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des vétérans

VETERANS OMBUDSMAN  
REPORT | JUNE 2013

# IMPROVING THE NEW VETERANS CHARTER

THE REPORT

Canada

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# MESSAGE FROM THE VETERANS OMBUDSMAN

I am pleased to offer you this report as the third part of the Office of the Veterans Ombudsman's four-part publication series *Improving the New Veterans Charter: the Parliamentary Review*. The report is a follow-up to the review paper, released on April 4, 2013, and is the culmination of an extensive research effort and Canada-wide consultation with Veterans and Veterans' organizations.

The focus of this report is on the *economic benefits* of the New Veterans Charter, as opposed to the *non-economic benefits*. This is because the first goal of any compensation analysis of the New Veterans Charter should be to determine whether the economic needs of Veterans and their families are being met, and then to examine whether compensation for pain and suffering is adequate.

With this focus, and building on the foundation set out in the review paper, the report puts forward evidenced-based recommendations that address shortcomings in three New Veterans Charter program areas: financial, vocational rehabilitation and assistance, and family support. Importantly, for the first time, the Office of the Veterans Ombudsman is supporting its recommendations with an actuarial analysis that provides a detailed examination of the effects of the New Veterans Charter financial programs in support of Veterans and their families.

Through this fall's parliamentary committee review, the Government of Canada has the opportunity to broaden the parliamentary examination of the New Veterans Charter and address these shortcomings in its programs, benefits and services. By such action, it can demonstrate to Veterans and their families, as well as to all Canadians, that the New Veterans Charter is indeed a "living" charter and that its improvement will remain an enduring priority.

Prime Minister Stephen Harper said at the launch of the New Veterans Charter on April 6, 2006, "*In future, when our servicemen and women leave our military family, they can rest assured the Government will help them and their families' transition to civilian life. Our troops' commitment and service to Canada entitles them to the very best treatment possible. This Charter is but a first step towards according Canadian veterans the respect and support they deserve.*"

I encourage the Government of Canada to implement this report's recommendations promptly. I encourage it also to formalize an ongoing two-year parliamentary review of the New Veterans Charter, so that the Prime Minister's promise to Veterans is kept.<sup>1</sup>

A handwritten signature in black ink, appearing to read 'Guy Parent', written in a cursive style.

Guy Parent  
Veterans Ombudsman

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1 Prime Minister of Canada. *Prime Minister launches new Veterans Charter*. "Notes for an address by The Right Honourable Stephen Harper, Prime Minister of Canada", April 6 2006. Source: <http://pm.gc.ca/eng/media.asp?id=1092>.

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# THE MANDATE OF THE VETERANS OMBUDSMAN

The Office of the Veterans Ombudsman, created by Order in Council (P.C. 207-530, April 3, 2007), works to ensure that Veterans, serving members of the Canadian Forces and the Royal Canadian Mounted Police, and other clients of Veterans Affairs Canada are treated respectfully, in accordance with the *Veterans Bill of Rights*, and receive the services and benefits that they require in a fair, timely and efficient manner.

The Office addresses complaints, emerging and systemic issues related to programs and services provided or administered by Veterans Affairs Canada, as well as systemic issues related to the Veterans Review and Appeal Board.

The Veterans Ombudsman is an independent and impartial officer who is committed to ensuring that Veterans and other clients of Veterans Affairs Canada are treated fairly. The Ombudsman measures fairness in terms of *adequacy* (Are the right programs and services in place to meet the needs?), *sufficiency* (Are the right programs and services sufficiently resourced?), and *accessibility* (Are eligibility criteria creating unfair barriers, and can the benefits and services provided by Veterans Affairs Canada be accessed quickly and easily?).

In accordance with the *Veterans Bill of Rights*, Veterans and all other clients of Veterans Affairs have the right to:

- Be treated with respect, dignity, fairness and courtesy.
- Take part in discussions that involve them and their family.
- Have someone with them for support when they deal with Veterans Affairs.
- Receive clear, easy-to-understand information about programs and services, in English or French, as set out in the *Official Languages Act*.
- Have their privacy protected as set out in the *Privacy Act*.
- Receive benefits and services as set out in published service standards and to know their appeal rights.

They have the right to make a complaint and have the matter looked into if they feel that any of their rights have not been upheld.

# REPORT SUMMARY

This report is the third part of the Office of the Veterans Ombudsman's four-part publication series *Improving the New Veterans Charter: the Parliamentary Review*. It presents options and recommendations to address the shortcomings in the three New Veterans Charter program areas examined in the review paper, released on April 4, 2013. Additionally, it is important to note that it is supported by an actuarial analysis, which forms the fourth part of the publication series. The actuarial analysis provides a detailed examination of the effects of the New Veterans Charter's financial programs that support Canadian Forces Veterans.

The key message of this report is that improvements are required to specific New Veterans Charter programs to help Veterans and their families successfully transition to civilian life. The most urgent shortcomings to address are those that affect the economic financial support provided to Veterans, especially totally and permanently incapacitated Veterans who are vulnerable financially. In addition, non-economic compensation for pain and suffering should at least match the level of compensation awarded to other Canadians by courts in Canada. It is simply not acceptable to let Veterans who have sacrificed the most for their country—those who are totally and permanently incapacitated—live their lives with unmet financial needs.

The New Veterans Charter program areas related to economic financial support with the most urgent shortcomings to address, especially for Veterans who are the most vulnerable financially, are:

1. The insufficiency of the economic financial support provided after the age of 65 to at risk totally and permanently incapacitated Veterans.

*Over 400 Veterans are at risk of living their retirement years with insufficient income to sustain their pre-age 65 standard of living. Five options are analysed in this report to provide Veterans with 70 percent of their indexed pre-release salary after age 65. This rate is a well-recognized benchmark to maintain the same standard of living during retirement as that enjoyed during working years.*

2. The inadequacy of the Earnings Loss Benefit to support Veterans who are transitioning from a military to a civilian career.

*The benefit should be increased from 75 percent to 90 percent of pre-release salary to provide 100 percent of net pre-release salary. In addition, the Earnings Loss Benefit provided to Veterans who served as part-time Reserve Force members, and whose injury or illness is related to service, should be the same as that provided to Veterans who served on a full-time basis. Finally, annual adjustments to the benefit should be based on actual annual increases in the cost of living as measured by the Consumer Price Index.*



3. The accessibility of the Permanent Impairment Allowance and the Permanent Impairment Allowance Supplement.

*Fifty-three percent of Veterans who are assessed to be totally and permanently incapacitated, and who are unable to engage in suitable gainful employment, are not awarded these benefits, which are designed to compensate severely and permanently impaired Veterans for a lack of career opportunity and progression. Veterans Affairs Canada should conduct a review of the totally and permanently incapacitated Veteran cohort to confirm whether more Veterans should have access to the benefits.*

The report also addresses briefly the non-economic benefit designed to compensate for pain and suffering—the disability award. Other than annual indexing, it has not been increased since the benefit came into effect in 2006.

The report recommends that as a first step, the maximum amount of the disability award should be increased to at least match the current judicial cap for pain and suffering resulting from injury (non-pecuniary damages) awarded by Canadian courts, which is at \$342,000.<sup>2</sup> Following this, more research and consultation can be undertaken to determine what the appropriate maximum amount should be to fairly compensate Canadian Forces members and Veterans for pain and suffering resulting from an injury or illness in service to Canada.

The second New Veterans Charter program area of concern for transitioning Veterans is *vocational rehabilitation and assistance support*. The specific shortcomings are:

1. The practice of building on a Veteran's existing skills, experience and training limits education upgrade and employment options, including access to postsecondary university education programs.
2. The tuition reimbursement limit is insufficient to support participation in a full four-year university degree program at most Canadian universities.<sup>3</sup>
3. There is inadequate performance measurement to track whether Veterans find employment following completion of a vocational rehabilitation plan and whether they stay employed.
4. The effectiveness of providing two similar government vocational rehabilitation programs to Veterans is not clear.<sup>4</sup>

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<sup>2</sup> *Clost v. Relkie*, [2012] B.C.S.C. 1393.

<sup>3</sup> Veterans Affairs Canada has the ability to exceed the reimbursement limit when evidence demonstrates the need to do so, as per Section 15(3) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* (SOR/2006-50).

<sup>4</sup> It should also be noted that part-time reservists may also be eligible under *Government Employee's Compensation Act*.

Veterans Affairs Canada's approach to vocational rehabilitation and assistance support needs to be adjusted. At present, it focuses on the Veteran's current qualifications and on limiting vocational rehabilitation and income support expenditures. This focus needs to be redirected to one that considers vocational rehabilitation and assistance support as an investment in Veterans to prepare them to realize their full potential in a competitive work environment where skills training and higher education are an increasingly common requirement to satisfy labour market demands.

Also, Veterans Affairs Canada should explore additional partnership opportunities to help place Veterans in good paying jobs. As well, the Department needs to improve the performance measurement of the vocational rehabilitation and assistance support it provides to Veterans in order to confirm if it is successfully transitioning Veterans to civilian life. Finally, Veterans Affairs Canada, in collaboration with the Department of National Defence, should launch an independent review of the dual Service Income Security Insurance Plan (SISIP) Financial Services and Veterans Affairs Canada's income support and vocational rehabilitation programs to determine whether they are effective.

The third New Veterans Charter program area that requires improvement is support to families. Past reports from expert advisory groups and parliamentary committees, as well as Veterans Affairs Canada's own internal evaluations, recommended that more should be done to address the unmet needs of families, especially those who care for Veterans with severe and complex disabilities. This report recommends a number of measures that could significantly enhance the support provided to families such as, but not limited to, improved counselling, information and outreach, extended access to Military Family Resource Centers, and improved financial assistance.

## INTRODUCTION

The parliamentary committee review of the enhancements to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*,<sup>5</sup> commonly known as the New Veterans Charter, is to be undertaken in the fall of 2013.<sup>6</sup> It is an important opportunity for the Government of Canada, Veterans and their families, Veterans organizations and Canadians to broaden the parliamentary examination of the New Veterans Charter<sup>7</sup> and seek solutions to its shortcomings.

5 *The Canadian Forces Members and Veterans Re-establishment and Compensation Act* (S.C. 2005, c. 21).

6 Section 20.1 of the *Enhanced New Veterans Charter Act* (S.C. 2011, c. 12) states: Within two years after the day on which this section comes into force, a comprehensive review of the provisions and operations of this Act must be undertaken by any committees of the Senate and of the House of Commons that are designated or established by the Senate and the House of Commons for that purpose.

7 *The Canadian Forces Members and Veterans Re-establishment and Compensation Act* (S.C. 2005, c. 21), commonly known as the New Veterans Charter, received Royal Assent on May 13, 2005 and came into force on April 1, 2006.

To support the upcoming parliamentary committee review, the Office of the Veterans Ombudsman has prepared a four-part publication series entitled *Improving the New Veterans Charter: the Parliamentary Review*. The first part, released on April 4, 2013, is a review that provides a factual reference point for three New Veterans Charter program areas that are of most concern to Veterans transitioning from military to civilian life and their families, namely, financial, vocational rehabilitation and assistance<sup>8</sup> and family support. The second in the series, entitled *Investing in Veterans Vocational Training*, provided research, analysis and recommendations specific to the vocational rehabilitation and assistance provided under the Department's Rehabilitation Program.

This report is the third part of the publication series. It presents evidence-based options and recommendations to address the shortcomings in the three New Veterans Charter program areas identified in the review paper. Importantly, it is supported by an actuarial analysis, which provides a detailed examination of the effects of the New Veterans Charter's financial programs that support Canadian Forces Veterans.

It is important to note at the outset that there are two components to the financial benefits provided to Veterans under the New Veterans Charter: economic financial support and non-economic compensation. These are separate and distinct benefits, and they are designed to achieve different outcomes. Therefore, identified shortcomings of the New Veterans Charter's financial benefits need to be addressed separately.

The focus of this report is on the New Veterans Charter's economic financial support benefits. These need to be dealt with first. Only then can there be the analytical clarity required to address the main non-economic compensation benefit—the disability award<sup>9</sup>—which is the most frequently debated benefit by Veterans and Veteran advocacy groups.

In this report, therefore, the disability award is only discussed briefly and the spotlight is firmly kept on the focus of the report: the need to address shortcomings in economic financial support benefits, especially for those Veterans who are most vulnerable financially.

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8 The official title of the New Veterans Charter rehabilitation program is “Rehabilitation Services and Vocational Assistance Program”. Rehabilitation services include medical, psycho-social and vocational interventions. Because this report deals specifically with the vocational element of the rehabilitation program, unless specified otherwise, the term “vocational rehabilitation and assistance support” will be used throughout the report.

9 The other is the death benefit and is not reviewed in this report.

Of all the New Veterans Charter's economic financial support benefits, the four most at issue are the:

- Supplementary Retirement Benefit,
- Earnings Loss Benefit,
- Permanent Impairment Allowance, and,
- Permanent Impairment Allowance Supplement.

Economic financial support is inadequate for transitioning Veterans, and especially for certain totally and permanently incapacitated Veterans after age 65. Urgent action is required to address the shortcomings identified in this report.

The economic support provided to Veterans must be sufficient to enable them to meet their needs during their transition to civilian life, or until end of life if required, with minimal reduction in the standard of living that they had before their military careers ended unexpectedly and prematurely because of injury or illness.

In addition, the amount of non-economic compensation provided in recognition for the pain and suffering resulting from a service-related injury or illness has not kept pace with original benchmarks. This compensation needs to be increased at least to match the level of compensation awarded to other Canadians by courts in Canada.

Addressing these shortcomings must be the first priority. Once economic financial security is achieved, then broader consultation can follow to determine what the appropriate maximum amount should be to compensate fairly Canadian Forces members and Veterans for pain and suffering resulting from an injury or illness in service to Canada.

The second area of concern for transitioning Veterans is vocational rehabilitation and assistance support, which is analysed in the Ombudsman's August 2013 report entitled *Investing in Veterans Vocational Training*. The current support limits access to postsecondary education programs<sup>10</sup> and constrains civilian employment opportunities. In addition, the fact that two government programs (from Veterans Affairs Canada and SISIP Financial Services) provide similar income support and vocational rehabilitation to Veterans can be confusing, and it is unclear whether this dual program construct is effective. Improvements need to be made to the vocational rehabilitation and assistance support provided to transitioning Veterans by increasing the flexibility to meet their needs; developing more partnerships to enhance job placement opportunities; improving performance measurement of program outcomes; and, reviewing the effectiveness of the dual program construct.

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10 Postsecondary education programs include apprenticeship, college and university programs.

Thirdly, past reports from expert advisory groups, parliamentary committees and internal departmental audits recommended that more must be done to address the unmet needs of families, especially those who care for Veterans with severe and complex disabilities. This report recommends a number of simple and inexpensive measures to better equip families to support disabled Veterans and to facilitate their transition to community supports.

By addressing the shortcomings identified in this report, the Government of Canada will make a significant difference for injured and ill Veterans and their families. It will also send a strong message that it is steadfast in its resolve to uphold the founding principle of the New Veterans Charter, that it is a “living” Charter that will be continually improved to meet the unmet and evolving needs of Veterans and their families.

## METHODOLOGY

The methodology used in this report includes:

- A review of the New Veterans Charter financial, vocational rehabilitation and assistance, and family support program legislation and regulations and Veterans Affairs Canada directives, guidelines and business practices;
- A review of past expert advisory groups, parliamentary committee and Auditor General reports and internal Veterans Affairs Canada audits and evaluations related to New Veterans Charter programs, services and benefits;
- A literature review and analysis of other federal and provincial government support programs for disabled workers;
- An analysis of statistical information provided by Veterans Affairs Canada, the Department of National Defence, and SISIP Financial Services;
- A review of foreign Veterans support programs;
- An analysis of the *Pension Act* and New Veterans Charter financial benefits;
- Modelling<sup>11</sup> and cost analysis of options to address New Veterans Charter financial support shortcomings;
- Consultations with Veterans, the Veterans Ombudsman Advisory council, and Veterans stakeholder organizations; and,

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11 The main objective of modelling is to compare options to improve benefits and to analyse the effects of these options against a representative sample of Veterans.

- Consultations with Veterans Affairs Canada and Department of National Defence/Canadian Forces staff who deal with policy development and the care and management of ill and injured Canadian Forces members, Veterans and their families.

The reader will note that there are certain similarities between the recommendations made in this report and recommendations from past Veterans advisory committee and parliamentary committee reports and internal Veterans Affairs Canada audits. The reports and audits are listed in Appendix 1. Two of these reports, in particular, made 20 recommendations to improve the three program areas examined in this report:

- The New Veterans Charter Advisory Group report, *The “Living Charter” in Action*, October 2009;<sup>12</sup> and
- The House of Commons Standing Committee on Veterans Affairs report, *A Timely Tune-Up for The Living New Veterans Charter*, June 2010.<sup>13</sup>

Many of the recommendations presented to Veterans Affairs Canada and Parliament in these two reports have not been implemented. Shortcomings with the New Veterans Charter that were brought forward in these reports remain unaddressed today and continue to affect Veterans and their families.

## FINANCIAL SUPPORT

### **Purpose of the New Veterans Charter Financial Support Benefits**

The New Veterans Charter’s financial support benefits that can be provided to eligible Canadian Forces members, Veterans, spouses and survivors are complex, often inter-related, and not always well understood or appreciated. Before presenting options to address specific shortcomings, the following provides a brief overview of the purpose of the financial support benefits.

12 New Veterans Charter Advisory Group. *Honouring our Commitment to Veterans and their Families: The Living Charter in Action*, October 2009. Source: [http://legion.ca/\\_PDF/SBureau/NVCAG%20Honouring%20Our%20Commitment%20to%20Veterans%20and%20families%20The%20Living%20Charter%20in%20Action\\_Nov09\\_e.pdf](http://legion.ca/_PDF/SBureau/NVCAG%20Honouring%20Our%20Commitment%20to%20Veterans%20and%20families%20The%20Living%20Charter%20in%20Action_Nov09_e.pdf).

13 Standing Committee on Veterans Affairs. *A Timely Tune-up for the Living New Veterans Charter*, 2010. Source: <http://www.parl.gc.ca/content/hoc/Committee/403/ACVA/Reports/RP4634723/acvarp01/acvarp01-e.pdf>.

The objective of the New Veterans Charter is to help Veterans rebuild their lives and to restore, to the greatest extent possible, their financial independence, health and quality of life. The Charter was designed to provide an integrated suite of benefits and needs-based programs, supported by case management,<sup>14</sup> to assist Canadian Forces members, Veterans and their families successfully transition from a military career, with its support, to civilian life.

The New Veterans Charter financial support programs provide for both non-economic and economic impacts of a disability or death. The two non-economic compensation benefits are the disability award and the death benefit. The financial benefits that provide economic support are the Earnings Loss Benefit, Supplementary Retirement Benefit, Permanent Impairment Allowance and Permanent Impairment Allowance Supplement, and Canadian Forces Income Support.<sup>15</sup>

## Non-economic Compensation Benefits

**Disability Award:** The disability award recognizes the sacrifices made by Canadian Forces members and Veterans and compensates them, and in some cases their surviving spouses/common-law partners and surviving dependent children, for non-economic impacts, such as pain and suffering, physical and psychological loss and the impact of a service-related disability on their quality of life. The disability award provides the option of immediate financial compensation and is intended to offer a sense of closure that, when combined with other New Veterans Charter programs, can help Veterans move on and focus on a new life and career path. The amount of the disability award is based on the degree of disability and the relationship between the disability and the applicant's service.

Unlike the disability pension provided under the *Pension Act*, the disability award is not the only gateway to other Veterans Affairs Canada programs, benefits and services. This design feature is the cornerstone of the New Veterans Charter because a Veteran can now access rehabilitation services, other financial benefits, health benefits and career transition support, without first having to establish entitlement to a disability award. These other benefits complement the disability award to help the Veteran successfully transition to civilian life.

**Death Benefit:** The death benefit recognizes and compensates a surviving spouse, common-law partner and/or dependent children for the non-economic impacts of the service-related death of a Canadian Forces member. The benefit compensates for the loss of guidance, care and companionship, and is provided in addition to other economic support benefits.

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14 The New Veterans Charter Benefits include: the disability award, the death and detention benefits and other allowances, rehabilitation services and vocational assistance, financial support, career transition support, group health benefit, and family support.

15 Two other financial benefits, the clothing allowance and detention benefit, are also available. These benefits are provided in more specific and exceptional circumstances than the other benefits.

## Economic Support Benefits

**Earnings Loss Benefit:** The purpose of the Earnings Loss Benefit is to provide a Veteran who is participating in the Rehabilitation Services and Vocational Program with income replacement allowing them to focus on their rehabilitation goals. The benefit can be extended to age 65 for Veterans who are deemed to be totally and permanently incapacitated and are unable to engage in suitable gainful employment.<sup>16</sup> The benefit is also payable to survivors until the Veteran would have turned 65 to ensure that the spouse and dependent children are supported in a similar manner to that if the Veteran had lived.

**Supplementary Retirement Benefit:** The Supplementary Retirement Benefit may be paid at age 65 to a totally and permanently incapacitated Veteran who is no longer entitled to the Extended Earnings Loss Benefit or before age 65 if the totally and permanently incapacitated Veteran becomes able to engage in suitable gainful employment. The purpose of the benefit is to compensate the Veteran for the lost opportunity to contribute to a retirement pension plan because of his or her inability to work as a result of a career-ending or service-related disability. The benefit may also be paid to eligible survivors.

**Permanent Impairment Allowance/Supplement:** The Permanent Impairment Allowance recognizes the effects that a permanent severe impairment resulting primarily from service can have on a Veteran's employment potential and career advancement opportunities. The allowance is payable in three grade levels to a Veteran who suffers from a permanent and severe impairment for which rehabilitation services have been approved and for which the Veteran has received a Disability Benefit.

The Permanent Impairment Allowance Supplement is an additional monthly amount that compensates the totally and permanently incapacitated Veteran for his or her inability to perform any occupation that is considered to be suitable gainful employment. In order to be eligible to receive the supplement, the Veteran must be in receipt of the Permanent Impairment Allowance in any of the three grade levels.

**Canadian Forces Income Support:** The Canadian Forces Income Support benefit may be available to Canadian Forces Veterans who have successfully completed a rehabilitation program, are no longer eligible for the Earnings Loss Benefit, and are capable of working, but are not yet employed. The benefit is income tested against total household income. The benefit may also be payable to the Veteran at age 65 or to the Veteran's survivor and orphans in certain circumstances.

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<sup>16</sup> Veterans Affairs Canada defines the term "totally and permanently incapacitated" as a Veteran who 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. The inability to work must be due to the health problem(s) for which rehabilitation services were approved. Suitable and gainful employment is 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 66⅔ percent of the imputed income of the Veteran.



## Options to Address Shortcomings

Since 2006, Canadian Forces members, Veterans and their survivors have been compensated and supported through New Veterans Charter financial benefit programs. These are provided in parallel to the financial benefits provided to eligible Canadian Forces members, Veterans and their survivors under the *Pension Act*. In numerous instances, Canadian Forces members and Veterans are in receipt of both *Pension Act* and New Veterans Charter financial benefits. For example, in March 2013, 12, 829 Canadian Forces members and Veterans were in receipt of both a *Pension Act* disability pension and a New Veterans Charter disability award. Also, of the 3,198 Veterans in receipt of the New Veterans Charter Earnings Loss Benefit, 1,874 (or 59 percent) were *Pension Act* or dual *Pension Act*/New Veterans Charter clients.<sup>17</sup>

Considering that financial benefits are currently provided by two different regimes, it is not surprising that recipients often compare the value of New Veterans Charter benefits to those of the *Pension Act*. Too frequently, comparisons are made only between the *Pension Act* monthly disability pension and the New Veterans Charter lump sum disability award without considering other financial benefits that are provided under the New Veterans Charter.

That being said, there are undeniable differences between the value of financial benefits provided under the *Pension Act* and the New Veterans Charter. The differences are explained in detail in the Office of the Veterans Ombudsman's *Actuarial Analysis*. The two primary reasons for these differences are:

- The value of monthly financial benefits payable for life under the *Pension Act* is generally greater than the value of lump sum financial benefits payable under the New Veterans Charter; and,
- Most financial benefits payable under the *Pension Act* are not taxable whereas, for the most part, benefits provided under the New Veterans Charter are taxable.

Finally, to further illustrate the differences between the two financial benefit regimes, the following figure provides a simple depiction of eligibility for the main financial benefits provided under the *Pension Act* and the New Veterans Charter.

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<sup>17</sup> Statistics provided by Veterans Affairs Canada as of March 6, 2013.

Figure 1. Eligibility for Pension Act and New Veterans Charter Financial Benefits

Financial Benefit	<i>Pension Act</i> (Second World War / Korean War Veterans)	<i>Pension Act</i> (Canadian Forces Veterans post-1947, but not Korea)	<i>Pension Act</i> (Survivor)	New Veterans Charter (Canadian Forces Veteran)	New Veterans Charter (Survivor)
Disability Award		x [1]		x	x
Disability Pension	x	x	x		
Earnings Loss Benefit		x [1]		x	x
Exceptional Incapacity Allowance	x	x			
Attendance Allowance	x	x			
Permanent Impairment Allowance/Supplement		x [1]		x	
Supplementary Retirement Benefit		x [1]		x	x
Canadian Forces Income Support		x [1]		x	x
War Veterans Allowance	x	x			
Clothing Allowance	x	x		x	
Prisoner of War Compensation	x	x			
Detention Benefit		x [1]		x	
Survivor Pension			x		
Death Benefit					x

[1] New Veterans Charter benefits for which *Pension Act* clients may be eligible

The Veterans Ombudsman acknowledges that different financial benefits provided under different legislative regimes may result in different monetary amounts. However, it is not the objective of this report to recommend financial parity between the benefit regimes. Rather, the intended effect of the recommendations presented herein is to improve New Veterans Charter economic supports and non-economic compensation to ensure that:

- Economic support is sufficient to enable Veterans to meet their needs during transition to civilian life, or until end of life, if required, with minimal reduction in the standard of living

- that they had before their military careers ended unexpectedly and prematurely because of injury or illness; and,
- Canadian Forces Veterans receive non-economic compensation for pain and suffering resulting from a service-related injury or illness that is at least equivalent to the maximum amount (currently \$342,000) that is awarded to Canadians by Canadian courts for pain and suffering.

The next sections of this report will review the shortcomings with the New Veterans Charter financial support benefits and provide options to address the shortcomings. The options are analyzed in detail in the appendices to this report using the following five scenarios:<sup>18</sup>

**Scenario 1** – A totally and permanently incapacitated single 24-year-old male Veteran with an assessed disability level of 80 percent, who was medically released from the Canadian Forces at the rank of Corporal (salary of \$55,464) with four years of service.

*This scenario represents a young Veteran with a high level of disability who has access to the Permanent Impairment Allowance and Supplement, and has very little pensionable service.*

**Scenario 2** – A totally and permanently incapacitated 47-year-old female Veteran with an assessed disability level of 100 percent, married with one dependent child, who was medically released from the Canadian Forces at the rank of Major (salary of \$110,640) with 29 years of service.

*This scenario represents an older Veteran with a very serious disability who has access to the Permanent Impairment Allowance and Supplement, and a high number of years of pensionable service.*

**Scenario 3** – A totally and permanently incapacitated 30-year-old male Veteran with an assessed disability level of 40 percent, married with one dependent child, who was medically released from the Canadian Forces at the rank of Captain (salary of \$81,276) with 10 years of service.

*This scenario represents a young Veteran with a moderate level of disability who has access to the Permanent Impairment Allowance and Supplement, a small but immediate unreduced Canadian Forces annuity, and who cannot return to work because of the nature of his disability.*

**Scenario 4** – A totally and permanently incapacitated 35-year-old male Veteran with an assessed disability level of 95 percent, married with one dependent child, who was medically released from the Canadian Forces at the rank of Sergeant (salary of \$63,720) with 15 years of service.

*This scenario represents a Veteran with a very high level of disability who has access to the Permanent Impairment Allowance and Supplement, a modest but immediate unreduced Canadian Forces annuity, and who cannot work because of the seriousness of his disability.*

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18 These scenarios are representative of actual totally and permanently incapacitated Veterans.

**Scenario 5** – A totally and permanently incapacitated 40-year-old female Veteran with an assessed disability level of 50 percent, married with one dependent child, who was medically released from the Canadian Forces at the rank of Corporal (salary of \$56,286) with five years of service.

*This scenario represents a moderately disabled Veteran who joined the Canadian Forces later in life, who is not eligible for the Permanent Impairment Allowance and Supplement, and who has few years of pensionable service.*

## After Age 65 Financial Support

The insufficiency of financial support provided after the age of 65 for certain at-risk<sup>19</sup> totally and permanently incapacitated Veterans is the most urgent New Veterans Charter shortcoming to address.

The Supplementary Retirement Benefit is a benefit provided to eligible totally and permanently incapacitated Veterans, normally after the age of 65. The benefit can be provided before the age of 65 if the Veteran returns to work. The benefit is a taxable lump sum based on two percent of the total amount of the Earnings Loss Benefit that would have been payable to the eligible Veteran if no offsets (deductions) from prescribed sources were considered.<sup>20</sup>

Since the coming into force of the New Veterans Charter, there have been very few recipients of the Supplementary Retirement Benefit. This is because few Veterans who may be eligible for the benefit have reached the age of 65. Veterans Affairs Canada reports that between October 2007 and August 2012 there were 15 recipients of the benefit. The average amount of the lump sum payment over this five year period was \$1,927, and the largest single payment was \$5,969.<sup>21</sup>

The Supplementary Retirement Benefit lump sum amount provided at age 65 is insufficient to compensate for the termination of the monthly Extended Earnings Loss Benefit. This deficiency is a particular problem for certain totally and permanently incapacitated Veterans who are not in receipt of New Veterans Charter or *Pension Act* allowances<sup>22</sup> and who have little or no Canadian Forces pension. Who these Veterans are

The insufficiency of financial support provided after the age of 65 for at risk totally and permanently incapacitated Veterans is the most pressing New Veterans Charter shortcoming to address.

19 These Veterans are at risk of not having sufficient retirement income to sustain their pre-age 65 standard of living.

20 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations (SOR/2006-50)*, sec. 29.

21 Statistics provided by Veterans Affairs Canada, October 19, 2012.

22 The allowances in question are the New Veterans Charter Permanent Impairment Allowance and Supplement and the *Pension Act* Exceptional Incapacity Allowance and Attendance Allowance.

and what can be done to address the shortcoming is explained below, with detailed analysis provided in Appendices 2 and 3.

The termination of the Extended Earnings Loss Benefit and the insufficiency of after-age 65 financial support also affect surviving spouses. Currently, financial benefits that are payable to a Veteran after age 65, such as the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement, cease when the Veteran dies. This could leave surviving spouses with little income to support themselves. Therefore, any solution implemented by Veterans Affairs Canada to address the insufficiency of financial benefits after age 65 for Veterans needs to consider the surviving spouse.

### Demographics of the Totally and Permanently Incapacitated Veteran Cohort

As of March 2013, approximately 1,428 Veterans (out of 76,446 Canadian Forces Veteran clients) were assessed by Veterans Affairs Canada to be totally and permanently incapacitated. Six hundred and seventy-four (674) of these Veterans were in receipt of the New Veterans Charter Extended Earnings Loss Benefit, which is provided until age 65 to Veterans who are, and remain, totally and permanently incapacitated and who are unable to engage in suitable gainful employment.<sup>23</sup>

**1,428** – Number of totally and permanently incapacitated Veterans.

**674** – Number of totally and permanently incapacitated Veterans in receipt of the New Veterans Charter Extended Earnings Loss Benefit until age 65.

**666** – Number of totally and permanently incapacitated Veterans in receipt of the SISIP Long Term Disability income replacement benefit until age 65.

An additional 666 totally and permanently incapacitated Veterans were Veterans Affairs Canada clients, but were eligible to receive the SISIP Long Term Disability Plan income replacement benefit.<sup>24</sup>

The Office of the Veterans Ombudsman conducted a comprehensive analysis of the statistics provided by Veterans Affairs Canada on the totally and permanently incapacitated Veteran cohort. The analysis is presented in Appendix 2.

<sup>23</sup> Statistics provided by Veterans Affairs Canada as of March 6, 2013.

<sup>24</sup> The majority of the 88 remaining totally and permanently incapacitated Veterans were not in receipt of the Extended Earnings Loss benefit or the SISIP Long Term Disability income replacement benefit because they were either receiving the Temporary Earnings Loss Benefit or were not in receipt of income support because they were over the age of 65.

The key finding from the analysis is that there are over 400<sup>25</sup> totally and permanently incapacitated Veterans Affairs Canada Veteran clients who are not in receipt of the New Veterans Charter Permanent Impairment Allowance/Supplement or the *Pension Act* Attendance Allowance or Exceptional Incapacity Allowance, and who have very little to no Canadian Forces pension. When these Veterans lose their Veterans Affairs Canada Extended Earnings Loss Benefit at age 65, they will experience a significant reduction in monthly income support. These most vulnerable, seriously disabled Veterans are at risk of living their retirement years with insufficient income to sustain their pre-age 65 standard of living. In fact, some Veterans are at risk of living their retirement years below the poverty level.<sup>26</sup>

These are not the only at-risk Veterans. SISIP Financial Services reports that there are approximately 1,500 SISIP Long Term Disability Plan Veteran clients considered to be totally disabled and who are expected to remain totally disabled until age 65, at which time their income replacement benefit will also cease.<sup>27</sup> As noted earlier, Veterans Affairs Canada statistics indicate that approximately 666 SISIP Long Term Disability Plan Veteran clients are also Veterans Affairs Canada totally and permanently incapacitated clients. This leaves approximately 834 totally disabled SISIP clients who are not counted in Veterans Affairs Canada's statistics and whose financial situation after age 65 is unclear. A number of these SISIP Long Term Disability Plan totally disabled Veteran clients may also be at risk of living their retirement years with insufficient income to sustain a pre-age 65 standard of living.

**1,500** – Number of Veterans who are assessed to be totally disabled by the SISIP Long Term Disability Plan.

**834** – Number of SISIP Long Term Disability Plan totally disabled Veteran clients who may be at risk of insufficient income support after the age of 65.

### Typical Financial Support Benefits Provided to a Totally and Permanently Incapacitated Veteran Before and After Age 65

The following describes the typical financial support benefits that could be provided under the New Veterans Charter and other government programs to a totally and permanently incapacitated Veteran who was released at the Corporal basic pay rate after four years of service (Scenario 1). While the

25 Figure is approximate.

26 Statistics Canada uses the term “low income cut-off” instead of “poverty level” and defines it as the minimum salary by which a family can maintain a basic standard of living.

27 Statistics provided by the Service Income Security Insurance Plan (SISIP) Financial Services, March 4, 2013. To meet the definition of total disability, the SISIP Long Term Disability client must be incapacitated by a medically determinable physical or mental impairment that is preventing the client from performing any and every duty of any substantially gainful occupation or employment for which he or she is qualified by education, training or experience.

whole-of-government<sup>28</sup> financial support benefits provided in this scenario are typical of those that could be provided to a Veteran under the New Veterans Charter, specific benefit amounts will vary depending on a number of factors, such as:

- Whether the Veteran meets benefit eligibility criteria;
- The assessed level and service relationship of the disability;
- The degree of impairment;
- The number of years of pensionable Canadian Forces service and amount of pre-release salary; and,
- The contributions made to Government of Canada benefit plans.

### Before Age 65 Financial Support

Until this totally and permanently incapacitated Veteran reaches the age of 65, he or she could receive the following monthly New Veterans Charter economic support benefits and other government benefits:<sup>29</sup>

- A taxable monthly Extended Earnings Loss Benefit (or SISIP Long Term Disability Plan income replacement benefit) of 75 percent of pre-release salary (\$3,467 per month), less offsets from prescribed sources of income.<sup>30</sup>
- A taxable Permanent Impairment Allowance that ranges from \$569.76 to \$1,709.27 per month, depending on the assessed grade level.
- A taxable Permanent Impairment Allowance Supplement of \$1,047.53 per month.
- A taxable Canada Pension Plan disability benefit, on average up to \$841.95 per month,<sup>31</sup> provided that eligibility and contributory period requirements are met. *Note that this amount is reduced (offset) from the Extended Earnings Loss Benefit amount above.*
- A taxable deferred Canadian Forces pension at age 60 of approximately \$3,200 per year, which is reduced to approximately \$2,200 per year when the Veteran begins receiving a

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28 Whole-of-government denotes “public service agencies working across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues. Approaches can be formal and informal and can focus on policy development, program management and service delivery.”

29 The Veteran would also be eligible for a disability award as either a tax-free lump sum, annual payment or both to a maximum of \$298,588. This benefit is compensation for pain and suffering and is not an economic support benefit. In addition, if the Veteran suffers a service-related dismemberment, loss of use of a limb or permanent loss of sight, hearing or speech, he or she could be eligible for the Canadian Forces Accidental Dismemberment Insurance Plan lump sum of up to \$250,000. This amount is also not considered to be economic support.

30 Based on 75 percent of a Corporal basic pay rate of \$4,622 per month.

31 This is the average benefit amount based on the October 2012 rate. The maximum amount can be as high as \$1,212.90 if maximum contributions are made to the Plan.

Canada Pension Plan pension at age 65. If the Veteran becomes entitled to the Canada Pension Plan disability benefit, he or she will receive an immediate annuity of approximately \$2,200 per year or \$185 per month.<sup>32</sup> *To note, this amount is also offset from the Extended Earnings Loss Benefit amount above.*

In summary, the Scenario 1 totally and permanently incapacitated Veteran could receive until age 65 up to approximately \$6,200 per month in taxable financial support benefits. However, considering that almost 90 percent of Permanent Impairment Allowance recipients are awarded the lowest grade level (3), the Veteran's monthly taxable financial support benefits until age 65 are more likely to total approximately \$5,000 per month.<sup>33</sup>

Furthermore, considering that 53 percent of totally and permanently impaired Veterans are not awarded a Permanent Impairment Allowance or Supplement,<sup>34</sup> taxable monthly financial support benefits for these Veterans could be as low as approximately \$3,500 per month.<sup>35</sup>

The amount of economic financial support provided to Veterans before the age of 65 is highly variable, depending on eligibility for allowances. The amount of economic financial support is significantly reduced after age 65.

### After-Age 65 Financial Support

At age 65, the Veteran will retain the deferred Canadian Forces pension he or she began receiving at age 60 or earlier, if the Canada Pension Plan disability benefit was approved. If eligible to receive the Permanent Impairment Allowance and Supplement benefits, the Veteran will continue to receive these for life. The Veteran will also be entitled to other Government of Canada benefits such as the Old Age Security pension and the Canada Pension Plan (CPP) retirement pension (in lieu of the CPP disability benefit which ceases at age 65).<sup>36</sup> Finally, the Veteran may be eligible for the Guaranteed Income Supplement if the value of his or her and his or her spouse's annual income, not

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32 Other annuity options are available, such as a reduced annuity at age 50 (referred to as "annual allowance") or a lump sum (referred to as a "transfer value"), which can be provided before the age of 50 but which must be transferred to a locked-in retirement savings vehicle. (Director Casualty Support Management Guide to Benefits, Programs, and Services for Serving and Former CF Members and their Families, December 19, 2012).

33 The difference between \$6,200 per month and \$5,100 per month is the difference between the Permanent Impairment Allowance Grade 1 (\$1,709.27 per month) and Grade 3 (\$569.76 per month).

34 Statistics provided by Veterans Affairs Canada as of March 6, 2013.

35 \$3,500 is calculated as follows: Earnings Loss Benefit  $((\$4,622 \times .75)$  less offsets  $(\$842 + \$185)) = \$2,440 +$  Canada Pension Plan / Canadian Forces annuity  $(\$842 + \$185) = \$3,467$ .

36 The Canada Pension Plan retirement pension may be paid at age 60, with certain conditions. Depending on their income level, Old Age Security pension recipients may be required to repay part or the entire maximum Old Age Security pension amount.



including the Old Age Security pension and Guaranteed Income Supplement, is less than \$16,559 for a single individual or a combined annual income of \$21,887.99 for a couple.<sup>37</sup>

The average amounts of the other Government of Canada benefits, less the Guaranteed Income Supplement, are as follows:

- Canada Pension Plan retirement pension: an average benefit of \$534.65 per month,<sup>38</sup> and,
- Old Age Security pension: a maximum benefit of \$546.07 per month.<sup>39</sup>

Also at age 65, the Veteran's Extended Earnings Loss Benefit ceases and he or she receives the Supplementary Retirement Benefit, a taxable lump sum amount. The amount of the lump sum is dependent on the Veteran's pre-release salary and the number of years the Veteran was in receipt of the Extended Earnings Loss Benefit. For example, a Veteran who receives 40 years of Extended Earnings Loss Benefit based on a Corporal basic pay grade could receive (in 40 years from now) a taxable lump sum Supplementary Retirement Benefit of approximately \$52,000. This amount is insufficient income support to sustain a Veteran during the remaining years of his life.<sup>40</sup>

### Comparison of before and after age 65 monthly financial benefits for Scenario 1

Economic support benefits/superannuation received until age 65:

- Extended Earnings Loss Benefit: \$2,325 (includes offset for Canada Pension Plan and annuity)
- Permanent Impairment Allowance (Grade 3): \$569.76
- Permanent Impairment Allowance Supplement: \$1,047.53
- Canada Pension Plan disability benefit (offset from Earnings Loss Benefit): \$841.95 (average)
- Deferred annuity at age 60 or when approved for Canada Pension Plan disability benefit (offset from Earnings Loss Benefit): \$185 (approximately)

Total before age 65 monthly benefits: **\$4,969.24**  
(\$3,350 if not in receipt of Permanent Impairment Allowance/Permanent Impairment Allowance Supplement)

37 Service Canada. *Table of Benefit Amounts*. Source: <http://www.servicecanada.gc.ca/eng/isp/oas/pdf/sv-oas-rates-apr-jun-2013.pdf>.

38 This is the January to December 2013 average benefit amount. The maximum amount is \$1,012.50 and is based on making maximum contributions to the Plan.

39 March 2013 rate. In its 2012 budget, the Government of Canada introduced measures to gradually change the eligibility age for the Old Age Security program over six years, starting in April 2023. The eligibility age for the Old Age Security pension and the Guaranteed Income Supplement will increase from 65 to 67. The ages at which the Allowance and the Allowance for the Survivor are provided will also increase from 60–64 today to 62–66, starting in April 2023. Anyone born prior to April 1, 1958 will continue to be eligible to receive Old Age Security at the age of 65. Anyone born in year 1963 or later will now be eligible for Old Age Security at the age of 67. Those born in between will be eligible between age 65 and 67.

40 Veterans Affairs Canada's estimates life expectancy to be 79 years for men and 83 years for women.

In summary, and as illustrated in the adjacent example, at age 65, this sample Veteran would receive a one-time lump sum Supplementary Retirement Benefit amount based on the amount and years of Extended Earnings Loss Benefit received, but would experience a reduction in taxable monthly economic support benefits (from all government sources) from approximately \$5,000 per month to approximately \$2,900 per month. The amount of after-age 65 monthly benefits could be even lower for totally and permanently incapacitated Veterans who do not satisfy the eligibility requirements for Veterans Affairs Canada allowances and who have less Canadian Forces pension.<sup>41</sup>

### Establishing a Reasonable Level of Financial Support After Age 65

A 2009 report that summarized the research prepared for the Research Working Group on Retirement Income Adequacy for Federal Provincial Territorial Ministers of Finance, states:

*“...It has typically been suggested that retirement income, including pensions, RRSP or RRIF withdrawals and other sources of income, should be 70 percent of working income....”<sup>42</sup>*

Other studies and opinions by various financial advisors and experts in the field of retirement planning have been published on the subject of the adequacy of retirement income. Conclusions are generally in line with the view expressed above. Public sector pension plans, including the Canadian Forces Pension Plan, accept this 70 percent replacement ratio and have designed their plans around it. Retirement planners use this number to help Canadians prepare their retirement plans. Also, the federal government

### Comparison of before and after age 65 monthly financial benefits for Scenario 1

(continued)

Economic support benefits/superannuation received after age 65:

- Supplementary Retirement Benefit: lump sum depending on amount of Extended Earnings Loss Benefit received
- Permanent Impairment Allowance: \$569.76
- Permanent Impairment Allowance Supplement: \$1,047.53
- Canada Pension Plan retirement benefit: \$528.49 (average)
- Old Age Security benefit: \$546.07 (average)
- Deferred annuity: \$185 (approximately)

Total after-age 65 monthly benefits:

**\$2,876.85 + Supplementary Retirement Benefit**

(lower monthly amount if not in receipt of Permanent Impairment Allowance/Permanent Impairment Allowance Supplement)

41 Depending on the income level of the Veteran and, if applicable, his or her spouse, the Veteran may qualify for the Guaranteed Income Supplement.

42 Mintz, Jack M. *Summary Report on Retirement Income Adequacy Research*, December 18, 2009, p.7. Source: <http://www.fin.gc.ca/activity/pubs/pension/pdf/riar-narr-BD-eng.pdf>.

uses the 70 percent income target in its communications; for example, the online Service Canada personal retirement calculator identifies 70 percent as the desired income replacement rate.<sup>43</sup>

It is reasonable, therefore, to establish the minimum after-age 65 monthly financial support from all government sources that should be provided to totally and permanently incapacitated Veterans at 70 percent of their indexed pre-release salary. This level of support would allow the most vulnerable Veterans whose military careers were cut short because of severe disability and who were unable to engage in suitable gainful employment to maintain the same standard of living they had before their medical release from the Canadian Forces.

This 70 percent ratio is usually based on sources of income from government plans (Canada/Quebec Pension Plan, Old Age Security, Veterans benefits, etc.), employment-related pension plans (such as the Canadian Forces Pension Plan) and personal savings. Because it is difficult to predict how much totally and permanently incapacitated Veterans who are unable to engage in suitable gainful employment will save for retirement, and considering that these Veterans may have little employment-related pension, 70 percent of indexed pre-release salary should be the minimum threshold level upon which to base after-age 65 financial support.

### Options to Address the Insufficiency of Financial Support After Age 65

As discussed earlier, there are at least 15 totally and permanently incapacitated Veteran clients under the New Veterans Charter who have already reached the age of 65. Veterans Affairs Canada also advises that approximately 85 Veterans will be eligible for the after-age 65 Supplementary Retirement Benefit in the next five years.<sup>44</sup> In addition, SISIP Financial Services estimates that approximately 200 of its totally disabled Veteran clients will likely reach the age of 65 in the next five years.<sup>45</sup>

Considering that the number of Veterans Affairs Canada totally and permanently incapacitated and SISIP Long Term Disability Plan totally disabled Veteran clients who will reach the age of 65 in the next five years is relatively low (approximately 285 Veterans) the Government can address the after-age 65 financial support shortcoming in an incremental fashion.

**285** – Number of totally and permanently incapacitated Veterans Affairs Canada and totally disabled SISIP Long Term Disability Plan Veterans who will turn 65 in the next five years.

43 Canadian Retirement Income Calculator. Source: <http://www.servicecanada.gc.ca/eng/isp/common/cricinfo.shtml>

44 Statistics provided by Veterans Affairs Canada, November 13, 2012.

45 Statistics provided by SISIP Financial Services, November 22, 2012.

A number of potential options to address the after-age 65 benefit shortcomings were considered:<sup>46</sup>

1. Implement a new monthly Supplementary Retirement Increment benefit for totally and permanently incapacitated Veterans to top up after-age 65 monthly support benefits and income from prescribed sources to 70 percent of the Veteran's pre-release indexed Canadian Forces salary;
2. Set aside and invest annually<sup>47</sup> five percent of the Earnings Loss Benefit and pay the invested amount to eligible totally and permanently incapacitated Veterans as a redesigned taxable Monthly Supplementary Retirement Benefit Annuity at age 65;
3. Set aside and invest annually a variable percentage of the Earnings Loss Benefit and pay the invested amount to eligible totally and permanently incapacitated Veterans as a redesigned taxable monthly Supplementary Retirement Benefit Annuity at age 65;
4. Increase the amount of the Supplementary Retirement Benefit from two percent to 10 percent of the Earnings Loss Benefit, transfer the amount to a financial institution, and pay the amount as a monthly annuity at age 65;
5. Continue the Extended Earnings Loss Benefit after age 65 for life for totally and permanently incapacitated Veterans, at a reduced rate of 50 percent of pre-release salary.

These options are analyzed in detail in Appendix 3. Option 1 is the option that best addresses the after-age 65 shortcomings. It is described briefly below and further analyzed in Appendix 3.

### **Implement a New Monthly Supplementary Retirement Increment Benefit at Age 65 for Totally and Permanently Incapacitated Veterans**

A new monthly taxable Supplementary Retirement Increment benefit could be provided at age 65 for life to eligible totally and permanently incapacitated Veterans whose total monthly financial benefits and income from prescribed sources are less than 70 percent of their pre-release indexed Canadian Forces salary. The prescribed sources could include monthly financial benefits provided under the New Veterans Charter, *Pension Act* and other government programs, and any reported income.<sup>48</sup>

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46 Other options could be considered such as permitting a totally and permanently incapacitated Veteran in receipt of the Extended Earnings Loss Benefit to rejoin the Canadian Forces Pension Plan until retirement age.

47 Alternatively, the investment could be on a monthly basis, which would increase the rate of return.

48 Reported income includes those sources of monies which are always reportable for income tax purposes.

The new Supplementary Retirement Increment benefit would be provided to totally and permanently incapacitated Veterans at age 65, who were in receipt of the Extended Earnings Loss Benefit. The new benefit would also be provided to Veterans Affairs Canada clients, who were totally disabled SISIP Long Term Disability Plan clients in receipt of the income replacement benefit, and who were assessed by Veterans Affairs Canada to be totally and permanently incapacitated at age 65.<sup>49</sup>

The amount of the increment would be based on an assessment of the value of the Veteran's total monthly benefits and income from prescribed sources in relation to 70 percent of his or her indexed pre-release Canadian Forces salary. If the total monthly financial benefits and income are less than 70 percent of the Veteran's indexed pre-release Canadian Forces salary, then a monthly increment would be provided for life to top up the Veteran's financial benefits and income to the 70 percent threshold. The effect of the increment on vulnerable Veterans in the representative scenarios and the estimated cost are presented in Appendix 3.

This option would provide the most disadvantaged totally and permanently incapacitated Veterans—those with the greatest need for additional financial assistance—with sufficient after-age 65 financial support to allow them to sustain a standard of living based on 70 percent of their indexed pre-release salary. In addition, the new benefit would be given only to those with a need, which is consistent with one of the guiding principles of the New Veterans Charter.<sup>50</sup>

## Earnings Loss Benefit

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**Earnings Loss Benefit:** A monthly taxable income replacement benefit offset by prescribed sources of income (such as the Canada/Quebec Pension Plan, Canadian Forces superannuation and other employment income) that ensures a Veterans' income does not fall below 75 percent of his or her gross pre-release military salary. For the part-time reservist Veteran, the benefit is based on 75 percent of a deemed (standard amount) monthly salary of \$2,700.

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49 Veterans in receipt of the SISIP Long Term Disability Plan income replacement benefit may be eligible for the current New Veterans Charter Supplementary Retirement Benefit if they are approved for the New Veterans Charter rehabilitation program, are assessed by Veterans Affairs Canada to be totally and permanently incapacitated and would have been in receipt of the Earnings Loss Benefit had they not been in receipt of the SISIP Long Term Disability Plan income replacement benefit.

50 *The Canadian Forces Members and Veterans Re-establishment and Compensation Act* (S.C. 2005, c. 21).

To summarize the information presented in the Veterans Ombudsman's review paper *Improving the New Veterans Charter: The Parliamentary Review*, the following items are the main shortcomings of the Earnings Loss Benefit:

- An immediate reduction in income upon medical release from the Canadian Forces can be a barrier to transition to a new civilian life for Canadian Forces members whose military careers ended unexpectedly and prematurely due to injury or illness. The reduction in income can last a lifetime for seriously disabled Veterans who can no longer return to suitable and gainful employment.
- The Earnings Loss Benefit for a former part-time Reserve Force member is calculated on a much lower deemed salary (i.e. one standard amount) than the actual pre-release salary used to calculate the benefit for a former full-time Reserve Force or Regular Force member.
- The annual cost of living increase to the Earnings Loss Benefit is capped at two percent, even though the Consumer Price Index may be higher in a particular year.

### **Impact of the Reduction in Income after Release from the Canadian Forces**

The practice of limiting the Earnings Loss Benefit to a rate of 75 percent of pre-release salary less offsets is based on Treasury Board policy for federal government disability insurance plans. While the rate is the same as the one used by the SISIP Long Term Disability Plan, it is different than the one used by the Public Service Disability Insurance Plan. It is also different than the various rates used by provincial Workers' Compensation Boards to calculate income support benefits.<sup>51</sup>

Regardless of this inconsistency in rates, the reality for many disabled Veterans is that they will experience a reduction in net pay when their Canadian Forces career is unexpectedly and prematurely terminated because of injury or illness. The termination of a military career and way of life is a difficult and stressful time for the Veteran; an unplanned reduction in income at release adds to the stress. The reduction in income has a greater impact on the disabled Veteran who is released at a lower rank and salary level, with no allowances from Veterans Affairs Canada and little or no superannuation annuity.

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51 While the income replacement rate for the SISIP Long Term Disability Plan and the Veterans Affairs Canada Earnings Loss Benefit is 75 percent of pre-release salary, the Public Service Disability Insurance Plan uses 70 percent of the employee's annual salary. Workers' compensation board plans apply rates that vary from 70 to 90 percent of net earnings up to a maximum wage rate.

It should be emphasized that a member of the Canadian Forces who does not meet universality of service requirements<sup>52</sup> cannot be accommodated in another Canadian Forces job at the same pay level, but it is not unusual for these service members who no longer meet universality of service requirements to want to remain in the Canadian Forces as long as possible. They want to retain their salary and financial security, continue to receive the medical care and support provided to them by the Canadian Forces and prolong their sense of belonging to the only organization for which they may have ever worked.

Veterans who do not have to worry about making ends meet during the post-Canadian Forces transition period are more likely to accept to start rehabilitation early and to focus on successful transition to civilian life. Financial security is key to successful vocational rehabilitation. In addition, early intervention is one of the guiding principles of the New Veterans Charter, and it is well documented that the sooner one starts vocational rehabilitation, the better their chances of successful transition to a new civilian career.

Financial security is key to successful vocational rehabilitation.

Furthermore, Veterans who can no longer work may face a lifetime of reduced quality of life because of their disability. Considering the sacrifices they have made for their country, they should not have to experience an additional reduction in quality of life because of a reduced standard of living.

There are a number of Veterans who may experience reduced income after their military careers are terminated because of injury or illness. Veterans Affairs Canada reports that as of March 2013, there were 3,198 Veterans in receipt of the New Veterans Charter Earnings Loss Benefit.<sup>54</sup> In addition to these Veterans, in November 2012 there were approximately 4,800 Veterans who were active SISIP Long Term Disability Plan clients.<sup>55</sup> The income replacement benefit provided to eligible Veterans under the SISIP Long Term Disability Plan is similar to the Earnings Loss Benefit provided by Veterans Affairs Canada.<sup>56</sup>

**8,000**<sup>53</sup> – The number of Veterans eligible to receive income support from either Veterans Affairs Canada or SISIP Financial Services.

52 The principle of universality of service or “soldier first” principle holds that Canadian Forces members are liable to perform general military duties and common defence and security duties, not just the duties of their military occupation. This may include, but is not limited to, the requirement to be physically fit, employable and deployable for general operational duties.

53 This figure is approximate.

54 Statistics provided by Veterans Affairs Canada as of March 2013.

55 Statistics provided by SISIP Financial Services as of November 19, 2012.

56 The New Veterans Charter Earnings Loss Benefit and SISIP Long Term Disability income replacement benefit provide Regular Force and full-time Reserve Force Veterans up to 75 percent of their pre-release salary, less offsets from prescribed sources of income. Offsets include sources of income such as superannuation, Canada/Quebec Pension Plan, employment income, etc.

## Increasing the Earnings Loss Benefit

In its 2009 report<sup>57</sup>, the New Veterans Charter Advisory Group recommended that the Earnings Loss Benefit be provided at 100 percent of Canadian Forces earnings; this would make the income support payment fairer and give Veterans greater financial stability. The Advisory Group also recommended that the Extended Earnings Loss Benefit provided to totally and permanently incapacitated Veterans be based on probable career progression had the Veteran remained in the Canadian Forces.

The Veterans Ombudsman supports providing the Earnings Loss Benefit to eligible Veterans at a rate that allows them to maintain their net pre-release salary during transition from service in the Canadian Forces to a civilian job for those who can return to work, or until age 65 for those who can no longer work. However, the career progression component of income support should continue to be addressed through the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement benefits, which are discussed in the next section.

### Example of effect of increasing the Earnings Loss Benefit to 90 percent of pre-release salary (Scenario 1)

- Current salary of \$4,622/month
- Canada Pension Plan, Employment Insurance and *Canadian Forces Superannuation Act* deductions of \$632/month
- Tax rate of 14 percent (assumes Ontario-based Veteran)
- We calculate the **pre-release net income as:**  
Gross salary – deductions x tax rate  
For example:  
 $(\$4,622 - \$632) \times .86 = \mathbf{\$3,432/month}$
- We calculate the net value of the **Earnings Loss Benefit** based on **90 percent** of pre-release salary as:  
Gross salary x 90 percent x tax rate  
(no Canada Pension Plan/Employment Insurance/ *Canadian Forces Superannuation Act* deductions)  
For example:  
 $\$4,622 \times .90 \times .86 = \mathbf{\$3,577/month}$

Difference between net monthly pre-release salary and the net monthly Earnings Loss Benefit at 90 percent of pre-release salary: **\$145**

To achieve the desired effect with respect to the income support provided to Veterans, the Earnings Loss Benefit should be increased from the current 75 percent to 90 percent of the Veteran's pre-release salary, less applicable offsets, such as superannuation, Canada/Quebec Pension Plan, employment income, etc. This percentage is the same as that used to calculate Workers'

57 New Veterans Charter Advisory Group. *Honouring our Commitment to Veterans and their Families: The Living Charter in Action*, October 2009. Source: [http://legion.ca/\\_PDF/SBureau/NVCAG%20Honouring%20Our%20Commitment%20to%20Veterans%20and%20families%20The%20Living%20Charter%20in%20Action\\_Nov09\\_e.pdf](http://legion.ca/_PDF/SBureau/NVCAG%20Honouring%20Our%20Commitment%20to%20Veterans%20and%20families%20The%20Living%20Charter%20in%20Action_Nov09_e.pdf).



Compensation Board income support benefits in six provinces.<sup>58</sup> Increasing the Earnings Loss Benefit to 90 percent of pre-release salary will provide the Veteran with 100 percent of his or her net pre-release salary. This is because while the Veteran is in receipt of the income support benefit, he or she no longer contributes to Employment Insurance, the Canada/Quebec Pension Plan, and Canadian Forces superannuation.<sup>59</sup> An example of the effect of such an increase is in the example presented earlier in this section.

The minimum salary used to calculate the Earnings Loss Benefit should remain at the Corporal basic pay level, as per the enhancement brought about in October 2011 through New Veterans Charter regulatory amendments related to Bill C-55.<sup>60</sup> The rationale for establishing this level of minimum salary remains reasonable.<sup>61</sup> In addition, the current offsets from the benefit should continue to apply as these too are reasonable, and the practice is consistent with the methodology used by federal disability insurance plans and provincial Workers' Compensation Boards.

Provision of the increased Earnings Loss Benefit should continue to be conditional on active participation in a rehabilitation program, unless the Veteran is assessed to be totally and permanently incapacitated in spite of rehabilitation efforts. Finally, the benefit should cease when the Veteran is able to engage in suitable gainful employment.

There are three advantages to increasing the New Veterans Charter Earnings Loss Benefit (and the SISIP Long Term Disability Plan income replacement benefit) to 90 percent of the Veteran's pre-release salary. First, by maintaining their pre-release net salary during transition from military to civilian life, Veterans should more readily accept their medical release from the Canadian Forces, start rehabilitation early and better concentrate on completing their rehabilitation plan—factors that are determinants of a successful transition. Second, the most seriously disabled Veterans will maintain their pre-release salary and standard of living until age 65, which will eliminate one of the stresses (financial), associated with the inability to work after termination of their military career. Third, this approach is consistent with how six provincial Workers' Compensation Boards calculate the income support benefit provided to disabled workers.

The effect of increasing the Earnings Loss Benefit to 90 percent of pre-release salary and the estimated cost of implementing this measure are analysed in detail in Appendix 4.

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58 For a comparison of Workers' Compensation Board benefits, see *Comparison of Workers' Compensation Benefits and Rehabilitation Services in Canada*, 2012. Source: [http://www.awcbc.org/common/assets/benefits/benefits\\_publication.pdf](http://www.awcbc.org/common/assets/benefits/benefits_publication.pdf)

59 Pre-release salary does not include the environmental allowance, post-living differential allowance and other allowances that may be provided because of the high degree of variability in the amount of allowances payable and eligibility criteria.

60 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations (SOR/2006-50)*.

61 The rationale for setting the minimum salary at a Corporal basic pay rate was to ensure that Canadian Forces members who are released at the lowest rank levels (Private and Officer-Cadet) have an income that approximates the Statistics Canada-reported low income cut-off amount of \$37,000, which is the minimum salary by which a family can maintain a basic standard of living.

## Improving the Earnings Loss Benefit for Part-time Reservists<sup>62</sup>

The Earnings Loss Benefit provided to medically released part-time Reserve Force Veterans is based on 75 percent of a deemed salary (one standard amount) of \$2,700 per month, while the benefit for full-time Reserve Force or Regular Force Veterans is based on 75 percent of their actual pre-release salary or a minimum salary of Corporal basic. This equates to an annual income support, before applicable offsets are deducted, of \$24,300 for the part-time Reserve Force Veteran, regardless of rank, compared to a minimum annual income support of \$41,600 for the full-time Veteran at the Corporal basic salary level. The difference between the two income support levels increases at higher rank and salary levels.

In September 2011, the Canadian Forces Chief of the Defence Staff communicated his vision for the Primary Reserve Force: Reservists are key to the ability of the Canadian Forces to meet Canada's security and defence needs; and the contributions of part-time reservists to operations and to the connection with Canadians are important to the nation and to the communities in which they serve.<sup>63</sup>

Considering the important role of all service personnel, all Veterans who sustain similar illnesses or injuries while serving their country should have access to the same benefits, regardless of the nature of their service and where and when they served. This is a matter of fairness and is consistent with the equitable medical care provided by the Canadian Forces to every reservist whose injury or illness is related to service. It is also consistent with the recent Government decision (December 2012) to provide the same compensation to all Canadian Forces members who suffer a service-related accidental dismemberment, regardless of service component, sub-component or class of Reserve Force service.<sup>64</sup>

The Earnings Loss Benefit provided to part-time Reserve Force Veterans whose injury or illness is related to service should be based on the same salary level as that used to calculate the benefit for full-time Reserve Force and Regular Force Veterans. This will provide part-time Reserve Force Veterans with sufficient income to afford the basic necessities of life.<sup>65</sup> This methodology should also apply to members of the Cadet Organizations Administration and Training Service and the Canadian Rangers who suffer service-related injuries or illnesses, because they too are members of the Canadian Forces.

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62 For the purposes of this discussion on the Earnings Loss Benefit, a part-time Reserve Force member is one who is employed on a Class A or short-term Class B terms of service for a period of less than 180 days per year.

63 Canadian Forces General Message (CANFORGEN) 172/11 CDS 025/11 211449z, September 2011.

64 The Canadian Forces Accidental Dismemberment Plan provides all members of the Canadian Forces, regardless of component, sub-component or class of service, with a tax-free lump sum to a maximum of \$250,000 to compensate for service-related dismemberment, loss of use of a limb or permanent loss of sight, hearing or speech.

65 It should also be noted that part-time Reserves may be eligible for compensation under *Government Employee's Compensation Act*.

It is simply inconsistent to provide injured or ill Veterans who served part-time in the Primary Reserve Force with the same rehabilitation services and vocational assistance as that provided to Veterans who served full-time in the Primary Reserve or Regular Forces, and then deny them the same income support benefit during the rehabilitation period. It is also unfair to restrict eligibility to the Earnings Loss Benefit for members of the Cadet Organizations Administration and Training Service and the Canadian Rangers to a service-related injury or illness suffered only while on Class C terms of service.<sup>66</sup> It is extremely unlikely that Canadian Forces members in these Reserve Force sub-components will ever serve on Class C terms of service. Therefore, the restriction essentially has the same effect as stating that members of these two sub-components of the Reserve Force are not entitled to the Earnings Loss Benefit.

The number of part-time Reserve Force Veterans in receipt of the New Veterans Charter Earnings Loss Benefit and the SISIP Long Term Disability Plan income replacement benefit is very low—less than 30 per year.<sup>67</sup> This is in contrast to the approximately 8,000 New Veterans Charter and SISIP Long Term Disability Plan Veteran clients who are eligible to receive income support. While the Canadian Forces does not track how many of these part-time Reserve Force Veterans were medically released for medical conditions related to service, it is reasonable to assume that some suffered a service-related injury or illness. Therefore, the incremental cost of providing the same income support to part-time Reserve Force Veterans as that provided to full-time Reserve Force and Regular Force Veterans will be a small fraction of the total cost of the Veterans Affairs Canada and SISIP Financial Services income support programs.

### **Amending the Methodology of the Annual Cost of Living Adjustment to the Earnings Loss Benefit**

The practice of capping the annual cost of living adjustment to the New Veterans Charter Earnings Loss Benefit at two percent is based on the practice used by the SISIP Long Term Disability Plan. The latter does not specify why a two percent limit is imposed. Likewise, it is unclear why the Disability Insurance Plan for represented federal government employees limits annual increases to three percent.<sup>68</sup>

The annual cost of living adjustment to the Earnings Loss Benefit should not be capped at an arbitrary percentage rate. Instead, adjustments should be based on actual annual increases in the cost of living as

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66 A member of the Reserve Force is on Class C Reserve service when the member is on full-time service and is serving: (a) with approval by or on behalf of the Chief of the Defence Staff in a Regular Force establishment position or is supernumerary to Regular Force establishment; or (b) on either an operation or an operation of a type approved by or on behalf of the Chief of the Defence Staff. Source: <http://www.admfincs.forces.gc.ca/qro-orf/vol-01/tc-tm-009-eng.asp>.

67 Statistics provided by SISIP FS on November 22, 2012 and Veterans Affairs Canada on November 30, 2012.

68 Treasury Board of Canada Secretariat. *Disability Insurance Plan*. Source: [http://www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/tb\\_865/disinsplan01-eng.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_865/disinsplan01-eng.asp).

measured by the Consumer Price Index. This will allow the income support provided to Veterans to keep pace with increases in the cost of living.

**Permanent Impairment Allowance/Supplement**



**Permanent Impairment Allowance:** A monthly taxable benefit payable for life in three grade levels that compensates for the lack of career opportunities and progression.

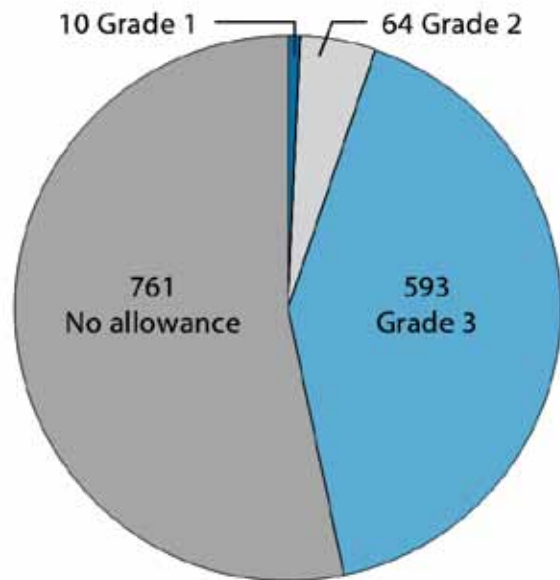
**Permanent Impairment Allowance Supplement:** A monthly supplement that compensates for the inability to perform any occupation that is considered to be suitable gainful employment.



As indicated in the Veterans Ombudsman’s paper *Improving the New Veterans Charter: The Parliamentary Review*, access to the Permanent Impairment Allowance has improved since the enactment of Bill C-55. However, the statistics provided by Veterans Affairs Canada suggest that accessibility to the benefit may continue to be an issue, as described below.

For example, and as shown in Figure 2,<sup>69</sup> almost 90 percent of Permanent Impairment Allowance recipients are awarded the lowest grade level. There is insufficient information to assess whether there is a valid reason for this situation or whether the eligibility criteria for the benefit are too stringent. Also, it is not clear why 761, or 53 percent, of Veterans who are assessed to be totally and permanently incapacitated and who suffer from a permanent physical or mental health problem that prevents them from engaging in suitable gainful employment are not awarded the benefit that is designed to compensate severely and permanently impaired Veterans for a lack of career opportunity and progression. By definition, a totally and permanently incapacitated Veteran is unable to engage in suitable gainful employment,

Figure 2. Breakdown of the number of Totally Permanently Incapacitated Veterans receiving the Permanent Impairment Allowance by Grade



69 All statistics provided by Veterans Affairs Canada as of March 6, 2013.

yet most of these Veterans are not eligible for the very benefit that is designed to compensate them for the lack of career opportunities.

Also, from other statistics provided by Veterans Affairs Canada, it is not clear why approximately 40 percent of the close to 300 totally and permanently incapacitated Veterans who are assessed at a disability level of at least 98 percent, and who are presumably very seriously disabled, are not in receipt of the Permanent Impairment Allowance and Supplement. Finally, the fact that Veterans Affairs Canada does not track the reasons why applications for the Permanent Impairment Allowance and Supplement are denied hampers the ability to conduct a more comprehensive review of the accessibility to these benefits.

The analysis of the options to improve financial support after age 65 in Appendix 3 demonstrates that the financial situation of totally and permanently incapacitated Veterans after age 65 is significantly improved when they are in receipt of the Permanent Impairment Allowance and the Supplement. Therefore, Veterans Affairs Canada needs to conduct a review of this Veteran cohort that is not receiving the Permanent Impairment Allowance and Supplement. If the review indicates that totally and permanently incapacitated Veterans who are in receipt of a disability award and an approved rehabilitation plan for the condition that is causing the total and permanent incapacity are not receiving the allowance and supplement, then the benefits should be provided to them. The modelling and cost analysis of providing the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement benefits to totally and permanently incapacitated Veterans are provided in Appendix 5.

This review by Veterans Affairs Canada would address the issue of accessibility to the benefits. The Office of the Veterans Ombudsman will conduct a separate review to determine whether the rates for the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement are fair economic support for the lack of career progression and the impact on the totally and permanently incapacitated Veteran of the inability to engage in suitable gainful employment.

## Disability Award

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**Disability Award:** A tax-free lump sum, annual payment, or combination of both, that recognizes and compensates for non-economic impacts of a service-related disability such as pain and suffering, functional loss and the effects of a permanent impairment on one's life.

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To recap the information presented in the Veterans Ombudsman's review paper, the main shortcoming with the disability award is that it has not kept pace with two of the original benchmarks upon which the amount was based. Other than annual indexing, the disability award has not been increased since the benefit came into effect in 2006.

As of March 2013, there were 38,380 Veterans in receipt of the disability award. Veterans Affairs Canada estimates that the number of disability award recipients will increase by approximately 5,000 per year over the next 5 years.<sup>70</sup> As detailed in Appendix 2, 73 percent of disability award and disability pension recipients are assessed a disability level of less than 32 percent, while 5 percent are assessed a disability greater than 78 percent.<sup>71</sup>

One of the benchmarks used by Veterans Affairs Canada to develop the Disability Award Program was lump sum amounts awarded by Australia and the United Kingdom to its disabled military personnel. The Veterans Ombudsman is of the opinion that the Department should not establish Veteran benefits based on what other countries provide to their disabled Veterans. There are too many differences in the way countries administer and deliver programs to disabled Veterans, such as different eligibility criteria and different cost of living considerations. Deficiencies with New Veterans Charter benefits require Canadian solutions.

The minimum Veterans Affairs Canada needs to do is to increase the maximum amount of the disability award to at least match the current judicial cap for pain and suffering resulting from injury (non-pecuniary damages) awarded by Canadian courts.<sup>72</sup> This maximum amount is currently \$342,000. Then, considering the unabated controversy within the Veterans community surrounding the adequacy of the disability award, Veterans Affairs Canada needs to conduct research and engage Veterans' stakeholders to determine what the appropriate maximum amount should be to fairly compensate Canadian Forces members and Veterans for pain and suffering resulting from an injury or illness in service to Canada.

In addition to increasing the disability award, VAC should review the adequacy of the amount provided for financial counselling. The \$500 provided for financial counselling has not changed since 2006, and it would be appropriate to determine if it remains adequate.

In the final analysis, the disability award is not income support and does not compensate for economic loss. Therefore, while an increase to the disability award is necessary, it should not be viewed as the

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70 Veterans Affairs Canada Facts and Figures Book, December 2012, p. 27.

71 Statistics provided by Veterans Affairs Canada as of March 2013.

72 *Clost v. Relkie*, [2012] B.C.S.C. 1393. The current maximum is \$342,000.

solution to resolving shortcomings with the New Veterans Charter financial benefits that compensate for the economic impacts of an injury or illness.

Modelling can be found in Appendix 6 of the effect of increasing the disability award to a maximum of \$350,000.

## Summary

There are two objectives to these proposed improvements to the New Veterans Charter financial support benefits. First, and most importantly, the objective is to ensure that economic support is sufficient to enable Veterans to meet their needs during transition to civilian life, or until end of life if required, with minimal reduction in the standard of living they had before their military careers ended unexpectedly and prematurely because of injury or illness. Second, Canadian Forces Veterans should receive non-economic compensation for pain and suffering resulting from a service-related injury or illness that is at least equivalent to the maximum amount that is awarded to Canadians by Canadian courts for pain and suffering.

The effects that the Government of Canada can achieve by implementing these proposed improvements to the New Veterans Charter's financial benefits are as follows:

- The most seriously disabled Veterans are able to live their retirement years with a reasonable standard of living, with after-age 65 financial support that is based on a commonly accepted benchmark for retirement income;
- By maintaining a standard of living during transition from military to civilian life that is similar to that experienced prior to release from the Canadian Forces, and with income support that is adjusted annually based on the Consumer Price Index, Veterans are more likely to accept an early start to rehabilitation. This is a key determinant of transition success. Importantly, the successful transition of disabled Veterans to new careers could serve as a model for the Government of Canada to guide the development of its Public Service disability management initiative;
- Veterans who suffer a service-related injury or illness while on part-time Reserve Force service are treated fairly by receiving the same income support as that received by Veterans who served on full-time Reserve Force service; and,
- Totally and permanently incapacitated Veterans have better access to the benefit that compensates them for the effects that a serious disability has on their ability to work and to achieve career progression.

## Recommendations

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve the New Veterans Charter's economic financial support benefits provided to Veterans by:

1. **Providing additional financial support after age 65 to eligible totally and permanently incapacitated Veterans to ensure that their monthly benefits are no less than 70 percent of their indexed pre-release salary;**
2. **Increasing the Earnings Loss Benefit to 90 percent of pre-release salary;**
3. **Providing the same Earnings Loss Benefit to former part-time Reserve Force members whose injury or illness is related to service;**
4. **Calculating the annual cost of living adjustment to the Earnings Loss Benefit based on actual annual increases in the cost of living as measured by the Consumer Price Index; and,**
5. **Providing the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement benefits to all totally and permanently incapacitated Veterans who are in receipt of a disability award and an approved rehabilitation plan for the condition that is causing the total and permanent incapacity.**

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve the New Veterans Charter non-economic compensation provided to Veterans by:

1. **As a first step, increasing the maximum amount of the disability award to the maximum judicial cap for non-pecuniary damages awarded by Canadian courts;**
2. **Conducting a comprehensive review, including consultations with Veterans' stakeholders, to determine what the appropriate maximum amount should be to fairly compensate Canadian Forces members and Veterans for pain and suffering resulting from an injury or illness in service to Canada; and,**
3. **Reviewing the adequacy of the \$500 provided for financial counselling.**



# VOCATIONAL REHABILITATION AND ASSISTANCE SUPPORT

As prefaced in the Veterans Ombudsman's review entitled, *Improving the New Veterans Charter: The Parliamentary Review*, there are a number of shortcomings with the vocational rehabilitation and assistance support provided to transitioning Veterans. In August 2013, the Ombudsman published a report entitled, *Investing in Veterans Vocational Training*, recommending changes be made to address some of these issues.

Overall, the shortcomings identified by the Ombudsman include:

- The vocational rehabilitation and assistance support is normally limited to building on Veterans' existing skills, experience and training which, when combined with reimbursement limits and duration considerations, constrains education upgrade and employment options;
- Very few Veterans are supported for postsecondary university programs;
- There is inadequate performance measurement to track whether Veterans find employment following completion of a vocational rehabilitation plan and whether they stay employed; and
- Canadian Forces Regular Force members must pay premiums for the SISIP Long Term Disability income support and vocational rehabilitation program, while similar programs are available through Veterans Affairs Canada at no cost. In addition, the dual SISIP Long term Disability/New Veterans Charter income support and vocational rehabilitation program construct can be confusing to releasing Canadian Forces members, and it is unclear whether providing two similar government programs is effective.

Human Resources and Skills Development Canada advises that the Canadian workplace is changing. A recent 2011 projection of job openings in the Canadian labour market over the next 10 years predicts that seven out of every 10 new jobs created are expected to be in high-skilled occupations or in management. The anticipated growth among high-skilled occupations that require college, apprenticeship or university education will be stronger than the growth in low-skilled occupations.<sup>73</sup>

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73 Human Resources and Skills Development Canada. *Canadian Occupational Projection System*. Source: <http://www23.hrsdc.gc.ca/c.4nt.2nt@-eng.jsp?cid=3>.

In its 2013 Budget, the Government of Canada made clear the importance of improving education in fields where there is a high demand from employers, including in science, technology, engineering and skilled trades.<sup>74</sup> The Government expects that shortages in skilled workers will increase in coming years as the economy improves and the population ages.<sup>75</sup> The postsecondary education and skills training system must, therefore, better help Canadians acquire the education and skills they need to get them hired in high-quality and well-paying jobs.<sup>76</sup>

This focus on synchronizing education and training with labour market shortages and evolving employer needs should also be a feature of the vocational rehabilitation and assistance support provided to Veterans. Flexible and responsive vocational rehabilitation and assistance support is a foundational component of the overall support provided to transitioning Veterans under the New Veterans Charter. Getting this support element right is key to helping disabled Veterans successfully transition to civilian life.

Veterans have much to offer employers because of the experiences and abilities they acquire while serving in the Canadian Forces. By addressing the current shortcomings in vocational rehabilitation and assistance support, the Government of Canada will enable Veterans to acquire the skills or higher education they need to build on their experience and abilities and better contribute to the Canadian labour market. Investing in the rehabilitation and re-integration of disabled Veterans is good for Veterans, good for Canadian employers and is fully in line with the Government's strategic objective of improving the economic growth of Canada and prosperity of Canadians.

## Options to Address Shortcomings

### **Increase the Flexibility of Vocational Rehabilitation and Assistance Support and Increase Tuition Support**

The Veterans Ombudsman acknowledges that the New Veterans Charter vocational rehabilitation and assistance support does help Veterans transition to civilian employment. However, the support needs to be improved to provide more flexibility to better prepare Veterans to acquire the education and skills they need for the high-quality and well-paying jobs of today and tomorrow.

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74 Government of Canada. *Economic Action Plan 2013: Jobs, Growth and Long-Term Prosperity*, 2013, p. 5.  
Source: <http://www.budget.gc.ca/2013/doc/plan/toc-tdm-eng.html>.

75 *Ibid.*, p. 39.

76 *Ibid.*, p. 65.

Two of the principles established in the New Veterans Charter Regulations for the provision of rehabilitation support services for transitioning Veterans are that they focus on:

- addressing the needs of the client; and
- building on existing education, skills, training and experience.<sup>77</sup>

These principles suggest that while vocational rehabilitation and assistance support is needs-based, the needs of the Veteran must be linked, in practice, to his or her existing education, skills, training and experience. In addition, New Veterans Charter regulations direct that the rehabilitation plan considers factors such as the cost and duration of the plan.<sup>78</sup> It is not clear what importance Veterans Affairs Canada places on providing vocational rehabilitation and assistance support that focuses on meeting the Veteran's needs for self-fulfillment and aligning these needs to those of the Canadian labour market.

The approach to providing vocational rehabilitation and assistance support to Veterans must be one that stresses flexibility. The support needs to help Veterans optimize their independence and prepare them to realize their full potential in a competitive work environment where skills training and higher education are an increasingly common requirement to satisfy labour market demands. When developing an Individual Vocational Rehabilitation Plan, Veterans Affairs Canada needs to consider Veterans as an investment and place more emphasis on addressing their interests and needs for self-fulfillment, while reducing the emphasis on their prior skills, training and experience, and factors such as reimbursement limits and training duration.

For example, a Veteran who was a traffic technician in the Canadian Forces, but who wants to become an electrician and has the aptitude to do so, should be supported to become an electrician. The Veteran should not be shepherded into a civilian career field that is similar to that of a military traffic technician simply because of his current skills and experience. Similarly, a Veteran who was a medical assistant in the Canadian Forces and who has the aptitude, motivation and health to complete a four-year university program in nursing should not be denied access to the university program simply because the Veteran has previous training and experience that would qualify him or her to become a paramedic more quickly and at lower cost.

It is understood that not every Veteran has the aptitude, motivation or medical condition to pursue a university education or skilled trade training program. Vocational rehabilitation and assistance support should not be provided solely on the basis of a Veteran's desires because supporting an unrealistic desire may inadvertently set him or her up for transition failure. Therefore, while the vocational

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77 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations (SOR/2006-50)*, sec. 8. The other two principles are that the provision of services should involve the family to the extent possible and that the services should be provided as soon as possible.

78 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations (SOR/2006-50)*, sec. 9.

rehabilitation and assistance support criteria of building on existing skills, experience and training needs to be applied more flexibly to allow the Veteran to acquire new skills and higher education, aptitude, motivation and realistic local labour market opportunities should remain important criteria in developing a vocational rehabilitation plan.

In addition to increasing vocational rehabilitation and assistance support flexibility, the funding provided for tuition and associated education costs should be reviewed and increased where necessary. The New Veterans Charter tuition reimbursement limit of \$20,000 for tuition has not kept pace with the SISIP Vocational Rehabilitation Program tuition limit of \$25,000. Also, according to Statistics Canada, the average cost of university education in academic year 2012–2013 was \$5,581, a five-percent increase from the previous year.<sup>79</sup> According to the Canadian Centre for Policy Alternatives, since 1990, average tuition and compulsory fees for undergraduates have risen by 6.2 percent annually, three times the rate of inflation.<sup>80</sup>

These figures indicate that the New Veterans Charter tuition reimbursement ceiling of \$20,000 is insufficient to support participation in a full four-year university degree program at most Canadian universities. As the cost of university education is likely to continue to increase in the future, the gap will continue to widen between the actual cost of tuition and the New Veterans Charter tuition reimbursement ceiling. This needs to be addressed. Reimbursement of other expenditures such as supplies, travel assistance, and child care should also be reviewed to ensure that they too keep pace with rising costs. For more information and analysis regarding vocational rehabilitation and assistance as offered under Veterans Affairs Canada's Rehabilitation Program, please see the Ombudsman's report entitled *Investing in Veterans Vocational Training* published in August 2013.

## Enhancing Partnerships

In recent years, the Canadian Forces has developed partnerships with third-party charities and organizations that help releasing Canadian Forces members find civilian employment, such as Canada Company and True Patriot Love. Veterans Affairs Canada has also developed partnerships with these organizations and others, such as the University of British Columbia Veterans Transition Program and Helmets to Hardhats.

These are very positive initiatives, but more could be done at very little cost to help place Veterans in well paying jobs. Veterans Affairs Canada, in close co-operation with the Department of National Defence, should explore other collaborative opportunities with organizations such as the Retail Council of Canada, the Canadian Association of Defence and Security Industries, and the Aerospace

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79 Statistics Canada. University Tuition Fees, 2011. Source: <http://www.statcan.gc.ca/daily-quotidien/110916/dq110916b-eng.htm>.

80 Macdonald, David and Erika Shaker. Canadian Centre for Policy Alternatives. *Eduflation and the High Cost of Learning*, 2012, p. 6.

Industries Association of Canada, whose employers could benefit from hiring Veterans. Veterans Affairs Canada should also cultivate more partnerships with organizations that specialize in providing job placement, mentorship and internship opportunities. Finally, the Department should develop more affiliations with academic institutions and industry to translate military skills, experience and training into civilian academic equivalencies, apprenticeship accreditation, and civilian career opportunities.

## Performance Measurement

Statistics provided by Veterans Affairs Canada on the number of Veterans who found employment after completion of an Individual Vocational Rehabilitation Plan were incomplete and inadequate to properly measure program effectiveness. The Department can measure program outputs, such as the number of participants in various programs and the cost per participant. However, it has more difficulty measuring the intended program outcome, which is the successful transition to civilian employment. For example, when the vocational rehabilitation service provider closes a file and the Veteran has not been able to find civilian employment, Veterans Affairs Canada cannot consistently confirm whether the Veteran eventually found employment. In addition, the Department does not know whether a Veteran stayed employed after an initial job placement.

Other statistics provided by Veterans Affairs Canada indicate that in fiscal year 2010–2011, 26 percent of Veterans who completed an Individual Vocational Rehabilitation Plan found employment upon completion of the plan and in fiscal year 2011–2012, 41 percent of Veterans who completed an Individual Vocational Rehabilitation Plan found employment upon completion of the plan.<sup>81</sup> The disposition of the other Veterans who completed a plan is unclear, and it is equally unclear whether the Department took steps to provide additional help to those who could not find employment.

Veterans Affairs Canada should improve the performance measurement of the vocational rehabilitation and assistance support it provides to Veterans in order to confirm whether it is successfully transitioning Veterans to civilian life. This recommendation was also made by the Auditor General in his fall 2012 report to the House of Commons on the transition of ill and injured military personnel to civilian life.<sup>82</sup>

It is the responsibility of Veterans Affairs Canada to re-establish Veterans in civilian life. This responsibility should not end with the delivery of vocational rehabilitation and assistance support. The measure of success for the support it provides is a Veteran who achieves suitable and gainful employment. Therefore, the Department needs to be proactive and resolute in its efforts to ensure that Veterans find a good job and stay employed. It needs to do proper follow-up with Veterans to identify transition problems and provide additional assistance if required.

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81 Statistics provided by Veterans Affairs Canada on January 28, 2013.

82 Office of the Auditor General of Canada. *Transition of Ill and Injured Military Personnel to Civilian Life*. Chapter 4. Fall 2012, p. 30. Source: [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201210\\_04\\_e\\_37348.html#hd5b](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201210_04_e_37348.html#hd5b).

This will require tracking and contacting Veterans. In this regard, the implementation of the Veterans identification card can be an enabling tool to facilitate outreach with Veterans in order to pro-actively confirm their employment status and the need for additional transition support. The October 2012 Veterans Ombudsman's report, *Honouring and Connecting with Canada's Veterans: a National Veterans Identification Card*, describes the benefits of the identification card, the opportunities it provides for reaching out to Veterans, and recommendations on how to implement the card.<sup>83</sup>

## Dual Programs

The dual SISIP Long Term Disability/Vocational Rehabilitation Program and New Veterans Charter Earnings Loss Benefit/vocational rehabilitation and assistance support delivery construct should be reviewed by an independent body.

The need to eliminate duplication between the two programs was acknowledged when the New Veterans Charter was enacted in 2005. Between 2007 and 2009, efforts were made by the Department of National Defence/SISIP Financial Services, Veterans Affairs Canada and the Treasury Board Secretariat to harmonize the programs under a single service provider. However, these efforts failed to provide an implementation solution acceptable to all parties.

Since 2009, the Department of National Defence/SISIP Financial Services and Veterans Affairs Canada have worked together to improve interdepartmental communications and collaboration. They are now better coordinating the delivery of vocational rehabilitation and income support services to Veterans to ensure that programs are not duplicated. Both Departments feel that the dual service provider construct works well to support the transitioning Veteran. SISIP Financial Services is the first provider of income support and vocational rehabilitation, while Veterans Affairs Canada provides medical and psychosocial rehabilitation during the time that the Veteran is a SISIP Long Term Disability Plan client. In addition, Veterans Affairs Canada provides a safety net by permitting Veterans who do not medically release from the Canadian Forces to access rehabilitation services if they develop service-related rehabilitation needs<sup>84</sup> later in life or after support from SISIP Financial Services ends.

However, good interdepartmental coordination of programs does not necessarily mean that it is effective to provide two similar Government programs to Veterans. Both SISIP Financial Services and Veterans Affairs Canada have difficulty measuring program outcomes (for example, successful placement of Veterans in civilian jobs). In addition, the cost effectiveness of the dual program construct has never been ascertained. To ensure that government-supported Veterans programs are as effective as possible, a comprehensive review of this dual program construct should be conducted. Considering that past

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83 Veterans Ombudsman. *Honouring and Connecting with Canada's Veterans: a National Veterans Identification Card*, 2012.

84 A service-related rehabilitation need exists if a Veteran has a physical or mental health problem that is creating a barrier to successful re-establishment in civilian life.

interdepartmental reviews have not been productive, it is recommended that an independent review be undertaken to determine once and for all whether the dual program construct is effective or not.

## Summary

The successful transition of a Veteran to a well-paying, productive civilian job after a military-career-ending injury or illness is a key intended outcome of the New Veterans Charter. It is also a major determinant of physical and mental health, well-being, financial security, and quality of personal and family life. Addressing the shortcomings in New Veterans Charter vocational rehabilitation and assistance support will have a much needed positive effect on the transition of Veterans to civilian life.

## Recommendations

As mentioned, the Veterans Ombudsman made recommendations pertaining to the Department's vocational rehabilitation and assistance services as provided under the Department's Rehabilitation Program in his report entitled, *Investing in Veterans Vocational Training*. To reiterate, the Ombudsman recommends that the Minister of Veterans Affairs improve vocational rehabilitation and assistance services provided to Veterans by:

- 1. Instructing the Department to develop appropriate program measurements to effectively monitor Veterans' progression and success in completing their Individual Vocational Rehabilitation Plan, including subsequent employment;**
- 2. Amending the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations to ensure that all costs associated with post-secondary education are paid;**
- 3. Instructing the Department to amend its policies relating to vocational rehabilitation and assistance to ensure that the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* are liberally interpreted with regard to the cost and duration of an Individual Vocational Rehabilitation Plan; and,**
- 4. Instructing the Department to amend its policies relating to vocational rehabilitation and assistance to ensure that the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* are liberally interpreted to allow more flexibility for Veterans to acquire new skills and higher education while also taking into consideration the Veteran's aptitude and motivation in the development of an Individual Vocational Rehabilitation Plan.**

In addition, through further research and analysis relating to the New Veterans Charter in the context of external relationships, the Ombudsman recommends that the Minister of Veterans Affairs improve vocational rehabilitation and assistance services provided to Veterans by:

- 5. Increasing partnership opportunities to better help Veterans obtain good paying civilian jobs, in collaboration with the Minister of National Defence; and,**
- 6. Undertaking an independent review of the dual SISIP Financial Services and Veterans Affairs Canada income support and vocational rehabilitation programs to determine whether the current construct is effective, in collaboration with the Minister of National Defence.**

## FAMILY SUPPORT

To recap the information presented in the Veterans Ombudsman's review paper on the New Veterans Charter, there are numerous shortcomings with the support that Veterans Affairs Canada provides to families, including:

- Insufficient counselling and education on how to cope with and help a Veteran with mental health problems;
- Insufficient assistance to transition the family to community support;
- Reduced childcare support compared to the support provided to families by the Canadian Forces through the Military Family Support Program;
- Insufficient outreach and communication from Veterans Affairs Canada about support available to families. For example, the availability of respite care through the Veterans Independence Program is not well known by families;
- Inadequate follow-up with the families of seriously injured or ill Veterans to confirm whether their needs are being met;
- No access to the Treasury Board Pensioner Dental Service Plan for Veterans (and their families) who are medically released with less than 10 years of service and who do not qualify for an immediate annuity from the Canadian Forces or for the families of Veterans who die with less than two years of service;
- Reduced reimbursement of travel costs, compared to the reimbursement provided by the Canadian Forces, for a spouse who accompanies a Veteran for rehabilitation-related medical/psycho-social treatment appointments; and,



- An overly restrictive time limit (one year) after the death of a Veteran for a surviving spouse to apply for vocational rehabilitation and assistance support. Veterans have no time limit to apply for rehabilitation and vocational assistance if they develop a service-related rehabilitation need. However, surviving spouses do not have the same flexibility after the death of the Veteran.

The objective of the New Veterans Charter is to successfully transition Veterans to civilian life by providing them and their families with the support they need throughout the transition period or longer, if required. Veterans Affairs Canada aims to support transition as early as possible and to ensure a smooth changeover from Canadian Forces to Veterans Affairs Canada care and support.

While Veterans Affairs Canada and the Canadian Forces have different responsibilities and accountabilities with respect to the care and support provided to Canadian Forces members and Veterans, significant progress has been made in recent years to improve the harmonization and coordination of benefits and support programs for injured and ill Canadian Forces members and Veterans. However, less has been done to harmonize the support provided to families.

It is clear that the New Veterans Charter increased Veterans Affairs Canada's capacity to respond to the needs of families when compared to what the Department could provide under the *Pension Act*. However, past reports from expert advisory groups and parliamentary committees recommended that more must be done to address the unmet needs of families, especially those who care for Veterans with severe and complex disabilities.

For example, some spouses or family members put their own careers on hold, either temporarily or permanently, in order to care for a severely disabled Veteran. These spouses or family members can experience health, social and financial problems when caring for these high needs Veterans. The burden of care can, in some instances, be very high and last a lifetime.

Veterans Affairs Canada needs to provide compensation for these spouses or family members in recognition of the sacrifices they make and the beneficial care and support they provide to severely disabled Veterans.

Recommendations to improve support to families have also been made from within Veterans Affairs Canada. The Department's internal *New Veterans Charter Evaluation – Phase I* report published in December 2009 highlighted specific issues with the support provided to families. The report noted that one of the difficulties is that family members are not entitled to direct support from Veterans Affairs Canada as a matter of right. This contributes to confusion about the Department's role in

meeting the needs of families, even though regulations, policy and expected results all identify support to families as an important component of the New Veterans Charter.<sup>85</sup>

Two years after this first evaluation, the *New Veterans Charter Evaluation – Phase III* reported that “...staff are not clear regarding the relationship between families and the New Veterans Charter suite of programs as evidenced by the number of families who accessed treatment benefits and the gap in outreach activities to families.”<sup>86</sup>

The Veterans Ombudsman found no evidence to suggest that Veterans Affairs Canada acted to address the issues raised in these internal evaluations. The fact that Veterans Affairs Canada provides some support and benefits to families does not mean that it embraces a family-focused approach and that it meets the needs of families.

The Canadian Forces understands how vital families are to the operational effectiveness of the men and women in uniform and the support it provides to families is commensurate with this important role. Veterans Affairs Canada officials also appear to understand the importance of families to the successful re-integration of Veterans into civilian life. However, the Department needs to take the extra step of converting this understanding into concrete action that addresses long-standing shortcomings in the support provided to families.

## Options to Address Shortcomings

The options to address the shortcomings in the support provided to families are, for the most part, simple and inexpensive to implement. They include:

- Provide proper counselling and education targeted at families who must cope with and support a Veteran who suffers from a mental health problem;
- Extend access by families to Military Family Resource Centre programs and services for a defined length of time after the medical release of the Canadian Forces member in order to ensure a continuity of family support during the initial stages of transition from military to civilian life;
- Improve access to information and provide proper assistance to families to help them successfully transition to community supports;

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85 Veterans Affairs Canada. *New Veterans Charter Evaluation Phase I*, December 2009, pp. 25–26.

86 Veterans Affairs Canada, *New Veterans Charter Evaluation Phase III*, February 2011, p. 16.  
Source: <http://www.veterans.gc.ca/eng/department/reports/deptaudrep/2010-dec-nvc-eval-ph3/>.

- Harmonize the financial assistance provided to families between Canadian Forces and Veterans Affairs Canada benefit programs;
- Develop a caregiver compensation program to compensate the spouse or family member who acts as the primary caregiver to a seriously disabled Veteran;
- Provide the same access to the Treasury Board Pensioner Dental Service Plan to Veterans and their families as that provided to them by Veterans Affairs Canada for the Public Service Health Care Plan; and,
- Eliminate the time limit for surviving spouses to apply for vocational rehabilitation and assistance support.

By addressing these family support shortcomings, Veterans Affairs Canada will have a significant positive effect on families and will better equip them to help Veterans adjust to their disability and improve the conditions for their successful re-establishment in civilian life.

## Recommendations

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve the support Veterans Affairs Canada provides to the families of Veterans by:

- 1. Providing proper counselling, information, communications and outreach to families;**
- 2. Extending access by families to Military Family Resource Centre programs after the medical release of the Canadian Forces member, in collaboration with the Minister of National Defence;**
- 3. Harmonizing Canadian Forces and Veterans Affairs Canada financial assistance provided to families;**
- 4. Developing a caregiver compensation program to compensate the spouse or family member who acts as the primary caregiver to a seriously disabled Veteran;**
- 5. Providing the same access to the Treasury Board Pensioner Dental Service Plan to Veterans and their families as that provided to them by Veterans Affairs Canada for the Public Service Health Care Plan; and,**
- 6. Eliminating the time limit for surviving spouses to apply for vocational rehabilitation and assistance services.**

# CONCLUSION

This report supports the upcoming parliamentary committee review of the enhancements to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* by presenting options and recommendations to address shortcomings in three New Veterans Charter program areas that directly affect the transition of Veterans from military to civilian life, namely, financial, vocational rehabilitation and assistance, and family support.

Canadian Forces members whose military careers end prematurely because of injury or illness face unique challenges when transitioning from military to civilian life. Unlike other Canadians, they cannot be accommodated in other jobs within the Canadian Forces—they must make new lives for themselves, often in an unfamiliar environment. Despite recent enhancements to the New Veterans Charter, there remain numerous shortcomings with the programs designed to help these injured or ill Veterans transition to civilian life.

This report puts considerable emphasis on the need to address shortcomings in the economic financial support provided to Veterans. It is also important to increase compensation for pain and suffering to at least match the level of compensation afforded to other Canadians by Canadian courts. However, the need for action is especially urgent to improve the financial support provided to Veterans who are at risk of not having sufficient income after the age of 65. The economic support provided to these Veterans must be sufficient to enable them to live their retirement lives with minimal reduction in the standard of living they had before their military careers ended unexpectedly and prematurely because of injury or illness. Finally, improvements are also required to vocational rehabilitation and assistance support and support to families to facilitate transition success.

In the final analysis, the Government of Canada needs to provide Canadian Forces members who are unable to continue their military careers because of injury or illness with the support they need to make new lives for themselves. By addressing the shortcomings identified in this report, Government will make a significant difference for injured or ill Veterans and their families. It will also send a strong message that it is steadfast in its resolve to uphold the founding principle of the New Veterans Charter, a “living” Charter that will be continually improved to meet the unmet and evolving needs of Veterans and their families.

# RECOMMENDATIONS

## Financial Support

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve the New Veterans Charter's economic financial support benefits provided to Veterans by:

1. **Providing additional financial support after age 65 to eligible totally and permanently incapacitated Veterans to ensure that their monthly benefits are no less than 70 percent of their indexed pre-release salary;**
2. **Increasing the Earnings Loss Benefit to 90 percent of pre-release salary;**
3. **Providing the same Earnings Loss Benefit to former part-time Reserve Force members whose injury or illness is related to service;**
4. **Calculating the annual cost of living adjustment to the Earnings Loss Benefit based on actual annual increases in the cost of living as measured by the Consumer Price Index; and,**
5. **Providing the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement benefits to all totally and permanently incapacitated Veterans who are in receipt of a disability award and an approved rehabilitation plan for the condition that is causing the total and permanent incapacity.**

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve the New Veterans Charter non-economic compensation provided to Veterans by:

1. **As a first step, increasing the maximum amount of the disability award to the maximum judicial cap for non-pecuniary damages awarded by Canadian courts;**
2. **Conducting a comprehensive review, including consultations with Veterans' stakeholders, to determine what the appropriate maximum amount should be to fairly compensate Canadian Forces members and Veterans for pain and suffering resulting from an injury or illness in service to Canada; and,**
3. **Reviewing the adequacy of the \$500 provided for financial counselling.**

## Vocational Rehabilitation and Assistance Support

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve vocational rehabilitation and assistance support to Veterans by:

1. Instructing the Department to develop appropriate program measurements to effectively monitor Veterans' progression and success in completing their Individual Vocational Rehabilitation Plan, including subsequent employment;
2. Amending the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* to ensure that all costs associated with post-secondary education are paid;
3. Instructing the Department to amend its policies relating to vocational rehabilitation and assistance to ensure that the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* are liberally interpreted with regard to the cost and duration of an Individual Vocational Rehabilitation Plan; and,
4. Instructing the Department to amend its policies relating to vocational rehabilitation and assistance to ensure that the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* are liberally interpreted to allow more flexibility for Veterans to acquire new skills and higher education while also taking into consideration the Veteran's aptitude and motivation in the development of an Individual Vocational Rehabilitation Plan.
5. Increasing partnership opportunities to better help Veterans obtain good paying civilian jobs, in collaboration with the Minister of National Defence; and,
6. Undertaking an independent review of the dual SISIP Financial Services and Veterans Affairs Canada income support and vocational rehabilitation programs to determine whether the current construct is effective, in collaboration with the Minister of National Defence.

## Family Support

The Veterans Ombudsman recommends that the Minister of Veterans Affairs improve family support to Veterans by:

1. **Providing proper counselling, information, communications and outreach to families;**
2. **Extending access by families to Military Family Resource Centre programs after the medical release of the Canadian Forces member, in collaboration with the Minister of National Defence;**
3. **Harmonizing Canadian Forces and Veterans Affairs Canada financial assistance provided to families;**
4. **Developing a caregiver compensation program to compensate the spouse or family member who acts as the primary caregiver to a seriously disabled Veteran;**
5. **Providing the same access to the Treasury Board Pensioner Dental Service Plan to Veterans and their families as that provided to them by Veterans Affairs Canada under the Public Service Health Care Plan; and,**
6. **Eliminating the time limit for surviving spouses to apply for vocational rehabilitation and assistance services.**

# Appendix 1 – Reports and Audits Recommending Improvements to the New Veterans Charter

- ANAVets 49<sup>th</sup> Biennial Dominion Convention: Resolutions, October 2008.
- Department of Veterans Affairs *New Veterans Charter Evaluation Phases I, II and III*: December 2009 – August 2010.
- Interim report of the Standing Senate Subcommittee on Veterans Affairs, *A Study of the New Veterans Charter*: March 2013.
- Report of the Auditor General of Canada to the House of Commons, Chapter 4, *Transition of Ill and Injured Military Personnel to Civilian Life*: Fall 2012.
- Royal Canadian Legion 42<sup>nd</sup>, 43<sup>rd</sup> and 44<sup>th</sup> Dominion Conventions: Comments on Resolutions: June 2008 – June 2012.
- Special Needs Advisory Group reports 1 to 4: January 2006 to January 2009.
- The House of Commons Standing Committee on Veterans Affairs report *Support for Veterans and Other Victims of PTSD and Other OSIs*: June 2007.
- The House of Commons Standing Committee on Veterans Affairs report *Resetting the Bar for Veterans Health Care: VIP and Veterans Health Care Review*: May 2008.
- The House of Commons Standing Committee on Veterans Affairs report *Shared Experiences: Comparison of Veteran Services Offered by Members of the Commonwealth and the G8*: June 2009.
- The House of Commons Standing Committee on Veterans Affairs report *A Timely Tune-Up For The Living New Veterans Charter*: June 2010.
- The House of Commons Standing Committee on Veterans Affairs report *Improving Services to Improve Quality of Life for Veterans and Their Families*: May 2012.
- The New Veterans Charter Advisory Group report *The “Living Charter” in Action*: October 2009.



## Appendix 2 – Identifying the At Risk Totally and Permanently Incapacitated Veterans Cohort

This appendix summarizes the Office of the Veterans Ombudsman’s analysis of statistical information provided by Veterans Affairs Canada and SISIP Financial Services to determine the number of totally and permanently incapacitated and totally disabled Veterans who are at risk of not having sufficient income after the age of 65 to sustain their pre-age 65 standard of living.

The analysis concludes that of the 1,428 Veterans Affairs Canada clients who are totally and permanently incapacitated, over 400 Veterans are at risk of not having sufficient retirement income when their Extended Earnings Loss Benefit ceases at age 65. This is approximately 30 percent of the totally and permanently incapacitated Veteran cohort.

There are also SISIP Long Term Disability Plan totally disabled Veteran clients who may be at risk of not having sufficient retirement income when their income replacement benefit ceases at age 65. Statistics indicate that there are approximately 1,500 totally disabled SISIP Long Term Disability Plan Veteran clients. Out of this number, 666 are also Veterans Affairs Canada clients and are included in the 1,428 totally and permanently incapacitated cohort. This leaves over 800 SISIP Long Term Disability Plan totally disabled Veteran clients who will lose their income replacement benefit at age 65. The Office of the Veterans Ombudsman does not have sufficient information to determine whether some or all of these more than 800 Veterans are Veterans Affairs Canada clients and how many are at risk of not having sufficient income support to sustain their pre-age 65 standard of living.

The figures that follow provide a breakdown of the totally and permanently incapacitated Veteran demographics.

Figure 3. Veterans Demographics

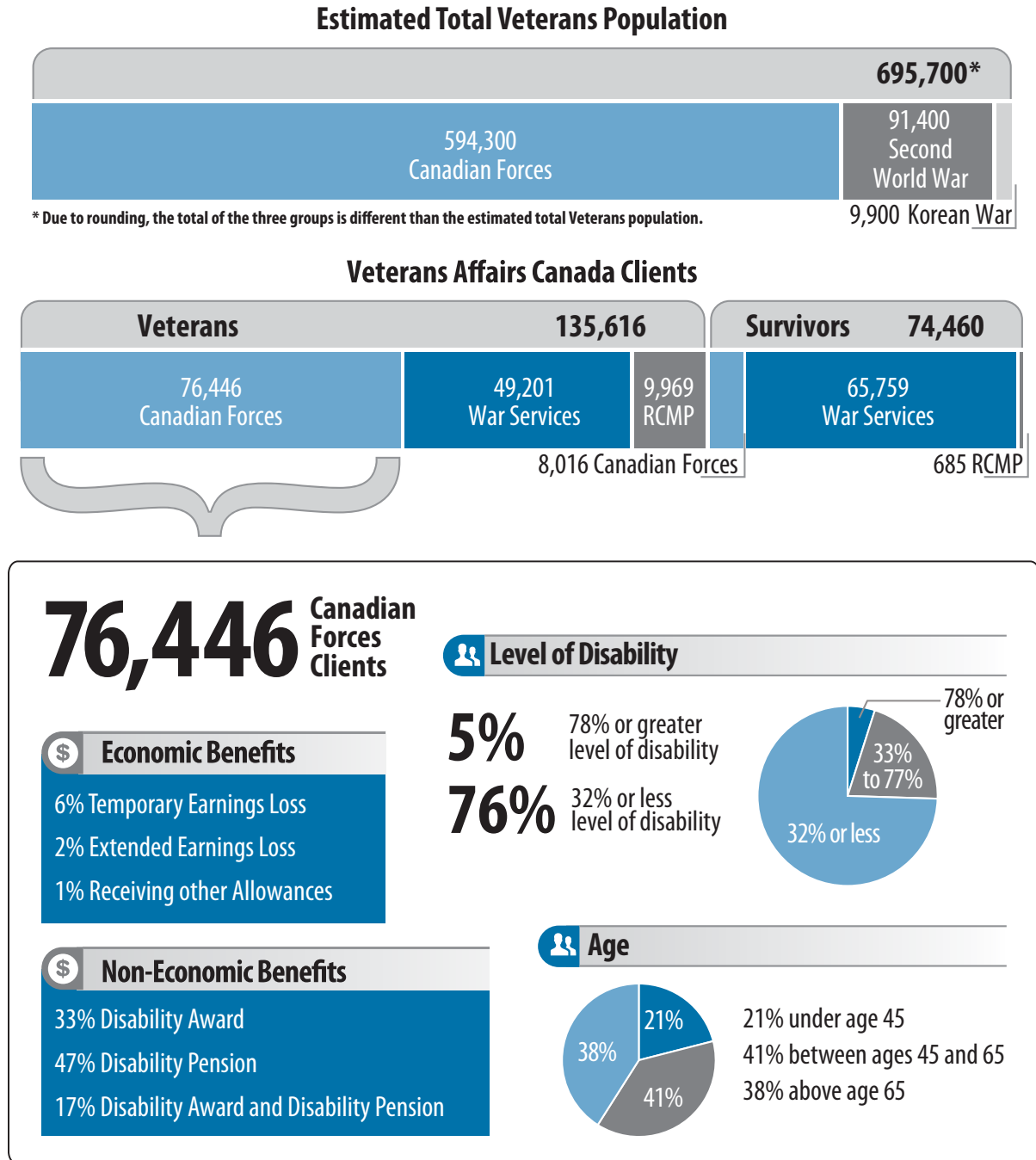


Figure 4. Demographics of Totally and Permanently Incapacitated Veterans

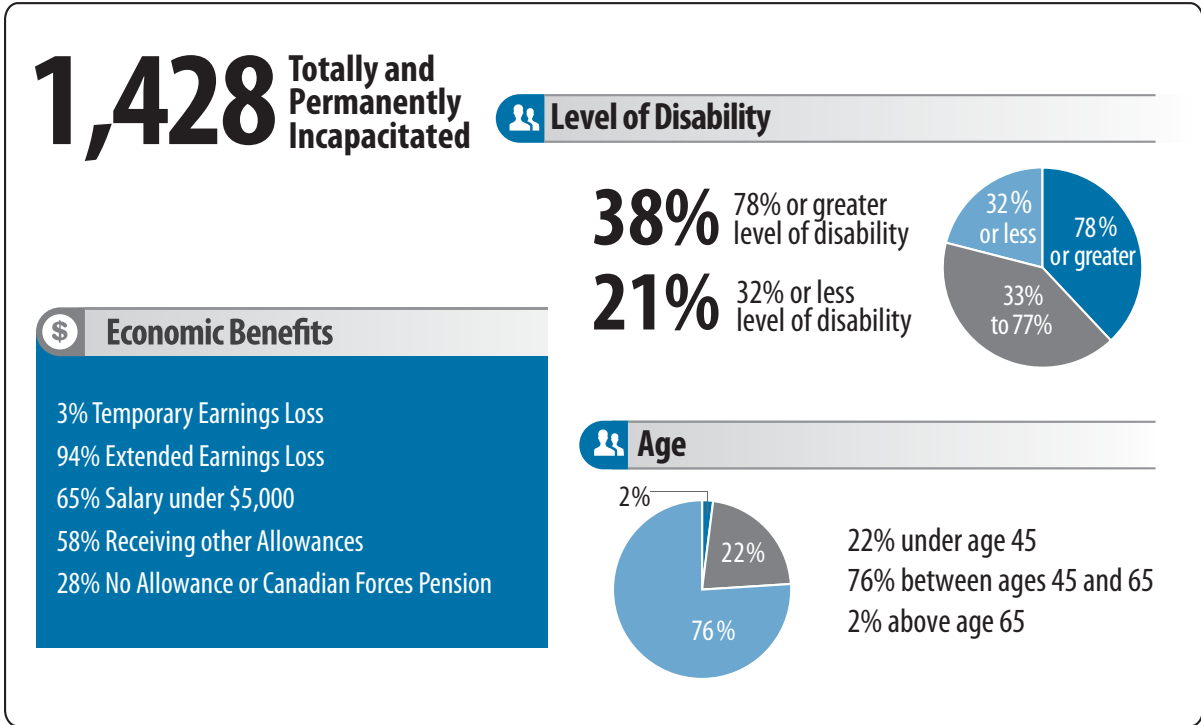
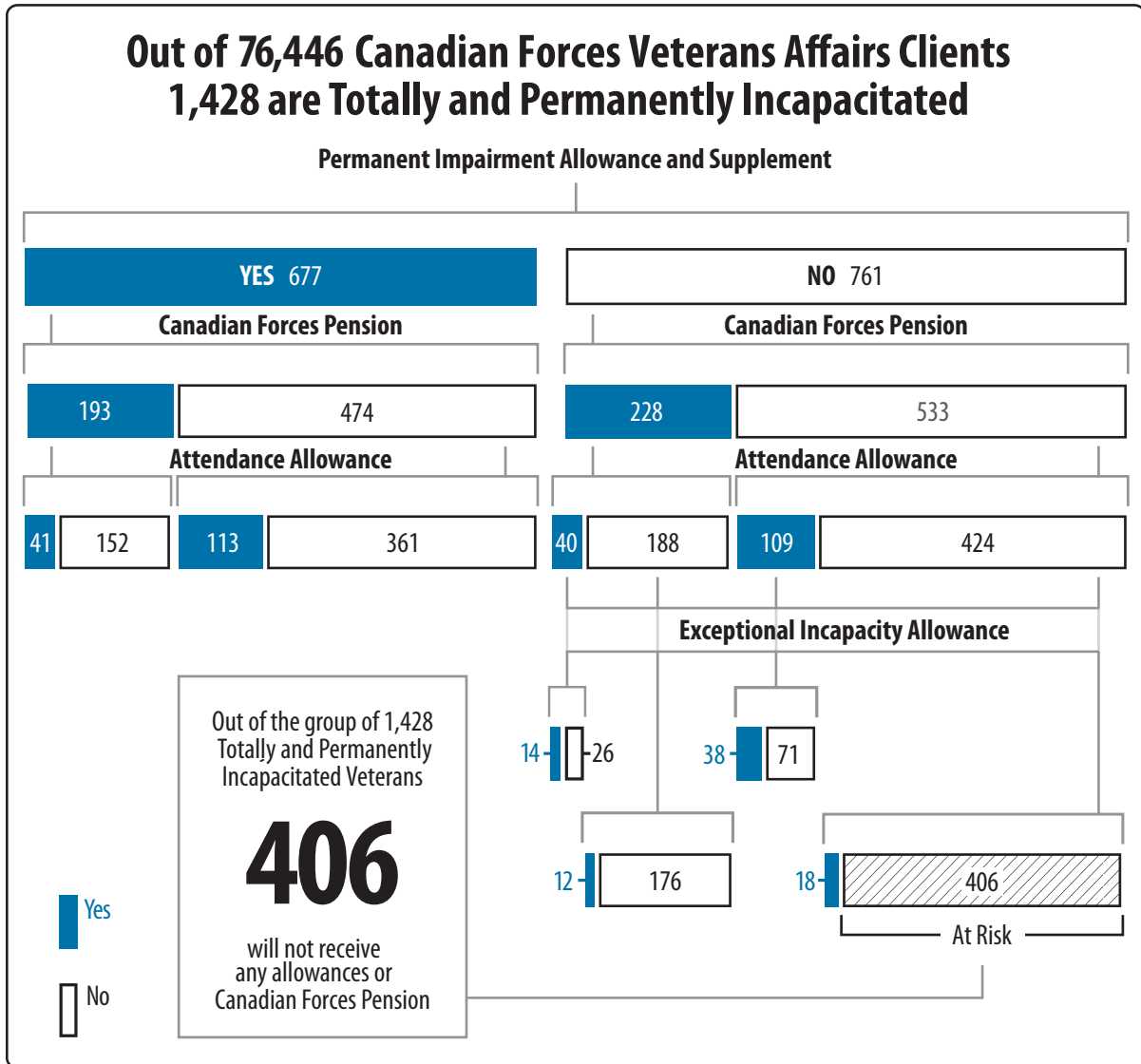


Figure 5. Demographics of Service Income Security Insurance Plan (SISIP) Long Term Disability Clients



Figure 6. At Risk Totally and Permanently Incapacitated Veterans



# Appendix 3 – Improving Financial Support After Age 65

This appendix includes a detailed analysis of five options to improve the financial support provided to Veterans after age 65 by modelling the options in relation to the five representative scenarios.

## Scenarios

A recap of the five scenarios used to model the options<sup>87</sup> is provided below:

Figure 7. Summary of scenarios

Scenario	Disability Assessment (in percent)	Age	Rank	Years of Service	Salary (in dollars)	Gender
1	80	24	Corporal	4	55,464	Male
2	100	47	Major	29	110,640	Female
3	40	30	Captain	10	81,276	Male
4	95	35	Sergeant	15	63,720	Male
5	50	40	Corporal	5	56,286	Female

### Option 1: Implementing a new monthly Supplementary Retirement Increment benefit

A new monthly taxable Supplementary Retirement Increment benefit could be provided for life to totally and permanently incapacitated Veterans whose total after-age 65 monthly financial benefits and income from prescribed sources are less than 70 percent of their pre-release indexed Canadian Forces salary.<sup>88</sup> The prescribed sources could include monthly financial benefits provided under the New Veterans Charter, *Pension Act* and other government programs and any reported income.<sup>89</sup>

87 The same scenarios are used in subsequent appendices to model options to improve other financial support benefits provided to Veterans.

88 As explained earlier in the report, this 70 percent rate is based on a well-recognized benchmark for the level of retirement income required to sustain the same standard of living as that enjoyed before retirement.

89 Reported income includes those sources of monies which are always reportable for income tax purposes.

The amount of the increment would be based on an assessment of the Veteran's total monthly financial benefits and income from prescribed sources in relation to 70 percent of his or her indexed pre-release Canadian Forces salary. If the total monthly financial benefits and income are less than 70 percent of the Veteran's indexed pre-release Canadian Forces salary, then a monthly increment would be provided to top up the Veteran's financial benefits and income to the 70 percent threshold.

Of the five options, the Supplementary Retirement Increment option is the best way to address the after-age 65 financial support shortcoming. It provides the most disadvantaged totally and permanently incapacitated Veterans, those with the greatest need for additional financial assistance, with sufficient after-age 65 financial support to allow them to sustain a standard of living based on 70 percent of their indexed pre-release salary.

### **Modelling of Option 1: Implementing a New Supplementary Retirement Increment benefit**

The following figures illustrate the effects of the proposed new Supplementary Retirement Increment benefit in relation to the five representative scenarios. In all scenarios, when the Veteran is not in receipt of the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement, the amount required to top up the Veteran's monthly financial benefits and income to 70 percent of pre-release salary is greater than the amount required if the Veteran were in receipt of these allowances. The impact of the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement on the Veteran's after-age 65 financial situation is significant and is analyzed in greater detail in Appendix 5.

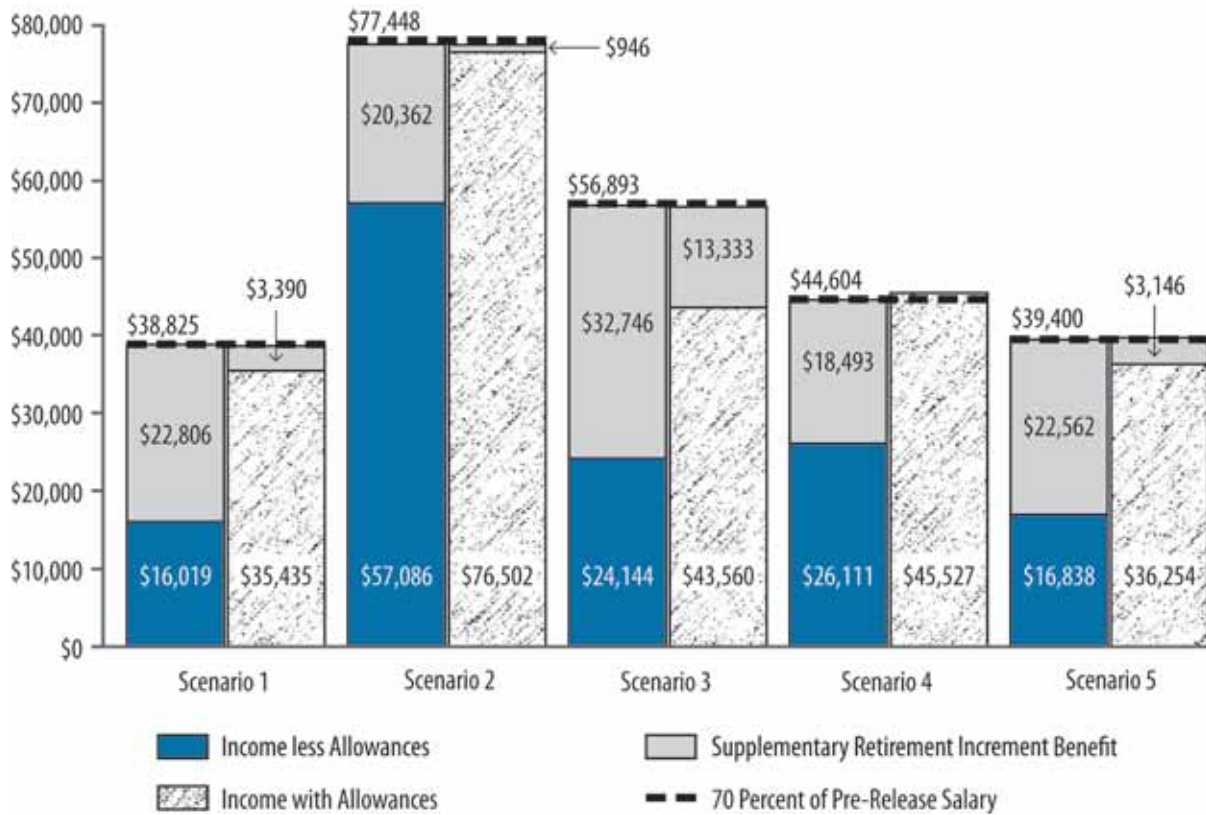
Figure 8. Amount of Supplementary Retirement Increment required to achieve 70 percent of indexed pre-release salary (with and without allowances) after age 65<sup>90,91</sup>

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
70 percent of gross pre-release salary benchmark		\$38,825	\$77,448	\$56,893	\$44,604	\$39,400
Current gross annual income after age 65 <sup>90</sup> without allowances		\$16,019	\$57,086	\$24,144	\$26,111	\$16,838
Current gross annual income with allowances <sup>91</sup>		\$35,435	\$76,502	\$43,560	\$45,527	\$36,364
Amount of Supplementary Retirement Increment required to achieve the benchmark without allowances	Annual	\$22,806	\$20,362	\$32,749	\$18,493	\$22,562
	Monthly	\$1,900	\$1,697	\$2,729	\$1,541	\$1,880
Amount of Supplementary Retirement Increment required to achieve the benchmark if the Veteran is in receipt of allowances	Annual	\$3,390	\$946	\$13,333	\$0	\$3,036
	Monthly	\$282	\$78	\$1,111	\$0	\$253

90 Annual gross income includes Canadian Forces pension, Old Age Security benefit and Canada Pension Plan retirement pension.

91 Throughout this appendix, the term "Allowances" means the Permanent Impairment Allowance (Grade 3) and the Permanent Impairment Allowance Supplement.

Figure 9. Amount of annual Supplementary Retirement Increment required to achieve 70 percent of indexed pre-release salary (with and without allowances) after age 65



### Estimated Cost of Option 1: Implementing a New Supplementary Retirement Increment Benefit

The Office of the Veterans Ombudsman has insufficient statistical information regarding Veterans’ demographics (in particular, years of service) to estimate the total implementation cost to Government on this option. However, it is possible to estimate the cost of implementing the option for each individual representative scenario. Figure 10 estimates the actuarial present value cost of providing a Supplementary Retirement Increment to the sample Veterans, depending on whether the Veteran is or is not in receipt of allowances. The actuarial present value estimates the present value (expected total cost) of the benefit that is payable in the future, taking into account inflation, interest, indexing and life expectancy.



Figure 10. Estimated cost of implementing a new Supplementary Retirement Increment Benefit

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Cost of Supplementary Retirement Increment based on annual after age 65 income without allowances	\$144,773	\$194,434	\$402,877	\$142,321	\$194,953
Cost of Supplementary Retirement Increment based on annual after age 65 income with allowances	\$21,518	\$9,030	\$265,961	\$0	\$27,183

### Option 2: Providing a Supplementary Retirement Benefit Annuity based on investing 5 percent of the Earnings Loss Benefit<sup>92</sup>

Veterans Affairs Canada could set aside annually an amount equal to 5 percent of the Earnings Loss Benefit that would be payable to a totally and permanently incapacitated Veteran, invest the amount at an appropriate interest rate,<sup>93</sup> and pay the invested amount monthly as a taxable Supplementary Retirement Benefit Annuity. The amount that is set aside and invested would be in addition to the monthly Earnings Loss Benefit provided to the Veteran. The annuity would be paid at age 65 to totally and permanently incapacitated Veterans whose Earnings Loss Benefit ceased.

This option is similar to the methodology used by six provincial Workers' Compensation Boards that set aside and invest a percentage of the income support paid to the disabled worker, and then provide the invested amount as a retirement annuity at age 65. Five percent of the Earnings Loss Benefit was selected because this rate is used by the majority of the six provincial Workers' Compensation Boards.<sup>94</sup>

The Supplementary Retirement Benefit would therefore be redesigned from a one-time lump sum amount to a monthly annuity. Should the totally and permanently incapacitated Veteran return to work before age 65, the invested amount could be paid as a monthly annuity for life at age 65 or as an immediate lump sum when the Veteran returns to work.

92 Alternatively, the amount could be invested on a monthly basis, which would marginally increase the rate of return. Note that the modelling for this option assumes an investment on an annual basis.

93 For modelling purposes, an investment rate of 4 percent was selected.

94 For a comparison of Workers' Compensation Board benefits, see: [http://www.awcbc.org/common/assets/benefits/benefits\\_publication.pdf](http://www.awcbc.org/common/assets/benefits/benefits_publication.pdf).

Option 2 will also have to apply to SISIP Long Term Disability Plan totally disabled Veteran clients who remain totally disabled until age 65 and who are assessed by Veterans Affairs Canada to be totally and permanently incapacitated. Either SISIP Financial Services adopts the option or, alternatively, Veterans Affairs Canada sets aside and invests 5 percent of the SISIP Long Term Disability Plan income replacement amount provided to SISIP clients. This alternative is only feasible if SISIP Financial Services shares its financial information on SISIP Long Term Disability Plan clients with Veterans Affairs Canada.

### **Modelling of Option 2: Providing a Supplementary Retirement Benefit Annuity based on investing 5 percent of the Earnings Loss Benefit annually**

This option provides considerably more financial support to totally and permanently incapacitated Veterans at age 65 than the current Supplementary Retirement Benefit lump sum based on 2 percent of the Earnings Loss Benefit. For example, the Veteran in Scenario 1 would receive at age 65 (40 years from now) a Supplementary Retirement Benefit lump sum of approximately \$52,000. Under this Supplementary Retirement Benefit Annuity option, the same Veteran would receive at age 65 (again, 40 years from now) a Supplementary Retirement Benefit Annuity of approximately \$1,584<sup>95</sup> per month (\$19,012 per year), for life.

As illustrated in Figures 11 and 12, there are two drawbacks with this option. First, it provides less after-age 65 financial support to the totally and permanently incapacitated Veteran who joined the Canadian Forces at an older age (Scenario 5). This is because for the older Veteran, there are fewer years of investment of the Earnings Loss Benefit compared to the totally and permanently incapacitated Veteran who receives the Earnings Loss Benefit at a younger age.

Second, in all five scenarios, when a totally and permanently incapacitated Veteran is not entitled to Veterans Affairs Canada allowances, the Supplementary Retirement Benefit Annuity does not provide sufficient financial support to achieve the 70 percent of indexed pre-release salary benchmark. Conversely, in cases where a totally and permanently incapacitated Veteran is entitled to Veterans Affairs Canada allowances, in four of the five scenarios the Supplementary Retirement Benefit Annuity increases the Veterans' after-age 65 financial support over the 70 percent of indexed pre-release salary benchmark.

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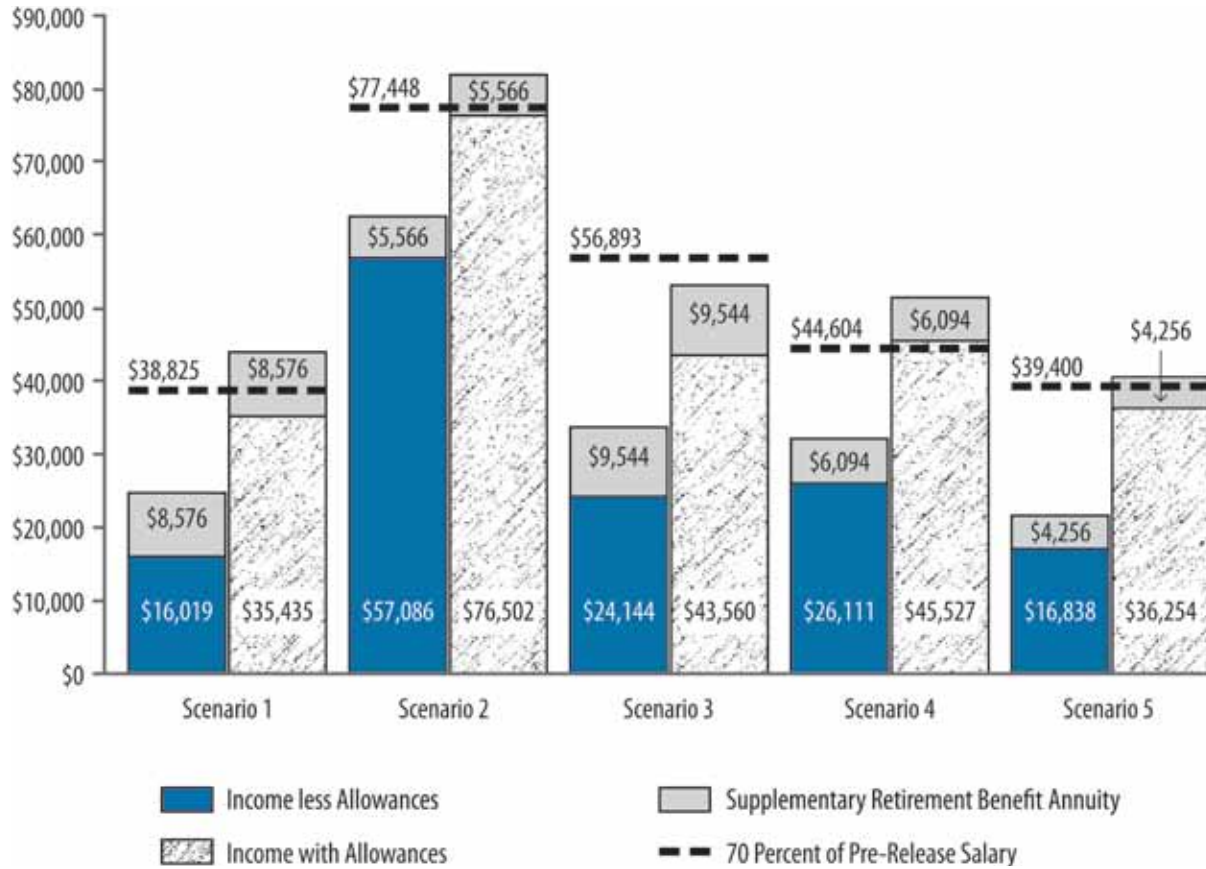
95 The current annual value of the annuity based on 5 percent of Earnings Loss Benefit invested until age 65 is \$7,635. The amount received in 40 years from now is \$19,012 or \$1,584 per month.

Figure 11. Supplementary Retirement Benefit Annuity to 70 percent of indexed pre-release salary

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	
A	70 percent of gross pre-release salary benchmark	\$38,825	\$77,448	\$56,893	\$44,604	\$39,400	
B	<b>No Allowances</b> <sup>96</sup> Current gross annual income after age 65	\$16,019	\$57,086	\$24,144	\$26,111	\$16,838	
C	<b>With Allowances</b> Current gross annual income after age 65	\$35,435	\$76,502	\$43,560	\$45,527	\$36,364	
D	Annuity based on 5 percent of Earnings Loss Benefit invested annually until age 65	Annual	\$8,576	\$5,566	\$9,544	\$6,094	\$4,256
		Monthly	\$715	\$664	\$795	\$508	\$355
B + D - A	<b>No Allowances</b> Difference between annual income plus annuity and 70 percent benchmark	Annual	<b>-\$14,230</b>	<b>-\$14,796</b>	<b>-\$23,205</b>	<b>-\$12,399</b>	<b>-\$18,306</b>
		Monthly	<b>-\$1,186</b>	<b>-\$1,233</b>	<b>-\$1,934</b>	<b>-\$1,033</b>	<b>-\$1,526</b>
C + D - A	<b>With Allowances</b> Difference between annual income plus annuity and 70 percent benchmark	Annual	\$5,186	\$4,620	<b>-\$3,789</b>	\$7,017	\$1,220
		Monthly	\$432	\$385	<b>-\$316</b>	\$585	\$102

96 Annual gross income includes Canadian Forces pension, Old Age Security benefit and Canada Pension Plan retirement pension.

Figure 12. Supplementary Retirement Benefit Annuity and gross annual income (with and without allowances) compared to 70 percent of indexed pre-release salary



**Estimated Cost of Option 2: Providing a Supplementary Retirement Benefit Annuity based on investing 5 percent of the Earnings Loss Benefit**

The Office of the Veterans Ombudsman has insufficient statistical information regarding Veterans’ demographics (in particular, years of service) to estimate the total implementation cost to Government on this option. However, it is possible to estimate the cost of implementing the option for each individual representative scenario. Figure 13 estimates the actuarial present value cost of providing a Supplementary Retirement Benefit Annuity to the sample Veterans, based on investing annually 5 percent of the Earnings Loss Benefit. The actuarial present value estimates the present value (expected total cost) of the benefit that is payable in the future taking into account inflation, interest, indexing and life expectancy.

Figure 13. Estimated cost of Option 2 providing a Supplementary Retirement Benefit Annuity based on investing 5 percent of the Earnings Loss Benefit

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Cost of Supplementary Retirement Benefit Annuity based on investing 5 percent of the Earnings Loss Benefit	\$57,059	\$60,397	\$74,972	\$52,477	\$40,237

### **Option 3: Providing a Supplementary Retirement Benefit Annuity based on investing a variable percentage of the Earnings Loss Benefit**

An alternative to Option 2 would be to vary the percentage of the Earnings Loss Benefit invested annually depending on the financial situation of the totally and permanently incapacitated Veteran. The percentage of Earnings Loss Benefit invested annually would vary such that at age 65 the Veteran is provided a monthly Supplementary Retirement Benefit Annuity amount that “tops up” his or her financial benefits and income from prescribed sources to a maximum of 70 percent of his or her indexed pre-release Canadian Forces salary.

The Office of the Veterans Ombudsman has developed a tool to determine the percentage of Earnings Loss Benefit that should be invested depending on various Veteran-specific parameters. The percentage of Earnings Loss Benefit to be invested is calculated based on parameters such as age, years of service, amount of pre-release salary, whether or not the Veteran is in receipt of allowances, etc. The result is the amount of monthly Supplementary Retirement Benefit Annuity that is to be provided to the Veteran at age 65 to “top up” his or her financial benefits and income from prescribed sources to a maximum of 70 percent of his or her indexed pre-release Canadian Forces salary.

As with Option 2, this option will also have to apply to SISIP Long Term Disability Plan totally disabled Veteran clients who remain totally disabled until age 65 and who are assessed by Veterans Affairs Canada to be totally and permanently incapacitated. Either SISIP Financial Services adopts the option or, alternatively, Veterans Affairs Canada sets aside and invests the appropriate percentage of the SISIP Long Term Disability Plan income replacement amount provided to SISIP clients. This alternative is only feasible if SISIP Financial Services shares its financial information on SISIP Long Term Disability Plan clients with Veterans Affairs Canada.

### Modelling of Option 3: Providing a Supplementary Retirement Benefit Annuity based on investing a variable percentage of the Earnings Loss Benefit

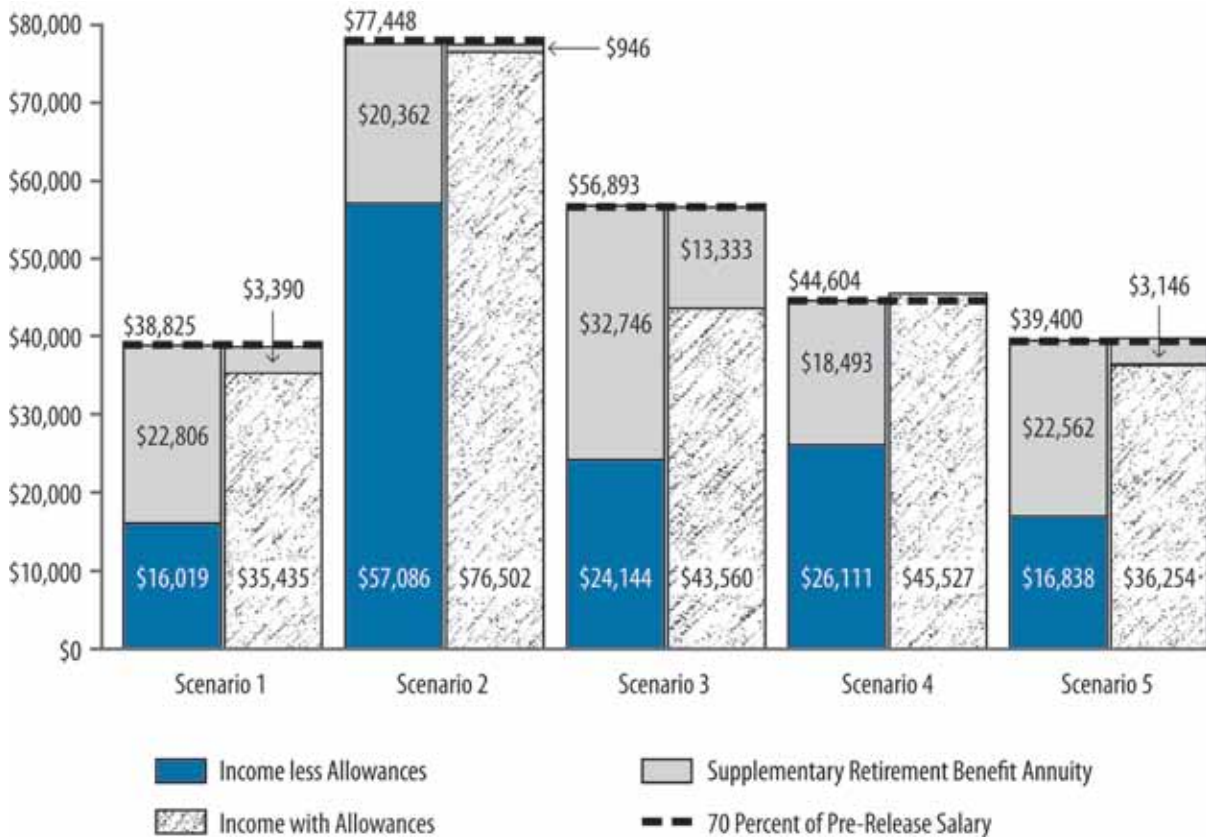
Depending on the Veteran's financial benefits and income from prescribed sources at age 65, the percentage of Earnings Loss Benefit to be invested will vary considerably. In some cases (Scenario 4, for example), a Supplementary Retirement Benefit Annuity top-up would not be required because the Veteran's financial benefits and income at age 65 are greater than 70 percent of his or her indexed pre-release Canadian Forces salary. The effect of this option on Veterans in these cases is that no monthly benefit would be provided to compensate for the lost opportunity to contribute to a retirement fund because they were unable to work as a result of being totally and permanently incapacitated. To mitigate this situation, these Veterans would continue to be provided the current lump sum based on 2 percent of the total Earnings Loss Benefit.

The following figure illustrates the percentage of Earnings Loss Benefit to be invested annually for the five representative scenarios in order to top up the Veteran's financial benefits and income from prescribed sources to achieve the 70 percent of pre-release salary benchmark.

Figure 14. Percentage of Earnings Loss Benefit to be invested to achieve 70 percent of pre-release salary, with and without allowances

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
70 percent of gross pre-release salary benchmark		\$38,825	\$77,448	\$56,893	\$44,604	\$39,400
<b>With Allowances</b> Earnings Loss Benefit percentage to invest to achieve 70 percent benchmark		2.1	.8	6.8	0	3.5
<b>With Allowances</b> Amount of annuity	Annual	\$3,390	\$945	\$13,333	\$0	\$3,146
	Monthly	\$283	\$79	\$1,111	\$0	\$262
<b>No Allowances</b> Earnings Loss Benefit percentage to invest to achieve 70 percent benchmark		13.9	17.1	16.8	14.7	25.3
<b>No Allowances</b> Amount of annuity	Annual	\$22,806	\$20,361	\$32,749	\$18,493	\$22,562
	Monthly	\$1,900	\$1,697	\$2,729	\$1,541	\$1,880

Figure 15. Supplementary Retirement Benefit Annuity amount at variable percentage of Earnings Loss Benefit and gross annual income (with and without allowances) compared to 70 percent of indexed pre-release salary



### Estimated Cost of Option 3: Providing a Supplementary Retirement Benefit Annuity based on investing a variable percentage of the Earnings Loss Benefit

The Office of the Veterans Ombudsman has insufficient statistical information regarding Veterans’ demographics (in particular, years of service) to estimate the total implementation cost to Government on this option. However, it is possible to estimate the cost of implementing the option for each individual representative scenario. Figure 16 estimates the actuarial present value cost of providing the Supplementary Retirement Benefit Annuity to the sample Veterans, based on investing annually a variable percentage of the Earnings Loss Benefit. The actuarial present value estimates the present value (expected total cost) of the benefit that is payable in the future taking into account inflation, interest, indexing and life expectancy.

Figure 16. Estimated cost of Option 3 to provide a Supplementary Retirement Benefit Annuity based on investing annually a variable percentage of the Earnings Loss Benefit

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
<b>No Allowances</b> Cost of Supplementary Retirement Benefit Annuity (variable percentage) based on annual after-age 65 income	\$158,395	\$206,317	\$251,307	\$154,072	\$242,279
<b>With Allowances</b> Cost of Supplementary Retirement Benefit Annuity (variable percentage) based on annual after-age 65 income	\$23,508	\$9,832	\$103,272	\$0 <sup>97</sup>	\$29,066

#### Option 4: Increasing the Supplementary Retirement Benefit to 10 percent of the Earnings Loss Benefit

Veterans Affairs Canada could increase the percentage of Earnings Loss Benefit used to calculate the Supplementary Retirement Benefit from 2 percent to 10 percent and, when the totally and permanently incapacitated Veteran reaches the age of 65, transfer the lump sum amount to a financial institution of the Veteran's choice and pay it out monthly as an annuity. Ten percent was selected because, based on modelling of the five scenarios, this rate provides most Veterans who are in receipt of allowances with at least 70 percent of pre-release salary.

By transferring the lump sum to a financial institution, the Veteran no longer has to assume the responsibility of managing a large lump sum amount. This option will also provide the Veteran with a stable monthly income after age 65. Should the totally and permanently incapacitated Veteran return to work before the age of 65, the amount could be provided as a lump sum.

SISIP Financial Services would not have to adopt this option because the benefit eligibility and calculation methodology are similar to those of the current Supplementary Retirement Benefit based on 2 percent of the Earnings Loss Benefit, which is administered by Veterans Affairs Canada.

97 While the cost of this option for this scenario is \$0, there would be a cost of providing the current Supplementary Retirement lump sum.



## Modelling of Option 4: Increasing the Supplementary Retirement Benefit to 10 percent of the Earnings Loss Benefit

A Supplementary Retirement Benefit that is based on 10 percent of the Earnings Loss Benefit and paid out monthly as an annuity would provide the most vulnerable Veterans with improved and stable after-age 65 financial support. For example, under the current benefit regime, the Scenario 1 Veteran would receive at age 65 (40 years from now) a Supplementary Retirement Benefit lump sum of approximately \$52,000. With a Supplementary Retirement Benefit based on 10 percent of the total Earnings Loss Benefit, the same Veteran would receive at age 65 (again, 40 years from now) an annuity for life of approximately \$885 per month (\$10,625 per year).

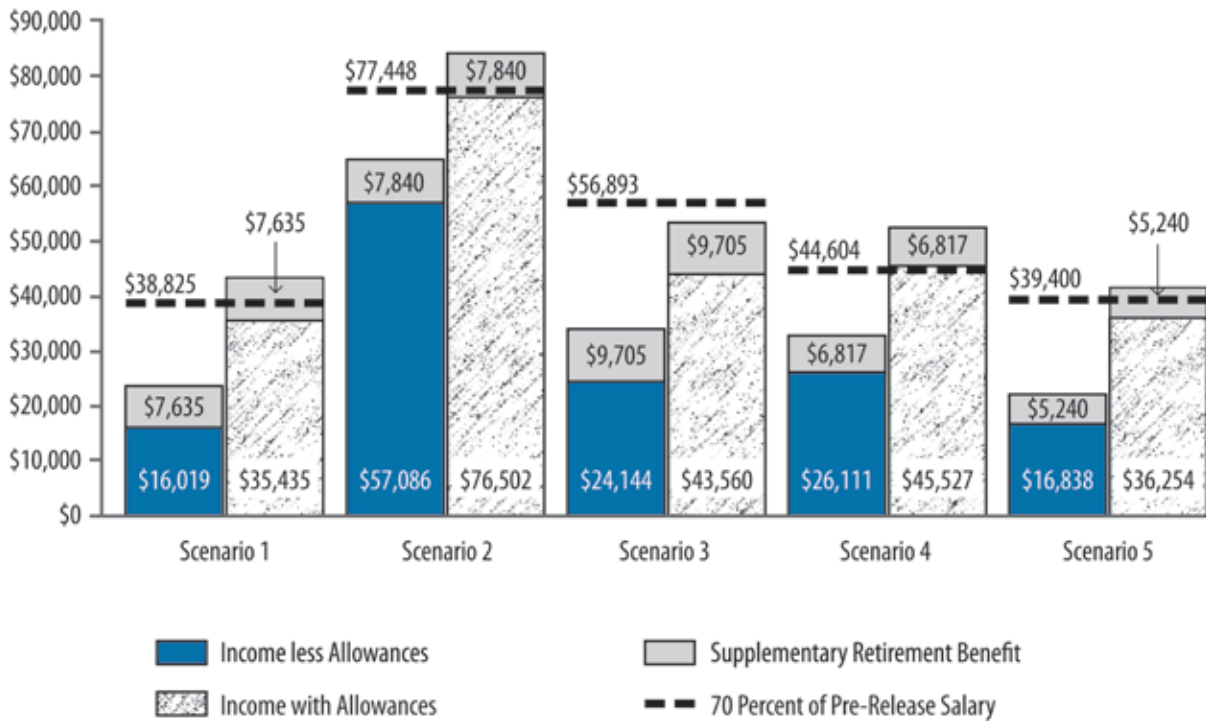
The effects of this option are similar to those for option 2. In all five scenarios, when the totally and permanently incapacitated Veteran is not entitled to Veterans Affairs Canada allowances, the Supplementary Retirement Benefit Annuity does not provide sufficient financial support to achieve the 70 percent of indexed pre-release salary benchmark. Conversely, in four of the five scenarios, when a totally and permanently incapacitated Veteran is entitled to Veterans Affairs Canada allowances, the enhanced Supplementary Retirement Benefit increases the Veteran's after-age 65 financial support over the 70 percent of indexed pre-release salary benchmark.

Figure 17. Supplementary Retirement Benefit (paid as an annuity) based on 10 percent of the total Earnings Loss Benefit and gross annual income (with and without allowances) compared to 70 percent of indexed pre-release salary

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	
A	70 percent of gross pre-release salary benchmark	\$38,825	\$77,448	\$56,893	\$44,604	\$39,400	
B	<b>No Allowances</b> Current gross annual income after age 65 <sup>98</sup>	\$16,019	\$57,086	\$24,144	\$26,111	\$16,838	
C	<b>With Allowances</b> Current gross annual income after age 65	\$35,435	\$76,502	\$43,560	\$45,527	\$36,364	
D	Annuity at age 65 based on 10 percent of total Earnings Loss Benefit	Annual	\$7,635	\$7,840	\$9,705	\$6,817	\$5,240
		Monthly	\$636	\$653	\$809	\$568	\$437
B + D - A	<b>No Allowances</b> Difference between income plus annuity and 70 percent benchmark	Annual	-\$15,171	-\$12,522	-\$23,044	-\$11,676	-\$17,322
		Monthly	-\$1,264	-\$1,044	-\$1,920	-\$973	-\$1,444
C + D - A	<b>With Allowances</b> Difference between income plus annuity and 70 percent benchmark	Annual	\$4,245	\$6,894	-\$3,628	\$7,740	\$2,204
		Monthly	\$354	\$575	-\$302	\$645	\$184

98 Annual gross income includes Canadian Forces pension, Old Age Security benefit and Canada Pension Plan retirement pension.

Figure 18. Supplementary Retirement Benefit (paid as an annuity) based on 10 percent of the total Earnings Loss Benefit and gross annual income (with and without allowances) compared to 70 percent of indexed pre-release salary



### Estimated Cost of Option 4: Increasing the Supplementary Retirement Benefit to 10 percent of the Earnings Loss Benefit

The Office of the Veterans Ombudsman has insufficient statistical information regarding Veterans’ demographics (in particular, years of service) to estimate the total implementation cost to Government on this option. However, it is possible to estimate the cost of implementing the option for each individual representative scenario. Figure 19 estimates the actuarial present value cost of providing the Supplementary Retirement Benefit to the sample Veterans, based on 10 percent of the Earnings Loss Benefit. The actuarial present value estimates the present value (expected total cost) of the benefit that is payable in the future taking into account inflation, interest, indexing and life expectancy.

Figure 19. Estimated cost of Option 4 to provide a Supplementary Retirement Benefit Annuity based on 10 percent of the Earnings Loss Benefit

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Cost of Supplementary Retirement Benefit at 10 percent of Earnings Loss Benefit	\$47,302	\$73,050	\$66,776	\$51,189	\$42,972

### **Option 5: Continuing the Extended Earnings Loss Benefit after age 65 for life at a reduced rate of 50 percent of pre-release salary**

Veterans Affairs Canada could continue the Extended Earnings Loss Benefit after age 65 for life for totally and permanently incapacitated Veterans at a reduced rate of 50 percent of pre-release salary, less offsets.<sup>99</sup> The Supplementary Retirement Benefit would be eliminated for Veterans in receipt of the Extended Earnings Loss Benefit for life. The rate of 50 percent of pre-release salary was selected because based on modelling of the five scenarios, this rate provides all Veterans who are in receipt of allowances with a minimum of 70 percent of pre-release salary.

This option will also have to apply to SISIP Long Term Disability Plan totally disabled Veteran clients who are totally disabled at age 65 and who are assessed by Veterans Affairs Canada to be totally and permanently incapacitated. SISIP Financial Services could also adopt the option, but it would require an amendment to the SISIP Long Term Disability Plan to continue to provide the income replacement benefit after age 65.

Alternatively, at age 65 the totally disabled SISIP Veteran clients could be transferred to Veterans Affairs Canada and the Extended Earnings Loss Benefit could be provided for life at the reduced rate. This assumes that the totally disabled SISIP Veteran client is assessed as totally and permanently incapacitated by Veterans Affairs Canada.

<sup>99</sup> For the five scenarios, offsets from the Extended Earnings Loss Benefit or the SISIP Long Term Disability plan income replacement benefit include the Canadian Forces pension and the Canada Pension Plan. The Old Age Security benefit and Permanent Impairment Allowance and Supplement are not offset.

### **Modelling of Option 5: Continuing the Extended Earnings Loss Benefit after age 65 for life at a reduced rate of 50 percent of pre-release salary**

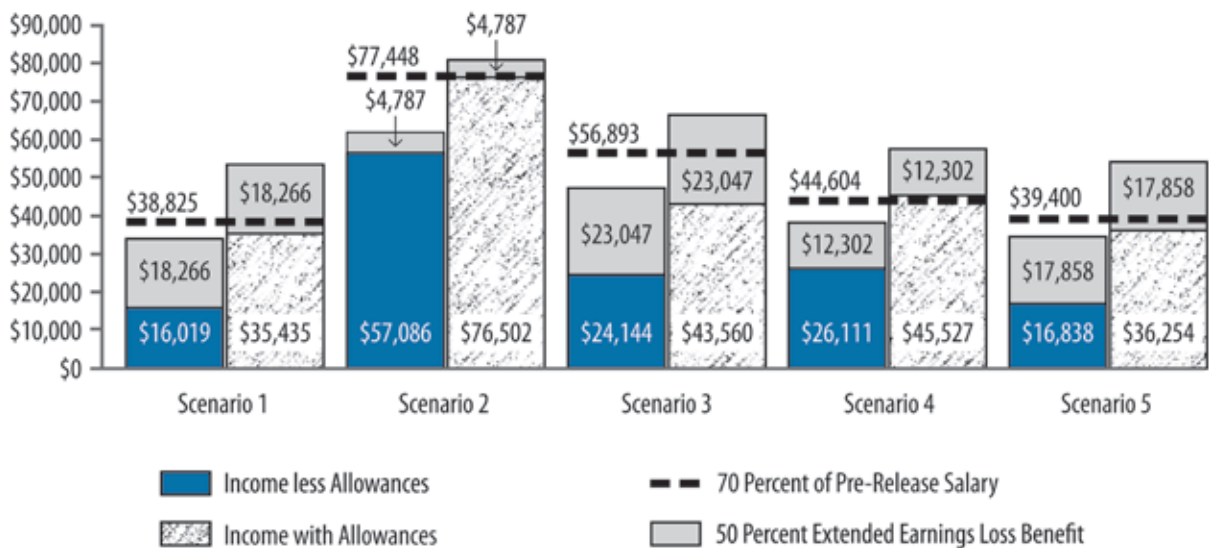
The effects of this option of continuing the Extended Earnings Loss Benefit after age 65 for life, at a reduced rate of 50 percent of pre-release salary (less offsets), are similar to the effects for options 3 and 4, and are illustrated in Figures 20 and 21. In all five scenarios, when the totally and permanently incapacitated Veteran is not entitled to Veterans Affairs Canada allowances, continuing the Extended Earnings Loss Benefit after age 65 for life does not provide the Veteran with sufficient financial support to achieve the 70 percent of indexed pre-release salary benchmark. Conversely, in all five scenarios, when a totally and permanently incapacitated Veteran is entitled to Veterans Affairs Canada allowances, continuing the Extended Earnings Loss Benefit after age 65 for life increases the Veteran's after-age 65 financial support over the 70 percent of indexed pre-release salary benchmark.

Figure 20. Difference between the Earnings Loss Benefit at 50 percent of pre-release salary for life and the 70 percent of indexed pre-release salary

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	
<b>A</b>	70 percent of gross annual pre-release salary benchmark	\$38,825	\$77,448	\$56,893	\$44,604	\$39,400	
<b>B</b>	Annual Extended Earnings Loss Benefit at 50 percent of gross annual pre-release salary	\$18,266	\$4,787	\$23,047	\$12,302	\$17,858	
<b>C</b>	<b>No Allowances</b> Current gross annual income after age 65 <sup>100</sup>	\$16,019	\$57,086	\$24,144	\$26,111	\$16,838	
<b>D</b>	<b>With Allowances</b> Current gross annual income after age 65	\$35,435	\$76,502	\$43,560	\$45,527	\$36,364	
<b>B + C - A</b>	<b>No Allowances</b> Difference between Extended Earnings Loss Benefit at 50 percent plus gross income and 70 percent benchmark	Annual	<b>-\$4,540</b>	<b>-\$15,575</b>	<b>-\$9,702</b>	<b>-\$6,191</b>	<b>-\$4,704</b>
		Monthly	<b>-\$378</b>	<b>-\$1,298</b>	<b>-\$809</b>	<b>-\$516</b>	<b>-\$392</b>
<b>B + D - A</b>	<b>With Allowances</b> Difference between Extended Earnings Loss Benefit at 50 percent plus gross income and 70 percent benchmark	Annual	\$14,876	\$3,841	\$9,714	\$13,225	\$14,822
		Monthly	\$1,240	\$320	\$810	\$1,102	\$1,235

100 Annual gross income includes Canadian Forces pension, Old Age Security benefit and Canada Pension Plan retirement pension.

Figure 21. Difference between the Extended Earnings Loss Benefit at 50 percent of pre-release salary for life and 70 percent of indexed pre-release salary



**Estimated Cost of Option 5: Continuing the Extended Earnings Loss Benefit after age 65 for life at a reduced rate of 50 percent of pre-release salary**

The Office of the Veterans Ombudsman has insufficient statistical information regarding Veterans’ demographics (in particular, years of service) to estimate the total implementation cost to Government on this option. However, it is possible to estimate the cost of implementing the option for each individual representative scenario. Figure 22 estimates the actuarial present value cost of continuing the Extended Earnings Loss Benefit for life, at a reduced rate, for the sample Veterans. The actuarial present value estimates the present value (expected total cost) of the benefit that is payable in the future taking into account inflation, interest, indexing and life expectancy.

Figure 22. Estimated cost of the option to continue the extended Earnings Loss Benefit for life at a reduced rate

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Cost of continuing the Earnings Loss Benefit for life at a reduced rate	\$113,337	\$44,675	\$158,850	\$92,538	\$150,489

## Appendix 4 – Increasing the Earnings Loss Benefit to 90 Percent of Pre-Release Salary

This appendix analyzes the recommendation to increase the Earnings Loss Benefit to 90 percent of the Veteran's pre-release salary,<sup>101</sup> in relation to the five representative scenarios.

The analysis demonstrates that increasing the New Veterans Charter Earnings Loss Benefit to 90 percent of pre-release salary provides the Veteran with 100 percent of his or her pre-release net salary. This is because while the Veteran is in receipt of the income support benefit, he or she no longer contributes to Employment Insurance, the Canada/Quebec Pension Plan nor Canadian Forces superannuation.

The cost of implementing this recommendation is also estimated below. The total cost to Government will need to include the cost of similarly increasing the SISIP Long Term Disability Plan income replacement benefit to 90 percent of pre-release salary. The Office of the Veterans Ombudsman does not have the financial information required to provide an estimated cost of increasing the SISIP Long Term Disability Plan income replacement benefit.

### Modelling of the recommendation to increase the Earnings Loss Benefit to 90 percent of pre-release salary

The calculation methodology used to model the effects of increasing the Earnings Loss Benefit to 90 percent of pre-release salary was presented earlier in the report and is repeated below (based on Scenario 1).

- Current salary of \$4,622 per month
- Canada Pension Plan, Employment Insurance and *Canadian Forces Superannuation Act* deductions of \$632 per month
- Tax rate of 14 percent (assumes Ontario-based Veteran)

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101 Less currently applicable offsets such as superannuation, Canada/Quebec Pension Plan, employment income, etc.



- We calculate the **pre-release net income** as:

Gross salary – deductions x tax rate

For example:  $(\$4,622 - \$632) \times .86 = \mathbf{\$3,432/month}$

- We calculate the net value of the **Earnings Loss Benefit** based on **90 percent** of pre-release salary as:

Gross salary x 90 percent x tax rate

For example:  $\$4,622 \times .90 \times .86 = \mathbf{\$3,577/month}$

Note: no Canada Pension Plan, Employment Insurance or *Canadian Forces Superannuation Act* deductions

- Difference between net monthly pre-release salary and the net monthly Earnings Loss Benefit at 90 percent of pre-release salary: **\$145**

The tables that follow illustrate the effects of increasing the Earnings Loss Benefit in relation to the five scenarios.

Figure 23. Comparison of net Earnings Loss Benefit at 75 and 90 percent of pre-release salary

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Annual net pre-release salary	Annual	\$41,180	\$73,795	\$57,193	\$45,971	\$41,250
	Monthly	\$3,432	\$6,150	\$4,766	\$3,831	\$3,438
Net annual Earnings Loss Benefit at 75 percent of pre-release salary	Annual	\$35,774	\$61,903	\$48,583	\$39,570	\$35,798
	Monthly	\$2,981	\$5,159	\$4,049	\$3,298	\$2,983
Difference between net pre-release salary and net 75 percent Earnings Loss Benefit	Annual	<b>-\$5,406</b>	<b>-\$11,892</b>	<b>-\$8,610</b>	<b>-\$6,401</b>	<b>-\$5,452</b>
	Monthly	<b>-\$451</b>	<b>-\$991</b>	<b>-\$718</b>	<b>-\$533</b>	<b>-\$454</b>
Net annual Earnings Loss Benefit at 90 percent of pre-release salary	Annual	\$42,929	\$74,284	\$58,299	\$47,484	\$42,957
	Monthly	\$3,577	\$6,190	\$4,858	\$3,957	\$3,580
Difference between net pre-release salary and net 90 percent Earnings Loss Benefit	Annual	\$1,749	\$489	\$1,106	\$1,513	\$1,707
	Monthly	\$146	\$41	\$92	\$126	\$142

Figure 24. Difference between the net Earnings Loss Benefit at 75 and 90 percent of pre-release salary and the annual net pre-release salary

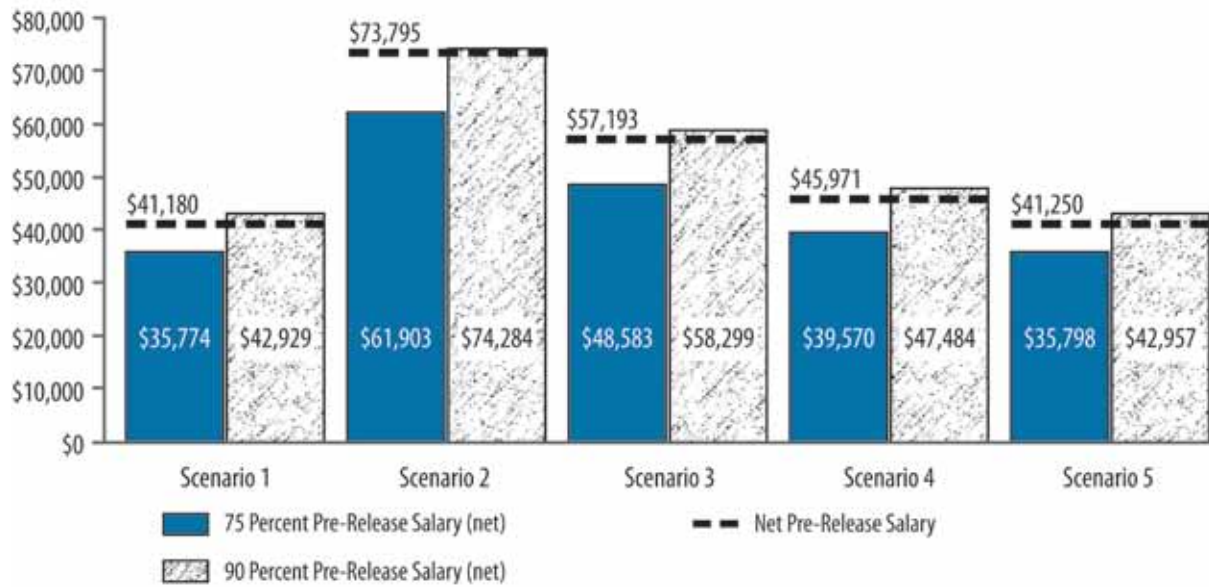
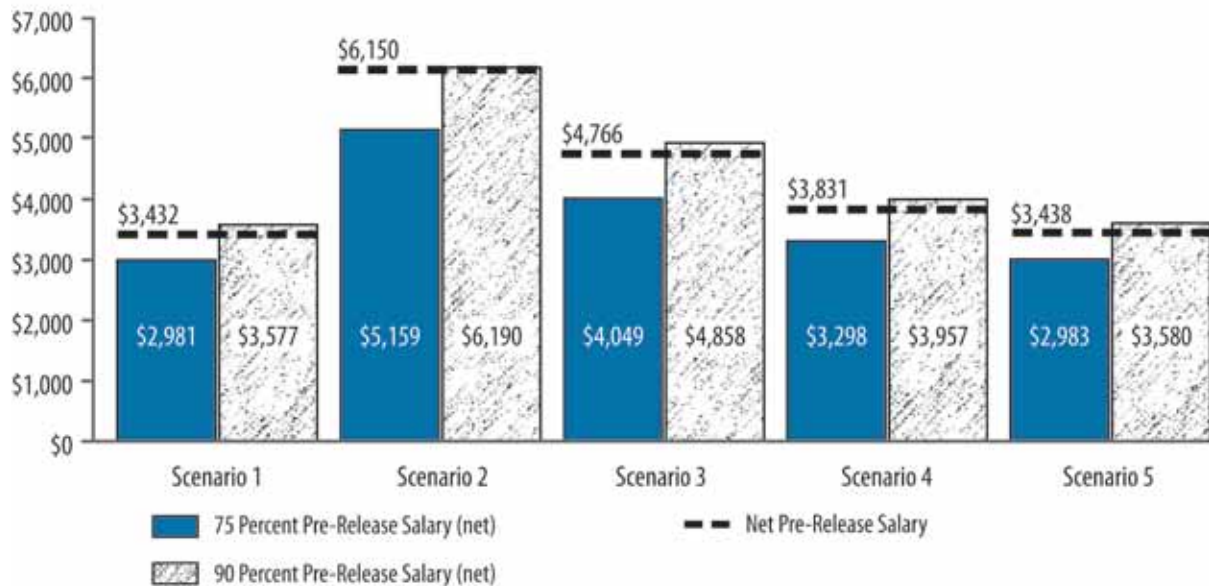


Figure 25. The difference between the net Earnings Loss Benefit at 75 and 90 percent of pre-release salary and the monthly net pre-release salary



## Estimated cost of increasing the Earnings Loss Benefit to 90 percent of pre-release salary

The estimated cost over the next five years of increasing the Earnings Loss Benefit to 90 percent of pre-release salary is presented below. Note that the cost estimate does not include the cost of increasing the SISIP Long Term Disability Plan income support benefit to 90 percent of pre-release salary.

Figure 26. Estimated cost of increasing the Earnings Loss Benefit to 90 percent of pre-release salary

	2012–2013	2013–2014	2014–2015	2015–2016	2016–2017
Current cost projection for Earnings Loss Benefit program (in millions of dollars) <sup>102</sup>	\$82.5	\$93	\$103	\$112.8	\$123
Estimated cost of increasing the Earnings Loss Benefit to 90 percent (in millions of dollars)	\$99.0	\$111.6	\$123.6	\$135.36	\$147.6
Difference (in millions of dollars)	\$16.5	\$18.6	\$20.6	\$22.56	\$24.6

## Appendix 5 – Providing the Permanent Impairment Allowance to All Eligible Totally and Permanently Incapacitated Veterans

This appendix provides modelling for the recommendation to provide the Permanent Impairment Allowance and Supplement<sup>103</sup> to all Veterans who are assessed by Veterans Affairs Canada to be totally and permanently incapacitated and who have received a disability award and an approved rehabilitation plan. Currently, out of 1,428 totally and permanently incapacitated Veterans, 761 Veterans are not in receipt of the allowances. The after-age 65 financial situation of totally and permanently incapacitated Veterans is much improved when they are in receipt of the allowances.

102 Veterans Affairs Canada. *Client and Expenditure Forecast 2013–2014*, October 4, 2012.

103 Approximately 98 percent of all totally and permanently incapacitated Veterans who are currently in receipt of the Permanent Impairment Allowance are also in receipt of the Permanent Impairment Allowance Supplement. Therefore the assumption is that Veterans in receipt of the Permanent Impairment Allowance will also receive the Permanent Impairment Allowance Supplement.

## Modelling of the recommendation to provide the Permanent Impairment Allowance and Supplement to all eligible totally and permanently incapacitated Veterans

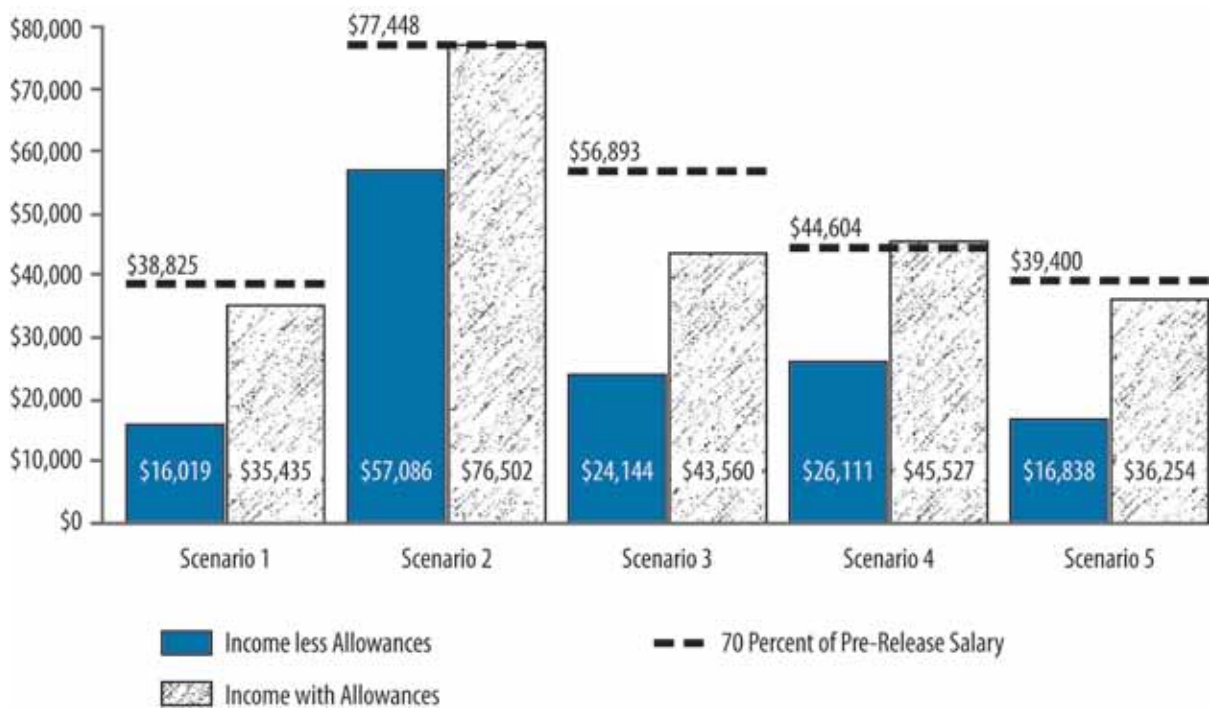
The tables below illustrate the effects of providing the Permanent Impairment Allowance at a minimum level of Grade 3 and the Permanent Impairment Allowance Supplement to the permanently incapacitated Veterans in the five scenarios, when compared to the after-age 65 retirement income benchmark (70 percent of indexed pre-release salary).

Figure 27. After-age 65 income, with and without allowances, compared to the 70 percent of indexed pre-release salary benchmark

		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	
<b>A</b>	<b>Without Allowances</b> Current gross annual income after age 65 <sup>104</sup>	\$16,019	\$57,086	\$24,144	\$26,111	\$16,838	
<b>B</b>	<b>With Allowances</b> Current gross annual income	\$35,435	\$76,502	\$43,560	\$45,527	\$36,364	
<b>C</b>	70 percent of gross pre-release salary benchmark	\$38,825	\$77,448	\$56,893	\$44,604	\$39,400	
<b>A - C</b>	<b>Without Allowances</b> Difference between gross income and 70 percent benchmark	Annual	<b>-\$22,806</b>	<b>-\$20,362</b>	<b>-\$32,749</b>	<b>-\$18,493</b>	<b>-\$22,562</b>
		Monthly	<b>-\$1,901</b>	<b>-\$1,697</b>	<b>-\$2,729</b>	<b>-\$1,541</b>	<b>-\$1,880</b>
<b>B - C</b>	<b>With Allowances</b> Difference between gross income and 70 percent benchmark	Annual	<b>-\$3,390</b>	<b>-\$946</b>	<b>-\$13,333</b>	\$923	<b>-\$3,036</b>
		Monthly	<b>-\$283</b>	<b>-\$79</b>	<b>-\$1,111</b>	\$77	<b>-\$253</b>

104 Annual gross income includes Canadian Forces pension, Old Age Security benefit and Canada Pension Plan retirement pension.

Figure 28. Pre-release income with and without allowances compared to 70 percent of indexed pre-release salary



This figure demonstrates the positive impact on the totally and permanently incapacitated Veteran’s after-age 65 financial situation when the Permanent Impairment Allowance and Supplement are provided.

### Estimated cost of providing the Permanent Impairment Allowance and Supplement to all eligible totally and permanently incapacitated Veterans

The estimated costing below is based on providing the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement to all 761 totally and permanently incapacitated Veterans who are not currently in receipt of the allowances. The actual cost of implementing this recommendation should be less because it is expected that a number of these Veterans will not be eligible for the allowances because they are not in receipt of a disability award and/or an approved rehabilitation plan for the condition related to the assessment of totally and permanently incapacitated.

Figure 29. Estimated cost of providing allowances to all totally and permanently incapacitated Veterans

	2012–2013	2013–2014	2014–2015	2015–2016	2016–2017
Current cost projection for allowances <sup>105</sup>	\$12,950,472	\$20,794,536	\$28,658,016	\$36,521,496	\$44,384,976
Estimated cost of providing allowances to all totally and permanently incapacitated Veterans who currently are not in receipt	\$27,726,048	\$44,520,888	\$61,354,560	\$78,188,232	\$95,021,904
Difference	\$14,775,576	\$23,726,352	\$32,696,544	\$41,666,736	\$50,636,928

105 Veterans Affairs Canada Client and Expenditure Forecast 2013–2014, October 4, 2012. Allowances are the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement.

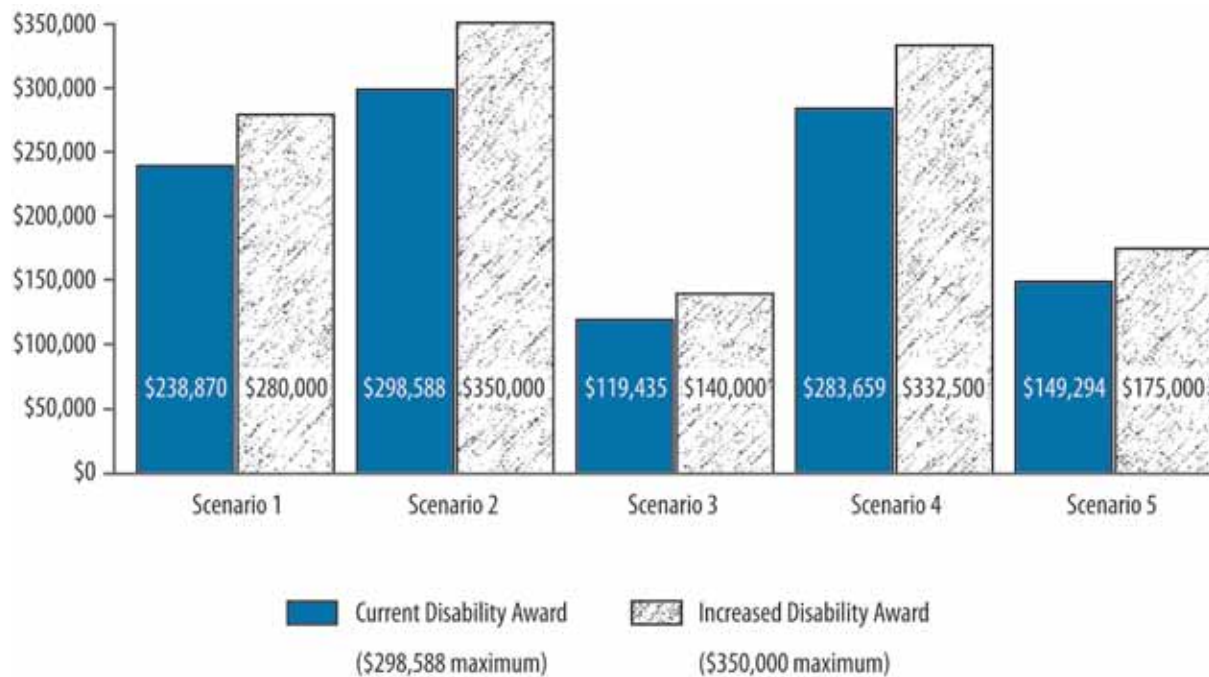
## Appendix 6 – Increasing the Disability Award Maximum to \$350,000

This appendix provides the modelling and cost analysis of increasing, on a go-forward basis, the maximum amount of the disability award to \$350,000 to match the current approximate maximum judicial cap for non-pecuniary damages awarded by Canadian courts.<sup>106</sup>

### Modelling of recommendation to increase the maximum disability award to \$350,000

The effect of increasing the disability award to a maximum of \$350,000 for Veterans in the five representative scenarios is depicted in Figure 30. The amount of the 2013 disability award is calculated based on the level of disability assigned for each scenario. The difference between the current maximum award (\$298,588) and the enhanced maximum award (\$350,000) is 17.2 percent. This difference is applied to the disability levels in each scenario.

Figure 30. Effect of increasing the disability award



106 The current court award maximum is approximately \$342,000.

## Estimated cost of increasing the maximum disability award to \$350,000

The estimated cost for the next five years of increasing the disability award to a maximum of \$350,000 is depicted in Figure 31. The current cost forecast is based on information contained in the December 2012 edition of the Veterans Affairs Canada Facts and Figures Book. The estimated cost forecast of increasing the disability award is obtained by applying the 17.2 percent difference between the current maximum disability award (\$298,588) and the recommended maximum disability award (\$350,000) to the current forecasted costs over the next five years.

Figure 31. Estimated cost of increasing the Disability Award maximum to \$350,000

