

EQUAL PAY COMMISSIONER
to the
LEGISLATIVE ASSEMBLY
OF THE NORTHWEST TERRITORIES

ANNUAL REPORT

June 29, 2005

Prepared by
Nitya Iyer, Commissioner

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The Honourable Paul Delorey
Speaker
Legislative Assembly of the Northwest Territories
PO Box 1320
Yellowknife NT X1A 2L9

Dear Speaker Delorey:

I am honoured to present to you, for transmittal to all Members of the Legislative Assembly, my first Annual Report as Equal Pay Commissioner. The report addresses my activities since my appointment on July 1, 2004.

Since this is not only my first annual report, but also the first year that the legislation creating my office has been in effect, the first section of my report will briefly summarize the right to equal pay created by the legislation and the role of the Equal Pay Commissioner under it. In the second section of the report, I will report on my activities as Equal Pay Commissioner in the past year.

The Right to Equal Pay

On July 1, 2004, the NWT formally assumed jurisdiction over the field of human rights in the Northwest Territories, with the coming into force of the NWT *Human Rights Act* and the “equal pay” amendment to the *Public Service Act*. Together, these laws provide substantially the same or improved protection for human rights in the NWT as residents had previously enjoyed under the federal human rights law.

The important purposes for which the right to equal pay was created in the *Public Service Act* are found in the Preamble to the amending legislation, and I take them as the principles that should guide me in the fulfillment of my role:

Whereas the principle of equal pay for work of equal value has been internationally recognized as a human right;

Whereas the Government of the Northwest Territories is committed to ensuring that male and female persons in the public service continue to be protected against systemic wage discrimination through the recognition and exercise of the right to equal pay for work of equal value; and

Whereas the provision of a right to equal pay for work of equal value in the public service furthers the leadership role of the Government of the Northwest Territories on employment equality issues among employers in the Northwest Territories;

The right to equal pay for work of equal value is contained in s. 40 of the *Public Service Act* and it applies to public service employees. It requires that there be no differences in the rate of pay between male and female employees who perform work of equal value in the same establishment. The Act says that the GNWT, the NWT Power Corporation and teachers who are covered by the *Public Service Act* are separate establishments. "Pay" means not only salary or wages, but is the total compensation for the job, including all benefits, bonuses, housing, etc.

The Equal Pay Commissioner is created by the Act as the person responsible for receiving complaints from employees who believe that their right to equal pay for work of equal value has been violated. The Commissioner is required to investigate complaints received and to assist the parties to resolve them. If the complaint is not resolved at an early stage, the Equal Pay Commissioner must prepare an investigation report that includes recommendations to the parties as to how to resolve the complaint. If the parties are not able to agree on a resolution, the legislation provides for the dispute to go before an arbitrator.

In addition to his or her complaints-related responsibilities, the Equal Pay Commissioner is also required to promote awareness and understanding of the right to equal pay for work of equal value.

Perhaps the most important task in this area of responsibility is being able to clearly explain what the right to equal pay for work of equal value is. The concept is not easy to understand, and it is complicated by the fact that there are a number of other “equal pay” rights with which people are more familiar. These are:

- **Equal pay settlement:** a number of GNWT employees were entitled to be paid a certain amount of money arising from the settlement of the equal pay complaint made a number of years ago against the GNWT by the Union of Northern Workers under the *Canadian Human Rights Act*. That complaint was settled by the parties and a sum of money was set aside to pay GNWT employees whose work had been underpaid in the past. The deadline for paying out this money to employees who had not already received their cheques was December 31, 2004. Although this deadline is now past, many GNWT employees think the right to equal pay means the right to receive money under the settlement of this complaint.
- **Equal value jobs:** under the GNWT’s job evaluation plan, jobs are evaluated and assigned a number or point value that represents the “value” of the job. Jobs of the same value will fall within the same pay grade. Sometimes an employee believes that their job has been undervalued – that is, given too low a number – and that the true point value of the job should be higher, with the result that it would move up on the pay scale. These kinds of complaints should be made as job evaluation appeals, under the GNWT’s job evaluation plan, because they are complaints about how a job has been evaluated, not about whether jobs of the same value are paid differently.

- **Equal pay for the same or substantially similar work:** this right is found in the *Human Rights Act*. It makes it discriminatory to pay people who are performing very similar work for the same employer differently because of any of the 20 prohibited grounds of discrimination. For example, an employer cannot pay a male “chef” more than a female “cook”, if the work these employees do is essentially the same. Similarly, an employer cannot pay a married employee more than an unmarried employee if there is no significant difference in their job duties. Complaints of this kind can be made against any employer, not just public service employers, and they must be made to the Human Rights Commission.

The right to equal pay for work of equal value under the *Public Service Act* is different from all of these other rights. It applies only to employees of the GNWT, of the Power Corporation, and teachers. It compares only men and women. And, it compares dissimilar work that is nevertheless equal in value, measured by the skill, effort and responsibility required to do the work, and the working conditions under which it is performed.

Activities

My activities over the past year can be grouped in relation to my two responsibilities under the Act: complaints and education about the right to equal pay for work of equal value. In addition, I spent some time setting up my office on the first floor of the Laing Building, which I share with the Human Rights Commission, the Conflict of Interest Commissioner, the Official Languages Commissioner, and the Information and Privacy Commissioner.

With respect to complaints, I received a number of inquiries over the past year, most by e-mail and telephone. The bulk of these contacts related to the other equal pay rights described above. Initially, the vast majority of inquiries were really about the

equal pay settlement. After the deadline for making such claims passed in December 2004, these calls ended. There were also a small number of inquiries that raised job evaluation concerns or possible complaints under the *Human Rights Act*. To date, I have received one complaint that may be a complaint under the equal pay provisions of the Act.

With respect to educational activities, in October I visited Yellowknife to set up my office and to meet with the various groups affected by the new legislation. I met with representatives from the GNWT, including Justice, FMBS and Human Resources, the NWT Teachers Association and the Director of Human Rights. I also had an opportunity to visit the Legislative Assembly. In December 2004, I met with GNWT and federal devolution negotiators, at the request of GNWT, to make a presentation on the right to equal pay for work of equal value as it may affect the transfer of federal employees to the GNWT. In March 2005, I gave a lecture and participated in a panel on pay equity at the University of New Brunswick.

Currently, I am in the process of developing a website and preparing a brochure, in conjunction with the Director of Human Rights, to explain the different rights to equal pay. I will be arranging introductory meetings with the Union of Northern Workers and with the NWT Power Corporation in the fall, and will continue to promote awareness of the right to equal pay for work of equal value.

Respectfully submitted this 29th day of June, 2005,

Nitya Iyer, Commissioner