

# Equal Pay – Know The Laws Of Your Province



Equality of pay may be required by human rights, employment standards or pay equity laws.

No matter what part of Canada you're in, it's illegal to deliberately pay employees of one sex less than you pay employees of the other sex for equal work requiring equivalent skill in the same establishment just because of sex. This rule is found in either the jurisdiction's human rights or employment standards laws, and sometimes both. It's also subject to exceptions for payment differentials based on a seniority system, system that measures earnings by quality or quantity of production or differentials based on factors other than sex. Some jurisdictions have also adopted pay equity laws requiring employers to take active measures to identify any wage gaps. In most cases, pay equity laws apply only to the public sector. But in 3 jurisdictions—Federal, Ontario, Quebec—they also cover private sector employers. Here's a summary of the rules in each jurisdiction.

## FEDERAL

**Human Rights:** Discriminatory practice for employer to establish or maintain differences in wages between male and female employees employed in same establishment who are performing work of equal value (*Canadian Human Rights Act*, Sec. 11)

**Employment Standards:** No separate equal pay protections in *Canada Labour Code*

**Pay Equity:** Public and private sector federally regulated employers with 10 or more employees must establish pay equity committees to implement pay equity plans to identify and eliminate wage gaps between predominantly male and predominantly female job classes and take other proactive measures to ensure equal pay for work of equal value between men and women (*Pay Equity Act*)

## ALBERTA

**Human Rights:** Where employees of both sexes perform same or substantially similar work for an employer in an establishment, the employer must pay the employees same rate of pay; 12 months to sue (*Alberta Human Rights Act*, Sec. 6)

**Employment Standards:** No separate equal pay protections in *Employment Standards Code*

**Pay Equity:** No separate pay equity laws

## BRITISH COLUMBIA

**Human Rights:** Employer may not employ employee of one sex at pay rate that's less than the pay rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work; 12 months to sue (*Human Rights Code*, Sec. 12)

**Employment Standards:** No separate equal pay protections in *Employment Standards Act*

**Pay Equity:** No separate pay equity laws

## MANITOBA

**Human Rights:** Ban on discrimination based on sex (and other protected characteristics) in any aspect of employment including pay and salary (*Human Rights Code*, Sec. 14(2))

**Employment Standards:** Employer may not pay one sex on different scale of wages than applies to other sex if kind or quality of work and amount of work required of, and done by, the employees is same or substantially the same; 6 months to sue (*Employment Standards Code*, Sec. 82)

**Pay Equity:** Public sector employers must ensure no difference between wages of male and female employees performing work "of equal or comparable value"; doesn't apply to private sector (*Pay Equity Act*)

## NEW BRUNSWICK

**Human Rights:** No discrimination based on sex (and other protected characteristics) in any aspect of employment including salary (*Human Rights Act*, Sec. 4(1)(b))

**Employment Standards:** Employer may not pay employee of one sex a different rate of pay from that paid to an employee of other sex for work that: (a) is performed in the same establishment; (b) is substantially the same in nature; (c) requires substantially the same skill, effort and responsibility; and (d) is performed under similar working conditions (*Employment Standards Act*, Sec. 37.1)

**Pay Equity:** *Pay Equity Act* provides for equality of wages between men and women in public service but doesn't apply to private sector

## NEWFOUNDLAND

**Human Rights:** Employer, or person acting on employer's behalf, may not establish or maintain differences in wages between employees employed in same establishment who are performing, under the same or similar working conditions, same or similar work on jobs requiring same or similar skill, effort and responsibility on basis of sex or any other prohibited ground of discrimination

(*Human Rights Act*, Sec. 16)

**Employment Standards:** No separate equal pay protections in *Labour Standards Act*

**Pay Equity:** No separate pay equity laws

## NOVA SCOTIA

**Human Rights:** General ban on employment discrimination based on sex (and other protected characteristics) (*Human Rights Act*, Sec. 5)

**Employment Standards:** No employer or any person acting on its behalf may pay a female employee a rate of wages less than rate of wages paid to a male employee (or vice versa), for substantially same work performed in same establishment, the performance of which requires substantially equal skill, effort and responsibility, and which is performed under similar working conditions (*Labour Standards Code*, Sec. 57(1))

**Pay Equity:** *Pay Equity Act* requires employers and employees in public sector to bargain in good faith with respect to achievement of pay equity but provides no penalties for violations and doesn't apply to private sector

## ONTARIO

**Human Rights:** General requirement that employers provide employees equal treatment regardless of sex and other protected characteristics (*Human Rights Code*, Sec. 5(1))

**Employment Standards:** a. Can't pay employee of one sex rate of pay less than rate paid to employee of other sex when: (i) they perform substantially same kind of work in same establishment; (ii) their performance requires substantially same skill, effort and responsibility; and (iii) their work is performed under similar working conditions (*Employment Standards Act*, Sec. 42); b. Can't pay employee at rate of pay less than rate paid to another of its employees because of a difference in employment status when (i), (ii) and (iii) apply (Sec. 42.1); and c. Temporary help agency may not pay assignment employee assigned to perform work for a client rate of pay less than rate paid to an employee of the client when (i), (ii) and (iii) apply (Sec. 42.2)

**Pay Equity:** *Pay Equity Act* requires **public and private sector** employers with 10 or more employees to implement pay equity plans and take other proactive measures to ensure equal pay between men and women based on numbers of employees

## PRINCE EDWARD ISLAND

**Human Rights:** No employer or person acting on its behalf may pay one employee at rate of pay less than rate of pay paid to another employee for substantially same work, the performance of which requires equal education, skill, experience, effort, and responsibility and which is performed under similar working conditions—protection applies not just to sex but all protected characteristics (*Human Rights Act*, Sec. 7)

**Employment Standards:** No separate equal pay protections in *Employment Standards Act*

**Pay Equity:** *Pay Equity Act* to promote equal pay in public sector not fully implemented and doesn't apply to private sector

## QUÉBEC

**Human Rights:** Charter provides for general right of every person to fair and reasonable employment conditions but doesn't specifically address wages

**Employment Standards:** a. Employer may not remunerate employee at a lower rate of wage than other employees performing the same tasks in the same establishment solely because of employee's employment status, and in particular because employee usually works fewer hours each week (*Labour Standards Act*, Sec. 41.1); and b. Personnel placement agency may not remunerate employee at a lower rate of wage than the employees of the client enterprise who perform the same tasks in the same establishment solely because of the employee's employment status, and in particular because the employee is remunerated by such an agency or usually works fewer hours each week (Sec. 41.2)

**Pay Equity:** *Pay Equity Act* requires **public and private sector** employers with 10 or more employees to implement pay equity plans and take other proactive measures to ensure equal pay between men and women based on numbers of employees

## SASKATCHEWAN

**Human Rights:** General ban on discrimination in employment or terms of employment on basis of sex and other protected characteristics (*Sask Human Rights Code*, Sec. 16)

**Employment Standards:** a. No paying employee of one sex at rate of pay less than rate paid to an employee of another sex if: (i) they're employed by the employer for similar work performed in the same workplace under similar working conditions; and (ii) the performance of the work requires similar skill, effort and responsibility; and b. No paying employee different rate of pay on basis of any prohibited ground in *Sask Human Rights Code* unless differential is allowed by Code (*Sask. Employment Act*, Sec. 2-21)

**Pay Equity:** No separate pay equity laws

## NORTHWEST TERRITORIES & NUNAVUT

**Human Rights:** Ban on paying employees employed in the same establishment who perform same or substantially similar work at rate of pay less than rate paid to other such employees on basis of sex or other prohibited ground of discrimination (*Human Rights Act*, Sec. 9)

**Employment Standards:** No separate equal pay protections in *Employment/Labour Standards Act*

**Pay Equity:** No separate pay equity laws

## YUKON

**Human Rights:** a. General ban on discrimination in any aspect of employment (*Human Rights Act*, Sec. 9(b)); and b. **Public sector employer** may not establish

or maintain a difference in wages between employees who are performing work of equal value, if the difference is based on sex or any of the other protected characteristics (Sec. 15(1))

**Employment Standards:** No employer or person acting on its behalf of an employer may pay a female employee at rate of pay less than that paid to a male employee, or vice versa, employed by employer for similar work performed in same establishment under similar working conditions and the performance of which requires similar skill, effort and responsibility (*Employment Standards Act*, Sec. 44)

**Pay Equity:** No separate pay equity laws