

4 - 5 ELIZABETH II.

CHAP. 38

An Act to Promote Equal Pay for Female Employees.

[Assented to 14th August, 1956.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as the *Female Employees Equal Pay Act*. Short title

INTERPRETATION.

2. In this Act,

(a) "Fair Wage Officer" means an officer of the Department of Labour designated by the Minister to deal with complaints under this Act;

Definitions.
"Fair Wage
Officer."

(b) "federal works, undertakings or businesses" means

(i) works, undertakings or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;

"Federal
works, under-
takings or
businesses."

(ii) railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;

(iii) lines of steam and other ships connecting a province with any other or others of the provinces, or extending beyond the limits of a province;

(iv) ferries between any province and any other province or between any province and any country other than Canada;

(v) aerodromes, aircraft and lines of air transportation;

(vi) radio broadcasting stations;

(vii) banks and banking;

- (viii) such works or undertakings as, although wholly situate within a province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces; and
- (ix) any work, undertaking or business outside the exclusive legislative authority of the legislature of any province, and all other works, undertakings or businesses that are within the legislative authority of the Parliament of Canada, but not including any works, undertakings or businesses of a local or private nature in the Yukon Territory or the Northwest Territories; and

"Minister."

(c) "Minister" means the Minister of Labour.

APPLICATION

Application of Act.

- 3.** This Act applies to and in respect of
- (a) employment upon or in connection with any federal works, undertakings or businesses;
- (b) employers engaged in any federal works, undertakings or businesses;
- (c) employees employed upon or in connection with any federal works, undertakings or businesses; and
- (d) employment of employees by any corporation established to perform any function or duty on behalf of the Government of Canada.

EQUAL PAY FOR FEMALE EMPLOYEES.

Equal pay for identical work.

4. (1) No employer shall employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for identical or substantially identical work.

When work deemed identical.

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

Exception

(3) Payment to a female employee at a rate of pay less than the rate of pay at which a male employee is employed does not constitute a failure to comply with this section, if the difference between the rates of pay is based on length of service or seniority, on location or geographical area of employment or on any other factor other than sex, and, in the opinion of the Fair Wage Officer, Referee, court, judge or magistrate, the factor on which the difference is based would normally justify such difference in rates of pay.

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.

Discharge,
discrimination,
etc.

ENFORCEMENT PROCEDURE.

6. (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Minister and the Minister may instruct a Fair Wage Officer to inquire into the complaint and endeavour to effect a settlement of the matters complained of.

Complaint to
Minister and
reference to
Fair Wage
Officer.

(2) If the Fair Wage Officer is unable to effect a settlement of the matters complained of, he shall make a report to the Minister setting forth the facts and his recommendation thereon.

Report to
Minister.

(3) The Minister may

(a) refer the complaint to a Referee to be appointed by the Minister, or

Powers of
Minister.

(b) decline to refer the complaint to a Referee if he considers it to be without merit.

(4) Where the Minister has referred a complaint to a Referee the Referee shall

Referee.

(a) inquire into the matters referred to him,

(b) give full opportunity to all parties to present evidence and make representations,

(c) decide whether or not the complaint is supported by the evidence, and

(d) make whatever order he considers necessary to carry his decision into effect, which may include payment of the remuneration or additional remuneration that, during a period not exceeding six months immediately preceding the date of the complaint, would have accrued to the employee if the employer had complied with this Act.

(5) In considering a complaint under this Act a Fair Wage Officer or a Referee may enter the premises where any work, business or undertaking relating to the complaint is carried on and may inspect payroll and other employment records; and the owner or person in charge of such premises and every person found therein shall give the Fair Wage Officer or Referee all reasonable assistance in his power and furnish the Fair Wage Officer or Referee with such information as he may reasonably require.

Powers of
Fair Wage
Officer or
Referee.

(6) A Referee to whom a complaint has been referred has all the powers of a Conciliation Board under section 33 of the *Industrial Relations and Disputes Investigation Act*.

Powers of
Referee.

(7) Every person in respect of whom an order is made under this section shall comply with the order.

Compliance
with order.

Obstruction. (8) No person shall hinder or obstruct a Fair Wage Officer or Referee in the exercise of any duty or power conferred by this section.

False statements. (9) No person shall make any false or misleading statement either verbally or in writing to any Fair Wage Officer or Referee engaged in carrying out his duties or powers under this section.

Allowances (10) A Referee appointed by the Minister under this Act may be paid such allowances and expenses as are approved by the Treasury Board.

Rights preserved (11) 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, except that where a complaint has been made under this section that an employer has failed to comply with section 4 or 5, and the complaint has been referred to a Referee appointed by the Minister, the employer shall not, in respect of the same matter, be convicted under section 7 for failure to comply with section 4 or 5, as the case may be.

OFFENCES AND PENALTIES.

Offences. 7. Every person who does anything prohibited by this Act or who refuses 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, to a fine not exceeding five hundred dollars.

Restoration of remuneration. 8. (1) Where an employer is convicted for failure to comply with section 4 or 5 in respect of any employee, the convicting court, in addition to any other penalty, may order the employer to pay to the employee the remuneration or additional remuneration that, during a period not exceeding six months immediately preceding the date the prosecution was instituted, would have accrued to the employee if the employer had complied with those sections.

Idem. (2) Where an employer is convicted for failure to comply with an order under section 6 for the payment to an employee of an amount as remuneration or additional remuneration, the convicting court, in addition to any other penalty, may order the employer to pay such amount to the employee.

Multiple complaints. 9. A complaint, information or order under this Act may relate to one or more offences by one employer in respect of one or more of his employees.

- 10.** In any prosecution under this Act, Evidence.
- (a) a document purporting to be an order or a copy of an order of a Referee and purporting to be certified by a Referee, is receivable in evidence and is *prima facie* proof of the appointment of the Referee by the Minister under this Act and of the order; and
- (b) a document purporting to be certified by the Minister or by any person purporting to be acting under the authority of the Minister and stating that any person named therein has been appointed by the Minister under this Act to be a Referee and stating the nature of the complaint referred to the Referee, is receivable in evidence as *prima facie* proof of the appointment of such person as a Referee under this Act and of the nature of the complaint referred to him.

INQUIRIES.

- 11.** The Minister may, where he deems it expedient, Inquiries. undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purposes of this Act.

REGULATIONS.

- 12.** The Governor in Council may make regulations to Regulations. carry out the purposes and provisions of this Act.

COLLECTIVE AGREEMENTS.

- 13.** (1) Where an employer is bound by a collective agreement that contains an equal pay provision and contains, or is deemed under subsection (2) of section 19 of the *Industrial Relations and Disputes Investigation Act* to contain, a grievance settlement provision, no complaint shall be made or information laid in respect of any employment by that employer of a female employee who is bound by the collective agreement. Equal pay provisions in collective agreements.
- (2) In this section Definitions.
- (a) "equal pay provision" means a provision in a collective agreement substantially to the same effect as section 4; "Equal pay provision." and
- (b) "grievance settlement provision" means a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by a collective agreement or on whose behalf it was entered into, concerning its meaning or violation. "Grievance settlement provision."

Transitional.

14. Where on the day this Act comes into force an employer is bound by a collective agreement that was entered into prior to that day, no complaint shall be made or information laid in respect of any employment by that employer of a female employee who is bound by the collective agreement, during

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

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

whichever is the shorter period.

COMING INTO FORCE.

Coming into force.

15. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956