

Risk Assessment

Benchmark of Benefits for Disabled Veterans under the New Veterans Charter

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Background

The Canadian Forces Members and Veterans Re-establishment and Compensation Act came into effect on April 1, 2006. This act including subsequent amendments is referred to in this report as the New Veterans Charter (NVC). As per section 2.1 of the NVC, the stated purpose of the NVC is to “recognize and fulfil the obligation of the people and Government of Canada to show just and due appreciation to members and veterans for their service to Canada. This obligation includes providing services, assistance and compensation to members and veterans who have been injured or have died as a result of military service and extends to their spouses or common-law partners or survivors and orphans. This Act shall be liberally interpreted so that the recognized obligation may be fulfilled.”¹

The NVC is further divided into 5 parts:

- Part 1: Career Transition Services
- Part 2: Rehabilitation Services, Vocational Assistance and Financial Benefits
- Part 3: Critical Injury, Disability, Death and Detention
- Part 4: General
- Part 5: Transitional Provisions, Related and Coordinating Amendments Coming into Force

The NVC has a focus on rehabilitation and re-integration into civilian life. As described by Veterans Affairs Canada (VAC), “The New Veterans Charter contains a new program mandate that is based on years of study and consultation. Research has identified the need for VAC programs to focus on rehabilitation and re-integration to civilian life, with the aim of helping CF Veterans regain employment and attain their fullest potential. Studies highlighted the need to align the approach with the best practices of modern disability management.”²

¹ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Purpose 2.1. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

² “New Veterans Charter Evaluation – Phase I (Final: December 2009)”, Veterans Affairs Canada, 1.0 Background, <http://www.veterans.gc.ca/eng/about-us/reports/departmental-audit-evaluation/2009-12-nvc/1-0#ftnref1> (accessed June 10, 2016)

Objectives and Scope of Report

The focus of this report will be analyzing benefits available to those injured in the line of duty. Specifically, we will analyze the two income replacement Economic benefits available to disabled Veterans under Part 2 of the NVC; the Earnings Loss Benefit and the Retirement Income Security Benefit. To identify potential gaps in coverage, we will benchmark these benefits against those that are available to employees in other occupations in Canada, including benefits payable before age 65, and benefits payable after age 65. Specifically, the programs that we will use to benchmark these NVC benefits include:

- The Government Employees Compensation Act, and Provincial Workers Compensation Board Programs
- Long Term Disability Benefits available through Group Benefits Plans offered by employers across Canada

The second part of this report will focus on benefits that are unique to Veterans compensation including both Economic and Non-Economic benefits included in Part 2 and Part 3 of the NVC. We will draw comparisons to benefits available under Workers Compensation programs and Group Benefits Plans where applicable.

The NVC has a focus on rehabilitation and re-entry into the workforce for disabled Veterans. Veterans Affairs Canada (VAC) and the Department of National Defence (DND) offer a variety of Career Transition and Rehabilitation programs for disabled Veterans, and in some cases their spouses. Canadian Forces Veterans may also be eligible for Health Benefits that are supplementary to the provincial/territorial plan in the Veteran's province/territory of residence. This report does not include analysis of these programs. Furthermore, we will not address differences in administrative and claims adjudication practices between benefits offered under the NVC and those offered by the benchmark programs.

We note that the full text of the Canadian Forces Members and Veterans Re-establishment and Compensation Act, Government Employees Compensation Act and Provincial Worker's Compensation Board legal documents are not replicated in full in this report. In this report, we discuss details of these programs that we have identified as being relevant to this benchmark study, however it is recommended that the reader reference these documents directly for full plan benefit details and additional stipulations. Wherever dollar figures are mentioned, we note that we have rounded the benefit amounts to the nearest dollar in this report.

Selection of Benchmark Programs

The Government Employees Compensation Act (GECA) and Provincial Workers Compensation Board Programs

Although members of the Canadian Armed Forces (CAF) are employed by the Government of Canada, it is important to note that CAF Regular Force members are not eligible for benefits under the GECA. The GECA therefore remains an important benchmark for comparing benefits payable as a result of an occupational injury or illness. Under the GECA, eligible employees and dependents are entitled to receive compensation at the same rate and under the same conditions as are provided under provincial workers compensation schemes available to employees in their respective provinces.

While there are differences in amounts payable in the provincial and territorial Workers Compensation Board (WCB) programs, compensation principles are similar from one jurisdiction to another. As the purpose of this report is not to compare benefits offered between the provincial and territorial WCB programs, but rather compare the compensation principles from WCB programs as to benefits available under the NVC, we will reference the Workplace Safety and Insurance Board (WSIB) benefits in Ontario throughout this report as a comparison benchmark. For a comprehensive comparison of benefits offered under amongst the provincial and territorial WCB programs, we recommend that the reader refer to the Association of Workers' Compensation Boards of Canada website, at <http://awcbc.org>.

Long Term Disability Benefits Plans

Aon Hewitt maintains the Benefits SpecSelect database including Group Benefits Plan design details for employers across Canada. This report includes benchmarking of Long-Term Disability (LTD) from Aon Hewitt's 2015 database, which includes 371 employers. Our benchmark study shows that over 99% of employers in our database offer some form of LTD benefits to salaried employees. We include LTD plans in this report because LTD benefits are sometimes more generous, or paid in excess of benefits offered under Workers Compensation Board programs.

As the purpose of this report is to benchmark NVC benefits against insurance, pension and compensation benefits offered by other institutions, we have drawn on our full Canadian database. The benchmarking includes employers varying in size and province. The database also includes representation from a wide range of industries, including:

- Accounting/Consulting
- Aerospace
- Agriculture
- Automotive
- Banks/Trusts
- Charitable Organizations
- Chemicals
- Communications
- Computer Products / Data Services
- Educational Institutes
- Electronics
- Energy/Oil
- Engineering/Construction
- Entertainment
- Food and Beverage
- Forestry Products
- Government/Crown Corporations
- Health Care Services/Products
- Household Products/Apparel
- Industrial Equipment
- Insurance/Finance
- Legal Services
- Leisure/Real Estate
- Manufacturing
- Metals/Steel/Mining
- Personal Products
- Pharmaceuticals
- Publishing/Printing
- Research/Testing/Development
- Retail/Supermarkets
- Telecommunications Services/Equipment
- Transportation
- Utilities

Part 1 – Income Replacement Benefits

Overview

NVC: The NVC has a focus on reintegrating injured Veterans into the workplace, and providing financial support where required. The income replacement disability benefit under the NVC for those with a service related injury or illness is called the Earnings Loss Benefit (ELB). VAC defines the ELB as “a benefit designed to provide financial compensation in recognition of the economic impact that a service related or career ending injury has on a Veteran’s earnings capacity following release.”³ The benefit can cover Temporary Earnings Loss while a Veteran is participating in a rehabilitation program, or Extended Earnings Loss payable to age 65 if the Veteran is unable to perform any occupation that would be considered suitable gainful employment. Benefits are also payable to surviving spouses and/or orphans. After age 65, the Retirement Income Security Benefit (RISB) offers retirement income for recipients whose ELB ceases at that age.

WSIB: The purpose of the WSIB is to promote health and safety in the workplace, facilitate the return to work and recovery of workers who sustain an injury due to employment or an occupational disease, and to provide compensation for members and to spouses of deceased workers. WSIB offers the Loss of Earnings (LOE) benefit to those unable to work due to an occupational injury or illness. These benefits are generally payable until the worker no longer has a loss of earnings or is no longer impaired as the result of the injury/illness as determined by the WSIB, to a maximum of age 65. There is a Loss of Retirement Income benefit payable starting at age 65 for those who received the LOE for at least 1 year.

Benchmark Group LTD Plans: Long Term Disability (LTD) benefit plans are structured with the purpose of replacing a portion of lost income due to disability, whether the disability is the result of an occupational or non-occupational injury or illness. LTD plans across Canada vary substantially in terms of plan design. Similar to NVC and WSIB programs, there is a focus on the employee following a rehabilitation plan and returning to work if possible. Most commonly, benefits are payable until the employee is able to reintegrate back into the workplace, with benefits payable until age 65 if the employee is permanently disabled and not able to perform the duties of any occupation as determined by the insurance company adjudicating the claim. Retirement income schemes vary substantially for employees on LTD, with some maintaining full eligibility in their employer’s pension plans, and others not being eligible to further accrue any pension benefits.

³ “Annex B – Summary of NVC Programs”, Veterans Affairs Canada, <http://www.veterans.gc.ca/eng/about-us/reports/departmental-audit-evaluation/2010-08-nvc-evaluation-phase-2/annexb> (accessed June 7, 2016)

Eligibility for Benefits

NVC: To be eligible for benefit payments under the Earnings Loss Benefit, the Veteran must first be eligible for a rehabilitation plan or vocational assistance plan as determined by the Minister of Veterans Affairs (the Minister). At the discretion of the Minister, rehabilitation services can be made available to a Veteran who has a physical or mental health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment in civilian life. As per Part 2, Section 7 of the NVC, “an injury or a disease is deemed to be a service-related injury or disease if the injury or disease is, in whole or in part, a consequence of

- (a) a service-related injury or disease;
- (b) a non-service related injury or disease that was aggravated by service;
- (c) an injury or a disease that is itself the consequence of an injury or a disease described in paragraph (a) or (b); or
- (d) an injury or a disease that is a consequence of an injury or a disease described in paragraph (c).⁴

In the event that a Canadian Armed Forces member suffers a disability that is not related to a service-related injury or illness, and are thus not eligible for ELB, they may be eligible for Long-Term Disability benefits through the Service Income Security Insurance Plan (SISIP). With the exception of the definition of eligible claimants, SISIP benefits generally follow the same design principles as the ELB. As the purpose of this report is to benchmark benefits available to Veterans injured in the line of duty, for the remainder of this report we will not address SISIP benefits as the benefits are not more generous than those offered under the ELB.

WSIB: The WSIB has similar eligibility requirements for the Loss of Earnings benefit (LOE). Benefits are payable only for work-related injuries or illnesses. Similar to the objectives of the NVC’s rehabilitation and vocational assistance plans, injured or ill workers must cooperate in a Return to Work or Work Reintegration program in order to be eligible for LOE benefits. Recipients of the LOE must consent to a release of functional abilities information to their employer by the health care professional that is treating them. Eligibility for WSIB benefits is determined by the WSIB, which distances the employer from making the decision independently.

⁴ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 7. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

Benchmark Group LTD Plans: Group LTD plans in Canada have an important difference in defining eligibility for disability benefit payments. Disability benefits are payable for disabilities resulting from both occupational and non-occupational injuries or diseases, provided the employee meets the disability definition and is cooperating with the prescribed medical treatment plan in order to successfully return to work, if possible. Group LTD plans have an “elimination period”, in which the employee must wait to be eligible for LTD benefit payments. However, this gap is most often bridged by some form of Short Term Disability, Employment Insurance or Sick Leave plan, which could be more or less generous than the Group LTD plan in terms of income replacement. Some Group LTD plans have a waiting period for new employees, whereby they are not eligible for disability benefits until they have fulfilled the waiting period. Some clauses and stipulations can also be applied to pre-existing conditions that were present before the employee became enrolled in the Group LTD plan. Eligibility for LTD benefit payments are determined by the insurer.

Potential Gaps in NVC: When SISIP is considered in combination with the ELB, we do not identify a substantial gap in eligibility definitions as compared to workers covered under WSIB and the Benchmark Group LTD plans.

It is important to note the ELB, WSIB, and Group LTD have a discretionary element where the Minister, Board, or insurer determines whether the individual remains incapable of returning to the workforce. Eligibility for the ELB is determined by the Minister of Veterans Affairs. This is different from WSIB and Group LTD plans, where eligibility decisions are made by a 3rd party; the WSIB or the insurer. In this report we do not explore the criteria and assessments used to make these determinations, which could vary between the benefits being compared.

Earnings Replacement Formulas

NVC: Section 19 under Part 2 of the NVC defines the amount of monthly ELB as payable in accordance with the formula:

“A - B

Where:

A is 75% of the veteran’s imputed income for a month. This imputed income is defined as the veteran’s pre-release basic military salary before tax, not including additional amounts for incentive pay, overtime, or overseas deployment. There is a minimum threshold of earnings, set at the Basic Corporal salary level, which is currently \$56,568. This ensures pre-tax income of at least \$42,426 per year.

and

B is an amount that is payable to the veteran for a month from prescribed sources. These offsets include payments under the Canadian Forces Superannuation Act (CFSA), Canadian Pension Plan (CPP)/Quebec Pension Plan (QPP) benefits, and any other employment income.”⁵

⁵ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 19. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

The purpose of the above formula is that the Veteran's income from all sources is at a minimum equal to 75% of their pre-release basic earnings, with an absolute minimum income of \$42,426 per year. There is no maximum covered earnings amount defined. The ELB is treated as taxable income. It is therefore taxed at the recipient's income tax rate both federally and provincially.

There are proposed changes to the ELB formula in the Government of Canada's 2016 Budget (Budget 2016). This includes increasing the earnings replacement ratio in part A of the above formula to be 90% of pre-release earnings. The minimum salary will be amended to be based on a Senior Private's salary, instead of a Basic Corporal's salary. If passed, these changes will be effective October 1, 2016.⁶

WSIB: Under WSIB's LOE benefit, annual benefit amounts for injuries on or after January 1, 1998 are payable at 85% of pre-injury earnings after tax less net average earnings the individual is able to earn in suitable and available employment or business after the injury.⁷ Pre-injury earnings are based on the most recent earnings received from all employers combined. Benefits payable under the Canadian Pension Plan or the Quebec Pension Plan are also deducted from the amount payable under the LOE. The minimum net salary is currently defined as \$20,454, resulting in a minimum benefit amount of \$17,386 under the LOE, less applicable offsets.⁸ Unlike the ELB, the LOE has a maximum on annual covered earnings. The "annual wage ceiling" is defined as 175% of the average industrial wage for Ontario. With the current average industrial wage of \$50,307, the maximum annual covered earnings for the LOE is \$88,000.⁸ LOE benefits are not taxable.

Benchmark Group LTD Plans: Aon Hewitt's database demonstrates that Long-Term disability benefit plans vary substantially in terms of earnings replacement formulas, both from a percent of pay replacement perspective, as well as maximum benefit values. There are generally no minimum benefit amounts, unlike ELB and LOE benefits. In general, we see the following prevalence in terms of Percentage of Pay Replacement:

| Percentage of Pay Replacement | Prevalence |
|---|------------|
| 50% of pay or less | 8% |
| 55% of pay | 1% |
| 60% of pay | 18% |
| 65% - 69% of pay | 17% |
| 70% of pay | 17% |
| 75% of pay or more | 7% |
| Graduated Formula (eg. 60% of first \$5,000, 40% of excess) | 30% |
| Other | 2% |

⁶ *Government of Canada's 2016 Budget*. Tabled in the House of Commons by the Honourable William Francis Morneau, Minister of Finance, March 22, 2016. Chapter 5, pg. 175.

⁷ Workplace Safety and Insurance Act, 1997. Part 6, Section 43. Updated with amendments to April 6, 2016.

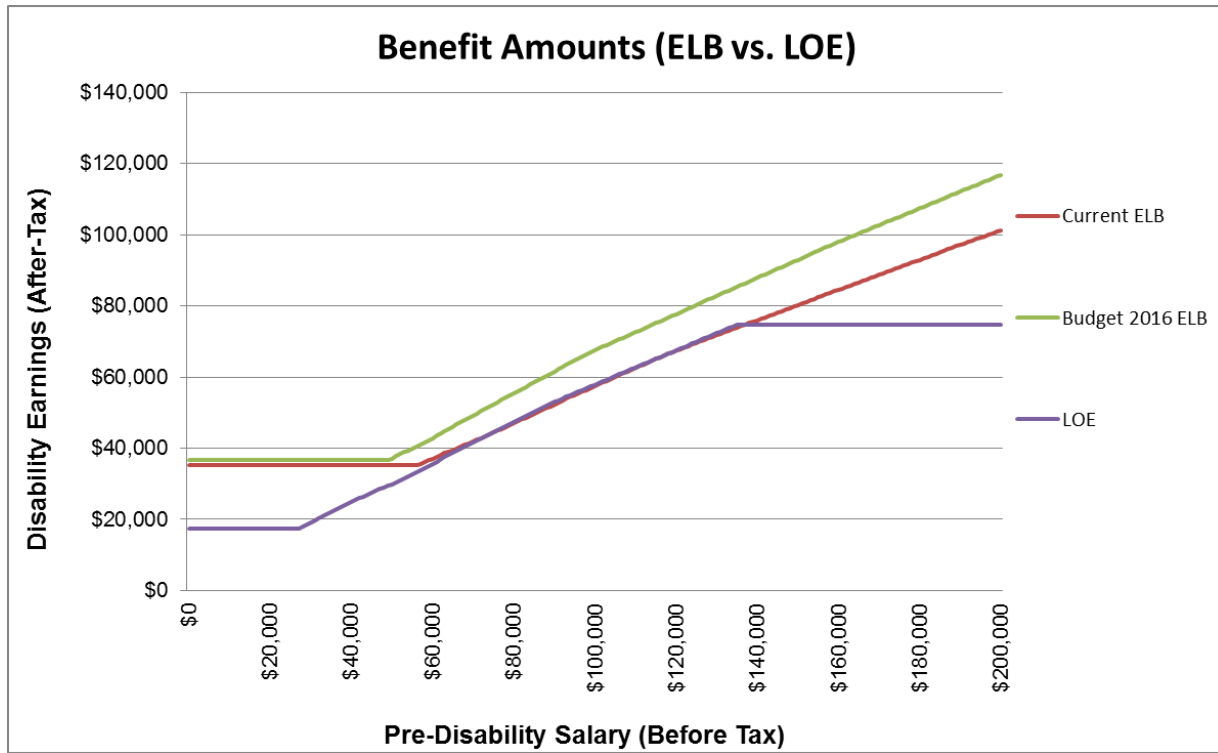
⁸ "Benefit Dollar Amounts – Accidents from 1998", WSIB Operational Policy. www.wsib.on.ca (Accessed June 9, 2016)

LTD benefits are generally structured as a percentage of pay replaced, up to a maximum. There are 2 components to the maximum. The first component is the “all source maximum”, where a disabled employee’s non-taxable LTD payments combined with all other income while disabled cannot exceed 80 or 85% of their net pre-disability earnings. Similarly if the LTD benefit is taxable, LTD payments before tax combined with all other income while disabled cannot exceed 80% or 85% of the employee’s gross pre-disability earnings. LTD benefits are reduced in the event an employee exceeds the all source maximum, to bring the disabled employee’s income from all sources to be equal to the all source maximum. In addition to the all source maximum, LTD plans most commonly also have fixed dollar maximums, generally expressed as a monthly maximum LTD benefit. However, for comparison purposes, we have annualized these monthly maximums in the below prevalence table:

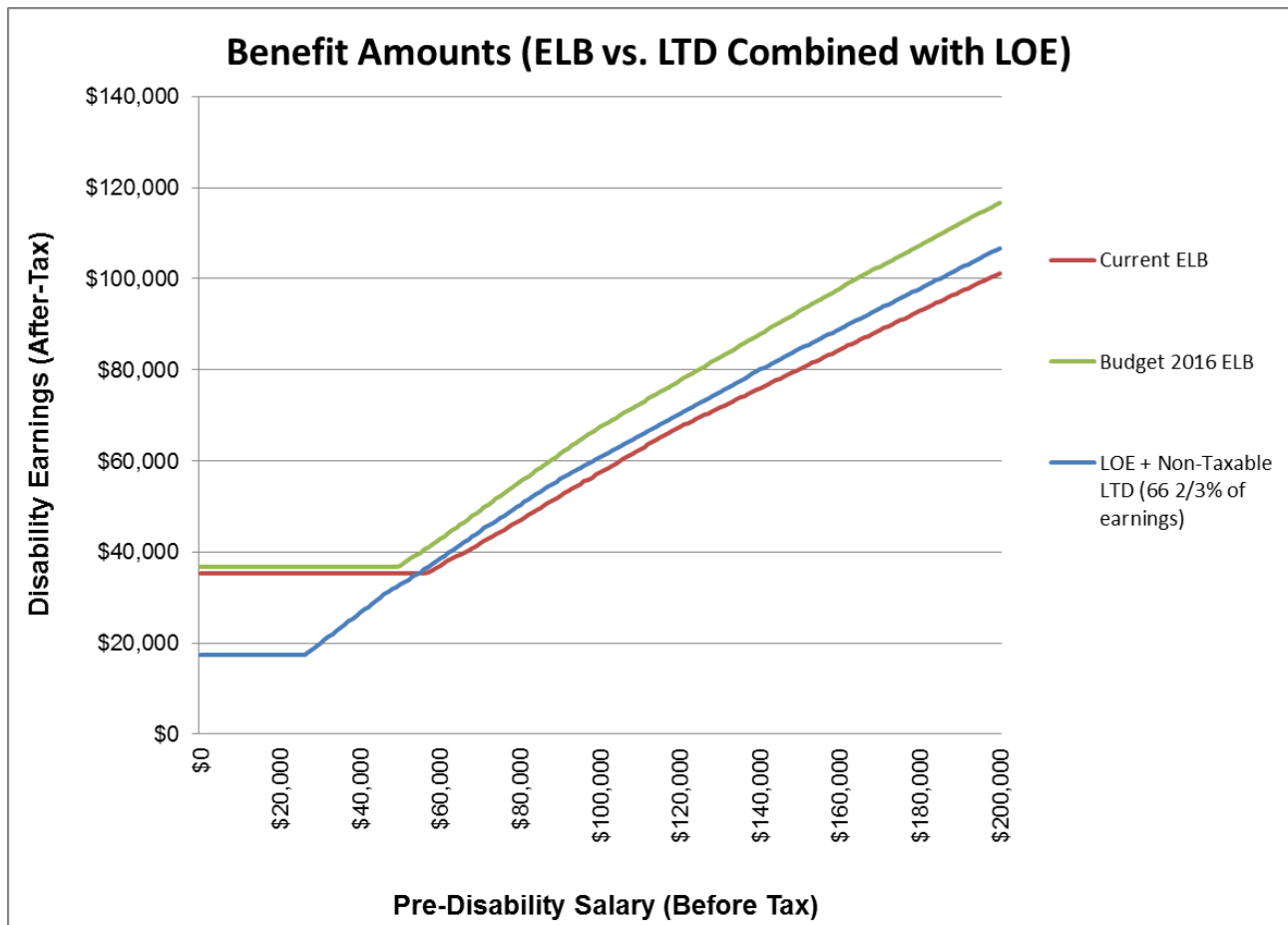
| Maximum Annualized Benefit | Prevalence |
|-----------------------------------|-------------------|
| Less than \$60,000 | 2% |
| \$60,000 to \$119,999 | 21% |
| \$120,000 | 22% |
| \$120,001 to \$179,999 | 15% |
| \$180,000 | 17% |
| \$180,001 to \$239,999 | 3% |
| \$240,000 or more | 10% |
| No Dollar Maximum | 6% |
| Other | 4% |

Taxability of Group LTD plans depends on whether or not the employer paid a portion of the LTD insurance premiums. If the employer pays any portion of the LTD premium, the disability benefit payments are taxable. If the employee pays the full portion of the LTD premium, the disability benefits are not taxable. Aon Hewitt’s Benefit Select database has approximately 48% of plans with a taxable LTD benefit, and 52% of plans with a non-taxable benefit. It is important to note that some plans within the database are “Flexible” plans, allowing the employee to choose amongst different plan design options. Group LTD plans generally act as a “wrap-around” benefit, where benefits are reduced for payments from CPP, Workers Compensation Benefits, motor vehicle insurance policies, and income from other sources.

Potential Gaps in NVC:



The above graph demonstrates after tax disability earnings under the ELB for an individual who is fully disabled as compared to the LOE. After income tax is deducted, current ELB benefits are more generous than LOE benefits offered under WSIB for those with a pre-disability income below the minimum ELB earnings definition. The current ELB benefits are comparable to LOE benefits after the minimum salary definition under the ELB is exceeded, up until LOE benefits are capped at a maximum benefit of \$74,800. We note that the ELB after revisions included in Budget 2016 has a more generous benefit formula than the LOE at all pre-disability salary levels. Taxation circumstances can vary by individual. We note that we have assumed that the individual is not eligible for CPP disability benefits in all scenarios. For taxation assumptions used in this graph as well as the next graph to follow, please refer to Appendix B.



In the above graph, we compare what a fully disabled Veteran would receive under the ELB against what a member would receive under the LOE combined with the median benchmark LTD plan. The median benchmark LTD plan used in the above graph has a benefits formula of 66 2/3% of pre-disability earnings before tax, to a maximum annual benefit of \$126,000, with benefits paid by WSIB offset from the amount paid under the LTD plan, and an all source maximum of 85% of pre-disability earnings after-tax. In this case, the LTD benefit is non-taxable. At income levels below the minimum ELB earnings definition, current ELB benefits are generally more substantial than LOE benefits combined with the median benchmark LTD plan. However, because ELB benefits are taxable, after a pre-disability gross earnings threshold of approximately 55,000, benefits under the LOE combined with the benchmark LTD plan are more generous. We note that in the above scenario, the Budget 2016 ELB benefit is more generous than the LOE combined with the benchmark LTD plan at all pre-disability income levels.

In general there are some Group LTD plans that when combined with LOE benefits have richer after-tax benefits than the current ELB, especially in cases where the employee pays the full LTD premium and the benefits are non-taxable. The current ELB is most generous in terms of having a higher minimum guaranteed income than the comparator programs, as well as having no maximum on covered earnings. Once the Budget 2016 revisions are implemented, the ELB will be more generous than the benchmark LTD plan at all income levels, given taxation assumptions outlined in Appendix B.

Benefit Payment Period

NVC: Under Section 18 of Part 2 of the NVC, “The earnings loss benefit begins to be payable on the day on which the Minister determines that a rehabilitation plan or a vocational assistance plan should be developed. For greater certainty, if the determination is in respect of a member, the earnings loss benefit is not payable until the day after the day on which the member is released from the Canadian Forces.”⁹ Benefits are then payable until the Veteran completes their rehabilitation or vocational assistance plan. In the event that the Minister determines the Veteran receiving the ELB is unable to engage in suitable gainful employment as a result of being totally and permanently incapacitated, benefits are payable until the earlier of the date the member is able to engage in suitable gainful employment, or age 65.

WSIB: Under the WSIB’s LOE benefit, benefits begin from the first day the loss of earnings begins. Benefits continue until the earlier of:

- “(a) the day on which the worker’s loss of earnings ceases;
- (b) the day on which the worker reaches 65 years of age, if the worker was less than 63 years of age on the date of the injury;
- (c) two years after the date of the injury, if the worker was 63 years of age or older on the date of the injury;
- (d) the day on which the worker is no longer impaired as a result of the injury”¹⁰

Benchmark Group LTD Plans: Group LTD plans have a similar focus as ELB and LOE benefits where disabled employees must follow rehabilitation and work reintegration plans provided they are not totally and permanently disabled. Benefit payments do not start until the disabled employee has fulfilled the Elimination Period, during which the employee most commonly has some form of earnings replacement under a Short Term Disability or sick leave plan. While contracts can vary, most commonly benefits are payable during the first 2 years of disability provided the employee cannot perform the duties of their “Own Occupation”. Thereafter, employees are generally only eligible for benefits if they cannot perform the duties of “Any Occupation.” LTD benefits for disabled employees who are permanently and totally disabled are most commonly payable until age 65.

Potential Gaps in NVC: The requirement for a Veteran to be medically released from the Canadian Forces is a unique element of the ELB as compared to WSIB and LTD plans, where there is no requirement for the employment contract to be terminated in order for a disabled individual to be eligible for disability benefits. However, before a Veteran is medically released, they would be continuing to earn their pre-release salary, so there is no gap in coverage from the perspective of earnings replacement.

⁹ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 18. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

¹⁰ *Workplace Safety and Insurance Act*, 1997. Part 6, Section 43. Updated with amendments to April 6, 2016.

Indexation

NVC: The ELB is currently annually indexed at the rate of inflation as measured by the percentage increase in the Consumer Price Index (CPI), to a maximum of 2% per year. We note that there are proposed changes to the increase rate in Budget 2016, where the 2% cap on inflation will be removed, and benefit increases will match increase rates in a Senior Private's salary. If approved, these changes will become effective for the ELB on October 1, 2016.¹¹

WSIB: With the exception of a worker whose loss of earnings is 100%, LOE benefits are annually indexed at a rate of 0.5 x % change in CPI – 1%, with a minimum of 0% and a maximum of 4%.¹² Where the worker has a 100% loss of earning, the applicable indexing factor is the full % change in CPI, with a minimum of 0% and no maximum. We note that this section of the WSIB Act has been repealed. Effective January 1, 2018, all LOE benefits will be annually indexed to the full CPI, with a minimum of 0% and no maximum.¹⁰

Benchmark Group LTD Plans: Some Group LTD plans offer inflation protection, while others do not. Aon Hewitt's Benefit SpecSelect database shows a prevalence of approximately 35% including some form of inflation protection. Of those that do offer inflation protection, benefits are most commonly indexed to 100% of the increase in the CPI. There is generally a cap on the inflation protection offered, most commonly at 3% per year.

Potential Gaps in NVC: The current ELB benefit has a 2% cap on inflation, which may not allow a disabled Veteran to maintain purchasing power under certain inflation scenarios. Though the general indexing formula for those with less than 100% loss of earnings is less generous under the LOE with a factor of 50% of CPI, the LOE has a higher cap in place at 4%. This would make the current LOE more generous than the current ELB in years where the increase in CPI is in excess of 2% for those with 100% loss of earnings, or in excess of 4% for those with less than 100% loss of earnings. Many Group LTD plans have no indexation, providing disabled employees with no protection from inflation. Those plans that do offer inflation protection commonly index at the rate of increases in the CPI, and most often have a cap in place, with the most common cap being at 3%.

Both the ELB and LOE have indexing changes pending. With the 2% cap on inflation being removed as per Budget 2016, the ELB will offer more substantial inflation protection than benefits offered by the average Group LTD plan. The ELB and the LOE will have the same indexing rules applied once the 2% cap is removed from the ELB, and the LOE has the formula changed for members with less than 100% loss of earnings.

¹¹ *Government of Canada's 2016 Budget*, Tabled in the House of Commons by the Honourable William Francis Morneau, Minister of Finance, March 22, 2016. Chapter 5, pg. 176.

¹² *Workplace Safety and Insurance Act, 1997*. Part 6, Section 49. Updated with amendments to April 6, 2016.

Survivor Benefits

NVC: As per Section 22 of Part 2 of the NVC, “The Minister may, on application, pay, in accordance with section 23, an earnings loss benefit to a member’s or a veteran’s survivor or orphan, if the member or veteran dies as the result of

- a) a service-related injury or disease; or
- (b) a non-service-related injury or disease that was aggravated by service.”¹³

The ELB is payable depending on family status as follows:

- Surviving Spouse, no eligible orphan children – Surviving spouse is eligible for 100% of the ELB up until the member would have reached age 65
- Surviving Spouse with eligible orphan child(ren) – 100% of the ELB is divided as follows:
 - 60% goes to surviving spouse
 - 40% is divided amongst eligible orphan children
- Eligible orphan child(ren) with no surviving spouse – the ELB is payable as the lesser of:
 - 40% of member’s ELB amount to each eligible orphan child
 - 100% of the member’s ELB divided by the number of orphan children

Orphan children are eligible for the ELB up until they reach the age of 18, unless they are following a course of instruction approved by the minister in which case benefits can be extended up until age 25. Orphan children also remain eligible for benefits if they are over the age of 18 and prevented by physical or mental incapacity from earning a livelihood, provided the incapacity occurred while they were defined as an eligible orphan child for the purposes of the ELB.

WSIB: Under the WSIB, when a worker’s death results from an injury for which the worker would have otherwise been eligible for benefits, the surviving spouse and/or children are eligible for a lump sum payment, as well as monthly payment amounts. For a comparison to the ELB, in this section we will only address the monthly payment amounts. The lump sum amount is more similar to the Death Benefit under the NVC, which we will address in Part 2 of this report.

As per section 48 (3) Part VI of the Workplace Safety Insurance Act, “if the deceased worker is survived by a spouse who was cohabiting with the worker at the time of the worker’s death, but no children, the spouse is entitled to be paid, by periodic payments, 40 per cent of the deceased worker’s net average earnings,

- (a) plus 1 per cent of the net average earnings for each year by which the spouse’s age on the date of the worker’s death is greater than 40; or

¹³ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 22. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

(b) minus 1 per cent of the net average earnings for each year by which the spouse's age on the date of the worker's death is less than 40."¹⁴

For (a), the maximum applicable percentage is 60%, and for (b) the minimum applicable percentage is 20%. Similar to the workers LOE, if the workers net average earnings are below \$20,454, they will be deemed to be \$20,454 for the purposes of calculating the benefit payable. For survivor benefits, the net average earnings have the same annual wage ceiling as in the worker's LOE, currently capped at \$88,000 per year.

Section 48 (4) Part VI of the Workplace Safety Insurance Act outlines: "If the deceased worker is survived by a spouse and one or more children, the spouse is entitled to be paid, by periodic payments, 85 per cent of the deceased worker's net average earnings until the youngest child reaches 19 years of age."¹⁴ The minimum amount payable under this clause is currently set at \$22,588 per year.¹⁵ In the event that the child or children do not reside with the spouse or are not in the custody of the spouse, the Board will divide the benefit amongst the spouse and the child(ren) in a manner deemed appropriate by the Board.

Per Section 48 (14) Part VI of the Workplace Safety Insurance Act, "If there is no spouse or if the spouse dies and the deceased worker is survived by only one dependent child, the dependent child is entitled to be paid, by periodic payments, 30 per cent of the deceased worker's net average earnings."¹⁴ Similar to other LOE benefits, there is a minimum net average earnings amount currently set at \$20,454 for dependent child/children benefit. Payments for each additional child are 10% of the deceased worker's net average earnings, up to a maximum of 85% of the deceased works net average earnings for all children combined.

Benchmark Group LTD Plans: Unlike ELB and LOE benefits, Group LTD Plans generally have no provisions for providing income to surviving spouses or dependents of an employee who dies while employed, or for disabled employees who die while receiving LTD Benefits. This is because LTD plans are structured to provide earnings replacement while a disabled employee is unable to work. However, most Group Benefits plans have other coverage in place to provide Lump Sum payments in the event of the death of an active or disabled employee, through Life Insurance and Accidental Death and Dismemberment Insurance. We will address Life Insurance and Accidental Death and Dismemberment benefits in Part 2 of this report.

¹⁴ Workplace Safety and Insurance Act, 1997. Part 6, Section 48. Updated with amendments to April 6, 2016.

¹⁵ 2016 Compensation Amounts for Survivors, WSIB Ontario. www.wsib.on.ca (accessed June 9, 2016)

Potential Gaps in NVC: While the payment structure of the ELB differs depending on whether there are surviving children or not, the overall benefit payable to the surviving spouse as compared to a surviving spouse with children is equivalent. This differs from the LOE benefit, where the benefit is substantially higher for a surviving spouse with eligible children than for a surviving spouse without eligible children. However, given that the combined amount for the surviving spouse and eligible children is equal to that of the Veteran under the ELB, and the maximum payable under the LOE to a Surviving Spouse with Eligible Children is 85% of the member's pre-disability earnings, the graph in "Earnings Replacement Formula" demonstrate that the LOE is never substantially higher than the current ELB at any earnings level, and it is less than the ELB after Budget 2016 modifications are taken into account at all earnings levels.

For a child in receipt of the ELB who is not enrolled in school, the benefits cease when the child turns 18. Under the LOE, benefits are payable until the child turns 19. For children enrolled in school, ELB benefits can be extended up until the child reaches age 25. There is no extension of payment under the LOE for children who remain in school after age 19.

As Group LTD benefits most commonly do not offer any survivor benefits, the ELB is more generous for all profiles.

Retirement Benefits

NVC: Members who were eligible for the ELB benefit when they attained age 65 are eligible to continue to receive benefits under the Retirement Income Security Benefit (RISB). Benefits are payable from age 65, until the member dies. The RISB is a taxable monthly benefit, with the benefit formula defined in Part 2 section 40.1 as follows:

$$“(A + B) – C”$$

where

A is 70% of the earnings loss benefit to which the veteran would be entitled for the month in which they attain the age of 65 years, calculated as if the benefit were payable for that entire month and not taking into account amounts that are payable to the veteran from prescribed sources referred to in subsection 19(1);

B is 70% of the permanent impairment allowance, including any increase to it under subsection 38(3), payable to the veteran for the month in which they attain the age of 65 years; and

C is the total amount that is payable to the veteran for a month from prescribed sources.”¹⁶

Similar to the ELB offsets in item C of this formula include payments under the Canadian Forces Superannuation Act (CFSA), Canadian Pension Plan (CPP)/Quebec Pension Plan (QPP) benefits, and any other employment income. Unique to the RISB, the Permanent Impairment Allowance and Permanent Impairment Allowance Supplement are also included as offsets in item C of the RISB formula.

¹⁶ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 40. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

Surviving spouses of an eligible veteran are also eligible for the RISB. If the member was already eligible for the RISB upon death, benefits to the spouse commence the month after the veteran dies, and are payable until the death of the surviving spouse. The formula for a surviving spouse of a member who was previously in receipt of the RISB is defined in Section 40.3(4) of Part 2 of the NVC as:

“A – B

where

A is 50% of the retirement income security benefit to which the veteran would be entitled, or would have been entitled had the veteran applied, for the month in which the veteran dies, not taking into account amounts that are payable to the veteran from prescribed sources referred to in the description of C in subsection 40.1(4) or in the description of C in subsection 40.2(4), as the case may be; and

B is the total amount payable to the survivor in respect of the veteran for a month from prescribed sources.”¹⁷

If the surviving spouse was already receiving the ELB due to the Veteran having died before age 65, RISB benefits for the surviving spouse commence when ELB benefits cease; i.e. when the member would have reached age 65. The benefit is payable until the death of the surviving spouse. Under section Section 40.4(4) of Part 2 of the NVC, in this case benefits are payable as:

“A/2 – B

where

A is 70% of the earnings loss benefit that would be payable under subsection 23(1) for the month in which the member or veteran, if alive, would have attained the age of 65 years, calculated as if the benefit were payable for that entire month and not taking into account amounts that are payable to the survivor in respect of the member or veteran from prescribed sources referred to in subsection 23(3); and

B is the total amount that is payable to the survivor in respect of the member or veteran for a month from prescribed sources.”¹⁷

A Veteran receiving the ELB may also be eligible for the Supplementary Retirement Benefit (SRB) at age 65. The NVC does not explicitly define the benefit amount of the SRB. Part 2, Section 26 states: “The Governor in Council may make regulations respecting the amount of the supplementary retirement benefit payable in respect of any class or classes of veterans or survivors.”¹⁸ It is our understanding that the SRB is currently payable as a taxable lump sum, equal to 2% of the total ELB amount received from the date of first payment until age 65. The SRB is also payable to surviving spouses who were in receipt of the ELB.

¹⁷ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 40. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

¹⁸ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 2, Section 26. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

WSIB:

If a worker has received the WSIB LOE benefit for at least 12 continuous months, the Board sets aside an amount of 5% of every subsequent LOE payment. The worker may also elect to set aside an additional amount of 5% of their LOE payment, which would be deducted from their LOE benefit. At age 65, the worker becomes eligible for WSIB's Loss of Retirement Income (LRI) benefit. The LRI benefit amount is equal to the amount set aside by the Board and the contributions by the worker, plus accumulated investment income on those amounts. At age 65, this accumulated amount is then payable at the worker's preferred payment scheme, either as a lump sum or in monthly payments. There are no offsets to the LRI benefit payments. Under WSIB's LOE benefit, payments for loss of retirement income do not apply for a worker who is 64 years of age or older at the date of injury.¹⁹

If a worker eligible for the LOE benefit dies of natural causes before age 65, the accumulated LRI fund is payable to the worker's dependent spouse or children as a lump sum. If there are no dependents, the amount payable to the worker's estate is equal to the workers own contributions as deducted from their LOE benefit, accumulated with interest.

Benchmark Group LTD Plans: Group LTD plans do not generally include any provision for retirement. When the member reaches age 65, they are no longer eligible for benefits under the LTD plan. However, employers have a variety of Pension Plan eligibility definitions. Aon Hewitt's Benefit SpecSelect database indicates that 27% of employers have a Defined Benefit pension plan open to new employees. Of those that have a Defined Benefit pension plan, Aon Hewitt's Rapid Response Survey of 179 employers conducted in 2012 indicated that 43% of employers with Defined Benefit pension plans allow disabled employees to continue to accrue service while on disability until the end of eligibility for LTD benefits. This means that approximately $27\% \times 43\% = 12\%$ of employers in Aon's study offer disabled employees access to a Defined Benefit pension plan for which they remain eligible while disabled.

87% of employers in the SpecSelect database offer some form of Defined Contribution plans. Of those with a Defined Contribution plan, employees are not promised a set retirement pension. Defined Contribution plans allow employees to contribute to a retirement account, with 75% of employers offering some form of employer contribution matching. Aon's Rapid Response survey conducted in 2012 indicated that 36% of employers with Defined Contribution pension plans continue to contribute to the pension plan until the end of the disabled employee's eligibility for LTD benefits. This means that in total $87\% \times 36\% = 31\%$ of employers in Aon's database offer contribution matching to a Defined Contribution plan for disabled employees. It is difficult to directly compare the Defined Contribution plan benefit to the RISB, as the retirement income available from a Defined Contribution plan can be highly variable depending on member's investment decisions, and the economic environment.

¹⁹ Loss of Retirement Income benefit, WSIB Ontario. www.wsib.on.ca (accessed June 9, 2016)

Potential Gaps in NVC: The NVC RISB is structured so that in aggregate after age 65 the Veteran will receive income which is at least 70% of what they were receiving while eligible for the ELB. However, it is important to note that the initial ELB amount is only a partial earnings replacement with a replacement ratio of 75%. This means that a retiree could end up with a retirement income of as little as $70\% \times 75\% = 52.5\%$ of their pre-release salary, adjusted for inflation. We note that Budget 2016 includes an increase in the ELB to make the earnings replacement ratio 90%, which would make the revised minimum retirement income $70\% \times 90\% = 63\%$ of the Veteran's pre-release salary.

In most investment scenarios, the RISB will produce a higher post-65 benefit than that which is offered under WSIB. Comparing the SRB which pays 2% of the total ELB received until the Veteran reaches age 65, to the LRI which sets aside 5% of the members LOE payment, the LRI is more generous than the SRB. From Aon Hewitt's Benefit SpecSelect database combined with data from employers participating in the Rapid Response Survey, we find the majority of employers did not allow disabled members to maintain eligibility in the pension plan. However, some employers do allow members to continue eligibility within their pension plan (Defined Benefit or Defined Contribution) until they are no longer disabled, or up until age 65. For those plans that do allow members to maintain eligibility, some plans may be richer than the income replacement available under the RISB.

Part 2 – Benefits that are Unique to Veterans

The purpose of this section is to identify financial benefits that are unique to Veterans. We will look at both Economic and Non-Economic benefits included under Parts 2 and 3 of the NVC. Where applicable, we will draw comparisons to similar benefits offered under WSIB or from employer Group Benefits plans. This section will not address the ELB and RISB which were included in Part 1 of this report.

Similar to Part 1 of this report, we will not review benefits that are available only under the Pension Act.

Economic Compensation

Canadian Forces Income Support:

Veterans who are under the age of 65 but no longer eligible for the ELB eligible for the Canadian Forces Income Support (CFIS) benefit. The CFIS is meant for those in search of suitable gainful employment, who have a low level of household income. The CFIS is a tax-free benefit payable monthly. Benefits may also be payable to the surviving spouse and/or children of a Veteran who was previously eligible for the CFIS, as well as for the surviving spouse and/or children who were themselves previously eligible for the ELB.

WSIB does not have a comparable benefit to support injured workers no longer eligible for the LOE and who have a low level of household income. Similarly, employer sponsored Group Benefits plans do not commonly have a comparable benefit.

Family Caregiver Relief Benefit:

The Family Caregiver Relief Benefit (FCRB) is a tax-free lump sum grant for Veterans receiving ongoing care who also received a Disability Award. The purpose of the FCRB is to allow a Veteran to pay for their required support when an informal caregiver is temporarily unavailable. An informal caregiver is defined under part 3, Section 65.1(c) as “a person who is 18 years of age or older plays an essential role in the provision or coordination of the ongoing care in the veteran’s home for which the person receives no remuneration.”²⁰

WSIB has a Health Care component. If necessary, the Health Care benefit allows for the services of an attendant. This benefit under WSIB would allow for payment of the attendant, rather than a lump sum grant as is the case with the FCRB. The Workplace Safety and Insurance Act does not define an annual limit per person for the services of an attendant, but rather states “A worker who sustains an injury is entitled to such health care as may be necessary, appropriate and sufficient as a result of an injury.”²¹

²⁰ *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21. Part 3, Section 65. Current as at May 24, 2016. Available <http://laws-lois.justice.gc.ca/eng/acts/C-16.8/> (Accessed May 25, 2016).

²¹ *Workplace Safety and Insurance Act*, 1997. Part 4, Section 33. Updated with amendments to April 6, 2016.

Similar to WSIB, Group Benefits Plans generally have a Health Care benefit. As per Aon Hewitt's 2013 Rapid Response Survey, 59% of employers continue Health Care benefits until the end of an employee's Long Term Disability. Some Health Care plans include Private Duty Nursing, which would provide a benefit for those who require assistance at home. This would be payable as a reimbursement for claims incurred, rather than as a lump sum grant. Annual maximums for Private Duty Nursing vary widely across plans, from no coverage to unlimited coverage.

Permanent Impairment Allowance:

Under the NVC, Veterans who have a severe and permanent impairment, who have received a Disability Award, may be eligible for the Permanent Impairment Allowance (PIA). The PIA is meant to compensate Veterans whose career options have been limited due to a service-related illness or injury. The PIA is a taxable, monthly benefit payable for life. There are 3 grades of monthly benefit under the PIA, varying depending on the level of impairment, as determined by The Minister. In addition to the PIA, Veterans who are totally and permanently incapacitated may be eligible for a Permanent Impairment Allowance Supplement, which is an additional taxable monthly benefit payable for life.

The Non-Economic Loss (NEL) benefit under WSIB has some similarities to the PIA. However, the NEL is more directly comparable to the Disability Award under the NVC; therefore we will address the NEL in that section. There are no other benefits under WSIB or standard Group Benefits Plans that are designed to compensate for an individual's career options being limited due to an employment-related illness or injury.

Supplementary Retirement Benefit:

Veterans who are no longer eligible for the ELB may qualify for the Supplementary Retirement Benefit (SRB), which is meant to compensate for the lower pension plan contributions made by a disabled Veteran as compared to if they were able to work. This benefit may also be payable to a surviving spouse of a member who was in receipt of the ELB, or if the spouse themselves was in receipt of the ELB. The SRB is payable as a one-time lump sum, and is a taxable benefit.

The Loss or Retirement Income (LRI) benefit under WSIB is structured in a similar way to the SRB. However, WSIB allows for more payment options of the accumulated benefit amount, depending on the total amount of the benefit. Allowing for different payment options can allow the disabled worker to structure the payments in a more tax efficient manner, and in accordance with their own financial plan. We note that the LRI was compared to the RISB in Part 1 of this report.

Non-Economic Compensation

Clothing Allowance:

Veterans eligible for the Disability Award may be eligible for a monthly Clothing Allowance benefit if they have suffered an amputation or other disability that causes wear and tear of clothing or specially made apparel. We have not identified a similar benefit available under WSIB or Group Benefits Plans.

Critical Injury Benefit:

The Critical Injury Benefit (CIB) is meant to compensate Veterans with the most severe and traumatic service-related injuries or illnesses. The benefit is structured as a non-taxable lump sum award, payable following the event.

WSIB has a Non-Economic Loss (NEL) benefit. However, this benefit is more similar to the Disability Award benefit under the NVC, so we will address the NEL in the Disability Award section of this report. Group Benefits Plans commonly offer a benefit for Accidental Death and Dismemberment. We will also address this benefit in the Disability Award section of this report.

Death Benefit:

The Death Benefit is paid to the surviving spouse or children when a Veteran dies due to a sudden service-related event, within 30 days of the event. The Death Benefit is structured as a one-time, non-taxable lump sum benefit. The current maximum amount payable for the Death Benefit is \$310,379.²² As outlined in Budget 2016, the intention is to increase this maximum amount to \$360,000 in 2017.²³ The Death Benefit is meant to recognize the impact of the loss a family is faced with, and is not meant to be seen as an Economic benefit similar to Life Insurance.

Surviving Spouses may be eligible for the WSIB Death Benefit, which is payable as a lump sum in the event of a worker's death results from an injury. The benefit amount varies based on the age of the surviving spouse, with younger spouses receiving a larger benefit. In 2016, the minimum lump sum payable is \$39,780, while the maximum amount payable is \$119,339.²⁴

In Group Benefits Plans, there is no similar benefit commonly found to compensate for the Non-Economic impact the family is faced with when a family member dies. Employee Group Life Insurance would be the most comparable benefit, as it is a non-taxable lump sum payable to the beneficiary in the event of death, whether or not the death is occupationally related. 88% of employers in the Aon Benefits SpecSelect database offer some form of Employer Paid Employee Group Life insurance. Lump sum amounts payable are most commonly linked to the employee's salary, with 2 times pay being the most common benefit amount. Some employers also offer additional Life Insurance, with premiums payable by the employee and benefit amounts varying widely.

²² "Rates Effective from: January 1, 2016", Veterans Affairs Canada <http://www.veterans.gc.ca/eng/services/rates> (accessed June 9, 2016)

²³ *Government of Canada's 2016 Budget*, Tabled in the House of Commons by the Honourable William Francis Morneau, Minister of Finance, March 22, 2016. Chapter 5, pg. 177.

²⁴ "Benefit Dollar Amounts – Accidents from 1998", WSIB Operational Policy. www.wsib.on.ca (Accessed June 9, 2016)

Unlike the Death Benefit, Employee Group Life Insurance is payable to the named beneficiary or estate even if the individual does not have a surviving spouse or child. Accidental Death and Dismemberment policies under Group Benefits Plans also have benefits payable to a named beneficiary in the event of death due to accidental causes, regardless of whether the accident is occupationally related. Most commonly, in the event of death of an employee, amounts payable under the Accidental Death and Dismemberment benefit are equal to the amount payable under the Employee Group Life Insurance benefit.

Detention Benefit:

VAC describes the Detention Benefit as a benefit that “recognizes and compensates a member for the non-economic impacts arising from the time of detainment.”²⁵ The Detention Benefit is paid as a one-time non-taxable lump-sum, with the payment amount varying depending on number of days the Veteran was detained while serving in the CAF. The benefit is payable for those who were detained by an enemy, opposing force or terrorist group, for a minimum of 30 days. If a Veteran dies before making an application, or after making an application but before a decision is made on the payment of the benefit, the Detention Benefit is payable to the estate of the Veteran.

There is no benefit similar to the Detention Benefit in WSIB or standard Group Benefits Plans, as the benefit is specific to the nature of the risk taken on by members of the Armed Forces.

Disability Award:

The Disability Award is payable as a non-taxable benefit to Veterans who suffer an injury or illness resulting from their service in the military. Payment amounts depend on assessment of the level of disability, and the degree to which the disability is related to the Veteran’s service. At the Veteran’s discretion, the payments can be made as a lump sum, or annual payments over a period of time chosen by the Veteran. The Disability Award does not vary based on the Veteran’s pre-release income level. The current maximum amount payable for the Disability Award is \$310,379.²⁶ As outlined in Budget 2016, the intention is to increase this maximum amount to \$360,000 in 2017.²⁷

Under WSIB, the Non-Economic Loss (NEL) benefit is the benefit that is most similar to the Disability Award under the NVC. Similar to the Disability Award, the amount payable for the NEL is non-taxable, and varies according to the worker’s level of impairment from the injury. Also similar to the Disability Award, workers are allowed to elect a lump sum payment, or monthly payments. Unlike the Disability Award, the NEL varies by age, with younger workers receiving a higher benefit. The NEL has a much lower benefit level than the Disability Award, with a maximum amount payable of \$84,514.²⁸

²⁵ “Annex B – Summary of NVC Programs”, Veterans Affairs Canada <http://www.veterans.gc.ca/eng/about-us/reports/departmental-audit-evaluation/2010-08-nvc-evaluation-phase-2/annexb> (accessed June 7, 2016)

²⁶ “Rates Effective from: January 1, 2016”, Veterans Affairs Canada <http://www.veterans.gc.ca/eng/services/rates#disaward> (accessed June 9, 2016)

²⁷ *Government of Canada’s 2016 Budget*, Tabled in the House of Commons by the Honourable William Francis Morneau, Minister of Finance, March 22, 2016. Chapter 5, pg. 175.

²⁸ “Benefit Dollar Amounts – Accidents from 1998”, WSIB Operational Policy. www.wsib.on.ca (Accessed June 9, 2016)

There is not a benefit commonly found in Group Benefits Plans that is directly comparable to the Disability Award. The most similar benefits are the non-taxable lump sum under Accidental Death and Dismemberment plans. This benefit is payable for death or dismemberment, regardless of whether the accident was the result of a workplace injury or illness. However, Accidental Death and Dismemberment only have an amount payable in the event of death or dismemberment; there is no benefit for a disability that is not caused by dismemberment. The amount of benefit payable under an Accidental Death and Dismemberment plan is dependent on the type of dismemberment, and the maximum amount payable is often linked to the employee's salary. It is important to note that Canadian Armed Forces members participate in an Accidental Dismemberment Insurance Plan, with amounts varying depending on the level of dismemberment or loss.

Conclusion

The New Veterans Charter includes a range of services and benefits available to Veterans who have been injured or died as a result of their military service. In Part 1 of this report, we reviewed the Earnings Loss Benefit and Retirement Income Security benefit as compared to income replacement benefits offered under WSIB, and Group LTD plans. As compared to the benchmark benefits, the potential gaps that we identified in the subsections of Part 1 of this report are as follows:

- **Eligibility for Benefits** – While not necessarily a gap, one element of the ELB that is different from WSIB and Group LTD plans is that the eligibility for the ELB is determined by the Minister of Veterans Affairs. For WSIB and Group LTD plans, the employer is distanced from the claims eligibility decision with the WSIB determining eligibility for LOE benefits, and the insurer determining eligibility for LTD benefits.
- **Earnings Replacement Formulas** – In some circumstances, the median benchmark LTD plan combined with the LOE benefit can provide a slightly higher after-tax benefit amount for a given level of pre-disability earnings than the current ELB. However, our analysis demonstrates that the ELB revised with Budget 2016 provides a higher benefit at all income levels given the taxation assumptions outlined in Appendix B.
- **Benefit Payment Period** – The requirement for a Veteran to be medically released from the Canadian Forces to be eligible for the ELB is a unique element compared to the LOE and LTD benefits, where the employment contract does not have to be terminated in order to commence benefits. However, because the Veteran continues to receive their pre-release salary until they are medically released, this difference does not create a gap in coverage from an earnings replacement perspective.
- **Indexation** – The current cap of 2% on the annual indexation of NVC benefits is a lower inflation cap than the LOE benefit, and lower than some LTD plans where indexation is included. However, this cap will be removed with Budget 2016, leaving no remaining gap in the ELB indexation as compared to the benchmark programs.
- **Survivor Benefits** – Survivor benefits under the LOE can be slightly higher than under the current ELB in certain circumstances. However, this will no longer be the case following revisions in Budget 2016 when the ELB is increased to replace 90% of pre-release earnings. There are no survivor benefits in a typical Group LTD plan.
- **Retirement Benefits** – RISB benefits are more generous than LRI benefits from the WSIB. Most Pension Plans in Aon Hewitt's databases do not allow disabled members to remain eligible in the pension plan. However, some employers do allow members to continue participating in the pension plan, which in some cases could have a richer plan design than the RISB. With the RISB ensuring members' post-65 before-tax income is 70% of the pre-65 amount; under the current ELB some disabled Veterans would have post-65 pre-tax income as low as 52.5% of their pre-release income adjusted for inflation. With the increase in the ELB in Budget 2016, this minimum before-tax earnings replacement amount after age 65 increases to 63% of the Veteran's pre-release salary.

Part 2 of this report included a review of Economic and Non-Economic benefits under Parts 2 and Parts 3 of the NVC, to identify which financial benefits are unique to Veterans compensation. The conclusions reached for each benefit are as follows:

- Canadian Forces Income Support – The CFIS is unique to Veterans compensation. There are no comparable benefits identified under the WSIB or commonly found in Group Benefits Plans.
- Family Caregiver Relief – Comparable benefits available under WSIB and Group Benefits in the form of coverage available for attendants or private duty nurses. The FCRB is unique in that it is a tax-free lump sum grant, rather than a direct payment to the practitioner or a reimbursement for costs incurred.
- Permanent Impairment Allowance – The PIA is unique to Veterans compensation. There is no comparable benefit under the WSIB except for the Non-Economic Loss benefit which is a lump sum payment more directly comparable to the Disability award under the NVC. There are no comparable benefits commonly found in Group Benefits Plans.
- Supplementary Retirement Benefit – Similar to the Loss of Retirement Income (LRI) Benefit under WSIB, though the LRI is more generous. However, Veterans are now eligible for the RISB, which is more generous than the LRI in the vast majority of LRI investment scenarios. There are no comparable lump sum retirement benefits commonly found in Group Benefits Plans.
- Clothing Allowance – The Clothing Allowance is unique to Veterans compensation. We have not identified a similar benefit available under WSIB or Group Benefits Plans.
- Critical Injury Benefit – The only comparable benefits we identify are the Non-Economic Loss Benefit under WSIB, and Accidental Death and Dismemberment benefits under a group benefits plan. However, both of these benefits are addressed in the Disability Award section of the report.
- Death Benefit – The WSIB has a death benefit which is comparable in nature to the NVC Death Benefit; however the amount of the WSIB death benefit is lower. Group Benefits Plans commonly include Employee Group Life Insurance, with lump sum amounts payable to a named beneficiary, with the most common coverage amount being 2 times the employee's gross salary. Accidental Death and Dismemberment benefits also pay out to the named beneficiary in the event of accidental death of the employee, with coverage amounts most commonly equal to Employee Group Life Insurance amount.
- Detention Benefit - There is no benefit similar to the Detention Benefit under WSIB or standard Group Benefits Plans, as the benefit is specific to the nature of the risk taken on by members of the Armed Forces.

- Disability Award – Under WSIB the Non-Economic Loss (NEL) benefit is similar to the Disability Award under the NVC, however the benefit amount under the NEL is substantially lower. Accidental Death and Dismemberment benefits have some similarities to the Disability Award, except benefits are not payable in the event of disability unless the employee has suffered a dismemberment. Accidental Death and Dismemberment benefits are most commonly linked to pay, with 2 times pay being the most common maximum benefit amount. Amounts actually payable in the event of dismemberment depend on the type of dismemberment incurred, with insurer's having a "Table of Losses" for the percentage of the maximum amount payable in each scenario.

In general, we find benefits offered under the NVC after Budget 2016 revisions are incorporated to be more comprehensive and more generous than those found under Workers Compensation programs, or commonly found in the Group Benefits Plans. Earnings replacement benefits and retirement benefits for disabled Veterans are in most cases more substantial than those available to the average employee in Canada. Veterans are also eligible for a number of unique benefits that are not available under Workers Compensation Schemes nor commonly found in Group Benefits Plans.

Appendix A – Earnings Replacement Benefits - Comparison Table

| | New Veterans Charter | WSIB | Benchmark Group LTD Plans |
|--------------------------------------|--|--|--|
| Eligibility for Benefits | <ul style="list-style-type: none"> -ELB Benefits payable to those who suffer a service-related injury or disease, or a non-service related injury or disease that was aggravated by service -Eligibility for benefits determined by the Minister of Veterans Affairs | <ul style="list-style-type: none"> -LOE benefits payable for work-related injuries or illnesses -WSIB determines eligibility for benefits | <ul style="list-style-type: none"> -LTD benefits are payable for occupational and non-occupational disabilities -Commonly have a waiting period during which newly hired employees are not eligible for coverage, and stipulations around pre-existing conditions -Eligibility for benefit payments determined by the insurer |
| Earnings Replacement Formulas | <ul style="list-style-type: none"> -75% of the Veterans pre-release basic military salary before tax -Minimum earnings threshold of \$56,568 per year, set at the level of a Basic Corporal's salary -No maximum covered earnings definition -Offsets include payments from the CFSA, CPP/QPP, and any other employment income -Proposed updates in Canada's 2016 Budget include increasing the earnings formula to 90% of the Veterans pre-release salary before tax, with a minimum earnings threshold set at the level of a Senior Private which is currently \$49,440 | <ul style="list-style-type: none"> -85% of worker's pre-injury net earnings after tax, CPP and EI deductions -Minimum net earnings threshold of \$20,454 -Maximum covered earnings currently \$88,000. -Offsets include payments from CPP, and any other employment income | <ul style="list-style-type: none"> -Formulas vary including some plans with graduated formulas. Median flat % of pay replacement formula is 66 2/3% -Most commonly no minimum net earnings threshold -Median maximum benefit amount of \$126,000 per year -Offsets most commonly include payments from CPP, WSIB, motor vehicle insurance policies, and income from other sources. -All source maximums commonly 80 or 85% of pre-disability earnings |

| | New Veterans Charter | WSIB | Benchmark Group LTD Plans |
|-------------------------------|--|---|---|
| Benefit Payment Period | <p>-Benefit payments begin on the day the minister determines that a rehabilitation plan or vocational assistance plan should be developed, provided the member has been released from the Canadian Forces</p> <p>-Benefit payments end when the Veteran completes their rehabilitation or vocational assistance plan, unless the Veteran is unable to engage in suitable gainful employment as a result of being totally and permanently incapacitated, in which case benefits are payable until the earlier of the date the member is able to engage in suitable gainful employment, or age 65</p> | <p>-Benefit payments begin the first day the worker has a loss of earnings due to an occupational injury or illness</p> <p>-Benefits are payable until the worker is no longer impaired as a result of the injury or the loss of earnings ceases, to a maximum age of 65, or up to 2 years if the worker was older than age 63 at the time of injury</p> | <p>-Benefit payments do not start until the employee has fulfilled the elimination period</p> <p>-Benefit payments are most commonly payable for up to 2 years if the employee cannot perform the duties of their own occupation, after which benefits are only payable if the employee cannot perform the duties of any occupation, up to a maximum age of 65 for employees who are permanently and totally disabled</p> |
| Indexation | <p>-Currently benefits are indexed at % change in CPI to a maximum of 2%</p> <p>-Budget 2016 will change the formula to index at % change in CPI with no maximum</p> | <p>-Currently benefits are indexed at % change in CPI for workers with 100% loss of earnings, and at 50% of the % change in CPI to a maximum of 4% for workers with less than 100% loss of earnings</p> <p>-WSIB has been amended, effective January 1, 2018 workers with less than 100% loss of earnings will receive the same indexing formula as the formula currently applied to those with 100% loss of earnings</p> | <p>-Only 35% of plans in the SpecSelect database have any form of indexing</p> <p>-Plans that do have indexing most commonly index to the full % increase in the CPI, to a maximum of 3%</p> |

| | New Veterans Charter | WSIB | Benchmark Group LTD Plans |
|--------------------------|---|---|--|
| Survivor Benefits | <p>-In the event of death of the Veteran, the veteran's surviving spouse is eligible to receive 100% of the member's ELB, up until the member would have reached age 65</p> <p>-If the Veteran is survived by eligible children, the orphan children are eligible for a portion of the ELB up until they reach age 18, unless they are enrolled in school in which case benefits can be extended until age 25</p> | <p>-In the event a deceased worker is has a surviving spouse, the spouse is eligible for a benefit equal to 40% of the worker's net average earnings, plus 1% for each year by which the spouses age on the worker's death is greater than 40 to a maximum of 60%, and minus 1% for each year by which the spouses age on the worker's death is less than 40 to a minimum of 20%</p> <p>-If the worker is survived by spouse and eligible children under 19 years of age, the spouse is entitled to payments equal to 85% of the worker's net average earnings</p> <p>-If the worker is survived by orphan children but no eligible spouse, the children are eligible for a monthly benefit up until they reach 19 years of age</p> | <p>-LTD plans are structured to provide an employee with earnings replacement in the event of disability. In the event of death, there is generally no benefit payable to a surviving spouse or child.</p> |

| | New Veterans Charter | WSIB | Benchmark Group LTD Plans |
|----------------------------|--|---|---|
| Retirement Benefits | <ul style="list-style-type: none"> -Veterans receive 70% of pre-age 65 disability earnings in the form of the Retirement Income Supplementary Benefit (RISB), reduced for payments from prescribed sources -Surviving spouse may also be eligible for the RISB, with the applicable formula varying depending on if the surviving spouse was in receipt of the ELB -Supplementary Retirement Benefit equal to 2% of total ELB payments is payable at age 65 | <ul style="list-style-type: none"> -Workers who received LOE benefits for at least 12 continuous months have an amount of 5% of every LOE payment set aside to accumulate interest, with the total accumulated amount payable at age 65 in the form of a lump sum or annuity at the worker's discretion. This benefit is called the Loss of Retirement Income (LRI) benefit -The worker may also contribute an additional 5% of their LOE benefit towards the retirement fund, in order to increase their LRI benefit | <ul style="list-style-type: none"> -LTD plans generally have no amount payable after age 65 -Some employers allow disabled employees to continue to participate in a Defined Benefit or Defined contribution pension plan |

Appendix B – Taxation Assumptions Used in Earnings Replacement Graphs

- Median Benchmark LTD Plan – 66 2/3% replacement of before-tax pre-disability earnings, 85% of after-tax pre-disability earnings all-source maximum, overall benefit maximum of \$126,000 per year.
- All taxation calculations are based on Ontario being the Province of Residence
- No tax credits are applied for a dependent spouse or children
- It is assumed the disabled person is not eligible for CPP disability benefits
- Federal Tax Credits Applied:
 - Basic Personal Amount - \$11,474
 - Disability Amount - \$8,001
- Ontario Provincial Tax Credits Applied:
 - Basic Personal Amount - \$10,011
 - Disability Amount - \$8,088
- No other deductions have been used in calculating the taxation for disabled persons

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