

Pay Equity-Equal Pay for Work of Equal value

Background

In 1985, although the progressive Conservatives won the election, they were reduced to a minority government. The Liberals under David Peterson and the NDP under Bob Rae signed a two-year accord that saw them defeat the minority PC's in a confidence vote and with the understanding that there would be no election for the term and some NDP priorities would be enshrined in law. Both parties supported legislation addressing gender-based wage discrimination and thus was born the 1987 Pay Equity Act, which came into effect in 1988. It was the first province to impact the private sector and remains only one of two, the other being Quebec that followed in 1996.

Technically all organizations with 10 or more employees were to be in full compliance **since 1994**.

What is it

The goal was to eradicate systemic wage/salary discrimination against women, where at the time it was estimated women earned \$.70 to a man's \$1.00. As equal pay for equal work already existed under the Employment Standards Act, we were now addressing equal pay for work of equal value. Essentially comparing unlike jobs based on skill, effort, responsibility and working conditions.

It requires the establishment of female job classes (60% female) and male job classes (70% male) with the balance considered gender neutral. Furthermore, the commission expects employers to consider not only current incumbency but also stereotype or historical incumbency. All female job classes had to receive equal to greater than the lowest paid male comparator in a point band.

Under most circumstances, one would use the job-to-job evaluation method however in the absence of a direct male comparator, we are required to use proportional evaluation or regression analysis.

The Challenge

A large segment of businesses in Ontario are either not current or have never produced a Pay Equity Plan. There is technically no statute of limitation for employer liability, however my experience has shown that in the absence of cooperation, the Commission will force an employer back 7 years to recreate Pay Equity Plans for each year. Where an employer is identified by the commission and there is no plan but there is cooperation, then the likely consequence is recreating plans for the past three years.

It should be noted that the moment the Commission is involved, there will be considerable scrutiny and costs of implementation most definitely will rise. If you have not yet produced a Pay Equity Plan, it would be prudent to voluntarily consider this as soon as possible before an officer imposes a compliance demand. Please read below to see the targets for the commission and for you to determine your own vulnerability in 2018. You should note that this does not prevent the Commission from dedicating resources to other organizations.

Pay Equity Monitoring Programme 2017-2018 (From Pay Equity Commission Website)

- 1) Delivery of a monitoring program of Ontario companies participating in Ontario Government's Vendor of Record procurement programs, to ensure that they can provide evidence of compliance with the provincial legislation.**
- 2) Delivery of a monitoring program of Ontario-based companies who are part of the Federal Government contractors list, to ensure that they can provide evidence of compliance with the provincial legislation.**
- 3) New Employer Monitoring Program focused on employers who have been in business for three years, have 10 or more employees, and are located in specified municipalities within Western Ontario, Eastern Ontario and Northern Ontario.**

The key benefit to contacting new employers is to raise awareness and compliance of pay equity while a company is new. Early compliance minimizes the risk of large adjustments being paid out, should it be deemed that Employers are not in compliance. In addition, in 2017-18, PEO will develop a plan to monitor employers in Ontario's innovation sectors in 2018-19, as digital transformation is creating new professional prospects for women. Staff will consider developing a 2018-19 monitoring program with a representative sample of select employers in some of Ontario's innovation clusters.

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