

# Canadian Forces Members and Veterans Re-establishment and Compensation Regulations

Statutory authority

Canadian Forces Members and Veterans Re-establishment and Compensation Act and  
Department of Veterans Affairs Act

Sponsoring department

Department of Veterans Affairs

## REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

### Introduction

#### Legislative context

In May 2005, Parliament enacted the Canadian Forces Members and Veterans Re-establishment and Compensation Act, S.C. 2005, c. 21. In the public sphere, this legislation has become known as the New Veterans Charter to distinguish it from the Veterans Charter of re-establishment programs introduced following World War II. Throughout this document, for ease of reference, this legislation is referred to as the New Veterans Charter, instead of by an acronym or its formal title. This legislation was necessary because the needs of modern-day Canadian Forces (CF) members and Veterans are not being met by existing programs. Traditional war Veterans will continue to be served by the existing programs and services, which have evolved over time to meet their needs. Each year, the Department of National Defence (DND) releases about 4 000 members whose average age is 36. The primary benefit Veterans Affairs Canada (VAC) can currently provide is a lifetime disability pension, which serves as the sole gateway to related health benefits. Many of these releasing members, but for the changes under the New Veterans Charter, would be applying for a disability pension under the Pension Act. This system does not encourage wellness and is inconsistent with principles of modern disability management, which advocate early intervention, achieving maximum functioning level, and comprehensive integrated case management. Although VAC has the mandate to assist Veterans and their families to make the transition from military to civilian life, it does not have the necessary re-establishment programs to make this happen. The New Veterans Charter contains a new program mandate that is based on years of study and consultation. Research has identified the need for VAC programs to focus on rehabilitation and reintegration to civilian life, with the aim of helping CF Veterans regain employment and attain their fullest potential. Studies highlighted the need to align the approach with the best practices of modern disability management. The move to modernize programs for a younger Veteran population puts Canada firmly in step with such allied countries as the United States, Australia and the United Kingdom (U.K.). The U.K. and Australia have both recently passed new legislation that is similar to the new Canadian approach.

The New Veterans Charter shifts the focus from one of disability to one of wellness, and responds to Canada's commitment to injured CF members and Veterans. The new suite of programs described herein will replace existing monthly disability pensions with a package that includes lump-sum disability awards and wellness programs that will be available based on need. These programs will ensure that the public interest will be served and that those injured while serving their nation will have an opportunity to return to civilian life, prepared to participate and contribute as learners, workers and members of families and communities. Ensuring access to benefits and services and improving quality of life and standard of living for CF Veterans demonstrates the Government's pursuit of good public policy, founded on the values of fairness, generosity, respect and caring.

Additionally, the costs of the disability pension system are escalating sharply. VAC's CF client population has increased by 75%, from 23 600 in 2001 to more than 42 000 in 2005. The accumulated government liability of CF pensioners for disability pensions and related programs rose from \$5.6 billion in 2001 to more than \$11 billion by April 2005. In spite of these increased costs, research has determined that too many CF Veterans are not making a successful transition

from military to civilian life; in short, CF Veterans are not getting the help they need. Implementing these new programs and achieving improved results will be accomplished on a cost-neutral basis over the long term and will require an up-front investment of nearly \$1 billion over the first six years.

The New Veterans Charter authorizes the Department to provide a comprehensive suite of programs to meet the needs of CF members, Veterans and their families. The programs include

- ?? job placement assistance;
- ?? rehabilitation services and vocational assistance;
- ?? financial benefits, including
  - earnings loss benefit,
  - supplementary retirement benefit,
  - Canadian Forces income support benefit,
  - permanent impairment allowance; and
- ?? disability, death and detention benefits.

Additionally, the New Veterans Charter authorizes related amendments to the Veterans Health Care Regulations to ensure that benefits under these Regulations continue to be provided to CF Veterans. The New Veterans Charter also authorizes amendments to the Veterans Burial Regulations 2005, to ensure that current benefits continue and to extend benefits in certain circumstances.

Under the New Veterans Charter, VAC will provide separate and distinct benefits to recognize the non-economic and economic impacts associated with a service-related or career-ending injury or illness. The non-economic loss impact will be recognized by a lump-sum disability award and a death benefit. Where a lump-sum benefit is payable, clients will also have access to independent financial advice aimed at assisting them with the management of the award. The disability award is paid in recognition of pain and suffering, physical and/or psychological loss, functional impairment and impact on the member's or the Veteran's overall quality of life and the impact on the lives of the member's or the Veteran's family. The death benefit is paid in recognition of the loss of the member's or the Veteran's life; the resulting loss of guidance, care and companionship; and the impact of the member's or the Veteran's death on the functioning of the household. Economic loss impact will be recognized by four financial benefit programs: earnings loss, supplementary retirement benefit, permanent impairment allowance, and Canadian Forces income support benefit.

In co-operation with current CF programs and services, the Job Placement Program will offer post-release job-finding support to eligible CF Veterans. The Rehabilitation and Vocational Assistance Program will focus on improving the Veterans' level of functioning and employability, fostering wellness, independence and successful re-establishment.

These programs will be implemented in collaboration with other government departments and agencies involved in the delivery of similar programs. VAC's intent in delivering these new programs is to fill existing gaps in services and benefits. For example, the New Veterans Charter will bolster the current benefit packages provided by the Service Income Security Insurance Plan (SISIP) and VAC. Most CF members who voluntarily release and later develop a service-related disability could, up to now, only qualify for a VAC pension and related health care. SISIP will continue to provide eligible medically releasing CF members with income replacement and vocational rehabilitation benefits. Under the New Veterans Charter, VAC will meet the needs of the "gap" group and will provide top-up benefits for the SISIP group, such as additional vocational rehabilitation or earnings loss benefits, medical or psychosocial rehabilitation, and Canadian Forces income support. VAC will work closely with SISIP to ensure a comparable level of benefits, regardless of whether the client's avenue of access is SISIP or VAC.

#### Regulatory context

The New Veterans Charter creates a framework for the programs, sets out the core principles and concepts that will govern these programs and benefits, and authorizes the making of regulations. These proposed Regulations set out more detailed parameters for the programs, including

refinements to eligibility, and scope and delivery of the services and benefits. Because the programs are interrelated and interwoven to create the positive outcomes intended around re-establishment, they have been combined into one extensive regulation. The structure of the proposed Regulations follows the structure of the New Veterans Charter and is divided into four parts:

?? Part 1 — Job placement

?? Part 2 — Rehabilitation services, vocational assistance and financial benefits

?? Part 3 — Disability, death and detention benefits

?? Part 4 — Reimbursement of travel and living expenses — Medical examination

Additionally, there are related amendments.

#### Program delivery

##### Case management

The key to the implementation of this suite of programs is that they will be delivered using a case management system, with VAC area counsellors providing the coordinating case management function. Case management is a coordinated, organized and collaborative process that assures clients with complex needs of access to timely and appropriate resources and services to optimize their level of independence and quality of life. Delivery of these programs through case management services will facilitate progress toward re-establishment-related outcomes. These services are provided by a core interdisciplinary client service team composed of Area Counsellors, Client Service Agents, District Nursing Officers, and District Medical Officers, under the direction of a Client Service Team Manager. National and international disability management approaches recognize the importance of a single-window approach like case management.

##### Job placement

Job placement services is a new program with which VAC does not have previous experience. As well, it could not be implemented internally without significant increases in staff and associated expense. Based on this assessment, aspects of the Job Placement Program will be delivered by a private sector contractor, with policy guidance from VAC.

To ensure consistency and adaptability to policy revisions, it is envisaged that the contractors would be of national scope, and that there will be a requirement to deliver services in both official languages.

Additionally, VAC has actively engaged Human Resources and Skills Development Canada (HRSDC) and DND to ensure that there is no overlap between what will be offered under the Job Placement Program and what is currently available through these two departments. A joint working group composed of VAC, DND, HRSDC and Service Canada is identifying the requirements that will enable HRSDC and Service Canada to accommodate the training needs of CF members and Veterans. Memoranda of Understanding will be developed prior to implementation with respect to the services and benefits provided to CF members and Veterans so as to facilitate their transition to the civilian labour force, taking into account emerging and existing Labour Market Development Agreements with various provinces and territories. Where possible, VAC has already entered into arrangements to have both HRSDC and DND continue to provide services directly to Veterans. In the U.K., where a similar job placement program exists, Veterans organizations play a significant role in helping Veterans find jobs in their own communities. VAC envisages a similar collaboration with Veterans organizations in Canada, so that volunteers may provide assistance to CF Veterans in finding jobs in their own communities.

##### Rehabilitation services

Rehabilitation services refer to all services related to the medical, psychosocial, and vocational rehabilitation of a person.

Vocational rehabilitation is a new program with which VAC staff have little experience. Any attempt to deliver these services internally would be subject to the same financial and human resource challenges as with job placement. For this reason, vocational rehabilitation will also be delivered by a private service contractor.

To ensure consistency and adaptability to policy revisions, it is envisaged that the contractors

would be national in scope, and that there will be a requirement to deliver services in both official languages.

The medical and psychosocial services that are part of rehabilitation services will be included in the rehabilitation plan approved by the case manager and paid for through an amendment to the existing Federal Health Claims Processing System contract. Examples of medical rehabilitation services include physiotherapy services, prosthetics and medications. Examples of psychosocial rehabilitation services include psychotherapy, pain management programs and graduated exercise programs.

Rehabilitation services, vocational assistance and job placement assistance represent a continuum of programs. Rehabilitation services will provide the medical and psychosocial rehabilitation services needed to prepare individuals to take advantage of vocational assistance or training for employability. Once vocational training is completed, job placement assistance is available as part of the rehabilitation services plan to assist individuals in finding employment. Job placement assistance is also available as a separate program to a broader group than those participating in rehabilitation.

For all programs and benefits, there is ministerial discretion in the New Veterans Charter to extend the time for making an application in certain circumstances. Guidance and guidelines will be available in operational policy documents and manuals to ensure that the discretion is exercised consistently and fairly.

#### Health Benefits Program

The New Veterans Charter, under Part 4, authorizes the Minister to establish or enter into a contract to acquire a group health insurance program comparable to the Public Service Health Care Plan (PSHCP). The program, referred to as the Health Benefits Program, will fill gaps in post-release health coverage by ensuring that medically released CF Veterans (with some exceptions for reservists), CF Veterans with a "rehabilitation need" and certain survivors who are currently ineligible for health coverage have access to group family health insurance. A "rehabilitation need" is a physical or mental health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment in civilian life. The PSHCP has built-in consumption controls, including annual deductibles, co-payments, and premiums, all of which are familiar to CF members and families.

At this time, regulations are not necessary to implement the Health Benefits Program. It is anticipated that PSHCP eligibility will be expanded to include VAC's client groups as identified in the preceding paragraph. Governor-in-Council approval will be sought should the need for regulations arise in the future.

#### Transitional service delivery plans

It will not be possible to have contracts in place for the vocational rehabilitation services and job placement programs by the anticipated implementation date of April 1, 2006. As VAC does not need to wait for the contracts to be awarded to offer these services, it has developed interim program delivery options that will allow delivery of these modernized programs and services on April 1, 2006. The interim measures should be seamless to clients, as vocational rehabilitation and job placement services will be managed similarly to existing programs.

#### Redress

Given that rehabilitation services, vocational assistance and the supporting financial benefit programs will be delivered through a client-centred case management approach, it is anticipated that challenges and disputes will be resolved expeditiously and informally. In addition, there will be two levels of internal review regarding decisions made with respect to these programs.

Disability awards and death benefits under Part 3 involve lump-sum payments of substantial amounts, and review and appeal rights will be available to applicants through the Veterans Review and Appeal Board. The Bureau of Pensions Advocates (BPA) will continue to offer free legal advice and representation—a unique service internationally.

The Job Placement Program will be widely available, and it is not anticipated that there will be challenges to program delivery decisions. To the extent that such challenges arise, they will be dealt with informally and expeditiously. Accordingly, the New Veterans Charter provides no formal redress or review process for this program.

In summary, the redress mechanisms in the New Veterans Charter and these Regulations are designed to suit the nature of the program or benefit and to be comparable to rights existing in

relation to existing VAC legislation and regulations.

#### Expected outcomes

The expected outcomes from VAC's modernized programs are that CF members, Veterans and their families

- ?? experience optimal levels of health as a result of access to health benefits and rehabilitative services;
- ?? actively participate in the civilian workforce as a result of access to employment-related supports in the form of rehabilitation services, vocational assistance, training and job placement assistance;
- ?? are supported and compensated where disabilities are of a severe, permanent nature and full reintegration is not possible;
- ?? have a level of income adequate to meet basic needs as a result of enhanced employment opportunities provided by job placement assistance, and access to rehabilitation services;
- ?? actively participate in and are integrated into their communities; and
- ?? feel recognized for their contribution to the safety and security of the country.

Periodic evaluations of results will be conducted using an audit and evaluation framework. The evaluations will assess the extent to which the programs achieve the intended objectives and will provide information to help improve the programs in the future. The first such evaluation is required for the Treasury Board within three months of the end of the first year of implementation. The Department will report to Canadians on the results of the programs in the departmental performance report on an ongoing basis.

#### Global financial impact

Expenditures will increase in the short term due to lump-sum disability award payments and wellness program expenditures. The implementation of new programs will require an up-front investment and increased expenditures because of the usage of lump-sum disability awards. In the long term, due to the discontinuance of monthly pensions for future clients, expenditures will decrease. Gains begin at year 10, and the break-even point is projected to be at year 19. In short, the long-term savings from the change in programs from monthly disability pensions reinforcing disability are being reinvested in programs promoting wellness to create effective solutions with a long-term cost-neutral impact.

#### **Consultation**

This regulatory initiative, like the enabling legislation itself, has involved an extensive consultative process by VAC with DND, the Department of Justice, HRSDC, the Treasury Board Secretariat, the Privy Council Office, the Public Service Commission of Canada and Veterans organizations. Regulatory consultations with the Veterans organizations were conducted in phases, beginning in late June 2005 with a multilateral session involving the six major Veterans organizations: the Royal Canadian Legion; the National Council of Veterans Associations of Canada; Army, Navy and Air Force Veterans in Canada; the Canadian Peacekeeping Veterans Association; the Canadian Association of Veterans in United Nations Peacekeeping; and the Gulf War Veterans Association of Canada. This was followed by three rounds of bilateral consultations (July 25–29, September 14–28 and October 17–28, 2005) where vision and regulatory content documents on the proposed suite of programs and services were discussed with each of the individual Veterans organizations. A second multilateral session with all of the Veterans organizations took place on November 21 and 22, 2005, to provide the Department with an opportunity to respond to any outstanding concerns raised by the organizations and provide further clarity on how the programs are meant to work. A further multilateral session with the Minister is tentatively scheduled for January 16, 2006. In addition to this intensive stakeholder consultation, VAC has established an Ad Hoc Advisory Group on Special Needs. This Advisory Group is composed of seriously disabled Veterans with physical and/or psychological injuries as well as of professionals who treat those injuries. The objective of this group is to ensure that Veterans with the greatest needs are consulted during the

regulatory process and beyond. Specifically, the focus will be on the needs of clients and their families who are experiencing or have experienced high levels of physical or psychological injury or both. In the short term, the Advisory Group will provide advice on the development of the Regulations. In the long term, the group will play an important role in advising the Department on the ongoing development of its policies, programs and services and on how it can best meet the evolving needs of seriously disabled Veteran clients and their families.

In September/October 2005, the Department contracted with a consulting firm to coordinate and facilitate ten focus groups in five locations across Canada (Victoria, Edmonton, Ottawa, Québec and Halifax) with seriously disabled Veterans (existing VAC clients) and family members. The purpose of the focus groups was to directly seek the views of those with the greatest needs with respect to VAC's service and program modernization efforts, and to do so in a way that would facilitate and encourage participation in an environment where they would feel fully comfortable with their peers. Specifically, the focus group moderators solicited feedback on regulatory content, communication issues, and how well the proposed regulatory provisions are seen to respond to special-needs Veterans. Some preliminary feedback was received in October 2005 and factored into regulatory development, with the final report to be released in December 2005.

Just as was the case during the statutory phase, when information sessions were held at military bases across Canada, this process continued into the regulatory development period. Beginning in the spring of 2005, shortly after the New Veterans Charter received Royal Assent, town hall sessions were carried out at a number of bases and have provided an opportunity for many CF members to attend and express their views. These sessions continue presently under the direction of VAC's senior regional managers in co-operation with their local DND counterparts. In addition to this, the Minister carried out roundtable discussions on the New Veterans Charter over the course of the summer of 2005. Collectively, these sessions indicate broad-based support for service and program modernization from those who may well need these benefits some day.

Consultation efforts, including the work of the VAC Advisory Group on Special Needs and the creation of a VAC-CF Modernization Advisory Committee, will continue through to implementation and beyond. The feedback from all consultations has been considered and taken into account in developing these Regulations. The Veterans organizations continue to be supportive.

Consultations were held with the Last Post Fund in October 2005 concerning the related amendments being proposed to the Veterans Burial Regulations, 2005. The Last Post Fund is a national Veterans organization dedicated to ensuring dignified funeral and burial for Veterans and a key partner with VAC in the delivery of such services. The Last Post Fund continues to be supportive.

Through communications from the desk of the Minister, all parliamentarians have received information on modernized programs and services, and numerous in-person briefings have and will continue to be provided by the Department.

The publication of these proposed Regulations in the Canada Gazette, Part I, will provide an opportunity for parliamentarians, Veterans organizations, other stakeholders and interested groups, and all other Canadians to provide further input and comment during a 30-day period.

#### Detailed regulatory content

In the structure of the legislation, there are regulatory authorities for each program together with general regulatory authorities in section 94. The Regulations reference the authority in most of their provisions. The content of the Regulations is discussed below for each part.

#### **Part 1 — Job placement assistance**

##### Description

There are three components to job placement assistance: job-search training, career counselling and job-finding assistance. Job placement assistance will aid in the transition to and re-establishment in civilian employment. These Regulations set out the eligibility criteria and the application process, including its timeframes. These Regulations also establish principles to be applied in developing a job placement assistance plan.

##### The existing gap

DND provides services such as career counselling seminars prior to release from service, and HRSDC provides some post-release services such as skills upgrading, but there is no coordination or guidance for Veterans leaving the CF to facilitate access to those services at HRSDC. Still, other services are available to those who release for medical reasons through SISIP. The main

gap being filled by this program is to provide job placement assistance for those who release for other than medical reasons. Also, there are no services available to survivors now.

#### Policy objective

The policy objective of providing job placement assistance to releasing members and Veterans is to ease the transition to civilian life by helping them find employment. The policy objective for extending job placement assistance to survivors on a substitution basis is to fulfill the societal obligation to assist the family of deceased CF personnel.

#### Eligibility

The policy objective for the eligibility provisions is to offer this program to recognize the substantial commitment that CF members have made to service by assisting those who need help finding employment. This program may be accessed by

- ?? all members on release from the regular force;
- ?? reserve members who have served 21 of 24 consecutive months of full-time service; and
- ?? reserve members who serve in a special duty area or operation or in an emergency, provided that, if on release from that special service, their civilian job is not available or available only at a lower rate of pay than before service.

Where a member or Veteran of the regular or reserve force dies, the survivor will be eligible as a substitute where the deceased would have been eligible for job placement assistance but for the occurrence of death. Lastly, recipients of Canadian Forces income support under section 27 and section 28 of the New Veterans Charter are eligible for this program.

Consistent with the policy objective of eligibility, those who are discharged for misconduct or unsatisfactory service and those who do not complete basic training are not eligible.

Note that regular force members and certain categories of reservists who release for medical reasons and all Veterans with rehabilitation needs will receive job placement assistance in conjunction with a vocational rehabilitation plan under Part 2 instead of under Part 1.

#### Application process

Applicants must apply in writing within two years of the date of eligibility.

#### Principles

Job placement will assist the applicant to capitalize on transferable skills, education and experience. Duplication of services will be avoided.

#### Program delivery

Services that were previously available separately under DND and HRSDC, along with new services through VAC, will be coordinated for the member or Veteran by VAC staff functioning in the role of case manager. Prior to release, a transition interview will serve as a coordination point. At that time, the Area Counsellors serving as case managers will acquire information to enable them to coordinate access to appropriate services. In this way, clients will be provided with timely, comprehensive access to and coordination of appropriate job placement services. For survivors, it is envisaged that when the Veteran or member dies, the survivor will be notified of the potential entitlement to receive job placement assistance. Contact would then be made by interested survivors with a VAC Area Counsellor. This contact would serve the same purpose for the survivor that the transition interview did for the member, and a similar coordination of access to services would follow.

VAC plans to contract for service delivery through experts in the private sector. These services will be administered jointly by VAC, DND and one or more private sector contractors. VAC and DND will jointly coordinate access times and points to the Job Placement Program. For example, VAC will provide an overview of its programs (including job placement) during DND's Second Career Transition Seminars, and members will be informed of their eligibility to apply for the program. The statutory elements of the program will be delivered by the contractor, who will be responsible for delivering job search and transition workshops, career counselling and job-finding assistance.

In the U.K., where a similar job placement program exists, Veterans organizations play a significant role in helping younger Veterans find jobs in their own communities. VAC envisages a similar collaboration with Veterans organizations in Canada, so that volunteers may provide assistance to CF Veterans in finding jobs in their own communities.

Services will be delivered through group workshops and individually, depending on the service component. For example, some services such as the job search and transition workshops will be offered in group workshops, whereas career counselling will be offered on an individual basis.

### **Alternatives**

There are no alternatives to setting out the parameters for this program other than by regulations. A regulatory instrument is needed to set out the rights and obligations of members, Veterans and their survivors. Delivery of the program solely through DND is not feasible because the service would then not be available to Veterans or survivors.

Delivery solely through VAC could not make it available to members. Contracting all pieces of delivery to the private sector would create duplication with what DND now does, and there would be no central coordinating contact, which VAC's present service delivery system provides.

### **Benefits and costs**

#### Benefits

These Regulations will assist eligible personnel and their families to transition to civilian life, by helping them find employment. A similar program has experienced a high level of success in the U.K. In fulfilling the societal commitment or obligation to help those who have served, a societal benefit is gained by providing services to assist them to become employed in the civilian workforce. These programs will enable Canadians to capitalize on transferable skills, experience and training that former members have gained during service.

The benefits of offering services to survivors are to help them enter the civilian workforce, fulfilling the societal obligation to assist the family of the deceased member or Veteran. Demonstrating that commitment to the family of the member or Veteran has a similar impact on recruitment and retention to aiding the member or Veteran directly.

As well, both the U.S. and U.K. Departments of Defence report that implementing a program of re-establishment has had a positive effect on recruitment and retention of personnel.

#### Costs

There are currently about 4 000 releasing members per year. Study indicates that 52% of those will access this program. An average cost of \$2,000 was arrived at through an examination of costs for contracted job placement programs in Canada and the U.K. This does not include any costs associated with training, because the training will be delivered through existing DND and HRSDC programs, and agreements will be in place whereby those costs are borne by those departments. Survivors accessing job placement assistance will do so strictly on a substitution basis in the event of the member's death, and this small number (about 20 per year) is included within the 4 000 releasing members annually. For an estimated 2 080 clients (52%), the total cost is estimated to be \$4.4 million in year one and \$23.5 million over the first five years of the program.

### **Compliance and enforcement**

Relevant control procedures will apply to the provision of job placement assistance. Upon program implementation, the Department will have policies and administrative procedures in place to verify eligibility and entitlement of applicants seeking job placement assistance.

This program will be widely available, and it is not anticipated that there will be challenges to program delivery decisions. To the extent that such challenges arise, they will be dealt with informally and expeditiously. Accordingly, the New Veterans Charter provides no formal redress or review process for this program.

Part 2 — Rehabilitation services, vocational assistance and financial benefits

#### Introduction

Part 2 is the heart of the New Veterans Charter. It authorizes the broad range of programs and financial benefits set out below for those releasing for medical reasons and those who have rehabilitation needs, as well as eligible spouses/common-law partners and survivors:

?? rehabilitation services and vocational assistance; and

?? financial benefits for those who need such services, including

- earnings loss benefit,
- supplementary retirement benefit,
- Canadian Forces income support benefit, and
- permanent impairment allowance.



The general policy objective of this part is to support and encourage wellness. The Rehabilitation Program is designed to provide early intervention to assist a Veteran to overcome barriers to re-establishment that have arisen from health problems resulting primarily from service or that have led to a medical release. When clients are participating in rehabilitation programs, their opportunities for success are enhanced when the financial pressures resulting from such barriers and rehabilitation needs are minimized. The financial benefits portion of this part alleviates those pressures and ensures that those whose barriers and impacts are insurmountable, despite rehabilitation services, are supported financially.

The rehabilitation services programs may be accessed by those Veterans with rehabilitation needs regardless of when the need arose. This includes existing VAC clients with rehabilitation needs who may have a disability pension under the Pension Act. While they may access income support while in a rehabilitation plan, their disability pension will be taken into account to avoid duplication of benefits.

The Regulations further refine the terms and conditions around the availability and scope of these programs and benefits.

Rehabilitation services and vocational assistance

#### Description

Using the principles and best practices of community rehabilitation and modern disability management as a guide, VAC will provide CF Veterans with a client-centred Rehabilitation Program aimed at restoring their physical, psychological, social and vocational functions to an optimal level following an injury or illness. The Rehabilitation Program will enhance the quality of life of Veterans with disabilities by assisting them in meeting their goals for participation in home, community and work environments. This will be done by assisting clients to achieve reasonable physical, psychological and social functioning and by the reduction and removal of barriers in the physical and social environment through the coordinated use of medical, psychosocial and vocational rehabilitation benefits and services.

Rehabilitation services, vocational assistance, and job placement assistance represent a continuum of programs. Rehabilitation services will provide the medical and psychosocial rehabilitation services needed to prepare individuals to take advantage of vocational assistance or training for employability. Once vocational training is completed, job placement assistance is available as part of the rehabilitation services plan to assist individuals in finding employment. Job placement assistance is also available as a separate program to a broader group than those participating in rehabilitation.

The Rehabilitation Program will follow VAC's client-centred case management model, focusing on the reasonable restoration of client functioning in five major areas: mental and physical functioning of the client, family relationships, financial security, employment and personal productivity, and community participation.

To support successful rehabilitation, participants will be reimbursed for reasonable specified expenses incurred, and the Regulations set out the parameters for reimbursement. For example, tuition will be reimbursed, up to a maximum of \$20,000. Transportation and dependant care expenses will also be reimbursed. An application for reimbursement must be made within one year of incurring the expense.

To ensure consistency and fairness, reimbursement will be comparable to what is provided to participants in vocational assistance programs through SISIP and in relation to other VAC programs. Guidance and guidelines will be available in operational policy documents and manuals to ensure that discretion is exercised consistently and fairly with the objective of attaining a fair outcome for the client.

#### The existing gap

Prior to this legislation, the only rehabilitation program available was for those medically released. Through SISIP, they received vocational rehabilitation, but not medical or psychosocial rehabilitation. For the most part, for those who released voluntarily and some time after release developed a rehabilitation need, no rehabilitation was available at all. Additionally, Veterans could not access health care under the Veterans Health Care Regulations until they successfully went through the adjudication process for a disability pension under the Pension Act. The majority of these clients are in the 35–45 age category. The pension gateway served to concentrate efforts on establishing disability instead of on achieving wellness. Additionally, no programs were available

for spouses/common-law partners or survivors.

This program will fill those gaps by providing a greater range of rehabilitation services, without delays related to pension adjudication processes, to a broader group of Veterans than just those who were medically released.

#### Policy objective

The outcomes sought by VAC in providing medical, psycho-social and vocational rehabilitation services for CF Veterans are to improve their physical and/or psychological functioning, employability and quality of life. The policy objective for extending vocational assistance to spouses/common-law partners or survivors on a substitution basis is to fulfill the societal obligation to assist the family of deceased CF personnel.

#### Eligibility

It is anticipated that eligible participants will fall into one of these four eligible groups:

- ?? Veterans who have a rehabilitation need, at any time the need arises, regardless of class of service;
- ?? Veterans who were medically released (except those described in the paragraph below);
- ?? Spouses/common law partners of Veterans and survivors of members and Veterans where the CF Veteran or member is eligible for VAC's rehabilitation program and is unable to benefit from vocational rehabilitation because of total and permanent incapacity;
- ?? survivors of members or Veterans who die as a result of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service.

Medically released Veterans are eligible unless they are part of a class excluded by these Regulations. As with job placement assistance, the policy objective around eligibility is to ensure that those who made a substantial commitment to service are aided when they have been medically released. Members of the Primary Reserve Force will not be eligible for rehabilitation services, unless their health problem manifested itself during a period of Class A, B or C service. Members of the Non-Primary Reserve, i.e. the Supplementary Reserves, Cadet Instructor Cadre or Canadian Rangers, will not be eligible for rehabilitation services, unless their health problem manifested itself during a period of class C service.

#### Application process

The application must be made in writing

- ?? within 120 days of release for those being medically released (subsection 9(2) of the New Veterans Charter);
- ?? within one year of the member's or Veteran's death in the case of a survivor; and
- ?? within one year of the determination of the Veteran's total and permanent incapacity in the case of a spouse/common-law partner.

The applicant is required to provide medical information relating to the Rehabilitation Need and information relating to employment, skills, education, experience and training.

#### Principles

The Rehabilitation and Vocational Assistance Program will adhere to these principles:

- ?? It will focus on individual needs.
- ?? It will involve the family to the extent possible.
- ?? Early provision of services is desirable.
- ?? It will build on the education, training and experience of the participant.

The program is designed to be practical and reasonable, and will be delivered taking into account these factors:

- ?? the individual's potential for improvement;
- ?? the availability of local resources;
- ?? the individual's motivation, interest and aptitude; and
- ?? the cost and duration of the plan.

Guidance and guidelines will be available in operational policy documents and manuals to ensure these factors are applied consistently and fairly.

During a rehabilitation or vocational assistance plan, the participant must provide progress and participation information and reports, or the plan may be suspended. If the client's failure to provide the information persists for at least six months after the effective date of the suspension, the plan may be cancelled. Similarly, a plan may be cancelled if the participant knowingly provides false information or does not participate in such a way as to meet the goals of the plan.

#### Program delivery

As with job placement, this program will typically be initiated through the transition interview and coordinated by a VAC Area Counsellor serving as a case manager. The case manager will assist the client at each phase of the rehabilitation process, identifying appropriate service providers, monitoring progress and initiating review and transition to the next phase when needed. In this way, the case manager provides a single consistent point of contact with the client and helps ensure accountability of both the client and the service delivery system to their respective commitments.

Often, the program will involve the use of multiple service providers from different agencies, organizations and private providers of service, with the delivery being coordinated under the direction of a case manager within VAC. For example, for a mental health problem, the medical rehabilitation phase could involve the family physician, a hospital-based psychiatrist, a community mental health team or a VAC-supported private sector therapist. A psychosocial phase may involve an occupational therapist or pain management clinic, and a vocational phase may involve specialized assessment services and training providers.

#### **Alternatives**

There are no alternatives to setting out the parameters for this program other than regulations. A regulatory instrument is needed to set out the rights and obligations of members, Veterans and their spouses/common-law partners.

#### **Benefits and costs**

##### Benefits

These services will assist eligible personnel and their families in their transition to civilian life by addressing the barriers identified that are preventing successful re-establishment after release from the military. Apart from fulfilling the societal obligation to help those who developed health problems as a result of service, a societal benefit is gained by assisting them to become more independent and productive citizens. These programs will enable Canadians to capitalize on transferable skills, experience and training that former members have gained during service. Both the U.S. and U.K. Departments of Defence report that implementing a program of re-establishment has had a positive effect on recruitment and retention of personnel.

##### Costs

The costs for rehabilitation include vocational costs (education/training and vocational assessment and counselling) as well as medical and psychosocial costs. It is estimated through an analysis of data on existing clientele that in the first year there would be 767 Veterans with a Rehabilitation Need. The vocational rehabilitation average cost per client is estimated to be \$3,836 in the first year, 2006-07, which contains a prudent safety margin, as the comparable costs for SISIP and for similar programs provided in Australia and in the United States were lower. The total cost of vocational rehabilitation is estimated to be \$2.9 million in the first year, of which almost 90% (\$2.6 million) represents an investment in education, while the remainder is related to vocational assessments and counselling (\$0.3 million).

The cost for vocational rehabilitation doubles in the second year to \$6 million, as the number of clients doubles with new entrants releasing from active service, and the average cost increases

with inflation estimated at 3%. When this program starts up, it is anticipated that there will be a pent-up demand arising from Veterans who have a Rehabilitation Need, before the New Veterans Charter and these Regulations come into force. It is further expected that many of those who participate in the Rehabilitation Program will need services beyond the first year. Therefore, the costs are expected to double in the second year as the client base increases. After the third year, as the pent-up demand eases, the costs will reduce.

Similarly, for the clientele arising from the pent-up demand, the vast majority of medical and psychosocial costs would be covered by pension-related treatment costs currently being paid by VAC under the Veterans Health Care Regulations. The incremental medical and psychosocial costs are estimated to be \$0.6 million in year one and \$5.3 million for the first five years. The total rehabilitation cost over five years is expected to be \$27.6 million (\$22.3 million vocational plus \$5.3 million medical and psychosocial).

### **Compliance and enforcement**

Relevant benefit control procedures will apply to the provision of rehabilitation services and vocational assistance. This program will be administered and monitored in a coordinated fashion with other benefits and services available under the New Veterans Charter, through a comprehensive case management plan. The Department will have policies and administrative procedures in place to verify eligibility and entitlement of applicants seeking rehabilitation services.

Financial benefits

### Introduction

As stated earlier, financial benefits under Part 2 to compensate for economic impacts of injury or illness resulting primarily from service or leading to a medical release include

- ?? earnings loss benefit;
- ?? supplementary retirement benefit;
- ?? CF income support benefit; and
- ?? permanent impairment allowance.

This portion of the document will deal with each in turn and then deal with compliance and enforcement for these benefits all together at the end.

### Earnings loss

#### Description

Under the New Veterans Charter, where a rehabilitation plan or vocational assistance plan has been developed to address rehabilitation or vocational needs of a member or Veteran, an earnings loss benefit will be payable. The calculation of the earnings loss benefit will mirror as closely as possible the long-term disability benefit provided now under SISIP. The earnings loss benefit will be taxable and indexed to account for increases in the cost of living, to a maximum of 2% per year. The New Veterans Charter provides that the earnings loss benefit be calculated at 75% of "imputed income."

These Regulations define "imputed income" as, in most cases, the salary at the time of release. For former reservists, the imputed salary is tied to the salary in effect at the time of injury or a deemed salary of \$2,000 per month. These Regulations provide a minimum salary for regular force as that of a senior private in standard pay group at the time of release, and for reservists as \$2,000 per month. These rates mirror those in SISIP.

#### The existing gap

Earnings loss benefits are payable during participation in the Vocational Rehabilitation Program now available through SISIP to those medically released. The gap being filled is to provide earnings loss benefits to that expanded group, who will now receive rehabilitation and vocational services for rehabilitation needs and, where required, additional earnings loss benefits to the SISIP group.

#### Policy objective

The policy objective for the earnings loss benefit is to relieve financial pressures upon those who are participating in a rehabilitation or vocational assistance plan, in order to increase the chances for success. If the Veteran is deemed to be totally and permanently incapacitated and therefore is

unable to engage in suitable gainful employment, the earnings loss benefit will continue until age 65, with the objective of compensating for the earnings lost due to injury or illness resulting primarily from service. Payment to survivors ensures that the Veteran's basic income continues to support the household and dependent children in a similar manner to that had he/she lived.

#### Eligibility

Eligibility for this benefit is triggered by participation in a rehabilitation or vocational assistance plan. In the case of a survivor and/or orphan, eligibility for this benefit is triggered where the member or the Veteran's death is service-related.

#### Application process

Again, the application must be in writing and provide sufficient information to enable the benefit to be calculated.

#### Program delivery

As this program ensures income replacement, these Regulations provide for funds received from specified other sources to be offset. The sources of funds that will be offset in the case of Veterans include

- ?? employment income (at a rate of 50% when the Veteran is approved for employment while participating in a vocational program);
- ?? disability pension benefits under the Pension Act;
- ?? benefits payable under the Canadian Forces Superannuation Act, the Public Service Superannuation Act or the Employment Insurance Act;
- ?? amounts payable in respect of economic loss arising from legal liability to pay damages;
- ?? primary benefits under the Canada Pension Plan or the Québec Pension Plan; and
- ?? benefits payable under any employer-sponsored long-term disability insurance plan or under the Government Employees Compensation Act or any provincial workers compensation act.

In the case of survivors, some of these funds are payable to the survivor for dependants as well as for the survivor. In calculating the earnings loss benefit, only the portion that is actually payable for the survivor will be offset—i.e. the primary benefit, for example, under the Canadian Forces Superannuation Act or the Public Service Superannuation Act will be offset—but additional funds payable to the survivor for other dependants will not be offset.

Again, there is an obligation on the recipient to provide information about other sources of funds, and an authority to suspend the benefit if such information is withheld. This information will enable the Department to recalculate the benefit accurately. Prior to suspending the benefit, the Department would provide written notification to the person advising that such requested information is essential in the determination of his/her right to receive or continue to receive the benefit. As well, the person will be notified of the reasons for the suspension as well as the effective date of suspension.

If the client's failure to provide the information persists for at least six months after the effective date of the suspension, or if at any time the client's eligibility was based on a misrepresentation or the concealment of a material fact that was intentionally provided by the client, the benefit may be cancelled. Upon cancelling the payment, the Department would provide the client with written notification of the reasons for the cancellation, the effective date of cancellation and his/her rights of review.

### **Benefits and costs**

#### Benefits

The earnings loss benefit under Part 2 of the New Veterans Charter will relieve financial pressures during rehabilitation, thereby increasing the chances of success. It will also provide a longer-term income replacement stream for the Veteran and the Veteran's family when rehabilitation is unsuccessful.

#### Cost

The cost for this program includes two components:

?? earnings loss benefits payable during participation in a rehabilitation or vocational assistance plan; and

?? earnings loss benefits payable during a period of total and permanent incapacity.

Earnings loss benefits payable during rehabilitation, in the first year, are expected to be \$14.8 million for 767 clients for an average cost per client of \$19,416. This average cost per client contains a prudent safety margin, because other sources of income such as income from employment or Canada Pension Plan disability payments will be deducted from the benefits payable. Over the first five years, the estimated cost for this component is \$111.1 million. Earnings loss benefits payable following a determination of total and permanent incapacity, in the first year (2008–09), are expected to be \$2.8 million for 132 clients. The first year for payments to those under subsection 18(4) of the New Veterans Charter is 2008–09, because payments of earnings loss benefits before that determination are included in the earnings loss benefit payable during rehabilitation, estimated as two years. The average cost in the first year is expected to be \$21,853, which also contains a prudent safety margin, because other sources of income such as income from employment or Canada Pension Plan disability payments will be deducted from the benefits payable. Over the first five years, the projected cost is \$17.8 million. The expected cost of these two earnings loss benefits is less than \$250,000 for the first five years for survivors.

Supplementary retirement benefit

#### Description

Pursuant to the New Veterans Charter, a supplementary retirement benefit may also be paid to those who are eligible for the earnings loss benefit, either from VAC or, effective the anticipated implementation date of April 1, 2006, from SISIP, but who are no longer entitled to receive earnings loss benefits and who had been determined under subsection 18(4) of the New Veterans Charter to be unable to engage in suitable gainful employment as a result of being totally and permanently incapacitated. Such recipients are generally expected to be disadvantaged to some degree in terms of retirement savings because of the lost opportunity to contribute to a retirement pension due to their incapacity. The supplementary retirement benefit shall be paid as a taxable lump sum and is calculated as 2% of the total earnings loss benefit that would have been payable during the period of eligibility, irrespective of any other sources of funds. That is to say, there is no reduction for offsets that were used in the calculation of the actual earnings loss benefit paid.

#### The existing gap

The disability pension under the Pension Act and SISIP long-term disability benefits are the primary sources of funding presently available to disabled Veterans. Notably, the provincial workers compensation systems all utilize a similar benefit to assist with retirement. There is no compensation to recognize the decreased ability of disabled Veterans or their survivors to save for retirement.

#### Policy objective

The policy objective of the supplementary retirement benefit is to make supplementary funds available to recognize the decreased ability of disabled Veterans or their survivors to save for retirement.

#### Eligibility

Eligibility of the Veteran for this benefit has two parts:

?? a ruling of total and permanent incapacity under subsection 18(4) of the New Veterans Charter; and

?? termination of earnings loss benefits (normally at age 65).

Where a Veteran dies in receipt of earnings loss benefits, and those are continued for the survivor, the supplementary retirement benefit is payable when the earnings loss benefits payable to the survivor terminate, again normally at age 65.

#### Application process

The application must be in writing, and in the case of a survivor, it must include a death certificate for the deceased.

## **Benefits and costs**

### Benefits

The supplementary retirement benefit will assist the Veteran who is in receipt of the long-term stream of earnings loss benefits in funding retirement.

### Costs

The supplementary retirement benefit is a taxable lump-sum benefit payable at age 65 to Veterans who were eligible for the earnings loss benefit under subsection 18(4) of the New Veterans Charter. The average age of releasing members is about 36. The maximum age of those likely to participate in VAC vocational rehabilitation is 55. Therefore, the substantial cost of the supplementary retirement benefit payable when the earnings loss benefit ceases for those Veterans (when the Veteran reaches or would have reached age 65) is likely to be deferred for 10 years after implementation. Projecting the first year to be 2017, it is expected that there will be 59 clients at an average cost of \$17,187 each for a total of \$1.014 million. However, the cost increases each year as more of those eligible reach age 65.

Canadian Forces income support (CFIS)

### Description

The CFIS benefit will be available to CF Veterans who have successfully completed a rehabilitation program and are capable of working but are not yet employed.

The CFIS benefit is a non-taxable benefit, and the payment rates will be comparable to those provided under the existing War Veterans Allowance (WVA) Program administered by VAC. The benefit amount will be income-tested against total household income but not offset by a VAC lump-sum disability award. Alternatively, the CFIS benefit will be offset, for example, by monthly disability pension benefits payable under the Pension Act, the Royal Canadian Mounted Police Superannuation Act or the Royal Canadian Mounted Police Pension Continuation Act and by benefits payable under the Old Age Security Act. In the case of the Veteran, additional amounts are payable in respect of a spouse/ common-law partner and dependent children. The benefit will also be payable to the Veteran's survivor and orphans in certain circumstances, if they meet the income and other eligibility requirements.

### The existing gap

The disability pension award under the Pension Act (administered by VAC), payment received under the Injured Military Members Compensation Act (administered by DND), and payment received under SISIP long-term disability are the only sources of funding presently available to disabled CF Veterans. These monies are available only in certain circumstances. At present, under the existing programs offered by VAC, there are no benefits payable to low-income CF Veterans. Likewise, there is no income support program through SISIP for persons completing a vocational rehabilitation program. Similarly, under the New Veterans Charter, when the Rehabilitation Program is completed, the earnings loss benefits cease. For these reasons, the CFIS benefit is required to provide a "soft landing" until the Veteran gains employment.

### Program objectives

The program objectives of the CFIS benefit are to

- ?? provide income support as a "soft landing" for Veterans who have successfully completed the Rehabilitation Program and are no longer entitled to an earnings loss benefit but have not been successful in obtaining employment; and
- ?? provide income support, as a social safety net, to eligible survivors and orphans as a more generous alternative to provincial social assistance programs.

### Eligibility

Sections 27 through 31 plus sections 33 and 35 of the New Veterans Charter describe the eligibility criteria for this program, including the categories of persons who may access it. These categories and criteria are as follows:

- ?? Veterans may be eligible where they were (or would have been but for the level of their income) and are no longer entitled to an earnings loss benefit. They must make an application within pre-determined time limits as described below, meet certain employment-related criteria as described below, meet the income test as described below,

be participating in any job placement program approved by the Minister, and be residing in Canada.

- ?? A Veteran's survivor may be eligible where the Veteran dies as a result of a non-service-related injury or disease and was in receipt of CFIS at the time of death and the survivor makes an application within time limits as described below, meets certain employment-related criteria as described below, meets the income test as described below, is participating in any job placement program approved by the Minister, and is residing in Canada.
- ?? A Veteran and a Veteran's survivor (non-service-related death) must participate in any job placement program approved by the Minister to maintain eligibility for the CFIS benefit. However, once these persons reach age 65, they will no longer be required to participate in a job placement program, but they will still be subject to an income test and a residency requirement.
- ?? Additionally, the Minister may exempt the Veteran and the Veteran's survivor from participating in the job placement program in certain circumstances such as where they would be suffering from personal illness or experiencing a bereavement period. Guidance and guidelines regarding acceptable circumstances and associated durations whereby the Minister may exempt the Veteran and the Veteran's survivor from participating in a job placement program will be set out in departmental policy documents and manuals.
- ?? A Veteran's orphan may be eligible, on application, where the Veteran dies of a non-service-related injury or disease and is in receipt of CFIS at the time of death and the orphan resides in Canada.
- ?? A member's or Veteran's survivor or orphan, on application, may be eligible where the member or Veteran dies of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service and, on the day the application is approved, the member or Veteran, if alive, would be at least 65 years of age and the survivor or orphan resides in Canada.
- ?? In the instance of a service-related death, the survivor or orphan would first qualify for an earnings loss benefit during the time period when the member or the Veteran, if alive, would have been less than age 65.
- ?? Reserve force members and their survivors can also qualify for the CFIS benefit under the New Veterans Charter. In this respect, if they qualify for the earnings loss benefit, then, as a consequence of seeing their earnings loss benefit end, they may also qualify for the CFIS benefit in the same manner described above for other Veterans.

#### Initial and subsequent application process — Prescribed time and information requirements

A Veteran must make an application in writing for the CFIS benefit no later than six months after the last day of the last month in which the Veteran was entitled to the earnings loss benefit. A survivor of a Veteran who was in receipt of the CFIS benefit at the time of a non-service-related death must make an application in writing for this benefit no later than six months after the last day of the month in which the Veteran dies.

In the case of a subsequent application by the Veteran or the Veteran's survivor (non-service-related death), it must be made no later than six months after the last day of the month in which the CFIS benefit ceases to be payable in accordance with subsection 35(6) of the New Veterans Charter. In this respect, the benefit may cease to be payable where the person has income greater than the established ceiling, no longer meets the employment-related criteria, or is not participating in any job placement program approved by the Minister.

For survivors (service-related death) and orphans (both non-service-related death and service-related death), subject to meeting the eligibility criteria, there are no time limits for making an application for the CFIS benefit.



The applicant is required to provide a statement of income and any other information that is necessary to determine whether the person is eligible for the benefit or the amount of benefit payable. In the case of the Veteran only, the income of the spouse/common-law partner must be provided. In the case of an orphan or survivor, a copy of the death certificate of the member or Veteran or medical reports that document the member's injury, disease, diagnosis and cause of death will be required as well.

Prescribed employment-related criteria and duration of benefit

The Veteran or the survivor must demonstrate that he/she is looking for and will accept employment that is available in the local labour market for which he/she is reasonably qualified by reason of education, training or experience. This is an ongoing requirement that the person must satisfy while demonstrating an entitlement to the CFIS benefit.

Residence in Canada (temporary absence)

In order to qualify for this benefit, Veterans, survivors and orphans must be residents of Canada. However, where these recipients leave Canada for 183 or fewer days in a calendar year, their residence is presumed to be uninterrupted.

Notification of changes impacting upon eligibility or entitlement

All recipients of the CFIS benefit shall inform the Department of any changes in their personal circumstances that would have an impact on their eligibility for CFIS or the amount of CFIS payable. For all recipients, any change in their income or current monthly benefits must be reported. In the case of a Veteran, any changes in income for the spouse/common-law partner and in the number of dependent children must also be reported. All recipients must advise when they plan to be absent from Canada for 183 days or more in a calendar year. In the case of an orphan, notification of when they cease to participate in an educational program is required.

Also, recipients may be asked to provide any other information that would be necessary to verify the continued eligibility of the person and to determine the appropriate amount of benefit payable. Guidance and guidelines will be available in operational policy documents and manuals to ensure the requests for information are fair and appropriate.

Definition of "income," "base calendar year" and "prescribed sources of income"

The CFIS benefit has been designed (to the extent possible) to mirror the WVA Program in respect of the level of financial support provided and the determination of eligibility. The definition of "income," the income test that must be met and the determination of the benefit payable all closely resemble those of the WVA Program.

Definition of "base calendar year"

These Regulations define "base calendar year" to mean the 12-month period starting with any month in which the CFIS benefit is payable.

Definition of "income"

The CFIS benefit will be based upon the ongoing month-by-month actual income reports from all sources considered for the upcoming 12-month period for all applicants and recipients. With the exception of a Veteran who is married or cohabiting in a common-law relationship, the assessable income is based on individual income. Any monies received by the Veteran or survivor in relation to dependent children, for example under the Pension Act, are excluded from the determination of the Veteran's income.

These Regulations define "income of a person for a calendar year" to mean the same as in section 2 of the Old Age Security Act, while retaining two exemptions for consistency with the WVA Program, namely

?? an exemption for employment-related income, which consists of net income earned from employment, self-employment and rental property up to a maximum of \$2,900 for a single Veteran, a survivor or an orphan and an amount of \$4,200 for a Veteran with a spouse/common-law partner; and

?? the interest exemption totalling a maximum of \$140 for all categories of recipients.

There are two additional exceptions to be taken into consideration for CFIS income purposes. First, dividend income will be assessed on the basis of the actual amount of the dividend received, and second, the business and capital losses amounts will be taken into account in the year in which they occur.

#### Prescribed sources of income

Section 37 of the New Veterans Charter sets out the formula for the calculation of the CFIS benefit. The Regulations provide for certain unique monthly income sources received to be offset to avoid double recovery. These monies are referred to as "current monthly benefits."

The Regulations identify the "current monthly benefit" income sources as (i) earnings loss benefits payable under Part 2 of the New Veterans Charter; (ii) long-term disability payments under SISIP; (iii) monthly disability pension benefits payable under the Pension Act, the Royal Canadian Mounted Police Pension Continuation Act or the Royal Canadian Mounted Police Superannuation Act (excluding benefits payable in respect of dependent children); (iv) benefits payable under the Old Age Security Act; and (v) certain compassionate awards payable under section 34 of the Veterans Review and Appeal Board Act.

#### Suspension or cancellation of benefit

Where a Veteran, survivor or orphan is requested to provide information and fails to comply, there is an authority to suspend the benefit. Prior to suspending the benefit, the Department would provide written notification to the person advising that such requested information is essential in the determination of their right to receive or continue to receive the benefit. As well, the person would be notified of the reasons for the suspension as well as the effective date of suspension. If the client's failure to provide the information persists for at least six months after the effective date of the suspension, or if at any time the client's eligibility was based on a misrepresentation or the concealment of a material fact that was intentionally provided by the client, the benefit may be cancelled. Upon cancelling the payment, the Department shall provide the client with written notification of the reasons for the cancellation, the effective date of cancellation and their rights of review.

#### Consumer price index adjustments

The Regulations provide for a quarterly adjustment to reflect changes in the Consumer Price Index (CPI), commencing in January of each year. If there is no increase to the CPI, no adjustment will be made.

Also, where the basis of the CPI has changed, as published by Statistics Canada pursuant to the Statistics Act, these Regulations will provide for a corresponding adjustment basis to be taken into consideration.

#### Requirement to adjust the CFIS benefit rate in line with increases under the Old Age Security Act

When there is an increase in the amount of the Old Age Security Pension and the Guaranteed Income Supplement, as provided for from time to time by amendments to the Old Age Security Act, other than the quarterly CPI adjustments, these Regulations will provide for the simultaneous increase in the CFIS benefit by the same amount, where applicable.

#### **Alternatives**

There are no alternatives to setting out the parameters for this program other than regulations. A regulatory instrument is needed to set out the rights and obligations of Veterans, including those of their spouse/common-law partner and, where applicable, their survivors and orphans.

#### **Benefits and costs**

The purpose of the CFIS benefit is to ensure that every eligible CF Veteran (medically releasing and those with a rehabilitation need) has timely and ongoing financial assistance sufficient to meet the basic needs of daily living. Rates paid will mirror those paid under the WVA Program.

The CFIS benefit is a non-taxable monthly allowance payable to former CF members, survivors and orphans who reside in Canada. It may be payable to those persons who have completed rehabilitation and have not yet been successful in finding employment, are no longer entitled to the earnings loss benefit, and are required to participate in any job placement program approved by the Minister, as they have not yet reached the age of 65.

Since clients must first participate in the VAC Rehabilitation Program (average length of two years), no clients are expected in the CFIS Benefit Program until 2008-09.

At this time, it is expected that 1 250 CF members would have medically released in 2006-07. Of this number, 767 would have participated in VAC's Rehabilitation Program and would only be ready to participate in the CFIS benefit in 2008-09. At the participation rate of 7%, 59 clients are expected in the first year, at an average cost per client of \$23,630; in 2009-10, 86 clients at an average cost per client of \$24,339; and in 2010-11, 113 clients at an average cost per client of \$25,070.

The total cost is expected to be \$1.4 million in the first year (2008-09), \$2.1 million in the second year (2009-10), and \$2.8 million in the third year (2010-11), for a total of \$6.3 million over the first five years of modernized programs.

Permanent impairment allowance (PIA)

#### Description

The PIA will be payable for life to eligible CF Veterans who suffer from a permanent and severe impairment for which rehabilitation services have been approved and for which the Veteran has received a disability award. The PIA recognizes the lost opportunity effects that a permanent severe impairment resulting primarily from service will have on employment potential and career advancement opportunities. These Regulations set out the criteria for what constitutes a severe and permanent impairment and the factors to be considered in assessing the degree of impairment. There are three grades of severity of impairment, I, II, and III, and the monthly allowance for each is \$1,500, \$1,000 and \$500 respectively. This allowance is taxable and it is indexed to account for changes in the cost of living.

#### The existing gap

There is an exceptional incapacity allowance (EIA) under the Pension Act, which recognizes and compensates for a broader range of impacts from service-related conditions than will the PIA. For example, the EIA compensates for non-economic impacts like loss of enjoyment of life. The PIA, focusing on economic impacts, will serve a different purpose and will have different application criteria from the EIA. For example, persons receiving the PIA do not have to be pensioned at the 98% rate or higher as a threshold to eligibility.

#### Policy objective

The policy objective of the PIA is to recognize that a severe permanent impairment generally causes an economic disadvantage with respect to employment potential and career advancement opportunities and to compensate Veterans for this disadvantage.

#### Eligibility

Eligibility exists where the member or Veteran has a health problem creating a severe and permanent impairment for which they have received a disability award and for which a rehabilitation plan has been approved under the New Veterans Charter. Survivors are not eligible for the PIA.

#### Application process

An application for the PIA must be in writing. Medical documentation of the health problem is required with the application.

#### Program delivery

There will be an ongoing obligation to provide, upon request, medical reports to support eligibility, and an entitlement to suspend payment if such information is withheld. If the allowance is cancelled, there must be notification of cancellation and of the right to redress.

#### **Alternatives**

There are no alternatives to setting out the parameters for these financial benefits under Part 2 other than through regulations. A regulatory instrument is needed to set out the rights and obligations of Veterans, as well as to stipulate factors affecting the eligibility for and amount of the allowance.

#### **Benefits and costs**

##### Benefits

The PIA recognizes the additional impacts borne by those who have the most severe impairments resulting primarily from service. The PIA will pay higher monthly rates than EIA, even after tax.

##### Costs

PIA clients will come from new disability award recipients as well as current pension recipients with new conditions resulting primarily from service. It is expected that 32 clients would qualify for the PIA in year one; however, the PIA is a payment for life, and clients and costs will increase each year. By year five (2010-11), an estimated 237 clients are expected to be receiving the PIA for a total cost of \$6.6 million for five years.

#### **Compliance and enforcement**

Relevant benefit control procedures will apply to the administration of the financial benefits. These benefits will be administered and monitored in a coordinated fashion with other benefits and services available under the New Veterans Charter. The Department will have policies and

administrative procedures in place to verify eligibility and entitlement of applicants seeking financial benefits.

### **Redress for Part 2 decisions**

Section 83 of the New Veterans Charter, subject to the Regulations, authorizes the Minister, on the Minister's own motion, to review decisions made under Part 2. The applicable benefits under this Part are rehabilitation services, vocational assistance and financial benefits.

The applicant also has a right under section 83 to request review of any decision that impacts upon the applicant's entitlement to a service or benefit under Part 2. Applications for this review process must be by way of written submission. A two-tiered review process will be implemented and conducted by VAC. The first tier will be by a department official senior to the original decision-maker. The second tier will be a review by a different department official more senior still.

### **Part 3 — Disability, death and detention benefits**

#### Introduction

This Part is designed to compensate CF members and Veterans and their survivors for the non-economic impacts of service-related disability or death, and to encourage wellness and independence. This Part provides for compensation in the form of a disability award, a death benefit, a clothing allowance, and a detention benefit for eligible persons.

#### Description

##### **Disability award**

A disability award will recognize and compensate CF members and Veterans, and in some cases their survivors, for the non-economic effects of a service-related disability, including pain and suffering, functional loss and the diminished enjoyment of life attributable to permanent impairment and the resulting impact on the member's or Veteran's ability to contribute to the family and household. The award will be a tax-free lump-sum payment, based on the extent of the disability. Disabilities will be assessed using the Table of Disabilities which will be available on the VAC Web site. Reassessments of disabilities will also be permitted. Lump-sum payments will provide immediate financial opportunities for Veterans and their families and will offer a sense of closure that, combined with the wellness programs, can help Veterans and their families move on to successfully focus on a new life and career path.

##### **Death benefit**

The death benefit will be a lump-sum payment to recognize and compensate a survivor of a member for the non-economic impacts of a sudden service-related death, such as the resulting loss of guidance, care and companionship, and the impact of the member's death on the functioning of the household.

##### **Clothing allowance**

A clothing allowance will be provided monthly to CF members or Veterans to recognize the costs associated with wear and tear of clothing and specially made apparel related to disabilities compensated by a disability award. A clothing allowance under the New Veterans Charter will be comparable to what is currently provided for under the Pension Act and will continue to be assessed based on the Table of Disabilities.

##### **Detention benefit**

The detention benefit will recognize and compensate for the non-economic impacts arising from the period of time the CF member or Veteran was detained by an enemy, opposing force or criminal element; was engaged in evading capture; or escaped from such a power. The amount of lump-sum compensation payable will be based on the duration of detention, mirroring prisoner of war compensation under the Pension Act. The benefit will be payable to the CF member or Veteran, or to their estate where the Veteran is eligible but dies before making an application or before a decision is made in respect of the Veteran's or member's application.

#### The existing gaps

Unlike the disability pension under the Pension Act, the Disability Award Program under the New Veterans Charter will not serve as the sole gateway to other VAC programs and services. Clients who are eligible for needs-based re-establishment support (e.g. rehabilitation, earnings loss benefits and health benefits) will be able to receive early intervention without first needing to be entitled to a disability award. Other wellness programs will complement the Disability Award Program to recognize and compensate for the economic impact that a disability resulting primarily from service will have on a Veteran.

As stated earlier, under the Pension Act, pensions are multi-purpose. They provide some income support, they compensate for non-economic impacts like pain and suffering, and they serve as a gateway to other programs and benefits such as exceptional incapacity allowance and health care. They are continually open to review and increase for such things as the impact of aging upon the initial injury. This leads to incremental accumulation of percentages of disability over time, focusing on deterioration. For these reasons, they also serve as a disincentive to rehabilitation, recovery and re-establishment.

The new system of disability awards has one purpose: to recognize and compensate for non-economic impacts of disabilities resulting primarily from service at the earliest reasonable date.

#### Policy objective

The policy objectives in switching to a lump-sum award system include

- ?? recognizing separately the non-economic impacts of injury, death or detention;
- ?? compensating for those impacts specifically;
- ?? offering a sense of closure; and
- ?? encouraging wellness.

#### Application process

An application for an award under Part 3 shall be in writing and contain sufficient information to prove eligibility.

#### Eligibility

Eligibility criteria are described below by award type.

#### Disability award

##### Member or Veteran

For clarity, the term "Special Duty Service" used below refers to service on an operation or in an area that has been designated as a Special Duty Area or a Special Duty Operation. These involve service in areas like the Gulf War or Afghanistan.

A disability award will be payable to a CF member or Veteran with

- ?? Special Duty Service who suffers from an injury or disease, or an aggravation thereof that was attributable to or was incurred during Special Duty Service (comparable to subsection 21(1) of the Pension Act);
- ?? service in the CF in peacetime who suffers from a disability resulting from an injury or disease, or an aggravation thereof that arose out of or was directly connected with such service (comparable to subsection 21(2) of the Pension Act);
- ?? Special Duty Service or service in the CF in peacetime who has an injury or disease that is consequential to a condition for which a disability award has already been paid (comparable to subsection 21(5) of the Pension Act);
- ?? Special Duty Service or service in the CF in peacetime who has a disability award for the loss or impairment of one of the paired organs or limbs, and suffers the loss or impairment of the other organ or limb from any cause (comparable to section 36 of the Pension Act); and
- ?? permanent deterioration of a disability for which a disability award has already been granted (analogous to the reassessment provisions under section 35 of the Pension Act).

A disability award will not be payable in respect of a condition for which a Veteran is in receipt of a disability pension under the Pension Act.

#### Survivors

A disability award will be payable to a surviving spouse/ common-law partner and/or surviving dependent child(ren) in respect of

- ?? a member or Veteran who dies as a result of an injury or disease for which a disability

award has been paid or would have been paid, and the member's or Veteran's death occurs more than 30 days after the day on which the injury occurred, the disease was contracted, or the injury or disease was aggravated, in which case the member or Veteran is deemed to have been assessed, at the time of his/her death, as having a disability at 100%, and as such, the surviving spouse/common-law partner and surviving dependent child(ren) will receive the maximum lump-sum payment less any amount of disability awards or disability pensions previously paid in respect of the member or Veteran (comparable to paragraphs 21(1)(b) and 21(2)(b) of the Pension Act);

- ?? a new condition, unconnected to the member's or Veteran's death, that is service-related or a non-service-related condition that was aggravated by service, for which the member or Veteran did not apply for a disability award prior to his/her death (comparable to subsection 48(3) of the Pension Act);
- ?? a member or Veteran who was in receipt of a disability award and there is evidence that his/her condition permanently deteriorated between the time of the award and death (comparable to subsection 49(1) of the Pension Act), in which case the surviving spouse/common law-partner and/or surviving dependent child(ren) will receive a lump-sum award in an amount that corresponds to the increase in the extent of the disability [e.g. if the Veteran received a disability award for \$125,000 (50% assessment)] and, prior to his/her death, the Veteran did not apply for an additional lump-sum award; if there is evidence to demonstrate that the extent of the Veteran's disability increased to 60% prior to his death, the surviving spouse/common-law partner and surviving dependent child(ren) will, on application, receive the 10% increase in a lump-sum payment; and
- ?? a member or Veteran who has an application for a disability award, or a request for a reassessment, pending at the time of his/her death, in which case the application will proceed as if the member or Veteran were alive, and any award will be payable to the surviving spouse/common-law partner and surviving dependent child(ren) [comparable to subsection 48(2) of the Pension Act].

From any amount to which the surviving spouse/common-law partner and dependent child(ren) will be entitled will be deducted any prior disability award or disability pension assessments. Rules of evidence and evidentiary presumptions regarding pre-enrolment conditions and establishing the service relationship of an injury or disease in certain circumstances, such as injuries during sports authorized for physical fitness, contraction of a disease in an area of prevalence for that disease, and exposures to environmental hazards, will apply. In calculating the amount of disability awards, other sources of compensation for the same injury are offset, such as benefits under the Government Employees Compensation Act or any provincial workers compensation legislation. Where some of those may be periodic payments, the Regulations provide for the computation of a present-day value equivalent lump-sum amount to be offset.

#### Death benefit

A death benefit will be payable to a surviving spouse/ common-law partner and surviving dependent child(ren) of a member where the member dies as a result of a

- ?? service-related injury or disease, and the member's death occurs within 30 days after the day on which the injury occurred or the disease was contracted; or
- ?? non-service-related injury or disease that was aggravated by service, and the member's death occurs within 30 days after the day on which the injury or disease was aggravated.

The rules of evidence and evidentiary presumptions establishing the service relationship of an injury or disease in certain circumstances as previously set out for the disability award also apply to the death benefit.

#### Detention benefit

##### Member or Veteran

A member or Veteran will be eligible for a detention benefit if he/she underwent a period of

detention, i.e. while serving in the CF, he/she was detained by an opposing force. The period spent in detention includes the period during which the member or Veteran was engaged in evading capture by, or in escaping from, any such force.

#### Member or Veteran's estate

Where the member or Veteran is eligible for a detention benefit but dies before making an application, or makes an application but dies before a decision is made, the member's or Veteran's estate may make an application and receive the benefit.

#### Reimbursement of fees for financial advice

VAC recognizes the importance of independent financial advice and may help recipients of lump-sum awards by paying for some or all of the fees related to obtaining such advice, to a maximum of \$500. Recipients of a lump-sum award may choose to use their award to independently purchase an annuity that would provide them with a monthly payment. For recipients who may be incapable of managing their own affairs, payments would be made to appropriate legal representatives, e.g. public trustees, guardians, committees, powers of attorney.

#### Periodic adjustments

Compensation under Part 3 will be indexed annually in January in accordance with the consumer price index.

#### **Alternatives**

There are no alternatives to setting out the parameters for these awards, allowances and benefits under Part 3 other than through regulations. A regulatory instrument is needed to set out the rights and obligations of members and Veterans, as well as to stipulate factors affecting eligibility and amounts payable.

#### **Benefits and costs**

##### Benefits

The substantial benefit of the new system is that it is more functional. It separates out the compensation for non-economic impacts from economic impacts. It offers a sense of closure through a lump-sum payment. It enables the member or Veteran to focus on wellness.

##### Costs

The lump-sum awards range from \$12,500 at 5% disability level to \$250,000 at 100%. The total cost of disability awards in the first year is estimated to be \$214.8 million, which includes the cost of providing awards to new clients and new conditions for existing clients, projected to include 6 034 clients. In the first five years, the Disability Award Program is expected to cost \$953.6 million. The death benefit is \$250,000. The total compensation for service-related deaths is expected to reach \$8.3 million by year five, as the number of disability award clients accumulates and their deaths increase.

There are no incremental costs associated with the clothing allowance and detention benefits because these same amounts would have been payable under the Pension Act.

#### **Compliance and enforcement**

Established benefit control procedures will continue to be used to verify the eligibility of applicants and the accuracy of the benefits paid.

#### **Redress for Part 3 decisions**

Sections 84 to 87 of the New Veterans Charter provide for review of decisions made under Part 3. For the review of Part 3 decisions, review and appeal rights are available to applicants through the Veterans Review and Appeal Board. The Bureau of Pensions Advocates will continue to offer free legal advice and representation—a unique service internationally. In summary, the redress mechanisms in the New Veterans Charter and these Regulations are designed to suit the nature of the program or benefit and to be comparable to rights existing in relation to existing VAC legislation and regulations.

#### **Part 4 — Reimbursement of travel and living expenses — Medical examination**

##### Description

Section 74 of the New Veterans Charter authorizes the Minister to reimburse reasonable expenses when an applicant or recipient is required by the Minister to attend a medical examination or assessment. Such attendances are necessary in conjunction with rehabilitation and financial benefit entitlement under Part 2 and disability awards under Part 3. This section provides that such reimbursement of expenses will be based on the Treasury Board Travel Directive, with modifications to ensure that reimbursement is consistent with other VAC programs.

#### Application process

Claims for reimbursement must be submitted within one year of incurring the expense.

#### **Alternatives**

There are no alternatives to setting the parameters for reimbursement other than through regulations.

#### **Benefits and costs**

The entitlement to require attendance for examination is essential to these programs, and the benefit is part of the overall benefit of the programs being supported by such attendance.

Reimbursement of expenses incurred is an appropriate means to obtain that benefit. These have not been costed separately from the programs served by such attendances.

#### **Compliance and enforcement**

Established benefit control procedures for such reimbursements is a standard process within the disability pension system under the Pension Act, and these will continue to be used to verify the eligibility of applicants and the accuracy of the amounts reimbursed under these Regulations. For this part, the Minister's decision is final.

#### **Related amendments**

##### Introduction

The Veterans Health Care Regulations (VHCRs) and the Veterans Burial Regulations, 2005 (VBRs) require amendments to coordinate them with the changes brought about by the New Veterans Charter. The VHCRs stipulate program policies, eligibility criteria and other terms and conditions setting out the parameters for the provision of treatment and other benefits, home-based care and long-term care for Veterans and other eligible groups. The VBRs stipulate program policies, eligibility criteria and other terms and conditions that govern the provision of funeral and burial assistance and grave markers. Each set was tied to the disability pension system under the Pension Act, and these amendments are needed to provide access to these programs to members and Veterans who will be covered by the New Veterans Charter.

##### Description — VHCRs

The proposed amendment will expand eligibility for the health care program, specifically by recognizing new client groups. Currently eligible client groups will not be affected. Service-related disabilities are currently compensated in accordance with the Pension Act. However, in the future, for most new cases, these service-related disabilities will be compensated in accordance with Part 3 of the New Veterans Charter.

To account for this change in the statutes, amendments to the Regulations will extend eligibility for the health care program in respect of service-related injuries or diseases, as determined in accordance with Part 3 of the New Veterans Charter.

The clauses of these proposed Regulations extend eligibility for health care to Veterans compensated under the New Veterans Charter, in the same way and under the same terms and conditions as those Veterans compensated under the Pension Act.

The rules applicable to "seriously disabled" Veterans are amended to take into account the possibility that a war-time (e.g. World War I, World War II or Korean War) Veteran may receive compensation under both the Pension Act and the New Veterans Charter for different disabilities. Detention benefit recipients under the New Veterans Charter are extended eligibility for benefits under these Regulations, in the same way as for prisoner of war compensation recipients under the Pension Act.

##### Description — VBRs

The proposed amendment will expand eligibility for the Funeral and Burial Program, specifically by recognizing new client groups. Currently eligible groups will not be affected.

An amendment to paragraph 2(b) of the Regulations will extend eligibility for the Funeral and Burial Program under the "matter-of-right test" (where eligibility is based on the cause of death being service-related) in respect of Veterans whose cause of death is determined to be service-related in accordance with Part 3 of the New Veterans Charter.

In addition, an amendment to paragraph 2(a) of the Regulations will extend eligibility to the program under the "estate test" (where eligibility is based on an assessment of the value of the assets of the estate and of the survivor) in respect of Veterans who received a disability award under subsection 45(1) of the New Veterans Charter. Again, this new rule parallels the current eligibility rules, but refers to the New Veterans Charter in addition to the Pension Act.



Eligibility for financial assistance from the Funeral and Burial Program under the "estate test" will also be extended in respect of Veterans who, at the time of death, as a result of having or having had a need for rehabilitation services, are receiving earnings loss benefits (including Veterans who would be receiving earnings loss benefits if it were not for their other sources of income) or CFIS benefits under Part 2 of the New Veterans Charter. This is carried out through an amendment to paragraph 2(a) of the Regulations.

Minor technical changes will also be required to section 1 of the Regulations (definitions) and to sections 5, 8, 9 and 10 (to update certain cross-references necessary with the passage of the New Veterans Charter).

#### **Alternatives**

As the Health Care Program and Burial Services Program are governed by regulations now, changes are required to be made by means of a regulatory amendment. There is no other way to reflect the impact of the suite of programs authorized by the New Veterans Charter.

#### **Benefits and costs**

The obvious benefit of these related amendments is to ensure that members and Veterans receive similar access to these important programs, regardless of whether their injuries or deaths are covered by the Pension Act or by the New Veterans Charter.

With respect to the VHCRs, no additional costs are anticipated. Health care will continue to be provided in respect of service-related health conditions. Health conditions and health care needs currently recognized as being service-related in accordance with the Disability Pension Program (under the Pension Act) will in the future be recognized as service-related in accordance with the Disability Award Program (under the New Veterans Charter). No incremental change is expected in the number of clients, as the criteria for recognition of service-related disabilities are substantially the same under both the Disability Pension and Disability Award programs. Therefore, a cost-neutral effect will result from the related amendment to the VHCRs.

A similar rationale applies with respect to the VBRs. Determinations of whether a Veteran's death resulted from military service are currently made in accordance with the criteria found in the Disability Pension Program. Future determinations will be made using substantially identical decision criteria found under the Disability Award Program. Therefore, a cost-neutral effect will result from the related amendment to the "matter-of-right" component of the Funeral and Burial Program.

Furthermore, additional resources will be invested in the "estate-tested" component of the Funeral and Burial Program to extend eligibility in respect of Veterans who receive an earnings loss or CFIS benefit at the time of their death. The substantial cost of this new eligibility will not be realized for a number of years because of the age distribution of earnings loss and CFIS recipients, and because these Veterans' other sources of income will contribute to higher estate valuations at time of death. These costs are projected to be deferred until five years after the start of the program and to amount to \$144,000 during the following five years.

There is little incremental cost associated with these amendments, and such costs are expected to be absorbed within existing reference levels.

#### **Compliance and enforcement**

Established benefit control procedures will continue to be used to verify the eligibility of applicants and the accuracy of the benefits paid pursuant to the VHCRs.

Established benefit control procedures will continue to be used to verify the eligibility of applicants and the accuracy of the benefits paid pursuant to the VBRs. The Funeral and Burial Program is delivered in partnership with a national Canadian Veterans organization, the Last Post Fund. Administrative agreements with the Last Post Fund are subject to an accountability framework including financial, reporting and auditing controls.

#### **Contact**

Daryl Webber, Deputy Director General, Policy Planning and Liaison, Veterans Affairs Canada, 66 Slater Street, 16th Floor, Ottawa, Ontario K1A 0P4, (613) 995-1740 (telephone), (613) 941-5434 (fax), [daryl.webber@vac-acc.gc.ca](mailto:daryl.webber@vac-acc.gc.ca) (email).

#### **PROPOSED REGULATORY TEXT**

Notice is hereby given that the Governor in Council, pursuant to subsections 19(2) and 23(4), sections 26, 41 and 63, subsections 64(4) and 74(2), and section 94 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act ([see footnote a](#)) and section 5

(see footnote b) of the Department of Veterans Affairs Act (see footnote c), proposes to make the annexed Canadian Forces Members and Veterans Re-establishment and Compensation Regulations.

Interested persons may make representations with respect to the proposed Regulations within 30 days after the date of publication of this notice. All such representations must cite the Canada Gazette, Part I, and the date of publication, and be addressed to the Dan Fenety, Director General, Policy Planning and Liaison, Veterans Affairs Canada, 66 Slater Street, Room 1613, Ottawa, Ontario K1A 0P4 (tel: (613) 992-3801; fax: (613) 941-5434; E-mail: Dan.Fenety@vac-acc.gc.ca).  
Ottawa, November 28, 2005

DIANE LABELLE

Acting Assistant Clerk of the Privy Council

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.

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.
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
- (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.
- "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)
- "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)
- "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)

#### 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.

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;
- (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.

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.

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.

(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.

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

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;
- (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).

(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.

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;
  - (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.
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.

(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;

(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.

(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.

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.

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.

(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;

(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.

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.

#### 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;

(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.

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.

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.

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.

(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.

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

(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.

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

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.

(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.

(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.

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.

### PART 3

### 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 1 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 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%; (déficience 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.

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.

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.

[51-1-o]

#### [Footnote a](#)

S.C. 2005, c. 21

#### [Footnote b](#)

S.C. 2001, c. 4, s. 126

#### [Footnote c](#)

S.C. 2000, c. 34, s. 95

#### [Footnote 1](#)

SOR/90-594

#### [Footnote 2](#)

SOR/2005-200

#### NOTICE:

The format of the electronic version of this issue of the Canada Gazette was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.