

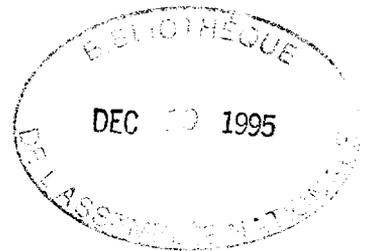
NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FIFTH LEGISLATURE

Draft Bill

**An Act respecting pay equity and
amending certain legislative
provisions**



Tabled by
Madam Jeanne L. Blackburn
Minister responsible for the Status of Women

**Québec Official Publisher
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EXPLANATORY NOTES

This draft bill is designed to redress the salary discrimination suffered by persons occupying positions in predominantly female job classes. To that end, it requires every employer who employs ten or more persons to establish a pay equity plan applicable throughout his enterprise. The employer must, in order to enable his employees to participate in the establishment of the plan, set up a pay equity committee which includes employee representatives.

The four stages of a pay equity plan are: the identification of predominantly female job classes and of predominantly male job classes; the description of the method, tools and procedure to be used to determine the value of job classes; the determination of the value of predominantly female job classes and of predominantly male job classes, comparisons between them and the valuation of differences in compensation; and, finally, the determination of the required adjustments in compensation and of the terms and conditions of payment.

Any dispute within a pay equity committee may be submitted to a Commission mandated to settle the dispute. Upon completion of the first two stages of the plan, and again upon completion of the last two stages, the employer will be required to post the results in prominent places in such manner that they may be read by all the employees to whom the plan relates, together with information concerning employee rights and the time within which they may be exercised.

The time frame for completion of the plan varies from two to four years according to the size of the enterprise. Adjustments in compensation may be spread over a period of four years, but the first payments must be made by the employer on or before the date on which the plan must be completed. No employer may, in order to achieve pay equity, reduce wages or salaries paid in his enterprise.

After completion of the pay equity plan applicable to his enterprise, the employer must maintain pay equity, particularly upon the creation of new positions, the modification of existing positions or of the conditions applicable to existing positions and the negotiation or renewal of a collective agreement. Upon the completion of the pay equity plan and every five years thereafter, the employer must send a report to the Commission describing the measures he has taken to achieve or maintain pay equity, taking into account any changed circumstances in the enterprise.

Provisions dealing with pay equity plans, relativity plans or affirmative action programs completed or in progress before the coming into force of the Act will allow such plans to be recognized, in whole or in part, as being consistent with the new Act.

A Commission will be responsible for overseeing the establishment of pay equity plans and the maintenance of pay equity. If the measures ordered by the Commission are not implemented within the allotted time, the Commission will be authorized to refer the matter to the Human Rights Tribunal.

The draft bill provides for regulatory powers and contains a number of penal provisions as well as transitional provisions and provisions for concordance.

Finally, the draft bill indicates that the Commission des normes du travail may be made responsible for the administration of the Act.

LEGISLATION AMENDED BY THIS DRAFT BILL:

- Charter of human rights and freedoms (R.S.Q., chapter C-12);
- Act respecting labour standards (R.S.Q., chapter N-1.1).

Draft Bill

An Act respecting pay equity and amending certain legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE AND SCOPE

1. The purpose of this Act is to redress the discrimination in compensation suffered by persons who occupy positions in predominantly female job classes.

2. This Act is public policy and has effect notwithstanding any provision of an individual employment contract, a collective agreement within the meaning of paragraph *d* of section 1 of the Labour Code (R.S.Q., chapter C-27), a decree made under the Act respecting collective agreement decrees (R.S.Q., chapter D-2), a collective agreement made pursuant to the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) and any other agreement respecting conditions of employment, including a government regulation giving effect thereto.

3. This Act is binding on the Government, government departments, government bodies and the mandataries thereof.

4. This Act applies to every employer whose enterprise employs ten or more employees.

5. Anyone who causes work to be done by an employee is an employer.

6. Any natural person who undertakes to do work for remuneration under the direction or control of an employer is an employee, except

(1) a student who works during the school year in an establishment chosen by an educational institution under a program recognized by the Ministère de l'Éducation which combines practical experience with academic training or a student who works in a field related to his field of study in the educational institution he is attending;

(2) a student employed for his vacation period;

(3) a trainee undergoing professional training recognized by law;

(4) a trainee under a vocational integration contract provided for in section 61 of the Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1);

(5) a person who, while participating in a program to achieve entry on the labour market, is eligible for last resort assistance benefits under the Act respecting income security (R.S.Q., chapter S-3.1.1);

(6) a senior management officer.

7. A natural person who does business for his own account, by himself or within a partnership, and has no employees in his employ is an independent operator.

An independent operator who in the course of his business carries on activities for a person similar to or connected with those carried on in the enterprise of that person is deemed to be an employee in the employ of that person, except

(1) where he carries on the activities

(a) simultaneously for several persons;

(b) under a remunerated or unremunerated service exchange agreement with another independent operator carrying on similar activities; or

(c) for several persons in turn and supplies the required equipment, and the work done for each person is of short duration; or

(2) in the case of activities that are only intermittently required by the person who retains his services.

8. A pay equity plan in progress shall be carried on by the employer even if the number of employees in his enterprise falls below ten.

9. For the purposes of this Act, the number of employees in an enterprise is the average number of employees in the enterprise in the course of a year. Such average shall be calculated according to the reference year and the method prescribed by regulation of the Commission des normes du travail.

CHAPTER II

PAY EQUITY COMMITTEES

10. The employer shall enable employees to take part in the establishment of the pay equity plan by forming a pay equity committee on which they are represented.

Where two or more pay equity plans are to be established, the employer may form a pay equity committee for each plan.

11. A pay equity committee shall be composed of three members.

However, the employer and the representatives of the employees may agree upon a larger number of members.

12. Two thirds of the members of a pay equity committee shall represent the employees and be designated in accordance with section 13. At least half of such members must be women.

The other members of the committee shall be designated by the employer to represent the employer.

13. Where employees are represented by a certified association, the association shall designate their representatives on the pay equity committee. If there are two or more certified associations, the associations shall designate the representatives by agreement.

If they cannot agree, the representatives shall be designated according to the procedure prescribed by regulation of the Commission.

Employees not represented by a certified association shall designate their representatives on the pay equity committee according to the procedure prescribed by regulation of the Commission.

14. The designation of the representatives of the employees on a pay equity committee shall be effected so as to ensure representation of the major job classes.

15. The representatives of the employees as a group and the representatives of the employer as a group have one vote, respectively, within the pay equity committee.

If, on a given question, there is disagreement between the representatives of the employees and their number does not allow a majority decision to be reached, the employer alone shall decide the question.

16. Every employee who, as a member of a pay equity committee, takes part in the establishment of a pay equity plan is entitled to receive the training required therefor.

17. A pay equity committee shall establish its own operating rules, including rules governing the holding of meetings. It shall also make rules concerning the training of committee members.

18. The employer is bound to disclose to the members of the pay equity committee all information in his possession that is required to establish the pay equity plan.

The employer must also facilitate the gathering of information necessary for the establishment of the pay equity plan.

The members of the pay equity committee are bound to protect the confidentiality of the information disclosed to them.

19. If the certified association or the employees fail to designate their representatives on a pay equity committee, and in the case described in section 8, the employer shall act alone to establish the pay equity plan applicable to his employees.

CHAPTER III
PAY EQUITY PLANS
DIVISION I
GENERAL PROVISIONS

20. Every employer shall establish a pay equity plan applicable throughout his enterprise.

21. The employer may, however, at the request of a certified association within the meaning of the Labour Code representing employees of the enterprise, establish a pay equity plan for that group of employees. In such a case, he shall also establish a pay equity plan applicable to the other employees of the enterprise.

A plurality of pay equity plans may be established only if each of the predominantly female job classes identified in the enterprise may be compared with predominantly male job classes throughout the enterprise.

22. Two or more employers may set up a common framework for the establishment of a pay equity plan applicable to each of their enterprises, with the agreement, except in the case described in section 19, of the pay equity committees of each such enterprise.

Each employer shall remain responsible for the pay equity plan in his enterprise.

23. A pay equity plan shall include

(1) the identification of the predominantly female job classes and of the predominantly male job classes in the enterprise;

(2) a description of the method and tools used to determine the value of job classes, a value determination procedure, the determination of the value of the job classes and a comparison between them;

(3) the valuation of differences in compensation and the determination of the required adjustments;

(4) the terms and conditions of payment of the adjustments in compensation.

24. The employer must ensure that the components of the pay equity plan, and the manner in which they are applied, do not reflect gender bias.

25. In an enterprise where there are no predominantly male job classes, the pay equity plan shall be established in accordance with the regulations of the Commission.

DIVISION II

IDENTIFICATION OF JOB CLASSES

26. For the purpose of identifying predominantly female job classes and predominantly male job classes, positions with the following common characteristics shall be grouped together:

- (1) similar duties or responsibilities;
- (2) similar required qualifications;
- (3) same rate or scale of compensation.

A job class may consist of only one position.

27. A job class shall be considered predominantly female or predominantly male, as the case may be, if 60% or more of the positions in that class are held by employees of the same sex.

A job class may also be considered predominantly female or male if

(1) there is a significant discrepancy between the rate of representation of women or men in the job class and their rate of representation in the total workforce of the employer;

(2) the historical incumbency of the job class indicates that it is a predominantly female or predominantly male job class; or

(3) owing to gender stereotypes of fields of work, the job class is commonly associated with women or men.

DIVISION III

VALUE DETERMINATION METHOD AND DETERMINATION
OF VALUE OF JOB CLASSES

28. The method used for determining the value of job classes must allow the predominantly female job classes to be compared with predominantly male job classes.

It must highlight the specific characteristics of predominantly female job classes and those of predominantly male job classes.

29. The value determination method must take the following factors into account in respect of each job class:

- (1) required qualifications;
- (2) responsibilities;
- (3) effort required;
- (4) the conditions under which the work is performed.

30. If the pay equity committee fails to agree on a method for determining the value of job classes, the applicable method is the method prescribed by regulation of the Commission.

31. The value of each predominantly female job class and each predominantly male job class shall be determined using the applicable method.

DIVISION IV

VALUATION OF DIFFERENCES IN COMPENSATION AND
DETERMINATION OF REQUIRED ADJUSTMENTS

32. The pay equity committee or, failing such a committee, the employer shall determine the adjustments required to eliminate differences in compensation.

33. Predominantly male job classes and predominantly female job classes shall be compared in order to value the differences in compensation between them.

34. Any of the following methods may be used to value the differences in compensation between a predominantly male job class and a predominantly female job class:

(1) a comparison of the earning curve of predominantly female job classes with the earning curve of predominantly male job classes;

(2) a comparison of predominantly female job classes with the earning curve of predominantly male job classes;

(3) a comparison of a predominantly female job class with a predominantly male job class of equal value, this being the job-to-job method of comparison;

(4) a comparison of a predominantly female job class with a predominantly male job class of different value, this being the proportional value method of comparison.

As regards the job-to-job method of comparison, where there are two or more predominantly male job classes of equal value but with different rates of compensation, comparisons shall be made on the basis of the average rate of compensation for those job classes.

As regards the proportional value method of comparison, where there are two or more predominantly male job classes of different value with which the comparison could be made, comparisons shall be made on the basis of the average of the average proportional rates of compensation for those job classes.

35. The valuation of differences in compensation between a predominantly male job class and a predominantly female job class may also be effected using any other method prescribed by regulation of the Commission.

36. No method of comparison may be used which excludes a predominantly female job class.

37. For the purposes of the valuation of differences in compensation, compensation in a job class includes flexible pay in addition to basic pay.

Flexible pay includes merit and performance pay and income from profit-sharing schemes.

A comparison for the purpose of valuating differences in compensation may be made on the basis of basic pay only if flexible pay is equally available to all the job classes that are the subject of the comparison.

38. Where there are several rates or scales of compensation, comparisons shall be made on the basis of the average rate of compensation.

39. Where benefits having pecuniary value are not equally available to all the job classes that are the subject of the comparison, the value thereof must be determined and must be included in the compensation for the purpose of determining differences in compensation.

Benefits having pecuniary value consist of

(1) the various forms of paid leave including sick leave, family-related and parental leave, vacation and holidays, rest periods and meal breaks and other benefits of that nature;

(2) retirement and group protection plans including pension funds, health and disability insurance and any other group plan;

(3) non-salary benefits including the supply and maintenance of tools and uniforms or other clothing, except where required under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), parking privileges, meal allowances, the supply of vehicles, payment of professional dues, paid educational leave, reimbursement of tuition fees, low-interest loans and any other form of benefit.

40. For the purpose of valuating differences in compensation between job classes, differences based on any of the following factors shall not be taken into account:

(1) seniority, unless this factor is applied so as to discriminate on the basis of gender;

(2) an employee training, development or orientation assignment of fixed duration;

(3) the region in which the employee works, unless this factor is applied so as to discriminate on the basis of gender;

(4) a shortage of skilled workers.

DIVISION V

TERMS AND CONDITIONS OF PAYMENT OF COMPENSATION ADJUSTMENTS

41. The pay equity committee, or failing such a committee, the employer shall establish the terms and conditions of payment of adjustments in compensation.

42. Adjustments in compensation may be spread over a maximum period of four years.

Where adjustments in compensation are spread over time, all such adjustments must be of equal value.

43. The employer shall make the first adjustments in compensation under a pay equity plan on the date on which the plan must be completed.

If the employer fails to make adjustments in compensation within the applicable time limits, the unpaid adjustments shall bear interest at the legal rate from the time as of which they were payable.

44. An employer shall not, in order to achieve pay equity, reduce the compensation payable to any employee holding a position in his enterprise.

CHAPTER IV

POSTING

45. Upon completion of the stages of the pay equity plan provided for in paragraphs 1 and 2 of section 23, the employer shall post the results thereof in prominent places in such manner that they may be read by all the employees to whom the plan relates, together with information concerning the rights provided for in section 46 and the time within which they may be exercised.

The employer shall do likewise upon completion of the stages of the pay equity plan provided for in paragraphs 3 and 4 of section 23. The results of these stages shall be posted with a copy of those already posted under the first paragraph.

46. Within 15 days of a posting under section 45, any employee may, in writing, request additional information or make observations to the pay equity committee or, failing such a committee, to the employer.

The pay equity committee or, failing such a committee, the employer may effect a new posting within the next 15 days, with any amendments clearly indicated. In the absence of a pay equity committee, the posting must include information on the manner in which and the time within which an employee may exercise a remedy under this Act.

CHAPTER V

TIME FRAME

47. A pay equity plan must be completed

(1) within two years of the coming into force of this Act in the case of a public or parapublic sector enterprise or of a private sector enterprise with 100 or more employees;

(2) within three years of the coming into force of this Act in the case of a private sector enterprise with at least 50 but fewer than 100 employees; and

(3) within four years of the coming into force of this Act in the case of a private sector enterprise with fewer than 50 employees.

In no case shall the time within which an enterprise must complete the pay equity plan pursuant to the first paragraph be shortened by reason of a change in the number of employees in the enterprise.

48. Where there are no predominantly male job classes in an enterprise, the pay equity plan must be completed within two years of the coming into force of the regulation made by the Commission under subparagraph 3 of the first paragraph of section 72.

49. In the case of an enterprise which begins its operations after *(insert here the date of coming into force of this Act)*, the time limits set out in sections 47 and 48 shall apply from the first anniversary of the beginning of its operations.

In the case of an enterprise that becomes subject to this Act after *(insert here the date of coming into force of this Act)*, the time limits set out in sections 47 and 48 shall apply from the date on which it becomes so subject, except that where section 48 applies, the time limit shall not be less than two years after the coming into force of the regulation referred to therein.

CHAPTER VI

MAINTENANCE OF PAY EQUITY

50. The employer shall, after completion of the pay equity plan, maintain pay equity in his enterprise.

In particular, the employer shall ensure maintenance of pay equity upon the creation of new positions, the modification of existing positions or of the conditions applicable to existing positions and the negotiation or renewal of a collective agreement. In the latter case, the certified association concerned shall also ensure that pay equity is maintained.

51. The alienation of an enterprise or the modification of its juridical structure by amalgamation or otherwise shall have no effect upon the pay equity plan, which shall be binding on the new employer.

52. Where, because of changed circumstances in the enterprise, the pay equity plan is no longer appropriate to maintain pay equity, the employer shall amend it.

53. After completion of the pay equity plan and every five years thereafter, the employer shall send a report to the Commission describing the measures he has taken to achieve or maintain pay equity, taking into account any changed circumstances in the enterprise.

The report shall be drawn up in the form determined by regulation of the Commission and shall contain the information prescribed thereby.

CHAPTER VII

ROLE OF THE COMMISSION DES NORMES DU TRAVAIL

DIVISION I

DUTIES AND POWERS

54. The duties of the Commission consist in

(1) overseeing the establishment of pay equity plans, seeing to maintenance of pay equity and, to such ends, requiring any information;

(2) making non-adversary investigations on its own initiative or following a dispute, in order to ensure that the provisions of this Act are being complied with;

(3) lending assistance to enterprises in the establishment of pay equity plans and developing tools to facilitate implementation of the plans;

(4) fostering concerted action within enterprises in respect of the establishment of pay equity plans and encouraging the participation of the persons concerned;

(5) assisting in the training of members of pay equity committees;

(6) disseminating information designed to promote understanding and acceptance of the purpose and provisions of this Act; and

(7) conducting research and studies on any matter relating to pay equity.

55. For the exercise of its powers and duties, the Commission may

(1) form advisory committees and determine their powers and duties and their operating rules;

(2) retain the services of experts.

56. The Commission, its members, the members of its personnel or persons exercising a power delegated by the Commission are vested, for investigation purposes, with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

DIVISION II

ANNUAL REPORT

57. The Commission shall, not later than 30 September each year, submit to the Minister a report on its activities under this Act for the year ended on 31 March of that year.

The annual report shall also contain such information as the Minister may require.

58. The Minister shall lay the annual report before the National Assembly within 30 days of receiving it or, if the Assembly is not sitting, within 30 days of resumption.

59. The Commission shall, in addition, provide the Minister with any other information he requires concerning its activities.

DIVISION III

POWERS OF INTERVENTION

60. Where the representatives of the employees and of the employer on a pay equity committee cannot agree as to the application of this Act, one of the parties shall submit the dispute to the Commission in writing.

In the absence of a pay equity committee, the employer, the certified association representing the employees or an employee to which a pay equity plan relates may apply in writing for the intervention of the Commission within fifteen days after the expiry of the time limit set out in the second paragraph of section 46.

61. The Commission shall investigate the matter and endeavour to effect a settlement between the parties.

62. Where a settlement is reached between the parties, it shall be evidenced in writing.

Where no settlement is possible, the Commission shall determine what measures must be taken so that the pay equity plan may be established in accordance with this Act as well as the time allotted for their implementation.

63. Where pay equity is not maintained in an enterprise, the Commission may determine what measures must be taken by the employer to correct the situation. Any required adjustments in compensation shall bear interest at the legal rate as of the time they should have been paid.

64. Where the measures determined by the Commission are not implemented to its satisfaction within the allotted time, the Commission shall refer the matter to the Human Rights Tribunal.

65. Where the Commission finds, after having investigated on its own initiative, that a provision of this Act is not being complied with, it may refer the matter to the Tribunal.

66. The Commission may, at the request of an employee or on its own initiative, apply to a tribunal for any appropriate measure against any person who takes reprisals against an employee because

(1) the employee is exercising any right conferred on him by this Act;

(2) the employee has provided information to the Commission pursuant to this Act; or

(3) the employee is a witness in a proceeding under this Act.

The Commission may, in particular, request the tribunal to order that the injured employee be reinstated, on such date as the tribunal deems fair and expedient in the circumstances, in the position he would have held had it not been for the reprisals.

Before the Commission may so apply to the tribunal for measures for an employee's benefit, it must obtain the employee's written consent.

67. If it is shown to the satisfaction of the tribunal that an employee against whom reprisals were taken exercised a right set out in the first paragraph of section 66, there is a presumption in his favour that the reprisals were taken against him because he exercised such right and it is incumbent upon the person who exercised the reprisals to prove that they were taken for another good and sufficient reason.

The presumption under the first paragraph shall apply for a minimum period of six months after the date on which the employee exercised his right.

68. Where the Commission exercises its discretionary power not to submit an application to a tribunal pursuant to section 66, it shall notify the employee of its decision, stating the reasons on which it is based.

Within 90 days after he receives such notification, the employee may, at his own expense, apply directly to a tribunal.

CHAPTER VIII

JURISDICTION OF THE HUMAN RIGHTS TRIBUNAL

69. The Tribunal is competent to hear and dispose of any matter referred to it regarding the application of this Act.

70. Decisions of the Tribunal are final and without appeal.

71. Where an application is submitted to the Tribunal under section 66 or 68, it shall be heard and decided in accordance with the second paragraph of section 104 of the Charter of human rights and freedoms (R.S.Q., chapter C-12).

CHAPTER IX

REGULATORY PROVISIONS

72. The Commission may make regulations

(1) determining the reference year and the method to be used to calculate the average number of employees in an enterprise;

(2) prescribing the procedure for the designation, to a pay equity committee, of the representatives of employees who are not represented by a certified association and the procedure for designating the representatives of two or more certified associations failing agreement between them;

(3) for the purposes of the establishment of a pay equity plan in an enterprise where there are no predominantly male job classes, determining typical job classes on the basis of job classes identified in enterprises, including public and parapublic sector enterprises, having already completed a pay equity plan, prescribing methods to be used to determine the value of those job classes and to value the differences in compensation between the typical job classes and the job classes in an enterprise, together with standards or weighting factors to be applied to those differences;

(4) determining the method to be used to determine the value of job classes if the pay equity committee cannot agree on such a method;

(5) determining other methods for the valuation of differences in compensation;

(6) determining the form and content of the report referred to in section 53.

Regulations of the Commission require the approval of the Government and may be amended by the Government upon approval.

CHAPTER X

PENAL PROVISIONS

73. Whoever

(1) contravenes any of section 8, the third paragraph of section 18 and sections 20, 43 to 45, 47 to 49 and 53 of this Act,

(2) attempts to take or takes reprisals as described in section 66 of this Act, or

(3) attempts to hinder or hinders the Commission, a member or mandatary of the Commission or a member of its personnel in the performance of its or his duties,

is guilty of an offence and is liable to a fine of not less than \$1 000 nor more than \$10 000.

For a second or subsequent offence, the amounts set out in the first paragraph shall be doubled.

74. Any person who aids, encourages, counsels, allows, authorizes or orders another person to commit an offence under this Act is guilty of an offence.

A person found guilty under this section is liable to the penalty prescribed in section 73.

75. Only the Attorney General and the Commission may institute penal proceedings for an offence against this Act.

CHAPTER XI

PROVISIONS APPLICABLE TO PAY EQUITY OR RELATIVITY
PLANS ALREADY COMPLETED OR IN PROGRESS

DIVISION I

GENERAL PROVISIONS

76. A pay equity or relativity plan completed before (*insert here the date of coming into force of this Act*) is deemed to have been established in accordance with this Act if it includes

(1) an identification of job classes and an indication of the proportion of women in each job class;

(2) a description of the methods and tools used to determine the value of job classes and a value determination procedure taking into account such factors as required qualifications, responsibilities, the effort required and working conditions; and

(3) a method for valuating differences in compensation.

In addition, the method used for determining the value of job classes must allow each predominantly female job class to be compared with predominantly male job classes.

The same applies to a pay equity or relativity plan in progress on (*insert here the date of coming into force of this Act*), if it meets either of the following conditions:

(1) the plan is completed in respect of at least 50% of predominantly female job classes concerned; or

(2) the determination of the value of job classes has begun.

77. Every employer whose pay equity or relativity plan was completed before (*insert here the date of coming into force of this Act*) shall, within six months of that date, send the Commission a report describing the plan and containing the information referred to in section 76.

The same applies to every employer whose pay equity or relativity plan is in progress on (*insert here the date of coming into force of this Act*). In such a case, the report must also indicate the degree of completion of the plan.

The Commission shall determine, on the basis of the information contained in the report, whether the plan meets the conditions set out in section 76.

If the Commission determines that the plan does not meet such conditions, the employer may submit the matter to the Human Rights Tribunal.

78. An employer whose pay equity or relativity plan is in progress and has been determined to meet the conditions set out in section 76 shall complete the plan within the time limits prescribed by section 47 and proceed with the required adjustments in compensation. In such case, sections 42 to 44 shall apply, with necessary modifications.

79. An employer whose pay equity or relativity plan has been completed and has been determined to meet the conditions set out in section 76 shall, if the required adjustments in compensation have not yet been made, proceed with the payment thereof.

In such case, sections 42 to 44 shall apply, with necessary modifications, except that the first adjustments shall be paid within three months of (*insert here the date of coming into force of this Act*).

80. At the request of an employer who has made an undertaking with the Government to implement an affirmative action program in his enterprise, the Commission may indicate to him whether the steps that have already been taken or are presently being taken are satisfactory or whether modifications are required in order that the program may serve as a pay equity plan for the purposes of this Act. The Commission shall indicate as well how the implementation of the pay equity plan should be completed in order to make it consistent with the provisions of this Act. The Commission may, if it is justified by the extent of the steps already taken or being taken, apply the conditions set out in section 76.

The request of the employer must be transmitted to the Commission within six months of (*insert here the date of coming into force of this Act*), describe the plan and indicate its degree of completion.

81. An employer whose pay equity or relativity plan is determined to meet the conditions set out in section 76 shall maintain pay equity or relativity in his enterprise. In such case, the provisions of Chapter VI apply, with necessary modifications.

DIVISION II

SPECIAL PROVISION APPLICABLE TO THE PUBLIC
AND PARAPUBLIC SECTORS

82. For the purposes of this Act,

(1) the Conseil du trésor is the employer as regards the Government, government departments and bodies whose personnel is appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), colleges, school boards and institutions to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) applies and any body whose employees are subject to conditions of employment or standards and scales of remuneration which by law are determined or approved by the Government;

(2) the Government, government departments and bodies whose personnel is appointed or remunerated in accordance with the Public Service Act, colleges, school boards and institutions to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors applies and any body whose employees are subject to conditions of employment or standards and scales of remuneration which by law are determined or approved by the Government form one and the same enterprise.

CHAPTER XII

AMENDING PROVISIONS

83. Section 111 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by adding, at the end, the following paragraph:

“The Tribunal is also competent to hear and dispose of any application presented under the Act respecting pay equity.”

84. Section 5 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by adding, at the end, the following paragraph:

“The Commission shall also exercise the powers and duties conferred on it by the Act respecting pay equity.”

CHAPTER XIII

TRANSITIONAL AND FINAL PROVISIONS

85. A pay equity or relativity plan is deemed non-discriminatory if it is established in conformity with this Act.

The provisions of this Act apply notwithstanding sections 10 and 19 of the Charter of human rights and freedoms.

86. Complaints concerning gender-based discrimination in compensation in violation of section 19 of the Charter of human rights and freedoms that are pending before the Commission des droits de la personne et des droits de la jeunesse on the day before (*insert here the date of coming into force of this Act*) shall be examined and disposed of in accordance with the provisions of the Charter that were applicable at that time.

87. Not later than (*insert here the date that is the ninth anniversary of the coming into force of this Act*), the Minister shall present a report to the Government on the implementation of this Act and the advisability of maintaining it in force or of amending it.

The report shall be laid by the Minister before the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption. The report shall be examined by the competent committee of the National Assembly.

88. The Commission des normes du travail is responsible for the administration of this Act.

89. The minister designated by the Government is responsible for the carrying out of this Act.

90. This Act comes into force on the date to be fixed by the Government.