



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **THE NEW VETERANS CHARTER: MOVING FORWARD**

## **Report of the Standing Committee on Veterans Affairs**

**Greg Kerr  
Chair**

**JUNE 2014**

**41st PARLIAMENT, SECOND SESSION**

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Veterans Affairs**

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# **THE STANDING COMMITTEE ON VETERANS AFFAIRS**

has the honour to present its

## **THIRD REPORT**

Pursuant to the Order of Reference of Thursday, October 17, 2013 and section 20.1 of the *Enhanced New Veterans Charter Act*, statutory review of the Act, the Committee has studied the statutory review of the Act and has agreed to report the following:





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“It shouldn’t take getting one’s leg blown off to realize it, but sometimes we don’t learn lessons until after the hardships have happened. ... I hated running while I was in the military, but now I want to do it. It’s that insatiable appetite. I wanted to live my life, not just survive. So persevering through adversity had to be a mindset, a sentiment that can be shared no matter what path any one of us wants. ... If rehab or recovery was to be put into a number or percentage, 49% comes from all the resources that surround us. That’s you, the government, our friends, our family, the cleaners, the doctors, the nurses. I have to bring that 51%. I have to bring that little bit more to make all those resources worthwhile.” (Sergeant Bjarne Nielsen, amputee following an explosion in Afghanistan)<sup>1</sup>

“There should be more presumptions in the system, and I don’t mean that in a legalistic way. If I come to you as a double-leg amputee, like Mr. Fuchko, I shouldn’t have to do much more than that. I should just simply say, “Look, I’m a double-leg amputee. What have you got for me?” (Mr. Brian Forbes)<sup>2</sup>

## INTRODUCTION

Pursuant to section 20.1 of the *Enhanced New Veterans Charter Act*, the Committee began the statutory review of the Act by passing the following motion on 19 November 2013: “It was agreed — That the Committee hear from the Minister of Veterans Affairs on Tuesday, November 19, 2013, from 11:00 a.m. to 1:00 p.m., to discuss the *Enhanced New Veterans Charter* review and the Supplementary Estimates (B).”

On the same day, the Honourable Julian Fantino, Minister of Veterans Affairs, asked the Committee members to go beyond the mandate provided for in section 20.1:

Upon taking office, I heard clearly from the Veterans Ombudsman, veterans groups, and stakeholders that a wider review of the *New Veterans Charter* was needed. I therefore asked my parliamentary secretary to ensure that a comprehensive review of the *New Veterans Charter* be taken up in short order.<sup>3</sup>

More specifically, the Minister asked the Committee to

... determine how best to state our commitment to Canadians and their families and what is the best format to do so in the *New Veterans Charter*. It is important that Canadians express through the parliamentary process exactly what is our shared duty, responsibility, mandate, obligation, commitment, or covenant to Canadian veterans.<sup>4</sup>

In keeping with the general terms of reference above, the Committee identified three core themes that witnesses were invited to address:

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- 1 [Sergeant Bjarne Nielsen \(as an individual\)](#), *Evidence*, House of Commons Standing Committee on Veterans Affairs (ACVA), 27 March 2014, 1540.
  - 2 Mr. Brian Forbes, *Evidence*, ACVA, 1 April 2014, 1915.
  - 3 [The Hon. Julian Fantino, \(Minister of Veterans Affairs\)](#), *Evidence*, ACVA, 19 November 2013, 1110.
  - 4 *Ibid.*, 1115.

1. Care and support of the most seriously disabled;<sup>5</sup>
2. Support for families; and
3. Improving how Veterans Affairs Canada (VAC) delivers the programs, services and benefits of the *New Veterans Charter* (NVC).

This report presents 14 recommendations on issues discussed during the 14 meetings that the Committee has held since November 2013. Further background information is provided in appendices.

The Committee members unanimously agree that the principles of the NVC should be upheld and that these principles foster an approach that is well suited to today's veterans. This does not mean that improvements cannot be made. However, the legitimate criticisms of various aspects of the NVC should not overshadow the fact that it is a solid foundation on which to help veterans transition to civilian life when a service-related medical condition prevents them from continuing their military career.

It must also be acknowledged that when Parliament considers legislation, it focuses more on what needs to be improved rather than on what works well. Most of the veterans who took part in the programs introduced through the NVC were well served. However, given the commitment made by Canadians and the federal government to the people who risked their lives to preserve our country's values, "most" is not enough. It is possible that, in the process of applying the NVC's basically sound principles, some veterans with specific requirements may not have been as well served as they should be. We must therefore try to do more for them, while continuing to treat other veterans and the Canadian public fairly.

That is why the Committee decided to focus its recommendations on the most seriously disabled veterans and their families. When veterans suffer from medical conditions that may make the transition to civilian life impossible, every aspect of their life is permanently affected. The support given by Canadians and the Government of Canada must be equal to this sacrifice and be offered to veterans and their families for the rest of their lives.

In the case of veterans with permanent disabilities that result from their service but do not prevent them from transitioning to civilian life, everything must be done to help these veterans and their families overcome the barriers they encounter.

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5 When the terms "severely disabled" or "seriously disabled", or any other similar terms are used to describe veterans, they should be interpreted based on the definition of "seriously disabled" in section 2 of the *Veterans Health Care Regulations*: "seriously disabled", in relation to a client, means that the client's extent of disability, in respect of the aggregate of all of the client's disability assessments under the *Pension Act* and the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, is equal to or greater than 78%."

While implementing the recommendations in this report will not solve everything, the Committee believes that they represent a major step forward and express more fully Canadians' solemn commitment to veterans and their families. The Committee also hopes that this report will help to strengthen the relationship of trust that must be fostered among veterans, Canadians, the parliamentarians representing them and the Government of Canada that must earn their confidence.

The NVC is not perfect. Other issues have already been raised and more will continue to be brought to our attention. The Committee members will continue to be watchful as well, in order to ensure that the NVC continues to evolve in keeping with veterans' needs and be a "living document".

What is contained in the following 14 recommendations address the issues that all committee members considered the most important.

## **RECOMMENDATIONS**

The House of Commons Standing Committee on Veterans Affairs recommends:

### **GENERAL RECOMMENDATIONS**

#### **RECOMMENDATION 1**

**That military members seriously disabled as a result of service not be medically released until the following conditions are met:**

- a) **The individual is in a stable medical condition.**
- b) **The individual's medical records have been transferred to Veterans Affairs Canada in accordance with privacy legislation, an official copy of the medical files has been given to the veteran, and the initial application for services and financial benefits provided under Part 2 of the *New Veterans Charter* has been adjudicated by Veterans Affairs Canada.**
- c) **The individual's file has been assigned to a Veterans Affairs Canada case manager who has already established contact with the individual.**
- d) **The healthcare and rehabilitation professionals who will be supporting the individual during transition have been identified in the area where the veteran is planning to live once medically released and their respective responsibilities have been defined.**

**And that an internal committee be struck by Veterans Affairs Canada and the Canadian Forces to:**

- develop a unified list of service conditions to be used interchangeably by Veterans Affairs Canada the Department of National Defence.
- ensure to the greatest extent possible that the service-related condition, identified by the Canadian Armed Forces and that led to a veteran's release on medical grounds, be recognized by Veterans Affairs Canada for adjudication purposes.
- establish a follow-up protocol for all military members who have been released for medical reasons.

## **RECOMMENDATION 2**

That the Veterans Bill of Rights be included in the *New Veterans Charter* and in the *Pension Act*, and that a modified version of section 2 of the *Pension Act* be incorporated into the *New Veterans Charter*, and read as follows: *The provisions of this Act shall be liberally construed and interpreted to the end that the recognized solemn obligation of the people and Government of Canada to provide compensation to those members of the forces who have been disabled or have died as a result of military service, and to their dependants, may be fulfilled.*

## **RECOMMENDATIONS THAT ADDRESS SUPPORT FOR MILITARY MEMBERS AND VETERANS SERIOUSLY DISABLED AS A RESULT OF SERVICE**

### **RECOMMENDATION 3**

That the most seriously disabled veterans receive financial benefits for life, of which an appropriate portion should be transferable to their spouse in the event of death, that Veterans Affairs Canada consider the use of a probable earnings approach in determining the amount of the benefits, and include better access to the three grades of the permanent impairment allowance, for which eligibility criteria must be clarified.

## **RECOMMENDATIONS THAT ADDRESS SUPPORT FOR VETERANS WITH SERVICE-RELATED DISABILITIES WHO ARE ABLE TO MAKE A SUCCESSFUL TRANSITION**

### **RECOMMENDATION 4**

That the earnings loss benefit be non-taxable and set at 85% of net income, up to a net income threshold of \$70,000, that it be adjusted annually to the consumer price index, and that for veterans who participate in a rehabilitation program, the disability award be paid once the program is completed.

## **RECOMMENDATION 5**

**That all veterans with service-related disabilities, and their families, be entitled to the same benefits and support as part of their rehabilitation program, whether they are former members of the Reserve Force or of the Regular Force.**

## **RECOMMENDATIONS THAT ADDRESS SUPPORT FOR FAMILIES**

### **RECOMMENDATION 6**

**That the Canadian Forces work with Veterans Affairs Canada to make Military Family Resource Centres available to veterans and their families in order to support them in their transition to civilian life.**

### **RECOMMENDATION 7**

**That independent access to Veterans Affairs Canada’s psychosocial and vocational rehabilitation services be given to spouses or common-law partners of veterans with a service-related disability, that access to psychological counselling be also given to parents and children of veterans with a service-related permanent disability, and that financial support be provided to family members of seriously-disabled veterans acting as “primary caregivers” as defined under section 16. (3) of the Veterans Health Care Regulations.**

## **RECOMMENDATIONS THAT ADDRESS SUPPORT FOR ALL VETERANS UNDER THE NEW VETERANS CHARTER**

### **RECOMMENDATION 8**

**That Veterans Affairs Canada undertake a comprehensive review of the amount of the disability award to more adequately reflect awards in civil liability cases for personal injuries, implement a transparent and clear process for determining its value, and improve support for financial counselling throughout the process.**

## **RECOMMENDATIONS THAT ADDRESS REHABILITATION PROGRAMS AND TRANSITION**

### **RECOMMENDATION 9**

**That the Service Income Security Insurance Plan (SISIP) Long Term Disability program be provided only to veterans medically released for a disability not related to military service, that all veterans released for service-related medical reasons benefit from the programs offered under the *New Veterans Charter*, and that the Canadian Forces and Veterans Affairs Canada work together as quickly as possible to eliminate overlap between Service Income Security Insurance Plan (SISIP) programs and those provided by Veterans Affairs Canada.**

#### **RECOMMENDATION 10**

**That eligible vocational rehabilitation training programs be allowed greater flexibility, and be less strictly related to skills acquired during military service.**

#### **RECOMMENDATION 11**

**That Veterans Affairs Canada establish a more rigorous case manager training program, and review the standard under which one case manager is assigned to 40 veterans, to determine if the ratio is appropriate, and to provide necessary resources for its adjustment if required.**

#### **OTHER RECOMMENDATIONS**

##### **RECOMMENDATION 12**

**That Veterans Affairs Canada and the Department of National Defence build on their existing collaborative efforts by providing adequate resources for research and understanding of known and emerging manifestations of operational stress injuries.**

##### **RECOMMENDATION 13**

**That Veterans Affairs Canada consider moving towards a payment system that results in one comprehensive monthly payment that clearly identifies the source of funding, while ensuring the net benefit to the veteran is not reduced.**

##### **RECOMMENDATION 14**

**That Veterans Affairs Canada and the Department of National Defence, after they have tabled their official response to this report within the next 120 days, also table, by 30 January 2015, a report outlining the progress made on implementing the recommendations in this report, and that the New Veterans Charter, as a “living document”, be amended to include a mandatory review of its provisions to be undertaken by the appropriate parliamentary committees as required.**



## ISSUES DISCUSSED DURING COMMITTEE PROCEEDINGS

In keeping with the Minister's request, the scope of the Committee's study was extended to include defining the social contract between the federal government, Canadians and veterans, and determining the best way to ensure that the NVC meets the requirements of this contract.

Several witnesses representing veterans' rights groups criticized the fact that the major deficiencies in the NVC had been identified several years ago and many solutions had been put forward, but the steps taken in response were disappointing in light of the initial promise that the NVC would be a "living charter".<sup>6</sup>

The representatives of these organizations generally endorsed the principles underlying the NVC, and were nearly unanimous in their support for the recommendations made by the Office of the Veterans Ombudsman.<sup>7</sup> They also supported the concerns identified by the veterans' consultation group, representing 20 veteran organizations, which agreed on priority recommendations to submit to the government.<sup>8</sup> In terms of financial support, six major shortcomings were identified:

1. The earnings loss benefit should support re-establishment and vocational rehabilitation throughout the veterans' transition to civilian life, yet it continues to be modeled on the disability benefits program they wanted to get away from;
2. The permanent impairment allowance should offset additional difficulties faced by more severely disabled veterans; however, the eligibility criteria are so restrictive that many of the veterans for whom this measure was intended do not qualify;
3. When the most severely disabled veterans reach age 65, the earnings loss benefit stops—just as disability insurance benefits used to—and they start receiving old age security benefits. A small number of veterans also receive a permanent impairment allowance that is clearly insufficient to maintain the standard of living they deserve;

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6 See for example [Ronald Griffis \(National President, Canadian Association of Veterans in United Nations Peacekeeping\)](#), *Evidence*, ACVA, 25 February 2014, 1535.

7 [Ronald Griffis](#), *Evidence*, ACVA, 25 February 2014, 1530; [Gordon Jenkins \(President, Head Office, NATO Veterans Organization of Canada\)](#), *Evidence*, ACVA, 6 March 2014, 1555; [Ronald Cundell \(Publisher, VeteranVoice.info\)](#), *Evidence*, ACVA, 25 March 2014, 1545; [Michael Blais \(President and Founder, Canadian Veterans Advocacy\)](#), *Evidence*, ACVA, 27 March 2014, 1650; [Brian Forbes \(Chairman, National Council of Veteran Associations in Canada\)](#), *Evidence*, ACVA, 1 April 2014, 1645; [Deanna Fimrite \(Dominion Secretary-Treasurer, Army, Navy and Air Force Veterans in Canada\)](#), *Evidence*, ACVA, 1 April 2014, 1705; Donald Leonardo (Founder and National President, Veterans of Canada), *Evidence*, ACVA, 8 April 2014, 1705; Robert Thibeau (President, Aboriginal Veterans Autochtones), *Evidence*, ACVA, 8 April 2014, 1720; [Gordon Moore \(Dominion President, Dominion Command, Royal Canadian Legion\)](#), *Evidence*, ACVA, 6 March 2014, 1535.

8 [Ray Kokkonen \(National President, Canadian Peacekeeping Veterans Association\)](#), *Evidence*, ACVA, 3 April 2014, 1655.

4. The maximum disability award is lower than the amount recognized by the Supreme Court in rulings on non-economic damages; this violates the principle that veterans should not be disadvantaged compared to other Canadians;
5. Family support was one of the six pillars identified by the NVC Advisory Group, yet few measures have been implemented in support of this commitment;
6. Part-time reservists do not receive the same financial support in the event of disability attributable to military service.<sup>9</sup>

Two other issues identified in studies by the Office of the Veterans Ombudsman also came up often during the Committee's proceedings:

- the difficulty for veterans' family members to obtain services for themselves; and
- the difficulty in obtaining approval from VAC for vocational programs.

The focus of the discussions on some shortcomings of the NVC should not overshadow the fact that most witnesses supported its principles, and that it was more in the implementation of these principles that adjustments need to be made.

## DEFINING THE SOCIAL CONTRACT

When we sign on that dotted line I think the expectation is that we're going to be cared for after the fact, regardless of whether everything works out well or if someone is injured really catastrophically such as myself or others like me. I think bottom line is that we just want to make sure we're cared for and taken care of for the time ever after for the sacrifices that we did make.<sup>10</sup>

During the 1990s, operational pressure and financial constraints forced a stricter interpretation of the principle of universality of service.<sup>11</sup> For the first time since the end of the Korean War, the social contract between members of the armed forces, veterans, the Canadian population and the government, had to be revisited. Many CF members were released on medical grounds, when before they would have remained in the service during their recovery. With their careers unexpectedly shortened, many of these new veterans found themselves in difficult situations. Since the services offered by VAC were available only to those receiving disability pensions and since wait times could be long, the only reintegration services available were those provided by the Department of National Defence under the Service Income Security Insurance Plan (SISIP).

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9 Guy Parent (Veterans Ombudsman, Chief Warrant Officer [retired], Office of the Veterans Ombudsman), [Evidence](#), ACVA, 28 November 2013, 1105.

10 [Sergeant Bjarne Nielsen \(as an individual\)](#), *Evidence*, ACVA, 27 March 2014, 1615.

11 Veterans Affairs Canada – Canadian Forces Advisory Council, *The Origins and Evolution of Veterans Benefits in Canada, 1914–2004*, p. 50–51.

The nature of the programs available meant that, in the period between their release and the approval of their disability pension, veterans focused their efforts on proving that their disability was service-related, instead of focusing them on vocational rehabilitation. Furthermore, some members chose to leave the Canadian Forces only to experience symptoms of operational stress later on. Since these people had not been released for medical reasons, they were not entitled to support under the SISIP.

All of these factors have required that this social contract be redefined by taking into account the different needs of a new generation of veterans who have been involved in complex, ill-defined and more dangerous operations. In moving toward the adoption of the NVC, it was expected that the new Act would embody this redefined social contract.

Expectations were very high when the NVC was adopted, and while recognizing the value of its programs, a number of witnesses found that the Act did not live up to these expectations.<sup>12</sup> It was generally agreed that the NVC has many strengths, and that to prevent the marginalization of veterans, its weaknesses must be addressed.

This disappointment with the NVC's promises is not universal, but it is widespread enough that some CF members who are about to be released for medical reasons are worried.<sup>13</sup> Concern was expressed that once rehabilitation efforts are completed by the most seriously injured, they will feel at risk because of the limits of the programs, both in time and in amounts.

Further, as Corporal Fuchko sees it, this perception reflects the concerns some disabled veterans also have about the consequences on their families and the inadequacy of supports available to them in the form of survivor and other benefits.<sup>14</sup>

This focus on family goes beyond a concern for services or financial benefits. According to Senator Roméo Dallaire, families today have become an intrinsic part of the conflict, kept informed of what goes on through omnipresent information technologies:

By the time we come back from those missions, we see a family who has also lived the missions. The families are now living the missions with the members. It is not a separated exercise. It is a marriage. It's a communion between the two, and so any policy that doesn't reflect that communion is a policy that will have a fundamental flaw in it, and the fundamental flaw is you can't help the member and let the families be taken care of by somebody else, by another body, and hopefully they might even have a priority in their support. That dimension, which was supposed to be intrinsic in what we were hoping the legislation would be, is not there. You have a hard time finding "family" in this legislation.<sup>15</sup>

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12 [Medric Cousineau \(Captain \[retired\], as an individual\)](#), *Evidence*, ACVA, 4 March 2014, 1635.

13 [Sergeant Bjarne Nielsen \(as an individual\)](#), *Evidence*, ACVA, 27 March 2014, 1600; see also [Cpl Mark Fuchko \(as an individual\)](#), *Evidence*, ACVA, 1 April 2014, 1530-35.

14 [Cpl Mark Fuchko](#), *Evidence*, ACVA, 1 April 2014, 1605.

15 [Roméo Dallaire \(Quebec, Lib.\)](#), *Evidence*, ACVA, 3 April 2014, 1535.

Committee members agree on the need to prioritize the most seriously disabled veterans and their families. Canada's gratitude must correspond to their sacrifice and the suffering they and the members of their families will experience for the rest of their lives.

This does not mean, of course, that gratitude should not be extended to veterans whose problems are less serious. However, the primary objective should be different. A significant proportion of seriously disabled veterans are not likely to find employment that meets their original career goals. No service or financial benefit will ever compensate for that pain. The generosity of Canadians can nonetheless ease their suffering by providing programs to help veterans and their families deal with the situation to the best of their abilities. They must be confident that the generosity extended to them by the population is sincere and that they will not suffer the effects of fluctuating financial situations.

For veterans whose military service resulted in difficulties that can be overcome, the primary objective, if not the only objective, of all the programs designed for them should be to support their transition to a fulfilling work life. All the studies on determinants of health clearly show that vocational reintegration is the most important factor in successful transitions for people whose careers have been interrupted by disabilities.

Lastly, even the best principles, best intentions and best programs will not be successful if access to services and benefits is hampered by administrative considerations. Veterans and their families would have the impression that the initial generosity was only empty words and that the population's sincerity got lost in red tape and short-lived policies. Therefore, it is essential that steps be taken to ensure that the relationship between veterans, their families and the government openly and clearly demonstrate the generosity of the Canadian people. Witnesses put forward many suggestions and recommendations to this end that this report cannot do justice to. We will simply mention one idea: combining the departments of National Defence and Veterans Affairs. This idea is not new, but resurfaced during our proceedings, and a number of witnesses suggested that it should be seriously considered.<sup>16</sup>

The solemn obligation of the Government and people of Canada towards its veterans should include, at the very least, these four elements: support for families, priority for the most seriously disabled veterans, support for career transition services, and access to services. These four elements should also be included in a more comprehensive framework that would outline the philosophy behind the fundamental values that must guide the government's actions as it provides support for veterans.

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16 [Joseph Burke \(National Service Officer, Ottawa, NAV, National Alliance, Canadian Aboriginal Veterans and Serving Members Association\)](#), *Evidence*, ACVA, 1 April 2014, 1720; [Roméo Dallaire](#), *Evidence*, ACVA, 3 April 2014, 1555; [BGen Joseph Gollner \(Patron, Canadian Peacekeeping Veterans Association\)](#), *Evidence*, ACVA, 3 April 2014, 1815; [Thomas MacEachern \(as an individual\)](#), *Evidence*, ACVA, 3 April 2014, 1825.

The Minister of Veterans Affairs, the Honourable Julian Fantino, asked the Committee to determine the best way to express it:

I ask you to determine how best to state our commitment to Canadians and their families and what is the best format to do so in the *New Veterans Charter*. It is important that Canadians express through the parliamentary process exactly what is our shared duty, responsibility, mandate, obligation, commitment, or covenant to Canadian veterans.<sup>17</sup>

A number of possibilities were put forward. One was to follow the example set by the United Kingdom, where a social covenant brought together the government, local officials, community organizations and the business world.<sup>18</sup> Others suggested simply returning to the initial spirit of non-confrontation that was the basis of all pieces of legislation supporting veterans that had been passed over the years, but that seems to have been lost to bureaucratic or financial considerations:

The legislation is written in a way that you should have access except for contradictory evidence. But the way the adjudicators are trained now is the complete opposite. As I say, you don't need all these medical files.

The veterans legislation was written to be non-adversarial. The process was written to be non-adversarial. It's the only one in Canada and it has to stay that way.<sup>19</sup>

For unknown reasons, the NVC does not have the preamble paragraph that was included in most of the previous enactments. In the *Pension Act*, this paragraph was a construction given in section 2:

The provisions of this Act shall be liberally construed and interpreted to the end that the recognized obligation of the people and Government of Canada to provide compensation to those members of the forces who have been disabled or have died as a result of military service, and to their dependants, may be fulfilled. (*Pension Act*, s. 2)

Committee members, with the support of many witnesses,<sup>20</sup> agreed that, as a starting point, a similar provision should be included in the NVC, as well as the Veterans Bill of Rights (see Appendix E). Greater action would certainly be welcomed, but this simple addition to the Act would clearly show that the gratitude of the Canadian people toward today's veterans is as profound as the gratitude that has been shown for the past century without interruption.

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17 [Hon. Julian Fantino](#), *Evidence*, ACVA, 19 November 2013, 1115.

18 [Brad White \(Dominion Secretary, Dominion Command, Royal Canadian Legion\)](#) *Evidence*, ACVA, 6 March 2014, 1605.

19 Harold Leduc (as an individual), *Evidence*, ACVA, 8 April 2014, 1920.

20 Guy Parent, *Evidence*, ACVA, 28 November 2013, 1100; [Gordon Moore](#), *Evidence*, ACVA, 6 March 2014, 1530; Donald SoroChan (as an individual), *Evidence*, ACVA, 10 December 2013, 1115.

## GETTING THE MOST OUT OF THE NEW VETERANS CHARTER

Several witnesses stated that the NVC added nothing new except reduced compensation for pain and suffering resulting from a disability.<sup>21</sup> The Committee members respectfully disagree with this statement and support the position of the Royal Canadian Legion, as presented by Mr. Brad White:

We honestly believe that the *New Veterans Charter* is a good document. It's a new system to look after people. But we believe there are gaps that could and should be fixed, that we are obligated to fix, so that we can continue to provide this service to our veterans.<sup>22</sup>

Members agree with the findings of several studies showing that the lifetime amount paid under the *Pension Act* for pain and suffering was generally higher than the disability award paid out under the NVC. They also agree that the earnings loss benefit under the NVC is similar to the disability benefit under the SISIP, and that the NVC's permanent impairment allowance resembles the exceptional incapacity allowance provided for in the *Pension Act*. It is not unusual to find similarities between various disability support programs. Measures to compensate for suffering, replace income and assist with the additional occupational problems resulting from severe disability are common to most compensation systems, whether they be related to workplace accidents,<sup>23</sup> traffic accidents or court rulings in civil liability cases.

However, by focusing on financial comparisons, we fail to consider the rehabilitation program, which is the central feature of the NVC programs and the main difference between the NVC and the previous system.

Prior to 2006, CF members who had been given a medical release received SISIP disability benefits for two years while awaiting a decision on their application for a disability pension. Wait times could be long and were longer still if the decision was appealed to the Veterans Review and Appeal Board. If the veteran's medical condition improved, it was thought that the amount of the disability pension could be reduced as a result. In addition, veterans received no physical or psychological rehabilitation services during the wait time since they had not yet received their disability pension. Although SISIP provided career transition support, it was of little use without physical and psychological rehabilitation at the same time. All of the research conducted during the preparation of the NVC highlighted this significant shortcoming.

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21 [Sylvain Chartrand \(Director, Canadian Veterans Advocacy\)](#), *Evidence*, ACVA, 27 March 2014, 1710; Sean Bruyey (retired Captain [Air Force], Advocate and Journalist, as an individual), [Evidence](#), ACVA, 8 April 2014, 1815; Kevin Berry (as an individual), [Evidence](#), ACVA, 10 December 2013, 1150.

22 [Brad White](#), *Evidence*, ACVA, 6 March 2014, 1620; see also [Michael Blais](#), *Evidence*, ACVA, 27 March 2014, 1705.

23 See Judy Geary (as an individual), [Evidence](#), ACVA, 26 November 2013, 1125.



Moreover, the former system was ill suited to address mental disabilities. If members left the Canadian Forces without a medical release and later experienced symptoms associated with operational stress, they could not receive SISIP disability benefits, mental health services or vocational rehabilitation services until they were able to show that their condition was related to their military service, which was often no easy task. Under the NVC, these individuals can now state their requirements and receive an earnings loss benefit while they are in a rehabilitation program.<sup>24</sup>

That is why Committee members believe the philosophy of the NVC, with its focus on rehabilitation, must remain at the core of support programs for disabled veterans. This does not preclude a review of financial support programs, but this review must presuppose the acceptance of the current NVC framework. There is no question of returning to the system under the *Pension Act*. As the Veterans Ombudsman clearly stated, “[W]e need to accept the fact that veterans are supported under two different benefit schemes, and that we are not going to rewrite the past.”<sup>25</sup>

When the NVC was adopted, the issues that had led to its formulation were clearly summarized in the explanatory statement accompanying the Regulations:

Under the *Pension Act*, pensions are multipurpose. They provide some income support, they compensate for non-economic impacts like pain and suffering, and they serve as a gateway to other programs and benefits such as exceptional incapacity allowance and health care. They are continually open to review and increase for such things as the impact of aging upon the initial injury. This leads to incremental accumulation of percentages of disability over time, focusing on deterioration. For these reasons, they also serve as a disincentive to rehabilitation, recovery and re-establishment.<sup>26</sup>

Another objective of the NVC was to prevent the disability pension from becoming the only source of income for veterans experiencing re-establishment challenges related to their service: “The disability pension under the *Pension Act* and SISIP long-term disability benefits are the primary sources of funding presently available to disabled Veterans.”<sup>27</sup> This system provided the most seriously disabled veterans with solid financial security, but it was a passive system that gave veterans with less serious disabilities little incentive for rehabilitation.

This problem was present in the system under the *Pension Act* and in other disability programs, as the OECD noted in its analysis of Canada’s disability policies:

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24 See the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, “Regulatory Impact Analysis Statement,” SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 206–207.

25 Guy Parent, [Evidence](#), ACVA, 28 November 2013, 1105

26 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, “Regulatory Impact Analysis Statement”, SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 222.

27 *Ibid.*, p. 213.

[Disability Insurance Plans] often still focus on what a person cannot do rather than what work they are capable of. Beneficiaries are required to assert they are incapable of working in order to continue qualifying and in most cases to receive payments. Thus, the system itself has a disabling effect because it imposes a culture of benefit dependency on many people who could otherwise work with the right support and incentives.<sup>28</sup>

Many veterans were having difficulty returning to a rewarding career, and it would be irresponsible to disregard the financial costs associated with this. When the NVC was introduced, these financial considerations were assessed as follows:

The costs of the disability pension system are escalating sharply. [...] The accumulated government liability of CF pensioners for disability pensions and related programs rose from \$5.6 billion in 2001 to more than \$11 billion by April 2005. In spite of these increased costs, research has determined that too many CF Veterans are not making a successful transition from military to civilian life; in short, CF Veterans are not getting the help they need. [...] It is projected that those increased expenditures in the early years will have been balanced with decreased expenditures in the later years, resulting in a cost-neutral impact over 19 years. In short, these programs represent a strategic, long term reallocation of resources to achieve increased wellness and productivity.<sup>29</sup>

In addition, re-entry into the labour market was further delayed by long wait times for decisions on disability pensions. As the OECD noted “the likelihood of permanent labour market exit rises exponentially with duration away from work.”<sup>30</sup>

The NVC programs were intended as a way to move away from this model of disability insurance by providing the most seriously disabled veterans with a lifetime benefit — the permanent impairment allowance — and making receipt of the earnings loss benefit conditional upon participation in a rehabilitation program. This was exactly the approach advocated by experts.<sup>31</sup>

However, the implementation of certain features of the NVC programs has not been optimal in the attainment of the initial objectives on which there was general consensus. The six issues identified by the Office of the Veterans Ombudsman came up frequently during the Committee’s deliberations and will be addressed in the following sections of this report.

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28 Organisation for Economic Co-operation and Development (OECD), *Sickness, Disability and Work: Breaking the Barriers – Canada: Opportunities for Collaboration*, p. 44.

29 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, “Regulatory Impact Analysis Statement”, SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 194–195.

30 Organisation for Economic Co-operation and Development (OECD), *Sickness, Disability and Work: Breaking the Barriers – Canada: Opportunities for Collaboration*, p. 9.

31 For example, Judy Geary, [Evidence](#), ACVA, 26 November 2013, 1210.



## 1. Earnings Loss Benefit and Service Income Security Insurance Plan (SISIP)

Several witnesses deplored the fact that the earnings loss benefit was modeled on SISIP disability benefits, instead of supporting veterans' re-establishment by providing them with financial security during their rehabilitation program. To understand the interaction between these two benefits, it is worthwhile to briefly review how SISIP benefits have changed over time.

The SISIP was first introduced in 1969 as a voluntary program for medical releases not attributable to military service. At the outset, benefits were equal to 60% of the member's pay at release, plus 5% for each dependent child, up to a maximum of 75%. It was then found that veterans who had been released for medical reasons not attributable to military service had an advantage over some veterans who had been released for medical reason attributable to military service but were receiving only disability benefits. As a result, the SISIP was then extended to all medical releases, whether the disability was attributable to military service or not. Then, benefits were capped at 75% of the member's pay at release, regardless of their family situation. Since 1995, benefits stop when the veteran reaches age 65. Prior to 1995, SISIP long-term disability benefits were payable for life.<sup>32</sup>

SISIP benefits and services were available only to veterans released for medical reasons. Those who left the Canadian Forces voluntarily and whose disability manifested at a later date were not entitled to these benefits.<sup>33</sup> When the NVC was being developed, the earnings loss benefit was initially intended to complement the SISIP programs for veterans who had not been released for medical reasons, but needed re-establishment assistance.

The earnings loss benefit for reservists was also based on the SISIP disability benefits. The monthly pay for reservists was set at \$2,000 in 2006 under the Regulations, as was the monthly amount under the SISIP.<sup>34</sup> The 75% threshold was also thought to be an incentive to return to work for those who were able.

For the most seriously disabled veterans who are likely to need this benefit over the long term, the disregard for potential career advancement and the creation of a 2% indexation cap might create a sense of injustice, given the standard court rulings that offer structured settlements based on a flexible probable earnings approach:

Under the [New Veterans Charter], we have a frozen income. If a young corporal or private is badly injured, he walks out of the service firstly with a 25% reduction of income; he winds up with a fixed income with a small cost of living increase maxed at 2% for the

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32 Veterans Affairs Canada – Canadian Forces Advisory Council, *The Origins and Evolution of Veterans Benefits in Canada, 1914–2004*, p. 38.

33 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, "Regulatory Impact Analysis Statement", SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 204.

34 *Ibid.*, p. 210.

rest of his life until he reaches the age of 65, and then he's cut off. [...] The courts would not do that. The courts would look at future loss of income and project the career earnings of that young private or corporal and award that as part of the overall assessment of damages.<sup>35</sup>

The underlying principle in all comparisons between the NVC and other systems is that veterans whose disability is attributable to military service should receive compensation that is equal to or better than the compensation received by other Canadians. According to Jim Scott, President of the Equitas Society, this principle is not fully applied by the NVC.<sup>36</sup>

At the time of the the Committee's study, no witness came before us defending the fact that the earnings loss benefit is modeled on SISIP benefits. In fact, Brian Forbes, Chairman of the National Council of Veteran Associations in Canada, said that moving away from that model was an important condition for the support of some veteran associations when the NVC was first passed in 2005.<sup>37</sup> Increasing the earnings loss benefit amount is the NVC reform that has the greatest support. This change was one of the key recommendations made by the Veterans Ombudsman:

The reason we recommend 90%, which is equivalent to net income before release, is the fact that the family and the veteran are going through a very traumatic period of their lives because they are leaving a culture of being well looked after and going into civilian life. [...] While they are undergoing vocational rehabilitation training, they should have at least the same financial security they had before they left the forces.<sup>38</sup>

## **2. Access to the permanent impairment allowance**

When the NVC came into force, the purpose of the permanent impairment allowance was described as follows: "The PIA recognizes the lost opportunity effects that a permanent severe impairment resulting primarily from service will have on employment potential and career advancement opportunities."<sup>39</sup> The PIA is a taxable allowance that is payable for life and indexed to the cost of living. As such, it seems to be very well suited to the needs of severely disabled veterans.

However, Mr. Forbes neatly summed up how a sound principle is sometimes difficult to implement in practice: "Statistics developed by the ombudsman demonstrate that more than 50% of seriously disabled veterans have not qualified for PIA, which is

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35 [Brian Forbes](#), *Evidence*, ACVA, 1 April 2014, 1820.

36 Jim Scott (President, Equitas Society), [Evidence](#), ACVA, 10 December 2013, 1105/1110.

37 [Brian Forbes](#), *Evidence*, ACVA, 1 April 2014, 1650.

38 Guy Parent, *Evidence*, ACVA, 28 November 2013, 1140.

39 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, "Regulatory Impact Analysis Statement", SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 219.

shocking. Of those veterans who have been granted PIA, 90% have been awarded the lowest grade."<sup>40</sup>

The Committee raised the issue in its June 2010 report.<sup>41</sup> Many witnesses asked for the PIA's eligibility criteria to be clarified so that all veterans understood their entitlements in advance.<sup>42</sup>

The *Enhanced New Veterans Charter Act* introduced a supplemental amount to the PIA but this does not seem to have clarified matters, since veterans must first have been granted the PIA in order to receive the supplement.

Although Veterans Affairs Canada has not released any official data, analyses by the Office of the Veterans Ombudsman indicate that more veterans are receiving the PIA since the *Enhanced New Veterans Charter Act* came into force. However, this increase itself is hard to analyze since the eligibility criteria in the Regulations have not been changed. The only way to determine this is if the Department releases the relevant data.

### **3. Financial support after 65**

As pointed out by the Committee in its June 2010 report, the financial situation of seriously disabled veterans older than 65 remains unclear under the NVC. The Office of the Veterans Ombudsman looked into the issue and came to alarming conclusions:

We focused on those veterans who are totally and permanently incapacitated. If they are not entitled to a pension from the Canadian Forces because they served for less than 10 years then they may receive a permanent impairment allowance. Aside from that, at 65 years of age they will receive no income from Veterans Affairs Canada. ... In our report, we identified that 53% of individuals who are totally and permanently incapacitated do not receive impairment allowances. Veterans Affairs Canada has a definition of an individual who is totally and permanently incapacitated. It makes no sense that individuals who are designated as such by the Department are not receiving permanent impairment allowances, which would guarantee them an income after age 65.<sup>43</sup>

Officials from the Royal Canadian Legion presented this problem as an injustice that must be corrected without delay.<sup>44</sup>

### **4. Amount of disability award**

In his report on improving the New Veterans Charter, the veterans' ombudsman noted that the amount of the disability award "has not kept pace with the original

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40 [Brian Forbes](#), *Evidence*, ACVA, 1 April 2014, 1650.

41 [A Timely Tune-Up for the Living New Veterans Charter](#), June 2010, Recommendation 13.

42 [Brian Forbes](#), *Evidence*, ACVA, 1 April 2014, 1655.

43 Guy Parent, *Evidence*, ACVA, 28 November 2013, 1125.

44 [Gordon Moore](#), *Evidence*, ACVA, 6 March 2014, 1535.

benchmarks upon which the amount was based.”<sup>45</sup> He also noted that it has remained lower than the 2012 maximum amount of \$342,500 established by the Supreme Court of B.C. for non-pecuniary damages in civil cases following an earlier decision of the Supreme Court of Canada. Members of the Committee agree that the amount of the disability award should better reflect the one awarded by courts in civil cases.

Under changes brought about by the *Enhanced New Veterans Charter Act*, since October 2011, veterans can receive the disability award as a lump sum payment, in annual payments or a combination of the two. Very few veterans have made use of this new option: “The fact is that most of them are not choosing to take periodic payments. It’s been 2% or 1%. They are typically choosing to take it in a lump sum. I can only assume that the independent financial advice they are getting is suggesting that in their particular circumstance that’s the best way to go.”<sup>46</sup>

This view was not shared by most of the witnesses the Committee heard from on this issue. For example, Senator Roméo Dallaire strongly disagreed: “I think that measure is extremely detrimental. It does not fit the needs of the individual and their family.”<sup>47</sup>

The reasoning behind this opposition is twofold. First, receiving a lump sum payment is very risky from a financial security standpoint for individuals, many of them young, whose career expectations were turned upside down when they were forced to leave the Canadian Forces. If they are able to work, they will not receive any other benefits, and there is a very high risk that the lump sum will not be managed well, especially if their mental health is fragile. Sergeant Bjarne Nielsen, who is looking to transition into the field of financial consulting, provided a good illustration of this risk:

I don’t like the lump sum payout. Not everyone is financially savvy. It’s great that the opportunity for someone to go and seek some professional help with regard to financing is available. Unfortunately, one of my peers Jody Mitic—I’m sure everyone knows about him. He’s been on the news. One of his issues was that he consulted someone, got some advice to invest his money into the market, and a huge chunk of that disappeared, all because his plan, what he thought was supposed to happen, didn’t come through. Unfortunately, having a huge lump sum of money, yes, it makes you feel good right in the beginning, but do you know what? It won’t last, especially if you invest it into a market that is as unsure as it has been over the last five years.<sup>48</sup>

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45 Veterans Ombudsman, *Improving the New Veterans Charter. The Report*, June 2013, p. 34. See also Brian Forbes, *Evidence*, ACVA, 1 April 2014, 1805.

46 Mary Chaput (Deputy Minister, Veterans Affairs Canada), *Evidence*, ACVA, 19 November 2013, 1220.

47 [Roméo Dallaire](#), *Evidence*, ACVA, 3 April 2014, 1550.

48 [Sergeant Bjarne Nielsen](#), *Evidence*, ACVA, 27 March 2014, 1550; David Fascinato, *Evidence*, ACVA, 8 April 2014, 1620; [Medric Cousineau](#), *Evidence*, ACVA, 4 March 2014, 1530; [Barry Yhard \(National Executive Director, National Executive Board of Directors, Veterans Emergency Transition Services\)](#), *Evidence*, ACVA, 4 March 2014, 1625.

Several veterans, such as Kevin Berry, told us that when the only benefit they receive is this disability award, it is easy to feel as though this lump sum payment was a way to get rid of them, while the monthly pension represented long-term recognition:

Every morning when I wake up, I'm compensated under the *Pension Act* for my lack of hearing and my bad knees. When my knees ache and I put my hearing aids in—I'm 30, by the way—I'm reminded that there's a connection to the Government of Canada and, by extension, the people; that my sacrifice is remembered; and that it's dealt with through a financial stipend. It's not a huge amount of money. I'm not going to get rich off of it. But it's a nice reminder that I haven't been forgotten and that's acknowledged—every day.<sup>49</sup>

This view is probably not as widely held by more seriously disabled veterans who will receive other benefits throughout their lifetimes. Still, the amount of the lump sum payment is considered very low by those with very serious injuries in the short or medium term, who are forced to leave the Canadian Forces but whose permanent disabilities are moderate. Jim Scott of the Equitas Society believes that while it is crucial to first deal with the most seriously disabled veterans, this does not address the problems of veterans with less serious disabilities: "You're a few tweaks away from having that one done; but at the lower end of the scale, there is still a wide open area of problems."<sup>50</sup>

Since October 2011, the option to receive annual payments rather than a lump sum payment does not appear to have addressed the kinds of problems that were seen before these changes. Essentially, the witnesses acknowledged that there is a need for a flexible system to compensate for pain and suffering, but that this award does not provide veterans with sufficient financial security.<sup>51</sup> Senator Roméo Dallaire even suggested that instead of hiding behind the individualistic dogma of freedom of choice and leaving veterans to fend for themselves, it may make more sense to leverage the "paternalistic" aspects of the military ethos to help veterans make decisions that are in the best interests of themselves and their families.<sup>52</sup>

## 5. Support for families

When the NVC was adopted, support for families was presented as one of the pillars that would facilitate a successful transition to civilian life. It was a critical aspect that allowed the NVC to redefine the social pact between veterans and the Government of Canada. Many witnesses assessed family support programs in comparison with *Pension Act* programs and other pre-2006 programs, specifically in the areas of financial support and rehabilitation measures for veterans' family members.

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49 Kevin Berry (as an Individual), [Evidence](#), ACVA, 10 December 2013, 1125.

50 Jim Scott, [Evidence](#), ACVA, 10 December 2013, 1200.

51 [Ronald Griffis](#), *Evidence*, ACVA, 25 February 2014, 1600; [Tim Laidler](#), *Evidence*, ACVA, 25 February 2014, 1605; [Michael Blais](#), *Evidence*, ACVA, 27 March 2014, 1655.

52 [Roméo Dallaire](#), *Evidence*, ACVA, 3 April 2014, 1555.

In terms of financial support for families, the NVC was seen as a step in the wrong direction because, unlike the benefits provided under the *Pension Act*, financial benefits under the NVC were not adjusted to reflect the veteran's family situation. Under the *Pension Act*, the monthly disability benefit, payable for life, was increased if the veteran had a spouse and children. There was also an attendance allowance paid to the spouses of seriously disabled veterans. In contrast, the disability award remains the same regardless of the veteran's family situation, and there is no attendance allowance paid to the spouses. The Veterans Ombudsman, Guy Parent, recommended that the government bring back this allowance in some form:

We need to compensate family members who provide primary care to their seriously disabled veterans. A number of spouses put their careers on hold or stop working completely to care for a disabled veteran. We believe they need to be compensated for the support and the sacrifices they make.<sup>53</sup>

In terms of rehabilitation, the NVC was an important step forward. Before the NVC was adopted, rehabilitation services for family members simply did not exist.<sup>54</sup> Since 2006, the vocational component of rehabilitation services has been available to the spouse if the veteran dies or is totally incapacitated. Several witnesses, including the Veterans Ombudsman, Mr. Parent, felt that while this did indeed constitute an improvement, the services provided remained insufficient.<sup>55</sup>

The main concern raised by witnesses was that if the veteran is not in a rehabilitation program, VAC cannot provide services to family members, even if they require such services to better support the veteran.<sup>56</sup>

Sergeant Bjarne Nielsen said that, during the early stages of his recovery from a very serious injury, he would have appreciated having a constant line of communication maintained between the Government of Canada and his family, and having services provided to them:

I think it's by having people coming to the door of the family, to their house, and sitting in with them, whether it's once a week or twice a week, just to keep track and try to offer support, or to keep them up with community events and try to get them engaged so they're not just hunkering down, hanging out in the house, and worried that they have to take care of their husband or their wife or whatever.... Because they have to realize that

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53 Col Denys Guérin (Senior Analyst, Office of the Veterans Ombudsman), [Evidence](#), ACVA, 28 November 2013, 1115; [Ronald Griffis](#), [Evidence](#), ACVA, 25 February 2014, 1530–1535.

54 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, "Regulatory Impact Analysis Statement", SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 207.

55 Guy Parent, [Evidence](#), ACVA, 28 November 2013, 1100.

56 [Alice Aiken \(Director, Canadian Institute for Military and Veteran Health Research\)](#), [Evidence](#), ACVA, 25 March 2014, 1625.

they need to maintain their own freedoms and feel that greatness of getting out and living.<sup>57</sup>

Committee members agree that support for family members must be an important pillar of the services offered to disabled veterans. For those who unfortunately became severely disabled, it embodies the gratefulness of the Canadian people for a sacrifice that is shared by all family members. It is also a key condition of success for those who will be able to overcome obstacles in their transition to civilian life.

## **6. The status of reservists**

The treatment of reservists who have suffered a disability on duty requires a much more in-depth study than the Committee was able to conduct during its study of the NVC. Following analyses by the Office of the Veterans Ombudsman, several witnesses recommended eliminating the discrepancy between the treatment of a wounded reservist and the treatment of a similarly wounded member of the Regular Force, particularly with regard to the earnings loss benefit. However, there was very little explanation given to support this idea, and the relationship between the various provincial compensation systems available to reservists, but not to Regular Force members, is complex. This is a subject that the Committee may wish to consider in greater depth in a future study.

## **REHABILITATION AND TRANSITION SERVICES**

The NVC's rehabilitation program is designed to shift the focus from physical and psychosocial rehabilitation to vocational rehabilitation — including training programs — and, once vocational rehabilitation is completed, to use the job placement program to help veterans finish their transition to civilian life.

A veteran's ability to transition to civilian life is evaluated based on five categories: mental and physical ability, family relationships, financial security, work and professional productivity, and participation in community life.<sup>58</sup>

The focus on the rehabilitation program among all the services and benefits introduced under the NVC is without a doubt its greatest strength. The witnesses generally acknowledged the value of the program, and their suggestions were made with a view to improving it rather than challenging its underlying purpose.

The Committee's deliberations on the rehabilitation program revolved around two main themes: case management and the vocational rehabilitation program.

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57 [Sergeant Bjarne Nielsen](#), *Evidence*, ACVA, 27 March 2014, 1630; [Chris Linford \(National Ambassador, Wounded Warriors Canada\)](#), *Evidence*, ACVA, 25 March 2014, 1620.

58 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, "Regulatory Impact Analysis Statement", SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 206.



## 1. Case Management

When the NVC was adopted, case management was presented as the core component of the rehabilitation program and, therefore, the heart of the entire philosophy of supporting veterans' efforts to achieve well-being and transition to civilian life. The expectations generated by the minister at the time were very high: "To make all these new programs work for every veteran, we provide case managers who will take a personal interest in every CF veteran and navigate their route to success, and the services and benefits they need."<sup>59</sup> This statement created some misunderstanding and was interpreted as meaning that the NVC would establish a personal follow-up system for all individuals who had left the Canadian Armed Forces.<sup>60</sup> In fact, case management services apply only to approximately 5% of VAC clients, namely, those with complex needs usually involving both physical and mental disabilities. VAC currently employs approximately 230 case managers who manage approximately 40 veterans' files each.<sup>61</sup>

Experts agree that early intervention is the key to successful vocational rehabilitation in cases involving a disability: "By 'early intervention' I mean within six to eight weeks following the onset of disability, following injury. Setting and keeping case management timelines is urgent. After six months off work only 50% of disabled workers ever return to full-time employment, and by two years return to work is rare."<sup>62</sup>

However, this approach is based on the assumption that disabled individuals will go back to work for their original employer, which is not an option for medically released veterans who, for most of them, cannot go back to the Canadian Armed Forces. This poses an additional challenge for veterans. The transition from one employer to another is in itself a difficult change. When individuals are also changing occupations, abandoning a long-term career, leaving a highly structured environment, and dealing with the implications of a disability, the challenges can quickly start to feel insurmountable.

The comments of some witnesses seem to imply that the quality of case management services is not always conducive to early intervention. Corporal Mark Fuchko, for example, has had little contact with a VAC case manager even though he will be released in a few months due to serious injuries.<sup>63</sup>

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59 Hon. Albina Guarnieri, Minister of Veterans Affairs Canada, *Evidence*, Standing Senate Committee on National Finance, 11 May 2005, Issue No. 23, p. 13.

60 See Senator Day's statement: *Evidence*, Standing Senate Committee on National Finance, 11 May 2005, Issue No. 23, p. 57.

61 Keith Hillier (Assistant Deputy Minister, Service Delivery, Veterans Affairs Canada), [Evidence](#), ACVA, 3 December 2013, 1145.

62 Judy Geary, [Evidence](#), ACVA, 26 November 2013, 11h10.

63 [Cpl Mark Fuchko](#), *Evidence*, ACVA, 1 April 2014, 1550; see also [Sergeant Bjarne Nielsen](#), *Evidence*, ACVA, 27 March 2014, 1555.



This lack of interaction with serving members who will be medically released seems to be at odds with the commendable efforts of VAC to increase its presence on military bases.<sup>64</sup>

Whatever the shortcomings in particular instances, Committee members believe that the success and credibility of the NVC's rehabilitation programs are closely tied to the quality of the case management services that veterans, whose needs are complex, are receiving.

## **2. Post-secondary Education Program**

Vocational rehabilitation is the last component of the program that helps disabled veterans transition to civilian life. Since the implementation of the NVC, some have criticized the eligibility criteria for being overly strict and condemned the fact that the VAC program is modeled on a similar SISIP program. The Veterans Ombudsman, Mr. Parent, recently congratulated the government for increasing the budget for eligible training expenses and simplifying spending authorization procedures.<sup>65</sup>

The Veterans Ombudsman did note, however, that it is difficult to obtain the department's authorization when a veteran wishes to access a program that is unrelated to the skills acquired during military service.<sup>66</sup> According to him, only a small number of veterans have been approved for educational grants since 2000. These restrictions limit career options for veterans. Given that it is often difficult to establish professional equivalencies between the military and civilian sectors, the vocational rehabilitation program should provide a greater range of opportunities for veterans wishing to use their skills in a new environment.

## **CONCLUSION**

The members of the Committee would first like to commend the Minister of Veterans Affairs, the Honourable Julian Fantino, for his initiative in asking them to consider their study of the New Veterans Charter (NVC) in the most comprehensive way possible, thus supporting the recommendation of the veterans' ombudsman, Mr. Guy Parent. This initial opening breathed a spirit of cooperation that has allowed all members to put the interests of veterans and their families before any other consideration.

We also wish to thank sincerely all the witnesses who came to improve our understanding of the most pressing issues. No matter if their points of view on the NCAC have been favourable or unfavourable, nuanced or categorical, they were all motivated by a common desire to identify the best ways to support the veterans, particularly the more seriously disabled, along with their families.

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64 Keith Hillier, [Evidence](#), ACVA, 3 December 2013, 1150.

65 Guy Parent, [Evidence](#), ACVA, 28 November 2013, 1100.

66 *Ibid.*, 1150.

Since, during this study, it was pointed out several times that too much had already been written about the NVC, we attempted to confine ourselves to the essentials. We therefore could not directly cite witnesses whenever they would have deserved it. We hope, however, that all of them will recognize a share of their contribution in the ideas advocated by this report.

In closing, we would like to stress our conviction that the implementation of the recommendations contained in this report would substantially improve the support offered to veterans with service-related disabilities, in particular those whose disability is severe. The majority of veterans were well served by the programs implemented since the coming into force of the NVC. Improvements have been made since, and this report recommends a few others. This is not the end of the road. The needs of veterans change, and other adjustments will be necessary. The New Veterans Charter must therefore remain a living document, as living as the support and recognition that Canadians have never ceased to express towards veterans and their families.

### NEW VETERANS CHARTER—BACKGROUND

In its May 1996 report, the Office of the Auditor General of Canada conducted an in-depth analysis of how health care is provided to veterans by Veterans Affairs Canada.<sup>1</sup> One of the report's findings was that there was no "comprehensive plan to meet the future health care needs of its clients."<sup>2</sup> Then, from 1996 to 2000, the Department conducted a Review of Veterans Care Needs. This analysis focused on the future of health care, particularly long-term care, to be provided to a steadily aging generation of veterans. However, it highlighted deeper questions about the very nature of the Department's activities, as more and more veterans of that generation pass on, and as the Department's clients become younger and relatively fewer in number. In light of these questions, the Veterans Affairs Canada — Canadian Forces Advisory Council was established to address the needs of this new generation of veterans.

The Veterans Affairs Canada — Canadian Forces Advisory Council was established by Veterans Affairs Canada in July 2000 to offer expert, arms-length advice, within the scope of that Department's mandate, on how to address challenges facing members and veterans of the Canadian Forces and their families. The advisory council has been meeting twice yearly in pursuit of that objective. During its October 2002 meeting, the council concluded that, despite numerous improvements in the range of services and benefits now available to these very deserving Canadians, the time had come for comprehensive reform.<sup>3</sup>

The Advisory Council presented a rather bleak picture for medically released Canadian Forces (CF) members and their families. The range of programs to support the re-establishment of released military personnel following the Second World War and the Korean War gradually disappeared as these veterans grew older, and there was nothing comparable to support the re-establishment of the generations of veterans who enrolled after the Korean War. At the turn of the millennium, these veterans were eligible for financial benefits under the *Pension Act* and health care programs, but only on the strict condition that the care was related to the health problem for which the veteran was receiving a pension.

Six priorities were identified by the Advisory Council:

First, we urgently need a complete and thorough overhaul of the way the Canadian Forces members and veterans are compensated for injury.

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1 Office of the Auditor General of Canada, [Report](#), May 1996, chapter 12.

2 Ibid., para. 12.2.

3 Peter Neary, Chair, Veterans Affairs Canada — Canadian Forces Advisory Council, *Evidence*, Standing Senate Committee on National Security and Defence, Subcommittee on Veterans Affairs, 5 May 2004.

Second, we need the development of a robust program of transition services and benefits. This must be easily accessible, responsive to client needs, timely and flexible.

Third, we need the development of policies that will enhance the support provided to spouses and children, most particularly in the areas of health care and structural economic inequalities.

Fourth, we need the expansion of existing health care benefits to reflect a more comprehensive mental health strategy and new approaches to rehabilitation, retraining and wellness.

Fifth, there should be acknowledgement of the government's duty to accommodate disabled members of the Canadian Forces through an enhanced priority for employment in the public service.

Sixth, there should be the provision of equitable access to funeral and burial benefits for deceased Canadian Forces veterans.<sup>4</sup>

On 4 May 2004, in response to the Veterans Affairs Canada — Canadian Forces Advisory Council report, the Minister of Veterans Affairs, the Honourable John McCallum, announced that the government was planning to “undertake the most fundamental reform of Veterans’ programs since the Second World War.”<sup>5</sup> This announcement also launched a wave of consultations on the five key components of this reform:

- Disability awards and wellness programs to replace today’s pension system for new applicants;
- Physical and psychological rehabilitation services, including vocational training and education;
- Earnings loss support for veterans undergoing rehabilitation, as well as longer-term support for veterans who can no longer work because of a service-related illness or injury;
- Job placement assistance;
- More extensive health benefits to meet the needs of veterans and their families.<sup>6</sup>

On 20 April 2005, the Honourable Albina Guarneri, Minister of Veterans Affairs at the time, introduced in the House of Commons Bill C-45, An Act to provide services, assistance and compensation to or in respect of Canadian Forces members and veterans and to make amendments to certain Acts (short title: *Canadian Forces Members and*

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4 Ibid.

5 Hon. John McCallum, Minister of Veterans Affairs, “[Minister McCallum Announces a Vision For A Modern-Day Veterans Charter](#)”, 4 May 2004 press conference.

6 Ibid.

*Veterans Re-establishment and Compensation Act*). On 10 May 2005, fearing that the minority government would be defeated and the bill would die on the Order Paper, the Minister, following consultations with the other political parties, proposed that exceptional measures be taken by unanimous consent to pass all stages of the bill on the same day: “I rise to advance an investment in future veterans, to advance the prospects of a better life for people who have served their country, and to advance a new veterans charter.”<sup>7</sup> That same day, a debate was conducted in the Senate following the speech of the bill’s sponsor in the Upper Chamber, the Honourable Roméo Dallaire. The bill was immediately adopted at second reading and referred to the Standing Senate Committee on National Finance, since the Standing Senate Committee on National Security and Defence was travelling that week. The committee met the next evening, on 11 May 2005, and held a marathon four-and-a-half-hour session, during which the Minister said: “Times have changed, however, and veterans need a new social contract with Canadians. They need a new support system that keeps pace with their needs. They need a living veterans charter.”<sup>8</sup>

Despite overwhelming enthusiasm, there were a few dissenters,<sup>9</sup> although they did not persuade the senators to delay passage of the bill. Although the critics did acknowledge that there had indeed been very broad consultations on the program details to be implemented, no consultations had been held on the bill itself. To address some of these concerns, the Minister made a commitment to quickly address any shortcomings that might appear once the legislation came into force and during the process of developing the associated regulations. It is that commitment that made the NVC a “living document”: “What we are presenting here is what was negotiated and what was acceptable at this point in time. My attitude is that this is a living charter. It is malleable and open to improvements down the road.”<sup>10</sup>

On 12 May 2005 at 3:00 p.m. the report, recommending adoption of the bill without amendment, was adopted. The bill received Royal Assent on Friday, 13 May 2005.

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7 The Hon. Albina Guarnieri, Minister of Veterans Affairs, *Hansard*, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, 10 May 2005, 1110.

8 The Hon. Albina Guarnieri, Minister of Veterans Affairs, Standing Senate Committee on National Finance, *Evidence*, 11 May 2005, Issue No. 23, p. 10.

9 Of the 14 witnesses heard during the session, 3 asked that the bill be given further study: Captain (ret.) Sean Bruyey; Louise Richard, Lieutenant Navy; and Harold Leduc, Immediate Past National President, Canadian Peacekeeping Veterans Association.

10 The Hon. Albina Guarnieri, Minister of Veterans Affairs, Standing Senate Committee on National Finance, *Evidence*, 11 May 2005, Issue No. 23, p. 22.



### OVERVIEW OF THE NEW VETERANS CHARTER

The *Canadian Forces Members and Veterans Re-establishment and Compensation Act*,<sup>1</sup> better known as the *New Veterans Charter* (“the NVC”), came into force on 1 April 2006. It sets out a new benefit plan for injured, disabled and deceased veterans and provides for physical rehabilitation and vocational assistance for veterans and their families. It supersedes the previous plan, which was governed by the *Pension Act*,<sup>2</sup> the first version of which had been passed in 1919.

The main objective of the NVC is to foster the social and vocational re-establishment of veterans. The types of service available, the amounts of certain allowances and details of the eligibility requirements are specified in the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*<sup>3</sup> (“the Regulations”).

Exclusive of the definitions and transitional provisions, the NVC is divided into four parts:

Part 1: Career Transition Services;

Part 2: Rehabilitation Services, Vocational Assistance and Financial Benefits;

Part 3: Disability, Death and Detention, which includes a section on clothing allowances;

Part 4: General.

#### **1. Career Transition Services (sections 3–5)**

Career transition services (CTS)<sup>4</sup> are VAC programs that had some overlap with similar programs at DND. It was offered to CF members as they were getting ready for release. It included practical workshops, individual counselling services and job-finding assistance. A company that specializes in human resources, Right Management, was

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1 [Canadian Forces Members and Veterans Re-establishment and Compensation Act](#), S.C. 2005, c. 21.

2 [Pension Act](#), R.S.C., 1985, c. P-6.

3 [Canadian Forces Members and Veterans Re-establishment and Compensation Regulations](#), SOR/2006-50.

4 Prior to October 2011, career transition services were called “job placement services”.

hired to manage the program. Since the program's implementation, and despite positive feedback from those who used it, its participation rate had been generally low.<sup>5</sup>

As part of its program reform, VAC agreed with DND to stop providing its career transition services to serving CF members and not to renew its contract with Right Management. Since 1 October 2012, DND is the only organization to provide career transition services to serving CF members, and has partnered with a third party, Canada Company, on that.<sup>6</sup>

Effective January 1, 2013: "Eligible CF veterans or eligible survivors would receive up to a \$1,000 lifetime maximum grant payment to support obtaining CTS. These recipients would have the flexibility to choose their CTS provider(s) and the type(s) of CTS of their choice to better meet their needs."<sup>7</sup>

The eligibility requirements for the program are:

- be a former member of the Canadian Forces, released or not for medical reasons, whose status is governed by the NVC or the *Pension Act*;
- if the member of the Canadian Forces or the veteran is deceased, be the spouse or common-law spouse of the member or veteran; or
- be in need of assistance deemed necessary for re-establishment in civilian life.

The Minister of Veterans Affairs can refuse to provide the above-mentioned services to any veteran who is entitled to receive those services from a third party.

## **2. Rehabilitation Services, Vocational Assistance and Financial Benefits (sections 6–41)**

The eligibility requirements for rehabilitation services, vocational assistance and financial benefits (sections 6 and 7) are:

- be a former member of the Canadian Forces whose disease or injury was contracted, incurred or aggravated in a special duty area or during special duty operations, which roughly means any military operations in which the Canadian Forces have taken part in Canada or abroad since 1947, with the exception of the Korean War, for which there is separate legislation;

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5 Veterans Affairs Canada, *New Veterans Charter Evaluation – Phase I*, December 2009, Section 4.2.5.

6 Department of National Defence, [Transition Assistance Program \(TAP\)](#).

7 *Regulations Amending the Veterans Health Care Regulations and the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, "Regulatory Impact Analysis Statement", Section 2.



- be a member of the military released for medical reasons, even if the health problems are not service related; military members of the Reserve Force who were released because of a health problem that occurred while they were not on duty are excluded;
- have physical or mental health problems which, in the opinion of the Department, are a barrier to re-establishment in civilian life; or
- not be a veteran of the Second World War or the Korean War who is covered by the series of separate statutes now referred to collectively as the “Old Veterans Charter.”

#### **a. Physical and Psycho-social Rehabilitation Programs and Vocational Assistance (sections 8–17)**

Participation in a rehabilitation program is an eligibility requirement for the financial benefits of the NVC.

Programs are developed by the Department based on the specific needs of each veteran, and the Regulations require that the services involve family members to the extent required to facilitate the rehabilitation. When they develop a program, the Minister’s representatives take into account the likelihood of an improvement in the veteran’s employment skills and aptitudes, the veteran’s motivation, and the availability, cost and length of the program under consideration.

Services are transferrable to the veteran’s spouse or survivors in the event of death or if the Department determines that the rehabilitation program will not be enough to enable the veteran to find “suitable gainful employment.”<sup>8</sup>

#### **b. Financial benefits (sections 18–41)**

Participation in a rehabilitation program is an eligibility requirement for the financial benefits available under the NVC: earnings loss benefit, supplementary retirement benefit, income support benefit and permanent impairment allowance.

##### **(i) Earnings Loss Benefit (sections 18–24)**

If the veteran is enrolled in a rehabilitation program, the earnings loss benefit, which is taxable, guarantees 75% of the gross income the veteran was earning at the time he or she was released from the Canadian Forces and guarantees that the amount will not be

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8 Section 6 of the Regulations defines “suitable gainful employment” as employment for which the veteran is reasonably qualified and that provides a monthly rate of pay equal to at least two thirds of the amount the veteran earned prior to being released from the Canadian Forces.

less than \$42,426.<sup>9</sup> The benefit is payable until the veteran is ready to perform “suitable gainful employment” appropriate to his or her skills, or reaches the age of 65. Gross income from all other sources is deducted from the amount of the benefit. When the veteran dies, the benefit cannot be transferred to the spouse or survivors unless death was the result of a service-related disease or injury. The benefit is adjusted in accordance with the Consumer Price Index, to a maximum of 2%.

### **(ii) Supplementary Retirement Benefit (sections 25–26)**

Because veterans in receipt of the earnings loss benefit are not permitted to make contributions to a pension plan, the supplementary retirement benefit was established to make up for the difficulty that veterans with a total and permanent incapacity have saving money.

The benefit is equal to 2% of the total amount of the earnings loss benefit for which the veteran was eligible during his or her entire period of eligibility (2% × 75% of gross income at the time of release multiplied by the number of months of eligibility prior to reaching the age of 65 years). The average benefit is estimated to be approximately \$17,000, and the maximum benefit can be almost \$40,000.<sup>10</sup> The benefit is transferred to the spouse or survivors on the veteran’s death, is paid in a lump sum on what is or would have been the veteran’s 65<sup>th</sup> birthday and is taxable.

### **(iii) Income Support Benefit (sections 27–37)**

The purpose of the income support benefit is to provide loss-of-income compensation for veterans who are once again employable — and therefore are no longer receiving the earnings loss benefit — but have yet to find a job. It is therefore financial support of last resort for low-income veterans who have successfully completed a rehabilitation program.

The non-taxable benefit can be as much as \$1,200 a month for a single person or \$1,800 for a couple, plus \$300 for each dependent child. The amount payable is based on the family’s income and is reduced in proportion to other household income.

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9 Since October 2011, the minimum threshold set out in the Regulations has been \$40,000, indexed annually; the provision applies to veterans who were members of the Regular Force at the time of release and members of the Reserve Force who were injured while serving in the Regular Force (Class C) or in support of Regular Force operations (Class B).

10 See the “[Regulatory Impact Analysis Statement](#)” attached to the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations.

#### **(iv) Permanent impairment allowance (sections 38–40)**

A permanent impairment allowance (PIA) may be paid to a veteran who has a “permanent and severe impairment”.<sup>11</sup> The PIA has three grade levels for payment of the benefit: \$1,725 (Level 1), \$1,150 (Level 2) and \$575 (Level 3).

Since October 2011, veterans who are receiving the permanent impairment allowance and are “totally and permanently incapacitated”<sup>12</sup> are eligible for a permanent impairment allowance supplement. The amount of the supplement is \$1,057 per month.

#### **(v) Regulations (section 41)**

Sections 6 and 17 to 46 of the Regulations define the key terms and set out the procedures for determining eligibility and calculating and modifying financial benefits.

### **3. Disability, Death and Detention Benefits, and Clothing Allowance (sections 42–65)**

This is the only part of the NVC under which a veteran may seek a review or file an appeal with the Veterans Review and Appeal Board. Section 43 sets out a principle of interpretation whereby the applicant must be given the benefit of the doubt. However, that principle is subject to such rules of evidence as the government may establish by regulation under section 63.

#### **a. Disability Award (sections 45–56)**

The purpose of a disability award is to provide compensation for pain and suffering caused by an injury or disease related to or aggravated by service. Awards can be paid to active military personnel as well as to veterans. They are calculated by multiplying the degree of disability (0% to 100%) by the maximum amount, which was set at \$250,000 in

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11 Section 40 of the Regulations defines a “permanent and severe impairment” as:

- (a) an amputation at or above the elbow or the knee;
- (b) the amputation of more than one upper or lower limb at any level;
- (c) a total and permanent loss of the use of a limb;
- (d) a total and permanent loss of vision, hearing or speech;
- (e) a severe and permanent psychiatric condition;
- (f) a permanent requirement for the physical assistance of another person for most activities of daily living;
- (g) a permanent requirement for supervision.

12 Section 6 of the Regulations states:

“totally and permanently incapacitated” means, in relation to a veteran, that the veteran is incapacitated by a permanent physical or mental health problem that prevents the veteran from performing any occupation that would be considered to be suitable gainful employment.

2005 and has been indexed ever since. The non-taxable maximum amount for 2014 is \$301,275.26.

Before October 2011, disability awards were payable in a lump sum only. Military personnel and veterans are now able to receive a disability award in a single payment, annual payments or a combination of the two.

#### **b. Death Benefit (sections 57–59)**

A death benefit is payable if death occurs within 30 days after the injury, disease or aggravation that was the cause of death. The amount is the same as the maximum disability award. If death occurs more than 30 days after the injury, disease or aggravation, the 100% disability award takes the place of the death benefit.

#### **c. Clothing Allowance (sections 60–62)**

The main purpose of the clothing allowance is to compensate for wear and tear of clothing caused by an amputation or any other type of disability that makes it necessary to wear special garments. The annual maximum is \$2,000.

#### **d. Detention Benefit (sections 64–65)**

A detention benefit is paid in a lump sum to a member of the Canadian Forces or a veteran who was detained by “(a) an enemy or an opposing force of Canada [or] (b) a person or a group that has as one of its purposes or activities the facilitating or carrying out of a terrorist activity” (section 64(2)). The amount paid depends on the number of days in detention and can reach a maximum of approximately \$110,000. The benefit is transferrable to survivors. No military personnel or veterans have received a detention benefit since 1 April 2006.

### **4. General (sections 66–94)**

Part 4 authorizes the Minister to establish a group insurance program for veterans and designate “special duty” areas and operations; veterans of these operations could, in the event of disease or injury, be eligible for the benefits set out in Part 3. Part 4 specifies some of the Minister’s powers and defines the application process, the procedures for considering and reviewing applications, the right to inspect records, and the terms and conditions of information sharing. It establishes the procedure for recovery in the event of an overpayment or error and the legal and tax status of various items in the NVC. Finally, it lists other matters in respect of which the government is authorized to make regulations.

### RECOMMENDATIONS SINCE 2006

The government's initial commitment to make the NVC a "living document" led to the creation of two main advisory groups: the Special Needs Advisory Group (SNAG), and the New Veterans Charter Advisory Group (NVCAG).<sup>1</sup>

Between 2006 and 2009, these groups made 294 recommendations:

- Special Needs Advisory Group:
  - SNAG 1: 26 January 2006, 80 recommendations;
  - SNAG 2: 16 November 2006, 45 recommendations;
  - SNAG 3: 14 December 2007, 86 recommendations;
  - SNAG 4: January 2009, 6 framework recommendations. Summary of observations and shortcomings.<sup>2</sup>
- **New Veterans Charter Advisory Group:** A single report submitted in June 2009 with 77 recommendations, including 16 broader "framework" recommendations.

In June 2010, the House of Commons Standing Committee on Veterans Affairs (ACVA) tabled a [report containing 18 recommendations](#),<sup>3</sup> and then the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence (VEAC) submitted nine recommendations to the government in its [March 2013 interim report](#).<sup>4</sup>

Lastly, in anticipation of the planned parliamentary review of the *Enhanced New Veterans Charter Act* two years after it came into effect, Veterans Ombudsman Guy Parent submitted 20 recommendations in a [June 2013 report](#), which is based on an [actuarial analysis](#) and provides a [context for the parliamentary review](#).

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1 The Gerontological Advisory Committee, created in 1997 by Veterans Affairs Canada, is sometimes considered in addition to these two groups. However, its mandate is different since it advises the Department on improvements to the support provided to aging veterans covered by the Old Veterans Charter.

2 SNAG issued a fifth report in September 2010, although there are doubts as to its legitimacy. Therefore we do not take it into account.

3 [A Timely Tune-Up for the Living New Veterans Charter](#), June 2010.

4 [A Study of the New Veterans Charter](#), March 2013.

This resulted in a total of 341 recommendations. We determined that 120 of these recommendations could be discarded since they were made in some form or with a similar intent more than once. That means there are a total of 221 distinct recommendations.

However, these recommendations do not all have the same scope. Of these 221 recommendations, 164 would require internal administrative changes within the Department, focusing mostly on best practices to be adopted in terms of case management and rehabilitation management. We estimated that at least a third of these 164 recommendations have been implemented.

That leaves 57 more important recommendations, whose implementation would require a legislative or regulatory amendment. Of these, 8 have been fully or partially implemented since 2006.

Concurrently, the government conducted its own full evaluation of NVC programs. Five reports were prepared between June 2009 and March 2011.

### AMENDMENTS TO THE NEW VETERANS CHARTER AND REGULATIONS SINCE 2006

Since 2006, the NVC has been amended by Bill C-55 in 2011, and four regulations have amended the original regulations.

#### 1. Bill C-55

Bill C-55, [An Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and the Pension Act](#), was tabled on 17 November 2010 and received Royal Assent on 24 March 2011. Its provisions came into effect on 3 October 2011.

The bill amends the NVC by changing the term “job placement” to “career transition services”; by changing the permanent impairment allowance and introducing a supplement to it; and by making it possible in future to pay the disability award as an annuity. The following table sets out the provisions of the NVC before and after the coming into force of the amendments made by Bill C-55.

BEFORE C-55	AFTER C-55
<p>Part 1</p> <p>The term “job placement” might have suggested that the services available were similar to those offered by a placement agency, while in fact only basic services were provided, such as career counselling, information on how to draft a CV and help preparing for an interview.</p>	<p>These services are now known as “Career transition services.”</p>
<p>Section 12</p> <p>“The Minister may, on application, provide rehabilitation services <b>or</b> vocational assistance to a member’s or a veteran’s survivor ...” The conjunction might have been interpreted as exclusive while it was meant to be inclusive.</p>	<p>“The Minister may, on application, provide rehabilitation services <b>and</b> vocational assistance to a member’s or a veteran’s survivor ...”</p>
<p>Sections 38-39</p> <p><b>Eligibility for the permanent impairment allowance (PIA) for veterans with “dual eligibility”.</b></p> <p>This allowance is meant to assist the most seriously disabled veterans, and the eligibility criteria for it are set out in the regulations accompanying the NVC. It is very similar to what the <i>Pension Act</i>, before 2006, called the “exceptional incapacity allowance” (EIA). To receive the PIA, the veteran must have received a disability award, while to receive the EIA, the veteran must be in receipt of a pension. In certain cases, veterans received a pension and also received a disability award for a new injury or an undiagnosed previous injury. Following the transition in 2006 from the <i>Pension Act</i> to the NVC, veterans who received a pension were excluded from the PIA, and veterans who received a disability award were excluded from the EIA, even though they would have been entitled to one or the other were it not for the transition. About 200 seriously disabled veterans were therefore unable to apply for either the PIA or the EIA because of their dual eligibility.</p>	<p>Seriously disabled veterans who receive both a pension and a disability award may now apply either for the permanent impairment allowance (PIA) under the NVC or for the exceptional incapacity allowance (EIA) under the <i>Pension Act</i>. It is, however, still impossible to combine both the PIA and the EIA. The number of veterans who have received the PIA or the EIA is unknown.</p>



BEFORE C-55	AFTER C-55
<p><b>Pension Act. Eligibility for exceptional incapacity allowance.</b></p> <p>(See preceding paragraph)</p> <p>In the past, the eligibility criteria for this allowance were unrelated to those for the permanent impairment allowance under the NVC.</p>	<p>Since 3 October 2011, veterans receiving a disability award may be eligible for the exceptional incapacity allowance if they do not receive the permanent impairment allowance.</p>
<p><b>Increase in the permanent impairment allowance (PIA).</b></p> <p>This allowance is paid to veterans with a “permanent and severe impairment”. The severity of impairment is assessed separately from its effects on the veteran’s ability to earn income. In 2014, the monthly PIA amount was set according to one of three levels of impairment severity: \$574.89, \$1,149.78 and \$1,724.65. The amounts are indexed annually.</p>	<p>Since 3 October 2011, the Minister may increase the permanent impairment allowance by \$1,000 per month if, in addition to receiving the PIA, the veteran is totally and permanently incapacitated. Unlike a “permanent and severe impairment” that makes a veteran eligible for the PIA, total and permanent incapacitation refers to the veteran’s vocational limitations. In other words, to receive the monthly supplement, the veteran must suffer from both a “permanent and severe impairment” and a “total and permanent incapacitation”. The criteria defining these two elements are found in the Regulations and have not been changed. The number of veterans who have received the PIA supplement is unknown.</p>
<p><b>Changes to disability award payment methods.</b></p> <p>In the past, the veteran could receive this disability award only in the form of a lump sum payment.</p>	<p>Since 3 October 2011, a veteran may choose to receive the disability award in the form of a lump sum payment, annuities or a combination of the two. The proportion of veterans who have chosen each of the three options is unknown.</p>
<p><b>Parliamentary review of the new provisions of the NVC.</b></p> <p>There was no provision for such a review.</p>	<p>By October 2013, a comprehensive review of the provisions of Bill C-55 must be undertaken by the House of Commons and Senate committees designated by the houses for this purpose. The House of Commons Standing Committee on Veterans Affairs conducted this review in fall 2013.</p>

## 2. Regulatory changes

### (i) Changes to the earnings loss benefit<sup>1</sup>

In addition to implementing the changes brought about by Bill C-55, the Regulations guarantee a minimum threshold for the earnings loss benefit amount. If the veteran is participating in rehabilitation, this taxable benefit guarantees 75% of the gross income the

<sup>1</sup> SOR/2011-219 came into force on 3 October 2011 (P.C. 2011-1156).

veteran was earning at the time of release from the Canadian Forces. The Regulations now guarantee that the amount based on this percentage does not fall below \$42,426.<sup>2</sup>

The Regulations also increase the deemed monthly salary of Class B (less than 180 days) and Class A reservists from \$2,000 to \$2,700. The monthly earnings loss benefit for these reservists is calculated based on 75% of the deemed monthly salary.

### **(ii) Removal of the disability pension amount from the earnings loss benefit calculation<sup>3</sup>**

Prior to October 2012, the monthly disability pension provided under the *Pension Act* was included in the income used to reduce the amount of the earnings loss benefit. Following the Manuge ruling, the Department of National Defence (DND) Service Income Security Insurance Plan (SISIP) ceased using the disability pension as an offset in calculating the disability benefit as of 1 July 2012. Since the earnings loss benefit is modeled on SISIP disability benefits, Veterans Affairs Canada decided to make the same changes.

### **(iii) Changes to career transition services<sup>4</sup>**

Career transition services<sup>5</sup> are a VAC program that ended up overlapping to a certain extent with similar DND programs.

Since 1 October 2012, DND is the sole organization providing career transition services to serving members, in partnership with a third party, Canada Company.<sup>6</sup>

In return, as of 1 January 2013, “[e]ligible CF veterans or eligible survivors will receive up to a \$1,000 lifetime maximum grant payment to support obtaining CTS. These recipients will have the flexibility to choose their CTS provider(s) and the type(s) of CTS of their choice to better meet their needs.”<sup>7</sup>

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2 This minimum applies to veterans who were members of the Regular Force at the time of release, members of the Reserve Force who were injured while they were serving in the Regular Force (Class C) or in support of Regular Force operations (Class B).

3 SOR/2012-195 came into force on 10 October 2012 (P.C. 2012-1138).

4 SOR/2012-289 came into force on 2 January 2013 (P.C. 2012-1718).

5 Prior to October 2011, career transition services were called “job placement services”.

6 Department of National Defence, [Transition Assistance Program \(TAP\)](#).

7 Regulations Amending the Veterans Health Care Regulations and the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, “Regulatory Impact Analysis Statement”, Section 2.

**(iv) Changes to eligible training expenses under a vocational rehabilitation program<sup>8</sup>**

Qualification for the earnings loss benefit requires participation in a rehabilitation program that focusses on three areas: medical, psycho-social and vocational. Training costs related to a vocational rehabilitation program account for roughly 70% of the entire rehabilitation program budget under the NVC, which in 2012–2013 was \$18.4 million.<sup>9</sup> These Regulations were made to address two issues identified in the original version of the Regulations: “(1) the list of eligible expenses contained in the Regulations is not sufficiently inclusive; and (2) the maximum amounts for some training expenses are inadequate to meet rising costs over time.”<sup>10</sup>

The Regulations simplify the list of eligible expenses. Instead of a maximum amount for each item on the list of eligible expenses, a global envelope of \$75,800 per veteran is available for all eligible training costs for the duration of the department-approved vocational rehabilitation program.

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8 SOR/2013-0157 came into force on 9 October 2013 (P.C. 2013-934).

9 Anne-Marie Pellerin (Director, Case Management and Support Services, Veterans Affairs Canada), [Evidence](#), ACVA, 3 December 2013, 1205; see also the *Canadian Forces Members and Veterans Reestablishment and Compensation Regulations*, “Regulatory Impact Analysis Statement”, SOR/2006-50, *Canada Gazette*, Part II, Vol. 140, No. 7, 5 April 2006, p. 209.

10 Regulations Amending the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, SOR/2013-0157, “Regulatory Impact Analysis Statement”, “Issue” section.



## APPENDIX E: VETERANS' BILL OF RIGHTS

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The Veterans Bill of Rights applies to all clients of Veterans Affairs. They include:

- Veterans with war service
- Veterans and serving members of the Canadian Forces (Regular and Reserve)
- Members and former members of the Royal Canadian Mounted Police
- Spouses, common-law partners, survivors and primary caregivers
- Other eligible dependants and family members
- Other eligible clients

You have the right to:

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

You have the right to make a [complaint](#) and have the matter looked into if you feel that any of your rights have not been upheld.



## APPENDIX F LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b>Department of Veterans Affairs</b> Hon. Julian Fantino, P.C., M.P., Minister of Veterans Affairs Mary Chaput, Deputy Minister LGen Walter Semianiw, Assistant Deputy Minister, Policy, Communications and Commemoration	2013/11/19	5
<b>Department of Veterans Affairs</b> Janice Burke, Senior Director, Strategic Policy Integration LGen Walter Semianiw, Assistant Deputy Minister, Policy, Communications and Commemoration	2013/11/21	6
<b>Royal Canadian Legion</b> Andrea Siew, Director, Service Bureau		
<b>As individuals</b> Judy Geary Cameron Mustard, President and Senior Scientist, Institute for Work & Health	2013/11/26	7
<b>Office of the Veterans Ombudsman</b> Col Denys Gu�erin, Senior Analyst Guy Parent, Veterans Ombudsman, Chief Warrant Officer (Retired) Gary Walbourne, Executive Director of Operations, Deputy Ombudsman	2013/11/28	8
<b>Department of Veterans Affairs</b> Keith Hillier, Assistant Deputy Minister, Service Delivery Anne-Marie Pellerin, Director, Case Management and Support Services Nathalie Pham, Manager, Client Service Team, Montreal Office	2013/12/03	9
<b>As individuals</b> Aaron Bedard Kevin Berry Glen Kirkland Donald Sorochan	2013/12/10	10
<b>Equitas Society</b> Jim Scott, President		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Canadian Association of Veterans in United Nations Peacekeeping</b> Ronald Griffis, National President	2014/02/25	14
<b>Veterans Transition Network</b> Tim Laidler, Executive Director		
<b>As an individual</b> Medric Cousineau, Captain (Retired)	2014/03/04	15
<b>Veterans Emergency Transition Services</b> Barry Yhard, National Executive Director, National Executive Board of Directors		
<b>NATO Veterans Organization of Canada</b> Gordon Jenkins, President, Head Office Percy Price, Acting Director of Advocacy, Head Office	2014/03/06	16
<b>Royal Canadian Legion</b> Gordon Moore, Dominion President, Dominion Command Brad White, Dominion Secretary, Dominion Command		
<b>Canadian Institute for Military and Veteran Health Research</b> Alice Aiken, Director	2014/03/25	17
<b>VeteranVoice.info</b> Ronald Cundell, Publisher		
<b>Wounded Warriors Canada</b> Chris Linford, National Ambassador Phil Ralph, National Program Director		
<b>As individuals</b> Heather Nielsen Sgt Bjarne Nielsen	2014/03/27	18
<b>Canadian Veterans Advocacy</b> Michael L. Blais, President and Founder Sylvain Chartrand, Director Jerry Kovacs, Director		
<b>Army, Navy and Air Force Veterans in Canada</b> Deanna Fimrite, Dominion Secretary-Treasurer	2014/04/01	19
<b>As an individual</b> Cpl Mark Fuchko		



<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Canadian Aboriginal Veterans and Serving Members Association</b></p> <p>Richard Blackwolf, National President and Chief Executive Officer, CAV, National Alliance</p> <p>Joseph Burke, National Service Officer, Ottawa, NAV, National Alliance</p>	2014/04/01	19
<p><b>National Council of Veteran Associations in Canada</b></p> <p>Brian Forbes, Chairman</p> <p>Derrill Henderson, Vice-Chair, National Secretary, Hong Kong Veterans Association</p>		
<p><b>As an individual</b></p> <p>Thomas MacEachern</p>	2014/04/03	20
<p><b>Canadian Peacekeeping Veterans Association</b></p> <p>Joseph E.L. Gollner, Patron</p> <p>Ray Kokkonen, National President</p>		
<p><b>Canadian War Brides</b></p> <p>Don Chapman, Subject Matter Expert</p> <p>Melynda Jarratt, Historian</p>		
<p><b>Last Post Fund</b></p> <p>Daniel O'Connor, National President</p>		
<p><b>Senate</b></p> <p>Hon. Roméo A. Dallaire, Senator</p>		
<p><b>31 CBG Veterans Well Being Network</b></p> <p>Derryk Fleming, Member</p>	2014/04/08	21
<p><b>Aboriginal Veterans Autochtones</b></p> <p>Robert Thibeau, President</p>		
<p><b>As individuals</b></p> <p>Sean Bruyey, Retired Captain (Air Force), Advocate and Journalist</p> <p>David Fascinato</p> <p>Harold Leduc</p>		
<p><b>Veterans of Canada</b></p> <p>Donald Leonardo, Founder and National President</p>		



# APPENDIX G LIST OF BRIEFS

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## Organizations and Individuals

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Canada Company

Veterans Transitioning to Civilian Life Foundation

Geary, Judy

Mustard, Cameron

Office of the Veterans Ombudsman

Royal Canadian Legion

Canadian Veterans Advocacy

National Council of Veteran Associations in Canada

Bruyee, Sean



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27](#)) is tabled.

Respectfully submitted,

Greg Kerr  
Chair

