



NO PREDOMINANTLY MALE JOB CLASSES

Interpretations, Policies and Guidelines

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1. Purpose

This Interpretation, Policy and Guideline (IPG) provides information on how to develop a pay equity plan when there are no predominantly male job classes in the workplace.

This IPG covers the following:

- The rationale for creating a pay equity plan when there are no predominantly male job classes;
- Methods for creating a pay equity plan in the absence of predominantly male job classes:
 - The other employer method; and,
 - The typical job classes method;ⁱ and,
- Requirements for the pay equity plan.

This document is not a legal document and is not a binding interpretation of the [Pay Equity Act](#). This document is technical in nature and should not be used as a plain language resource. Plain language resources are available at www.payequitychrc.ca/en.

The term “employer” in this document can also refer to a “group of employers” that has been recognized by the Pay Equity Commissioner.ⁱⁱ

Attention

The methodology presented in this document applies only in cases where a workplace does not have any predominantly male job classes for its entire pay equity plan.

It is not meant as guidance for comparison of compensation when there are no predominantly male job classes in the same band, which may occur when using the equal average method.

Guidance on that issue is provided in section 9.5 of the Pay Equity Legislative Guide:

www.payequitychrc.ca/en/node/62.

2. Definitions

The Pay Equity Regulations (the Regulations) provide two methods that allow employers and pay equity committees with no predominantly male job classes to establish a pay equity plan. The definitions below are based on the Regulations and are intended to facilitate the reading of this Interpretation, Policy and Guideline.

Other employer method: A method whereby another employer shares information about at least three predominantly male job classes within its workplace to enable the employer or the pay equity committee that does not have any predominantly male job classes to complete the following key steps of creating a pay equity plan:

- Valuing the work done;
- Calculating total compensation in dollars per hour; and,

- Comparing compensation to determine whether there are any differences in compensation between job classes of equal value.

Job classes chosen: Refers to the predominantly male job classes selected from the other employer’s data shared as per the other employer method.

Typical job classes method: A method whereby information about three fictional predominantly male job classes provided in the [“Typical Job Classes” Schedule](#) of the Regulations (the Schedule) is used to enable the employer or the pay equity committee that does not have any predominantly male job classes to complete the following key steps of creating a pay equity plan:

- Valuing the work done;
- Calculating total compensation in dollars per hour; and,
- Comparing compensation to determine whether there are any differences in compensation between job classes of equal value.

Job classes created: Refers to the predominantly male job classes created using the Schedule, as provided for in the typical job classes method.

3. Rationale for creating a pay equity plan when there are no predominantly male job classes

The purpose of the Pay Equity Act (the Act) is to redress systemic gender-based discrimination in the compensation practices and systems of employers to ensure that employees who occupy positions in predominantly female job classes receive equal compensation for work of equal value.ⁱⁱⁱ In other words, pay equity relies on the comparison of compensation of predominantly male and predominantly female job classes of equal value.

3.1. Systemic gender-based discrimination

One might assume that the absence of predominantly male job classes makes a pay equity exercise unnecessary. However, the absence of predominantly male job classes does not mean the absence of systemic gender-based discrimination. Gender-based discrimination is deeply embedded in our social and economic systems. This is why workplaces without predominantly male job classes must still establish a pay equity plan.

Systemic gender-based discrimination

Systemic discrimination is the creation, perpetuation or reinforcement of persistent patterns of inequality among disadvantaged groups. It is usually the result of seemingly neutral legislation, policies, procedures, practices or organizational structures and cultures.

Systemic discrimination can also result from individual acts of discrimination that form a pattern reflecting an organizational culture or administrative structure.

Example

In 1962, a chief executive officer hired women as administrative assistants in his company. At the time, hiring married women with children to work outside of the home was seen as highly progressive. However, because this CEO did not consider administrative assistants, who were all female, to be the family breadwinners, their wages were set at a very low rate. Over time, the wage rate was increased, but only as a percentage of the historical rates. In this way, the wages of administrative assistants remained lower than those of predominantly male job classes, like mechanics.

3.2. The role of occupational segregation

Research shows that the gender wage gap can be attributed in part to occupational segregation.

Occupational segregation is the concentration of women and men in different types and levels of activity and employment. Women tend to be confined to a narrower range of occupations (horizontal segregation) and to lower positions (vertical segregation) than men. Given that men and women tend to work in different types of jobs and that jobs largely held by men tend to pay more, men will have higher wages on average.^{iv} Differences in family status, education and occupational characteristics such as union status or job seniority between men and women also impact the gender wage gap.

To address the segregation of women and men into different types of work, pay equity requires that employers without predominantly male job classes go beyond their workplace and rely on borrowed or created male comparators to carry out their pay equity process.

4. Methods for completing a pay equity plan in the absence of predominantly male job classes

The Pay Equity Regulations (the Regulations) provide two methods the employer or pay equity committee can use to complete its pay equity plan in the absence of predominantly male job classes in the workplace:

- [Other employer method](#); and,
- [Typical job classes method](#).

It is not necessary for employers or pay equity committees to notify the Pay Equity Commissioner of their intent to use either of these methods, as they are outlined in the Regulations.

4.1. Other employer method

The other employer method requires employers and pay equity committees with no predominantly male job classes to select at least three predominantly male job classes from another employer (the other employer)^v to determine whether differences in compensation exist within their workplace.

This method can be carried out in five steps:

1. Selecting another employer;
2. Selecting at least three predominantly male job classes from the other employer;
3. Determining the value of the work;
4. Calculating compensation; and,
5. Comparing compensation.

4.1.1. Selecting another employer

The employer or the pay equity committee who does not have any predominantly male job classes should first identify an employer with characteristics similar to its own. To determine if an employer has similar characteristics, the following may be considered:^{vi}

- Being part of the same industry;
- Operating in regions where the cost of living is comparable;
- Having a similar number of employees;
- Having a similar proportion of unionized employees; and,
- Having similar compensation practices—for example, similar benefits or method of compensation (e.g., hourly rate, merit pay, commissions).

Example: Similar employers

Company A and Company B, both based in Manitoba, are part of the telecommunications sector and serve a similar market. Company A has approximately 50 employees, while Company B has approximately 65 employees. In addition, both companies have very similar salary structures and offer almost identical benefits (e.g., vacation time, health and dental plans). Finally, neither Company A nor Company B has unionized employees.

4.1.2. Selecting at least three predominantly male job classes from the other employer

In addition to having similar characteristics, the other employer must also meet the following conditions:

- Have at least three job classes that have been determined to be predominantly male and for which the compensation has been calculated according to the Pay Equity Act (the Act);^{vii} and,
- Agree to provide the employer or the pay equity committee that has no male job classes with the data that is necessary to determine the value of work performed in the job classes chosen and the salary at the highest rate in the range of salary rates for positions in each chosen job class.^{viii}

The job classes chosen must, to the extent possible, be representative of the range of values of work performed in all job classes of the other employer.^{ix}

It is not necessary for the other employer to have completed its final pay equity plan in order to provide data to an employer or a pay equity committee that does not have any predominantly male job classes.

Once all of the necessary information has been received from the other employer, the value of work and the calculation of compensation must be done for each chosen male job class as if the work were performed in the workplace for which the pay equity plan is being developed.^x These steps are described in the following section.

Confidentiality

All of the information provided by the other employer must be kept confidential by the receiving employer, pay equity committee members and bargaining agents.^{xi}

The other employer providing the information must not disclose personal information or confidential information identified as such by a union or employee on its pay equity committee. For example, to keep information confidential, names or personal addresses may be redacted.

For more information on how to keep information confidential, please consult the Requirement to Keep Information Confidential Interpretation, Policy and Guideline, available on the Pay Equity website: www.payequitychrc.ca/en/publications.

4.1.3. Determining the value of the work

Once the predominantly male job classes and data have been received from the other employer, the employer or the pay equity committee must assess the value of the work performed for each predominantly female job class and each of the chosen predominantly male job classes.^{xii} To do so, the skill, effort, responsibility and working conditions must be considered.^{xiii}

Although the employer or pay equity committee must use the other employer's data (e.g., job descriptions, job information, questionnaires) to determine the value of the work of each chosen job class, the employer or the pay equity committee must perform the evaluation of the chosen job classes using the same job evaluation method it used to value its own predominantly female job classes.

In other words, the value of the work of the chosen job classes must not be determined using the other employer's job evaluation method. This means that the employer must evaluate the chosen job classes even if the other employer has already done so.

The Regulations provide that the job evaluation method used must meet the same criteria outlined in section 43 of the Act.^{xiv}

4.1.4. Calculating compensation

The employer or the pay equity committee must now calculate the compensation in dollars per hour associated with each job class for which the value of the work performed has been determined.^{xv}

As the other employer's compensation plan may differ from the compensation plan of the borrowing employer, the latter may need to adapt its calculation of total compensation for the chosen male job classes so that the compensation associated with these job classes reflects the compensation plan that applies to the employees of the borrowing employer. The adaptations may be performed in the calculation of any form of compensation other than salary.^{xvi}

Example: Adapting the calculation of total compensation for any form of compensation other than salary for the chosen male job classes

Company A, which currently has only predominantly female job classes, has a benefits policy that provides, among other things, counselling services and discounts on fitness and wellness centre memberships.

Company B, similar to Company A, has agreed to share the data necessary for Company A to continue its pay equity exercise in the absence of predominantly male job classes. Although the two companies have similar compensation practices, Company B does not offer counselling services or discounts on fitness or wellness memberships.

When Company A calculates the total compensation for the chosen predominantly male job classes from Company B, it will need to include the value of its benefits policy to reflect the particularities of its compensation plan.

Employers and pay equity committees without predominantly male job classes must follow the same rules as employers with predominantly male job classes when determining salary. This means that they must use the highest value in the range of salary rates associated with the positions for each job class.^{xvii}

Employers or pay equity committees without predominantly male job classes are also subject to the same rules as employers with predominantly male job classes when it comes to excluding certain forms of compensation from the calculation of compensation.^{xviii}

For more information on exclusions, please consult the Interpretations, Policies and Guidelines (IPG) series on calculation of compensation, available on the Pay Equity website: www.payequitychrc.ca/en/publications.

4.1.5. Comparing compensation

The Regulations provide that the employer or the pay equity committee must use the equal average or equal line methods set out in sections 28 and 29 to compare the compensation of the predominantly female job classes with the predominantly male job classes chosen.^{xix} This means that, unlike employers who do have predominantly male job classes, an employer or a pay equity committee that does not have any predominantly male job classes cannot submit a request to the Pay Equity Commissioner to use another method to compare compensation.

The equal average and equal line methods work the same way as described in the Act but have been rewritten to accommodate chosen or created predominantly male job classes.^{xx} The only difference is the steps to be taken when the regression lines cross using the equal line method.

Should the regression lines cross when using the equal line method, employers or pay equity committees must use the equal average method set out in section 28 of the Regulations.^{xxi} Employers or pay equity committees cannot use either the segmented line approach or the sum of differences approach.

Example: How the other employer method works

Employer A operates a business in the telecommunications sector in the Montreal area. As it identifies its job classes and determines their gender predominance, it realizes that it has predominantly female job classes, but no predominantly male job classes.

Employer A reaches out to Employer B, who also operates a telecommunications business in Montreal. Employer B has completed some of the steps required to develop its pay equity plan. As part of those steps, it has identified five predominantly male job classes and calculated their compensation.

Out of those five, Employer A identifies three predominantly male job classes that represent the range of values of work of Employer B's workplace. Employer B then shares information about these job classes (e.g., job descriptions for relevant positions, employee survey results, salary information) that allows Employer A to value the chosen job classes and determine their total compensation as if they were its own job classes.

Employer A uses the chosen job classes provided by Employer B and, following the steps set out in the Pay Equity Regulations, determines whether pay equity gaps exist in its workplace.

4.2. Typical job classes method

Employers and pay equity committees can use the typical job classes method to determine whether increases in compensation are necessary. This method allows them to use the three fictional predominantly male job classes set out in the Regulations to establish their pay equity plan.^{xxii}

The typical job classes method allows employers and pay equity committees to value work and calculate the compensation of the fictional male comparators as if they were part of the employer's business or organization.

This method can be carried out in four steps:

1. Creating the fictional predominantly male job classes;
2. Determining the value of the work;
3. Calculating compensation; and,
4. Comparing compensation.

4.2.1. Creating the fictional predominantly male job classes

To create the fictional predominantly male job classes, the employer or the pay equity committee must use the information provided in the “Typical Job Classes” Schedule of the Regulations (the Schedule). The Schedule provides descriptions of the work performed for three “typical” male job classes:

- Maintenance worker;
- Technician; and,
- Manager.

Once all the necessary information has been collected and the predominantly male job classes have been created using the Schedule, the value of work and the calculation of compensation must be done for each created male job class as if the work were performed in the workplace for which the pay equity plan is being developed. These steps are described in the following sections.

4.2.2. Determining the value of the work

Once the predominantly male job classes have been created, the employer or the pay equity committee must assess the value of the work performed for each predominantly female job class and each of the created predominantly male job classes.^{xxiii} To do so, the skill, effort, responsibility and working conditions must be considered.^{xxiv}

The Regulations provide that the job evaluation method used must meet the same criteria outlined in section 43 of the Act.^{xxv}

The Schedule also includes information about the typical job classes that can be used by the employer to value the work of the job classes created.

4.2.3. Calculating compensation

The employer or the pay equity committee must now calculate the compensation in dollars per hour associated with each job class for which the value of the work performed has been determined.^{xxvi}

The calculation of total compensation must be done for full-time work (30 or more hours of work over a period of one week)^{xxvii} and take into account:^{xxviii}

- The elements set out in columns 2 to 5 of the Schedule upon which the created job class is based; and,
- Current salaries:
 - Associated with duties and responsibilities similar to those of the typical job classes in the Schedule;
 - Requiring experience, education and training similar to that required for the typical job classes in the Schedule;
 - Of employers with a similar number of employees as the employer;

- Earned in the same industry; and,
- Earned in the same geographic area as the employer or a geographic area where the cost of living is similar.

It may be necessary to conduct external research to find salary information that meets the above criteria. For example, this information could come from salary information from other workplaces or from industry or market data.

The hourly wage assigned to those job classes when calculating their total compensation must not be less than the following.^{xxxix}

- Maintenance worker: the minimum wage of the province where the work is being done or the highest provincial minimum wage if the employer operates in more than one province.
- Technician: 2.5 times the minimum wage of the province where the work is being done or the highest provincial minimum wage if the employer operates in more than one province.
- Manager: 3.33 times the minimum wage of the province where the work is being done or the highest provincial minimum wage if the employer operates in more than one province.

The calculation of total compensation must include all forms of compensation that the employer would pay, other than salary, as if the work were performed in the course of its operations.^{xxx}

Example: Adapting the calculation of total compensation for any form of compensation other than salary for the created male job classes

The employer, which currently has only predominantly female job classes, offers a dental plan to its employees.

While the typical job classes method allows the employer or the pay equity committee to determine the hourly rates of pay associated with the predominantly male job classes created, it does not take into account other compensation elements.

Thus, an employer that offers a dental plan to all employees will need to include the value of that plan in the calculation of the compensation of the male job classes created to reflect the particularities of its compensation plan.

When determining salary, employers and pay equity committees without predominantly male job classes must use the highest value in the range of salary rates associated with the positions for each predominantly female job class.^{xxxix} Because the Schedule does not provide a range of salary rates, the salary to use for the predominantly male job classes created is to be determined using the hourly rates of pay provided in section 23(3)(b) of the Regulations.

Employers or pay equity committees without predominantly male job classes are also subject to the same rules as employers with predominantly male job classes when it comes to excluding certain forms of compensation from the calculation of compensation.^{xxxii}

For more information on exclusions, please consult the IPG series on calculation of compensation, available on the Pay Equity website: www.payequitychrc.ca/en/publications.

Example: Calculating hourly rates of pay

An employer operating only in British Columbia decides to use the typical job classes method to complete its pay equity exercise after determining that there are no predominantly male job classes in its workplace.

The employer creates the daily helper job class based on the maintenance worker job class set out in the “Typical Job Classes” Schedule of the Pay Equity Regulations (the Regulations).

The hourly wage associated with this predominantly male job class created is \$15.65, which is the minimum wage in effect in British Columbia.^{xxxiii}

If the daily helper’s salary is set at \$15.65 per hour, the hourly rate for the predominantly male job classes created from the technician job class provided for in the Regulations will be set at \$39.13, while the hourly rate for the predominantly male job classes equivalent to the manager job class in the Regulations will be set at \$52.11.

To make this calculation:

Hourly rate × Multiplier from section 23(3)(b) of the Regulations:

Second job class created (equivalent to technician):

$$\$15.65/\text{hour} \times 2.5 = \$39.13/\text{hour}$$

Third job class created (equivalent to manager):

$$\$15.65/\text{hour} \times 3.33 = \$52.11/\text{hour}$$

Conclusion:

For the purposes of pay equity, the employer or pay equity committee must use hourly rates of pay no less than the following:

First job class: daily helper (equivalent to maintenance worker)

Minimum hourly job rate = \$15.65/hour

Second job class (equivalent to technician)

Minimum hourly job rate = \$39.13/hour

Third job class (equivalent to manager)

Minimum hourly job rate = \$52.11/hour

The employer may decide to use other rates of pay; however, the rates used must not be less than the rates obtained as per section 23(3)(b) of the Regulations.

4.2.4. Comparing compensation

The Regulations provide that the employer or the pay equity committee must use the equal average method or equal line method set out in sections 28 and 29 to compare the compensation of the predominantly female job classes with the predominantly male job classes created.^{xxxiv} This means that, unlike employers who do have predominantly male job classes, an employer or a pay equity committee that does not have any predominantly male job classes cannot submit a request to the Pay Equity Commissioner to use another method to compare compensation.

The equal average and equal line methods work the same way as described in the Act but have been rewritten to accommodate chosen or created predominantly male job classes.^{xxxv} The only difference is the steps to be taken when the regression lines cross using the equal line method.

Should the regression lines cross when using the equal line method, employers or pay equity committees must use the equal average method set out in section 28 of the Regulations.^{xxxvi} Employers or pay equity committees cannot use either the segmented line approach or the sum of differences approach.

Frozen compensation

The Pay Equity Regulations (the Regulations) provide that an employer or a pay equity committee must ensure that no comparison is made between frozen compensation and compensation that is not frozen^{xxxvii} when comparing compensation under sections 47 to 50 of the Pay Equity Act.

As a result, employers or pay equity committees using either the other employer method or the typical job classes method are not subject to the prohibition outlined in section 10 of the Regulations.

For more information on frozen compensation, please consult the Frozen Rates of Pay Interpretation, Policy and Guideline, available at www.payequitychrc.ca/en/publications.

5. Requirements for the pay equity plan

Just like employers who do have predominantly male job classes, employers that do not have any predominantly male job classes must make sure to include the elements provided for in section 51 of the Pay Equity Act in their pay equity plan.^{xxxviii}

However, employers or pay equity committees that do not have any predominantly male job classes and that use either the other employer method or the typical job classes method must also indicate:

- Whether the predominantly male job classes used for the purpose of determining differences in compensation were chosen (under the other employer method) or created (under the typical job classes method) as per sections 19(1)(a) and (b) outlined in the Regulations;^{xxxix} and,

- In the case of the other employer method, the job classes selected and the name of the employer who provided the data.^{xi}

6. Referenced Pay Equity Act provisions

Purpose

Purpose

2 The purpose of this Act is to achieve pay equity through proactive means by redressing the systemic gender-based discrimination in the compensation practices and systems of employers that is experienced by employees who occupy positions in predominantly female job classes so that they receive equal compensation for work of equal value, while taking into account the diverse needs of employers, and then to maintain pay equity through proactive means.

Interpretation

Group of employers

4 (1) Two or more employers described in any of paragraphs 3(2)(e) to (i) that are subject to this Act may form a group and apply to the Pay Equity Commissioner to have the group of employers recognized as a single employer.

Contents and Posting

Contents of plan

51 A pay equity plan must

(a) indicate the number of pay equity plans required to be established in respect of the employer's employees or, if the employer is in a group of employers, in respect of the employees of the employers in the group;

(b) indicate the number of employees that the employer — or, in the case of a group of employers, each employer in the group — was considered to have for the purpose of determining whether a pay equity committee was required to be established in respect of the pay equity plan;

(c) indicate whether a pay equity committee has been established and, if so, whether it meets the requirements set out in subsection 19(1) or, if not, whether the employer or group of employers, as the case may be, obtained the authorization of the Pay Equity Commissioner to establish a pay equity committee with different requirements;

(d) set out a list of the job classes that have been identified to be job classes of positions occupied or that may be occupied by employees to whom the pay equity plan relates;

(e) indicate whether any job classes referred to in paragraph (d) were determined to be predominantly female job classes and, if so, set out a list of those job classes;

(f) indicate whether any job classes referred to in paragraph (d) were determined to be predominantly male job classes and, if so, set out a list of those job classes;

(g) indicate whether a group of job classes has been treated as a single predominantly female job class and, if so, set out a list of the job classes referred to in paragraph (d) that are included in the group of job classes and identify the individual predominantly female job class within the group that was used for the purpose of subsections 41(3) and 44(2);

(h) if there was a determination of the value of work performed in certain job classes, then, for each of those job classes, describe the method of valuation that was used and set out the results of the valuation;

(i) indicate any job classes in which differences in compensation have been excluded from the calculation of compensation under section 46 and give the reasons why;

(j) if a comparison of compensation was made, indicate which of the methods referred to in subsection 48(1) was used to make the comparison — or, if neither was used, explain why not and describe the method that was used — and set out the results of the comparison;

(k) identify each predominantly female job class that requires an increase in compensation under this Act and describe how the employer — or, in the case of a group of employers, each employer in the group — will increase the compensation in that job class and the amount, in dollars per hour, of the increase;

(l) set out the date on which the increase in compensation, or the first increase, as the case may be, is payable under this Act; and,

(m) provide information on the dispute resolution procedures that are available under Part 8 to employees to whom the pay equity plan relates, including any timelines.

7. Referenced Pay Equity Regulations provisions

Frozen Compensation

Prohibited comparison – frozen compensation

10 In carrying out the comparison of compensation under sections 47 to 50 of the Act, an employer — or, if a pay equity committee has been established, that committee — must ensure that no comparison is made between frozen compensation associated with a predominantly female or predominantly male job class and compensation that is not frozen and that is associated with a predominantly female or predominantly male job class in which unionized employees occupy positions, unless the salary rate that is used to determine salary in the calculation of the frozen compensation associated with a job class is

(a) the salary rate obtained by adding, to the highest salary rate in the range of salary rates for positions in the job class, the product obtained by multiplying

(i) the salary at the highest rate in the range of salary rates for positions in the job class

by

(ii) the average percentage by which, since the compensation associated with the job class became frozen, the salary for positions in job classes that contain positions occupied by unionized employees in respect of whom the pay equity plan applies and who are governed by a collective agreement that is not expired has increased; or

(b) if a pay equity committee has been established, the salary rate determined using a method other than the one set out in paragraph (a) that minimizes, to the extent possible, the differences in compensation that result only from the compensation associated with a job class being frozen.

Obligations – No Predominantly Male Job Classes

Choice of method

19 (1) An employer — or, if a pay equity committee has been established, that committee — must use, to determine differences in compensation for the purposes of section 60 of the Act

(a) at least three predominantly male job classes of its choice from another employer that meets the conditions set out in subsection (2); or

(b) three fictional predominantly male job classes, each of which is created by the employer or committee based on a different typical job class set out in the schedule.

Other employer

(2) For the purposes of paragraph (1)(a), the other employer must meet the following conditions:

(a) it must have at least three job classes that it — or, if a pay equity committee has been established by the other employer, that committee — has determined under section 35 of the Act to be predominantly male and for which the compensation has been calculated in accordance with sections 44 to 46 of the Act; and

(b) it must agree to provide the employer — or, if a pay equity committee has been established by that employer, that committee — that has chosen to use those job classes with the data in its possession that is necessary to determine the value of work performed in those job classes and, for each job class chosen, with the salary at the highest rate in the range of salary rates for positions in the job class.

Criteria

(3) An employer — or, if a pay equity committee has been established, that committee — choosing job classes provided by another employer under paragraph (1)(a) must, to the extent possible, ensure that those job classes

(a) come from an employer with characteristics similar to its own — or, in the case of a pay equity committee choosing job classes, those of the relevant employer — such as the following:

- (i) the two employers are part of the same industry,
- (ii) they operate in regions where the cost of living is similar,
- (iii) they have a similar number of employees,
- (iv) they have a similar proportion of unionized employees, and
- (v) they have similar compensation practices; and

(b) are representative of the range of values of work performed in the job classes of that other employer, as determined by the other employer or the pay equity committee established by that employer, as the case may be, under section 41 of the Act.

Determination of value of work

20 (1) An employer — or, if a pay equity committee has been established, that committee — must determine the value of the work performed in each predominantly female job class determined under section 35 of the Act and in each predominantly male job class chosen or created under subsection 19(1). The value of the work performed in those predominantly male job classes is to be determined as if the work were performed in the course of the operations of the employer.

Value already determined

(2) For greater certainty, an employer or a pay equity committee, as the case may be, may determine that the value of the work performed in each of the predominantly female job classes determined under section 35 of the Act is the value that has already been determined by means of a method that complies with the requirements set out in sections 21 and 22.

Criterion

21 The criterion to be applied in determining the value of the work performed is the composite of the skill required to perform the work, the effort required to perform the work, the responsibility required in the performance of the work and the conditions under which the work is performed.

Method

22 In addition, an employer — or, if a pay equity committee has been established, that committee — must, to determine the value of the work performed, use a method that

- (a) does not discriminate on the basis of gender; and
- (b) makes it possible to determine the relative value of the work performed in all of the predominantly female job classes determined under section 35 of the Act and in all of the predominantly male job classes chosen or created under subsection 19(1).

Calculation of compensation

23 (1) The employer — or, if a pay equity committee has been established, that committee — must calculate the compensation, expressed in dollars per hour, associated with each job class for which it has determined, under section 20, the value of the work performed.

Compensation plan – job classes chosen

(2) If the employer or pay equity committee, as the case may be, uses predominantly male job classes chosen under paragraph 19(1)(a), it must make any adaptations necessary in the calculation of any form of compensation other than salary so that the compensation associated with those predominantly male job classes is in accordance with the compensation plan that applies to the employees of the employer.

Compensation plan – job classes created

(3) If the employer or pay equity committee, as the case may be, uses predominantly male job classes created under paragraph 19(1)(b), it must calculate the compensation for full-time work, expressed in dollars per hour, associated with each of those job classes

(a) taking into account

(i) the elements set out in columns 2 to 5 of the schedule for the typical job class on which the job class that was created is based, and

(ii) salaries that are generally accepted as current for positions that have duties and responsibilities similar to those set out in the schedule for the typical job class on which the job class that was created is based, that require experience, education and training similar to those set out in the schedule for that typical job class and that are under employers that, to the extent possible, have similar numbers of employees as the employer and are in the same industry and geographic area as the employer or a geographic area where the cost of living is similar;

(b) ensuring that the hourly rate of pay for the job class is not less than

(i) in the case of a job class that was created based on the maintenance worker typical job class described in item 1 of the schedule, the minimum hourly rate that is generally applicable, regardless of occupation, status or work experience, under the law of the province where the work would be done or, if the work would be done in more than one province, the highest of those minimum hourly rates,

(ii) in the case of a job class that was created based on the technician typical job class described in item 2 of the schedule, 2.5 times the minimum hourly rate referred to in subparagraph (i), and

(iii) in the case of a job class that was created based on the manager typical job class described in item 3 of the schedule, 3.33 times the minimum hourly rate referred to in subparagraph (i); and

(c) including all forms of compensation other than salary that the employer would pay for the work performed in the job class if the work were performed in the course of the operations of the employer.

Salary – job classes chosen

(5) If an employer or pay equity committee, as the case may be, uses predominantly male job classes chosen under paragraph 19(1)(a),

(a) for the purpose of determining salary in the calculation of the compensation associated with a predominantly female job class, the salary at the highest rate in the range of salary rates for positions in the job class is to be used; and

(b) for the purpose of determining salary in the calculation of the compensation associated with a predominantly male job class, the salary at the highest rate in the range of salary rates for positions in the job class, provided by the employer from which the job class was chosen, is to be used.

Salary – job classes created

(6) If an employer or pay equity committee, as the case may be, uses predominantly male job classes created under paragraph 19(1)(b), for the purposes of determining salary in the calculation of the compensation associated with a predominantly female job class, the salary at the highest rate in the range of salary rates for positions in the job class is to be used.

Definition of full-time work

(7) For the purposes of subsection (3), full-time work means 30 or more hours of work over a period of one week.

Exclusions from compensation

24 An employer — or, if a pay equity committee has been established, that committee — may exclude from the calculation of compensation, with respect to each job class in respect of which compensation is required to be calculated, any form of compensation that is equally available, and provided without discrimination on the basis of gender, in respect of all of those job classes.

Differences in compensation excluded

25 An employer — or, if a pay equity committee has been established, that committee — must exclude from the calculation of compensation associated with a predominantly female job class any differences in compensation that either increase or decrease compensation in any or all positions in that job class as compared with the compensation that would otherwise be associated with the position, if the differences are based on any one or more of the following factors and those factors have been designed and are applied so as not to discriminate on the basis of gender:

(a) the existence of a system of compensation that is based on seniority or length of service;

(b) the practice of temporarily maintaining an employee's compensation following their reclassification or demotion to a position that has a lower rate of compensation until the rate of compensation for the position is equivalent to or greater than the rate of compensation payable to the employee immediately before the reclassification or demotion;

(c) a shortage of skilled workers that causes an employer to temporarily increase compensation due to its difficulty in recruiting or retaining employees with the requisite skills for positions in a job class;

(d) the geographic area in which an employee works;

(e) the fact that an employee is in an employee development or training program and receives compensation at a rate different than that of an employee doing the same work in a position outside the program;

(f) the non-receipt of compensation — in the form of benefits that have a monetary value — due to the temporary, casual or seasonal nature of a position;

(g) the existence of a merit-based compensation plan that is based on a system of formal performance ratings and that has been brought to the attention of the employees; or

(h) the provision of compensation for extra-duty services, including compensation for overtime, shift work, being on call, being called back to work and working or travelling on a day that is not a working day.

Compensation comparison methods

27 The comparison of compensation must be made in accordance with the equal average method set out in section 28 or the equal line method set out in section 29.

Equal average method

28 An employer or pay equity committee, as the case may be, that uses the equal average method of comparison of compensation must apply the following rules:

(a) the average compensation associated with the predominantly female job classes within a band — or, if there is only one such job class within a band, the compensation associated with that job class — is to be compared to

(i) if there is more than one predominantly male job class chosen or created under subsection 19(1) within the band, the average compensation associated with those predominantly male job classes within the band,

(ii) if there is only one predominantly male job class chosen or created under subsection 19(1) within the band, the compensation associated with that job class, or

(iii) if there are no predominantly male job classes chosen or created under subsection 19(1) within the band, the compensation calculated under paragraph (b);

(b) the compensation for the purpose of subparagraph (a)(iii) is

(i) the amount determined by the formula

$$(A \times B) \div C$$

where

- A is the average compensation associated with the predominantly male job classes chosen or created under subsection 19(1) — or, if there is only one such job class, the compensation associated with that job class — that are within the band that is closest to the band within which the predominantly female job class or classes are located,
- B is the average value of the work performed in the predominantly female job classes within the band or, if there is only one such job class, the value of the work performed in that job class, and
- C is the average value of the work performed in the predominantly male job classes within the band referred to in the description of A or, if there is only one such job class, the value of the work performed in that job class, or

(ii) despite subparagraph (i), if there is at least one predominantly male job class chosen or created under subsection 19(1) within each of two bands that are equidistant from the band within which the predominantly female job class or classes are located and there is no other band containing at least one predominantly male job class that is closer to that band, the amount determined by the formula

$$(A + B) \div 2$$

where

- A is the average compensation associated with the predominantly male job classes chosen or created under subsection 19(1) within one of the two bands or, if there is only one such job class, the compensation associated with that job class, and
- B is the average compensation associated with the predominantly male job classes chosen or created under subsection 19(1) within the other band or, if there is only one such job class, the compensation associated with that job class;

(c) the compensation associated with a predominantly female job class within a band is to be increased only if

- (i) that compensation is lower than the compensation or average compensation referred to in subparagraph (a)(i), (ii) or (iii), as the case may be, and
- (ii) the average compensation associated with the predominantly female job classes within the band — or, if there is only one such job class, the compensation associated with that job class — is lower than the compensation or average compensation referred to in subparagraph (a)(i), (ii) or (iii), as the case may be;
- (d) if the compensation associated with a predominantly female job class within a band is to be increased, the increase is to be determined by multiplying the factor calculated in accordance with section 11 by an amount equal to the difference between the compensation associated with the job class and the compensation or average compensation referred to in subparagraph (a)(i), (ii) or (iii), as the case may be; and
- (e) an increase in compensation associated with the predominantly female job class or classes within a band is to be made in such a way that, after the increase, the average compensation associated with the predominantly female job classes within the band — or, if there is only one such job class, the compensation associated with that job class — is equal to the compensation or average compensation referred to in subparagraph (a)(i), (ii) or (iii), as the case may be.

Equal line method

29 (1) An employer or pay equity committee, as the case may be, that uses the equal line method of comparison of compensation must apply the following rules:

- (a) a female regression line must be established for the predominantly female job classes and a male regression line must be established for the predominantly male job classes chosen or created under subsection 19(1);
- (b) the compensation associated with a predominantly female job class is to be increased only if
 - (i) the female regression line is entirely below the male regression line, and
 - (ii) the predominantly female job class is located below the male regression line;
- (c) if the compensation associated with a predominantly female job class is to be increased, the increase is to be determined by multiplying the factor calculated in accordance with section 12 by an amount equal to the difference between the compensation associated with the predominantly female job class and the compensation associated with a predominantly male job class chosen or created under subsection 19(1), were such a job class located on the male regression line, in which the value of the work performed is equal to that of the predominantly female job class; and
- (d) an increase in compensation associated with the predominantly female job classes is to be made in such a way that, after the increase, the female regression line coincides with the male regression line.

Crossed regression lines

(2) Despite paragraphs (1)(b) to (d), if the female regression line crosses the male regression line, an employer or pay equity committee, as the case may be, must apply the equal average method set out in section 28 for the comparison of compensation.

Additional Information in Pay Equity Plan

Job classes chosen or created

30 If an employer — or, if a pay equity committee has been established, that committee — has determined under section 35 of the Act that there is no predominantly male job class, the pay equity plan must

(a) indicate whether the predominantly male job classes used to determine differences in compensation for the purposes of section 60 of the Act were those referred to in paragraph 19(1)(a) or those referred to in paragraph 19(1)(b) and, if job classes referred to in paragraph 19(1)(a) were used, indicate the job classes that were chosen and the other employer that provided the data about them;

Confidentiality

Confidentiality of data received from another employer

32 (1) Except to identify differences in compensation for the purposes of section 60 of the Act and to comply with section 30, an employer and each member of a pay equity committee that is, directly or indirectly, provided with data from another employer for the purpose of the identification of those differences must keep that data confidential.

Bargaining agent

(2) A bargaining agent that receives from a member of a pay equity committee data that the member is required under subsection (1) to keep confidential must also keep the data confidential.

Notes

- ⁱ This method may also be called the fictional job classes method.
- ⁱⁱ See Pay Equity Act, section 4(1).
- ⁱⁱⁱ See Pay Equity Act, section 2.
- ^{iv} Andres Arcila, Ana Ferrer, and Tammy Schirle. Occupational segregation, skills, and the gender wage gap. Ottawa: Pay Equity Office, 2017.
www.payequity.gov.on.ca/en/DocsEN/Dr%20Tammy%20Schirle_Gender-gap-final_report-2017-March24.pdf.
- ^v See Pay Equity Regulations, section 19(1)(a).
- ^{vi} See Pay Equity Regulations, section 19(3)(a).
- ^{vii} See Pay Equity Regulations, section 19(2)(a).
- ^{viii} See Pay Equity Regulations, section 19(2)(b).
- ^{ix} See Pay Equity Regulations, section 19(3)(b).
- ^x See Pay Equity Regulations, section 20(1).
- ^{xi} See Pay Equity Regulations, sections 32(1) and 32(2).
- ^{xii} See Pay Equity Regulations, section 20(1).
- ^{xiii} See Pay Equity Regulations, section 21.
- ^{xiv} See Pay Equity Regulations, sections 22(a) and (b).
- ^{xv} See Pay Equity Regulations, section 23(1).
- ^{xvi} See Pay Equity Regulations, section 23(2).
- ^{xvii} See Pay Equity Regulations, sections 23(5)(a) and (b).
- ^{xviii} See Pay Equity Regulations, sections 24 and 25.
- ^{xix} See Pay Equity Regulations, section 27.
- ^{xx} See Pay Equity Regulations, sections 28 and 29(1).
- ^{xxi} See Pay Equity Regulations, section 29(2).
- ^{xxii} See Pay Equity Regulations, section 19(1)(b).
- ^{xxiii} See Pay Equity Regulations, section 20(1).
- ^{xxiv} See Pay Equity Regulations, section 21.
- ^{xxv} See Pay Equity Regulations, sections 22(a) and (b).
- ^{xxvi} See Pay Equity Regulations, section 23(1).
- ^{xxvii} See Pay Equity Regulations, section 23(7).
- ^{xxviii} See Pay Equity Regulations, section 23(3)(a).
- ^{xxix} See Pay Equity Regulations, section 23(3)(b).
- ^{xxx} See Pay Equity Regulations section 23(c).
- ^{xxxi} See Pay Equity Regulations, sections 23(6).
- ^{xxxii} See Pay Equity Regulations, sections 24 and 25.
- ^{xxxiii} The minimum wage rates used in this example are those in effect as of June 1, 2022, and are subject to change.
- ^{xxxiv} See Pay Equity Regulations, section 27.
- ^{xxxv} See Pay Equity Regulations, sections 28 and 29(1).
- ^{xxxvi} See Pay Equity Regulations, section 29(2).
- ^{xxxvii} See Pay Equity Regulations, section 10.
- ^{xxxviii} See Pay Equity Act, section 51.
- ^{xxxix} See Pay Equity Regulations, section 30(a).
- ^{xl} See Pay Equity Regulations, section 30(a).