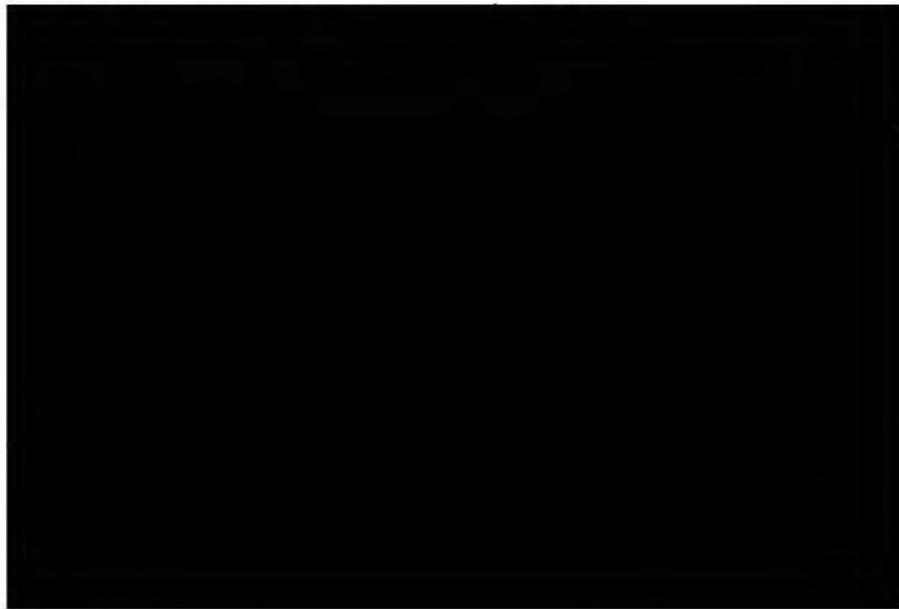


Recommendation A:  
(Page 1)



s.23

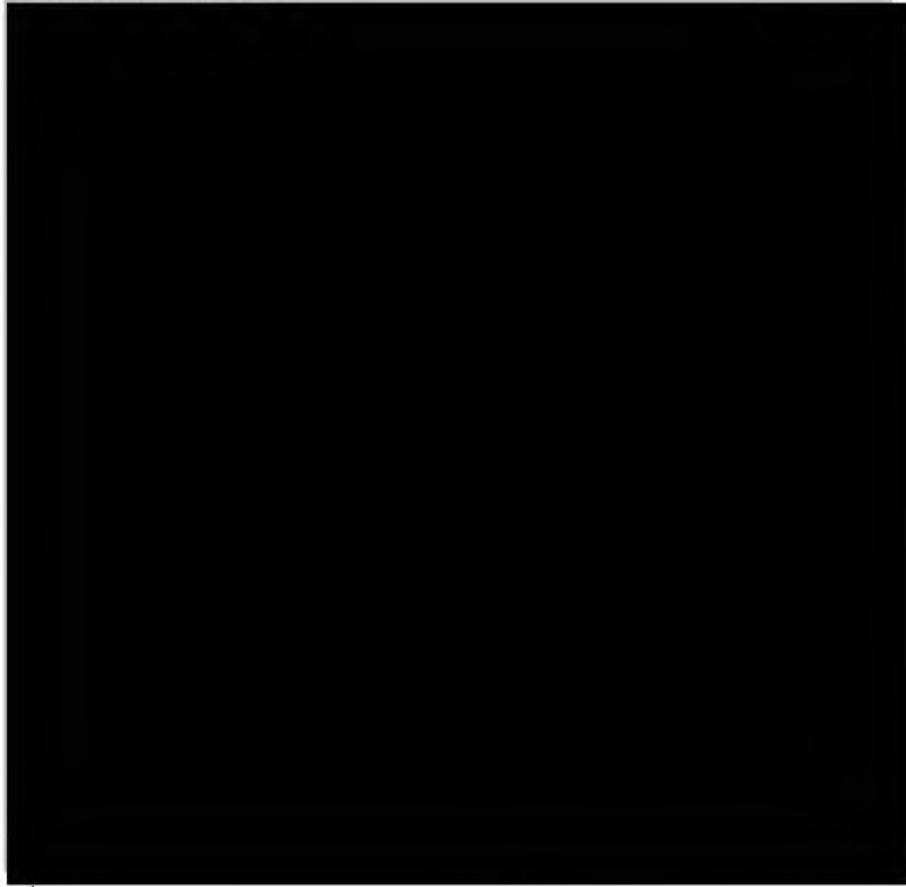


---

A0454325\_1-001755

s.23


Recommendation C:



---

A0454325\_2-001756

Recommendation D: Relationship to Other Federal Laws  
(Page 3)

- ° The Report of the Parliamentary Committee recommended that the CHRA be given supremacy over other federal laws.
  - ° In Toward Equality, the government agreed in principle with that, but indicated it would review the matter taking into account that federal laws are already subject to the Charter.
- 

Sexual orientation

- ° In Toward Equality, the government made a clear commitment to "take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of federal jurisdiction".
- ° The government did not indicate how it would fulfill that commitment, but the Minister has determined that amending the CHRA is the most efficient way of addressing the issue of sexual orientation.
- ° [REDACTED]
- ° Mr. Hnatyshyn has written to the Prime Minister about his intention to add sexual orientation to the prohibited grounds of discrimination, and we understand that the Prime Minister encouraged him to do so.
- ° It is anticipated that the primary problem area in the application of this amendment will be in DND. An internal Task Force was set up to look at the implementation of Toward Equality in relation to the integration of homosexuals and the role of women in the Forces. The Task Force has recommended that homosexuals not be permitted to enrol in the Forces. We understand Mr. Beatty generally accepts this recommendation.
- ° Mr. Beatty has asked for an exemption in the Act to permit the exclusion of homosexuals from the Armed Forces. Mr. Hnatyshyn has not agreed to include such an exemption, [REDACTED]
- ° If Mr. Beatty were to take this position, the government might be seen to be giving conflicting signals on its position on sexual orientation.

s.23

You may want to ask Mr. Hnatyshyn:

- whether the government has to deal with sexual orientation in CHRA or whether there are alternative ways to deal with this issue;

• [REDACTED]

- if the government were to decide not to deal with sexual orientation in the CHRA, what would be the public justification for doing so?

• [REDACTED]

Mandatory Retirement

- ° Under the current law, the fact that an employee has reached the "normal age of retirement" is a defence to a complaint of age discrimination.

° [REDACTED]

- ° In Toward Equality, the government agreed in principle to amend the CHRA to remove that defence, subject to consultations with the private sector. Removing that defence would have the effect of abolishing mandatory retirement.

- ° Consultations with the private sector have shown that opposition to the abolition of mandatory retirement comes from both employers and employees. Consultations also indicated clearly the need for a transition period, particularly to allow adjustments with respect to employee benefits such as insurance and long term disability plans.

[REDACTED]

- ° Another amendment to the Act would require the Minister of Labour to assess the effects of the abolition of mandatory retirement and report to the House within 4 years of the coming into force of the amendments. This will respond to those who are concerned that the abolition of mandatory retirement will entail significant economic cost.

You may wish to ask Mr. Cadieux when the study on the abolition of mandatory retirement will be undertaken, and where the funding for the study will come from.

Recommendation F: Reasonable Accommodation and  
Defences  
(page 4)

Reasonable Accommodation

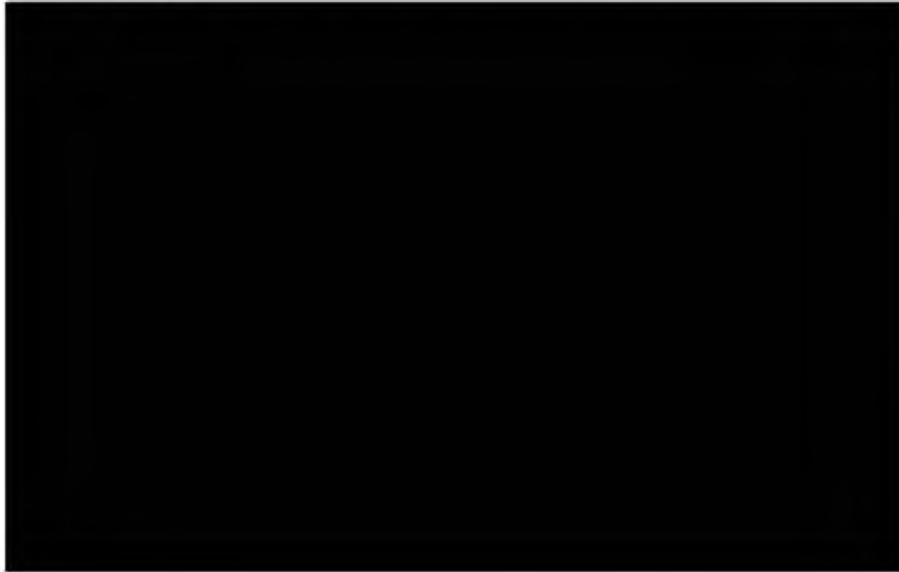
- The current law provides that a defence of bona fide occupational requirement can be made to a complaint of discrimination.



s.23

Religious Organizations

- Religious organizations have expressed concern that the BFOR defence may not adequately accommodate their particular requirements when hiring employees.





Recommendation I: Equal Pay  
(Page 5)

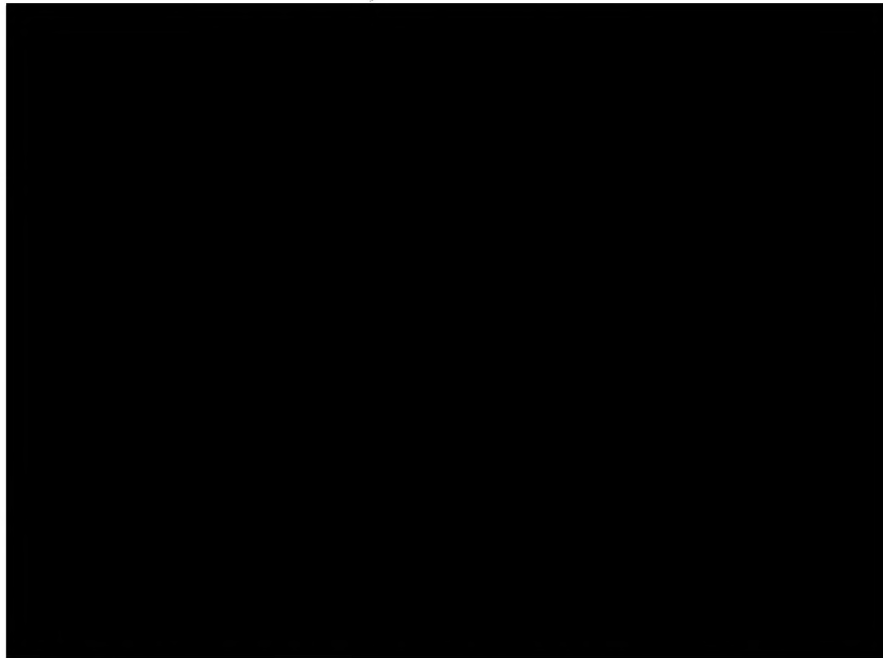
Issues For Further Review

- Under the Canada Labour Code, Labour Canada officers are currently empowered to carry out inspections relating to equal pay and to refer cases to the Commission.
- The Commission believes that this process does not ensure speedy implementation of the equal pay principle and has proposed that the Commission be given a pro-active role by requiring pay equity plans from employers rather than acting only upon a complaint.
- The question of whether equal pay belongs under CHRA or should be in a separate Bill has also been raised.
- Since these two questions will have major impact for private sector employers and were only raised after consultations with the private sector were terminated, the Minister of Justice has chosen not to include these suggestions in these amendments.
- A detailed study of these questions will be conducted, and further amendments could be recommended in the future, if such a need is demonstrated by the study.

You may wish to ask Mr. Hnatyshyn whether the government will be criticized for not moving on the equal pay question.

s.23

Repeal of the Special Exemption



You may want to ask Mr. McKnight to indicate his position on the abolition of the special exemption for the Indian Act.