



Comments and recommendations on the federal proposed Pay Equity Regulations by the New Brunswick Coalition for Pay Equity

January 13, 2021

Introduction

The New Brunswick Coalition for Pay Equity welcomes the opportunity to comment the proposed Pay Equity Regulations in Part I of the Canada Gazette dated November 14, 2020.

Our organization is a group of approximately 800 individuals and 90 organizations that pursues and ensures the realization of the right to pay equity and to just conditions of work for women. To that end, the Coalition engages in communication, education, research, advocacy for the adoption and the implementation of adequate legislation, as well as public policy dialogue and development.

While the Coalition concentrates its efforts at the provincial level, it has a distinct interest in federal Pay Equity Act coming into force and the effectiveness of its regulations. Many New Brunswick employees fall under the federal jurisdiction, furthermore, smaller jurisdictions particularly count on the federal government to take leadership to ensure this human right.

You will find below our comments on the proposed regulations but our most important one would be to **avoid any undue delay**. Canadian women have been waiting for proper legislation to secure their right to pay equity for decades now.

1. Clear language and guidelines

The Coalition considers that the regulations and the Act must provide clear parameters so that pay discrimination is eliminated and employers cannot adjust the methodology to fit their interests at the detriment of women. This is particularly important for non-unionized employees.

Therefore, we strongly encourage the government to **favour clear language** and to **simplify the regulations** as much as possible. The proposed regulations are extremely technical, which may impose barriers to pay equity in smaller, federally-regulated employers. Generally, we recommend either that the regulations be revised according to best practices concerning “plain language” legislative drafting or (preferably given the delay this may cause) be accompanied by appropriate plain language materials for both employers and employees once proclaimed. Our substantive recommendations are the following:

- We encourage the use of **clear timelines** throughout the regulations in order to avoid disagreements and delays. For instance, “as soon as feasible” in subsection 7(1) lacks precision.
- The regulations should include **details on the four factors** used to evaluate jobs, ensuring that subfactors often associated with female job classes are not omitted. For instance, job classes may include responsibilities for human, financial or technical resources but also responsibility for the impact of decisions made (for instance, clients’ health and wellbeing).
- The **methods of comparison** outlined in the regulations are difficult to understand and may give low results for female-dominated job classes, particularly the equal average method where some might be disadvantaged if they fall in the same wage band as a female-dominated job class that is paid above the average male line. We

are hoping that the government will develop more equitable ways to conduct equal average and equal line methods.

- We add our support to the CUPE Québec Division (*Syndicat canadien de la fonction publique — Division du Québec*) regarding the **French version of the regulations**. Ensuring a better translation and a certain uniformity in the pay equity terminology will facilitate the understanding of the regulations. Being a bilingual organization active in a bilingual province, we often refer to documentation in both official languages from other jurisdictions.

2. Employee participation

Employee participation in pay equity committees is an important way to ensure a fair process.

We would like the regulations to clarify what would be considered “**reasonable efforts** to establish a pay equity committee” under the Act (articles 16 (1) and 17 (1)). In addition, employers should **pay** for employees’ time working on the committees.

Moreover, while this might be beyond the scope of regulations, we insist that committee members, especially employees, must have **resources and training**, which we hope the Pay Equity Commissioner will provide.

3. Maintenance

We are pleased to see that the regulations account for the fact that pay inequities can arise again after a pay equity exercise, for instance, if job descriptions or the pay structure change. However, we are concerned that as much as five-year retroactivity might be accumulated instead of paid as soon as pay inequities are calculated. This means that people in female-

dominated jobs will have to wait many years to get the money owed to them.

4. Workplaces where there are no predominantly-male job classes

We were pleased to see that the regulations outline two methods to calculate pay equity in workplaces where there are no predominantly-male job classes. It will be important that a **single evaluation method** be used to establish the value of male comparators outside a workplace (fictive or not) and that of the female job classes.

Conclusion

While we are happy to provide feedback, the New Brunswick Coalition for Pay Equity is hoping that the regulations and the Pay Equity Act will soon come into force. Many of our recommendations are made with employees, and particularly non-unionized ones, in mind. Even if all our recommendations are implemented, we believe that the Pay Equity Commissioner must play an important role in supporting the efforts of employees and employers at every step of the pay equity process.

We are certain that provinces that still have not passed pay equity legislation for all employers, private and public, will be looking at the federal government for guidance.