

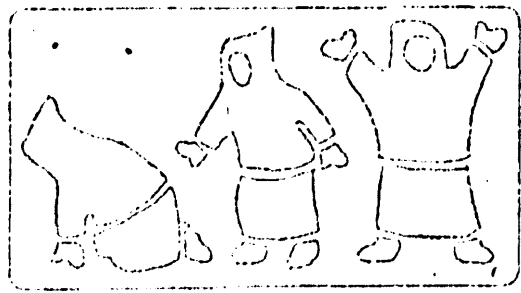
LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
7<sup>TH</sup> COUNCIL, 50<sup>TH</sup> SESSION

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TABLED ON OCTOBER 15, 1973

c/o P.O. Box 1225,  
YELLOWKNIFE, XCE 1H0  
N.W.T.

September 14, 1973



GOV'T OF N.W.T.  
YELLOWKNIFE, N.W.T.  
SEP 17 1973  
No. *T/1271*  
FILE *28-600-1-6-10*  
REFER TO *Dis. Lab. of Fed.*

Mr. S. M. Hodgson, Commissioner  
Northwest Territories,  
Yellowknife, NWT

Dear Mr. Hodgson:

Re: Fair Practices Ordinance and Labour Standards Ordinance

In considering amendments to the above ordinances, we would ask that you kindly direct the attention of Council to the following with respect to "equal remuneration for work of equal value":

Pages 51-53 (enclosed) of the study  
"Equal Remuneration for Work of Equal Value"  
International Labour Affairs Branch  
Canada Department of Labour

*attached*

Pages 5,6,7,8,9,10 of the "McAteer" Brief submitted to the  
Board of Inquiry into Labour Standards and Labour Relations in the NWT

Pages 17,18,26 of the Report of the  
Board of Inquiry into Labour Standards and Labour Relations in the NWT

Report of the NWT Status of Women Conference  
-Yellowknife, May 14 Session - Page 2, Items 4,5  
-Yellowknife, May 10 Session - Page 2, Items 14,15,16  
-Western Conference Sunday Summary - 4 Employment - Items 1,4,5,14,15

As you will note from the above mentioned references, exhortation for equal remuneration (rate of pay including all forms of remuneration) for work of equal value rises from many and varied sources. It is hoped therefore that you will strongly suggest to members of Council that they take heed and act.

Yours very truly,

*18/9*  
*Mr Remnant*  
*same as other*  
*Table in Council*  
*Atk*

Alison J. McAteer,  
Co-Ordinator  
NWT Status of Women Action Committee

Enc.



# EQUAL REMUNERATION FOR WORK OF EQUAL VALUE

A study of action required to bring legislation in each jurisdiction in Canada into conformity with International Labour Convention No. 100, concerning Equal Remuneration.

International Labour Affairs Branch  
Canada Department of Labour  
Ottawa, Ontario, Canada.

## NORTHWEST TERRITORIES

### Actual Position

Principle of equal pay. The principle of equal pay for the same work is established in these Territories by the Fair Practices Ordinance, 1966, which lays down in section 6 that no employer shall discriminate between a male and a female employee by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment.

The Ordinance does not state what is meant by "rate of pay".

### Exceptions

A difference in the rate of pay between a female and a male employee based on any factor other than sex does not constitute a failure to comply with the Act.

### Coverage

The Ordinance applies to any person entitled to compensation for labour or services performed for another (except independent contractors); but does not apply to the following categories of employment:

- (a) domestic servants in private homes;
- (b) exclusively charitable, philanthropic, educational, fraternal, religious or social organizations not operated for private profit;
- (c) organizations operated primarily to foster the welfare of religious or racial groups that are not operated for private profit;
- (d) employers who employ less than five employees;
- (e) denominational schools under the School Ordinance.

Appraisal of Jobs

There is no provision regarding measures to promote the objective appraisal of jobs on the basis of work to be performed.

Enforcement

A person claiming to be aggrieved by violation of the Act may lodge a written complaint with an officer appointed by the Commissioner for the Northwest Territories who shall endeavour to settle the matter. If he is unable to do so, he may make a recommendation to the Commissioner who may make an order to carry into effect the recommendation of the officer.

An appeal lies from the Commissioner's Order to a Judge of the Territorial Court.

The person guilty of the violation of the Ordinance is subject on summary conviction to pecuniary penalty which is greater in the case of corporations, trade unions or employers organizations than it would be for an individual.

In case of such conviction the Commissioner may apply to the Territorial Court for an Order enjoining an employer from continuing the offence.

Action required to achieve compliance with the Convention

It should be noted that the Convention lays down the principle of equal pay for "work of equal value", while the Ordinance reads "for the same work done in the same establishment". The expression used in the Ordinance would have to be broadened to comply fully with the intent of the Convention.

The term "rate of pay" would have to be defined as including all forms of remuneration.

It is to be noted also that the Ordinance exempts certain categories of employees from its provisions. Such exceptions would have to be removed in order to satisfy fully the requirements of the Convention.

Further, the provisions of the Ordinance regarding equal pay would have to cover the employees of government of the Northwest Territories.

YUKON TERRITORY

This territory does not have legislation regarding equal pay.

4. EMPLOYMENT

- ✓ - equal opportunities and pay for women
- wages should be related to cost of living
- guaranteed annual income
- ✓ - jobs redefined or restructured and that part-time work be considered job sharing
- ✓ - part-time workers must be integrated into the work force with full pro rata fringe benefits
- job vacancies be fully publicized
- more flexible working days and working weeks, e.g. earlier or later starting times and 3- or 4-day weeks
- L.I.P. and O.F.Y. be continued and the grants be made for a longer period of time to provide more meaningful jobs for women and to meet community needs
- establishment of grants project similar to L.I.P. and O.F.Y. called Opportunities for Women Projects, with special emphasis on meeting the needs of women that are not met through other services or agencies
- a clear statement of current philosophies and policies of Canada Manpower
- an impartial appeal board to which individuals could appeal the decisions of Canada Manpower counsellors
- that the name "Manpower" be changed
- employers, including all levels of government, should be required to publish goals and guidelines to provide women equal employment opportunities and that penalties be imposed for non-compliance
- ✓ - more equal and more accurate job evaluations
- ✓ - fringe benefits as part of the pay package be equal for men and women

9. It is recommended that Canada Manpower and the Federal and Territorial and Municipal governments encourage women to seek employment in traditionally male areas.
10. It is recommended that private industry and all levels of government offer employment to women at a level and salary commensurate with their education and experience.

#### EMPLOYMENT

11. It is recommended that the Territorial Government establish child care centres to alleviate an urgent need.
12. It is recommended that the Territorial Government legislate mandatory maternity leave for all women.
13. It is recommended that Federal, Territorial and Municipal Governments and private industry and any other employers pay women equal salaries with men for work of equal value in accordance with the Federal Female Equal Pay Act.
- ✓ 14. It is recommended that Federal, Territorial and Municipal governments and private industry and any other employers cease the practice of classifying men and women who do the same work in different categories.
- ✓ 15. It is recommended that all levels of government, private industry and any other employers afford equal opportunity to advancement to positions of responsibility to qualified women.
- ✓ 16. It is recommended that all levels of government discontinue their practise of discriminating against married women with regard to subsidization practices.

#### MISCELLANEOUS

17. It is recommended that the Territorial Government encourage women to be more active in community decision making by seeking office on the Territorial Council, on Settlement Councils and in Housing Associations.



EQUAL PAY

ORDINANCE

- 6. (1) No employer shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed for the same work done in the same establishment.
- (2) A difference in the rate of pay between a female and a male employee based on any factor other than sex does not constitute a failure to comply with subsection (1).

RCSM

The Commission formulated 64 Recommendations as a result of its study of Paid Work. In the nature of the subject, many of these are extensive and technical in character; dealing with the differential treatment of women and men in employment on the basis of pay, conditions of work, equality of opportunity and the use of skills.

RCSM #12

The Commission recommends there be legislation to make benefits the same for male and female contributors.

BRIEF

This Brief, therefore, advocates that the Ordinance be amended to read:

".....by paying a female employee a remuneration less than the remuneration paid to a male employee employed for work of equal value in the same establishment.

Remuneration

The term "remuneration" suggested rather than 'rate of pay' in order that women may not be discriminated against by receiving a lesser 'rate of pay' for 'work of the same value' in the same establishment, in the form of employee benefits, such as housing allowance, pension plans, life insurance, etc.

There is no justification for paying fringe benefits solely on the basis of sex so that single men receive more than single women or on the assumption that the man is the provider in the case of married persons.

Housing: Throughout the Territories discrimination in housing prevails in varying forms, such as rental subsidies, direct additional monetary allowances, actual quarters provided, and the case of those living in their own homes who do not receive equal remuneration for work of equal value as those receiving employer housing allowances. Housing discrimination affects not only women but men also; particularly where marital status is a factor in that accommodation provided or accommodation allowance is frequently less for single men, even though they may be performing work of equal value.

Insurance Plans: Often the difference in benefits is based on premiums, which are based on wages or salaries paid. This amendment might take care of the question of the difference in amounts accruing to beneficiaries. On the other hand, the widow

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and dependent children of male contributors to employee/employer insurance plans (a form of remuneration) receive benefit payments without question but the husband and dependent children of a deceased wife often do not. Such provisions are discriminatory on the basis of sex. A father bereaved of his wife is just as much in need of monetary assistance at such a time as is the widow. He is faced with additional expenses too with the need for having to pay for child and household care which had been under-taken by the mother and would also be deprived of her earnings.

Pension Plans: Close examination is needed of all pension plans and retirement provisions; a retirement age based on sex is discriminatory. In Canada where women live longer than men, earlier retirement means fewer years to earn an adequate pension and a longer period to live on it.

\*

A thorough study by the Labour Relations Board of Inquiry, 1972 might indicate the necessity for a specific section of this Ordinance or the Labour Standards Ordinance to deal with the subject of remuneration other than actual wages or salaries.

\*\*

"Work of Equal Value"

INTERNATIONAL LABOUR ORGANIZATION CONVENTION 100

Equal Remuneration for Work of Equal Value

RCSM

The Commission found strong support for the claim that employers often go out of their way to make some slight difference in the job done by a man and that done by a woman in order to justify a difference in pay rate. It may be extremely hard to PROVE that two jobs are "identical" or "substantially identical" and thus PROVE that the law has been broken. The Commission contends that legislation is required to establish a more practical basis for determining what is equal work.

The Commission recommends that the federal government's Female Employees Equal Pay Act of 1956 be made to cover all employees of the Government of Canada (which was not the case at the time of the sittings of the Commission, 1958).

The Commission points out that the provinces and territories have anti-discrimination laws in the matter of pay but further point out the real difficulty is to ensure that the principle is observed in practice.

BRIEF

The term "work of equal value" suggested rather than "same work" because many kinds of work, although of "equal value" and similar are not "the same work", such as orderlies and nurse aids.

In both government and private enterprise the system of "rug-ranking" is frequent for both men and women; where the earnings of an underling in a particular division or department is based on the level of the superior in the hierarchy, rather than on the duties performed. This is particularly so in the case of stenographers and secretaries.

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COMPLAINTS

RCSM 18

The Commission recommends that an aggrieved employee's complaint should be lodged by an agency acting for government and the violation investigated by the agency administering the equal pay legislation.

BRIEF

These sections of the Ordinance 7, 8, 9, 10, 11, 12 would seem to meet the requirements of RCSM and the intent of the Ordinance, as set out in the preamble that every man and woman is free and equal in dignity and rights, particularly so if the amendments and/or extensions advocated herein are enacted.

EXCEPTIONS

ORDINANCE

13. (3) Nothing in this Ordinance deprives any employer of the right to employ persons of any particular race, creed, colour, nationality, ancestry or place of origin in preference to other persons where such preference is based upon a bona fide occupational qualification necessary to the normal operation of the employer's business or enterprise.

BRIEF

In addition to the insertion of the words "sex and marital status" between the words "colour" and "nationality" as advocated in the opening section of this brief; it is further advocated that this clause be amended as follows"..... such preference is based upon a bona fide occupational qualification, with personal aptitude and physical stamina rather than sex or marital status being a prerequisite (apart from the technical) necessary to the normal operation of the employer's business or enterprise".

Even among men there is adaptation to profession; their varying physical and mental capacities limit their possibilities of choice; what is asked is that, in any case, no line of sex or caste be drawn.

LABOUR STANDARDS ORDINANCE

INTERPRETATION

ORDINANCE

- 2. (c) "general holiday" means New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day and includes any day substituted for any such holiday pursuant to section 26;"

BRIEF

It is advocated that the day "Civic Day", be inserted between "Dominion Day" and "Labour Day".

In the Territories the custom has been to observe Labour Day on the first Monday in August. However in most provinces Labour Day is observed on the first Monday in September and Civic Holiday is observed on the first Monday in August. Towards national conformity, the first Monday in August should also be observed in the Territories as Civic Holiday, with Labour Day being the first Monday in September.

HOURS OF WORK

Part-Time Work

ORDINANCE

There is no provision in this Ordinance with respect to part-time work.

RCSW paragraph 356

Recommends study of the feasibility of making greater use of part-time employment, giving special consideration to part-time employment for parents of young children. The number of part-time workers in service industries and in public employment could increase, more hospital workers and teachers could be on a part-time basis.

BRIEF

A section of the Ordinance should be devoted to work of this nature with clauses to ensure that part-time workers be guaranteed equal benefits on a pro-rated basis, equal protection and pro-rated wages, with full-time employees. Many part-time workers have been denied the right to collective bargaining.

INSPECTIONS

ORDINANCE

34. (1) The Commissioner may designate any person as an inspector under the Ordinance.

RCSM #26

The Commission urges the government to take steps to increase the number of women on boards, commissions, corporations, councils, advisory committees and task forces.

BRIEF

This Brief advocates that the Labour Relations Board of Inquiry, 1972 recommend to the Commissioner of the IRT that when designating persons as inspectors under this Ordinance that some of those persons be women.

ORDINANCE

34. (2) An inspector may, for the purposes of enforcing this Ordinance or the regulations,

- (a) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours of work or conditions of employment affecting any employee;

RCSM #2

The Commission contends that provincial and territorial legislation is required to establish a more practical basis for determining what is equal work. The aggrieved employee's complaint should be lodged by an agency acting for government, and the violation investigated by the agency administering the equal pay legislation.

RCSM #23

The Commission recommends all provinces and territories should specify in legislation dealing with equality of opportunity that discrimination on the basis of sex and marital status is prohibited.

RCSM #24

The Commission recommends that the federal Fair Wages and Hours of Work Regulations and the Fair Employment Practices Acts be amended to prohibit discrimination on the grounds of sex and marital status. (Although this Recommendation deals specifically with federal legislation, similar legislation should be enacted territorially.)

BRIEF

This Brief advocates extension of the above quoted clause of this Ordinance by the addition of the words: ".....affecting any employee and evaluate and define occupational qualifications necessary to the normal operation of the employer's business or enterprise, particularly in areas where jobs are stereotyped by sex, when qualification is a matter (apart from technical training) of individual aptitude and physical stamina."

Even where there is legislation prohibiting different rates of pay on the basis of sex, sex discrimination does exist for the legislation is ineffective because of the difficulty of proving that some jobs are equal. Payment for work should be on the basis of what a job is worth to perform - equal pay for equal worth - rather than on an attempt to prove that one job is equal to another. The best way to eliminate wage discrimination is to remove sex differentiation and to develop an equitable system of job evaluation that will measure a job, not by the sex of the person performing the job, but by the worth of the job itself.

#### ORDINANCE

34. (2)  
 (b) take extracts from or make copies of any entry in the books, payrolls and other records mentioned in paragraph (a);

#### BRIEF

If under the section "Hours of Work" of this Ordinance provision is made, as advocated in this Brief (page 7) respecting part-time work, this section of the Ordinance (34.(2)(a) could ensure that part-time workers receive equal benefits on a pro-rated basis, equal protection and pro-rated remuneration with full-time employees.

#### ADVISORY BOARD

#### ORDINANCE

45. (1) The Commissioner may establish an Advisory Board to advise him with respect to any matter that he wishes to refer to it.  
 (2) The members of the Advisory Board established under subsection (1) shall be appointed by the Commissioner and shall consist of  
 (a) a Chairman;  
 (b) one member representative of the interests of employees; and  
 (c) one member representative of the interest of employers.

#### RECOMMENDATION

The Commission urges the government to take steps to increase the number of women on boards, commissions, corporations, councils, advisory committees and task forces.

#### BRIEF

To comply with this Recommendation, it is advocated that women be included as members of the Labour Relations Board of Inquiry, if necessary by increasing the total number of members to five persons.

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WESTERN CONFERENCE / OPPORTUNITIES FOR WOMEN

The topic of the Vancouver Conference was the same as that for the Yellowknife Status of Women Seminar; Opportunities for Women. Many of the same issues were discussed with more and better ideas and suggestions resulting. As we have not yet received the final report from Vancouver, please find enclosed a copy of the Sunday morning summary. This is very sketchy and is intended to give you a general overview of the matters discussed. A complete report will be forwarded to you upon our receipt of it.

The Northwest Territories delegation in it's workshop session put forward the following recommendations dealing with employment in the Northwest Territories.

1. It is recommended that Northerners, both men and women must be given job priority.
2. It is recommended that job training of young people should be in relation to the jobs available in the Northwest Territories.
3. It is recommended that discrimination by employers in the area of wages and employment benefits against people hired locally in favour of those hired outside of the Northwest Territories should be discontinued.
4. It is recommended that Arts and Crafts Instructors who are not familiar with the designs and traditions of native arts and crafts must not impose their ideas on native artists and craftsmen and women.
5. An investigation by an independent body should be made into the discrepancy between the initial amount paid to the native artists/craftsman/women and the final retail price.

- Mobile and resident counsellors to give information on jobs, education, family problems, the law.

- Written legal information

- Better job training and adult education with emphasis on the practical - like tanning, skidoo repairs, etc.

- Equal pay for work of equal value.

- Equal insurance and pension benefits.

- Cost of living allowances for northern residents. Job priorities to Northerners.

- Help in overcoming communication problems - language, professional jargon and physical distances. Translation of conference reports into native languages.

- Investigation into sale and control of crafts. Need for business training so women can do it themselves.



provisions of Section 45 that a Board be established and provisions be made in the legislation for the authority to have additional members appointed so that the total Board would not exceed five members.

FURTHER, the Board to have a great deal more authority and power than that of advising the Commissioner. This would include making recommendations to the Commissioner with regards to general changes of hours of work and minimum wages, vacation pay, etc., and would have the administrative authority to deal with individual applications regarding the question of changes in shift hours of work, permission to work over-time, etc., and enforcement of the legislation.

This recommendation of the Board concerning the establishment of a Tripartite Board herein before mentioned, is dependent on whether or not the Commissioner will entertain recommendations of the Board of Inquiry pertaining to the question of advisability of establishing Labour Relations legislation for the Territories.

#### Fair Practice Ordinance

A number of the briefs discussed with the Board pertain to the Fair Practices Ordinance and particularly to two points.

1. The exclusion of an employer who employs

less than five employees.

2. That the Ordinance contain no protection to females except the protection for equal pay for equal work.

Cases were cited that in seeking accommodation females were being discriminated against by change in their status and mention was made to the Ontario, Alberta and other provincial legislation which provide that there be no discrimination against a person because of their marital status or sex.

The Board would RECOMMEND that where it is appropriate that the words "marital status and sex" be included in the provisions which provide for no discrimination, in employment, in membership of trade unions and in accommodation.

## PART TWO LABOUR RELATIONS

In the main, the question of adopting a Labour Relations Ordinance received the most attention from labour and management. They expressed conflicting views not only on the adoption of such ordinance, but also on the provisions of any Ordinance that may be adopted.

enterprise, associate, combination or joint venture, the collective agreement shall be applicable to all such work performed under the name of the employer or the name of any other person, corporation, company, partnership, enterprise, associate, combination or joint venture.

2. Where a question arises under section 1 as to whether or not the collective agreement is applicable the Tripartite Board may decide the question and its decision is final and conclusive.

#### Administration

Reference made in Part One of this report of the establishment of a Tripartite Board with the powers to make orders and regulations and to administer the Labour Standards Ordinance, we recommend that the same Board be authorized to be a Labour Relations Board with quasi-judicial authority under a Labour Relations Ordinance and empowered with the responsibility of administering the said Ordinance.

In fact, to coordinate the administration of all legislation respecting employers and employees, one Board should be created responsible for the administration and other duties assigned to it respecting labour standards, fair practices, labour relations and any other legislation respecting employers and employees.