REVIEW OF THE PAY EQUITY ACT, 2009, IN NEW BRUNSWICK

SECTION 2: UNDERSTANDING PAY EQUITY

What is pay equity?

Pay equity is equal pay for work of equal value. To achieve pay equity, the value of women-dominated jobs must be compared to the value of men-dominated jobs. Different jobs are compared based on:

- Responsibilities
- Skills
- Effort
- Working conditions.

Equal value? Equal pay!

*Pay equity is not the same as the **gender wage gap** (an overall average across all jobs) or **equal pay** (paying men and women the same for identical jobs).*

It targets the systemic undervaluation of women-dominated job classes.

Pay equity legislation in New Brunswick

The **Pay Equity Act, 2009** covers women-dominated jobs in the public sector only:

- Provincial civil service
- Schools and hospitals
- Crown corporations

The pay gap is smaller where the law applies: $292/week (25%) in the private sector, compared to $123/week (8%) in the public sector. Where the law exists, disparities are smaller!

Benefits of implementing pay equity

- Upholds pay equity as a recognized human right
- Corrects the historic undervaluation of women-dominated work
- Puts more income directly into the hands of women and their families
- Helps employers recruit and retain employees

SECTION 3: EXPANDING PAY EQUITY TO THE PRIVATE SECTOR

Who's not covered

The current pay equity act does not apply to the private sector. Yet, over 60% of NB women work in this sector, which includes **for-profit** and **non-profit** organizations, the **care sector**, **municipalities**, and **universities**. The right to pay equity shouldn't depend on employer type or organization size. Coverage should extend to all workers and legislation should apply to all employers, as soon as possible.

Setting the threshold

Ontario, Quebec, and the federal Pay Equity Act all set their private-sector threshold at **10 or more employees**, which is the minimum standard NB should follow.

SECTION 4: THE CARE SECTOR

Valuing care work

Care sector jobs have long been undervalued and underpaid compared to equal-value men-dominated work. By the numbers:

- Over 11,000 workers, of which 90% or more are women
- Wage gaps of $5.60 to $13.89/hour across 7 care services (based on the Coalition's job evaluations with the sector)

Pay equity in this sector

The sector isn't covered under the Pay Equity Act, 2009, since it's made up of non-profits and private businesses. However, the government partly or totally subsidizes their services and therefore has the power to set wage requirements and fund wage top-ups directly. The government's own **Long-Term Care Plan** has already committed to reach pay equity.

Finding a comparator

Pay equity normally compares men-dominated and women-dominated jobs within one workplace. But the care sector is almost entirely women-dominated, with no men-dominated jobs to compare to. Still, pay equity is possible: proxy comparison uses men-dominated job classes from a similar employer or sector as the comparator.

SECTION 5: PAY EQUITY COMPLIANCE

The proactive model

Proactive law puts the responsibility on employers, not workers, to identify and fix pay gaps within set timelines. Complaint-based and voluntary models don't work: few employers act without a legal requirement, and a complaint only helps the person who filed it.

The burden falls hardest on women. Without a job evaluation, there's often no way to know you're underpaid. It falls hardest still on non-unionized women, who may lack the resources to file a complaint alone. Pay inequity isn't an individual problem to solve complaint by complaint. It's systemic, and needs a systemic solution.

Supporting employers

The government should provide support for employers such as free job evaluation tools, templates and guidance. This would be valuable, especially for small businesses, but shouldn't delay implementation.

Why enforcement matters

Pay equity is a human right, already recognized in law. But a right without enforcement is a right in name only.

- **Quebec Act:** Fines are scaled to business size
- **Ontario Act:** Employers can be ordered to pay retroactive wage adjustments back to whenever coverage began, plus interest, regardless of financial hardship
- **Federal Act:** The Commissioner can audit employers and order corrective action

Together, these elements are what turn pay equity from a right on paper into a right in practice.

SECTION 6: MODERNIZING THE EXISTING LAW

Expanding the definition of pay

Wages alone don't capture the whole picture. Gender pay gaps often hide in benefits such as bonuses, overtime, or vacation time.

Leaving these out understates the true gap. Like the Ontario, Quebec and federal pay equity legislation, compensation should be defined broadly and include pension, benefits, bonuses, and overtime, not just wages and salary.

Maintaining pay equity

Pay equity isn't a one-time fix. Jobs and pay structures change over time, so plans need regular review to stay accurate. New Brunswick's current public sector regulations already require review every 5 years, matching Quebec and the federal Pay Equity Act. However, they don’t include the necessary enforcement mechanisms to ensure the maintenance of pay equity.

Jurisdiction Comparator Table

	NEW BRUNSWICK	QUEBEC	ONTARIO	FEDERAL
THRESHOLD	10+ employees (public)	10+ employees (public & private)	10+ employees (private); no minimum for public sector	10+ employees (any size if unionized)
PHASE-IN	n/a	All at once Plan required within 4 years, payment over 5 years.	No determination deadline, 1%-of-payroll-per-year requirement until the gap closes	All at once Plan required within 3 years, payment over 3-5 years.
DEFINITION OF PAY	Wages and salary only	Broad: benefits, bonuses	Narrower: covers wages, overtime, commission; benefits and bonuses not clearly defined	Broad: pension, benefits, bonuses, overtime
MAINTENANCE	Every 5 years	Every 5 years	Ongoing maintenance (no fixed interval)	Every 5 years
ENFORCEMENT	None	Fines up to $45,000 (100+ employees), lower caps for smaller employers, doubled for repeat offences	Retroactive wage adjustments (plus interest) back to whenever coverage began, owed to current *and former* employees	Commissioner can audit, investigate, and order corrective action Penalties up to $30,000 (10-99 employees) or $50,000 (100+)