

Public Service Employment Act (PSEA) and the Veterans Hiring Act (VHA)

Summary:

The *PSEA* includes a section for preferential hiring of veterans. The *VHA* updated the definition of veteran to include modern day veterans. The current definition of veteran excludes serving reservists and should be amended to include them.

Background:

On March 31, 2015, the *VHA* received Royal Assent. The *VHA* made amendments to the *PSEA* which improved hiring opportunities for certain serving and former members of the Canadian Armed Forces (CAF). Among these amendments was an addition to the definition of “veteran” in section 1 of the Schedule. Paragraph (f) was added to include new veterans in the definition.

“**veteran** means, subject to subsection 2(1) of this Schedule, a person who...

(f) has served at least three years in the Canadian Forces, has been honourably released within the meaning of regulations made under the *National Defence Act* and is not employed in the public service for an indeterminate period;”

This definition affects section 39(1)(b) of the *PSEA* which creates a preference for hiring veterans in the public service.

“39 (1) In an advertised external appointment process, subject to any priorities established under paragraph 22(2)(a) and by sections 39.1, 40 and 41, any of the following who, in the Commission’s opinion, meet the essential qualifications referred to in paragraph 30(2)(a) shall be appointed ahead of other candidates, in the following order:

(a) a person who is in receipt of a pension by reason of war service, within the meaning of the schedule;

(b) a veteran or a survivor of a veteran, within the meaning of the schedule; and

(c) a Canadian citizen, within the meaning of the Citizenship Act, in any case where a person who is not a Canadian citizen is also a candidate.”

Issue:

The definition of veteran at paragraph (f) in section 1 of the Schedule of the *PSEA* excludes serving reservists.

Position:

Excluding serving reservists from the definition of veteran is problematic for several reasons.

Generally, reservists are part time members of the CAF who have civilian employment or are students. The rationale for excluding serving regular force (full time) members of the CAF from the preference is obvious. They are employed full time and are under contract; including them in the preference would be detrimental to the CAF. This rationale does not extend to serving reservists.

An incentive to release from the CAF is created by the exclusion of serving reservists from the definition of veteran. This negatively affects the reserve force both directly and indirectly. Directly, a reservist who is applying for a public service job is more likely to be hired if they release from the CAF since they would receive the preference (assuming at least 3 years service). Indirectly, regular force members who are ending their contract are discouraged from transferring to the reserve force since they would not be eligible for the preference.

The direct and indirect loss to the reserve force is potentially significant. Reserve members who have at least 3 years service have often taken numerous military courses and have post-secondary education. Regular force members who might transfer to the reserves often bring a wealth of experience. The most experienced members, whether from the regular or reserve force will have completed tours overseas, are qualified instructors, and have much to offer the reserve force, and the CAF generally. If anything, there should be incentives for members leaving the regular force to transfer to the reserve force rather than release.

As an example of how the current definition can lead to absurd situations, I would like to provide a comparison.

Member A: recently released from either regular or reserve force, served 3 years, completed the minimum required training, never deployed, and worked in an entry level position for the duration of their service.

Member B: serving reservist, served 20 years, completed numerous courses and specialized training, completed post-secondary education, deployed multiple times, and worked in various positions including in leadership and administrative roles.

If these two members applied for the same public service position and both met the essential requirements of the job, Member A must be hired ahead of Member B. How does this possibly serve the best interest of either the public service or veterans?

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