**Targeted consultations following the release of the *Employment Equity Act* Review Task Force’s Report**

**Consultation Paper**

**April 2024**

**Modernizing the Federal *Employment Equity Act***

**Labour Program**

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# Introduction

The [*Employment Equity Act* Review Task Force](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/task-force.html) carried out the most extensive review of the *Employment Equity Act* (Act)[[1]](#footnote-2) since its introduction in 1986. The Task Force engaged with hundreds of partners and stakeholders, including community organizations, public, private, and non-profit sectors, as well as advocacy groups and networks.

On December 11, 2023, the Minister of Labour and Seniors, accompanied by the former Chair of the Task Force, announced the release of the Task Force’s final report: [*A Transformative Framework to Achieve and Sustain Employment Equity*](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force.html), including the report’s [executive summary](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force-summary.html). The report provides wide-ranging recommendations on how to modernize and strengthen employment equity in the federal jurisdiction.

**We want to hear from you!**

The Task Force was a first step to inform the modernization of the Act. The Government of Canada is now engaging with impacted communities, unions, organizations, and employers to understand how best to effectively implement possible changes to the Act.

The following consultation paper seeks input on four areas:

1. Updating the purpose, designated groups and collection of survey data;
2. Supporting employees and employers;
3. Strengthening accountability, compliance, and enforcement; and
4. Improving public reporting.

The consultation paper includes background information, as well as Task Force findings and recommendations, to provide context on the topics and questions. While we acknowledge the paper is long, we want to ensure that consultations are meaningful and comprehensive. We encourage you to respond to any questions that are of interest and/or relevance.

This consultation paper is available, upon request, in alternate formats (e.g., large print, MP3, braille, e-text, DAISY). Requests can be made via phone (1-800-641-4049), teletypewriter
(1-800-926-9105), and/or email (esdc.lee-eea.esdc@labour-travail.gc.ca).

The Government of Canada will hold virtual roundtables sessions in the spring of 2024, in which partners and stakeholders will be invited to participate. Meanwhile, you can share your feedback on all or on some of the questions in this paper, through written or audio submissions in the official language of your choice. Please send your input along with a signed privacy notice statement (see Annex A) **by July 31, 2024,**

* by **email** at: edsc.lee-eea.esdc@labour-travail.gc.ca; or
* by **mail** at: Employment and Social Development Canada

Labour Program

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# Updating the purpose, designated groups and collection of survey data

## Purpose of the Act

The current purpose of the Act is: “to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.”

The Task Force was encouraged to keep the focus on “why” employment equity matters, and notes that it is to achieve, support and sustain equitable inclusion in Canadian workplaces. It points out that the purpose of employment equity is more than a check-box exercise to reach certain representation rates, it is also about making sure that members of designated groups experience and maintain good, stable and well-paid jobs. Accordingly, the Task Force notes that the purpose of the Act should be updated to build in why employment equity matters, reinforce the importance of the three pillars (barrier removal, meaningful consultations and regulatory oversight), and situate the Act within Canada’s human rights framework.

### The Task Force recommends:

* updating the purpose of the Act, as follows:
* “The purpose of the Act is to achieve and sustain substantive equality in the workplace through effective employer implementation, meaningful consultations, and regulatory oversight of employment equity and, in the fulfilment of that goal, to:
	+ correct the conditions of disadvantage in employment experienced by employment equity group members;
	+ give effect to the principle that employment equity means more than treating persons in the same way but also requires barrier removal including special measures;
	+ support the implementation of Canada’s international human rights commitments to substantive equality and meaningful consultations in the world of work, including in the United Nations Declaration on the Rights of Indigenous Peoples; and
	+ foster equitable inclusion and sustainable economic growth, full and productive employment and decent work for all;”[[2]](#footnote-3)
* approaching employment equity implementation, meaningful consultations and regulatory oversight in a disaggregated and intersectional manner; and
* clarifying that the purpose of data collection is to support achieving and sustaining employment equity in the workplace, by building trust in support of implementation, meaningful consultations and regulatory oversight.

## Definitions and terminology

The Act currently identifies four groups that experience disadvantages in employment, and provides a definition for three of them:

* **Aboriginal peoples** meanspersons who are Indians, Inuit or Métis.

**Members of visible minorities** means persons, other than Aboriginal peoples, who are non‑Caucasian in race or non-white in colour.

* **Persons with disabilities** means persons who have a long-term or recurring physical, mental, sensory, psychiatric or learning impairment and who
1. consider themselves to be disadvantaged in employment by reason of that impairment, or
2. believe that an employer or a potential employer is likely to consider them to be disadvantaged in employment by reason of that impairment,

and includes persons whose functional limitations owing to their impairment have been accommodated in their current job or workplace.

* **Women** (not defined in the Act).

These definitions are currently situated in the Act, but consideration is being given to moving them into the [*Employment Equity Regulations*](https://laws-lois.justice.gc.ca/PDF/SOR-96-470.pdf)(Regulations). In this case, all designated groups could be referred to in the Act but defined in the Regulations. Both options have potential benefits.

By keeping the definitions in the Act, there may be a perceived stability and protection against political changes based on the fact that legislation or changes to legislation must be approved by Parliament. This perceived stability and protection may be seen as valuable for members of some of the communities covered by the designated groups. Unlike the Act, the Regulations are not made by Parliament but, rather, by persons or bodies (i.e., the Governor in Council or a Minister) that Parliament has given the authority, via an Act, to make regulations. As such, placing the definitions in the Regulations may offer more flexibility for making future updates and keeping pace with the evolution of language related to these same communities.

The Task Force highlights that many partners and stakeholders find that the current designated groups are not representative of diverse communities in the labour market who face significant barriers and that the language referring to these groups is outdated. The Task Force notes that early employment equity implementation often focused on women’s inclusion, without paying attention to the diversity within the category of women. It also observes that while gains have been made, these have been shown to be fragile during the pandemic, and substantive equality has yet to be achieved.

### The Task Force recommends:

* creating two new designated groups for Black workers[[3]](#footnote-4) and 2SLGBTQI+[[4]](#footnote-5) workers;
* replacing the term “Aboriginal peoples” with “Indigenous workers” to use a distinctions-based approach (First Nations, Inuit, Métis);
* replacing the term “members of visible minorities” with “racialized workers”;
* using the definition of “disability” from the *Accessible Canada Act*;
	+ The *Accessible Canada Act* defines **disability** as: “any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment — or a functional limitation — whether permanent, temporary, or episodic in nature, or evident or not, that, in interaction with a barrier, hinders that person’s full and equal participation in society.”
	+ This definition of disability needs to be read in conjunction with the definition of **barrier**, which the *Accessible Canada* Act defines as “anything — including anything physical, architectural, technological or attitudinal, anything that is based on information or communications or anything that is the result of a policy or a practice — that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation.”
* keeping women as an employment equity group.

While the Task Force considered adding other designated groups, such as religious minorities, it did not have sufficient evidence at this time to support adding new groups, other than Black workers and 2SLGBTQI+ workers. The Task Force notes the inclusion of other groups should be further studied and recommends mandating the newly re-established Law Commission of Canada with the conduct of an independent comprehensive study of the inclusion of religious minorities under the Act.

In response to the Task Force recommendations, the Government of Canada announced the following initial commitments:

* creating two new designated groups under the Act: Black people and 2SLGBTQI+ people;
* replacing the term “Aboriginal peoples” with “Indigenous Peoples,” and updating the definition to include First Nations, Métis, and Inuit to ensure it is consistent with the [*United Nations Declaration on the Rights of Indigenous Peoples Act*](https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples);
* replacing the term “members of visible minorities” with “racialized people” and updating the corresponding definition; and
* aligning the definition of “persons with disabilities” with the *Accessible Canada Act* to make it more inclusive.

## Collection of survey data

The Act currently requires employers, for the purpose of implementing employment equity, to collect and analyze workforce information (including information collected via the workforce survey questionnaire, also known as the self-identification survey) to determine the degree of underrepresentation for designated groups. However, the workforce survey questionnaire only collects data on Aboriginal people, persons with disabilities and members of visible minorities. Women are not included in self-identification practices,[[5]](#footnote-6) which means that employers may instead use other sources, such as administrative data (e.g., through a pay system), to identify women to meet data collection and workforce analysis requirements.

According to the Act and the Regulations, information collected, including self-identification information, is confidential and is only to be used for the purpose of implementing the employer’s obligations under the Act.

The Task Force report outlines challenges regarding data collection and transparency, especially pertaining to employee trust and the risks associated with the disclosure of self-identification information, and how individual employers could use the data. The report notes the importance of collecting distinctions-based, intersectional and disaggregated data to better address barriers, while upholding privacy protections. As such, the Task Force urges a human rights-based, purpose-driven, trust-building approach to data collection, with a focus on achieving and sustaining substantive equality.

A distinctions-based, intersectional and disaggregated approach means collecting data on:

* people who are First Nations, Inuit and/or Métis (**distinctions-based**);[[6]](#footnote-7)
* specific sub-groups within designated groups, such as people with physical and/or cognitive disabilities among persons with disabilities, or people who are Chinese and/or Arab among racialized employees (**disaggregated**); and,
* people who belong to more than one designated group and have overlapping identities (**intersectional approach**).

### The Task Force recommends:

* requiring employers to ask all employees to complete the self-identification survey on initial hiring, on an annual basis, and when leaving the organization;[[7]](#footnote-8)
* mandating the completion of the self-identification survey but maintaining the disclosure of self-identification information voluntary (e.g., the employee would be given the option of answering “prefer not to state” for each question to ensure the voluntary nature of self-identification);
* making the self-identification survey available in accessible formats,
* including all the employment equity groups and disaggregated sub-groups in the self-identification survey; and
* clarifying that a worker may self-identify as being a member of as many of the employment equity groups and disaggregated sub-groups as apply.

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| Topics and questions for consultationPurpose of the Act:1. Would you have concerns with updating the purpose of the Act as the Task Force recommends? If so, how could we address them?
2. Should other elements be captured in an updated purpose? If so, what elements and why?

Designated groups and related definitions and terminology:Based on the Task Force’s recommendations and the Government of Canada’s initial commitments related to designated groups: 1. Would you have concerns with replacing the term “Aboriginal peoples” with “Indigenous Peoples”? If so, how could we address them? Would you have concerns with replacing the current definition with First Nations, Inuit and Métis? If so, how could we address them? How would you define this designated group?
2. Would you have concerns with replacing the term “members of visible minorities,” with “racialized people”? If so, how could we address them? How would you define this designated group?
3. Would you have concerns with using the definition of disability in the *Accessible Canada Act* to replace the definition for “persons with disabilities”? If so, how could we address them? How would you define this designated group?
4. Would you have concerns with maintaining women as a designated group? If so, how could we address them? How would you define this designated group?
5. Would you have concerns with adding a new designated group for “Black people” separate from the “racialized people” designated group? If so, how could we address them? How would you define this designated group?
6. Would you have concerns with adding a new designated group for “2SLGBTQI+ people”? If so, how could we address them? How would you define this designated group?
7. Would you have concerns with allowing for flexibility in the Act or Regulations to allow for evolving language to refer to 2SLGBTQI+ communities, as the Task Force recommends? If so, how could we address them?
8. Would you keep the definitions of the designated groups in the Act, where they currently are, or would you move them to the Regulations? Why?
9. Would you have concerns with mandating an independent body, such as the Law Commission of Canada, to conduct a comprehensive study on the inclusion of religious minorities as a new designated group under the Act, as the Task Force recommends? If so, how could we address them?
10. Are there other groups that should be further studied and considered for inclusion as designated groups under the Act? If so, what groups and why?

Collection of survey data:1. Would you have concerns with including women and the proposed two new designated groups (Black people and 2SLGBTQI+ people) in self-identification practices? If so, how could we address them?
2. Would you have concerns with allowing employees to self-identify with as many designated groups and sub-groups that apply? If so, how could we address them?
3. What specific supports or guidance would help facilitate the collection and analysis of survey data on members of more than one designated group and/or sub-groups?
4. Would you have concerns with employees completing self-identification surveys on initial hiring, on an annual basis, and when leaving an organization, as the Task Force recommends? If so, how could we address them?
5. Would you have concerns with employees being required to complete self-identification surveys, but continuing to allow self-identification questions to remain voluntary (i.e., including the option of “prefer not to state” or the option to submit the survey with the employee’s name only)? If so, how could we address them?
6. Would you have concerns with making self-identification surveys available in accessible formats (e.g., Braille, large print, audio, tactile graphics, electronic and/or hardcopy etc.), as the Task Force recommends? If so, how could we address them?
7. Would you have concerns with amending the Act to require employers to obtain employee consent to collect and use information gathered through self-identification surveys? If so, how could we address them? This approach is in alignment with broader Task Force report arguments to strengthen trust among employees while continuing to ensure privacy protection is maintained.
8. How would you address challenges associated with employee self-identification? Are there other legislative amendments and/or employer initiatives that could be implemented to improve employee trust and increase self-identification survey response rates?

**Note**: If you have other feedback related to the content covered in section 1 of this guide, please provide it in your submission. |

# Supporting employees and employers

## Meaningful consultations

Under the Act, employers are required to consult with employees’ representatives and bargaining agents, where applicable:

* to determine measures to minimize the adverse impacts of seniority rights with respect to a layoff or recall on employment opportunities of persons in designated groups; and
* to seek their views on:
	+ the assistance that representatives could provide to facilitate the implementation of employment equity in its workplace and the communication to employees of matters relating to employment equity; and,
	+ the preparation, implementation and revision of the employment equity plan.

Employers must communicate information to employees regarding the purpose, measures and progress made in implementing employment equity. Employers are not, however, required to consult with members of designated groups.

The Task Force report finds that consultations have not been effective in sustaining employment equity in the workplace, and consultations need to be meaningful with a focus on enabling change. It stresses the importance of sustaining a two-way dialogue between employers and employees and ongoing collaboration with members of designated groups to better understand their experiences in the workplace and to remove employment barriers they face.

### The Task Force recommends:

* introducing a legislative requirement for the creation of Joint Employment Equity Committees, that would be made up of representatives of management and employees within a workplace, with the objective of creating collaborative spaces to identify and remove employment barriers;
* providing training for Joint Employment Equity Committee members to support them in carrying out their responsibilities;
* striving to ensure that Joint Employment Equity Committees have representation for each of the employment equity groups, and employees from across the work life cycle;
* including comprehensive protection for Joint Employment Equity Committee members exercising their rights under the Act against reprisals by the employer or bargaining agent; and
* permitting Joint Employment Equity Committees to collect, analyze and review relevant data from the employer to assist the employer with implementing employment equity.

## Supports

Examples of supports the Labour Program currently offers are:

* Access to [Interpretations, Policies, and Guidelines](https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies.html#we), which provide support and guidance to employers on how to meet their obligations under the Act and Regulations.
* Access to the [Employment Equity Tasks](https://equity.esdc.gc.ca/sgiemt-weims/emp/WeimsEET.jsp#00/), a tool that helps:
	+ employers subject to the [Legislated Employment Equity Program](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/legislated.html) in building and maintaining a representative workforce and achieving employment equity; and
	+ employers subject to the Federal Contractors Program in fulfilling the terms of their [Agreement to Implement Employment Equity](https://catalogue.servicecanada.gc.ca/content/EForms/en/Detail.html?Form=LAB1168) and in preparing for compliance assessments (see Annex B for details);
* Access to the [Employer resources and tools on employment equity webpage](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/tools-resources.html); and
* Access to [Workplace Opportunities: Removing Barriers to Equity](https://www.canada.ca/en/employment-social-development/services/funding/workplace-equity.html) grants and contribution program (see Annex B for details).

The Task Force report notes that training and learning opportunities and supports need to be readily available, to assist with achieving and sustaining employment equity. The report also emphasizes the importance of honouring the [Truth and Reconciliation Commission Call to Action 57](https://www.csps-efpc.gc.ca/video/call-to-action57-eng.aspx) regarding professional development and training for public service employees on Indigenous related topics.[[8]](#footnote-9) Training should also focus on compliance and systemic discrimination, and it must be provided in an accessible manner. Other proposed supports include creating an advice line and repurposing the Workplace Opportunities: Removing Barriers to Equity program to support initiatives on barrier removal and equitable inclusion.

### The Task Force recommends:

* strengthening employment equity training, and that training should prioritize Truth and Reconciliation Commission calls to action on education and support learning about positive initiatives to promote Indigenous economic prosperity;
* ensuring leadership training in the federal public service includes training on systemic discrimination, including systemic racism, substantive equality, and equitable workplace inclusion;
* providing training supports that are geared to different organizational levels and to be attentive to the needs and expertise of management, supervisors, and Committee members;
* establishing an advice line, under the jurisdiction of the Employment Equity Commissioner, to provide effective and efficient support to workplaces; and
* repurposing the Workplace Opportunities: Removing Barriers to Equity program, which may include:
	+ changes to the project selection process, targeting support to specific sectors and better integration of researchers;
	+ building and sharing knowledge on emerging barriers and how to address them and ensuring designated groups are at the centre of the knowledge development and sharing; and
	+ public sharing of projects and learning outcomes.

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| Topics and questions for consultationMeaningful consultations:1. Would you have concerns with including a requirement to create Joint Employment Equity Committees under the Act? If so, how could we address them?
	1. What role/function could a Joint Employment Equity Committee serve to have a meaningful impact on employment equity in the workplace (e.g., identification of employment barriers and barrier removal, meaningful consultation body in the development of annual reports, employment systems reviews[[9]](#footnote-10) and employment equity plans[[10]](#footnote-11))?
	2. Would you have concerns with requiring a minimum number of five Joint Employment Equity Committee members, at least half of whom would not exercise managerial functions, as the Task Force recommends? If so, how could we address them?
	3. Would you have concerns with Joint Employment Equity Committees striving to represent each designated groups, where possible, as the Task Force recommends? If so, how could we address them?
	4. Would you have concerns with allowing Joint Employment Equity Committees to collect, analyze and review relevant data (qualitative and/or quantitative) to assist the employer with implementing employment equity?
	5. How frequently would you recommend that these Joint Employment Equity Committees meet?
	6. Would you implement a maximum term of office for Joint Employment Equity Committee members?
	7. Would you require mandatory training for Joint Employment Equity Committee members?
	8. Under what circumstances, if any, would you exempt an employer from having to create a Joint Employment Equity Committee?
	9. Would you create a Joint Employment Equity Committee structure and composition that differs between unionized and non-unionized workplaces? Should it differ according to the size of the employer (number of employees)?
2. What type of supports would be needed to set up a Joint Employment Equity Committee in your workplace?
3. If Joint Employment Equity Committees were not established, how could meaningful consultations between employers and designated groups occur under the Act? What approaches could be taken to ensure meaningful consultations include members of more than one designated group and members of sub-groups?
4. How could employers collect qualitative information on the lived employment experiences of members of designated groups and sub-groups?

Supports:1. What has been your experience in using [existing resources and tools](https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.canada.ca%2Fen%2Femployment-social-development%2Fcorporate%2Fportfolio%2Flabour%2Fprograms%2Femployment-equity%2Ftools-resources.html&data=05%7C01%7Cmelisa.altundag%40csps-efpc.gc.ca%7Ce575ba5c93ba4d62ff4008dbe77fc5c5%7Cedc33e68da6e4071b181ce7ba461fbae%7C0%7C0%7C638358308190744365%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=fj7NhxvQ4b0n7E%2BVSx%2FOo9kaJqhz%2BZUgQFVcez%2FEHCA%3D&reserved=0) on employment equity? What do you need as supports?
2. What educational materials have been the most effective? What specific types of educational materials would you like to see developed (i.e., specific topics that should be covered through employment equity training)?
3. Would you implement employment equity training for the following groups:
	1. managers and individuals with supervisory responsibilities?
	2. senior managers or executives?
	3. members of Joint Employment Equity Committees or other forms of consultation bodies?
	4. all employees?
	5. other groups not included in the above list? If yes, please list the group(s).
4. Would you have concerns with making training mandatory? If so, how could we address them?
5. How could the Labour Program improve the Workplace Opportunities: Removing Barriers to Equity program to better support employers in the federally regulated private sector (see Annex B for details on eligible organizations)?

**Note:** If you have other feedback related to the content covered in section 2 of this guide, please provide it in your submission. |

# Strengthening accountability, compliance and enforcement

## Barrier removal and reasonable progress

Under the Act, there are several obligations for employers related to the removal of employment barriers. While employment barriers are not defined in the Act, the Labour Program provides the following definition in the [Interpretations, Policies, and Guidelines](https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/workplace-equity-systems-review.html) (IPG-113):

“An employment barrier is an employment policy or practice that has a disproportionately negative impact on 1 or more members of designated groups (impact) and that:

* does not comply with human rights or employment legislation (legality)
* is not consistently applied across the organization (consistency)
* is not necessary for the safe and efficient operation of the organization (validity), or
* may be accommodated to reduce or eliminate the negative impact (accommodative nature).”[[11]](#footnote-12)

Interpretations, Policies and Guidelines are interpretation tools, and are not enforceable, meaning that employers are free to use or not this definition.

The Act also requires employers to do the following (see Annex D for details):

1. **Collect workforce information and conduct a workforce analysis:** Employers must collect data and analyze the information to assess whether underrepresentation exists (see Section 1, Collection of Survey Data for related details and questions).
2. **Employment systems review:** Where underrepresentation is identified, employers must review their employment systems, policies, and practices to identify barriers pertaining to underrepresentation. Employment systems reviews are only completed when underrepresentation is identified.
3. **Employment equity plan:** Employers must use the results of their workforce analysis and employment systems reviews, where applicable, to create an employment equity plan outlining the actions and measures they intend to take to eliminate employment barriers and correct underrepresentation. Employment equity plans are to be updated at least once every three years. Employers must make reasonable efforts to implement the employment equity plan and monitor and assess whether reasonable progress[[12]](#footnote-13) is being made.

The Task Force notes that the Act specifies the employers’ duty to implement employment equity but does not require them to make reasonable progress to achieve and sustain employment equity. Employers are also not required to demonstrate that they have implemented their employment equity plans or have made reasonable progress with their implementation. Further, the French version of the law does not use the words “if implemented” and instead states employers are required to ensure that reasonable progress is made in implementing its employment equity plan. The Act and the Regulations do not clarify what is meant by “reasonable progress.”

The Task Force report finds that the word “barrier” is used without consistency and the barrier removal process is not proactive or comprehensive enough. The report emphasizes the need to define “barrier” and provide guidelines to better support barrier dentification, removal, and prevention. It also points out that the Act does not clarify that reasonable progress needs to be made. As such, the Task Force emphasizes the need to focus on making reasonable progress toward the proactive implementation of employment equity.

### The Task Force recommends:

* defining “barrier” in the Act, as “practices that affect equity groups in a disproportionately negative way;”[[13]](#footnote-14)
* specifying that barrier removal applies across each stage of the employment lifecycle, and should be reported upon in employment systems reviews (see Annex D for details), and provide for the regulations or guidelines prepared under them to support comprehensive barrier removal and reporting;
* developing guidelines that include practices for identifying and eliminating barriers, and how to conduct employment systems reviews to identify and eliminate barriers; and
* clarifying the Act to ensure employers understand their obligations to make reasonable progress to achieve and sustain employment equity.

## The data benchmark

Currently, employers subject to the Act use one of two data benchmarks, with various filters:

1. *Labour Market Availability* is used by federally regulated private sector employers and employers subject to the Federal Contractors Program. This is also used by separate agencies (organizations listed under Schedule V of the Federal Administration Act). The Labour Program, in collaboration with Statistics Canada, calculates Labour Market Availability based on data from the Census and the Canadian Survey on Disability, and updates them every five years.
2. *Workforce Availability* is used by the core public administration. The Treasury Board Secretariat, in collaboration with the Labour Program and Statistics Canada, calculates Workforce Availability using the Census and the Canadian Survey on Disability and releases them to relevant employers. This is done by applying up to four additional filters (citizenship, education, geography and classification) to the Labour Market data. The Census and LMA data are only updated every 5 years while the classification data is updated annually.

The Task Force report notes that both public and private sector employers should establish benchmarks that use a consistent methodology, so that attainment rates are more comparable. The Task Force suggests a new default benchmark for all covered employers that is broader than Labour Market Availability or Workforce Availability, as the report finds the current benchmarks may embed systemic discrimination against equity groups by reinforcing the current distribution (e.g., having certain equity groups concentrated in certain sectors and occupations) and do not go far enough to correct underrepresentation.

### The Task Force recommends:

* the federal public service cease producing and relying on Workforce Availability to meet responsibilities under the Act’s framework;
* using the “Canadian workforce”[[14]](#footnote-15) under paragraph 5(b)(i) of the Act as the new default benchmark in the Regulations*;* and
* that data information should be analyzed and shared in a way that is simple, accessible and easy to understand.

## Regulatory oversight, penalties and complaints

Currently, the Act is administered by the Minister of Labour.

Regulatory oversight includes the compliance and enforcement components of the Act (e.g., audits, issuing direction for non-compliance, notice of assessments, etc.). The responsibility for compliance and enforcement is divided between the **Minister of Labour** and the **Canadian Human Rights Commission** (see Annex C for details on the current roles in regulatory oversight).

* The **Minister of Labour** is responsible for compliance activities for federally regulated private sector reporting obligations.[[15]](#footnote-16) The Minister can issue notices of assessment of a monetary penalty to private sector employers who are found to have committed a violation (e.g., failing to submit quantitative or narrative reports). Currently, monetary penalties for employers in the federally regulated private sector can be up to $10,000 for a single violation or $50,000 for repeated or continued violations. Violations include failing to file an employment equity report, failing to include the required information, or knowingly providing false or misleading information.
	+ A private sector employer may, after receiving a notice of assessment of a monetary penalty, comply with the notice or contest the assessment by making a written application to the Minister for a review of that assessment. If there is an application for review, the Minister must send a copy to the Chairperson of the Canadian Human Rights Tribunal who then establishes a Tribunal consisting of one member selected from the Canadian Human Rights Tribunal to review the assessment.
* The **Canadian Human Rights Commission** conducts compliance audits of federally regulated employers in the private and public sectors on their employment equity programs under the *Employment Equity Act*. The Commission does this by conducting different types of audits that focus on different issues faced by employees of designated groups. In recent years the Commission has prioritized horizonal audits that focus on addressing specific and systemic issues across particular sectors.
	+ The Commission addresses areas of non-compliance with employers. The Commission can also apply enforcement measures, such as the issuance of a direction, if it is of the opinion that an employer is not complying with the requirements of the Act, or the employment equity audit.
	+ The **Chairperson of the Canadian Human Rights Tribunal** can appoint the Employment Equity Review Tribunal if an employer requests a review of a Canadian Human Rights Commission audit decision. The Chairperson can also appoint the Employment Equity Review Tribunal if the Commission makes an application for an order confirming the direction.

The President of the Treasury Board does not hold a compliance or regulatory oversight role under the Act for the core public administration. Note that the President is responsible for tools, guidance and reporting for the core public administration, which does not cover all federal entities (e.g., separate agencies, Royal Canadian Mounted Police and Canadian Armed Forces).

There are no equivalent reporting oversight and administration of monetary penalty roles for the Minister of Labour when it comes to the core public administration or federal entities that fall outside the core public administration.

While employees can contact the Labour Program or Canadian Human Rights Commission for guidance, employees have no official recourse if they believe their employer is not meeting their statutory obligations under the Act.

The Task Force finds that the current division of roles around compliance and enforcement is ineffective. To strengthen the regime, the Task Force recommends that the roles related to compliance, enforcement, reporting, tools and guidance be better placed under one person to administer all of these aspects. The Task Force also suggests that penalties be harmonized with other similar legislation and heard from employee stakeholders that employees and their representatives should be able to bring forward complaints under the Act.

### The Task Force recommends:

* that the Government of Canada establish an Employment Equity Commissioner to administer the Act, proposing three possible approaches: housing the Commissioner within the Canadian Human Rights Commission; creating a standalone office for the new Commissioner; or creating a new office for all equity Commissioners (i.e., [pay equity](https://www.canada.ca/en/services/jobs/workplace/human-rights/overview-pay-equity-act.html), [accessibility](https://www.canada.ca/en/employment-social-development/programs/accessible-canada/regulations-summary-act.html#h2.07), and employment equity) separate from the Canadian Human Rights Commission;
* that the newly established Employment Equity Commissioner should, among other things:
	+ be independent and report directly to Parliament;
	+ take over the powers and authorities currently held by the Minister of Labour under the Act (guidance and information programs, research, promotion of employment equity, and compliance and enforcement related to notices of assessment of monetary penalties, etc.);
	+ have the authority to collect information on employment practices and policies of covered employers;
	+ be responsible for regulatory oversight including workplace auditing (currently under Canadian Human Rights Commission); and
	+ be enabled to investigate and respond to employment-related complaints regarding employers who are not complying with their obligations under the Act;
* establishing a complaint mechanism for employees who believe their employers are in violation of their obligations under the Act;
* allowing the Employment Equity Commissioner to dismiss a complaint, unless there is sufficient evidence brought by the complainant;
* renaming the Employment Equity Review Tribunal to Employment Equity Tribunal;
* revising the role of the Tribunal to expand its current role so that the Tribunal can also review decisions if requested by either an employee or employee representative and allow the Tribunal to function as part of the new complaint mechanism for employees; and
* updating penalties and harmonizing with comparable penalties under the *Pay Equity Act* and the *Accessible Canada Act*, scaled to the size and nature of the employer and level of non-compliance.

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| 3.4 Topics and questions for consultationBarrier removal and reasonable progress:1. Would you prefer that “employment barrier” be defined as proposed by the Task Force, or as it is currently defined in the [Interpretations, Policies and Guidelines](https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/workplace-equity-systems-review.html)? If you would prefer an alternate definition, please provide that definition and an explanation.
2. Would you see value in including the definition of “employment barrier” in the Act or Regulations, so that it is enforceable? If yes, would you prefer that the definition be included in the Act or in the Regulations? Please explain.
3. What proactive approaches could be taken to identify, remove and prevent barriers to strengthen employment equity?
4. In your view, what would constitute “reasonable progress” towards achieving employment equity under the Act? How should such progress be assessed?
5. Would you have concerns if employment systems reviews were required to be completed regardless of underrepresentation? If so, how could we address them?
6. Would you have concerns with requiring employers to establish accountability mechanisms for senior executives (i.e., through performance evaluations) to ensure implementation of their employment equity plan and that reasonable progress is made to achieve and sustain employment equity? If so, how could we address them?
7. Would you have concerns with requiring employers to include special measures in their employment equity plan to address notable underrepresentation gaps for designated groups and sub-groups? If so, how could we address them?
8. Would you have any suggestions or comments to improve employment systems reviews and employment equity plans (e.g., frequency, content, etc.)?

The data benchmark:1. Would you have concerns if a new data benchmark was created based on representation in the Canadian workforce? If so, how could we address them?
2. What general parameters should and should not be considered in determining the population that is available to work (e.g., divide by geography, by sector, by occupation classification, etc.)?

Regulatory oversight, penalties and complaints:1. Would you have concerns with establishing an Employment Equity Commissioner to administer and enforce the Act independently from the Minister of Labour? If so, how could we address them?
2. Would you have concerns if the Canadian Human Rights Commission’s role expanded in administering and enforcing the Act? If so, how could we address them?
3. Would you have concerns if employees were allowed to file complaints if they believed their employer was not fulfilling their obligations under the Act? If so, how could we address them?
4. Would you have concerns if the current administrative monetary penalty regime expanded so that it applies to more than just reporting obligations under the Act (i.e., non-reporting obligations)? If so, how could we address them?
5. What positive measures could be implemented to encourage employers to comply with the Act?

**Note:** If you have other feedback that does not fall under any of questions in section 3, please provide it in your submission. |

# Improving public reporting

## Reporting frequency and data transparency

Currently, the President of the Treasury Board creates a consolidated report for core public administration organizations while separate agency employers must create their own annual report and provide it to the President of the Treasury Board. These reports should include the following:

* a quantitative section outlining:
	+ the number of employees and number of members in each designated group, filtered by department and province;
	+ the data and degree of representation of members of designated groups for the following:
		- the occupational groups of employees within the employer’s workforce;
		- the salary ranges of employees;
		- the numbers of employees hired, promoted, and terminated; and
* a narrative section describing:
	+ measures taken to implement employment equity and the results achieved; and
	+ consultations conducted between the employer and its employees’ representatives.

Federally regulated private sector employers must submit an annual report to the Minister of Labour on the following:

* a quantitative section outlining:
	+ the industrial sector and the location of the workplace;
	+ the number of employees and number of members in each designated group;
	+ aggregated wage gap information (e.g., mean and median difference in hourly rates, bonus rates, overtime pay corresponding to overtime hours);
	+ the data and degree of representation of members of designated groups for the following:
		- the occupational groups in which their employees are employed;
		- the salary ranges of their employees;
		- the number of employees hired, promoted, and terminated; and,
* a narrative section describing:
	+ measures taken to implement employment equity during the reporting year, and results achieved; and
	+ consultations with employees’ representatives during the reporting period concerning the implementation of employment equity.

All covered employers must provide a copy of their full reports to employee representatives (see Annex D for more details on the current reporting process).

Throughout its engagements, the Task Force heard that both employers and equity groups are dissatisfied with current reporting processes. The Task Force found that some employers were not aware that they could go beyond the requirements of the Act when collecting data and reporting on designated groups. The report notes the importance of including disaggregated and intersectional data in the reporting framework, and that it would be beneficial to have a database where reports are easy to find, accessible and searchable, to help make reports more visible, and to improve public reporting and data transparency.

The Task Force report finds that the annual reporting under the Act has created extensive work for employers, especially small private sector employers. The report notes that the reporting mainly focuses on numerical representation, rather than on addressing qualitative challenges, such as comprehensive barrier removal.

### The Task Force recommends:

* expressly clarifying in the Act that data collection and reporting on sub-group members is permitted, and allow special measures to be taken to improve hiring, promotion and retention of sub-group members that face higher underrepresentation;
* providing detailed guidance in the Regulations or guidelines on how to collect disaggregated data and report it in a meaningful manner, which would support the use of an intersectional lens when implementing employment equity obligations;
* providing directives in the Regulations or guidelines to avoid misleading reporting if persons are counted multiple times across disaggregated or intersecting groups;
* that the Employment Equity Commissioner develop tools that foster appropriate, accessible public sharing of employer reports, that are consistent with privacy laws;
* creating an [open government](https://open.canada.ca/en) site that makes all reports available through an accessible, searchable database;
* reporting by employers, including employment systems reviews, be required by all covered employers on a three-year reporting cycle; and
* reporting requirements for covered employers be aligned with other similar reporting processes, such as the *Pay Equity Act* and the *Accessible Canada Act*.

### Equi’Vision (Pay transparency)

In 2024, after the Task Force report was finalized and published, the Government of Canada launched a new website, [Equi’Vision](https://equivision.services.gc.ca/). The site is a data visualization tool that publishes data from annual employment equity reports (i.e., the quantitative component) for federally regulated private sector employers with 100 or more employees, including Crown Corporations, other federal consolidated entities, and other federal government business enterprises. Employer reports are validated to ensure the accuracy of data and public reporting. The website makes it easy to search and compare data from federally regulated private sector employers on representation rates and pay gaps concerning the four designated groups under the Act. This site is the result of pay transparency measures initiated in 2020 and aimed at improving workplace equity (see Annex D).

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|  Topics and questions for consultationReporting frequency and data transparency:1. How would you define and measure success in employment equity?

Currently, the Act requires employers to complete annual reports that include both quantitative and narrative components. Only certain components of the annual reports are made publicly available. 1. What elements or sections (qualitative and narrative) of the annual report do you find especially valuable?
2. Do you find any components to be unnecessary, time-consuming or burdensome?
3. Would you have concerns with reducing the frequency of reporting (quantitative and/or narrative components) for federally regulated private sector employers from annually to once every three years? If so, how could we address them?
4. Would you have concerns if the narrative information that all covered employers provide in their annual reports were made public?
5. Overall are there any parts of the annual report that you believe should not be made public? If you have concerns, how could we address them?
6. Would you have concerns with permitting that data collected on members of more than one designated group and sub-groups be included into reporting, in support of an intersectional lens? If so, how could we address them?
7. Would you have concerns if employment equity plans were published in annual reports? If so, how could we address them? Are there components of employment equity plans that you believe should not be made publicly available?
8. Would you have concerns if reporting obligations were different for various employers covered under the Act (e.g., federally regulated private sector versus the federal public sector, smaller versus larger employers, etc.)? If so, how could we address them?

**Note:** If you have other feedback related to the content covered in section 4 of this guide, please provide it in your submission |

# Other questions for your consideration

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| 1. Do you have any other suggestions for the Government of Canada regarding the modernization of the *Employment Equity Act* framework?2. What change or changes would be most important to achieving concrete progress on employment equity in the coming years?3. Are there any current employment equity requirements that do not serve a useful purpose? |

# Annex A – Privacy notice statement for submissions

The submission you provide as part of this consultation is collected under the authority of the [*Department of Employment and Social Development Act* (DESDA)](https://laws.justice.gc.ca/eng/acts/h-5.7/index.html). It may be used and disclosed by Employment and Social Development Canada (ESDC), including the Labour Program, for policy analysis, research and evaluation purposes. However, these additional uses and/or disclosures of your personal information will never result in an administrative decision being made about you.

Participation in this stakeholder engagement process is voluntary, and acceptance or refusal to participate will in no way affect any relationship with ESDC or the Government of Canada.

Your submission may be published – in whole or in part – on [canada.ca](https://www.canada.ca/), included in publicly available reports on the consultation, and/or compiled with other responses in an open-data submission on [open.canada.ca](https://open.canada.ca/en). It may be shared throughout the Government of Canada, other levels of Government, and non-Governmental third parties.

Your personal information is administered in accordance with DESDA, the [*Privacy Act*](https://laws-lois.justice.gc.ca/eng/ACTS/P-21/index.html)*,* and other applicable laws. If you are not satisfied with our response to your privacy, you have the right to the protection of, access to, and correction of your personal information, which is described in the [Personal Information Bank ‘Outreach Activities’ [PSU 938]](https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/info-source/standard-personal-information-banks.html#psu938). Instructions for obtaining this information are outlined in the Government publication titled, [Information about Programs and Information Holdings](https://www.canada.ca/en/employment-social-development/corporate/transparency/access-information/reports/infosource.html) and may also be accessed online at any [Service Canada Centre](https://www.servicecanada.gc.ca/tbsc-fsco/sc-hme.jsp?lang=eng).

If you are not satisfied with our response to your privacy, you have the right to file a [complaint](https://www.priv.gc.ca/en/report-a-concern) with the Privacy Commissioner of Canada regarding ESDC’s handling of your personal information.

If your submission includes unsolicited personal information for the purpose of attribution (for example, name, position), ESDC may choose to include this information in publicly available reports on the consultation and elsewhere.

I understand that by providing a submission to ESDC as part of this consultation process, I am consenting to its publication and dissemination.

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Signature Date (dd/mm/yyyy)

If a written submission is sent on behalf of an organization/group, the name of the person approving the content may sign on behalf of the organization/group. If a written submission is sent on behalf of multiple organizations/groups, please include one form for each organization/group with your submission.

# Annex B – Employment equity framework

The Task Force report defines the Employment Equity Framework as including:

* the *Employment Equity Act* and its *Employment Equity Regulations*;
* the Legislated Employment Equity Program;
* the Federal Contractors Program; and
* the Workplace Opportunities: Removing Barriers to Equity Program.

The framework covers the industries and workplaces under federal jurisdiction:

* **Federally regulated private sector**:
	+ air transportation, including airlines, airports, aerodromes and aircraft operations;
	+ banks, including authorized foreign banks;
	+ grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants;
	+ First Nations band councils (including certain community services on reserve);
	+ most federal Crown corporations, for example Canada Post Corporation;
	+ port services, marine shipping, ferries, tunnels, canals, bridges and pipelines (oil and gas) that cross international or provincial borders;
	+ radio and television broadcasting;
	+ railways that cross provincial or international borders and some short-line railways;
	+ road transportation services, including trucks and buses, that cross provincial or international borders;
	+ telecommunications, such as telephone, Internet, telegraph and cable systems;
	+ uranium mining and processing and atomic energy; and
	+ any business that is vital, essential or integral to the operation of one of the above activities.
* **Federal public sector**:
	+ the federal public service (core public administration and separate agencies);
	+ the Royal Canadian Mounted Police;
	+ the Canadian Armed Forces; and
	+ Parliament (including employees of the Senate, the House of Commons and the Library of Parliament).
* **Private-sector firms and municipalities** in Yukon, the Northwest Territories and Nunavut

***Employment Equity Act* and *Employment Equity Regulations***

The [*Employment Equity Act*](https://laws-lois.justice.gc.ca/eng/acts/E-5.401/index.html) (Act) and its accompanying [*Employment Equity Regulations*](https://laws-lois.justice.gc.ca/eng/regulations/SOR-96-470/index.html) (Regulations) help ensure that all Canadians have the same access to the labour market. They require that employers take actions to ensure the full representation of members of four designated groups within their organizations: women, Aboriginal peoples, persons with disabilities, and members of visible minorities. The Act and Regulations require employers to investigate, identify and take concrete action to correct the conditions of disadvantage in employment for these four designated groups.

**Legislated Employment Equity Program**

[Legislated Employment Equity P](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/legislated.html)rogram supports the implementation of employment equity by private-sector employers subject to the Act and ensures that these employers comply with their reporting obligations.

The Legislated Employment Equity Program applies to:

* federally regulated private-sector employers with 100 or more employees;
* federally regulated Crown corporations with 100 or more employees; and
* other federal organizations with 100 or more employees.

## Federal Contractors Program

[The Federal Contractors P](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/federal-contractors.html)rogram ensures that contractors who do business with the Government of Canada implement employment equity in their workplace. The FCP covers provincially regulated employers who have 100 or more employees and a Federal Government contract for goods and services of $1 million or more. It does not apply to:

* federally regulated private sector workplaces;
* contracts for the purchase or leasing of real property; and
* contracts for the construction or legal service.

## Workplace Opportunities: Removing Barriers to Equity

The [Workplace Opportunities: Removing Barriers to E](https://www.canada.ca/en/employment-social-development/services/funding/workplace-equity-solicited.html#h2.2)quity is a grants and contributions program. The Program is designed to support employers subject to the Act in their efforts to improve designated group representation in areas of low representation through:

* partnerships; and
* industry-tailored strategies.

The Workplace Opportunities: Removing Barriers to Equity program provides funding through grants or contributions to eligible recipients to develop tailored solutions. Eligible applicants include:

* federally regulated private-sector employers;
* employers associations (unionized or non-unionized);
* non-Governmental organizations;
* not-for-profit organizations; and
* academic institutions.

# Annex C – The regulatory framework for the federally regulated private sector

Enforcement of the *Employment Equity Act* (Act) is shared between two Government organizations:

* **The Labour Program at Employment and Social Development Canada**:
	+ undertakes research and provides information to promote public recognition and understanding of the Act;
	+ publishes and distributes information, guidelines and advice to private-sector employers and employee representatives on employment equity;
	+ develops and conducts programs to recognize private-sector employers for outstanding achievement in implementing employment equity;
	+ issues administrative monetary penalties to private-sector employers for non-compliance with reporting obligations under the Act;
	+ submits an Annual Report to Parliament on the status of employment equity in the federally regulated private sector;
	+ makes available to employers any relevant labour market information respecting designated groups in the Canadian workforce to assist employers in fulfilling their obligations under the Act; and
	+ administers the Federal Contractors Program, the Legislated Employment Equity Program, the Workplace Opportunities: Removing Barriers to Equity program, and the Employment Equity Achievement Awards.

The Minister of Labour is responsible for compliance activities with respect to federally regulated private sector reporting obligations under the Act and may issue notices of assessment of a monetary penalty to private sector employers who are found to have committed a violation.[[16]](#footnote-17) There is no equivalent oversight of federal public sector reporting, and public sector employers are not subject to monetary penalties under the Act.

Federally regulated private sector employers who are issued a notice of assessment of a monetary penalty may contest the notice by applying to the Minister for a review. The Minister then asks the Chairperson of the Canadian Human Rights Tribunal to form a Tribunal consisting of one member selected from the Canadian Human Rights Tribunal to review the assessment and schedule a hearing. The Tribunal’s determination following the hearing is final and cannot be appealed or reviewed (except for judicial review under the *Federal Courts Act*).

* **The Canadian Human Rights Commission:**
	+ conducts audits to assess whether employers are meeting their obligations under the Act; and
	+ applies to the Chairperson of the Canadian Human Rights Tribunal to request that an Employment Equity Review Tribunal be appointed, with power to issue decisions enforceable as court orders.

Compliance audits are conducted by the Commission, and in cases of non-compliance, employers receive written undertakings to remedy the non-compliance. Employers then need to provide requested information to prove compliance. In cases of difficulties with or a breach of undertakings, the Commission may use enforcement measures and issue a direction.

An employer to whom a compliance direction is issued may make a request to the Chairperson of the Canadian Human Rights Tribunal for a review of the direction. In addition, if the Canadian Human Rights Commission is of the opinion that an employer has failed to comply with a compliance direction issued by the Canadian Human Rights Commission, it may apply to the Chairperson of the Canadian Human Rights Tribunal for an order confirming the compliance direction.

The Chairperson of the Canadian Human Rights Tribunal must then form an Employment Equity Review Tribunal (Review Tribunal) who reviews the request or application. The Review Tribunal may, by order, confirm, vary, or rescind the Canadian Human Rights Commission direction and make any other order it considers appropriate and reasonable in the circumstances to remedy the non-compliance.

# Annex D – Federally regulated private sector obligations

Currently, the *Employment Equity Act* (Act) requires federally regulated private sector employers to complete various processes to analyze and explain employment equity in their workplaces:

1. **Collection of Workforce Information and Workforce Analysis**: Employers must collect workforce data via self-identification surveys and analyze that information to assess whether underrepresentation exists for a particular occupational group. Workforce data and the resulting analysis must be kept on record by the employer but is not submitted to the Minister of Labour and is not made public.
2. **Employment systems review:** Per paragraph 9(1)(b) of the Act, employers must conduct a review of their employment systems, policies, and practices to identify employment barriers that could explain underrepresentation of persons in designated groups that result from those systems, policies and practices, and use it to address and eliminate employment barriers identified. The employment systems review is kept on record by the employer but is not submitted to the Minister of Labour and is not made public.
3. **Employment equity plan:** Per subsection 10(1) of the Act, employers must, using the results of their workforce analysis and employment systems reviews where applicable, prepare an employment equity plan outlining the actions they intend to take to eliminate employment barriers and correct underrepresentation, specify positive measures to be implemented and timelines for implementation of measures. Employers must monitor the employment equity plan’s implementation on an ongoing basis and update it at least once every three years. The employment equity plan is kept on record by the employer but is not submitted to the Minister of Labour and is not made public.
4. **The annual report**: Employers must submit quantitative and narrative information to the Minister of Labour on or before June 1, of each year. The quantitative section details workforce demographic data while the narrative component describes measures taken to implement the employment equity plan, results achieved, and consultations with employees. See the Public Reporting section for more details.

The most common quantitative indicator of employment equity is the attainment rate. It measures how closely the representation of designated groups in the employers’ workforce meets their representation in the labour market.

The representation of each of the four current designated groups is compared to their Labour Market Availability. The Labour Market Availability is based on information obtained from Statistics Canada. The attainment rate refers to the extent to which representation meets labour market availability by dividing the representation rate by the Labour Market Availability rate. A workforce is considered representative when the representation of designated group members is equal to their Labour Market Availability.

Each year the following statistical results are featured in the Minister of Labour’s [*Employment Equity Act: Annual Report to Parliament*](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports.html) along with key highlights:

* aggregated representation rates of the designated groups in the private sector subject to the Act;
* Canadian Labour Market Availability rates for each designated group; and
* aggregated attainment rates of the designated groups in the private sector subject to the Act.

The report also features median pay gaps that affect designated groups in the private sector subject to the Act.

Recently, Employment and Social Development Canada launched [Equi’Vision](https://equivision.services.gc.ca/), a data visualization tool that provides comparable data on representation rates and pay gaps of federally regulated private-sector employers with 100 or more employees, including federal crown corporations and other federal organizations. It offers data on the current four designated groups under the Act.

# Annex E – *Employment Equity Act* Review Task Force

In July 2021, the Government of Canada launched the [*Employment Equity Act* Review Task Force](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/task-force.html) to conduct an independent review of the Act on how to modernize and strengthen the federal employment equity framework. The Task Force was arm’s length and independent of the Government. The Task Force’s [terms of reference](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/task-force/terms-reference.html) established the scope of its review and focused on the following four themes:

1. Modernizing and defining designated groups;
2. Better supporting members of designated groups;
3. Improving accountability, compliance, and enforcement; and
4. Improving public reporting.

## Related links

[*Employment Equity Act* review: Overview of policy issues and background](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-overview-backgrounder-policy-issues.html)

[About the Workplace Equity Program](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity.html)

[Reports: Employment equity in federally regulated workplaces](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports.html)

[*Employment Equity Regulations*](https://laws-lois.justice.gc.ca/eng/regulations/sor-96-470/index.html)

[News release - December 11, 2023](https://www.canada.ca/en/employment-social-development/news/2023/12/minister-oregan-receives-task-force-report-on-employment-equity-act-modernization.html)

1. Those who are not familiar with the employment equity framework, including the [*Employment Equity Act*](https://laws-lois.justice.gc.ca/eng/acts/E-5.401/index.html), may consult this [Overview](https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/employment-equity/reports/act-review-overview-backgrounder-policy-issues.html). Annex B also describes what sectors and employers are covered under the framework. [↑](#footnote-ref-2)
2. [Task Force report](https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force/EEA-Review-Task-Force-Report-2023-v2.pdf) page 34. [↑](#footnote-ref-3)
3. The Task Force recommends referring to employment equity group members as ‘workers’ based on the use of the term in the [*Violence and Harassment Convention, 2019 (No. 190)*](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190) of the International Labour Organization. [↑](#footnote-ref-4)
4. The Task Forces uses the acronym “2SLGBTQI+” to refer to workers who are Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex or who identify with gender and sexually diverse communities. The language of 2SLGBTQI+ people was used in the December 2023 Government of Canada’s announcement to be consistent with the language of Canada’s Federal 2SLGBTQI+ Action Plan. [↑](#footnote-ref-5)
5. In the context of the Act, self-identification is an employee’s determination of their belonging to employment equity groups. To self-identify, an employee must identify themselves to their employer or agree to be identified by their employer as a member of an employment equity group. Self-identification practices include the use of surveys or other data-collection methods that allow the employee to self-identify or agree to be identified. This data constitutes a component of the data an employer collects, analyzes, and reports under the Act. [↑](#footnote-ref-6)
6. The Task Force report states that “[A] distinctions-based approach focuses on addressing equity groups with due attention to their specific histories and identities. This is particularly significant for Indigenous peoples. They are nations, who have treaty rights and Indigenous rights recognized in the Canadian constitution and at international law. As is discussed in Chapter 3, their inclusion in employment equity legislation needs to be
rethought to reflect the specificity of their experience and honour and respect nation-to-nation/
government-to-government relationships” (page 59 of the [Task Force report](https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force/EEA-Review-Task-Force-Report-2023-v2.pdf)). [↑](#footnote-ref-7)
7. The Task Force notes that within the federal public service, self-identification survey data should be centralized, so that employees do not need to complete the surveys each time that they change departments. As such, separation from the employer is when an employee leaves the organization. The collection of self-identification data on separation can help track the retention rates of equity groups. [↑](#footnote-ref-8)
8. Call to Action 57: *We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism*. [↑](#footnote-ref-9)
9. Under paragraph 9(1)(b) of the Act, where underrepresentation is identified, employers must conduct a review of their employment systems, policies, and practices to identify employment barriers against persons in designated groups that result from those systems, policies, and practices. [↑](#footnote-ref-10)
10. Under subsection 10(1) of the Act, employers must prepare, or review and revise, a plan that outlines actions the employer will take to correct the conditions of underrepresentation, remove barriers, and implement employment equity. [↑](#footnote-ref-11)
11. [Interpretations, Policies, and Guidelines](https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/workplace-equity-systems-review.html) – *Employment Equity Regulations* – Employment Systems Review - IPG-113. [↑](#footnote-ref-12)
12. See [*Employment Equity Act* – Employment Equity Plan – IPG-114 - Canada.ca](https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/workplace-equity-plan.html#_Reasonable_progress) for an interpretation of reasonable progress under the Legislated Employment Equity Program and [Factsheet 7](https://www.employmentequitychrc.ca/en/factsheet-7) for the Canadian Human Rights Commission's guidance on reasonable progress. [↑](#footnote-ref-13)
13. [Task Force report](https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/portfolio/labour/programs/employment-equity/reports/act-review-task-force/EEA-Review-Task-Force-Report-2023-v2.pdf) page 195. [↑](#footnote-ref-14)
14. The Canadian workforce refers to “all persons in Canada of working age who are willing and able to work.” [↑](#footnote-ref-15)
15. Reporting obligations under the Act include the completion of the annual employment equity report. Non-reporting obligations under the Act include conducting workforce analyses and employment systems reviews, carrying out consultations, and implementing employment equity plans. [↑](#footnote-ref-16)
16. Employers are deemed to have committed a violation if they fail to submit their quantitative or narrative reports, fail to include any required information in their reports, or knowingly provide misleading or false information in their reports. [↑](#footnote-ref-17)