

OREGON COUNCIL ON CIVIL RIGHTS

Co-Chair Dawn Holt



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Pay Equity Model: Ontario Pay Equity Act (1987)

Overview: The Ontario Pay Equity Act was introduced in 1987 and became effective January 1, 1988. It was enacted to remedy systemic sex-based wage discrimination in Ontario workplaces. The Act aims to alleviate wage gaps and pay women in female job classes the same as men who work in jobs of equal or comparable value. The Act is proactive in that employers are required to have pay equity strategies in place regardless if there is a complaint or not.

Employers Subject to the Law: The Ontario Pay Equity Act applies to private and public sector employers with 10 or more employees as well to bargaining agents when applicable.

Basic Requirements of the Act: The Act requires employers to develop and implement pay equity plans after comparing jobs that are held predominantly by females to those held predominantly by males. Employers are required to identify and correct any discrepancies in wages and maintain discrimination-free wages; lowering wages in order to achieve pay equity is prohibited. Specifically, the Act requires:

- i Employers to identify which jobs classes in an establishment are done primarily by women, by men, or are gender-neutral. A “job class” is made up of positions with similar duties and responsibilities.
 - “female job class” – 60 percent or more of the members are female
 - “male job class” – 70 percent or more of the members are male
- i After comparison of all the jobs, employers must develop and implement a pay equity plan. It is a self-managed process, or in a union setting, a negotiated process.
 - Plans include information such as system used to evaluate jobs, method of comparison, and a list of job classes which formed the basis of comparisons.
 - Sets out results and what remedies need to be implemented to achieve pay equity including timeline for adjustments
- i Employers with 100 or more employees are required to post pay equity plans.

Job classes are evaluated using a “gender neutral comparison system.” Four main criteria used by employers to determine the value of jobs, including; skill; effort; responsibility; and working conditions. The Act sets out different ways to compare jobs across occupations, or in circumstances where there are no male comparisons, across employers: Job-to-job – single establishment has male and female job classes and female job classes can be compared to male job class of comparable value; Proportional value comparison – no job-to-job, so female job classes compared to a “representative group of male job

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classes”; and, proxy – applies only to public sector employers who compare job classes across employers.

Enforcement and Dispute Resolution: The Act created two enforcement bodies: the Pay Equity Commission and the Pay Equity Tribunal. The Commission is responsible for enforcing the Act, and the Tribunal is a quasi-judicial body responsible for handling disputes arising from the enforcement of the Act. Complaints can be filed with the Commission and a Review Officer will investigate the matter. Review Officers can order parties to implement pay equity plans, determine plans are not sufficient, and work to effect a settlement. If a Review Officer cannot settle the case, it may be referred to the Tribunal for a hearing.

Advantages of the Ontario Model:

- i Wage gap has narrowed since introduction of the Act and there has been a 10% drop in the pay gap since its enactment.
- i The Act represents a systemic solution to systemic problem.
- i Commission staff are available for technical assistance to employers.
- i Wage adjustments are phased in gradually with employers dedicating at least 1% of its annual payroll towards increases.
- i There has been an actual increase in the wages earned by women and salary increases for women.

Disadvantages of the Ontario Model:

- i Neither Pay Equity plans nor pay adjustments are required to be submitted to the Commission and they are not available to the public.
- i Act does not adequately address pay equity issues for non-unionized women
- i Threat of enforcement causes employers to hire costly consultants.
- i Employers who are not educated on the law or don’t understand the Act are prone to unintentional and sometimes intentional non-compliance.
- i Employers reported that the Act is an administrative burden that takes time away from jobs to work on pay equity plans.
- i It may be difficult for employers to maintain pay equity once it has been achieved and as new job classes are introduced.
- i Many women employed in casual or temporary work (definitions found here: http://www.payequity.gov.on.ca/en/resources/guide/ope/ope_6.php), who work in a small firm (< 10 employees) or are self-employed, are all excluded from the provisions of the Act.

For additional information on Ontario’s Pay Equity Act, please visit the Ontario Ministry of Labour website at: <https://www.labour.gov.on.ca/english/es/pubs/guide/equalpay.php>, <http://www.payequity.gov.on.ca/en/index.php>, or follow on twitter @OntPayEquity.