

## PROXY PAY EQUITY - BACKGROUNDER

### 1988 **Pay Equity Act comes into effect.**

The government recognizes that the job-to-job comparison method cannot be implemented in predominantly female workplaces (e.g. child care centres) where there are insufficient male job classes for women to compare their wages to. Yet it is predominantly female workplaces where wages are the lowest because the work is seen as “women’s work”. To remedy this, the *Act* requires a report on wage discrimination in this sector to develop a new comparison method.

### 1989 **Pay Equity Commission Report recommends two new comparison methods:**

**Proportional:** Where there are a small number of male job classes in a workplace, value can be assigned to the work performed by those classes, allowing women to identify the appropriate wage rate they should receive for the work they do.

**Proxy:** In workplaces with fewer or no male job classes, a similar larger workplace nearby is used as a “proxy” comparator, because that workplace has already identified the wage gap between men and women using the job-to-job method. Eg. a nurse at a nursing home can be compared to a nurse at a municipal home for the aged.

**1990 Start date for pay equity for the job to job method.** Minister of Labour, Bob McKenzie announces the intention to implement proportional and proxy comparison methods for women in predominantly female workplaces and to fund all public sector pay equity adjustments.

**1991** Treasurer, Floyd Laughren commits to fully funding public sector pay equity estimated at \$1 billion annually at maturity. Management Board Chair commits to 100% funding for proxy sector noting that pay equity is a right not a luxury and that recessions hit lowest paid workers the hardest.

### 1993 **Bill102 is passed, legislating proportional and proxy pay equity.**

Labour Minister again commits to providing full funding for pay equity adjustments. Ontario issues *Pay Equity Funding Guidelines* and reiterates commitment to 100% fund proxy pay equity. Ontario will fund 3% of payroll in first year and 1% for each following year until pay equity is achieved.

**1994 Proxy pay equity adjustments start date.** Predominantly female workplaces begin using proxy comparators to identify the discriminatory wage gaps between workers in comparable male and female job classes. Unions and employers begin preparing “proxy plans”.

**1995 Harris elected.** Tories cap public sector pay equity funding at \$500 million annually as follows:

Ontario Public Service	\$ 120 million
Workplaces using Job-to-Job and Proportional Method	249 million

Proxy Workplaces (3% of employer's payroll)	62 million
Pay Equity Downpayment Program	50 million
Special (eg. Homemaker wage rate reform)	19 million
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Total	\$ 500 million

**Ontario introduces *Schedule J* to *Bill 26 - Savings and Restructuring Act, 1995* amending the *Pay Equity Act*. *Schedule J* abolishes the proxy method of comparison and eliminates the obligation for proxy workplaces to pay further adjustments above the cap 3% of payroll.**

**1996 *Schedule J* passed - Proxy Comparison method abolished, funding capped.**

**1st Charter Challenge - SEIU Local 204 and two women launch a challenge of *Schedule J*.**

**1997** Government defends the challenge, stating the proxy method did not identify pay discrimination and was too expensive to fund since estimates that phase-in of adjustments will take on average to 2011 at 1% of payroll with an annual cost at maturity of \$484 million annually. As proxy employers were dependent on public funding, the government stated it needed to take away the proxy employers' legal obligations to pay further these pay equity adjustments.

**Mr. Justice O'Leary rules in *SEIU Local 204 v. Attorney General (Ont)*. - September** Finds *Schedule J* violates section 15 of the Charter in that it discriminates against women in proxy sector workplaces, where women's wages are most discriminatory as compared to men. O'Leary states that proxy employers will likely go bankrupt without government pay equity funding.

Harris states Ontario will "honour and support our pay equity commitments". Ernie Eves announces Ontario will not appeal the decision and will make sure proxy employers "not only obey the decision but have the ability to live up to and fund the decision".

**Ernie Eves announces:**

**\$140 million in retroactive proxy pay equity funding but \$500 million cap retained..** Funding to be paid on a one time basis to cover proxy pay equity adjustments owing for 1995, 1996 and 1997. Government asks all public sector employers and employees to agree on a fair distribution of the annual capped pay equity funding.

**1998 Pay Equity Commission advises employers to reinstate proxy.** They must make annual 1% of payroll adjustments until pay equity is achieved. Public sector employers using job-to-job and proportional to achieve pay equity achieve pay equity Jan.1 with government funding. KPMG is retained by Government to consult with public sector employers and employees on how to divide \$500 million. KPMG reports unanimous message: Government must fully fund pay equity adjustments for all public sector women regardless of the method of comparison. Pay equity is not possible without funding. Government refuses to release the report.

**1999 Annual proxy pay equity adjustments not paid.**

**Government pays retroactive adjustments owing up to January 1, 1998, and advises employers that they are responsible for all further annual adjustments required by the Act.**

Employers, unions and the Equal Pay Coalition lobby Government to abide by *SEIU 204 decision* and fully fund proxy pay equity. Minister of Finance replies: pay equity is “part of the cost of doing business”, proxy employers “are responsible for meeting their current and future obligations”.

**2000 Annual proxy pay equity adjustments not paid.**

Government tells proxy employers they must find funds for pay equity within their existing budgets. Pay Equity Commission tells proxy employers that layoffs, reducing hours of work, or eliminating positions in order to find money for pay equity adjustments may violate the *Pay Equity Act*. Proxy employers and organizations write continuously to the Ministry requesting pay equity funding, stating that they cannot continue to provide necessary public services and meet their obligations under the *Pay Equity Act* without adequate funding. Ministries continue to refuse further funding.

**Government releases Budget trumpeting a booming economy**, a balanced budget achieved one year early, an over-achievement in the deficit reduction target, the Contingency Reserve Fund doubled to \$1 billion, while generating necessary revenues “to pay for valued public services”. At same time as as government trumpets the strength of the economy it is saying no to paying women performing public services equitable wages. Pay Equity Hearings Tribunal issues decision in *Kensington Village Nursing Home v. SEIU Local 220*. Tribunal states lack of government funding is not a defence to a proxy employer’s failure to provide pay equity adjustments.

**2001 Annual proxy pay equity adjustments not paid. Total owing now to women estimated at \$140 million.**

**Charter challenge filed by CUPE, ONA, OPSEU, SEIU, USWA and 4 female applicants.** Applicants ask the Court to order the government to provide the funds needed for pay equity.

**2002 Charter Challenge Litigation proceeds slowly in the Courts.** It is delayed as a result of issues arising over the Unions’ request for production of Government documents.

**2003 Mediated Settlement of Charter Challenge with Payments of \$414 million to Women over three years .** After two years of litigation, the *Charter* challenge was successfully settled through the skilled efforts of Mediator Gerry Lee. About 100,000 women in predominantly female, public sector workplaces across Ontario will receive up to \$414 million in pay equity funding from the Ontario Government over period 2003-2006. These landmark settlement funds mean that low paid public sector women denied pay equity adjustments because of discriminatory funding practices will now finally start to receive the pay equity wages to which they are entitled under the *Pay Equity Act*.

**For More information, click on the Equal Pay Coalition’s website -  
[www.web.net/~equalpay](http://www.web.net/~equalpay)**