

# *PAY EQUITY IN MANITOBA*

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## **I. Introduction**

In Manitoba, *The Pay Equity Act*,<sup>1</sup> which legislates equal pay for work of equal value for the provincial civil service and some of the broader public sector employees, was passed in July 1985. This legislation represents an acknowledgement "that many women in the Manitoba labour force work in traditionally female occupational groups, where their work is undervalued and underpaid."<sup>2</sup> An essential part of the legislation is its requirement that management and labour negotiate a pay equity audit to determine the size of the problem and then negotiate wage adjustments. Underpinning the negotiation process is the principle that the value of the job done, and not the gender of the person doing it, should be reflected in an organization's pay practice.

At the outset I would point out that the Government of Manitoba is the first jurisdiction in Canada to legislate a pro-active model of pay equity implementation. Pay equity is provided for in legislation in other jurisdictions—in the Federal Government's *Human Rights Act*,<sup>3</sup> and in the Province of Quebec's *Charter of Human Rights and Freedoms*.<sup>4</sup> These pieces of legislation, however, are complaint-based mechanisms and depend on the affected parties to bring forward a specific problem. The Manitoba legislation directs a more comprehensive approach, which is integral to the scope of the problem and the obligation of government to address it.

## **II. The Legislative Parameters**

Some important features of the Manitoba *Act* which should be noted are:

- (a) The pro-active approach obliges the public sector employers affected to apply a single, gender-neutral job evaluation system to female-dominated and male-dominated classes of employees in order to compare the value of work performed by those classes and identify pay inequities;
- (b) The utilization of the collective bargaining process whereby employers, bargaining agents and/or employee representatives are obliged to bargain in good faith, making every effort to reach agreements respecting the pay equity process;
- (c) The "value" of a job is to be assessed using the common denominators of skill, effort, responsibility and working conditions;

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1. *The Pay Equity Act*, S.M. 1985-86, c. 21, C.C.S.M. P.13.

2. *Ibid.*

3. *Canadian Human Rights Act*, S.C. 1976-77, c. 33.

4. *Charter of Human Rights and Freedoms*, R.S.Q. 1980, c. C-12.

- (d) Reduction of wages to implement pay equity is prohibited;
- (e) Gender domination is defined as a class of 10 people with a 70% or more level of male or female predominance;
- (f) A Pay Equity Commissioner is appointed to oversee civil service negotiation and implementation, and Pay Equity Officers, with similar duties, can be appointed by Crown corporations, hospitals, and universities;
- (g) A Pay Equity Bureau is established in the Department of Labour. This office will monitor the processes, refer unresolved matters to arbitration, and report to the Legislature. The Bureau also has a public education role; and
- (h) Finally, the legislation places a dollar cap on the exercises. No employer is obliged to pay more than 1% of payroll each year for a maximum four-year period in order to implement pay equity.

The first stage in the process involved the Manitoba Civil Service Commission (MCSC) and, principally, the Manitoba Government Employees' Association (four smaller professional unions were largely unaffected by the legislation) who were required to negotiate:

- (a) The selection or development of a single, gender-neutral job evaluation system;
- (b) The fixing of the classes to which the system will apply (deadline of June 30, 1986); and
- (c) The setting of wage adjustments for female-dominated classes in order to eliminate gender bias (deadline of September 30, 1987).

On October 1, 1986 the other entities covered by the legislation (20 Crown corporations, 23 hospitals and 4 universities) began the same process. These organizations are one year behind the Civil Service in the process and will begin the 4 year wage adjustment process on October 1, 1988.

While at this time the legislation affects the Manitoba Civil Service, the four universities, Crown corporations and 23 health care facilities, the government has also indicated that it intends to further extend pay equity within the broader public and private sectors.

### **III. Pay Equity and Collective Bargaining**

At this time, Manitoba's legislation deals with certain public sector entities—all to a great extent unionized. The normative process for settling wages in this environment is through collective bargaining. Existing relations have already been established through negotiations. Our legislation makes the assumption that pay equity must and will alter some of these relations. So, in order to ensure that the process of adjustment was as equitable as the product, the pay equity initiative was centered in the arena of collective bargaining. There are, from our perspective, distinct advantages to this initiative.

The Manitoba Civil Service Commission's Director of Negotiation Services, Mr. Robert Pruden, has pointed out that this initiative will bring "a shared identification of the specific problems, perceived fairness in the process, creativity in the development of solutions, and commitment to the results."<sup>5</sup> The last point is of crucial importance. A question which I am frequently asked is: "Once you have introduced pay equity, how do you maintain it?" Having jointly implemented this initiative the parties have a mutual investment in the endeavour, and maintenance will be an issue for both parties. Players on both sides will continue to monitor wage rates and relations, and gender equity will be one more item closely and continuously scrutinized. Opponents of pay equity have expressed the view that this type of exercise threatens established bargaining processes. By this they usually mean that collective bargaining will be changed—the implication being that this will be for the worse.

Of course the collective bargaining process will be altered—and so it should be. Power bargaining has been part of the equity problem. Negotiated wage settlements have reflected many factors such as market compromises, labour availability, recession and booms. However, they have also reflected union and management strengths and weaknesses. The pay equity process forces both management and labour to take another look at traditional settlement patterns and audit the end results to ensure there has been no discrimination. We are confident that collective bargaining can not only stand the scrutiny, but will ultimately benefit from it. Perceived fairness in compensation practices is an important contributory factor to workplace harmony.

#### IV. Civil Service Implementation

Our initial registered deadline for the first stage of the process was June 30, 1986. By mid-April of 1986, we had jointly decided to utilize the job evaluation system offered by Hay Associates, and by June 25, 1986 the negotiation teams reached their first agreement on the classes to be evaluated and/or considered for adjustment.

As these negotiations were the first of their kind in Manitoba, both parties were very sensitive to the need to explore a number of options. The possibility of developing a system was discussed; the benefits and disadvantages of utilizing an existing system were explored. Ultimately, the precise timelines of our legislation and the size of our undertaking pointed to the exploration of existing systems. A list of consultants was obtained from Manitoba's Pay Equity Bureau, letters inviting proposals were issued, and our requirements were advertised locally and nationally. We had made a decision to see everyone who expressed an interest, and eventually 13 companies were interviewed by the negotiation team. The interviews lasted a half-day each and questions were developed based on criteria jointly adopted by the parties to evaluate the proposals. These criteria were extremely useful in keeping the exercise focussed and allowing us to make reference to the

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5. R. Pruden, Address (Canadian Industrial Relations Association, University of Manitoba, 30 May 1986) [unpublished].

key ingredients to make the best decision for our particular situation. These criteria reflected important legislative requirements and the joint concerns of the parties. The criteria are outlined below as Exhibit 1.

**Exhibit 1: Criteria for Job Evaluation Proposals**

1. The system must identify, and assist in addressing, historical gender-based pay inequities between male and female-dominated classes through the negotiation process.
2. The system should have been successfully utilized in a large (500 + employees) public sector environment, preferably in Canada.
3. The system should have a verifiable history of being successfully implemented through a joint union/management evaluation process. Preferably, the job evaluation system would have a history of utilization in a multi-bargaining unit setting but, as a minimum, it should have been successfully used with one bargaining unit covering diversified occupations.
4. Any proposal must be gender-neutral. Those firms responding should be prepared to provide independent verification that their approach or system is gender-neutral.
5. The system must evaluate the relative value of male and female dominated classes. It must be capable of evaluating a wide variety of classes—from production oriented classes to those with a service orientation; from classes with significant technical content to those with little technical but more supervisory content; from classes with little or no public contact to those with significant public contact, etc.
6. The system must be capable of measuring, in a comparative way, the skill, effort and responsibility normally required in the performance of the work and the conditions under which the work is performed.
7. The Manitoba Civil Service currently uses the grade description method for evaluating the vast majority of its jobs. Any proposed system must respect the integrity of this approach and not require that it be changed.
8. Proposals should include a communication strategy designed to ensure that a satisfactory explanation of the approach and findings is provided to employees.
9. The system should be capable of being implemented within the time frames specified in *The Pay Equity Act*.

After preliminary evaluations of all the consultants' proposals, negotiations resumed and the teams compiled a short list of four companies for consideration. These companies returned to spend a full day with the teams and we went through an additional process with all four. Each company was provided with information on four of our gender-dominated classifications and asked to treat the day as a mini-job evaluation exercise with the general negotiation team acting as the rating committee. Obviously, we were not overly concerned with the point outcome but we were very interested in gaining some hands on experience with the different systems. The outcome of this fairly lengthy, but invaluable process was the joint selection of the system proposed by Hay Associates.

Our next task was to determine which classes should be evaluated. The Manitoba legislation clearly states that all classes with 10 incumbents and a 70% or greater level of gender domination must be evaluated. Under the legislation, we also had the option of negotiating into the process other classes with one to nine employees. In the civil service situation, it made sense to include certain female-dominated classes with fewer than 10 employees which also met the 70% test and these classes were also considered for adjustment purposes.

For the civil service exercise, management and labour each nominated five members to a single rating committee, thus avoiding inter-committee reliability problems. Agreement was reached on which jobs were to be studied and evaluated as representative of their class and on the specific incumbents who were to write job descriptions for the purpose of the pay equity exercise. These people were also in a position to act as resource persons for the rating committee in the event further information was required.

A key ingredient to the success of the initiative was the proper training of the rating committee, in both the application of the selected system and the principles of pay equity. Time and energy were expended to achieve this end. While the consultants trained the committee members in the use of their system, a staff member from the Pay Equity Bureau attended a session to impress on participants the importance of the concept of "gender-neutrality." Information sessions were also arranged for all of the job incumbents, who were being asked to rewrite their job descriptions.

The process of rating the civil service positions designated by legislation went extremely well with the rating team completing its task by the beginning of January 1987. The data from the exercise was then forwarded to the joint negotiation team for identification of pay inequities between male and female classes of comparable value.

I think it is important to note that in the civil service exercise, the rating process confounded many of the stereotypical criticisms levied against pay equity. The process, while challenging, and demanding a high level of fairness in judgment and hard work from committee members, was not overly bureaucratic or complex. The level of co-operation which evolved between labour and management during this exercise was extremely impressive and challenged the criticism that pay equity initiatives erode free collective bargaining.

The civil service process advanced smoothly and successfully, and while negotiations were lengthy, and at times complex, the parties endeavoured to find constructive solutions to any problems which arose. Let me provide a concrete example. Unions have, in the past, expressed legitimate concerns with regard to the impact of point-rated job evaluation systems on collective bargaining. This concern has largely evolved from the non-participation, or consultative participation only, of unions in any process of introducing such a system. A major safeguard built into our legislation is that the selection of a job evaluation system for pay equity must be negotiated. Ultimately, the system selected was acceptable to the union and to management. But we can go further. We had agreed that we were not involved in a mechanical or rigid "pay for points" exercise. There is no magic formula which can be fed into a computer to spit out solutions. Rather, we viewed the rating exercise as a means to give us the information on our gender-dominated classifications. That data then served as guidelines to the negotiation teams who bargained the adjustments. Obviously a pay equity initiative of this proportion will have an impact on many facets of our entire system; labour relations, compensation, classification, and aspects of personnel policy generally. It is neither in the interests of management or labour to create as

many problems as we solve. While the object of the exercise was clearly to reassess jobs performed predominantly by women and to compensate them equitably, our process reflects a desire to achieve this with a minimum of disruption.

The next round of negotiations involved the exact allocation and phasing-in of wage adjustments. These negotiations were completed within the legislated deadline of September 30, 1987.

The pay equity wage adjustment process began on October 1, 1987. The process will provide wage adjustments, totalling approximately \$16 million over a four year period, to about 4,900 employees working in female-dominated classes which have been undervalued.

### **V. Implementation in Crowns, Universities and Hospitals**

The 20 Crown corporations, 23 hospitals and 4 universities began the first stage of the pay equity process on October 1, 1986. The process presented a challenge since these organizations, ranging in size from a few employees to the 23 hospitals which chose to bargain centrally, represented a broad cross-section of our economy from utilities to community services. Also, for the first time in Canada, many unions were brought together at one table to negotiate an issue. The University of Manitoba, for example, has eight different unions participating in negotiations.

Negotiations have been successful to date, with all of the labour/management committees having signed their first agreements by June 30, 1987.

The committees are now in the second stage of the process which involves the rating of the jobs which were selected in order to compare the value of the work performed by female-dominated and male-dominated classes, and the negotiation of the quantum, allocation and phasing-in of the pay equity wage adjustments. The second agreement must be reached by September 30, 1988 with the four year wage adjustment stage commencing October 1, 1988.

### **VI. Implications for Other Sectors**

The pay equity process to date in Manitoba has mainly involved a largely unionized public sector environment. The solutions which have been tailored to this type of setting will not automatically transfer to other types of organizations. Nevertheless, there are some common features of pay equity which will have to be addressed regardless of the setting.

It is essential to define terminology. Pay equity initiatives tend to make us think again about what we mean by an "establishment" or "gender predominance." Any such initiative, however mandated or directed, will involve examining the different means of determining job value and how to remove gender-bias in compensation systems. It is also crucial to be clear on the length of time it will take to redress any inequities which are uncovered, as well as the time which will be needed to phase in adjustments.

Our experience in Manitoba thus far has been very positive. Negotiations have certainly been challenging and the two years allowed to negotiate

this initiative are fully needed. It is certainly encouraging to be able to report that this first exercise has proven conclusively that the goals of pay equity are by no means unattainable, and that with good will and common sense the practical problems of implementation can be resolved. In December 1985, Decima Research polled Canadians on the subject of equal pay for work of equal value. It reported that approximately 70% of Canadians supported the principle of ensuring pay equity. However 83% of Canadians expressed serious concerns regarding the perceived difficulty of designing a system that could do the job.<sup>6</sup> Our experience to date shows that this concern is unwarranted.

We have passed, I believe, the stage of arguing about whether or not we will implement pay equity. The discussion now centres not on whether to implement it, but on how to implement it.

In Manitoba we are proceeding under definitive legislation in a proactive manner. This is preferable to the litigious route. It is quite possible that elements of pay equity may be defined in the courts. Subsection 15(1) of the *Canadian Charter of Rights and Freedoms* guarantees:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.<sup>7</sup>

I have followed with interest the public consultation on pay equity in Ontario. There is no question that private sector and public sector implementation will be different because the context is different. There must be, however, an overriding desire by all parties that implementation be as smooth as possible and cause a minimum of disruption. One of the common goals of both parties in Manitoba's civil service was to not create more problems than we solved. Our task was clear, but we attempted to remain as sensitive as possible to the concerns of both sides. In the unionized private sector, a jointly negotiated approach is quite feasible. In a non-unionized environment, responsible management has an investment in ensuring equitable compensation practices. Samuel Goldenberg, Vice-President of Polysar Limited, presented his company's position during the Ontario Public Consultations on Pay Equity last spring. Polysar has begun to assess its job evaluation procedure to determine whether there are, in fact, gender-based inequities. This kind of positive and creative approach by a member of the private sector is invaluable for easing some of the tensions associated with pay equity.

As the "comfort level" around the issue is raised and some successful Canadian working models become available for consideration, critique, and analysis, the "anxiety level" will diminish. As Mr. Goldenberg said in his presentation:

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6. *Decima Quarterly Report*, Winter 1985.

7. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11.

We urge caution and moderation in the implementation of this legislation so that the competitiveness of business, both large and small, is not destroyed. But, on the other hand, business success must not be achieved at the expense of women.<sup>8</sup>

The Ontario consultations reinforce the idea that there are common features which should be addressed to ensure the process for implementation is fair and will support and lead to an equitable conclusion. We have no North American models to look to for strategic guidance in implementing pay equity in the private sector.

The most significant example is the Australian experience. In Australia, pay equity was phased in over a three-year period from 1972 to 1975. An article in the *Toronto Globe and Mail*<sup>9</sup> featured the comments of Alan Grissell, Manager of Industrial Relations for the Employer Federation which represents approximately 2,700 employers. His assessment was that the initiative had worked well, and that while there were obvious costs, they were necessary, as there was no legitimate basis for discriminatory compensation practices. The Australian evidence suggests that there will be initial, polarized reaction to this issue, but that a sensible implementation plan which encompasses a phased-in approach will neither wreak havoc with the economy nor disrupt labour relations. Existing North American examples also tend to support this finding. The State of Minnesota has implemented pay equity as part of the collective bargaining process and reports that the total cost will be 3.7% of payroll phased in over a four-year period. Encouragingly, Minnesota also reports increased participation of women in its civil service and an improvement in its affirmative action goals for women.<sup>10</sup>

It is possible for promoters and detractors of pay equity to become excessive or plain silly in attempts to present this initiative as either the panacea for all of the ills of working women, or a Pandora's box which will turn compensation practice and labour relations upside down. Our initial experience in the Manitoba civil service supports neither of these two extremes. The pay equity process respects current classification and compensation systems and since pay equity has been placed squarely in the middle of collective bargaining, it cannot subvert it. In its simplest form, the process is a negotiated pay plan audit to determine if there are elements of gender-bias in an employer's compensation practice and to negotiate wage adjustments to eliminate this bias. Thus far, representatives of labour and management have indicated their satisfaction and view the process as being sensible and equitable.

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8. Polysar Limited. Written submission to the Province of Ontario's Consultation Panel on Pay Equity, 1986.

9. Linda McQuaig, "Australia Coping Well with Pay Equity" *The [Toronto] Globe and Mail* (24 February 1986).

10. Commission on the Economic Status of Women, *Pay Equity: The Minnesota Experience*, 1985, at 15.

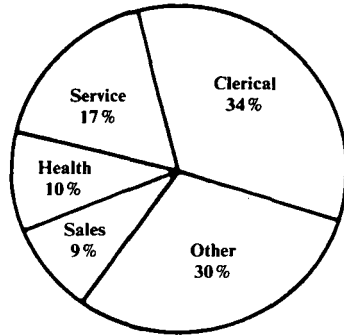


**APPENDIX A**

**Equality at Work**

**Employment of  
Women — Manitoba  
By Occupation**

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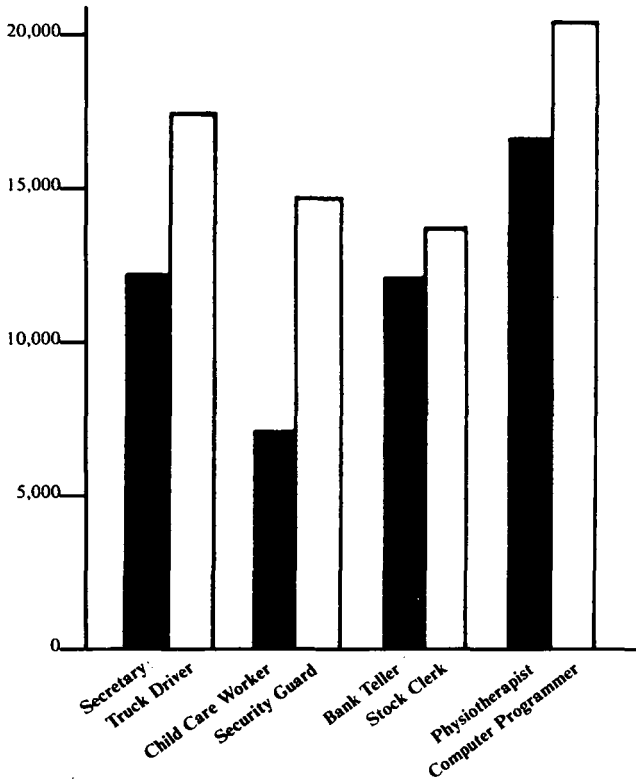
Source Statistics Canada Census 1981.

*The segregation of many female workers into low-paying jobs is a major cause of the wage gap between men and women. 70% of the women in Manitoba labour force in 1981 were in clerical, sales, service or health care jobs.*

## APPENDIX B

**Average Incomes — Manitoba  
By Occupation**

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Average Annual  
Income (\$)

Source Statistics Canada Census 1981.

*“Women’s” jobs are undervalued in the marketplace compared to “men’s” jobs.*