

# INTRODUCTION TO THE GUIDELINES FOR THE *EMPLOYMENT EQUITY ACT* 1995

Employers in federal jurisdiction have been implementing employment equity for over a decade under the *Employment Equity Act* of 1986. The new *Employment Equity Act* of 1995, which came into force on October 24, 1996, builds on the framework provided by the earlier legislation, giving further clarity to the same basic core obligations.

The Guidelines for the new federal *Employment Equity Act* are intended to assist in the transition to the new legislation. They are for everyone who will participate in the planning and implementation of employment equity in the workplace: employers and employee representatives, both unionized and non-unionized, as well as the four designated group members - women, Aboriginal peoples, persons with disabilities and members of visible minorities.

This material will also be of interest to others involved in the employment equity process or those seeking more information about employment equity. These include employer, labour community and designated group organizations as well as employment equity practitioners and human resource consultants.

The Guidelines were developed in consultation with the Canadian Human Rights Commission, as well as representatives from major employer, labour and designated group organizations as well as other employment equity and human resources professionals.

The Guidelines provide assistance in implementing employment equity in accordance with the requirements of the

new *Employment Equity Act* and *Regulations*. They will be of use to federal contractors subject to the Federal Contractors Program. They will also assist other interested parties to learn more about employment equity and how they might participate in the process. The Guidelines provide important information on the principles and implementation of employment equity. They do not, however, take the place of, or override, the *Act* and *Regulations*. When in doubt, users are urged to consult the *Act* and *Regulations*.

## Overview of Guidelines

This Guideline manual includes two general information documents, eleven Guidelines and a Reference Document section.

Each Guideline contains two, and in some cases three sections:

**Part A: Legal Requirements** provides a summary of the provisions of the *Act* and *Regulations*.

**Part B: Practical Application:**

describes the purpose of each Guideline and how it relates to the employment equity process;

suggests issues for employers to consider as they apply the legislative requirements to their specific organization;

highlights key decision points in the employment equity process; and provides options for ways in which employers can meet their obligations under the *Act*.

### **Part C: Information Documents**

Where appropriate, information documents are provided at the end of each Guideline. These documents may include several kinds of information:

examples, illustrations and models;

sample forms to copy or adapt;

checklists;

charts to provide further clarity; and

other reference material.

### **Adapting the Guidelines**

The Guidelines recognize that employers differ in size, industrial sector and workplace culture. Organizations will find it most effective to implement employment equity in a way that is specific to their situation.

Most employers subject to the *Act* have already begun to implement employment equity programs and to adapt human resources practices to support employment equity. Since the new legislation contains the same core requirements as the earlier *Act*, these employers can build on employment equity initiatives already in place.

The Guidelines provide information and guidance, but are not exhaustive. It is impossible to anticipate every situation in a workplace. The examples given in the Guidelines are suggestions only. Employers may consider other options as long as they are consistent with the *Act* and *Regulations*.

described in the Guidelines fulfils the basic requirements of the *Act* and *Regulations*. Employers are encouraged to use this process as their starting point and build upon it, keeping in mind that the Canadian Human Rights Commission was consulted during the development of these Guidelines.

For assistance in implementing the requirements of the new *Act*, employers are encouraged to call upon HRDC's Workplace Equity Officers, in regional offices across Canada. A list of addresses is provided in the Reference Documents section of these Guidelines.

### **Alternate Formats**

Guidelines are available in alternate formats, such as audio cassette, diskette and large print, on request.

### **Organization of Material**

#### **Sections**

The material is divided into sections, each introduced by a tabbed divider. A complete set of dividers, as well as a title cover page and spine label for a three-ring binder are provided by HRDC.

This loose-leaf format was chosen to make it easier to photocopy the material. The material may be reproduced unaltered and distributed for non-commercial and not-for-profit purposes. Employers may want to copy the material for training sessions, employee orientation packages or newsletters. HRDC must be credited as the publishing source.

The employment equity process

## Content of Guidelines

### References

When explaining the legislative requirements, the Guidelines refer to specific sections of the *Act* and *Regulations*. These references can be found in square brackets [ ].

The *Employment Equity Act* is referred to as *Act* while the *Regulations* are abbreviated as *Reg.*

For example: [*Act*, s. 5(b)] refers to section 5(b) of the *Employment Equity Act*; [*Reg.*, s. 6(1)(b)] refers to section 6(1)(b) of the *Regulations*.

As much as possible, the Guidelines follow the sequence of major activities in the employment equity process. Each Guideline builds on information provided in previous ones. Where appropriate, there are references to other Guidelines, Information Documents and support materials that might be useful.

### Document 1: Overview of Employment Equity

This Document provides background information on the *Employment Equity Act*, and describes the main steps in implementing employment equity. It explains which employers are covered by the *Act*.

### Document 2: Compliance

This Document provides general information on the compliance provisions in the *Act*. The Canadian Human Rights Commission is responsible for the enforcement of all employer obligation under the *Act*, with the exception of the annual reporting requirements which, for private sector employers, fall under the responsibility of the Minister of Labour.

### Guideline 1: Getting Started

This document emphasizes the importance of planning, and provides suggestions for maximizing success in employment equity through key steps taken early in the process, such as ensuring senior management commitment. It provides information on the initial steps that should be taken when developing an employment equity program.

### Guideline 2: Communications

This Guideline highlights the importance of communication initiatives at all stages of the employment equity process. It also outlines employers' legislative requirements to inform employees and employee representatives about the principles of employment equity and the key steps in the process. It discusses the benefits to ensuring employees understand the process and provides suggestions on how to communicate effectively with employees.

### Guideline 3: Consultation and Collaboration

This Guideline provides an overview of employers' responsibilities to consult and collaborate with employee representatives in the preparation, implementation and revision of the employment equity plan. Employee representatives includes both unionized and non-unionized employees.

It suggests steps employers can take to establish a process for involving employee representatives, in employment equity - for example, setting up working groups, forums or committees. Employers are encouraged to build on any effective processes which may already be in place.

Part C of the Guideline, Information

Documents, provides examples of different types of structures which could be established to meet the legislative requirements.

#### **Guideline 4: Collection of Workforce Information**

This Guideline discusses legislative requirements for conducting a workforce survey as well as their purpose, and outlines the process for conducting the survey. It suggests methods employers should consider when designing, distributing and collecting their survey questionnaire. It provides further information about the definitions of the designated groups and who they include. As well, it discusses the confidentiality requirements of the legislation.

Part C of the Guideline, Information Documents, contains many helpful work tools. For example, it presents criteria on how to determine if an employer-employee relationship exists; provides definitions of different categories of employees (e.g. full-time, part-time, temporary, contract employee); includes a list of commonly-asked questions regarding the inclusion of additional questions on the workforce survey questionnaire; presents an example of a form for monitoring the return of the workforce survey questionnaires; provides definitions of the four designated groups and other helpful information.

#### **Guideline 5: Workforce Analysis**

This Guideline explains the six steps involved in conducting a workforce analysis to determine under-representation. It takes the employer step-by-step through the process of analyzing the workforce, explaining technical terms and concepts.

Examples, including sample calculations, are given in Part C, Information Documents. This Guideline emphasizes the importance of designing an analysis framework suitable to each individual employer, and sets out the considerations involved in designing such a framework. It provides useful guidance about determining when under-representation exists. This guideline describes the concepts that are used in the employment equity data provided to employers by HRDC, and explains the source of the information.

#### **Guideline 6: Employment Systems Review**

This Guideline explains how an employer's human resources policies and practices may constitute barriers that limit the full participation of designated group members.

It suggests processes that employers may use to help them review the way employees are recruited, selected, trained, promoted, and retained in the workplace. Methods of identifying any existing barriers are provided.

The Guidelines also provides examples of human resources policies and practices that are inclusive of all groups as well as examples of how the special needs of designated group members can be accommodated in the workplace.

## **Guideline 7: Employment Equity Plan**

This Guideline elaborates on the legal requirements related to the employment equity plan.

It discusses the different components of an employment equity plan: measures to eliminate barriers, positive policies and practices, accommodation measures, short and long term goals, and timetables. It elaborates on the factors to be considered in setting numerical goals and discusses the concept of “reasonableness”. It gives important guidance on the sufficiency of numerical goals contained in the plans.

## **Guideline 8: Aboriginal Peoples**

This Guideline discusses the provision in the legislation relating to employers engaged primarily in promoting or serving the interests of Aboriginal peoples. It also provides background information on the situation of Aboriginal peoples.

## **Guideline 9: Monitoring, Review and Revision**

This Guideline discusses the legislative requirement of employers to monitor, review and revise the employment equity plan periodically. It provides information and suggests methods organizations can use to assess their progress and results.

This Guideline discusses the requirements in the Regulations related to establishing and maintaining records, including the medium in which information can be stored, and the different periods of time for which various kinds of records must be retained.

## **Guideline 11: Employment Equity Report**

This Guideline provides assistance to employers in completing their annual employer employment equity reports in accordance with the legal requirements, including the requirements relating to narrative summaries. It should be noted that the reporting requirements in the new Regulations are largely unchanged from the previous regulations, with the exception of the 14 occupational groups, using the National Occupational Classification.

## **Reference Documents**

This section provides a number of important reference documents including a list of Regional Workplace Equity Offices with addresses and telephone numbers.