benefit improvements for active plan members. Yet no one could argue today that pensioners have received a fair share of those surpluses in overall terms. And in the new reality of funding deficits, we are very much aware that retired plan members face the same percentage reduction of benefits as active members, in the event their plan is wound-up. There is a lack of balance in the system.

Unions are strongly committed to defending the interests of their retired members and many have negotiated regular inflation adjustments to their fixed pensions. But we also recognize that a union has a legal duty to represent its active membership, and it is that membership which votes on a new contract.

It is now commonplace to observe that shifting demographics mean a steadily increasing number of retirees and, in many important industries, shifting markets mean significantly reduced numbers of active workers. When these two factors converge on a single pension plan, the tension between job security issues for employees and pension security issues for retirees may be incapable of resolution.

We are compelled to recognize that, in these cases, it is difficult for a union to be an effective voice for the interests of its retired members. The interests of pensioners must be defended by stronger funding rules and, we believe, by direct representation in pension administration.

With respect to representation, we encourage this Commission to consider the recent changes to Quebec legislation and to incorporate those into its own recommendations. Quebec rules require the appointment of one pensioner representative and one employee representative to a pension committee responsible for the administration of the plan and the investment of the pension fund.

Each of these representatives is accompanied by a non-voting representative.

With respect to funding rules, we believe it is essential to prohibit contribution holidays without a three-party agreement amongst the employer, the employees and the pensioners. We also believe that unfunded pension liabilities should be given “fully secured creditor status” in bankruptcy legislation. And where these measures are not sufficient to fully protect pensions, any balance of unfunded liabilities should be fully insured. The modest protection offered by the Pension Benefits Guarantee Fund, which limits insured benefits to \$1,000 per month is not adequate in this regard.

And finally, we are concerned that funding rules under the Pension Benefits Act allow employers to exclude the liability for cost-of-living protection from actuarial valuations for funding purposes, even where those arrangements constitute an ongoing, formal commitment written into the terms of the plan. While such an arrangement may appear to be practical where the continuity of the plan is secure, they open the door to exposing all members, both active and retired, to greater losses in the event of plan wind-up. In our view, the practice should be prohibited.

## **PENSIONER REPRESENTATION**

We want to emphasize the importance of pensioner representation in the administration of pension plans and pension funds. It is in the nature of being pensioners, that we have no real leverage over the decisions of our former employers, or in the final analysis, over the decisions of the union which represented the pensioner as an active employee.

The pensioners only leverage is moral persuasion and the natural desire to avoid public embarrassment. We are fortunate to live in a world of relative prosperity. The issue of poverty amongst pensioners continues to be a practical reality for a significant minority, but for the majority, the issues are more in the line of relative security and just entitlement.

We are proud of the social and economic advances which have led to these relatively new circumstances. But we are obliged to recognize that these same circumstances may be undercutting the force of moral persuasion. The pensioners' experience of discrimination in pension surplus distributions during the 1980s and 1990s makes it difficult to avoid this uncomfortable conclusion.

Our only comfort is that, in the new world of an aging society, our numbers will count more heavily in the voting process. And so, we close with the observation, that it would be better for all concerned that we avoid potential confrontation between competing generations with an effective system of fair representation in pension administration and pension funding.

The result will be a broader awareness of the importance of pensions, a more secure system of pension funding, and a practical means of resolving the more difficult issues as they occur, and as they inevitably will.

Submitted on behalf of the Congress of Union Retirees of Canada.

Larry Wagg

President