

Bill 10

**An Act to amend the Pay Equity Act
mainly to improve the pay equity audit
process**

Section 6

AMENDMENT:

In proposed section 76.2.1:

1. Replace "to the unrepresented employees" in subparagraph 1 of the second paragraph by "to the employees not represented by such associations or to their representatives designated under the third paragraph".
2. Replace the third paragraph by:

At the request of an employer, the employees not represented by a certified association shall designate one or more representatives for the carrying out of the participation process.

An employer shall allow those employees to hold a meeting in the workplace for the purpose of designating any representative. A representative so designated is deemed to be at work when performing any task related to the participation process.

Such a certified association and, where applicable, such an employee or representative are bound to protect the confidentiality of any information and document received under subparagraph 1 of the second paragraph. However, the association and, where applicable, the representative may forward the information and documents to the employees they represent, who must also protect their confidentiality.

Adapted

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Section 9

AMENDMENT:

Replace by:

9. Section 76.5 of the Act is replaced by the following sections:

“76.5. Any adjustment is payable as of the date of the event leading to the adjustment.

Any amount payable for the period preceding the date of the posting under the second paragraph of section 76.4 shall be paid on that date in the form of a lump sum. Such a sum constitutes remuneration at the time it is paid that must be considered for the purposes of employee benefit plans.

Any adjustment in compensation payable for the following period is paid from that date.

The adjustments bear interest at the legal rate from the date on which they should have been paid.

“76.5.1. Despite the second paragraph of section 76.5, payment of a lump sum may be spread over a maximum period of four years, after consultation with the pay equity audit committee or the certified association referred to in subparagraph 3 of the first paragraph of section 76.2, where applicable.

In such a case, the instalments are annual and the amount of each instalment shall be equal. The first instalment shall be paid on the date of the posting under the second paragraph of section 76.4. The balance owing bears interest from that date. The interest shall be added to the subsequent instalments.

“76.5.2. An employer may not, to maintain pay equity, reduce the remuneration of the employees holding positions in the enterprise. For the purposes of this section, remuneration includes flexible pay and benefits having

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pecuniary value. However, it does not include a lump sum referred to in the second paragraph of section 76.5.”

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Section 9.1

AMENDMENT:

Insert after section 9:

9.1. Section 76.6 of the Act is amended by adding the following paragraph at the end:

“The same applies to an amount paid in the form of a lump sum under the second paragraph of section 76.5, in a case of failure to pay, for the purposes of the exercise of a remedy.”

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Section 9.2

AMENDMENT:

Insert after section 9.1:

9.2. The Act is amended by inserting the following section after section 76.6:

“76.6.1. Where an employee who has left the enterprise is entitled to an amount paid in the form of a lump sum, the employer shall notify the employee of that fact in writing. Despite section 76.5.1, the sum may not be paid in instalments.

If an employer pays a lump sum in instalments under section 76.5.1 and an employee entitled to it leaves the enterprise during the period over which the instalments are spread, the employer shall, not later than 15 days after the employee’s departure, pay the employee the balance owing of the lump sum as well as the applicable interest.”

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Section 4

AMENDMENT:

Insert “. In addition, the posting shall include information on the remedy available under section 101” after “Commission”.

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Section 2

AMENDMENT:

Replace paragraph 2 by:

(2) by adding the following sentences at the end of the second paragraph: “It shall also mention that the remedies are to be exercised using the form prescribed by the Commission. In addition, the posting shall include information on the remedy available under section 101.”;

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Section 8

AMENDMENT:

Replace paragraph 2 by:

(2) by adding the following paragraph at the end:

“If the pay equity audit is conducted by the employer alone, the posting shall include information on the remedies available under section 100 and specify the time within which they may be exercised. It shall also mention that the remedies are to be exercised using the form prescribed by the Commission. In addition, the posting shall include information on the remedy available under section 101.”

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Section 19

AMENDMENT:

Add before paragraph 1:

(0.1) by inserting “or the conduct of a pay equity audit” after “determination of adjustments in compensation” in subparagraph 1 of the first paragraph;

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Section 20

AMENDMENT:

Replace by:

20. Section 115 of the Act is amended by replacing “section 76.1 or 76.3” and “section 76.8 or 76.9” in subparagraph 1 of the first paragraph by “section 76.1, 76.2.1 or 76.3” and “section 76.5.2, 76.6.1, 76.8 or 76.9”, respectively.

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Section 11

AMENDMENT:

Replace by:

11. Section 93 of the Act is amended by inserting the following paragraph after the first paragraph:

“For the purposes of subparagraph 6 of the first paragraph, in the case of a complaint filed under the second paragraph of section 100 or an investigation conducted on its own initiative in relation to a pay equity audit for which the required postings were not made, the Commission may investigate only in respect of the last pay equity audit for which the postings should have been made.”

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Section 5.1

AMENDMENT:

Insert after section 5:

5.1. The Act is amended by inserting the following section after section 76.1:

“76.1.1. For the purposes of the valuation of differences in compensation and the determination of the required adjustments, remuneration includes flexible pay and benefits having pecuniary value, if that pay and those benefits are not equally available to all the job classes that are the subject of the comparison. However, differences between job classes based on any of the factors listed in section 67 are not taken into account for the purposes of the valuation and the determination.”

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Section 5.2

AMENDMENT:

Insert after section 5.1:

5.2. Section 76.2 of the Act is amended by striking out “or associations” in subparagraph 3 of the first paragraph.

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Section 23

AMENDMENT:

Replace “to any complaint filed and investigation initiated” in the second paragraph by “to any pay equity audit for which the posting under the second paragraph of section 76.4 was made”.

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Section 24

AMENDMENT:

Replace “must complete a pay equity audit within 12 months after (*insert the date of assent to this Act*), the reference dates provided for in the third paragraph of section 76.1 of the Pay Equity Act” by “is required to make a posting under section 76.3 of the Pay Equity Act, as replaced by section 7, within 12 months after (*insert the date of assent to this Act*), the reference dates provided for in the third paragraph of section 76.1 of that Act”.

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Section 26

AMENDMENT:

Add the following paragraphs at the end:

Despite the applicable time limit to make the posting under the second paragraph of section 76.4, the posting may be made not later than 90 days after *(insert the date of assent to this Act)*.

However, the adjustments payable under section 76.5 of the Pay Equity Act, as amended by section 9, must be paid on the date on which the posting under the second paragraph of section 76.4 should have been made had it not been for the additional time granted under the second paragraph.

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Section 27

AMENDMENT:

Replace “the audit, without that authorization, should have been completed” by “the posting under the first paragraph of section 76.3 of that Act, without that authorization, should have been made”.

Adopted