

Sustainment of Reserve Service Through Employer Support

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Ladies and Gentlemen:

I will look at a topic that was touched on somewhat obliquely yesterday, namely what the implications are of the current and anticipated pace of Reserve service for deployments and training for both Reservists and their civilian employers. I will concentrate on the more theoretical and strategic aspects, including giving you some details on Job Protection Legislation for Reservists; the challenges being faced both because of the legislation and for other reasons; and what the Canadian Forces Liaison Council (CFLC) is doing to meet these challenges in the short and longer terms. My CFLC colleague, Diane Colley-Urquhart, will speak more specifically on the experiences of the City of Calgary.

Employer support of Reservists is a critical issue, and one that has just as much effect on how sustainable Reserve employment is as other issues addressed by the Environmental reps in yesterday's sessions. To set the context in dealing with the whole concept of employer support it must be understood that, despite the point made yesterday by General Tabbernor and others of how it is increasingly impossible to distinguish a Reservist on operations from a Regular Force member, it is in the area of civil employment that the biggest difference actually lays. It is also, I would suggest, one of the more difficult issues to come to grips with, for the Reservist, the Chain of Command and the employer.

It is therefore important to understand that, not only is **reserve service** in Canada voluntary except in extraordinary circumstances, but, indeed, **employer support** for Reservists is, in many respects, just as voluntary.

It is of course true that the introduction of job protection legislation changed the context in which Reservists now serve, no matter whether we are discussing long-term deployments overseas or in Canada, short-term, short notice emergency deployments, or military training. And we are only just beginning to understand the implications of this relatively new legislative framework.

You heard yesterday that job protection legislation now exists in all jurisdictions with the exception of the Northwest Territories and Nunavut, although one could say that they are covered as well, as the vast majority of employees in these two territories are employed in federally regulated industries.

That is the upside of the situation. The downside is that the legislation came into force, for the most part, without forethought, without supporting regulations, without regard to Student-Reservists, and without teeth. All twelve primary pieces of legislation, that is the amending bill in each jurisdiction including the Federal Bill C-40, plus the more than fifty other federal, provincial and territorial bills and acts that were amended at the same time, were put in place for the highly laudable reason of protecting the jobs of Reservists. However, the provisions of the legislation vary from one jurisdiction to another, and the understanding of the ramifications of the legislation is still limited. Two provinces impose penalties for non-compliance, while three exempt military training and three – not the same three – plus the federal law include a ‘hardship clause’ that permits the employer to refuse military leave based on health and safety or financial hardship. One province specifically exempts a whole group of employees, and two had to introduce specific regulations last autumn to cover Reservists for OP Podium.

It may well be that the legislation is unenforceable, for, as one of our CFLC provincial chairs has described it, it is nothing more than a ‘cuddle blanket’ or, more formally, it is ‘attitudinal rather than prescriptive’. Senator Segal yesterday referred to the need to ‘harmonise’ the provincial and territorial legislation with that of the Federal Government. While this would obviously be the ideal, it is our understanding that the only way to do so is to invoke Article 91 of the Constitution – realistically, that is not going to happen.

Perhaps more serious in the near term, we have found that inconsistent interpretation of the legislation has led to differing benefits being offered (for example, leave with pay versus leave without pay), for employees within the same organisation. A recent example comes not from the private sector, but rather from the Federal Public Service, and, I hate to say, from the Department of National Defence.

Another significant point is that no Canadian government offers financial compensation or tax incentives to employers of deploying Reservists. Australia has a very costly Employer Support Payment scheme whereby employers, including self-employed Reservists, are entitled to generous financial compensation. This programme, which is currently under review, costs the Australian Armed Forces in the order of \$35 million per annum in payments and to administer. The UK has a similar but much more restrictive scheme. The US does not offer any compensation, but relies on the much tougher terms of their legislation.

Our calculation for a similar scheme in Canada financed as the Australian one is by the individual Services would cost the Army alone something in the order of \$40 million a year.

While this is clearly a political and policy issue that will be dealt with by those at a considerably higher pay grade than mine, this is a discussion that is going to go on for a while. One very important aspect of the discussion is that **Employers** deserve support and recognition for their contributions and for the burdens those particularly small and medium-sized businesses carry in offering military leave and support to their Reservist employees. As Senator Segal indicated yesterday, there is merit in examining this type of support further. But there are arguments on both sides of the equation. Simply put, there is a need here to be careful of what you wish for.

One concern that has been raised is that having elaborate and costly payment schemes may in fact have a significant disadvantage, as is currently being shown in the UK. These schemes might in fact be pricing Reservists out of the deployment market. If the cost of employing Reservists becomes too high, there is the very real possibility that Reserve deployments will be reduced. This is the issue with which our counterparts in the UK are wrestling.

One of the other arguments used against employer payments has been put forward by Force Generators here and overseas: enough Reservists come forward to volunteer to deploy without the need to resort to 'buying' their service.

One of the key lessons learned from the introduction of Reservist legislation is that clearly no legislation, compensation or other incentive can replace the goodwill that employers (and educational institutions) demonstrate towards their Reservist employees or student Reservists.

This is of course the other side of the coin, so to speak. CFLC's role, therefore, is to help support the employer who see an employee disappearing for long periods of time, leaving a business without what is often a key employee particularly in the case of small and medium sized businesses.

If we are to support Reservists, and thereby employers and by extension Reservist jobs, there must be reasons to do so, even if they are non-monetary. The Awards and Recognition programmes which we and many of our partner nations run is one such example – saying 'thank you' can do much to build a smooth relationship between a Reservist and his employer.

So what are the lessons that we have learned in terms of Employer Support. Overall, we must continue to make it clear to employers that having Reservists as part of the team is a win-win-win partnership: the employer benefits by having a loyal, well-trained staff member who can bring valuable skills in terms of management, leadership and teamwork to an office environment. The Reservist benefits by being able to continue a military career without having to sacrifice his civilian (and presumably longer-term) livelihood. And the Forces benefit as Reservists bring skills to the military environment which might not exist amongst members of the Regular Force.

But to sustain that partnership, we need to be mindful of a couple of points. First of all, we know that employers are having a harder time coping with a six to eight week absence of an employee on training than with the Reservist who deploys to Afghanistan and is gone for anywhere up to two years. The latter can be replaced; it may be hard to replace someone for the shorter period of time.

Secondly, we know that employers tend to view international operations differently from domestic ones – the international ops being far sexier and offering better boasting rights with fellow employers. Absences for training is in a lower category again, and, in some cases, are barely tolerated even if the Reservist uses his paid vacation, an option which we actively encourage employers to avoid.

Thirdly, we know of instances where Reservists face discrimination in terms of hiring and on the job advancement, as an employer either did not want to be forced to accept the provision of the legislation, or simply didn't want to have a staff member who might disappear at a moment's notice. In one recent case, a Reservist suffered at the hands of a peer who felt he was being unjustly treated by having to absorb the absent Reservist's tasks in addition to his own.

Fourth, we are well aware that goodwill will only carry the day so far. A good deal of our communications efforts are aimed at ensuring that employers understand the whys and wherefores of military service, and the benefits that they reap by encouraging and supporting their Reservists employees.

Next, we need to build on the current groundswell of support for the military in order to ensure better understanding of Reservist requirements on the part of the business world. If we can do so now, then in the time of the next emergency or sustained or continuous operation, there will be no misunderstanding of supportive roles.

Equally important is the need to ensure that the military chain of command is aware that the impact of some of their employment and/deployment policies have on both the Reservist and, more importantly, on the employer. Last minute deployments, scheduling and then last minute cancelling of training courses, and so on are not conducive to a smooth employer – Reservist relationship.

Next, the onus must be on the Reservist himself to be informed on the requirements of job protection legislation, and to keep his or her supervisor apprised of any forthcoming request for military leave. Last minute requests do not deserve the attention the Reservist might think is his due. Similarly, if a Reservist decides not to go back to his civilian employment at the conclusion of a deployment, by accepting a

component transfer, for example, it is important that the employer be informed as soon as possible, and that he doesn't find out either through the grapevine or simply by dealing with what from his perspective is a delinquent employee who didn't bother to inform of his change of plans. This may seem like a no-brainer, but it is in fact one of the most serious complaints from employers who have supported a Reservist employee by granting leave, only to feel that they have been left in the lurch. We can – and do – provide both the individual Reservists and the chain of command with the required tools. We can't however make them read and learn.

We also know that we need to be more focussed in targeting information on Employer support -- to unions; business organisations such as the Canadian Federation of Independent Businesses; companies who have the chance of actually hiring Reservists; academic groups such as the Canadian Association of University Teachers and the Association of Universities and Colleges of Canada; and legal groups such as the Uniform Law Conference of Canada.

All of this suggests that the preparation of robust military leave policies will benefit all concerned. This is one of the most important steps in securing employer support to sustain the availability of Reservists.

We will also continue to seek co-operation with other key players – with Labour Canada in the extension of the tribunal process until after the failure of the CFLC dispute resolution process; internationally seeking solutions to shared challenges; amending legislation on a province-by-province; and the drafting early in the process of adequate legislative regulations to support or clarify the existing provisions.

We also need to see the consistent application of military leave policies.

We need to be aware of the needs of Student Reservists and their needs. About one-third of the Reserve Force is composed of full-time students, and some of their issues were highlighted by Op Podium, when the training and the mission itself required deploying students to take two terms or more off school. This factor was one of the ones we raised with Canada Command last summer during the discussions on whether “to SDOA, or not to SDOA”. Fortunately from the students' perspective, the provisions in the end benefited them. Further, we used this experience to develop a

new Student Reservist military leave template, for use by academic institutions, published in our new guide, *Valuing Skills*.

The bottom-line is that we need to have good communications which will equate to better understanding of the requirements of both employers and Reservists, which will in turn equal better sustainment.

In conclusion, then, it is clear that employer support is a key area that will support the continued availability of Reservists, and is one that deserves to receive continued attention.