

1990 BILL 231

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 231

PUBLIC SERVICE PAY EQUITY ACT

MR. DECORE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 231
Mr. Decore

BILL 231

1990

PUBLIC SERVICE PAY EQUITY ACT

(Assented to _____, 1990)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

PART I

INTERPRETATION AND APPLICATION

Definitions

1(1) In this Act,

- (a) "Agency" means the Pay Equity Agency established by this Act;
- (b) "bargaining agent" has the meaning given to it in the Labour Relations Act;
- (c) "collective agreement" means an agreement in writing between an employer and a bargaining agent covering terms and conditions of employment;
- (d) "compensation" means all payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount;
- (e) "effective date" means the day Part II comes into force;
- (f) "employee" means,
 - (i) an employee as defined in the *Public Service Act*,
 - (ii) a person employed by the Alberta Liquor Control

Board, the Alberta Labour Relations Board or the Workers' Compensation Board;

(g) "employer" means the employer of an employee to whom this Act applies;

(h) "group of jobs" means a grouping or series of jobs that bear a relationship to each other because of the nature of the work required to perform them and that are organized in successive job levels, and, where there are no such job levels, means jobs that are grouped together for the purposes of compensation;

(i) "job level" means,

(i) a grade or rank of jobs within a group of jobs that has a rate or range of salary assigned to the grade or rank,

(ii) a group of jobs, if the group of jobs contains no grades or ranks;

(j) "job rate" means the highest rate of compensation for a job level;

(k) "Minister" means the Minister of Labour or such other member of the Executive Council to whom the administration of this Act may be assigned;

(l) "predominantly female group of jobs" means,

(i) a group of jobs that, on the effective date, has 60% or more of the positions in the group occupied by women,

(ii) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly female group of jobs,

(iii) if Part IV or VI applies, a group of jobs that the employer, with the Agency's approval, designates as a predominantly female group of jobs,

(iv) a group of jobs that is designated by the regulations made under this Act as a predominantly female group of jobs;

(m) "predominantly male group of jobs" means,

(i) a group of jobs that, on the effective date, has 60% or more of the positions in the group occupied by men,

(ii) if Part III or V applies, a group of jobs that the employer and the bargaining agent or agents agree to designate as a predominantly male group of jobs,

(iii) if Part IV or VI applies, a group of jobs that the employer, with the Agency's approval, designates as a predominantly male group of jobs,

(iv) a group of jobs that is designated by the regulations made under this Act as a predominantly male group of jobs;

(n) "representative job level in a predominantly female group of jobs" means the job level in a predominantly female group of jobs that has the greatest number of employees.

(2) Where a group of jobs is designated as a predominantly female group of jobs or as a predominantly male group of jobs, the designation, subject to any order or direction of the Agency, is binding upon the employer, the employees of the employer and the bargaining agent, if any, of the employees.

(3) Where 2 or more job levels in a female group of jobs have the same number of employees, the job level with the higher or highest job rate shall be deemed to have the greater or greatest number of employees.

Application

2 This Act applies to,

(a) the Crown in right of Alberta and employees as defined in the *Public Service Act*;

(b) the Alberta Liquor Control Board, the Alberta Labour Relations Board and the Workers' Compensation Board and the employees of them;

(c) bargaining agents representing employees to whom this Act applies.

PART II

PAY EQUITY: GENERAL

Purpose

3(1) The purpose of pay equity is to redress systemic gender discrimination in compensation for work performed by employees employed in predominantly female groups of jobs in the public service of Alberta.

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between the representative job level in a predominantly female group of jobs and a job level in a predominantly male group of jobs in terms of relative pay and in terms of the relative value of the work performed.

Criterion

4 The criterion to be applied in determining value of work for the purpose of this Act shall be a composite of the skill, effort and responsibility normally required in the performance of the work and the conditions under which it is normally performed.

Equity achieved

5(1) For the purposes of this Act, pay equity is achieved when the job rate for the representative job level in a predominantly female group of jobs is at least equal to the job rate for a job level in any predominantly male group of jobs where the work performed in the two job levels is of equal or comparable value.

(2) Where more than one comparison is possible between the representative job level in a predominantly female group of jobs and job levels in a predominantly male group of jobs where the work performed in all job levels is of equal or comparable value, pay equity is achieved when the job rate for the representative job level in the predominantly female group is at least as great as the job rate for the job level in the predominantly male group with the lowest job rate.

(3) A job level in a predominantly male group of jobs shall not be used for purposes of comparison if less than 60% of the employees in the job level on the effective date are male.

(4) For the purposes of this Act, differences in rates of compensation between job levels in predominantly male group of jobs of equal or comparable value shall be deemed not to reflect gender bias.

Equity plans

6 Plans to provide for pay equity for predominantly female groups of jobs shall be established and implemented in accordance with this Act.

Content of plan

7 A pay equity plan,

(a) shall provide for the development or selection of a gender-neutral job comparison or evaluation system;

(b) shall identify all predominantly female groups of jobs and all predominantly male groups of jobs;

(c) shall provide for the application of the system referred to in clause (a) to positions in the predominantly female groups

of jobs and in the predominantly male groups of jobs; and

(d) shall provide for the adjustment of the rates of compensation in the representative job level in a predominantly female group of jobs, where necessary, to achieve pay equity and shall provide that where such adjustments are required to be made, all job levels in the same predominantly female group of jobs as the representative job level shall receive the same percentage adjustment of their rates of compensation when the plan is fully implemented.

Positions not considered

8(1) A position that the employer, acting in good faith, designates as,

(a) a temporary training position;

(b) a student position;

(c) a rehabilitation position;

(d) a casual position; or

(e) a position for which there is a temporary labour shortage, or a position that the Agency designates for the purposes of this section may be excluded in determining the gender predominance of any group of jobs and need not be included in a pay equity plan.

(2) A position shall not be designated for the purposes of this Act as a casual position if,

(a) the work is performed for at least 1/3 of the normal work period that applies to similar full-time work;

(b) the work is performed on a seasonal basis in the same position for the same employer; or

(c) the work is performed on a regular and continuing basis, although for less than 1/3 of the normal work period that applies for similar full-time work.

No reduction for equity

9 An employer shall not reduce the compensation payable to an employee or reduce the rate of compensation for any position in order to achieve pay equity.

Plan binds

10(1) A pay equity plan and all amendments to it that the Agency directs or orders are binding upon the employer, the employees in the positions to which the pay equity plan applies and the bargaining agent, if any, of the employees.

(2) A pay equity plan prevails over the provisions of all relevant collective agreements and the adjustments to rates of compensation required by the plan, from the date the plan is filed by the employer with the Agency or established by it, shall be deemed to be incorporated into and form part of the relevant collective agreements, if any, and of ensuing collective agreements, if any, entered into during the implementation period and the relevant collective agreements shall be amended accordingly.

(3) Subsection (2) applies with necessary modifications to amendments to a pay equity plan directed or ordered by the Agency.

Implementation

11(1) As soon as a pay equity plan has been filed with the Agency or established by it, the employer shall take all necessary steps, by way of job audits or otherwise, to prepare for implementation of the plan.

(2) If, after the filing of a pay equity plan, the Agency directs or orders any amendments to it, the amendments shall be deemed to be incorporated into and form part of the plan.

(3) An employer shall begin making adjustments to rates of compensation under a pay equity plan as soon as possible after the plan is filed with the Agency or established by it and,

(a) if the plan is one to which Part III applies, the first adjustments,

(i) shall be made no later than the day 18 months from the date of filing or establishment of the plan, and

(ii) shall be such that compensation payable during the 12-month period following the first adjustments shall be increased by not less than 1% of the employer's payroll for the bargaining unit to which the plan applies since the date on which bargaining with respect to the plan was required to commence under section 12 or not less than the amount required to achieve pay equity under the plan, whichever is less;

(b) if the plan is one to which Part IV applies, the first adjustments,

(i) shall be made no later than the day 18 months from the date of filing or establishment of the plan, and

(ii) shall be such that compensation payable during the

12-month period following the first adjustments shall be increased by not less than 1% of the employer's payroll for employees who are not in a bargaining unit since the date on which preparation of the plan was required to commence under section 14 or not less than the amount required to achieve pay equity under the plan, whichever is less;

(c) if the plan is one to which Part V applies, the first adjustments shall be made no later than the later of,

(i) the day 12 months from the filing or establishment of the plan, and

(ii) the day after the last adjustment required to be made by the employer under all plans to which Part III applies; and

(d) if the plan is one to which Part VI applies, the first adjustments shall be made no later than the later of,

(i) the day 12 months from the date of filing or establishment of the plan, and

(ii) the day after the last adjustment required to be made by the employer under the plan to which Part V applies, or, if no plan is required under Part V, the day after the last adjustment required to be made by the employer under all plans to which Parts III and IV apply.

(4) Where an employer under a pay equity plan to which Part III or IV applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments of rates of compensation made under the relevant plan under subsection (3), shall make further adjustments in rates of compensation until pay equity is achieved under the plan such that in the 12-month period following the anniversary the compensation payable under the plan shall be increased by at least,

(a) 1% of the employer's payroll for the relevant bargaining unit for the 12-month period preceding the anniversary if Part III applies to the plan; and

(b) 1% of the employer's payroll for employees who are not in a bargaining unit for the 12-month period preceding the anniversary if Part IV applies of the plan,

unless the remaining amount payable in relation to the relevant

plan is less than 1% of the relevant payroll, in which case the adjustments shall equal the amount required to achieve pay equity under the plan.

(5) Where pay equity has been achieved under a pay equity plan to which Part III or IV applies but has not been achieved under one or more other plans to which either of those Parts apply, adjustments in rates of compensation for the other plan plans shall be increased such that the amounts payable by the employer under all plans shall be at least equal to the amount that would have been payable had pay equity not been achieved under any plan.

(6) Where an employer under a pay equity plan to which Part V or VI applies makes adjustments in rates of compensation over a period of years, the employer, not later than each anniversary of the first adjustments to rates of compensation made under the relevant plan under subsection (3), shall make further adjustments in rates of compensation until pay equity is achieved under the plan such that in the 12-month period following the anniversary, the compensation payable under the plan shall be increased by at least 1% of the employer's payroll for all its employees for the 12-month period preceding the anniversary, unless the remaining amount payable in relation to the relevant plan is less than such 1%, in which case the adjustments shall equal the amount required to achieve pay equity under the relevant plan.

(7) Where the Agency extends the time limit for the filing of a pay equity plan or for the making of the first adjustments in rates of compensation under a pay equity plan, retroactive adjustments shall be made in rates of compensation under all pay equity plans of the employer to reflect the compensation that would have been payable had the extension not been granted.

(8) Except as provided in subsections (3) and (7), nothing in this Part requires an employer to increase compensation payable under pay equity plans during a 12-month period in an amount greater than 1% of the employer's payroll for all employees during the preceding 12-month period.

(9) In this section, "payroll" means the total of all compensation payable to the employees of the employer described in the relevant provision.

PART III

BARGAINING UNIT PAY EQUITY PLANS

Bargaining

12(1) Notwithstanding any other Act, each employer and each bargaining agent for the employees of the employer shall negotiate

in good faith and endeavour to agree on a pay equity plan to provide for pay equity in predominantly female group of jobs in the bargaining unit represented by the bargaining agent in relation to predominantly male group of jobs in the bargaining unit.

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agent.

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Agency.

Arbitration

13(1) If the employer and the bargaining agent fail to agree on a pay equity plan as provided in section 12 within 90 days from the effective date, either party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of the plan.

(2) Within 10 days after receiving a notice under subsection (1), the Minister shall appoint a person to act as a single arbitrator and the arbitrator, within 90 days, shall examine into and decide on all matters that are in dispute in order to conclude a pay equity plan.

(3) Within 10 days of the date of the arbitrator's decision, the employer and the bargaining agent shall prepare and execute a document giving effect to the decision and to any agreement between the employer and the bargaining agent.

(4) The document referred to in subsection (3) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the document with the Agency.

(5) If the employer and the bargaining agent fail to comply with subsection (3) within the period referred to in that subsection, the employer shall forthwith notify the arbitrator of the failure.

(6) Nothing in subsection (5) prevents a bargaining agent from notifying the arbitrator of a failure to comply with subsection (3).

(7) If the arbitrator receives notice of a failure to comply with subsection (3), the arbitrator shall prepare a document giving effect to the decision and any agreement between the employer and the bargaining agent, and the arbitrator shall submit the document to the employer and the bargaining agent for execution.

(8) The document referred to in subsection (7) constitutes a pay equity plan when executed and the employer shall forthwith after its execution file a copy of the plan with the Agency.

(9) If the document referred to in subsection (7) is not executed by both the employer and the bargaining agent with 10 days from the date of its submission to them, the document shall constitute a pay equity plan as though it has been signed by both and a copy of the plan shall be filed, forthwith by the arbitrator with the Agency.

(10) If in the Minister's opinion the arbitrator has failed to enter into or carry out his or her duties so as to enable the arbitrator to render a decision within 90 days from the time of the arbitrator's appointment, the Minister may dismiss the arbitrator and appoint another person as a single arbitrator or the Minister may require the Agency to establish the pay equity plan.

(11) Arbitrators shall be paid such remuneration and receive such reimbursement for expenses incurred as is authorized by the Lieutenant Governor in Council, providing that money has been appropriated to that purpose by the Legislature.

(12) An arbitrator has power,

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath, in the same manner as a court of record in civil cases;

(b) to administer oaths;

(c) to accept such oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;

(d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or her, and inspect and view any work or thing therein, and question any person respecting any such thing or any of such differences;

(e) to authorize any person to do anything that the arbitrator may do under clause (d) and to report on it to the arbitrator.

(13) The *Arbitration Act* does not apply to arbitrations under this Act.

PART IV

NON-BARGAINING UNIT PAY EQUITY PLANS

Employer plans

14(1) Notwithstanding any other Act, each employer, within 90 days from the effective date, shall prepare a written plan to provide for pay equity for the predominantly female group of jobs that are not in a bargaining unit in relation to predominantly male group of jobs that are not in a bargaining unit and, forthwith after preparing the plan, the employer shall file a copy of it with the Agency.

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Agency.

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Agency.

PART V

COMBINED BARGAINING UNIT PAY EQUITY PLANS

Combined units

15(1) Notwithstanding any other Act, where an employer has employees in more than one bargaining unit, as soon as pay equity plans for all the bargaining units to which Part III applies have been filed with the Agency or established by it, the employer and the bargaining agents for the employees of the employer shall negotiate together in good faith and endeavour to agree upon a pay equity plan to provide for pay equity across all of the bargaining units.

(2) A pay equity plan under subsection (1) shall be in writing and shall be executed by the employer and the bargaining agents.

(3) Forthwith after the execution of a pay equity plan, the employer shall file a copy of the plan with the Agency.

(4) If the employer and the bargaining agents fail to agree on a pay equity plan as provided in subsection (1) within 6 months from the last date to which Part III applies was filed with the Agency or established by it, any party may refer the matter to arbitration by giving notice to the Minister that the parties have been unable to agree on the terms of a plan.

(5) Section 13 applies with necessary modifications if a matter is referred to arbitration under subsection (4) except that the period

of 90 days referred in section 13(2) and (10) shall be deemed to be 6 months.

PART VI

COMPREHENSIVE PAY EQUITY PLANS

Comprehensive
Plans

16(1) Notwithstanding any other Act, as soon as the pay equity plans to which Parts III and IV apply have been filed with the Agency or established by it, the employer within 18 months from the last date on which a plan is filed with the Agency under Part III or IV or established by it and in consultation with the bargaining agents, if any, for the employees of the employer, shall prepare a written plan to provide for pay equity both across bargaining units and inside and outside the bargaining units and, forthwith after preparing the plan, the employer shall file a copy of it with the Agency.

(2) The employer shall notify all employees of the date on which the pay equity plan was filed with the Agency.

(3) Where the employer fails to comply with subsection (1), any employee of the employer may give notice of such fact to the Agency.

PART VII

PAY EQUITY AGENCY

Agency

17(1) There is hereby established an agency to be known as the Pay Equity Agency.

(2) The Agency shall be composed of a presiding officer, one or more deputy presiding officers and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall designate one of the deputy presiding officers to be alternate presiding officer and the person so designated, in the absence of the presiding officer or if the presiding officer is unable to act, shall have all of the powers of the presiding officer.

(4) The members of the Agency who are not officers in the public service of Alberta shall be paid such remuneration and receive such reimbursement for expenses incurred as is authorized by the Lieutenant Governor in Council, providing that money has been appropriated to that purpose by the Legislature.

(5) Where a member of the Agency resigns, he or she may carry out and complete any duties or responsibilities and exercise any powers that he or she would have had if he or she had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he or she participated as a member of the Agency.

(6) In exercising its powers under this Act, the Agency may, if appropriate, make use of the services and facilities of a department, board, commission or agency of the Government of Alberta.

(7) Officers and employees necessary for the proper conduct of the Agency's work may be appointed under the *Public Service Act* and the Agency may engage under contract the persons, including professionals and experts, that it considers necessary to exercise its powers and to carry out its duties.

18(1) The Agency may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that any person seeking a determination of any matter by the Agency shall give written notice, in such form and manner as the Agency specifies, to the person that the Agency specifies.

(2) The presiding officer may establish panels of the Agency and it may sit in 2 or more panels simultaneously so long as a quorum of the Agency is present on each panel.

(3) The presiding officer or a deputy presiding officer, one member representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Agency.

(4) The decision of the majority of the members of the Agency present and constituting a quorum is the decision of the Agency, but, if there is no majority, the decision of the presiding officer or deputy officer governs.

(5) Notwithstanding subsection (4), the presiding officer, if he or she is of the opinion that it is advisable to do so, may sit alone to hear and determine or may authorize a deputy presiding officer to sit alone and hear and determine any matter or thing and to exercise all of the jurisdiction and powers of the Agency.

(6) In exercising powers and carrying out duties conferred on the Agency under section 19(2)(j), (l) and (m), section 20 or Part VIII, the Agency shall hold a hearing and afford the parties an

opportunity to make oral and written submissions to the Agency or it may dispense with a hearing if it permits the parties the opportunity to make such written submissions as the Agency may direct.

- (7) The parties to a proceeding before the Agency are,
- (a) the employer;
 - (b) if Part VIII applies, the person or persons making the complaint; and
 - (c) the bargaining agent, if any, for the employees of the employer; or
 - (d) if there is no bargaining agent, the employees of the employer.

(8) A notice of a proceeding or other matter before the Agency that is required to be given to the employees of an employer shall be deemed to have been sufficiently given if it is prominently posed in each place where the employees work or if it is published in a manner that is likely to bring it to their attention.

(9) One or more employees may appoint any person or organization to act as their agent before the Agency.

Powers

19(1) The Agency may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act and, without restricting the generality of the foregoing, it may exercise such powers and shall perform such duties as are or may be necessary to permit it to determine that pay equity plans comply with the intent and purpose of this Act and are implemented in accordance with this Act.

(2) Without limiting the generality of subsection (1), the Agency has power,

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath;
- (b) to require the production of such documents, records, reports or things as the Agency considers necessary to permit it to investigate and consider any matter within its jurisdiction;
- (c) to administer oaths;
- (d) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of

law or not;

(e) to require an employer to give any notices that the Agency considers necessary to provide notice of proceedings before the Agency or any direction or orders made by it;

(f) to enter any premises where work is being done or has been done or in which the employer carries on business or where anything is taking place or has taken place concerning any matter in relation to which the Agency has jurisdiction, and inspect and view any work or thing therein, and question any person respecting any such thing or any such matter;

(g) to monitor the implementation of every pay equity plan and compliance with the Agency's directions and orders and this Act;

(h) to authorize any person to do anything that the Agency may do under clauses (a) to (g) and to report to the Agency thereon;

(i) to authorize the presiding officer or a deputy presiding officer to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Agency, or any part of any of them, and to report to the Agency thereon;

(j) to make such orders as are necessary to ensure that a pay equity plan is implemented and that there is compliance with its directions and orders;

(k) to recommend to the Lieutenant Governor in Council that a group of jobs be designated as predominantly female group of jobs or as a predominantly male group of jobs and in making such a recommendation, the Agency shall consider such criteria, including historical trends, as it considers relevant;

(l) to approve, on the application of an employer, the designation by the employer of a group of jobs as a predominantly female group of jobs or as a predominantly male group of jobs for the purposes of a pay equity plan to which Part IV or VI applies; and

(m) to extend any time limit mentioned in this Act notwithstanding that the time limit has expired.

(3) Where, with respect to a particular pay equity plan, the Agency exercises its powers under subsection (2)(b), the Agency shall allow reasonable access by any person to the information

received by it.

(4) The Agency may impose conditions, including time limits, in respect of its orders and directions.

(5) The Agency may conduct research and produce papers related to pay equity and related subjects and conduct public education programs related to pay equity and related subjects.

Reviews plans

20(1) The Agency shall review every pay equity plan filed with it, and,

(a) if the Agency decides that the plan complies with the intent and purposes of this Act, it shall advise the parties of its decision; or

(b) if the Agency decides that the plan does not comply with the intent and purposes of this Act, it may direct such amendments as are necessary to achieve such compliance.

(2) If a direction is given under subsection (1)(b), the Agency shall allow the employer and, if the plan is one to which Part III or V applies, the bargaining agent 30 days to make such amendments to the pay equity plan as are necessary to give effect to the direction, and the amendments shall be filed by the employer with the Agency forthwith upon the amendments being made.

(3) If the Agency decides that a pay equity plan together with the amendments filed under subsection (2) complies with the intent and purposes of this Act, it shall advise the parties of its decision.

(4) If the employer fails to file a pay equity plan as required by Part IV or VI or fails to file an amended pay equity plan as required by subsection (2) or the Minister refers a matter to it under section 13 or the Agency is of the opinion that an amended pay equity plan does not comply with the intent and purposes of this Act, the Agency may by order establish or amend a pay equity plan, as may be appropriate.

Order filed

21(1) A copy of an order or direction of the Agency certified as correct by a member of the Agency may be filed by the Agency in the office of the Registrar of the Court of Queen's Bench.

(2) When a copy has been filed under subsection (1), the order or direction may be enforced by an application for such order as the court may consider just.

(3) An application under subsection (2) may be made by the

Agency, or by any person who could have been a part to the proceeding in which the order or direction was made.

Jurisdiction

22(1) The Agency has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Agency thereon is final and conclusive for all purposes.

(2) The Agency may, at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke it.

Information privileges

23 Except with the consent of the Agency, no member of the Agency, nor any of its officers or employees nor any other person whose services have been contracted for by the Agency, shall be required to give testimony in any civil proceeding or in any proceeding before the Agency or any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Annual report

24 The Agency shall make an annual report of its activities and affairs to the Minister not later than the 30th day of June in each year and the Minister shall table the report before the Assembly if it is sitting or, if not, within 15 days of the commencement of the next sitting.

PART VIII

COMPLAINTS

Complaints procedure

25(1) After the filing of a pay equity plan with the Agency, any employee or employees bound by the plan, or their bargaining agent, if any, may file a complaint with the Agency, complaining that,

(a) the job comparison or evaluation system contained in the plan is not gender-neutral or is inappropriate, or both;

(b) the predominantly female group of jobs and the predominantly male groups or any of them have not been properly identified or are inappropriate, or both;

(c) the method of applying the job comparison or evaluation system is inappropriate;

(d) the job comparison or evaluation system is not being properly applied; or

(e) adjustments to compensation are not being made as required.

(2) No complaints may be filed with respect to a matter described in subsection (1)(a), (b) or (c) more than 90 days after the filing with the Agency or the establishment by it of the pay equity plan to which the complaint relates.

(3) No complaint may be filed with respect to a matter described in subsection (1)(d) or (e) until the first adjustments in compensation are required to be made under the pay equity plan to which the complaint relates and no such complaint may be made more than,

(a) 6 months after the first adjustments are required to be made if subsection (1)(d) applies; or

(b) one year after the last adjustments should have been made had the pay equity plan been implemented if subsection (1)(e) applies.

No subsequent bias

26 Following the completion of the compensation adjustments pursuant to all pay equity plans, an employer shall not engage in gender-biased compensation practices and any employee or employees of the employer may file a complaint with the Agency respecting any gender-biased compensation practices that affect pay equity and that are implemented by the employer after the completion of the compensation adjustments.

Investigation

27(1) The Agency shall inquire into a complaint under section 25 or 26 and investigate and determine its subject matter and the Agency may order an employer or bargaining agent to take such action or refrain from such action as in the opinion of the Agency is required.

(2) The Agency shall make every effort reasonable in the circumstances to determine a complaint under section 25(1)(a), (b), (c) or (e) within 3 months of its filing and a complaint under section 25(1)(d) within 6 months of its filing.

PART IX

MISCELLANEOUS

Regulations

28(1) The Lieutenant Governor in Council may make regulations,

(a) defining any word or expression not expressly defined in this Act;

(b) further defining the expression "compensation" or prescribing amounts of benefits, or classes of amounts or benefits, which shall be deemed to be compensation for the purposes of this Act;

(c) further defining the expression "group of jobs" or prescribing positions that shall be deemed to form a group of jobs for the purposes of this Act;

(d) prescribing criteria for determining whether a temporary labour shortage exists;

(e) providing for the requisite features of a gender-neutral job comparison or evaluation system;

(f) designating, on the recommendation of the Agency, any group of jobs as a predominantly female group of jobs or as a predominantly male group of jobs.

(2) A regulation made under subsection (1) may, if it so provides, be made retroactive to a day not earlier than the effective date.

Commencement

29 This Act comes into force on Proclamation which shall not be earlier than the effective date of an appropriation of money to the purposes of this Act by the Legislature.