D R A F T

DIRECTIVE

1. Background:

On April 17, 1985, section 15 of the Canadian Charter of Rights and Freedoms came into effect. Section 15 of the Charter guarantees every individual equality before and under the law and establishes the right to equal protection and equal benefit of the law without discrimination.

On January 31, 1985, the Minister of Justice tabled in the House of Commons a Discussion Paper entitled "Equality Issues in Federal Law" for consideration by the Parliamentary Standing Committee on Justice and Legal Affairs. A special all-party Sub-Committee of the Standing Committee of Justice and Legal Affairs was subsequently established to review the issues and federal statutes mentioned in the Discussion Paper to ensure their conformity with the non-discrimination guarantees in the Charter. The Sub-Committee tabled its report, "Equality For All", in the House of Commons in October 1985.

The Sub-Committee on Justice and Legal Affairs, with the benefit of Department of Justice advice, took the position that "sexual orientation" was included in the general open-ended language of section 15 of the Charter as a constitutionally prohibited ground of discrimination. More generally, the Sub-Committee was of the view that characteristics over which an individual has little or no immediate control and which are commonly used to make prejudiced judgements about an individual's particular qualities or capabilities were, in light of the Charter, improper grounds of discrimination.

The Government outlined its response to the Report of the Sub-Committee on Equality Rights in a paper entitled "Towards Equality". The Government position and the principles derived from "Towards Equality" governing the question of sexual orientation are outlined below.

.../2

2. Purpose and Scope:

The purpose of this Directive is to set out clearly the position of the Government that sexual orientation is a prohibited ground of discrimination in order to ensure that the policies, practices and procedures of the Royal Canadian Mounted Police conform in all respects.

3. Authorities:

This Directive is issued by the Solicitor General of Canada pursuant to authority provided under the Department of the Solicitor General Act, R.S.C. 1970, C.S-12, S.4 and the Royal Canadian Mounted Police Act, R.S.C. 1970, C.R-9, S.5.

4. Application:

This Directive provides direction to the Commissioner of the RCMP concerning the application to the Force of the Government's policy on sexual orientation.

5. Principles derived from "Toward Equality":

a. The Government of Canada is committed to the principle that all Canadians have an equal opportunity to participate as fully as they can in our society; no one should be denied opportunities for reasons that are arbitrary or irrelevant. In particular, persons should not be excluded from employment opportunities for reasons that are irrelevant to their capacity and ability to do the job.

b. The Government believes that one's sexual orientation is irrelevant to whether one can perform a job or use a service or facility. Moreover, the Department of Justice is of the view that sexual orientation is encompassed by the equality guarantees in Section 15 of the Charter.

.../3

c. The Government will take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of federal jurisdiction.

d. Specifically, sexual orientation is prohibited as a ground for discrimination in the selection, recruitment or employment policies, practices and procedures of the Royal Canadian Mounted Police.

e. In taking this position, the Government is neither endorsing nor condemning particular forms of licit sexual behaviour. Rather, this policy simply recognizes that discrimination on the basis of sexual orientation is not acceptable in a free and democratic society.

6. Inquiries:

All inquiries regarding this policy should be routed through the Senior Assistant Deputy Solicitor General in Ottawa.

7. Effective Date: