

MEMORANDUM TO CABINET

MEMOIRE AU CABINET

Discussion Paper on  
Equality of Rights

Document de consul-  
tation sur les droits  
à l'égalité

December 12, 1984

Le 12 décembre 1984

Minister of Justice

Ministre de la Justice

A0140886\_1-003314

## EXECUTIVE SUMMARY

### ISSUE

Consideration by Cabinet of a public Discussion Paper on Equality Rights issues in federal legislation for early release.

### RECOMMENDATIONS

It is recommended that:

1. Cabinet approve the release of a public discussion paper substantially in accordance with the text annexed hereto, with a conclusion to be approved by the Minister of Justice.
2. The discussion paper be tabled in Parliament immediately following the Christmas period.
3. Release of the discussion paper be coordinated with the introduction of the Bill on other Charter-related amendments to federal laws.
4. The discussion paper be referred to an appropriate Parliamentary Committee, to be determined by the Government House Leader, the Government Leader in the Senate and the Minister of Justice.
5. Ministers responsible for the administration of legislation that is discussed in the discussion paper provide the requisite support and assistance to the Minister of Justice during consideration of the legislation in the Parliamentary Committee.

### RATIONALE

6. As indicated in the Memorandum to Cabinet on the implementation of the Charter (743-84MC), the object of the discussion paper is to meet public expectations of prior consultation on proposals for change on controversial equality issues. Public input on complex and controversial social, economic and political questions will also assist in assessing the risk of non-compliance with equality rights under the Charter.
7. The discussion paper is essentially restricted in its scope to consideration of provisions in federal statutes that may not comply with the equality guarantees of section 15 of the Charter. Ministers may wish to consider the desirability of raising non-statutory issues that are now in the paper, such as, for example, the questions relating to combat roles for women and sexual orientation, which are governed by regulations and orders made under the authority of the National Defence Act. A further issue for specific consideration may be the advisability of raising the Spouses Allowance Program under the Old Age Security Act as a possible discrimination

on the basis of marital status.

8. The scope of the discussion paper is also affected by the existence of other government initiatives which may lead to enhanced conformity with the aim of effective equality. The discussion paper contains a cross-reference to the Abella Report and to Equality Now, and points out that the response of the Government to these and other initiatives will proceed by way of separate processes. The discussion paper (and the Charter review process) is consonant with the equality objectives of these reports. However, its focus is on the Charter and the vulnerability of the statute books under the Charter, as opposed to the broader, policy based and largely non-statutory objectives of these recent reports.
9. During consideration of the discussion paper by a Parliamentary Committee, it will be imperative for the Minister of Justice and officials of the Department to have a support and assistance of knowledgeable and responsible officials of Departments that administer the relevant legislation that is brought under scrutiny.

#### POSSIBLE ADVERSE CONSEQUENCES

10. Any criticism is likely to focus on the limited scope of the discussion paper, as it is restricted primarily to federal legislation, which contains relatively few clear and significant issues of concern under the equality rights in the Charter.

#### DEPARTMENTAL POSITIONS

11. The discussion paper has been submitted to each of the Departments responsible for the legislation that is considered and account has been taken of comments of officials.

#### POLITICAL CONSULTATIONS

12. Not undertaken

#### COMMUNICATIONS

13. The essential objectives of the communications plan are to show that the government is taking steps to meet its Charter obligations and is doing so in a way that gives the public a voice on matters that may arouse controversy.

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Minister of Justice

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