



Québec Pay Equity – Government Reactivates Interest

The Pay Equity Act of Québec was passed into law on November 20, 1996. The Act requires that female employees be paid equally to male employees for doing *work of equal value*. Most employers with 10 or more employees in Québec had to comply within a period of five years, i.e. by November 20, 2001.

Thirteen years later, only about 50% of private companies in Québec have done what the Act requires. The government has reviewed the situation, and has drafted a law that focuses new interest in assuring that the Act is respected and that private employers comply.

What Has Changed, What Is New

- Failure to act before now has *NOT* been forgiven - any Québec employer that was supposed to have completed its Pay Equity Plan by Nov 2001 and did not comply, has been given some new parameters and now has until Dec 31, 2010 to complete its obligations.
However, if adjustments to females' salaries are required, those adjustments must be made *retroactively*.
- There are new rules for companies that started in business after November 1996. The rules are a little complex but they are consistent with the original Act and its goals.
- Maintaining Equity - any Québec company that has already prepared a Pay Equity Plan must do a maintenance review at least every 5 years and certainly no later than December 31, 2010. Maintenance means reassessing the company's situation and developing a new Pay Equity Plan.
- The Commission de l'équité salariale is now developing an affidavit that must be submitted by all companies, declaring its Pay Equity status.
- Employers that do not meet the December 31, 2010 deadline will be subject to penalties ranging up to a maximum of \$45,000.
- The Commission's budget for inspections (and presumably for inspections) will be increased over the next 2 years by over 75%.

What Needs To Be Done

Complying with the Act can be quite complex. It requires approaches that are new to many managers, particularly owners and operators of small businesses. Many business managers, Human Resource generalists and union representatives are unfamiliar with the subtleties surrounding the requirements of the law. The Act, however, does set out the elements of a process in some detail, and the Commission has available both software tools and advice.

The Act also sets out penalties for non-compliance – fines now up to \$45,000. Until recently, employers that chose to ignore the law were unlikely to be audited, and fines were seldom imposed. There appears to be some likelihood that this will change.



What the Act Sets Out to Do

The purpose of the Act is to assure that female workers in Québec are paid fairly relative to their male counterparts in the same company. The Act goes beyond the simple concept of “equal pay for equal work” and requires “equal pay for work of equal value”. This means that not only must a man and woman doing the same job be paid equitably (considering service, the internal value of the job, etc.), but a man and woman in quite different jobs – where the jobs are of equal value – must also be paid equitably.

This immediately raises the question “how do we determine whether two very dissimilar jobs are of equal value?” Much research has been done into the subject of determining the value of dissimilar jobs. The science – and art – of job evaluation provides tools that enables human resource specialists to value jobs based on a set of generic criteria, and to tune the criteria to suit the internal values and needs of each business. The Act recognizes that not all businesses have the same internal values. Companies must assure that there is male/female pay equity *internally*. No *external* comparisons need to be considered.

The Act recognizes that there are many stakeholders interested in the outcome of the process. Therefore it mandates that a Pay Equity Plan be developed and a Pay Equity Committee be formed to oversee the process for all companies with 100 or more employees. Companies with 50 to 99 employees must develop a Pay Equity Plan but can proceed without a Committee, and smaller companies with fewer than 50 employees must go through the Pay Equity process but need not post a formal Plan (but they must post the results and changes they plan to make). Companies with less than 10 employees must develop a plan when they exceed this number. Bargaining units or Associations must participate in the process, and have the right to make certain choices during the process.

Where a pay difference exists between males and females doing work of equal value, an action plan is required to eliminate the inequity by raising female salaries over a period of not more than five years. Lowering males’ pay is not legally acceptable.

Informing Employees

The Act requires a two-step posting of the Plan – normally a listing on a central bulletin board.

The first posting will identify the job classes that are predominantly male and female, and an outline of the method and process used to determine the value of the job classes.

The legislation also requires the inclusion of an outline of employee rights and how they can exercise those rights, including general remedies available through the Commission de l'équité salariale.

Communicating with employees will likely be key. Since they are directly affected, it is wise to inform all employees of the nature of the Act, the process that will be followed to assure compliance, and the range of outcomes that may arise. Since the law received some notoriety when it took effect, some employees might expect windfall pay increases – generally, that is quite substantially wrong. It is best to be open about the process, so that no disappointment and mistrust arise from misunderstanding about the intent of the Act and the procedures the company uses to comply.

The second posting explains the method the company used to determine differences in compensation between male and female job classes, and what pay equity adjustments are required. It also sets out the planned approach to making adjustments to female pay, if any adjustments are required.



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This review is an executive summary of the requirements of The Pay Equity Act of Québec, and the changes introduced recently. We urge all Québec employers to look at the issue soon – complying can sometimes be a long and complex process, and experience suggests that there is no luxury of delay.

A. Michael Hiles & Associates Inc. can advise clients on the best strategy for complying with the Pay Equity Act, and can either manage the process leading to compliance or advise clients as they work towards implementing the terms of the Act. We have experience in assessing the impact of the legislation, developing and implementing a plan of action and communicating results to employees.