

## C H A P T E R 1 8

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### An Act to prevent Discrimination between the Sexes in the Payment of Wages for the Doing of Similar Work.

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[Assented to April 23rd, 1956]

**H**ER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Manitoba, enacts as follows:

- Short title.           **1.** This Act may be cited as: "The Equal Pay Act".
- Definitions:           **2.** In this Act,
- "director,"            (a) "director" means the officer of The Department  
of Labour designated by the minister to receive and deal  
with complaints under this Act;
- "employee,"           (b) "employee" means any person who is in receipt  
of, or entitled to, compensation for labour or services  
performed for another, but does not include an indepen-  
dent contractor;
- "employer,"           (c) "employer" means a person, firm, corporation,  
agent, manager, representative, contractor, sub-contrac-  
tor, or principal, having control or direction of, or  
responsible, directly or indirectly, for the employment of  
an employee;
- "establishment,"       (d) "establishment" means a place of business or a  
place where an undertaking or a part thereof is carried on;
- "minister,"           (e) "minister" means the Minister of Labour;
- "referee,"            (f) "referee" means a person appointed under sub-  
section (3) of section 7;
- "wages,"              (g) "wages" includes remuneration in any form.
- Discrimina-           **3.** (1) Subject as herein provided, no employer and no  
tion between  
sexes  
prohibited.            person acting on behalf of an employer, shall discriminate  
between the male and female employees of the employer by

paying to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is identical or substantially identical.

When work deemed identical.

(2) Subject to subsection (3), for the purposes of subsection (1) work for which a male employee is employed and work for which a female employee is employed shall be deemed to be identical or substantially identical if the job, duties, responsibilities, or services, that the employees are called upon to perform are identical or substantially identical in kind or quality and substantially equal in amount.

Exceptions.

(3) A difference between the scale of wages of a male employee and that of a female employee does not constitute a failure to comply with this section if the difference is based on length of service or seniority, location or geographical area of employment, performance, capacity, or any factor other than sex, and, in the opinion of the referee, a court, judge, or magistrate, the factor on which the difference is based would normally justify such a difference.

Saving.

(4) Payment of wages at overtime rates as required by section 4 of The Hours and Conditions of Work Act or under regulations made pursuant to The Minimum Wage Act does not constitute a violation of this Act.

Effect of acceptance of illegal wages.

**4.** The acceptance by an employee of wages on a scale of wages established or in use contrary to this Act is not

(a) a defence to an action by an employee to recover wages on a different scale; or

(b) a bar to the laying of a complaint under this Act; or

(c) a defence to a prosecution under this Act;

if the employee, within thirty days from receiving his first pay, after the coming into force of this Act, at the unlawful scale, personally or by registered mail lodges a complaint with the minister with respect thereto.

Discharge or discrimination because of complaint.

**5.** No employer shall discharge or otherwise discriminate against any person because that person has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

Collective agreements contrary to Act forbidden.

**6.** After this Act comes into force no employer, and no trade union or society acting as bargaining agent for employees, shall negotiate or enter into a collective agreement providing for scales of wages forbidden by this Act.

Complaint.

**7.** (1) Any person claiming to be aggrieved because of an alleged violation of any provision of this Act may make complaint to the director, by sending to him by registered mail a written statement of the details of the complaint; and the director shall instruct an officer of The Department of Labour or any other person to inquire into the complaint.

Inquiry and reference to referee.

(2) The officer or other person instructed shall forthwith inquire into the complaint and shall report thereon to the director, who shall review the facts and report to the minister with his recommendations, if any; and the minister may refer the matters involved in the complaint to a referee appointed by him, who may be an officer of The Department of Labour, for investigation with a view to the settlement of the complaint.

Procedure of referee.

(3) A referee may determine his own procedure, and may receive and accept such evidence and information on oath, by affidavit, or otherwise, as in his discretion he sees fit, whether admissible in a court of law or not.

Inquiry by referee.

(4) Immediately following his appointment, a referee shall inquire into the matters referred to him, and shall give full opportunity to all parties to present evidence and make representations; and, in the case of any matter involved in a complaint in which settlement is not effected in the meantime, if he finds the complaint is supported by the evidence, he shall recommend to the minister the course that ought to be taken with respect to the complaint.

Copy of recommendations to persons affected.

(5) Upon receipt of the recommendations of the referee, the minister shall furnish a copy thereof to each of the persons affected and may publish them, if he deems it advisable, in such manner as he sees fit.

Order of minister.

(6) The minister may issue whatever order he deems necessary to carry into effect the recommendations of the referee.

Information against employer.

(7) Where an employer fails to comply with an order made under subsection (6), the minister or any person instructed by him for the purpose, may lay an information against the employer before a magistrate.

Trial.

(8) An information laid under subsection (7) shall be for failure to comply with this Act or a specified provision thereof; and the hearing thereof by the magistrate shall be a trial *de novo*; and the magistrate may order the employer to pay to the employee any wages found to be due to the employee.

Other proceedings not affected.

(9) Subject to subsection (10), nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any other provision of this Act before a court, judge, or magistrate, against any person for an alleged contravention of this Act.

Limitation on initiation of proceedings.

(10) Where a person initiates proceedings as mentioned in subsection (9), he shall not make a complaint under subsection (1); and where a person makes a complaint under subsection (1), he shall not initiate proceedings as mentioned in subsection (9).

Notice of referee of initiation of proceedings.

(11) Where a referee is appointed, if the director is informed that proceedings have been initiated by the complainant as mentioned in subsection (9), he shall forthwith give notice thereof to the referee.

Offence.

**8.** Every person who does anything prohibited by this Act, or who refuses, omits, or neglects, to do anything required by this Act, is guilty of an offence, and is liable, on summary conviction,

(a) if an individual, to a fine not exceeding one hundred dollars; and

(b) if a corporation or trade union, to a fine not exceeding five hundred dollars.

Technical defects.

**9.** No proceeding under this Act shall be deemed invalid by reason only of any defect in form or any technical irregularity.

Bar to proceedings where collective agreement exists.

**10.** Where an employer is bound by a collective agreement to which The Labour Relations Act or Part XVIII of The Public Schools Act applies, no complaint shall be made or information laid against that employer for a breach of any provision of this Act in respect of any employment by that employer of any employee who is bound by the collective agreement; but this section does not prohibit the making of a complaint or the laying of an information against an employer and a trade union jointly for a breach of section 6; and,

for that purpose, a breach of section 6 shall be deemed to be an offence under The Labour Relations Act to which sections 45 and 46 of that Act apply, and under The Public Schools Act to which section 400 of that Act applies.

Transitional.

**11.** Where, on the day this Act comes into force, an employer is bound by a collective agreement to which The Labour Relations Act or Part XVIII of The Public Schools Act applies and that was entered into before that day, no complaint shall be made or information laid against that employer for a breach of any provision of this Act in respect of any employment by that employer of any employee who is bound by the collective agreement, during

(a) the period that the collective agreement is in force; or

(b) the period of one year from the coming into force of this Act;

whichever is the shorter period.

Remuneration  
of referees.

**12.** The Provincial Treasurer, on the requisition of the minister, shall pay from and out of the Consolidated Fund, as remuneration to a referee appointed under subsection (3) of section 7 who is not an officer of The Department of Labour, such sum as may be fixed by the minister, together with such reasonable travelling and other out-of-pocket expenses necessarily incurred by him in the discharge of his duties as referee as are approved by the Comptroller-General.

Regulations.

**13.** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor-in-Council may make such regulations and orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made under, and in accordance with the authority granted by, this section has the force of law.

Crown bound  
by Act.

**14.** Her Majesty is bound by this Act.

Commence-  
ment of Act.

**15.** This Act shall come into force on the first day of July, 1956.

WINNIPEG

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