

1991 BILL 210

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 210

EQUAL PAY FOR WORK OF EQUAL VALUE ACT

MS LAING

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 210
Ms Laing

BILL 210

1991

EQUAL PAY FOR WORK OF EQUAL VALUE ACT

(Assented to , 1991)

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

PART I GENERAL

Definitions

1 In this Act,

(a) "bargaining agent" means a trade union as defined in the Labour Relations Code that has the status of exclusive bargaining agent under that Code in respect of any bargaining unit or units in an establishment, or any other organization employee-designated representative acting on behalf of employees where such organization or representative has exclusive bargaining rights under any other Act in respect of such employees;

(b) "Bureau" means Alberta Pay Equity Bureau established by this 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 this Act comes into force;
- (f) "employee" means a person employed to do work who is in receipt of or entitled to wages;
- (g) "employer" means a person who customarily or actually employs an employee;
- (h) "establishment" means all of the employees of an employer employed in a geographic division or in such geographic divisions as are agreed upon under section 14 or designated under section 15;
- (i) "female job class" means
 - (i) a job class in which 60 percent or more of the members are female, or
 - (ii) a job class designated as a female job class by the employer, with the agreement of the bargaining agent, if any, for the employees of the employer, or by a review officer or the Hearings Tribunal;
- (j) "geographic division" means economic region as defined by Statistics Canada;
- (k) "group of jobs" means a series of job classes that bear a relationship to each other because of the nature of the work and that are organized in successive levels;
- (l) "Hearings Tribunal" means the Pay Equity Hearings Tribunal established by this Act;
- (m) "job class" means those positions in an establishment that have similar duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates;
- (n) "job rate" means the highest rate of compensation for a job class;
- (o) "male job class" means
 - (i) a job class in which 70 percent or more of the members are male, or
 - (ii) job class designated as a male job class by the employer, with the agreement of the bargaining agent, if

any, for the employees of the employer, or by a review officer or the Hearings Tribunal;

(p) "Minister" means the Minister of Labour;

(q) "payroll" means the total of all wages and salaries payable to the employees in Alberta of the employer;

(r) "pay equity plan" means that document described in section 13;

(s) "private sector" means all employers not in the public sector;

(t) "public sector" means all employers identified as such in the regulations;

(u) "regulations" means the regulations made under this Act;

(v) "review officer" means a person designated as a review officer under subsection 33 (1).

General

2(1) Where this Act requires that a document be posted in the work place, the employer shall post a copy of the document in prominent places in each work place for the establishment to which the document relates in such a manner that it may be read by all of the employees in the work place.

(2) The employer shall provide a copy of every document posted in the work place under this Act

(a) to the bargaining agent, if any, that represents the employees who are affected by the document; and

(b) to any employee who requests a copy of the document, if the employee is not represented by a bargaining agent and the employee is affected by the document.

(3) A reference in this Act to the number of employees of the employer shall be deemed to be a reference to the average number of employees employed in Alberta by the employer during the 12-month period preceding the effective date or during the period from the day the first employee commenced employment in Alberta with the employer until the effective date, whichever period is shorter.

(4) In designating a job class as a female job class or a male job class, regard shall be had to the historical incumbency of the job class, gender stereotypes of fields of work and such other criteria

as may be prescribed by the regulations.

(5) A job class may consist of only one position if it is unique in the establishment because its duties, responsibilities, qualifications, recruiting procedures or compensation schedule, salary grade or range of salary rates are not similar to those of any other position in the establishment.

(6) A position shall not be assigned to a job class different than that of other positions in the same establishment that have similar duties and responsibilities, require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates only because the needs of the occupant of the position have been accommodated for the purpose of complying with the Individual's Rights Protection Act or similar legislation.

Combined
establishments

3(1) Two or more employers and the bargaining agent or agents for their employees who come together to negotiate a central agreement may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers constitute a single employer.

(2) Two or more employers who are municipalities in the same geographic division and the bargaining agent or agents for their employees or, if there is no bargaining agent, the employees, may agree that, for the purposes of a pay equity plan, all the employees constitute a single establishment and the employers constitute a single employer.

(3) Notwithstanding an agreement pursuant to subsection (1) or (2), each employer is responsible for implementing and maintaining the pay equity plan with respect to that employer's employees.

Application

4(1) This Act applies to all employers in the private sector in Alberta who employ 10 or more employees as identified in the regulations, all employers in the public sector as identified in the regulations, the employees of employers to whom this Act applies and the bargaining agents, if any, of those employees.

(2) If at any time after the effective date an employer employs 10 or more employees in Alberta, this Act applies to the employer although the number of employees is subsequently reduced to fewer than 10.

Purpose

5(1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.

(2) Systemic gender discrimination in compensation shall be identified by undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed.

Value
determination

6(1) For the purposes of this Act, the criterion to be applied in determining value of work 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.

(2) The fact that an employee's needs have been accommodated for the purpose of complying with the Individual's Rights Protection Act or similar legislation shall not be considered in determining the value of work performed.

Achievement of
pay equity

7(1) Pay equity is achieved when the job rate for a female job class is at least equal to the job rate for a male job class in the same establishment, or proportional or proxy job class designations as defined by regulation, where the work performed by the two job classes being compared is of equal or comparable value.

(2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for a female job class is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but which performs work of lower value than the female job class.

(3) If more than one comparison is possible between a female job class and male job classes in the same establishment, pay equity is achieved when the job rate for the female job class is at least as great as the job rate for the male job class

(a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or

(b) with the highest job rate, if the work performed in the male job class is of less value.

(4) Comparisons required by this Act

(a) for job classes inside a bargaining unit shall be made between job classes in the bargaining unit; and

(b) for job classes outside any bargaining unit shall be made between job classes that are outside any bargaining unit.

(5) If, after applying subsection (4), no male job class is found in which the work performed is of equal or comparable value to that of a female job class, the female job class shall be compared to male job classes throughout the establishment.

(6) An employer may treat job classes that are arranged in a group of jobs as one female job class if 60 percent or more of the employees in the group are female.

(7) An employer shall treat job classes that are arranged in a group of jobs as one female job class if a review officer or the Hearings Tribunal decides that the group should be treated as one female job class.

(8) An employer may, with the agreement of the bargaining agent, if any, for the employees of the employer, decide to treat job classes that are arranged in a group of jobs as one female job class.

(9) Where a group of jobs is being treated as female job class, the job rate of the individual job class within the group that has the greatest number of employees is the job rate for the group and the value of the work performed by that individual job class is the value of the work performed by the group.

Pay equity
required

8(1) Every employer shall establish and maintain compensation practices that provide for pay equity in every establishment of the employer.

(2) No employer or bargaining agent shall bargain for or agree to compensation practices that, if adopted, would cause a contravention of subsection (1).

Exclusions from
determination

9(1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of

(a) a formal seniority system that does not discriminate on the basis of gender;

(b) a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;

(c) a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;

(d) the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or

(e) a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

(2) After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

(3) A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

(4) A position shall not be designated under subsection (3) if

(a) the work is performed for at least one-third 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 one-third of the normal work period that applies to similar full-time work.

Prohibitions;
compensation
adjustments

10(1) An employer shall not reduce the compensation payable to any employee or reduce the rate of compensation for any position in order to achieve pay equity.

(2) No employer, employee or bargaining agent and no one acting on behalf of an employer, employee, or bargaining agent shall intimidate, coerce or penalize, or discriminate against, a person

(a) because the person may participate, or is participating, in a proceeding under this Act;

(b) because the person has made, or may make, a disclosure required in a proceeding under this Act;

(c) because the person is exercising, or may exercise, any right under this Act; or

(d) because the person has acted or may act in compliance with this Act, the regulations or an order made under this Act or has sought or may seek the enforcement of this Act, the regulations or an order made under this Act.

(3) Where, to achieve pay equity, it is necessary to increase the rate of compensation for a job class, all positions in the job class shall receive the same adjustment in dollar terms.

PART II IMPLEMENTATION

Definition
"mandatory
posting date"

11 "Mandatory posting date" means a designated time after the effective date as outlined in the regulations.

Comparison of job
classes

12 Before the mandatory posting date, every employer shall, using a gender-neutral comparison system, compare the female job classes in each establishment of the employer with the male job classes in the same establishment to determine whether pay equity exists for each female job class.

Pay equity plans
required

13(1) Documents, to be known as pay equity plans, shall be prepared in accordance with the regulations to provide for pay equity for the female job classes in each establishment of every employer and, without restricting the generality of the foregoing,

(a) shall identify the establishment to which the plan applies;
and

(b) shall identify all job classes which formed the basis of the comparisons under section 12.

(2) If both female job classes and male job classes exist in an establishment, every pay equity plan for the establishment

(a) shall describe the gender-neutral comparison system used for the purposes of section 12;

(b) shall set out the results of the comparisons carried out under section 12;

(c) shall identify all positions and job classes in which

differences in compensation are permitted by subsection 9 (1) or (3) and give the reasons for relying on such subsection;

(d) shall, with respect to all female job classes for which pay equity does not exist according to the comparisons under section 12, describe how the compensation in those job classes will be adjusted to achieve pay equity; and

(e) shall set out the date on which the first adjustments in compensation will be made under the plan, as required by regulation.

(3) A pay equity plan shall provide that the female job class or classes that have, at any time during the implementation of the plan, the lowest job rate shall receive increases in rates of compensation under the plan that are greater than the increases under the plan for other female job classes until such time as the job rate for the female job class or classes receiving the greater increases is equal to the lesser of

(a) the job rate required to achieve pay equity; and

(b) the job rate of the female job class or classes entitled to receive an adjustment under the plan with the next lowest job rate.

(4) The first adjustments in compensation under a pay equity plan are payable as of the date provided for in clause (2) (e) and shall be such that the combined compensation payable under all pay equity plans of the employer during the 12-month period following the first adjustments shall be increased by an amount that is not less than the lesser of

(a) 1 percent of the employer's payroll during the 12-month period preceding the first adjustments; and

(b) the amount required to achieve pay equity.

(5) Adjustments in compensation shall be made under a pay equity plan on each anniversary of the first adjustments in compensation under the plan and shall be such that during the 12-month period following each anniversary the combined compensation payable under all pay equity plans of the employer shall be increased by an amount that is not less than the lesser of

(a) 1 percent of the employer's payroll during the 12-month period preceding the anniversary; and

(b) the amount required to achieve pay equity.

(6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless required to do so by an order described in clause 35(m), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a 12-month period in an amount greater than 1 percent of the employer's payroll during the preceding 12-month period.

(7) Notwithstanding subsection (6), pay equity plans in the public sector shall provide for adjustments in compensation such that the plan will be fully implemented not later than the 7th anniversary of the effective date.

(8) A pay equity plan that is approved under this Act binds the employer and the employees to whom the plan applies and their bargaining agent, if any.

(9) A pay equity plan that is approved under this Act prevails over all relevant collective agreements and the adjustments to rates of compensation required by the plan shall be deemed to be incorporated into and form part of the relevant collective agreements.

(10) Every employer who prepares and implements a pay equity plan under this Act shall be deemed not to be in contravention of subsection 8 (1) with respect to those employees covered by the plan or plans that apply to the employees but only with respect to those compensation practices that existed immediately before the effective date.

Establishments
with bargaining
units

14(1) In an establishment in which any of the employees are represented by a bargaining agent, there shall be a pay equity plan for each bargaining unit and a pay equity plan for that part of the establishment that is not in any bargaining unit.

(2) The employer and the bargaining agent for a bargaining unit shall negotiate in good faith and endeavour to agree, before the mandatory posting date, on,

(a) the gender-neutral comparison system used for the purposes of section 12; and

(b) a pay equity plan for the bargaining unit.

(3) As part of the negotiations required by subsection (2), the employer and the bargaining agent may agree, for the purposes of the pay equity plan,

(a) that the establishment of the employer includes two or more geographic divisions; and

(b) that a job class is a female job class or a male job class.

(4) When an employer and a bargaining agent agree on a pay equity plan, they shall execute the agreement and, on or before the mandatory posting date, the employer shall post a copy of the plan in the work place.

(5) When a pay equity plan has been executed by an employer and a bargaining agent, the plan shall be deemed to have been approved by the Bureau and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(6) Where an employer and a bargaining agent fail to agree on a pay equity plan by the mandatory posting date, the employer, forthwith after that date, shall give notice of the failure to the Bureau.

(7) Subsection (6) does not prevent the bargaining agent from notifying the Bureau of a failure to agree on a pay equity plan by the mandatory posting date.

(8) An employer shall prepare a pay equity plan for that part of the employer's establishment that is outside any bargaining unit in the establishment and, on or before the mandatory posting date, shall post a copy of the plan in the work place.

(9) Subsections 15 (2) to (8) apply to a pay equity plan described in subsection (8).

Establishments
without bargaining
units

15(1) In an establishment where no employee is represented by a bargaining agent, the employer shall prepare a pay equity plan for the employer's establishment and the employer, on or before the mandatory posting date, shall post a copy of the plan in the work place.

(2) For the purposes of a pay equity plan required by this section or subsection 14 (8), the employer may designate

(a) the establishment of the employer as including two or more geographic divisions; and

(b) a job class as a female job class or a male job class.

(3) An agreement under section 14 between an employer and a bargaining agent shall not affect any pay equity plan required by

this section or subsection 14 (8).

(4) The employees to whom a pay equity plan required by this section or subsection 14 (8) applies shall have until the 90th day after the mandatory posting date to review and submit comments to the employer on the plan.

(5) If as a result of comments received during the review period referred to in subsection (4) the employer is of the opinion that a pay equity plan should be changed, the employer may change the plan.

(6) Not later than 7 days after the end of the review period referred to in subsection (4), the employer shall post in the work place a notice stating whether the pay equity plan has been amended under this section and, if the plan has been amended, the employer shall also post a copy of the amended plan with the amendments clearly indicated.

(7) Any employee or group of employees to whom a pay equity plan applies, within 30 days following a posting in respect of the plan under subsection (6), may file a notice of objection with the Bureau whether or not the employee or group of employees has submitted comments to the employer under subsection (4).

(8) If no objection in respect of a pay equity plan is filed with the Bureau under subsection (7), the plan shall be deemed to have been approved by the Bureau and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

Investigation by
review officer

16(1) A review officer shall investigate the matter and endeavour to effect a settlement if the Bureau

(a) is advised by an employer or a bargaining agent that no agreement has been reached on a pay equity plan under section 14; or

(b) receives a notice of objection under subsection 15 (7),

(2) If the review officer is unable to effect a settlement, he or she shall, by order, decide all outstanding matters.

(3) Where a review officer effects a settlement under subsection (1) or makes an order under subsection (2), the employer shall forthwith post in the work place a copy of the pay equity plan that reflects the settlement or order.

(4) Where a pay equity plan has been posted under subsection (3), objections with respect to the plan may be filed with the Bureau within 30 days of the posting as follows:

(i) If the plan relates to a bargaining unit, objections may be filed only by the employer or the bargaining agent for the unit and only if the review officer has made an order under subsection (2).

(ii) If the plan does not relate to a bargaining unit and a review officer effected a settlement under subsection (1), objections may be filed only by an employee or group of employees to whom the plan applies, other than those who filed an objection under subsection 15 (7).

(iii) If the plan does not relate to a bargaining unit and a review officer has made an order under subsection (2), the employer or any employee or group of employees to whom the plan applies may file an objection.

Hearing

17(1) If the Bureau receives a notice of objection under subsection 16 (4), the Hearings Tribunal shall hold a hearing and, in its decision, shall settle the pay equity plan to which the objection relates.

(2) Forthwith after receiving the decision of the Hearings Tribunal, the employer shall post a copy of the decision in the work place and, on the day provided for in the plan, shall make the first adjustments in compensation required to achieve pay equity.

(3) Where adjustments in compensation are made after the day provided for in a pay equity plan, the employer shall make the adjustments retroactive to that date.

(4) If a review officer effects a settlement of a pay equity plan for a bargaining unit under subsection 16 (1) or, if in any other case, no objection in respect of a pay equity plan is filed with the Bureau in accordance with subsection 16 (4), the plan shall be deemed to have been approved by the Bureau and, on the day provided for in the plan, the employer shall make the first adjustments in compensation required to achieve pay equity.

(5) Where adjustments in compensation are made after the day provided for in the pay equity plan, the employer shall make the adjustments retroactive to that date.

PART III ENFORCEMENT

Complaints

18(1) Any employer, employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Bureau that there has been a contravention of this Act, the regulations or an order of the Bureau.

(2) Any employee or group of employees, or the bargaining agent, if any, representing the employee or group of employees, may file a complaint with the Bureau with respect to a pay equity plan that applies to the employee or group of employees to the effect that

(a) the plan is not being implemented according to its terms; or

(b) because of changed circumstances in the establishment, the plan is not appropriate for the female job class to which the employee or group of employees belongs.

(3) The Hearings Tribunal may combine two or more complaints and deal with them in one proceeding in the complaints

(a) are made against the same person and bring into question the same or a similar issue; or

(b) have questions of law or fact in common.

Investigation of complaints

19(1) Subject to subsection (2), when the Bureau receives a complaint, a review officer shall investigate the complaint and may endeavour to effect a settlement.

(2) The review officer shall notify the parties and the Hearings Tribunal as soon as he or she decides that a settlement cannot be effected and that he or she will not be making an order under subsection 20 (3).

(3) A review officer may decide that a complaint should not be considered if the review officer is of the opinion that

(a) the subject-matter of the complaint is trivial, frivolous, vexatious or made in bad faith; or

(b) the complaint is not within the jurisdiction of the Bureau.

(4) The review officer shall notify the complainant of his or her decision under subsection (3) and the complainant may request a hearing before the Hearings Tribunal with respect to the decision.

Orders by review
officers

20(1) Where a review officer is of the opinion that a pay equity plan is not being prepared as required by this Act or the regulations, the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to prepare the plan.

(2) Where a review officer is of the opinion that a pay equity plan is not being implemented according to its terms, the review officer may order the employer to take such steps as are set out in the order to implement the plan.

(3) Where a review officer is of the opinion that there has been a contravention of subsections 8 (1) or (2), the review officer may order the employer and the bargaining agent, if any, to take such steps as are set out in the order to comply with either or both of those subsections.

(4) An order under subsection (1) may provide for a mandatory posting date that is later than the one provided in section 11.

(5) Where an employer or a bargaining agent fails to comply with an order under this section, a review officer may refer the matter to the Hearings Tribunal.

(6) An employer or bargaining agent named in an order under this section may request a hearing before the Hearings Tribunal with respect to the order, and, where the order was made following a complaint but the complaint has not been settled, the complainant may also request a hearing.

Hearings

21(1) The Hearings Tribunal shall hold a hearing

(a) if a review officer is unable to effect a settlement of a complaint and has not made an order under subsection 20 (3);

(b) if a request for a hearing, as described in subsection 19 (4) or 20 (6), is received by the Hearings Tribunal; or

(c) if a review officer refers a matter to the Hearings Tribunal under subsection 20 (5).

(2) The Hearings Tribunal shall decide the issue that is before it for a hearing and, without restricting the generality of the foregoing, the Hearings Tribunal

(a) where it finds that an employer or a bargaining agent has failed to comply with this Act, may order that a review officer prepare a pay equity plan for the employer's establishment and

that the employer and the bargaining agent, if any, or either of them, pay all of the costs of preparing the plan;

(b) where it finds that an employer has contravened subsection 10 (2) by dismissing, suspending or otherwise penalizing an employee, may order the employer to reinstate the employee, restore the employee's compensation to the same level as before the contravention and pay the employee the amount of all compensation lost because of the contravention;

(c) where it finds that an employer has contravened subsection 10 (1) by reducing compensation, may order the employer to adjust the compensation of all employees affected to the rate to which they would have been entitled but for the reduction in compensation and to pay compensation equal to the amount lost because of the reduction;

(d) may confirm, vary or revoke orders of review officers;

(e) may, for the female job class that is the subject of the complaint or reference, order adjustments in compensation in order to achieve pay equity, where the Hearings Tribunal finds that there has been a contravention of subsection 8 (1);

(f) may order that the pay equity plan be revised in such manner as the Hearings Tribunal considers appropriate, where it finds that the plan is not appropriate for the female job class that is the subject of the complaint or reference because there has been a change of circumstances in the establishment; and

(g) may order a party to a proceeding to take such action or refrain from such action as in the opinion of the Hearings Tribunal is required in the circumstances.

(3) An order under clause (2) (a) may provide that a review officer may retain the services of such experts as the review officer considers to prepare a pay equity plan.

(4) Part II, except section 16, applies with necessary modifications to a pay equity plan prepared under clause (2) (a), but

(a) the order of the Hearings Tribunal may provide for a mandatory posting date that is later than the one provided in section 11;

(b) the order of the Hearings Tribunal shall not provide for a compensation adjustment date that is different than the relevant date set out in clause 13 (2) (e);

(c) the review officer shall perform the duties of the employer and the bargaining agent, if any;

(d) when the review officer posts the plan in the work place as subsection 14 (4) or 15 (6) provides, the employer, the bargaining agent (if the plan relates to a bargaining unit), or any employee or group of employees to whom the plan applies (if the plan does not relate to a bargaining unit) may file an objection with the Hearings Tribunal; and

(e) an objection under clause (d) shall be dealt with by the Hearings Tribunal under section 17.

(5) An order under clause (2) (e) may be retroactive to the day of the contravention of subsection 8 (1).

(6) An order under clause (2) (f) may provide that adjustments in compensation resulting from the revision of the pay equity plan be made retroactive to the day of the change in circumstances that gave rise to the order.

Offences and
penalties

22(1) Every person who contravenes or fails to comply with subsection 10 (2) or subsection 34(5) or an order of the Hearings Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$50,000, in any other case.

(2) If a corporation or bargaining agent contravenes or fails to comply with subsection 10 (2) or subsection 34(5) or an order of the Hearings Tribunal, every officer, official or agent thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or bargaining agent has been prosecuted or convicted.

(3) A prosecution for an offence under this Act may be instituted against a bargaining agent in its own name.

(4) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Hearings Tribunal.

PART IV ADMINISTRATION

Bureau established

23(1) There is hereby established a bureau to be known as the Alberta Pay Equity Bureau.

(2) The Bureau shall consist of the Pay Equity Hearings Tribunal and the Pay Equity Office.

(3) The Bureau, shall, if appropriate, use the services and facilities of a ministry, board, commission or agency of the Government of Alberta.

Hearings Tribunal

24(1) The Hearings Tribunal shall be appointed by the Lieutenant Governor in Council and shall be composed of a presiding officer, one or more deputy presiding officers and as many other members considered proper by the Lieutenant Governor in Council, equally representing employers and employees, and proportionately representing men, women, disabled persons and visible minorities in Alberta's population.

(2) The Hearings Tribunal members shall be recommended by an all-party standing selections committee of the Alberta Legislature, using an established recruiting process including Alberta-wide public advertising and posting of positions, application by interested candidates, and interviewing of candidates by the committee.

(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 Hearings Tribunal 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 Hearings Tribunal 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 Hearings Tribunal.

Powers and duties
of Tribunal

25(1) The Hearings Tribunal may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act or the regulations.

Idem

(2) Without limiting the generality of subsection (1), the Hearings Tribunal

(a) may in an order made under subsection 17 (1) or clause 21 (2) (a) designate any job class as a female job class or a male job class;

(b) 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

(c) may require that any person seeking a determination of any matter by the Hearings Tribunal shall give written notice, in such form and manner as the Hearings Tribunal specifies, to the persons that the Hearings Tribunal specifies.

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

(4) 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 Hearings Tribunal.

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

Exclusive
jurisdiction

26(1) The Hearings Tribunal 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 Hearings Tribunal thereon is final and conclusive for all purposes.

(2) The Hearings Tribunal may at any time, if it considers it advisable to do so, reconsider a decision or order made by it and vary or revoke the decision or order.

Testimony in civil
proceedings

27 Except with the consent of the Hearings Tribunal, no member of the Hearings Tribunal, employee of the Bureau or person whose services have been contracted for by the Bureau shall be required to testify in any civil proceeding, in any proceeding before the Hearings Tribunal or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties or while acting within the scope of their employment under this Act.

Parties to

28(1) Where a hearing is held before the Hearings Tribunal or

proceedings

where a review officer investigates for the purposes of effecting a settlement of an objection or complaint, the parties to the proceeding are,

- (a) the employer;
- (b) the objector or complainant; and
- (c) the bargaining agent (if the pay equity plan relates to a bargaining unit) or the employees to whom the plan relates (if the plan does not relate to a bargaining unit).

(2) Where the Hearings Tribunal or a review officer requires that a notice be given by the employer or employees, the employer shall post the notice in the work place and such notice shall be deemed to have been sufficiently given to all employees in the work place when it is so posted.

(3) An employee or a group of employees may appoint any person or organization to act as the agent of the employee or group of employees before the Hearings Tribunal or before a review officer.

(4) Where an employee or group of employees advises the Hearings Tribunal in writing that the employee or group of employees wishes to remain anonymous, the agent of the employee or group of employees shall be the party to the proceeding before the Hearings Tribunal or review officer and not the employee or group of employees.

(5) Where subsection (4) applies, the agent, in the agent's name, may take all actions that an employee may take under this Act including the filing of objections under Part II and the filing of complaints under Part III.

Pay Equity Office

29(1) The Pay Equity Office is responsible for the enforcement of this Act and orders of the Hearings Tribunal.

(2) Without limiting the generality of subsection (1), the Pay Equity Office

- (a) may conduct research and produce papers concerning any aspect of pay equity and related subjects and make recommendations to the Minister in connection therewith;
- (b) may conduct public education programs and provide information concerning any aspect of pay equity and related subjects;
- (c) shall provide support services to the Hearings Tribunal;

and

(d) shall conduct such studies as the Minister requires and make reports and recommendations in relation thereto.

(3) Such employees as are necessary for the proper conduct of the Bureau's work may be employed pursuant to the Public Service Act to serve in the Pay Equity Office.

Chief
Administrative
Officer

30 The Lieutenant Governor in Council shall appoint a person to be the head of the Pay Equity Office and the person shall be the chief administrative officer of the Bureau.

Studies

31 The Minister may require the Pay Equity Office to conduct such studies related to pay equity as are set out in a request to the head of the Office and to make reports and recommendations in relation thereto.

Report to
Assembly

32 Not later than the 31st day of March each year, the head of the Pay Equity Office shall make an annual report to the Minister on the activities and affairs of the Bureau and the Minister shall table the report before the Assembly if it is in session or, if not, within 15 days of the commencement of the next session.

Review officers

33(1) The head of the Pay Equity Office shall designate one or more employees of the Office to be review officers.

(2) Review officers shall monitor the preparation and implementation of pay equity plans, shall investigate objections and complaints filed with the Bureau, may attempt to effect settlements and shall take such other action as is set out in this Act or in an order of the Hearings Tribunal.

(3) A review officer, for the purpose of carrying out his or her duties,

(a) may enter any place at any reasonable time;

(b) may request the production for inspection of documents or things that may be relevant to the carrying out of the duties;

(c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;

(d) may question a person on matters that are or may be relevant to the carrying out of the duties subject to the

person's right to have counsel or some other representative present during the examination; and

(e) may provide in an order made under subsection 16 (2) or 20 (1) that any job class is a female job class or a male job class.

(4) A review officer is not required to hold a hearing before making an order authorized by this Act.

Warrant for entry,
search

34(1) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

(2) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of a review officer's duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the review officer named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed.

(3) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that a review officer may carry out his or her duties under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the review officer named in the warrant.

(4) A warrant issued under this section,

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than 15 days after its issue.

(5) No person shall hinder, obstruct or interfere with a review officer in the execution of a warrant or otherwise impede a review officer in carrying out his or her duties under this Act.

(6) Subsection (5) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (2).

(7) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

PART V REGULATIONS AND MISCELLANEOUS

regulations

35 The Lieutenant Governor in Council may make regulations

- (a) defining or further defining any word or expression not expressly defined in this Act;
- (b) providing a mandatory posting schedule for any person or class of persons or any employer or classification of employer, including any agency, authority, board, commission, corporation or organization of any kind;
- (c) defining various public sector employers;
- (d) providing guidelines for the development and presentation of pay equity plans;
- (e) prescribing forms and notices and providing for their use;
- (f) prescribing methods for determining the historical incumbency of a job class;
- (g) prescribing criteria that shall be taken into account in designating a job class as a female job class or a male job class;
- (h) prescribing the method of valuing any form of compensation;
- (i) prescribing criteria that shall be taken into account in determining whether work performed in two job classes is of equal or comparable value;
- (j) prescribing criteria for job comparisons in establishments for which male job class comparators cannot be found;
- (k) prescribing proportional or proxy job class designations;
- (l) prescribing criteria that shall be taken into account in deciding whether or not a difference in compensation between

a female job class and a male job class is a difference that is permitted by subsection 9 (1) or (2); and

(m) permitting the Hearings Tribunal, on the application of an employer and in accordance with such criteria as may be prescribed in the regulations, to change the mandatory posting date and the dates for adjustments in compensation to dates later than those set out in Part II and to vary the minimum adjustments in compensation required by that Part, subject to such conditions as the Hearings Tribunal may impose in its order granting the application.

Review of Act and
Report

36(1) Seven years after the effective date, the Lieutenant Governor in Council shall appoint a person who shall undertake a comprehensive review of this Act and its operation.

(2) The person appointed under subsection (1) shall prepare a report on his or her findings and shall submit the report to the Minister.

(3) The Minister shall table the report before the Assembly if it is in session or, if not, within 15 days of the commencement of the next session.

Crown bound

37 This Act binds the Crown in right of Alberta.

Commencement

38 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.