

RESTRICTED

25 Nov 85 (DG Exec Sec)

RECORD OF DECISIONS

460TH MEETING OF DEFENCE COUNCIL - 18 NOV 85

SERIAL

REQUIRED ACTION

OPI

I EQUALITY RIGHTS (R)

Introduction

1. (R) DGC Svc, having been introduced by ADM(Per), briefed Defence Council on the background to the recommendations of the Commons Committee on Equality Rights and the suggested DND position on those recommendations that affect this Department.

General

2. (R) In the broader context, the Minister and the Associate Minister concurred with the departmental position that we not agree with those recommendations that enhance the powers and scope of the Human Rights Act.

Sexual Orientation

3. (R) The Minister and the Associate Minister concurred with the proposed DND position that we not agree to Recommendation 10 - "that the Canadian Human Rights Act be amended to add sexual orientation as a prohibited ground of discrimination to the other grounds, which are race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability, and conviction for an offence for which a pardon has been granted."

Should we be successful in having Recommendation 10 rejected, it could result in the invalidation of Recommendation 11 which reads: "that the Canadian Armed Forces and the RCMP bring their employment practices into conformity with the Canadian Human Rights Act as amended to prohibit discrimination on the basis of sexual orientation."

In addition, it was agreed that DND withhold agreement to Recommendation 12 - "that the federal government security clearance guidelines covering employees and contractors not discriminate on the basis of sexual orientation" on the basis that the assumptions underlying the recommendation are wrong.

Employment of Women

4. (R) The Minister and the Associate Minister concurred with the proposed DND position that we not agree to Recommendation 29: "that all trades and occupations in the Canadian Armed Forces be open to women." This position would then serve to invalidate Recommendation 30: "that Canadian Armed Forces practices relating to the employment and promotion of women be monitored by the Canadian Human Rights Commission and that progress in revising policies in the manner we recommend be evaluated by the Commission at regular intervals."

RESTRICTED

.../A0051533_1-003521

SERIAL

REQUIRED ACTION

OPI

Mandatory Retirement

5. (R) The Minister and the Associate Minister concurred with the proposed DND position that:

- a. we not agree to Recommendation 6 - "that mandatory retirement be abolished by
(a) amending the Canadian Human Rights Act so that it is no longer a defence to a complaint of age discrimination that an employee who is forced to retire has reached the 'normal age of retirement'; and
(b) amending the Canadian Human Rights Act so that it is no longer a defence to a complaint of age discrimination that an individual whose membership in an employee organization is terminated has reached the 'normal age of retirement'."

nor

Recommendation 8 - "that the Canadian Human Rights Act be amended so that it applies to all mandatory retirement policies embodied in legislation, regulations..."

- b. we monitor Recommendation 7 - "that those provisions of the Public Service Superannuation Regulations providing for mandatory retirement at age 65, as well as comparable regulations affecting public servants who do not contribute to the Superannuation..."

and

Recommendation 9 - "that Parliament and the government of Canada adopt measures to facilitate flexible retirement, so that individuals will have a greater degree of choice in the timing of their retirement, to complement the abolition of mandatory retirement."

Physical and Mental Disability

6. (R) In discussing Recommendation 70, the Minister indicated that he was not attracted to the notion of negotiating a special application of this recommendation, which as it stands would be detrimental to the operational effectiveness of the CF. Consequently, the Minister and the Associate Minister concurred with the DND position that we not agree with Recommendation 70 - "that the Canadian Human Rights Commission ensure that physical and medical tests required of job applicants in employment under federal jurisdiction relate only to the ability of the individual to perform the essential duties of the job in question."

Marital or Family Status

7. (R) The Minister and the Associate Minister concurred with the CDS's view that the

.../3

RESTRICTED

A0051533_2-003522

SERIAL

REQUIRED ACTION

OPI

recommendations concerning this issue are an example of the Report's failure to consider the full impact of the consequences and they concurred with withholding agreement to Recommendation 16 - "that when benefits are conferred or obligations imposed upon partners in a legal marriage by federal law or policies, such benefits and obligations apply in a similar manner to common law spouses."

and

Recommendation 17 - "that a consistent definition of common law relationships be incorporated in all federal laws and policies that recognize such relationships, and for this purpose, we recommend that the definition require that the parties be of the opposite sex, reside continuously with each other for at least one year, and represent themselves publicly as husband and wife."

Maternity and Parental Benefits

8. (R) The Minister noted that the Forget Royal Commission on Unemployment Insurance Report is scheduled for 1986 and that the recommendations on this issue could be largely affected by the Forget Report recommendations. The agreed Department position then will be to defer consideration of Recommendation 1 - "that Parliament amend the Unemployment Insurance Act to recognize a two-tier system of benefits relating to childbirth: the first tier (maternity benefits), to be available to women only, during late pregnancy and the period following birth; and the second tier (parental benefits), to be available to either or both parents, during the period following maternity leave."

and

Recommendation 2 - "that parental benefits (for both natural and adoptive parents) under the Unemployment Insurance Act be available to either or both parents, the total amount of benefits provided not to exceed the maximum available to one parent."

The CDS cautioned that the broader risk looming in the background was that the CF would be subject to universal acts such as the Canada Labour Code. The Minister and the Associate Minister concurred with the DND position to not agree to Recommendation 5 - "that maternity leave provisions for employees under federal jurisdiction, including the Armed Forces and public service employees not covered by collective agreements, be brought into line with the provisions of the Canada Labour Code."

Secretarial Note: Due to other commitments, the Minister departed the meeting following the discussion at para 8.

.../4

SERIAL

REQUIRED ACTION

OPI

Pensions

9. (R) The CDS noted that the trend of the eight recommendations to change pension provisions that apply in some measure to DND seems to liberalize benefits and that Treasury Board resistance could be anticipated. The recommendations were not presented in detail but the Associate Minister agreed to DND monitoring the broader Government Review of Pensions and the pertinent Equality Rights Report recommendations with particular emphasis on the financial implications.

Part-time Work

10. (R) The Associate Minister expressed reservations about the five recommendations concerning part-time work as they affect our Reserves, noting that a major social policy change is at issue which Government will need to fully consider. He agreed that DND may continue to participate in consultations.

Access by the Physically Disabled

11. (R) The Associate Minister agreed that DND should monitor the inter-departmental consultations on the nine recommendations in this area that affect DND.

Employment Equity


12. (R) The Associate Minister agreed to the DND position to monitor inter-departmental discussions on the eight recommendations listed in the report. Particular attention will be afforded Recommendation 71 to ensure that the proposed Government response does not contain any commitment that would be undesirable for DND.

Securing Equality

13. (R) The Associate Minister agreed to the DND position to strongly oppose Recommendations 79 to 82 inclusive. The DM stressed the danger of the major issues being trapped in the bureaucratic process and he undertook to speak with officials in other Departments about this concern. The Associate Minister commented that he would raise the whole issue of the Equality Rights Report with the Minister of Justice.

II MAJOR DEVELOPMENTS IN VARIOUS AREAS OF ACTIVITY (U)

14. (R) With respect to negotiations involving the CPF Project, the DM undertook to update the Associate Minister following ADM(Mat)'s return to Ottawa.


C.J. Gauthier
DG Exec Sec
992-8486

DISTRIBUTION LIST (page 5)

.../5

RESTRICTED

A0051533_4-003524

DISTRIBUTION LIST

Action

ADM(Per)

Information

External

Commander Maritime Command
Commander Mobile Command
Commander Air Command

Internal

MND
Assoc MND
Parliamentary Secretary to MND
DM
CDS
VCDS
ADM(Pol)
DCDS
ADM(Per)
ADM(Mat)
ADM(Fin)
C Prog
CRS
DG Exec Sec
DG Info
JAG
NDHQ Sec
D Parl A