

PRINCIPLES OF THE PUBLIC SECTOR PAY EQUITY ACT (February 2009)

To guarantee that all women and men may fully exercise their right to pay equity, the Public Sector Pay Equity Act must be based upon the following 16 essential and fundamental principles:

- 1. Pay equity is not negotiable.** Pay equity is recognized as a fundamental human right by a number of international agreements ratified in Canada. Like any other human right, it should not be subjected to negotiations.
- 2. A pro-active law.** It must ensure that the employer provides pay equity in the workplace and show that they have complied with the requirements of the law. A law is considered pro-active rather than reactive when its implementation does not require employees to file complaints.
- 3. An inclusive law,** covering the entire public and parapublic sector¹, that is, it includes:
 - part-time as well as full-time staff, in term and permanent positions, casual, temporary and seasonal employees,
 - all public sector employees from parts 1, 2, 3 and 4, including those who benefited from the Pay Equity assessment exercise carried out in 1989,
 - government suppliers and contractors who are dependent entrepreneurs and their employees,
 - the staff of any employer or agency within the public and parapublic sector receiving public funding from or through the provincial government (such as nursing and group homes, child care centers, community literacy, home support agencies, transition houses, etc.),
 - the staff of universities and municipalities.

¹ The NB Pay Equity Coalition is also lobbying for a law to cover the private sector, but for the purposes of this document, the information focuses on the public sector.

- 4. The entire public and parapublic sector of the government forms a single entity** for the purpose of participation and implementation of a pay equity program. A pay equity program cannot be limited to a single bargaining unit or accredited professional association.
- 5. This legislation takes precedence over all other agreements.** Any provision of an agreement, individual employment contract, collective agreement, order, decree or agreement concerning conditions of employment, contrary to the legislation, is void.
- 6. Positions are evaluated using a gender neutral evaluation tool, against four factors: responsibilities, qualifications, working conditions, and all aspects of efforts including physical and mental.**
- 7. A predominantly female job class** designates an employment category that meets at least one of the following criteria: at least 60% of the employees are women; historically, the progression of the representation rate of women indicates that the job class is predominantly female; the job class is customarily associated with women; or the difference between the rate of representation of women within the job class and their rate of representation in the employer's total workforce is considered significant by the equity committee.
- 8. A predominantly male job class** designates an employment category that meets at least one of the following criteria: at least 60% of the employees are men; historically, the progression of the representation rate of men indicates that the job class is predominantly male; the job class is customarily associated with men; or the difference between the rate of representation of men within the job class and their rate of representation in the employer's total workforce is considered significant by the equity committee.
- 9. A pay equity program includes:**
 - a) identifying female-dominated and male-dominated job class;
 - b) describing the methods and tools used to evaluate these job class and developing a sound evaluation process;
 - c) evaluating job classes according to the four factors listed above, comparing them, estimating the wage gap between them, and calculating the salary adjustments needed;
 - d) developing a means for remitting the salary adjustments calculated.

10. A law ensures employees participation in developing and implementing the pay equity plan.

- It sets out the need for employers to establish a pay equity committee in which non-unionized non-management, and unionized employees, and the employer are represented. At least two-thirds of the members of this committee will represent the employees, and at least one-half of the members must be women who, preferably, occupy female-dominated jobs.
- Each group will select their own representatives. As required, the composition of the workers' representation will be all-inclusive, on a per capita basis.
- The pay equity committee will be responsible for the establishment and implementation of the pay equity program.

11. A law that ensures that employees have access to information.

- The employer has the obligation to give the pay equity committee any information necessary to carrying out its duties.
- The employer must post, in locations visible and easily accessible to employees, the committee report which shall include the job classes, the wages, the evaluation tool, the evaluation and any salary adjustments determined to reach pay equity, or a notice that no such salary adjustment has been deemed necessary.

12. A law that is implemented by a Pay Equity Commission established for this specific purpose.

- This Commission has sufficient financial and human resources and reports to the Legislative Assembly.
- The Commission is composed of three members, a majority of whom are women, including a president appointed by the lieutenant-governor-in-council in consultation with organizations which are the most representative of employers, employees and women. The members appointed must possess general expertise in the area of pay equity, human rights, and labour relations.
- The Commission promotes pay equity, receives complaints, has vested powers to conduct investigations on its own initiative, and make binding rulings on the application of the Act.

13. A law that prohibits a reduction of salaries to reach pay equity. Notwithstanding any other article of law, the employer is not permitted to act in any of the following ways in order to reach pay equity:

- a) reduce, freeze or remove from the pay scale the wages of any employee, or,

b) place an employee in a lower rank on the pay range than the rank deemed subject to an increase in pay.

14. A law that provides for a maximum period of two years, following its adoption, for a pay equity program to be implemented and for the adjustments which follow from the evaluation to be made.

15. The salary includes the composite value of employment income, benefits, bonuses and flexible wages.

16. A law that provides for the maintenance and monitoring of pay equity on an ongoing basis.

- The law clearly sets out the employer's obligation to ensure ongoing compliance with pay equity provisions.
- The law sets out the means of maintaining and monitoring pay equity (establishment of a committee, frequency of reviews, schedule for adjustments to be made, etc.)
- The law sets out how pay equity is to be maintained when new jobs or job classes are created, when changes to existing jobs or working conditions are made and to which the pay equity program applies, or when a collective agreement is being negotiated or renewed.