

## **MINISTERIAL DIRECTION – SECOND INDEPENDENT REVIEW**

### **Preamble**

Section 96 of Statutes of Canada 1998, c.35, requires the Minister of National Defence to cause an independent review of the provisions and operation of that Act to be undertaken from time to time, and to cause the report of the review to be laid before each House of Parliament within five years after the day that Act was assented to, and within every five-year period following the tabling of a report.

The first independent review pursuant to this provision was conducted by the Right Honourable Antonio Lamer, former Chief Justice of the Supreme Court of Canada, and the report of that review was tabled in Parliament by the Minister of National Defence on November 5, 2003. The Government of Canada's legislative response to the recommendations of the Lamer Report was introduced in Parliament in Bill C-7 on April 27, 2006, and subsequently in Bill C-45 on March 3, 2008. Neither of these legislative initiatives proceeded beyond First Reading in the House of Commons and both died on the Order Paper.

Some of the recommendations made in the Lamer Report have been implemented in statute by Bill C-60 (enacted as Statutes of Canada 2008, c. 29), by regulations and by changes in administrative policy and practices. However, given that Bills C-7 and C-45 did not become law, the majority of the recommendations in the Lamer Report requiring statutory implementation have not yet been implemented.

On June 16, 2010, Bill C-41, the *Strengthening Military Justice in the Defence of Canada Act*, was introduced and given First Reading in the House of Commons. This Bill constitutes the current legislative response to the recommendations of the Lamer Report.

An effective review of statutory and regulatory provisions, and administrative policies and practices, may best be accomplished in circumstances where they have already been implemented and there is some operational record upon which to ground a review. In order to maximize the utility of the second independent review, the review might most effectively be accomplished by focusing upon the Lamer Report recommendations which have already been implemented.

### **Appointment and scope of the review**

1. Accordingly, pursuant to section 4 of the *National Defence Act* and section 96 of the Statutes of Canada 1998, c. 35, I hereby establish an external authority reporting directly to the Minister of National Defence to be known as the Bill C-25 Five-Year Independent Review Authority (hereinafter the "Second Independent Review Authority") and I appoint the Honourable Patrick J. LeSage, residing at Toronto, Ontario, as the Second Independent Review Authority.
2. The Second Independent Review Authority is to conduct the second independent review of the provisions and operation of the Statutes of Canada 1998, c. 35, under section 96 of that Act.

3. The Second Independent Review Authority is also to conduct an independent review of the provisions and operation of the Statutes of Canada 2008, c. 29.

**Authority and obligations**

4. The Second Independent Review Authority may:
- a. sit at such time and at such place in Canada as it may from time to time decide; and
  - b. adopt such procedures and methods as it considers expedient for the proper discharge of its mandate.
5. The Second Independent Review Authority is granted, subject to law, complete access to:
- a. the employees of the Department of National Defence;
  - b. the officers and non-commissioned members of the Canadian Forces;
  - c. the members and staff of the Canadian Forces Grievance Board;
  - d. the members and staff of the Military Police Complaints Commission;
  - e. the Ombudsman for the Department of National Defence and the Canadian Forces and staff; and
  - f. any information held by the Department of National Defence and the Canadian Forces relevant to the review.
6. The Second Independent Review Authority shall be provided with or may engage the services of such staff and other advisors as it considers necessary to aid and assist in the review.
7. The Second Independent Review Authority shall:
- a. provide a final report suitable for release to the public that does not disclose information properly subject to national defence, national security or privacy confidentiality, or solicitor-client privilege, in both official languages, to the Minister of National Defence by December 31, 2011; and
  - b. deposit its records and papers with the Office of the Minister of National Defence as soon as is reasonably possible after the final report is provided.

Signed at Ottawa, Ontario, this 25<sup>th</sup> day of March 2011.



The Honourable Peter G. MacKay  
Minister of National Defence