

**BILL C-50: AN ACT TO AMEND THE STATUTE LAW  
IN RESPECT OF BENEFITS FOR VETERANS AND  
THE CHILDREN OF DECEASED VETERANS**

**Michel Rossignol**  
**Political and Social Affairs Division**

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## LEGISLATIVE HISTORY OF BILL C-50

### HOUSE OF COMMONS

Bill Stage	Date
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First Reading:	18 September 2003
Second Reading:	25 September 2003
Committee Report:	10 October 2003
Report Stage:	24 October 2003
Third Reading:	27 October 2003

### SENATE

Bill Stage	Date
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Report Stage:	
Third Reading:	6 November 2003

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N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print**.

Legislative history by Peter Niemczak

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BACKGROUND

On 12 May 2003, the Honourable Dr. Rey Pagtakhan, Minister of Veterans Affairs, announced in the House of Commons his intention to bring forward legislation and to take other measures in order to address the most urgent needs of Canada's Veterans. The announcement followed the successful completion of discussions between the Department of Veterans Affairs and national Veterans' organizations such as the Royal Canadian Legion, the National Council of Veteran Associations in Canada, and the Army, Navy and Air Force Veterans in Canada on some of the issues preoccupying Veterans. While those organizations still have concerns about the quality of long-term care for Veterans who served in World War I, World War II and the Korean War, they also argued for quick action on some other issues because these Veterans are now 70 years old and more.

The measures announced on 12 May 2003 involve seven issues. Four of these can be dealt with mostly by making changes in existing regulations or taking other measures. Thus, actions have been, or will be, taken to:

- extend the health programs now received by Veterans with a pensioned disability of over 77% to those with a pensioned disability between 48% and 77%;
- provide Veterans Independence Program (VIP) and health care benefits to Overseas Service Veterans at home when they are waiting for a priority access bed in a long-term health care centre;

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\* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive royal assent, and come into force.

- provide long-term care and health care benefits to Allied Veterans with 10 years' post-war residence in Canada; and
- extend from one year to a lifetime the period over which VIP benefits, which cover the costs of housekeeping and grounds maintenance, will be given to widows after the death of their spouse or partner who was a Veteran and receiving such benefits.

For example, in the case of the lifetime VIP benefits for widows, the *Veterans Health Care Regulations* were amended, pursuant to Section 5 of the *Department of Veterans Affairs Act*, by Order in Council P.C. 2003-0952 dated 13 June 2003, which indicated that this measure was effective as of 18 June 2003.

For the three remaining issues, amendments to existing legislation are necessary. Bill C-50 proposes amendments only with regard to these three issues and does not directly affect actions taken on the four other issues, such as the extension of VIP benefits to widows. The bill amends:

- the *Children of Deceased Veterans Education Assistance Act* to re-establish the Education Assistance Program of the Department of Veterans Affairs, in order to provide assistance for post-secondary education to the children of members of the Canadian Forces and Veterans who were killed during military duty or who were in receipt of a disability pension at the time of death;
- the *Pension Act* to update the scale of compensation for Veterans who were prisoners of war (POWs); and
- the *War Veterans Allowance Act* to clarify the definition of a member of Canada's forces during World Wars I and II.

The bill also makes a minor amendment to the *Royal Canadian Mounted Police Superannuation Act*.

## DESCRIPTION AND ANALYSIS

### A. *Children of Deceased Veterans Education Assistance Act*

The *Children of Deceased Veterans Education Assistance Act* provided authority for the Education Assistance Program of the Department of Veterans Affairs. This program was in place between 1953 and 1995 to provide post-secondary education assistance to the children of members of the Canadian Forces and Veterans who died as a result of military service or who

were pensioned at a disability level of 48% or higher at the time of death. The program was discontinued in 1995, and one of the amendments made in *An Act to amend the statute law in relation to veterans' benefits*<sup>(1)</sup> of 2000 provided for the repeal of the *Children of Deceased Veterans Education Assistance Act*. However, this amendment was not brought into force, and Bill C-50 re-establishes the Education Assistance Program to provide assistance with tuition costs and living expenses. (See also clause 11.) While providing assistance to the children of Canadian Forces members and Veterans who have died in the specified circumstances, the program will now be in place if current or future members of the Canadian Forces die as a result of military service or at a time when they are pensioned at the 48% or higher disability level.

Clause 1 amends paragraph (d) of section 2 of the *Children of Deceased Veterans Education Assistance Act*. Paragraphs (a), (b), (c), and (d) of section 2 provide definitions of the word “student.” The amendment proposed by Bill C-50 changes very little in the original text of section 2(d). It simply removes the reference to section 27 of the *Pension Act*, which is necessary because section 27 was repealed by *An Act to amend the statute law in relation to veterans' benefits* in 2000.<sup>(2)</sup>

Clause 2 of Bill C-50 repeals section 3.1 of the *Children of Deceased Veterans Education Assistance Act*, which states that no amount can be paid to a student if the assistance was not being paid or was not payable on 27 February 1995. In effect, this amendment will make it possible again to provide assistance to the children of deceased members of the Canadian Forces and Veterans, including those who completed their education after the assistance program was discontinued in 1995. Clause 3 replaces the amount of the monthly living allowance, \$125.76, established in paragraph 4(1)(a), by a new amount, \$300.00. The new rate of the monthly living allowance, effective 1 September 2003 (see clause 14(1)), is in addition to the new maximum amount of \$4,000 per year for tuition assistance, effective the same date (see clause 13(2)).

Section 12 of the Act gives authority to the Governor General in Council to make regulations. Clause 4 amends that section by adding a new paragraph (a.1) to permit the Governor General in Council to prescribe the maximum amount of costs payable to a student and to make an annual adjustment as a function of the Consumer Price Index. Clause 5 replaces item 1 of the schedule to the Act with essentially the same text, but removes the reference to section 33

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(1) S.C. 2000, c. 34.

(2) *Ibid.*, s. 22.

of the *Pension Act*, which was repealed in 1995. Clause 6 replaces item 6 in the schedule, which referred to section 5 of the *Veterans Benefit Act*, repealed in 2000.<sup>(3)</sup> The new item 6 refers to section 34 of the *Veterans Review and Appeal Board Act*, which deals with compassionate awards where benefits can be granted even if a person's case does not otherwise meet all the necessary criteria. Subsection 34(6.1) indicates that the *Pension Act* applies to a surviving child on the death of a person to whom a compassionate award has been granted.

#### B. *Pension Act*

The amendments to the *Pension Act* in clause 8 will enhance the compensation given to Veterans who were POWs during World Wars I and II and the Korean War. The current compensation regime has been in place for many years and there have been growing demands for revision. For example, Veterans who were incarcerated for fewer than 89 days currently receive no compensation. Increased compensation for POWs who were incarcerated for three years and more is also seen as desirable, given the long-term health effects of such an ordeal.

Clause 8(1) introduces compensation, equivalent to 5% of basic pension, for those Veterans who were POWs of Japan during World War II for a period of between 30 and 88 days. Otherwise, the compensation regime for Veterans who were POWs of Japan remains the same: 20% of basic pension for persons incarcerated between 89 and 364 days, and 50% for those who were POWs for periods totalling at least 365 days.

Clause 8(2) deals with compensation for Veterans who were POWs of a power other than Japan. This includes persons who served during World Wars I and II (including merchant navy Veterans), persons who served in the Canadian military during military operations subsequent to the World Wars, and merchant navy Veterans during the Korean War. The current scale of compensation is: 10% of basic pension for periods of incarceration of between 89 and 545 days; 15% for 546 to 910 days; and 25% for periods totalling at least 911 days. Clause 8(2) introduces a six-level scale:

- 5% of basic pension for between 30 and 88 days of incarceration;
- 10% for between 89 and 545 days;

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(3) *Ibid.*, s. 56.

- 15% for between 546 and 910 days;
- 30% for between 911 and 1,275 days;
- 35% for between 1,276 and 1,641 days; and
- 40% for periods totalling at least 1,642 days.

Thus, all Veterans who were incarcerated for at least 30 days will now be able to get some compensation. Moreover, Veterans who were POWs of a power other than Japan with 911 or more days of incarceration will be better compensated for the hardships they suffered, notably those who were incarcerated for over three years. The new rates of compensation are effective as of 1 April 2003 (see clause 14(2)).

#### *C. Royal Canadian Mounted Police Superannuation Act*

Clause 9 proposes a minor amendment to the *Royal Canadian Mounted Police Superannuation Act* in the French text of paragraph 32.1(2)(b). In 2002, the RCMP transferred to Veterans Affairs the responsibilities for the adjudication and assessment of disability pensions applications from members of the force.

#### *D. War Veterans Allowance Act*

Clause 10(1) amends subparagraph 37(3)(a)(i) of the *War Veterans Allowance Act* in order to clear up some ambiguity about the definition of a “former member of His Majesty’s Canadian Forces” during World Wars I and II. The amendment adds the words “having enlisted and having the enlistment attested” to the paragraph, as well as the words “and was discharged from the service in which he or she was enlisted.” This amendment is proposed in the wake of the case of Mr. Hugh Trainor of Summerside, P.E.I., who was granted Veterans benefits by a decision of the Veterans Review and Appeal Board in March 2003 after a long series of appeals and court decisions. Mr. Trainor travelled through a designated war zone during World War II to enlist in the Canadian military, but his application was rejected for medical reasons. Some veterans, notably Mr. Chadderton and the National Council of Veteran Associations in Canada, objected to the fact that someone who had not actually enlisted in the military or served in the merchant navy could obtain Veterans benefits. The new wording of the subparagraph should ensure that only those who actually enlisted will be able to claim Veterans benefits.



However, Bill C-50 does not reverse past decisions to grant Veterans benefits to someone who never enlisted or served in the merchant navy. Clause 10(2) states that the proposed modification to subparagraph 37(3)(a)(i) will not change decisions made by the Veterans Review and Appeal Board as to who is a “Veteran” prior to Bill C-50 receiving royal assent.

E. *An Act to Amend the Statute Law in Relation to Veterans’ Benefits*

The *Children of Deceased Veterans Education Act* was repealed by section 100 of *An Act to amend the statute law in relation to veterans’ benefits*.<sup>(4)</sup> However, this amendment was never brought into force. In order to re-establish the Education Assistance Program, clause 11 repeals section 100.

F. Transitional Provisions

As explained above, clauses 1 to 6 of Bill C-50 re-establish the Education Assistance Program that was discontinued in 1995, in order to pay a monthly allowance and reimburse tuition fees to children of members of the Canadian Forces and Veterans who died during military duty or who were pensioned at a disability level of 48% or higher at the time of death. However, actions are also required to assist students who completed their post-secondary education during the period between 1995 and 2003, when the program was not in place.

Thus, clause 12(1) states that the Minister of Veterans Affairs may pay the monthly allowances and reimburse the tuition costs for students affected by section 3.1 of the *Children of Deceased Veterans Education Assistance Act*, which prevented payments between 28 February 1995 and such time as clause 2 of Bill C-50 (repealing section 3.1) takes effect. Clause 12(2) sets the monthly allowance for the period between 28 February 1995 and 31 August 2003 at \$167.47, instead of the \$125.76 rate indicated in paragraphs 4(1)(a) and (b) of the Act and the \$300 rate set by clause 3 for the period starting 1 September 2003 (see clause 14(1)). Clause 12(3) sets the rate for tuition assistance at \$1,500 per academic year for the period between 28 February 1995 and 31 August 2003. Finally, clause 12(4) indicates that subsection 4(4) of the *Children of Deceased Veterans Education Assistance Act*, which allows the Minister to extend the period of allowances and reimbursements, does not apply for the purposes of subsection 12(1).

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(4) S.C. 2000, c. 34.

Clause 13 sets the maximum amount for tuition assistance at \$4,000 per academic year as of 1 September 2003, notwithstanding paragraph 5(3)(a) of the *Children of Deceased Veterans Education Assistance Regulations*, which indicates \$1,500 as the maximum.

#### G. Coming Into Force

According to clause 14(1), the amendment made by clause 3 setting \$300 as the new monthly allowance provided under the Education Assistance Program is deemed to have come into force on 1 September 2003. Clause 14(2) indicates that the amendments made in clause 8 that establish new rates of compensation for Veterans who were POWs are deemed to have come into force on 1 April 2003. The rest of the bill will come into force upon royal assent.