

# BUILDING A CULTURE OF PAY EQUITY ACROSS THE FEDERAL JURISDICTION

The Pay Equity Commissioner's 2022  
Annual Report to Parliament



**Canadian Human Rights Commission**

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# Commissioner's message

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I am pleased to present the second annual report for the Pay Equity Unit of the Canadian Human Rights Commission for fiscal year 2022–2023.

In November of 2022, the first federal Pay Equity Commissioner, Karen Jensen, became a Judge of the Ontario Superior Court of Justice. I would like to take this opportunity to thank Justice Jensen for her outstanding work in spearheading the Pay Equity Unit and for her leadership in advancing pay equity in Canada.

The foundational work of Justice Jensen set the stage for a year of work in the Pay Equity Unit that focused on three key priorities: promoting compliance, facilitating compliance, and enforcing compliance.

The Pay Equity Unit has made a considerable investment in promoting compliance over the past year. This work covered a broad range of initiatives: from developing tools and resources to help workplace parties fulfill their requirements under the Act; to building knowledge that guides and informs them about their rights and responsibilities; engaging in outreach to share and gather information; and learning from other jurisdictions to coordinate efforts.

Since my arrival last November, I have witnessed growing momentum across the federal jurisdiction, with many employers benefiting from the Unit's proactive compliance efforts. While findings from our stakeholder survey conducted last fall revealed that more than half (54.9%) of responding employers are either at the beginning stages or on their way to having a pay equity plan, we remain cognizant that the deadline for posting plans is approaching fast. Support for workplace parties will continue to remain a priority.

As workplace parties embarked on their pay equity exercises, the Pay Equity Unit also ramped up its facilitated compliance activities. This work resulted in diverting complaints through early resolution or providing timely decisions when these efforts were not fruitful. To streamline these efforts, the Unit launched the Pay Equity Portal which will help the Unit respond to questions, process requests and address disputes more efficiently.

It is clear from the past year's activities that the Unit is entering a new phase. Fiscal year 2022–2023 laid the foundation for our regulatory role and our focus in the year ahead will be on becoming fully operational. With enforcement of the Pay Equity Act in mind, the Unit is now developing its audit methodology and continuing to work collaboratively on the creation of an administrative monetary penalty regime.

While this report looks back at last year's results, we remain committed to the work that lies ahead and continuing to build a culture of pay equity across the federal jurisdiction. We will achieve this through our guiding principles of being transparent, engaging meaningfully, relying on evidence and seeking resolutions.

On that note, I hope you find this Report helpful in understanding the results achieved by the Pay Equity Unit for fiscal year 2022–2023. We are committed to regulatory excellence, which will help us implement the Pay Equity Act and address the gender wage gap in Canada.

**Lori Straznicky**  
INTERIM PAY EQUITY COMMISSIONER



# Promoting compliance

The Act encourages federally regulated employers to take a proactive approach to pay equity. This means that the onus is on employers to take a closer look at their practices and correct gender wage gaps within their organizations.

The Pay Equity Unit of the Commission promotes proactive compliance by providing employers with the tools, guidance and resources they need to develop their pay equity plan and comply with the Act. This work includes:

- developing tools and resources to help employers meet their timelines
- building workplace parties' knowledge of their rights and obligations
- engaging with stakeholders and provincial counterparts

## Developing tools and resources

The Pay Equity section of the Commission's website provides the main source of information on pay equity for federally regulated employers. In 2022, we launched a suite of tools and resources to promote compliance and help workplace parties fulfill their requirements under the Act.

### Pay Equity Portal

The Pay Equity Portal is an online tool that supports workplace parties in their efforts to comply with the Act. The Portal allows the Pay Equity Unit to respond to questions, process requests and address disputes in a timely, efficient and effective manner. The goal is to create an efficient way for parties to engage the Unit and reduce their regulatory burden.

This year, we launched the Portal with select users, with whom we are working closely to gather feedback about the Portal's usability and functionality for workplace parties. This will enable us to evaluate how the Portal could be expanded to further support their compliance. The Portal will be officially launched on the Pay Equity website later in 2023.

## **Pay Equity Plan Toolkit**

The Pay Equity Plan Toolkit is designed to support small and medium-sized federally regulated employers with developing their pay equity plan. In 2022–2023, 441 users accessed the Toolkit from the Pay Equity website. The Toolkit includes:

- an excel-based tool to help employers create their pay equity plan
- a guide to help employers understand the job evaluation method and how to apply it
- a compensation calculator to help convert annual salary to an hourly amount
- a case study to demonstrate the steps an organization must follow to create their first pay equity plan

## **Webinar – Creating a Pay Equity Plan**

The Creating a Pay Equity Plan Webinar is a recorded case study that provides a high-level overview of the various steps involved in creating a pay equity plan. It is designed to walk people through the federal pay equity process with both audio and visual guidance. The Webinar is available on the Pay Equity website.

## Building knowledge

Guiding and informing workplace parties about their rights and responsibilities under the Act continued to be one of the Pay Equity Unit's primary focuses over the past year. This work involved developing educational and promotional products, talking with our stakeholders, and being a knowledge centre for all federal pay equity inquiries.

### Policy guidance

The “Interpretations, Policies and Guidelines” publication series is designed to help workplace parties interpret the Act and its Regulations.

We added ten publications to the series this year:

- Definition of employer
- Definition of non-unionized employee
- What to do when there are no predominantly male job classes
- Frozen rates of pay
- In our Calculating Total Compensation series:
  - Guidance concerning the definition of compensation
  - Amounts that may and must be excluded from the calculation of compensation
  - An interpretation of salary and determining the highest salary rate
  - Guidance concerning the calculation of different types of variable pay
  - Guidance concerning the calculation of different types of incentive pay
  - Guidance concerning the calculation of indirect compensation elements

In addition, we published informative materials on our website to help workplace parties learn more about:

- creating job classes
- determining the value of work
- determining the gender predominance of job classes
- calculating total compensation in dollars per hour for each of these job classes
- comparing compensation to determine whether there are differences in compensation between job classes of equal value
- preparing the contents of a pay equity plan
- how and where to post the draft and final versions of a pay equity plan



## **Technical briefings**

We continued to tailor our Technical Briefings to address the specific needs of employers requesting support. The content of the Technical Briefings ranged broadly from providing introductory information about pay equity, to answering complex questions about the interpretation or application of provisions in the Act.

For example, in early 2023, we hosted a three-part series for members of Trucking HR Canada, reaching 205 participants. The series provided detailed information on how to create a pay equity plan and a demonstration of our Pay Equity Plan Toolkit.

In addition, a total of five Technical Briefings, attended by approximately 78 participants, were delivered to employers, industry associations, pay equity committees and bargaining agents during the 2022–2023 fiscal year.

## **Podcasts**

In 2022, we heard from stakeholders that providing information on a variety of platforms would increase the reach of educational content. For example, for commercial truck drivers, access to information in an audio format is more convenient than written materials. In response, we designed a three-part audio podcast series featuring guests from the federal transportation sector. This sector makes up more than 50% of federally regulated private organizations.

The goal of the podcast series is to:

- promote and explain pay equity
- discuss the challenges facing the transportation sector and strategies to address these challenges
- share guidance and information about how the Pay Equity Unit can help

This series will be available on major podcast platforms in 2023.

## **Pay Equity Newsletter**

Launched in 2022, the Pay Equity Newsletter keeps employers updated on the latest guidance and resources from the Pay Equity Unit. The Newsletter includes awareness materials, tools and resources, information on compliance requirements and responses to frequently asked questions.

The first issue of the Newsletter was shared with 1,795 stakeholders in August 2022, to mark the first anniversary of the Act coming into force. A second edition was shared in February 2023.

## Online platforms

Throughout the year, we continued to leverage social media, particularly Twitter, to promote pay equity in both official languages, to drive traffic to the Pay Equity website, to address frequently asked questions and to mark special pay equity milestones and events. We also used social media to amplify key messages about pay equity and the work of our provincial counterparts and partners.

## Outreach and engagement

We continued to engage with provincial and international counterparts, partners and stakeholders this year. These engagements were valuable opportunities for the Commissioner and the Pay Equity Unit to share and gather information, learn from other jurisdictions and coordinate efforts.

The Commissioner and the Unit participated in three events with provincial counterparts including Ontario, Quebec and British Columbia.

The Commissioner also met and shared information with pay equity counterparts internationally:

- **Ukraine:** Alongside Switzerland and United Kingdom representatives, the Commissioner participated in a peer-to-peer event hosted by the Equal Pay International Coalition that focused on providing assistance to Ukraine to advance the country's gender equality strategy.
- **Latvia:** Organized by the Ministry of Welfare and attended by approximately 100 participants, the Commissioner provided an overview of pay equity in Canada, including information on the Pay Equity Act and those provisions that foster transparency in the workplace.
- **New Zealand and Portugal:** In collaboration with Ontario and Quebec counterparts, the Commissioner participated in three events to share information about pay equity in Canada and to hear about lessons learnt, best practices and new approaches and tools aimed at reducing the gender wage gap.

The Commissioner also attended seven public events and speaking engagements, reaching over 660 participants.

Highlights from the Commissioner's engagement include:

- delivering a keynote speech at the Electricity Human Resources Canada's flagship event, Agents of Change
- delivering a keynote speech and participating in the Learning Highways component of Trucking HR Canada's Women with Drive event
- delivering a keynote speech at Engineers Canada's 30 by 30 Conference
- participating in a panel on the gender wage gap at the Global Coralus Confluence 2022
- presenting to the International Association of Administrative Professionals Conference
- participating in a pay equity and transparency roundtable at the Canadian Education Conference 2022

## **Town Hall**

In September 2022, the Commissioner hosted a live in studio Town Hall featuring special guests Maria-Therese Chicha, Professor at McGill University, Kadie Ward, Commissioner and Chief Administrative Officer of the Ontario's Pay Equity Commission, and Denis Khat, Conseiller en relations industrielles agréé, Khat Conseil en rémunération.

The Commissioner and guests discussed the state of pay equity advancement across jurisdictions, followed by a question and answer period. A total of 486 participants attended the Town Hall.

## **2022 Stakeholder Survey**

In November 2022, the Unit launched its first annual stakeholder survey. This survey focused on the pay equity needs, challenges, and priorities of federally regulated employers across Canada.

The survey findings indicated a strong commitment on behalf of employers to address pay equity. Highlights include:

- More than half (54.9%) of responding employers indicated that they are either at the beginning stages of establishing a pay equity plan or are well on their way to having a plan in place.
- Employers primarily inform themselves about the Act through research, publications (27.4%) and by accessing education and tools on the Pay Equity website (25.1%)
- Some employers cited having limited knowledge and experience with pay equity and were uncertain as to how to begin their pay equity process
- Organizations that were better prepared and further along in the process reported concerns that were more complex in nature: challenges with specific aspects of the legislation; competing views on pay equity methodologies; and difficulty creating multiple pay equity plans.

The results of this survey will help tailor outreach and engagement work for the coming year.



## Facilitating compliance

One key feature of the federal pay equity regime is that the Pay Equity Commissioner can authorize, in certain circumstances, a modified application of the Pay Equity Act through authorization requests. For example, an employer may require a different composition for its pay equity committee than the requirements specified in the Act. To do so, employers or workplace parties must make an authorization request.

At the same time, the Act sets up support for workplace parties who are unable to resolve disputes that may arise.

Currently, the Pay Equity Unit facilitates compliance by responding to requests and providing early dispute resolution assistance. In cases where disputes cannot be resolved, the Pay Equity Unit and the Commissioner provide timely decisions.

### Early resolution

We regularly receive requests for information about the Act through our online Request for Information Form. In 2022–2023, we received a total of 390 requests with 40% coming from private sector employers and 22% coming from public sector employers.

Some of the most common topics of request for information we received were:

- request for the Pay Equity Plan Toolkit
- general inquiries on pay equity
- development of a pay equity plan
- pay equity committee composition
- authorization requests

In 2022–2023, we assisted 26 different workplace parties with information related to authorization requests and the application process.

## Decision-making

In 2022–2023, we received four applications and two complaints related to various sections of the Act. We issued the following decisions:

- a decision granting a request to extend the deadline to submit a complaint
- a decision to refer a complaint regarding constitutional jurisdiction under the Act to the Canadian Human Rights Tribunal
- a decision to authorize multiple pay equity plans (*Canadian National Railway Company vs. Unifor, United Steelworkers, International Brotherhood of Electrical Workers, and Teamsters Canada Rail Conference*) (December 8, 2022, currently unpublished)

One of the complaints was also informally resolved through early resolution and is deemed withdrawn.

As the volume of matters before the Commissioner increases, we are committed to dealing with them efficiently and to rendering decisions in a fair, expeditious and transparent manner in order to build reliable jurisprudence.



## Enforcing compliance

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One of the Pay Equity Commissioner's key responsibilities is to monitor compliance with the Act. This includes verifying that federally regulated employers are developing their pay equity plans and meeting their deadlines. To support this, we continued to develop the enforcement side of our work.

### Audit methodology

The Commissioner has the authority to conduct audits as a means of verifying compliance. In 2022, we started developing an auditing methodology. This methodology will act as a framework to guide auditors in planning, conducting, reporting and managing audits related to pay equity. We expect to test our auditing methodology in 2023-2024.

### Administrative Monetary Penalties

We continued to work with the Labour Program of Employment and Social Development Canada on the development of regulations for the administrative monetary penalty (AMP) regime. We provided feedback on the estimated costs to implement and administer the AMP regime. The AMP regime will allow the Commissioner to administer fines against regulated entities for violating the Act or its Regulations.



# The Pay Equity Act

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The purpose of the Pay Equity Act is to proactively address gender-based discrimination and inequities in the pay practices and systems of diverse federally regulated employers. One of the most important requirements under the Act is for federally regulated employers to create and post a pay equity plan within three years of the Act coming into force in 2021. Federally regulated employers are also responsible to pay any increases in compensation in order to close gaps identified in the pay equity plan and to report annually on the implementation of their plan.

The Act applies to federally regulated private and public sector employers, parliamentary workplaces, and the Prime Minister's and ministers' offices with an average of 10 employees or more. All told, the Act applies to approximately 4,600 federally regulated employers and 1.3 million employees. The Act does not currently apply to the territories (Yukon, Northwest Territories, Nunavut), or Indigenous governing bodies, including First Nations Governments. Pay equity in these workplaces is still protected under section 11 of the Canadian Human Rights Act or territorial legislation. Employers with an average of fewer than 10 employees also remain subject to section 11 of the Canadian Human Rights Act.

The Pay Equity Commissioner is responsible for administering and enforcing the Act by:

- monitoring and promoting compliance
- offering assistance to workplace parties, including in relation to complaints, objections and disputes, and deciding any matter or application over which she has jurisdiction
- developing tools and resources to help employers meet their timelines under the Act
- educating and informing workplace parties of their rights and obligations under the Act
- undertaking and publishing research related to pay equity matters
- engaging with stakeholders and provincial counterparts



# About the Pay Equity Unit

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The Pay Equity Unit is part of the Canadian Human Rights Commission and supports the Pay Equity Commissioner in the exercise of her powers and the performance of her duties and functions under the Act.

The Pay Equity Unit's responsibilities include:

- helping workplace parties (employees, unions and employers) understand their rights and obligations under the Act
- facilitating the resolution of disputes relating to pay equity
- monitoring compliance and enforcing the Act

## Guiding principles

Our guiding principles inform how we go about delivering on our mandate and reflect the core values of the Pay Equity Unit:

### **Be transparent**

Operating in a transparent way builds stakeholders confidence in the Pay Equity Unit. We do this by delivering our mandate with impartiality, fairness, and consistency. This leads to clear and accessible information about our processes and legally sound decisions aimed at advancing the purpose of the Act as well as the public interest in achieving pay equity.

### **Engage meaningfully**

Engaging stakeholders and the public with respect and dignity creates trust in the Pay Equity Unit. By building knowledge through information, education, guidance materials and tools, we support our stakeholders in reaching their pay equity objectives, especially the development of their pay equity plans. Engaging workplace parties with respect and encouraging best practices helps to create a culture of collaboration in line with the proactive nature of the Act.



## **Rely on evidence**

Our service delivery approach is grounded in the best available research and data. By establishing baseline data and evaluating it annually, we gain insight into the evolving needs of federal jurisdiction industries and employers of varying sizes. This understanding of our regulated entities allows us to create and adapt user-centered services.

## **Seek resolutions**

We recognize that disputes may occur during the pay equity process. We believe that when they do, early resolution is key to helping parties move forward. We are committed to facilitating discussions and other dispute resolution mechanisms in a way that fosters communication, collaboration and compromise.

## **Tri-Partite Working Group**

We also continued to leverage the Tri-Partite Working Group to ensure that our educational tools, materials, interpretations, policies and guidelines meet the needs of diverse workplaces in the federal jurisdiction. This working group helps to ensure that pay equity resources are accessible and shared widely among workplace parties. Tri-Partite Working Group members meet regularly and represent federal public and private sector workplace parties covered by the Pay Equity Act.