



## Order in Council

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JUS-609755

Whereas, pursuant to paragraph 127.1(1)(c) of the *Public Service Employment Act*, the Governor in Council may appoint a special adviser to a minister;

And whereas the Governor in Council deems it necessary that there be a special adviser to the Minister of Veterans Affairs acting as the veterans ombudsman;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby sets out in the annexed schedule the terms and conditions of employment of the special adviser to the Minister of Veterans Affairs, to be known as the Veterans Ombudsman, who may be appointed by the Governor in Council under paragraph 127.1(1)(c) of the *Public Service Employment Act*.

### SCHEDULE INTERPRETATION

#### 1.

The following definitions apply in this schedule.

"Board" means the Veterans Review and Appeal Board. (*Tribunal*)

"client" means a person who has applied for or is in receipt of programs or services provided or administered by the Department of Veterans Affairs. (*client*)

"Department" means the Department of Veterans Affairs. (*ministère*)

"Minister" means the Minister of Veterans Affairs. (*ministre*)

"Ombudsman" means the Veterans Ombudsman. (*ombudsman*)

"representative" means a person authorized in writing by the client or authorized pursuant to the laws of Canada or a province for the purpose of managing the client's affairs, but does not include an employee of the federal public administration acting within the scope of their employment and, in particular, an advocate or employee of the Bureau of Pension Advocates. (*représentant*)

## APPOINTMENT

### 2.

The Ombudsman shall be appointed by the Governor in Council for a term of three years, which term may be renewed, and may only be removed for cause by the Governor in Council.

*Whereas, by Order in Council P.C. 2007-530 of April 3, 2007, the terms and conditions of employment of the special adviser to the Minister of Veterans Affairs, to be known as the Veterans' Ombudsman, were established;*

*And whereas it is desirable to amend those terms and conditions of employment;*

*Therefore, His Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby amends the schedule to Order in Council P.C. 2007-530 of April 3, 2007 by replacing section 2 with the following:*

*2. The Ombudsman shall be appointed by the Governor in Council for a term of five years, which term may not be renewed, and may only be removed for cause by the Governor in Council.*

*This Order takes effect on November 11, 2010.*

Reference: <http://www.pco-bcp.gc.ca/OIC-DDC.asp?lang=eng&Page=secretariats&txtOICID=2010-1375&txtFromDate=&txtToDate=&txtPrecis=&txtDepartment=&txtAct=&txtChapterNo=&txtChapterYear=&txtBillNo=&rdoComingIntoForce=&DoSearch=Search+%2F+List&viewattach=23374>

## STAFF

### 3.

The staff of the Office of the Veterans Ombudsman shall be employed pursuant to the *Public Service Employment Act* and shall be within the Department.

## MANDATE

### 4.

The mandate of the Ombudsman shall be

- (a) to review and address complaints by clients and their representatives arising from the application of the provisions of the *Veterans Bill of Rights*;
- (b) to identify and review emerging and systemic issues related to programs and services provided or administered by the Department or by third parties on the Department's behalf that impact negatively on clients;
- (c) to review and address complaints by clients and their representatives related to programs and services provided or administered by the Department or by third parties on the Department's behalf, including individual decisions related to the programs and services for which there is no right of appeal to the Board;

- (d) to review systemic issues related to the Board; and
- (e) to facilitate access by clients to programs and services by providing them with information and referrals.

## **LIMITATIONS ON AUTHORITY**

### **5.**

The Ombudsman shall not review

- (a) any decision of the Minister for which there is a right of review or appeal to the Board;
- (b) any decision of the Board made in the exercise of its exclusive jurisdiction under the *Veterans Review and Appeal Board Act*;
- (c) legal advice provided by the Bureau of Pension Advocates in the preparation of applications for review or appeal or applications for reconsideration under the *Veterans Review and Appeal Board Act* and in the representation of the Bureau's clients at proceedings under the Act;
- (d) any court decision or decision of a judge;
- (e) matters within the exclusive jurisdiction of the Royal Canadian Mounted Police, apart from those matters that have been expressly assigned to be administered by the Department;
- (f) legal advice provided to the Government of Canada or to the Board; and
- (g) confidences of the Queen's Privy Council for Canada.

## **REQUESTS FOR REVIEW**

### **6.**

(1) The Ombudsman shall commence a review of an issue within the Ombudsman's mandate at the request of the Minister.

(2) The Ombudsman may commence a review of an issue on the Ombudsman's own initiative or on receipt of a request from a client or a client's representative.

(3) The Ombudsman may

- (a) refuse to deal with a request for review, except if the request was made by the Minister;
- (b) determine how a review is to be conducted; and
- (c) determine whether a review should be terminated before completion.

(4) In exercising the discretion set out in subsection (3), the Ombudsman shall consider such matters as

- (a) the age of the request or issue;
- (b) the amount of time that had elapsed since the requester became aware of the issue;
- (c) the nature and seriousness of the issue;
- (d) the question of whether the request was made in good faith; and
- (e) the findings of other redress mechanisms with respect to the request.

**7.**

(1) The Ombudsman shall only review a request if the requester has exhausted the available redress mechanisms, unless there are compelling circumstances.

(2) To determine whether there are compelling circumstances, the Ombudsman shall consider such factors as whether

- (a) the request raises systemic issues;
- (b) exhausting the redress mechanism will cause undue hardship to a requester; or
- (c) exhausting the redress mechanism is unlikely to produce a result within a period of time that the Ombudsman considers reasonable.

**8.**

The Ombudsman shall inform the requester of the results of the review or any action taken to respond to their request, but at the time and in the manner chosen by the Ombudsman.

## **ACCOUNTABILITY AND ANNUAL REPORT**

**9.**

(1) The Ombudsman shall report directly to and be accountable to the Minister.

(2) The Ombudsman shall submit an annual report on the activities of the Office of the Veterans Ombudsman to the Minister, and the Minister shall table the annual report in Parliament.

(3) The Ombudsman shall publish an annual report as soon as it has been tabled by the Minister.

(4) If it appears to the Ombudsman that information in an annual report would reflect adversely on any person or organization, the Ombudsman shall give those affected an opportunity to comment and shall include a fair and accurate summary of the comments in the annual report. With respect to the inclusion of any personal information in the annual report, the Ombudsman shall comply with the relevant provisions of the *Access to Information Act* and the *Privacy Act* and any other applicable Act of Parliament.

## **OTHER REPORTS AND RECOMMENDATIONS**

**10.**

(1) The Ombudsman may issue reports, with or without recommendations, at any time concerning any review or other matter that is within the Ombudsman's mandate.

(2) The Ombudsman shall attempt to resolve all issues within the Ombudsman's mandate at the level at which they can most efficiently and effectively be resolved and shall, in so doing, communicate with any officials that may be identified by the Department.

(3) The Ombudsman's recommendations are not binding.

(4) The Ombudsman may request a management response from the Department that indicates what action is contemplated or being taken with respect to the report's recommendations or explains why the recommended action will not be taken. If the management response is considered unacceptable or is not received within a reasonable time, the Ombudsman may submit the report to the Minister.

(5) The Ombudsman may publish any report, other than the annual report, on the expiry of 60 days after it has been submitted to the Minister.

(6) If it appears to the Ombudsman that information in a report would reflect adversely on any person or organization, the Ombudsman shall give those affected an opportunity to comment and shall include a fair and accurate summary of the comments in the report. With respect to the inclusion of any personal information, the Ombudsman shall comply with the relevant provisions of the *Access to Information Act* and the *Privacy Act* and any other applicable Act of Parliament.

## **CONFIDENTIALITY**

### **11.**

The Ombudsman and persons acting on the Ombudsman's behalf shall not disclose any information that is acquired while carrying out the Ombudsman's responsibilities without the permission of any person affected except in accordance with an Act of Parliament.

## **ADVISORY COMMITTEE**

### **12.**

(1) The Ombudsman may establish a Veterans Ombudsman Advisory Committee to provide advice on matters relating to the Ombudsman's mandate.

(2) The composition of the Committee shall be determined by the Ombudsman taking into consideration the need for representation from veterans' and stakeholders' groups.

Reference: <http://www.veterans.gc.ca/eng/sub.cfm?source=ombudsman/oic>

