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Representation from Sean Bruyey January 30, 2006

Please Note: Recommended amendments (bold underlined) with accompanying explanations (bold italic) can be found in the relevant sections.

**CANADIAN FORCES MEMBERS AND VETERANS RE-ESTABLISHMENT
AND COMPENSATION REGULATIONS**

INTERPRETATION

1. The following definitions apply in these Regulations.

"Act" means the Canadian Forces Members and Veterans Re-establishment and Compensation Act. (Loi)

"Class A Reserve Service" has the same meaning as in subarticle 9.06(1) of the Queen's Regulations and Orders for the Canadian Forces and includes proceeding to and returning from the place where the training or duty is performed. (service de réserve de classe A)

"Class B Reserve Service" has the same meaning as in article 9.07 of the Queen's Regulations and Orders for the Canadian Forces. (service de réserve de classe B)

"Class C Reserve Service" has the same meaning as in article 9.08 of the Queen's Regulations and Orders for the Canadian Forces. (service de réserve de classe C)

"emergency" has the same meaning as in subsection 2(1) of the National Defence Act. (état d'urgence)

"regular force" has the same meaning as in subsection 2(1) of the National Defence Act. (force régulière)

"reserve force" has the same meaning as in subsection 2(1) of the National Defence Act. (force de réserve)

PART 1

JOB PLACEMENT

2. For the purpose of subsection 3(1) of the Act, the Minister may provide job placement assistance services to the following members or veterans if they were

not released under item 1 or 2 of the table to article 15.01 of the Queen's Regulations and Orders for the Canadian Forces:

- (a) a member of the regular force who has completed basic training;
- (b) a veteran of the regular force who has completed basic training and who applies no later than 2 years after the date of their release;
- (c) a member or veteran of the reserve force who has completed at least 21 months of full-time service during 24 consecutive months and who applies no later than 2 years after the date of completion of that service;
- (d) a member or veteran of the reserve force whose civilian employment is no longer available or is available only at a lower rate of pay after completion of special duty service or service on which the member or veteran was called out in respect of an emergency and who applies no later than 2 years after the date of completion of that service; or
- (e) a veteran to whom an income support benefit is payable under section 27 of the Act.

The following paragraph could be added:

2 (1) The minister may, upon receipt of an application under subsections 2 (a) through (e) by a member or veteran, accept an application after the 2 year time limit if the member or veteran provides a valid reason supported by medical documentation.

Explanation:

The chaos that surrounds change of life from military to civilian culture is often unpredictable and can often exceed two years, especially if an unidentified disability issue is involved. The two-year limit should be removed completely. However, if there is to be a limit, allowances must be made for exceptions. The cost to the government is minimal and the benefits will more than reimburse the taxpayer.

3. For the purposes of subsection 3(2) of the Act, the Minister may provide job placement services to

(a) if an application is made no later than 2 years after the death of the member or veteran, as the case may be,

(i) a survivor of a member of the regular force,

(ii) a survivor of a veteran of the regular force who, at the time of the veteran's death, was eligible to receive job placement assistance services under subsection 3(1) of the Act,

(iii) a survivor of a member or veteran of the reserve force who, at the time of their death, was eligible to receive job placement assistance services under subsection 3(1) of the Act, and

(iv) a survivor of a member of the reserve force who, at the time of the member's death, had committed in writing to at least 21 months of full-time service during 24 consecutive months; or

(b) a survivor to whom a Canadian Forces income support benefit is payable under section 28 of the Act.

The following subpara could be added:

(c) The minister may, upon receipt of an application under subsections 3 (a) by a survivor or in the case of a spouse whose serving member or veteran spouse is unable to work due to disability, accept an application after the 2 year time limit if the survivor or spouse provides a valid reason supported by medical documentation.

Explanation:

The demands of grief of loss and caregiving to a disabled person do not meet administrative time limits. Compassion is key here and there must be a mechanism to not only provide allowances for grieving especially if there are children involved but job placement planning and action may take years while the caregiver tries to work at achieving a stable relationship with a disabled veteran/serving member. As in 2(1), the costs to the taxpayer are minimal and the returns are great.

4. An application for job placement services shall be made in writing and shall include, at the request of the Minister, any information that is necessary to enable the Minister to assess whether the applicant is eligible for job placement assistance.

5. In developing a job placement assistance plan, the Minister shall have regard to the following principles:

(a) the plan shall, wherever possible, build on an applicant's skills, experience and education; and

Does this include University?

(b) the plan shall be based on a consideration of job placement services already received by an applicant.

PART 2

REHABILITATION SERVICES, VOCATIONAL ASSISTANCE AND FINANCIAL BENEFITS

Interpretation

6. The definitions in this section apply for the purpose of Part 2 of the Act.

The following three definitions are key to the regulations and the well being and stability of the disabled member/veteran and his/her family. As such, much care must be taken in defining these terms. As they exist now, they are not only unacceptably vague from a clinical perspective, but they offer little transparency and security for the veterans and their families. A thorough review of these definitions must be conducted by professionals in rehabilitation, psychiatry/psychology/psychotherapy, medical case management, etc. As written, they are too much bureaucratic and legalistic jargon and serve little benefit to the disabled veterans/members and their families. (see explanations below)

"barrier to re-establishment in civilian life" means the presence of a temporary or permanent physical or mental health problem that limits or prevents an individual's reasonable performance of their roles in the workplace, home or community. (entrave à la réinsertion dans la vie civile)

"Reasonable performance" and "roles in the workplace, home or community" are very loaded concepts and leave much interpretation to the assessor which could discriminate against the veteran. What about the opinion of the veterans and their families in determining these roles and reasonable performance. Such pseudo-scientific measures as motivation scales have been proven to be not only counterproductive to rehabilitation but can actually worsen the condition of the disabled person.

"suitable gainful employment" means, in relation to a veteran, employment for which the veteran is reasonably qualified by reason of education, training or experience and that provides a monthly rate of pay equal to at least 66 % of the imputed income of the veteran as referred to in subsection 19(1) of the Act. (emploi rémunérateur et convenable)

"Reasonably qualified" is a loaded definition and needs to be clearly and fairly defined by experts in the field, not policy writers. It is essential that some kind of explanation be added as depending on the assessor this

could vary tremendously. Were does the veterans opinion fit here? This is the most important concern ?

"totally and permanently incapacitated" means, in relation to a veteran, that the veteran is incapacitated by a permanent physical or mental health problem that prevents the veteran from performing any occupation that would be considered to be suitable gainful employment. (incapacité totale et permanente)

Once again who defines permanent? There may be other interpretations depending on who assesses and makes the recommendations. The medical community does not recognize the work "permanent" in chronic illness, hence the work chronic instead of permanent. What about the veteran's and his/her family's take on all of this. Again the definition: "suitable" to whom and by whom - this again is a loaded question? As noted in the previous submission on Permanent Impairment Allowance, "totally" and "permanent" are not medically acceptable terms. "Chronic" and "seriously disabled" are acceptable both medically and bureaucratically.

Rehabilitation Services and Professional Assistance

7. (1) For the purpose of subsection 9(3) of the Act, subsection 9(1) of the Act does not apply to a veteran who was a member of

(a) the Cadet Instructors Cadre, the Canadian Rangers or the Supplementary Reserve Force unless the veteran was serving on a period of Class C Reserve Service at the time that the physical or mental health problem leading to the release manifested itself; or

(b) the primary reserve unless the veteran was serving on a period of Class A, B, or C Reserve Service at the time that the physical or mental health problem leading to the release manifested itself.

(2) For the purpose of paragraph (1)(b), a veteran who served on a period of reserve service of at least 2 consecutive days is deemed to have served 24 hours a day for the duration of the period that they were required to serve.

8. For the purpose of paragraph 10(5)(a) or 13(4)(a) of the Act, the Minister shall have regard to the following principles:

(a) that the provision of services be focused on addressing the needs of the applicant;

(b) that the provision of services will involve family members to the extent required to facilitate the rehabilitation;

(c) that the services be provided as soon as practicable; and

(d) that the services provided to an applicant be focused on building on their education, skills, training and experience.

9. For the purpose of paragraph 10(5)(a) and 13(4)(a) of the Act, the Minister shall have regard to the following factors:

(a) the potential for improvement to an applicant's physical, psychological and social functioning, employability and quality of life;

(b) the need for family members to be involved in the provision of services;

(c) the availability of local resources;

(d) the motivation, interest and aptitudes of the applicant;

(e) the cost of the plan; and

(f) the duration of the plan

Please add the following:

(g) the desire and opinion of the applicant and family members as to what they determine is the best course of action for the applicant and the family member; and,

(h) the advice of independent medical practitioners with whom the applicant has freely consulted.

Explanation

The currently stated factors do not explicitly take into account the "opinion" and "desire" of the applicant and the family. Adding this important factor (g) will prevent the department "forcing" the veteran and family down a road, which is neither desired nor beneficial for the applicant/family but may be a cost saving for the department.

Please add the following

9 (1) All factors in paragraph 9 must be considered in light of what will most benefit the client (within reasonable parameters of the plan) and not what is most cost efficient for the department and its representatives.

Explanation

The factors listed in paragraph 9 are open to double interpretation which could potentially favour a bureaucratic cost cutting of programs to the detriment of the client. A check and balance has to be put into place to counterbalance this potential for sacrificing the client in favour of the program/budget.

10. An application for rehabilitation services or vocational assistance shall be in writing and shall be accompanied by

(a) in the case of a veteran's application, medical reports or records that document the veteran's health problem;

(b) in the case of a survivor's application,

(i) a copy of the death certificate of the member or veteran,

(ii) medical reports or other records that document the member's or veteran's injury, disease, diagnosis and cause of death;

Please make the following amendment:

(ii) medical reports or other records that document the member's or veteran's injury, disease or diagnosis, and cause of death;

Explanation

Is all information requested in subpara 10 (b) (ii) necessary? This places a large administrative burden upon the already overwhelmed survivors. The cause of death is understandable as well as some link to service. However, the requirement for three links to service (injury, disease and diagnosis) is overkill to use a pun in very poor taste.

(c) information in relation to the applicant's employment history;

(d) information in relation to the applicant's education, skills, training and experience;

(e) a declaration attesting to the truth of the information provided; and

(f) at the request of the Minister, any other information that is necessary to enable the Minister to assess eligibility for the services or assistance.

Clarification Required: Please remove subpara (f)

The open-ended nature of subpara (f) creates far too much vulnerability on the part of the family and applicant. The information already detailed is more than sufficient. What other information requirement does the department envision? If it can be envisioned, it should be detailed. Otherwise subpara (f) should be removed.

11. (1) An application under subsection 11(1) of the Act shall be made no later than 1 year after the day on which the Minister determines that the veteran would not benefit from vocational rehabilitation as a result of being totally and permanently incapacitated by the physical or mental health problem in respect of which the rehabilitation services were approved.

(2) An application under section 12 of the Act shall be made no later than 1 year after the day on which the member or veteran dies.

Please add the following:

(3) The Minister may accept applications under sections 11 and 12 after one year if circumstances surrounding the death or incapacity of the veteran prevent the spouse from submitting an application within the original 1 year limit.

Explanation

The requirement of a survivor, or caregiver to a severely disabled veteran, to submit an application within one year does not respect the effects of grieving or the demands of being, effectively or in reality, a single parent. Compassion is key here and there must be allowances for those going through great difficulties.

12. (1) A person who is in receipt of rehabilitation services or vocational assistance shall provide, on request, the following information relating to the provision of the services or assistance:

- (a) attendance reports;
- (b) evaluations, assessments and progress reports; and
- (c) any other information that is necessary to enable the Minister to assess the person's continued eligibility for the services or assistance.

Clarification Required: Remove subpara 12(1)(c) (see comments on 9(f))

(2) If a person does not comply with a request under subsection (1), the Minister may suspend the delivery of rehabilitation services or vocational assistance until the information or documents are provided.

(3) Before suspending the delivery of services or assistance, the Minister shall provide the person with written notification of the reasons for the suspension and the effective date of the suspension.

Please make the following amendment:

(3) Before suspending the delivery of services or assistance, the Minister shall provide the person with written notification of the reasons for the suspension, the effective date of the suspension which can be no less than sixty days after notification is sent to the client, and clear instructions, specific requirements and contact information within the department to ensure the most rapid method possible of cancelling the proposed suspension.

Explanation

The work involved in a possible suspension for the applicant, family and provider of the vocational assistance, as well as the consequent emotional and psychological upset must be avoided at all costs. Bureaucracies can tend towards the inefficient. If clear channels are not maintained when a suspension is looming, then the potential problems for not only the applicant, family and assistance provider are great but the Department could find itself dedicating far more resources than necessary to resolve what could be nothing more than an administrative oversight by any of the parties. The entire system then becomes vulnerable to the failure to keep the information requirement clear and the communication channels open.

13. The Service Income Security Insurance Plan Long Term Disability (LTD) is prescribed for the purpose of subsection 16(1) of the Act.

Clarification: Has paragraph 13 been fully discussed with the CF and SISIP? Do they agree with this?

14. (1) For the purposes of section 17 of the Act, the Minister may cancel a person's rehabilitation plan or vocational assistance plan if

(a) the person does not participate to the extent required to meet the goals of the plan;

Clarification and Please Remove 14 (1)(a) in it's entirety

Such vague statements as “does not participate to the extent required to meet the goals of the plan” do not serve the needs of the client and only serve to allow the Department to ‘wash their hands’ quickly of the responsibility of the program. Who defines “extent required” and “goals”? These terms are even more vague than those used by American insurance companies in ridding their books of clients with pseudo-science measures of “motivation”. If the applicant has entered the program and the applicant is not making progress appropriate to the norm, it is more than likely that the applicant does not choose to “fail”. Instead, the applicant is likely facing issues related to his/her disability, family problems, psychological issues, all of which are quite “normal” and well within what one would expect of a disabled client being forced from his/her military career to a completely different career at a likely lower pay scale. Therefore, subsection 14(1)(a) must be much more thoroughly defined or removed in it’s entirety.

(b) the person's eligibility for the plan or the development of the plan was based on a misrepresentation or the concealment of a material fact; or

(c) the person, at least 6 months after the effective date of a suspension, continues to fail to comply with a request made under subsection 12(1).

Please add the following:

(d) Notwithstanding subsection 14(c), if the applicant can provide suitable medical evidence as to the reasons for not complying with the request under subsection 12(1), then the minister will suspend the 6-month limit until such a time that the applicant can reenter the program.

Explanation

This suggested amendment is self-explanatory. Please remember, compassion is the key when dealing with death and disability.

(2) On cancelling a rehabilitation plan or vocational assistance plan, the Minister shall provide the person with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights of review.

Please see suggested amendment to subsection 12(3). A similar amendment with clear and rapid opportunities to respond to prevent cancellation is key.

15. (1) The Minister may pay reasonable expenses in respect of the following costs arising out of a person's participation in a rehabilitation plan or a vocational assistance plan:

- (a) in the case of participating in training,
 - (i) tuition costs, to a maximum of \$20,000,
 - (ii) books,
 - (iii) supplies, to a maximum of \$40 per month,
 - (iv) Internet fees, to a maximum of \$25 per month,
 - (v) other costs, such as those for licensing or examinations, that are identified by the training facility before the program begins, to a maximum of \$500,
 - (vi) the costs of basic safety equipment and special clothing, other than breathing apparatus, pressure suits or environmental testing equipment, that are not otherwise provided by the training facility, to a maximum of \$300,
 - (vii) the cost of a tutor referred by the training facility, to a maximum of 10 hours,
 - (viii) the costs of transportation to and from the training facility at a rate of 15 cents per kilometre to a maximum of \$500 per month or, in the alternative, the cost of a monthly transit pass,
 - (ix) the costs of parking for a participant who holds a disabled parking card from the province in which the training is provided if the training facility does not provide disabled parking,
 - (x) if the approved training is not available at a training facility located within a distance that would allow for daily commuting from the residence of the person
 - (A) the costs of temporary accommodations, to a maximum of \$500 per month in the case of accommodations for the person, or to a maximum of \$1000 per month if accommodations are required for the person and any dependants, and
 - (B) the cost of 2 return trips from the person's residence to the location of the training facility,
 - (xi) 50% of the cost of additional dependant care, to a maximum of \$750 per month;
- (b) in the case of services, other than training,
 - (i) the costs of meals, transportation and accommodations incurred by the person in accordance with the rates set out in the Treasury Board Travel Directive, as amended from time to time, subject to the following conditions:

(A) if the means of transportation is a taxi, \$5.00 shall be deducted from the cost of each trip unless the person's mobility or cognition is severely impaired or the deduction would severely impede the person's ability to access the services, or

(B) if the means of transportation is an automobile other than a taxi, the costs of transportation are payable at the rate applicable to employees of the public service of Canada who have requested use of their own automobile plus 2 cents per kilometre and shall include the costs of parking while the person is at the centre providing the services,

(ii) if the person's health needs in respect of the rehabilitation plan require the person to be accompanied by an escort while travelling, the costs of the escort's meals, transportation and accommodations in accordance with subparagraph (i),

(iii) the remuneration of an escort referred to in subparagraph (ii) if the escort is not the spouse, the common-law partner or a dependent of the person or any other member of that person's household, at a daily rate computed by dividing by 30 the sum of basic and additional pension payable for a spouse or common-law partner at the rate set out in class 1 of Schedule I to the Pension Act, as adjusted in accordance with Part V of that Act,

(iv) the costs of additional dependant care, to maximum of \$75 per day.

(2) If a person receives rehabilitation services or vocational assistance in a country other than Canada, the costs referred to in paragraph (1)(b) are payable at the same rate and are subject to the same conditions as the rates and conditions that are established for former members of the armed forces of that country for similar costs, or, if no such rates are established, at the rates that would be payable if the person were resident in Canada.

(3) The Minister may authorize the payment of costs at a rate that is higher than the rate set out in paragraph (1)(a) if the Minister is satisfied that the higher rate is necessary in order to provide an appropriate standard of service considering the location and availability of training and any special or extraordinary expenses associated with it.

16. A claim for reimbursement must be made in writing within one year after the day on which the expenditure is incurred and must include proof of the expenditure.

Earnings Loss Benefit

17. An application under subsections 18(1) or 22(1) of the Act shall be in writing and shall include

- (a) information relating to the imputed income of the veteran and all amounts payable from sources prescribed under subsection 19(1) or 23(3) of the Act;
- (b) in the case of an application made under subsection 22(1) of the Act
 - (i) a copy of the death certificate of the member or veteran, and
 - (ii) medical reports or other records that document the veteran's injury, disease, diagnosis and cause of death;

Please make the following amendment:

(ii) medical reports or other records that document the member's or veteran's injury, disease or diagnosis, and cause of death;

Explanation

See comments on subsection 10(b)(ii) above.

- (c) a declaration attesting to the truth of the information provided; and
- (d) at the request of the Minister, any other information that is necessary to enable the Minister to determine eligibility for the benefit or the amount payable.

Clarification Required: Please remove subpara (d)

The open-ended nature of subpara (d) creates far too much vulnerability on the part of the family and applicant. The information already detailed is more than sufficient. What other information requirement does the department envision? If it can be envisioned, it should be detailed. Otherwise subpara (d) should be removed.

18. Subject to section 21, for the purpose of section 19 of the Act, the imputed income of a veteran referred to in subsection 8(1) of the Act is equal to

- (a) in the case of a veteran who was finally released from the regular force, the greater of the veteran's monthly military salary at the time of release and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable; and
- (b) in the case of a veteran who was finally released from the reserve force, if the event that resulted in the health problem occurred
 - (i) during regular force service, the greater of the veteran's monthly military salary at the time of release from the regular force service and the monthly military

salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable,

(ii) at anytime during Class C Reserve Service, the greater of veteran's monthly military salary and the monthly military salary for a senior private in the standard pay group at that time, adjusted from the date of completion of the Class C Reserve Service until the benefit is payable,

(iii) at anytime during Class B Reserve Service of more than 180 days, the veteran's monthly military salary at that time updated to the salary rate in effect at the time of their release and adjusted until the benefit is payable, and

(iv) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, \$2,000.

19. Subject to section 21 and for the purpose of section 19 of the Act, the imputed income of a veteran referred to in subsection 9(1) of the Act is equal to

(a) in the case of a veteran who was released from the regular force, the greater of the veteran's monthly military salary at the time of release and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable;

(b) in the case of a veteran who was released from the reserve force, if the injury or disease that led to the release was incurred or contracted

(i) during regular force service, the greater of the veteran's monthly military salary at the time of release from that service and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable,

(ii) at anytime during Class C Reserve Service, the greater of the veteran's monthly military salary and the monthly military salary for a senior private in the standard pay group at that time, adjusted from the completion of the Class C Reserve Service until the benefit is payable,

(iii) at anytime during Class B Reserve Service of more than 180 days, the veteran's monthly military salary at that time updated to the salary rate in effect at the time of release and adjusted until the benefit is payable,

(iv) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, \$2,000.

20. Subject to section 21 and for the purposes of section 23 of the Act, the imputed income for a member is equal to

(a) in the case of a member who dies during regular force service, the greater of the member's monthly military salary at the time of death and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable;

(b) in the case of a member who dies during reserve force service, if the injury or disease that resulted in the death was incurred, contracted or aggravated, as the case may be,

(i) during regular force service, the greater of the veteran's monthly military salary at the time of release from the regular force service and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable,

(ii) at anytime during Class C Reserve Service, the greater of the monthly military salary of the member and the monthly military salary for a senior private in the standard pay group at that time, adjusted from the earlier of the date of completion of the Class C Reserve Service and the date of death until the benefit is payable,

(iii) at anytime during Class B Reserve Service of more than 180 days, the veteran's monthly military salary at that time updated to the salary rate in effect at the time of death and adjusted until the benefit is payable,

(iv) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, \$2,000;

(c) in the case of a deceased veteran who was finally released from regular force service, the greater of the veteran's monthly military salary at the time of release and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable; and

(d) in the case of a deceased veteran who was finally released from reserve force service, if the injury or disease that resulted in the death was incurred, contracted or aggravated, as the case may be,

(i) during regular force service, the greater of the veteran's monthly military salary at the time of release from the regular force service and the monthly military salary for a senior private in the standard pay group at that time, adjusted until the benefit is payable,

(ii) at anytime during Class C Reserve Service, the greater of the veteran's monthly military salary and the monthly military salary for a senior private in the standard pay group at that time, adjusted from the date of completion of the Class C Reserve Service until the benefit is payable,

(iii) at anytime during Class B Reserve Service of more than 180 days, the veteran's monthly military salary at that time updated to the salary rate in effect at the time of the release and adjusted until the benefit is payable,

(iv) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, \$2,000.

21. (1) The monthly military salary referred to in sections 18 to 20 shall be adjusted annually on January 1 in accordance with the percentage increase to the Consumer Price Index, rounded to the next 1/4%, for the year ending on September 30 of the previous year to a maximum of 2% per year.

The following needs to be removed:

“All words following September 30 of the previous year,” i.e. “to a maximum of 2% per year” must be removed.

Please add the following amendment:

21 (1) The monthly military salary referred to in sections 18 to 20 shall be adjusted annually on January 1 in accordance with the greater of the following:

(a) percentage increase to the Consumer Price Index, rounded to the next 1/4%, for the year ending on September 30 of the previous year to a maximum of 2% per year, and

(b) an amount equal to the annual change in the average annual gross composite wage, as of the thirty-first day of October of the year in which the adjustment is made, of categories of unskilled members of the public service of Canada designated by the Minister, minus income tax for a single person calculated in the province with the lowest combined provincial and federal income tax rate.

21(2) Limitation 76. (1) Notwithstanding anything in this Part, the amount of any monthly salary, pension or allowance that may be paid to a person for a month in any calendar year shall not, by reason only of this Part, be less than the amount of the monthly salary, pension or allowance that was or may be paid to that person for any month in the immediately preceding calendar year.

Explanation

There is no limit on the CPI/yearly adjustment for Pension Act benefits, SISIP nor for CPP or other federal programs. The annual increases and limitations as contained in the Pension Act have defined and still do define the security and benefits of hundreds of thousands of veterans. The same

respect must be granted the future veterans. One day (i.e. the day before coming into force and the day after should not discriminate such an important pillar of financial security for future generations of veterans. This discrimination is unacceptable.

(2) The Consumer Price Index is the annual average all-items Consumer Price Index for Canada (not seasonally adjusted) published by Statistics Canada.

22. The following sources are prescribed for the purpose of the amount of variable B in subsection 19(1) of the Act:

(a) disability pension benefits payable under the Pension Act;

(b) benefits payable under the Canadian Forces Superannuation Act, the Public Service Superannuation Act or the Employment Insurance Act;

(c) benefits payable, other than amounts payable for a dependent child, under the Canada Pension Plan or the Quebec Pension Plan;

(d) benefits payable under any employer-sponsored long-term disability insurance plan;

(e) benefits payable in respect of economic loss under the Government Employees Compensation Act or any provincial workers' compensation legislation;

(f) amounts payable in respect of economic loss arising from legal liability to pay damages;

Clarification: Does subsection (f) have a precedent in other plans? What does this mean?

(g) amounts payable under an employer pension plan;

(h) employment earnings payable while the veteran is not participating in a rehabilitation plan or vocational assistance plan developed by the Minister; and

(i) 50% of employment earnings payable while the veteran is participating in a rehabilitation plan or vocational assistance plan developed by the Minister so long as the sum of the earnings loss payable for a month plus the employment earnings for the month does not exceed the veteran's imputed income.

23. The following sources are prescribed for the purpose of subsection 23(3) of the Act:

- (a) benefits payable under the Pension Act other than amounts payable for a dependent child;
- (b) benefits payable under the Canadian Forces Superannuation Act or the Public Service Superannuation Act other than amounts payable for a dependent child;
- (c) benefits payable under the Canada Pension Plan or the Quebec Pension Plan other than amounts payable for a dependent child;
- (d) benefits payable under any employer-sponsored long-term disability insurance plan other than amounts payable for a dependent child;
- (e) benefits payable in respect of economic loss under the Government Employees Compensation Act or any provincial workers' compensation legislation other than amounts payable for a dependent child;
- (f) amounts payable in respect of economic loss arising from legal liability to pay damages; and
- (g) amounts payable under an employer pension plan other than amounts payable for a dependent child.

24. If any amount referred to in section 22 or 23 is paid as a lump sum, it shall be converted into a monthly payment in accordance with generally accepted actuarial principles.

25. (1) A person who is in receipt of an earnings loss benefit shall

- (a) in the case of a veteran,
 - (i) notify the Minister of any change to employment earnings,
 - (ii) provide the Minister with an annual statement of employment earnings;
- (b) notify the Minister of any changes to benefits or amounts payable from sources referred to under section 22 or 23 other than increases resulting from indexation;
- (c) provide the Minister with annual statements of benefits or amounts payable from sources referred to in section 22 or 23;
- (d) at the request of the Minister, provide information referred to in any of paragraphs (a) to (c) or any other information that is necessary to enable the Minister to assess the person's eligibility for earnings loss or to determine the amount of benefit payable.

Clarification Required: Please remove subpara (d)

The open-ended nature of subpara (d) creates far too much vulnerability on the part of the family and applicant. The information already detailed is more than sufficient. What other information requirement does the department envision? If it can be envisioned, it should be detailed. Otherwise subpara (d) should be removed.

(2) The Minister may suspend payment of an earnings loss benefit to a person who fails to comply with subsection (1) until the information is provided.

(3) Before suspending payment of an earnings loss benefit, the Minister shall provide the person with written notification of the reasons for the suspension and the effective date of the suspension.

Please amend the following:

(3) Before suspending payment of an earnings loss benefit, the Minister shall provide the veteran with written notification of the reasons for the proposed suspension, the effective date of the cancellation which can be no less than sixty days after notification is sent to the veteran, and clear instructions, specific requirements and contact information within the department to ensure the most rapid method possible of rescinding the proposed cancellation.

Explanation

Clarity, compassion and facility of communication are key when dealing with disabled veterans.

26. (1) The Minister may cancel payment of an earnings loss benefit under section 21 of the Act

(a) if the veteran, at least 6 months after the effective date of a suspension, continues to fail to comply with subsection 25(1); or

(b) if the veteran's eligibility for the benefit or the determination of the amount payable was based on a misrepresentation or the concealment of a material fact.

(2) On cancelling the earnings loss benefit, the Minister shall provide the veteran with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights of review.

Please make the following amendment:

(3) Before cancelling the earnings loss benefit, the Minister shall provide the veteran with written notification of the reasons for the proposed cancellation, the effective date of the cancellation which can be no less than sixty days after notification is sent to the veteran, and clear instructions, specific requirements and contact information within the department to ensure the *most rapid* method possible of rescinding the proposed cancellation.

Explanation

The hardship on the veteran and his/her family if the income is suspended could be great. When dealing with disabled clients, many with psychological disorders, compassion, facility of communication and clarity are key.

27. (1) Subject to subsection (3), the value of variable A and variable B described in subsection 19(1) of the Act shall be adjusted on January 1 of each year in accordance with the percentage increase to the Consumer Price Index, rounded to the next 1/4%, for the year ending on September 30 of the previous year to a maximum of 2% per year.

(2) Subject to subsection (3), the value of the benefit referred to in subsection 23(1) of the Act and the amount determined under subsection 23(3) of the Act shall be adjusted on January 1 of each year in accordance with the percentage increase, rounded to the next 1/4%, to the Consumer Price Index for the year ending September 30 of the previous year to a maximum of 2% per year.

The following needs to be *removed in subsections 27(1) and (2)*: “All words following September 30 of the previous year,” i.e. “to a maximum of 2% per year” must be removed.

The following amendment should be *added to replace both 27(1) and (2) with the appropriate subsection references*:

27. (1) Subject to subsection (3), the value of variable A and variable B described in subsection 19(1) and the value of the benefit referred to in subsection 23(1) of the Act and the amount determined under subsection 23(3) of the Act shall be adjusted on January 1 of each year in accordance with the greater of the following:

(a) percentage increase to the Consumer Price Index, rounded to the next 1/4%, for the year ending on September 30 of the previous year to a maximum of 2% per year, and

(b) an amount equal to the annual change in the average annual gross composite wage, as of the thirty-first day of October of the year in which the adjustment is made, of categories of unskilled members of the public

service of Canada designated by the Minister, minus income tax for a single person calculated in the province with the lowest combined provincial and federal income tax rate.

27(2) Limitation 76. (1) Notwithstanding anything in this Part, the amount of any monthly salary, pension or allowance that may be paid to a person for a month in any calendar year shall not, by reason only of this Part, be less than the amount of the monthly salary, pension or allowance that was or may be paid to that person for any month in the immediately preceding calendar year.

Explanation

There is no limit on the CPI/yearly adjustment for Pension Act benefits, SISIP nor for CPP or other federal programs. The annual increases and limitations as contained in the Pension Act have defined and still do define the security and benefits of hundreds of thousands of veterans. The same respect must be granted the future veterans. One day (i.e. the day before coming into force and the day after should not discriminate such an important pillar of financial security for future generations of veterans. This discrimination is unacceptable.

(3) The adjustment at the source to amounts or benefits payable from sources referred to in section 22 or 23 shall not be considered in the valuation of variable B or amounts determined under subsection 23(3) of the Act.

(4) The Consumer Price Index is the average all-items Consumer Price Index for Canada (not seasonally adjusted) published by Statistics Canada.

Supplementary Retirement Benefit

28. An application for a supplementary retirement benefit shall be in writing and shall include

(a) in the case of an application of a survivor,

(i) a copy of the death certificate of the veteran, and

(ii) medical reports or other records that document the veteran's injury, disease, diagnosis and cause of death;

Please make the following amendment:

(ii) medical reports or other records that document the member's or veteran's injury, disease or diagnosis, and cause of death;

Explanation

See comments on subsection 10(b)(ii) above.

(b) a declaration attesting to the truth of the information provided; and

(c) at the request of the Minister, any other information necessary to determine whether the applicant is eligible to receive the benefit or the amount payable.

Clarification Required: Please remove subpara (c)

Explanation

The open-ended nature of subpara (c) creates far too much vulnerability on the part of the family and applicant. The information already detailed is more than sufficient. What other information requirement does the department envision? If it can be envisioned, it should be detailed. Otherwise subpara (c) should be removed.

29. The supplementary retirement benefit shall be paid as a lump sum in an amount equal to 2% of the total amount of earnings loss benefit that would have been payable to or in respect of the member or veteran, as the case may be, if no amounts from sources prescribed under subsection 19(1) or 23(3) of the Act were considered in determining the amount of earnings loss benefit payable.

Clarification Please: The legislation does not stipulate what is the amount of the supplementary retirement benefit (SRB) nor does it stipulate if it is a lump sum or a monthly income. Since the goal of saving lump sums for retirement is to provide a secure income or annuity, then the SRB should reflect this. It is safe to assume that if the earning capacity of some individuals is so low as to qualify for the SRB, it is likely that the individuals also have limited investment and money management knowledge. What these elderly persons require is security in the form of a monthly income. The lump sum serves little but to allow the government to wash their hands of caring for the elderly veterans and their families.

Canadian Forces Income Support Supplement

30. An application for a Canadian Forces income support benefit shall be in writing and shall be accompanied by

(a) a statement of income of the applicant and, if applicable, of their spouse or common-law partner;

(b) in the case of an application of a survivor or orphan,

(i) a copy of the death certificate of the member or veteran, and

(ii) medical reports or other records that document the member's or veteran's injury, disease, diagnosis and cause of death;

Please make the following amendment:

(ii) medical reports or other records that document the member's or veteran's injury, disease or diagnosis, and cause of death;

Explanation

See comments on subsection 10(b)(ii) above.

(c) a declaration attesting to the truth of the information provided; and

(d) at the request of the Minister, any other information that is necessary to enable the Minister to assess whether the applicant is eligible for the benefit or the amount of benefit payable.

Clarification Required: Please remove subpara (d)

Explanation

The open-ended nature of subpara (d) creates far too much vulnerability on the part of the family and applicant. The information already detailed is more than sufficient. What other information requirement does the department envision? If it can be envisioned, it should be detailed. Otherwise subpara (d) should be removed.

31. The application shall be made

(a) in the case of an initial application under section 27 of the Act, no later than 6 months after the last day of the last month in which the veteran was entitled to the earnings loss benefit;

(b) in the case of an initial application under section 28 of the Act, no later than 6 months after the last day of the month in which the veteran dies; and

(c) in the case of a subsequent application under section 27 or 28 of the Act, no later than 6 months after the last day of the month in which the benefit ceases to be payable under subsection 35(6) of the Act.

Please add the following:

31(1) Notwithstanding the 6-month limit in subsections 31(a) through (c), The Minister must consider an application if a reasonable excuse supported by documentation does not allow the applicant to submit the application under sections 27 and 28 of the Act before the 6-month time limit stipulated in 31(a) through (c).

Explanation

Please remember that compassion and understanding is key here with disabled persons, their families and the elderly.

32. For the purposes of paragraphs 27(b), 28(b) and 35(6)(b) of the Act, the veteran or survivor, as the case may be, must demonstrate that they are looking for and will accept employment that is available in the local labour market for which they are reasonably qualified by reason of their education, training or experience.

Clarification requested: “reasonably qualified” is a vague and potentially damaging term for attempting to place anyone in an employment situation. This section must be thoroughly review by independent experts in case management/rehabilitation. The term “reasonably qualified” should be replaced by a more dignified phrase in keeping with best practices in the rehabilitation field.

Explanation

Everyone who is employable is “reasonably qualified” for employment of the lowest common skill denominator. Does that mean that a university graduate, senior non-commissioned veteran should be forced to sweep floors on a night shift at a warehouse to satisfy a vague and loaded term such as “reasonably qualified”.

33 and 34 not reviewed by this author

33. For the purposes of section 33 and 34 of the Act, a person's residence in Canada is presumed not to be interrupted if the person has been absent from Canada for 183 days or less in a calendar year.

34. (1) A person who is in receipt of a Canadian Forces income support benefit shall

(a) notify the Minister of changes in income or changes to monthly benefits payable from the sources referred to in section 37;

(b) in the case of the veteran, notify the Minister of changes in income, or changes in monthly benefits payable to their spouse or common-law partner from the sources referred to in section 37;

(c) in the case of a veteran, notify the Minister of changes to their spousal or common-law partner status and numbers of dependent children;

(d) in the case of an orphan, notify the Minister when they cease to follow a course of instruction;

(e) notify the Minister when they intend to be absent from Canada for more than 183 days in a calendar year; and

(f) at the request of the Minister, provide the information referred to in any of paragraphs (a) to (e) or any other information that is necessary to enable the Minister to assess the eligibility of the person or determine the amount of benefit payable.

Please make the following amendment:

(f) at the request of the Minister, provide the information referred to in any of paragraphs (a) to (e) to enable the Minister to assess the eligibility of the person or determine the amount of benefit payable. Note, the following removed: “or any other information that is necessary”

Explanation

Once again, this allows far too much intrusion by the Department. If the Department can envision the information/documentation required, then this must be specified here. Otherwise, “or any other information that is necessary” must be removed.

(2) For the purposes of section 36 of the Act, the Minister may suspend payment of a Canadian Forces income support benefit to a person who fails to comply with paragraph (1)(f) until the information is provided.

(3) Before suspending payment, the Minister shall provide the person with written notification of the reasons for the suspension and the effective date of the suspension.

Please make the following amendment:

(3) Before suspending payment, the Minister shall provide the person with written notification of the reasons for the proposed suspension, the

effective date of the cancellation which can be no less than sixty days after notification is sent to the veteran, and clear instructions, specific requirements and contact information within the department to ensure the most rapid method possible of rescinding the proposed suspension

Explanation

Please remember that compassion for the elderly and disabled is the key here.

35. (1) For the purposes of section 36 of the Act, the Minister may cancel payment of a Canadian Forces income support benefit to a person if

(a) the person, at least 6 months after the effective date of the suspension, continues to fail to comply with paragraph 34(1)(f); or

Please amend 35(1) to correspond to the principles of the proposed amendment in 31(1).

(b) the person's eligibility for the benefit or the determination of the amount payable was based on a misrepresentation or the concealment of a material fact.

(2) On cancelling payment the Minister shall provide the person with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights of review.

Please make the following amendment:

(2) Before cancelling payment, the Minister shall provide the person with written notification of the reasons for the proposed suspension, the effective date of the cancellation which can be no less than sixty days after notification is sent to the veteran, and clear instructions, specific requirements and contact information within the department to ensure the most rapid method possible of rescinding the proposed suspension

Explanation

Please remember that compassion for the elderly and disabled is the key here.

Please not that 36 to 39 not review by this author

36. For the purposes of section 37 of the Act, the following definitions apply.

"base calendar year" means the 12-month period starting with any month in which the Canadian Forces income supplement benefit is payable. (année civile de base)

"income", in respect of a person for a calendar year, has the same meaning as in section 2 of the Old Age Security Act except that

(a) it does not include the aggregate of net income from employment, self-employment or rental of property that is equal to or less than,

(i) in the case of a veteran with no spouse or common-law partner, \$2,900,

(ii) in the case of a veteran with a spouse or common-law partner, \$4,200,

(iii) in the case of a survivor, \$2,900, and

(iv) in the case of an orphan, \$2,900;

(b) it does not include interest income that, in the case of a veteran, survivor or orphan, is equal to or less than \$140;

(c) it does not include earnings loss benefits payable under section 18 or 22 of the Act;

(d) it does not include long-term disability benefits payable under the Service Income Security Insurance Plan Long Term Disability (LTD);

(e) paragraph (d) of the definition "income" in the Old Age Security Act does not apply;

(f) business and capital losses shall be taken into account in the year in which they occur; and

(g) dividend income shall be taken into account on the basis of the actual amount of the dividend. (revenu)

37. For the purposes of section 37 of the Act, the prescribed sources of current monthly benefits are

(a) earnings loss benefits payable under the Act;

(b) long-term disability benefits payable under the Service Income Security Insurance Plan Long Term Disability (LTD);

(c) disability pension benefits payable under the Pension Act, the Royal Canadian Mounted Police Pension Continuation Act or the Royal Canadian

Mounted Police Superannuation Act other than amounts payable in respect of dependant children;

(d) benefits payable under the Old Age Security Act; and

(e) compassionate awards payable under section 34 of the Veterans Review and Appeal Board Act to those persons who have been refused a disability pension under the Pension Act.

38. (1) The amounts set out in column 2 of Schedule 1 to the Act shall be adjusted quarterly commencing on January 1 of each year in accordance with the percentage increase to the Consumer Price Index for the quarter ending on the last day of the third month prior to the month of the adjustment.

(2) In this section, the Consumer Price Index is the all-items Consumer Price Index for Canada (not seasonally adjusted) published by Statistics Canada.

39. If a pension or supplement, as those terms are defined in section 2 of the Old Age Security Act, is increased as a result of an amendment to that Act, the amounts set out in column 2 of items 1, 2 and 4 of Schedule 1 to the Act shall be increased in the following manner:

(a) the amounts set out in items 1 and 4 shall be increased by the same amount that the amount for a single pensioner is increased under the Old Age Security Act; and

(b) the amount set out in item 2 shall be increased by an amount equal to the difference between the increase to the amount for a couple under the Old Age Security Act and the increase to the amount for a single pensioner under the Old Age Security Act.

Permanent Impairment Allowance

Please see separate submission from this author made to Dan Fenety, Darrrah Mogan and Daryl Weber concerning PIA.

40. For the purpose of section 38 of the Act, a permanent and severe impairment is

(a) an amputation at or above the elbow or the knee;

(b) the amputation of more than one upper or lower limb at any level;

(c) a total and permanent loss of the use of a limb;

(d) a total and permanent loss of vision, hearing or speech;

(e) severe and permanent psychosis;

(f) a permanent requirement for the assistance of another person for most aspects of daily living; or

(g) a permanent requirement for supervision.

41. The Minister shall determine the extent of the impairment, taking into consideration

(a) the need for institutional care;

(b) the need for supervision and assistance;

(c) the degree of the loss of use of a limb;

(d) the frequency of the symptoms;

(e) the degree of psychiatric impairment; and

(f) the degree of loss-of-earnings capacity for persons with similar impairments.

42. An application for a permanent impairment allowance shall be made in writing and shall include

(a) medical reports or other records that document the veteran's health problem creating the permanent and severe impairment;

(b) a declaration attesting to the truth of the information provided; and

(c) at the request of the Minister, any other information that is necessary to enable the Minister to determine whether the veteran is eligible for a permanent impairment allowance and the amount payable.

43. A permanent impairment allowance shall be paid monthly.

44. (1) The amounts set out in column 2 of items 1 and 2 of Schedule 2 to the Act shall be adjusted on January 1 of each year in accordance with the percentage increase to the Consumer Price Index for the year ending on September 30 of the previous year.

Please make similar amendments as in 21(1) and 21(2). See explanation in same

(2) The Consumer Price Index is the average all-items Consumer Price Index for Canada (not seasonally adjusted) published by Statistics Canada.

45. (1) A person who is in receipt of a permanent impairment allowance shall provide, on request, medical records, reports or any other information that is necessary to enable the Minister to assess eligibility for the permanent impairment allowance or the amount payable.

Please remove the following from 45(1)

“or any other information that is necessary” see amendments above.

(2) The Minister may suspend the payment of a permanent impairment allowance to a person who fails to comply with subsection (1) until the information or documents are provided.

(3) Before suspending the payment of a permanent impairment allowance to a person, the Minister shall provide the person with written notification of the reasons for the suspension and the effective date of the suspension.

See similar amendments above

46. On cancelling the payment of a permanent impairment allowance under subsection 40(2) of the Act, the Minister shall provide the veteran with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights of review.

See similar amendments above

PART 3

All of Part 3 not reviewed by this author due to insufficient time in the time allowed for public input.

DEATH, DISABILITY AND DETENTION

Interpretation

47. The following definitions apply in this Part.

"obvious", when used with reference to a disability or disabling condition of a member or veteran at the time they became a member, means that the disability or disabling condition was apparent at that time or would have been apparent to

an unskilled observer on examination of the member or veteran at that time.
(évident)

"recorded on medical examination prior to enrolment", in respect of a disability or disabling condition of a member or veteran, means a written record, X-ray film or photograph of the disability or disabling condition that was placed in

- (a) a medical report made on the enrolment of the member or veteran;
- (b) official documentation covering a former period of service of the member or veteran;
- (c) the files of the Department of Veterans Affairs relating to the member or veteran;
- (d) the records of a compensation board or insurance company relating to the member or veteran; or
- (e) the records of a medical practitioner or a clinic, hospital or other medical institution relating to the member or veteran. (consigné lors d'un examen médical avant l'enrôlement)

Application

48. An application for compensation under Part 3 of the Act shall be made in writing and shall include

- (a) a declaration attesting to the truth of the information provided; and
- (b) at the request of the Minister, any information that is necessary to enable the Minister to assess whether an applicant is eligible for compensation and the amount of compensation payable.

Disability Awards

49. An application for a disability award shall include

- (a) medical reports or other records that document the member's or veteran's injury, disease, diagnosis, disability, increase in extent of disability; and
- (b) in the case of an application by a survivor or a dependant child
 - (i) a copy of the death certificate of the member or veteran, and
 - (ii) medical reports or other records that document the cause of death of the member or veteran.

50. For the purposes of subsection 45(1) of the Act, a member or veteran is presumed, in the absence of evidence to the contrary, to have established that an injury or disease is a service-related injury or disease, or a non-service-related injury or disease that was aggravated by service, if it is demonstrated that the injury or disease or its aggravation was incurred in the course of

(a) any physical training or sports activity in which the member or veteran was participating that was authorized or organized by a military authority, or performed in the interests of the service although not authorized or organized by a military authority;

(b) any activity incidental to or directly connected with an activity described in paragraph (a), including the transportation of the member or veteran by any means between the place the member or veteran normally performed duties and the place of the activity;

(c) the transportation of the member or veteran, in the course of duties, in a military vessel, vehicle or aircraft or by any means of transportation authorized by a military authority, or any act done or action taken by any person that was incidental to or directly connected with that transportation;

(d) the transportation of the member or veteran while on authorized leave by any means authorized by a military authority, other than public transportation, between the place at which the member or veteran normally performed duties and the place at which the member or veteran was to take leave or a place at which public transportation was available;

(e) service in an area in which the prevalence of the disease that was contracted by the member or veteran, or that aggravated an existing injury or disease of the member or veteran, constituted a health hazard to persons in that area;

(f) any military operation, training or administration, either as a result of either a specific order or an established military custom or practice, whether or not a failure to perform the act that resulted in the injury or disease or its aggravation would have resulted in disciplinary action against the member or veteran; or

(g) the performance by the member or veteran of any duties that exposed the member or veteran to an environmental hazard that might reasonably have caused the injury or disease or its aggravation.

51. Subject to section 52, if an application for a disability award is in respect of a disability or disabling condition of a member or veteran that was not obvious at the time they became a member of the forces and was not recorded on their medical examination prior to enrolment, the member or veteran is presumed to

have been in the medical condition found on their enrolment medical examination unless there is

(a) recorded evidence that the disability or disabling condition was diagnosed within three months after enrolment; or

(b) medical evidence that establishes beyond a reasonable doubt that the disability or disabling condition existed prior to enrolment.

52. Information given by a member or veteran at the time of enrolment with respect to a disability or disabling condition is not evidence that the disability or disabling condition existed prior to their enrolment unless there is corroborating evidence that establishes beyond a reasonable doubt that the disability or disabling condition existed prior to the time they became a member of the forces.

53. (1) The following definitions apply in this section and section 54.

"actuarial compensatory amount" means, if an additional amount is paid or payable on a periodic basis from a source set out in subsection (2), the present value of those periodic payments, determined in accordance with subsection 54(2). (somme compensatoire actuarielle)

"additional amount" means an amount other than a disability award that is paid or payable to a member or veteran for non-economic loss in respect of a disability for which a disability award is payable. (somme supplémentaire)

"compensatory amount" means an additional amount that is paid or payable as a lump sum from a source set out in subsection (2). (somme compensatoire)

(2) For the purposes of subsection 52(3) of the Act, a disability award payable to a member or veteran shall be reduced by the amount determined in accordance with subsection 54(1) if an additional amount is paid or payable from the following sources:

(a) amounts arising from a legal liability to pay damages; and

(b) benefits under

(i) the Government Employees Compensation Act,

(ii) any provincial workers' compensation legislation,

(iii) a compensation plan established by any other legislation of a similar nature, whether federal, provincial or of another jurisdiction other than a plan to which the member or veteran has contributed, and

(iv) a compensation plan of a similar nature established by the United Nations or by or under an international agreement to which Canada is a party, other than a plan to which the member or veteran has contributed.

54. (1) For the purposes of subsection 52(3) of the Act, a disability award shall be reduced

(a) if a compensatory amount is paid or payable to the member or veteran, by either the compensatory amount or the full amount of the disability award, whichever is less; or

(b) if an additional amount is paid or payable to the member or veteran on a periodic basis, by either the actuarial compensatory amount or the full amount of the disability award, whichever is less.

(2) The present value of an additional amount paid on a periodic basis

(a) if the payor of that additional amount has calculated its present value, is that amount; or

(b) if the payor has not calculated the present value, shall be calculated in accordance with the following formula:

$$PV = R[1 - (1+i)^{-n}] / i$$

where

PV the present value,

R is the amount of the periodic payment,

i is the discount rate used to value the liability for veteran future benefits as published in the Public Accounts of Canada for the fiscal year prior to the date of the calculation, and

n is the number of periodic payments to be made by the payor.

(3) If the disability award of a member or veteran has been reduced in accordance with paragraph (1)(b) and the member or veteran subsequently dies before receiving periodic payments totalling the actuarial compensatory amount, the reduction of the disability award shall be recalculated so that the disability award is reduced by the lesser of

(a) the full amount of the disability award;

(b) the present value of the periodic payments received by the member or veteran before their death, calculated in accordance with the formula set out in paragraph (2)(b).

(4) If the recalculation of the reduction results in an increase in the amount of the disability award, the following amount shall be paid to the survivor or the dependant child of the member or veteran in accordance with section 55 of the Act:

(a) if the original reduction under paragraph (1)(b) was equal to the full amount of the disability award, the entire amount of the increased disability award; or

(b) if the original reduction under paragraph (1)(b) was less than the full amount of the disability award, the difference between the increased disability award and the amount of the original disability award paid to the member or veteran.

Death Benefit

55. An application for a death benefit shall include medical reports or other records that document the member's injury, disease, diagnosis and cause of death.

56. The presumptions set out in section 50 apply with any necessary modifications to applications for a death benefit.

57. (1) The following definitions apply in this section and section 58.

"actuarial compensatory amount" means, if an additional amount is paid or payable on a periodic basis from a source set out in subsection 53(2), the present value of those periodic payments, determined in accordance with subsection 58(2). (somme compensatoire actuarielle)

"additional amount" means an amount other than a death benefit that is paid or payable to a person for non-economic loss in respect of a death for which a death benefit is payable. (somme supplémentaire)

"compensatory amount" means an additional amount paid or payable as a lump sum from a source set out in subsection 53(2). (somme compensatoire)

(2) For the purposes of subsection 58(2) of the Act, a death benefit payable to a person shall be reduced by the amount determined in accordance with subsection 58(1) if an additional amount is paid or payable from a source set out in subsection 53(2).

58. (1) For the purposes of subsection 58(2) of the Act, a death benefit shall be reduced

(a) if a compensatory amount is paid or payable to a person, by either the compensatory amount or the full amount of the death benefit, whichever is less; or

(b) if an additional amount is paid or payable to a person on a periodic basis, by either the actuarial compensatory amount or the full amount of the death benefit, whichever is less.

(2) The present value of an additional amount paid on a periodic basis

(a) if the payor of that additional amount has calculated its present value, is that amount; or

(b) if the payor has not calculated the present value, shall be calculated in accordance with the formula set out in paragraph 54(2)(b).

Clothing Allowance

59. A clothing allowance shall be paid monthly.

Detention Benefit

60. An application for a detention benefit by the testamentary estate or testamentary succession of a deceased member or veteran must include

(a) a copy of the death certificate of the member or veteran;

(b) a copy of the last will and testament of the member or veteran; and

(c) a copy of the letters probate or other applicable documentation demonstrating the appointment of an executor.

61. A detention benefit shall be paid as a lump sum in an amount equal to the amount set out in column 3 of Schedule 3 to the Act, as adjusted in accordance with section 63, for each of the following classes set out in column 1 of that Schedule, which classes correspond to the following periods of detention:

(a) class 20 in respect of periods of detention totalling at least 30 days or longer but not more than 88 days;

(b) class 19 in respect of periods of detention totalling at least 89 days but not more than 545 days;

(c) class 18 in respect of periods of detention totalling at least 546 days but not more than 910 days;

(d) class 15 in respect of periods of detention totalling at least 911 days but not more than 1,275 days;

(e) class 14 in respect of periods of detention totalling at least 1,276 days but not more than 1,641 days; and

(f) class 13 in respect of periods of detention totalling at least 1,642 days.

General

62. A person who receives a detention benefit or a death benefit, or a disability award equal to or greater than the amount set out in column 3 of Schedule 3 as adjusted in accordance with section 63, which corresponds to class 20 set out in column 1 of that Schedule, is eligible, on application, for the payment or reimbursement of fees for financial advice, to a maximum of \$500, relating to the award or benefit if

(a) the financial advice is provided by an arms-length financial adviser that is primarily engaged in the business of providing financial advice; and

(b) the person makes the application within 12 months after the date of the decision and provides an invoice containing the name and business address of the financial advisor and, if applicable, proof of payment.

63. (1) In this section, "basic pension" means the monthly basic pension payable under Schedule I to the Pension Act to a Class 1 pensioner without a spouse, common-law partner or child.

(2) The amounts set out in column 2 of items 3 and 4 of Schedule 2 to the Act and all the amounts in column 3 of Schedule 3 to the Act shall be adjusted annually on January 1 so that the amount payable for the following calendar year equals the product obtained by multiplying

(a) the amount payable in the current calendar year, by

(b) the ratio that the basic pension payable in the following calendar year bears to the basic pension payable in the current calendar year.

64. A decision of the Minister with respect to an award under Part 3 of the Act shall contain the reasons for the decision.

65. The Minister shall send written notice of a decision made under Part 3 of the Act to the applicant and shall inform the applicant of their right

(a) to a review of the decision under sections 84 or 85 of the Act; and

(b) to be represented before the Board

(i) free of charge, by the Bureau of Pensions Advocates or by a service bureau of a veterans' organization, or

(ii) at the applicant's own expense, by any other representative.

PART 4

All of Part 4 not reviewed by this author due to insufficient time allotted for public input.

GENERAL

Reimbursement of Travel and Living Expenses — Medical Examination

66. (1) For the purpose of subsection 74(1) of the Act, the Minister shall pay the costs of meals, transportation and accommodations in accordance with the rates set out in the Treasury Board Travel Directive, as amended from time to time, subject to the following conditions:

(a) if the means of transportation is a taxi, \$5.00 shall be deducted from the cost of each trip unless the person's mobility or cognition is severely impaired or the deduction would severely impede the person's ability to access the medical examination or assessment; and

(b) if the means of transportation is an automobile other than a taxi, the costs of transportation are payable at the rate applicable to employees of the public service of Canada who have requested use of their own automobile plus 2 cents per kilometre and shall include the costs of parking.

(2) If a person undergoes a medical examination or an assessment in a country other than Canada, the payment of the expenses shall be made at the same rate and subject to the same conditions as the rates and conditions that are established for former members of the armed forces of that country for similar costs, or, if no such rates are established, at the rates that would be payable if the person were resident in Canada.

67. A claim for reimbursement shall be made in writing no later than one year after the day on which the expenditure is incurred and must include proof of the expenditures.

Review

68. (1) An application for a review of a decision made under Part 2 of the Act must be made in writing no later than 60 days after receiving notice of the decision unless circumstances beyond the control of the applicant necessitates a longer period.

(2) The review shall be based only on written submissions.

(3) The Minister may confirm, amend or rescind the decision under review.

(4) The Minister shall notify the applicant in writing of the decision setting out the reasons for the decision.

69. (1) An application for a review of a decision made under subsection 68(3) must be made in writing no later than 60 days after receiving notice of the decision.

(2) The application must include the grounds for the review.

(3) The review shall be based only on written submissions.

(4) The Minister may confirm, amend or rescind the decision under review on the basis of new evidence or on the Minister's determination that there was an error with respect to a finding of fact or the interpretation of a law.

(5) The Minister shall notify the applicant in writing of the decision setting out the reasons for the decision.

(6) A decision made under this section is not reviewable on application.

70. (1) An application for a review of a decision made under Part 3 of the Act must be made in writing.

(2) The application must include the grounds for the review.

(3) The review shall be based only on written submissions.

71. If the Minister reviews a decision on the Minister's own motion under section 83 or 84 of the Act, before amending or rescinding the decision, the Minister shall provide the person affected by the decision with an opportunity to respond in writing.

72. The Minister shall notify the applicant in writing of a decision made under section 84 of the Act setting out the reasons for the decision and informing the applicant of their right to have the Minister's decision reviewed by the Board pursuant to section 85 of the Act, and their right to be represented before the Board

(a) free of charge, by the Bureau of Pensions Advocates or by a service bureau of a veterans' organization; or

(b) at the applicant's own expense, by any other representative.

RELATED AMENDMENTS

Veterans Health Care Regulations

73. (1) The definition "seriously disabled" in section 2 of the Veterans Health Care Regulations (see footnote 1) is replaced by the following:

"seriously disabled", in relation to a client, means that the client's extent of disability, in respect of the aggregate of all of the client's disability assessments under the Pension Act and the Canadian Forces Members and Veterans Re-establishment and Compensation Act, is equal to or greater than 78%;

should be amended to:

"...is equal to or greater than 70 % or if the veteran is unemployable due to disability regardless of award, whichever favors the disabled veteran" :

Explanation:

Chap 21, Table to Art 21.02 of TOD states for award of 70%-"*Very severe frequent symptoms causing considerable distress*". *If a veteran's disability is so serious as to result in unemployment, then veteran should be considered "seriously disabled".*] (déficiency grave)

(2) The definition "client" in section 2 of the Regulations is amended by striking out the word "or" at the end of paragraph (h) and by adding the following after paragraph (i):

(j) a member or former member who has received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act; or

(k) a member or former member who has received a detention benefit under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

Should be amended to:

(j) a member or former member who has received access to any of the programs and/or awards related to the Canadian Forces Members and Veterans Re-establishment and Compensation Act; or

(k) a member or former member who has received a detention benefit under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

Explanation:

C-45 was sold to the public because the present system VAC claims has a very limited 'gateway' to programs. VAC claims that veterans only receive benefits from VAC if they have been awarded a Disability Pension under the Pension Act, the so-called gateway. The justification for C-45 was to open the "gateway" in order to be a VAC client to include all programs under C-45. The definition of client should reflect this broader gateway.

74. (1) Subsection 3(2.11) of the Regulations is replaced by the following:

(2.11) A veteran pensioner or a civilian pensioner is eligible to receive treatment benefits in Canada for any health condition, to the extent that the treatment benefits are neither available to them as members or former members of the Canadian Forces nor available as insured services under a provincial health care system, if the extent of their disability in respect of the aggregate of all of their disability assessments under the Pension Act and the Canadian Forces Members and Veterans Re-establishment and Compensation Act, is equal to or greater than 48%.

(2) Section 3 of the Regulations is amended by adding the following after subsection (2.2):

(2.21) A member or former member who has received a disability award in respect of special duty service under the Canadian Forces Members and Veterans Re-establishment and Compensation Act is eligible to receive treatment benefits

(a) in Canada or elsewhere in respect of a disability for which a disability award has been granted, to the extent that the treatment benefits are not available to them as a member or former member of the Canadian Forces; and

(b) in Canada, in respect of any health condition, to the extent that the treatment benefits are neither available to them as a member or former member of the Canadian Forces nor available as an insured service under a provincial health care system, if they are eligible to receive any of the veterans independence program services referred to in paragraphs 19(a), (b) and (e).

(3) Section 3 of the Regulations is amended by adding the following after subsection (2.3):

(2.4) A member or former member who has received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and

Compensation Act who is no longer a member of the Canadian Forces, or who is a member of the Canadian Forces as a member of the reserve force, is eligible to receive treatment benefits, in Canada or elsewhere, in respect of the injury or disease for which the disability award was paid, to the extent that the treatment benefits are not available to them as a member or former member of the Canadian Forces.

(4) Subsection 3(5) of the Regulations is replaced by the following:

(5) Civilian pensioners, prisoners of war who are entitled to basic compensation under subsection 71.2(1) of the Pension Act, Canada service veterans and a member or veteran who has received a detention benefit under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act are also eligible to receive treatment benefits in Canada, to the extent that the treatment benefits are not available to them as insured services under a provincial health care system, if they are eligible to receive any of the veterans independence program services referred to in paragraphs 19(a), (b) and (e).

75. Section 13 of the Regulations is amended by adding the following after subsection (2):

(3) Subsections (1) and (2) do not apply in respect of a medical examination required under the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

Should be amended to:

(3) Where the Minister requests that a person undergo a medical examination in order to establish that person's entitlement to any benefit, service or care, the person is eligible to receive under the Canadian Forces Members and Veterans Re-establishment and Compensation Act
(a) reimbursement of the cost of the examination incurred by the person;
and
(b) reimbursement of the costs of travel incurred by the person in respect of the examination, in accordance with section 7.

Explanation:

If C-45 requires a medical examination, VAC should pay period.

Paragraphs 76 to 83:

All programmes are dependent upon receiving an award in accordance with Part 3 of C-45. Are there not circumstances when the disabled veteran may not have received an award under Part 3 but is still suffering from a service-related disability and requires the assistance and/or benefits of the health care programs in paras 76 to 83. See 73(2) above. C-45 was sold as being more comprehensive

than the Pension Act and yet limiting these programs to only the recipients of Part 3 Benefits and mostly 48% or greater awards appears much more discriminatory than the previous regulations. Perhaps an "Irrespective" paragraph could state the following:

(a) irrespective of the regulations contained in the Veterans Health Care Regulations, any veteran who receives benefits/awards under any program of Canadian Forces Members and Veterans Re-establishment and Compensation Act even if the veteran has not received an award under Part 3 of the Act may receive benefits under the Veterans Health Care Regulations if the Minister deems that the veteran meets certain exceptional circumstances (to be determined by broad public consultation)

76. (1) Subsection 15(1.11) of the Regulations is replaced by the following:

(1.11) Veteran pensioners and civilian pensioners, whose extent of disability, in respect of the aggregate of all of their disability assessments under the Pension Act and the Canadian Forces Members and Veterans Re-establishment and Compensation Act, is equal to or greater than 48% are not required to meet the requirement set out in subparagraph (1)(b)(i).

(2) The portion of subsection 15(1.2) of the Regulations before paragraph (a) is replaced by the following:

(1.2) Military service pensioners and members or former members who have received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act are eligible to receive the veterans independence program services referred to in paragraphs 19(a), (b) and (d) or, if it is not reasonably practicable for those services to be provided at their principal residence, the care referred to in paragraph 19(e), to the extent that those services or that care is neither available to them as members or former members of the Canadian Forces nor available as an insured service under a provincial health care system, if

(3) Subparagraph 15(1.2)(b)(i) of the Regulations is replaced by the following:

(i) their pensioned condition, or the disability for which a disability award was paid, impairs their ability to remain self-sufficient at their principal residence without those services, and

(4) The portion of subsection 15(3) of the Regulations before paragraph (a) is replaced by the following:

(3) Subject to section 33.1, prisoners of war entitled to basic compensation under subsection 71.2(1) of the Pension Act and members or former members who

have received a detention benefit under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act are eligible to receive the veterans independence program services referred to in paragraphs 19(a),(b) and (d) or, if it is not reasonably practicable for those services to be provided at their principal residence, the care referred to in paragraph 19(e), to the extent that those services or that care is not available as an insured service under a provincial health care system, if

77. (1) Subsection 22(1.11) of the Regulations is replaced by the following:

(1.11) Subject to section 33.1, a veteran pensioner or a civilian pensioner, in respect of whom the aggregate of all of their disability assessments under the Pension Act and the Canadian Forces Members and Veterans Re-establishment and Compensation Act is equal to or greater than 48%, is eligible to receive the cost to them of chronic care received in Canada in a community facility, other than in a contract bed, to the extent that the chronic care is not available as an insured service under a provincial health care system.

(2) The portion of subsection 22(1.2) of the Regulations before paragraph (a) is replaced by the following:

(1.2) Military service pensioners and members or former members who have received disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act are eligible to receive the cost to them of chronic care in respect of a pensioned condition or a disability for which a disability award was paid

78. Paragraph 24(2)(a) of the Regulations is replaced by the following:

(a) first, to veteran pensioners, civilian pensioners, special duty service pensioners, military service pensioners and members or former members who have received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act and who need care for a pensioned condition or for a disability in respect of which a disability award was paid;

79. The portion of section 27 of the Regulations before paragraph (a) is replaced by the following:

27. Income-qualified veterans, income-qualified civilians, Canada service veterans and members or former members to whom a Canadian Forces income support benefit is payable under Part 2 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act are eligible to receive the cost of the premium or fee that is required to be paid in relation to

80. Section 28 of the Regulations is replaced by the following:

28. A veteran pensioner, civilian pensioner, special duty service pensioner or a member or former member who has received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act because of special duty service, is eligible to receive, in accordance with section 7, the costs of transportation in Canada of an escort if

(a) the escort accompanies the pensioner, member or former member on an annual vacation or on other travel approved by the Minister;

(b) the means of transportation is other than by automobile; and

(c) the pensioner, member or former member has a pensioned condition or a disability in respect of which a disability award was paid under the Canadian Forces Members and Veterans Re-establishment and Compensation Act that is blindness, or a disability that requires an escort when travelling.

81. Paragraph 30(b) of the Regulations is replaced by the following:

(b) if in receipt of acute care in a hospital, a veteran pensioner, a civilian pensioner, a Newfoundland Special Award pensioner, a Red Cross pensioner, a flying accident pensioner, a dual service veteran, an income-qualified veteran, an income-qualified civilian, a Canada service veteran, a special duty service pensioner, a military service pensioner and a member or former member who has received a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

82. Subsection 33.1(2) of the Regulations is amended by striking out the word "and" at the end of paragraph (a), by adding the word "and" at the end of paragraph (b) and by adding the following after paragraph (b):

(c) a member or former member who is in receipt of the care for an illness or injury for which a disability award was paid under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

83. Paragraph 34.1(3)(c) of the Regulations is replaced by the following:

(c) the person is awarded the pension and, as a result, qualifies as a veteran pensioner or civilian pensioner, where the aggregate of all of their disability assessments under the Pension Act and the Canadian Forces Members and Veterans Re-establishment and Compensation Act is equal to or greater than 48%.

Veterans Burial Regulations, 2005

84. (1) Paragraph 2(a) of the Veterans Burial Regulations, 2005 (see footnote 2) is amended by striking out the word "or" at the end of subparagraph (v), by striking out the word "and" at the end of subparagraph (vi) and by adding the following after subparagraph (vi):

(vii) a person who dies in Canada or elsewhere and, at the time of their death, is entitled to an earnings loss benefit under subsection 18(1) of the Canadian Forces Members and Veterans Re-establishment and Compensation Act or a Canadian Forces income support benefit under section 27 of that Act, or

(viii) a person who had received a disability award under subsection 45(1) of the Canadian Forces Members and Veterans Re-establishment and Compensation Act; and

(2) Subparagraph 2(b)(iv) of the Regulations is replaced by the following:

(iii.1) a person who, on the date of death, was receiving treatment benefits under Part I of the Veterans Health Care Regulations in respect of a period of acute care for a pensioned condition or for an injury or disease in respect of which a disability award was paid under subsection 45(1) of the Canadian Forces Members and Veterans Re-establishment and Compensation Act,

(iv) a person who, on the date of death, was undergoing a medical examination required by the Minister or by the Veterans Review and Appeal Board,

(3) Paragraph 2(b) of the Regulations is amended by adding the word "or" at the end of subparagraph (v) and by adding the following after subparagraph (v):

(vi) a person who dies as a result of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service in accordance with the Canadian Forces Members and Veterans Re-establishment and Compensation Act.

85. Paragraph 5(1)(a) of the Regulations is replaced by the following:

(a) in Canada or elsewhere, if there is an insufficiency of funds, as determined under section 4, on application, a person described in subparagraphs 2(a)(i) and (iv) to (viii);

86. Subsections 8(3) and (4) of the Regulations are replaced by the following:

(3) If an application for financial assistance is received but cannot be acted on as a result of a pending decision as to whether a disability award may be paid under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act or a pension may be awarded under paragraph 21(1)(b) or

(2)(b) of the Pension Act, the application is suspended until a decision has been rendered.

(4) If a decision is made to pay a disability award under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act or to award a pension under paragraph 21(1)(b) or (2)(b) of the Pension Act, the application for financial assistance must be acted on as if the initial decision with respect to eligibility under subparagraph 2(b)(i), (ii) or (vi) had been favourable.

87. (1) Subsection 9(5) of the Regulations is replaced by the following:

(5) The Minister must determine whether the conditions set out in paragraph (b) of the definition "income-qualified civilian" in section 1 or under subparagraph 2(b)(i), (ii) or (vi) are met and inform the Corporation of the determination.

(2) Paragraphs 9(6)(a) and (b) of the Regulations are replaced by the following:

(a) a member or former member entitled to a disability award under the Canadian Forces Members and Veterans Re-establishment and Compensation Act or a person entitled to a pension under the Pension Act; or

(b) a person referred to in paragraph (a) of the definition "income-qualified civilian" in section 1 or a person referred to in any of subparagraphs 2(a)(vii) and (b)(ii) to (iv).

88. (1) Subsection 10(1) of the Regulations is replaced by the following:

10. (1) A person who is dissatisfied with a final determination of the Corporation, or with a determination with respect to eligibility made under subparagraph 2(b)(i), (ii) or (vi), may, within 60 days after receiving that determination or, if circumstances beyond the control of the person necessitate a longer period, within the longer period, apply in writing to the Minister for a review of that determination.

(2) Subsection 10(3) of the Regulations is replaced by the following:

(3) In lieu of the review referred to in subsection (1), if a person is dissatisfied with a determination with respect to eligibility referred to in subparagraph 2(b)(i), (ii) or (vi), the person may, within 60 days after receiving the determination or, if circumstances beyond the control of the person necessitate a longer period, within the longer period, apply to the Minister for a decision under Part 3 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act or a decision under paragraph 21(1)(b) or (2)(b) of the Pension Act, unless an application for that purpose has previously been made.

COMING INTO FORCE

89. These Regulations come into force on the day on which section 94 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act comes into force.