



ONTARIO EQUAL PAY COALITION

CLOSE THE GENDER PAY GAP

14 September 2017

EQUAL WORK, EQUAL PAY

MAKE BILL 148 MEANINGFUL IN SECOND READING

An open letter to Premier Wynne, Minister Naidoo-Harris and Minister Flynn

A strong statutory framework is a key tool to close the gender pay gap. Ontario's Bill 148 puts forward an equal pay initiative that, *if done right*, could make a real difference for women. Bill 148 takes an important step in the right direction by extending the **same work/same pay principle** so that part-time workers, workers with temporary, seasonal or casual status, and workers employed through temporary help agencies, must be paid the same as full-time and directly-hired employees who are doing substantially the same work.

However, the Bill 148 language contains loopholes which replicate well-recognized problems that currently exist in the pre-Bill 148 law. The proposed pay transparency provision puts the responsibility on the worker to ask for information; not the obligation on the employer to proactively disclose information to workers. And, Bill 148's equal pay transition provision denies unionized workers access to the equal pay provisions for what may be several years until collective agreements signed before April 1, 2018 expire.

These loopholes should be closed. The Coalition's detailed submissions provide a roadmap and language to fix these problems and make the law effective. See our full submissions here: <http://equalpaycoalition.org/publications/epc-submissions-on-bill-148/>

There is no reason not to close the loopholes in Bill 148 during Second Reading to ensure that the equal pay provisions deliver meaningful protection for workers. Here are four reasons to strengthen Bill 148:

- 1. The proposed equal pay for equal work provisions can help close the gender pay gap.**

Women make up a disproportionate share of workers in all forms of precarious work: part-time, temporary, contract, agency workers and multiple job holders. More women are in low wage jobs than men. Indigenous women, racialized women, young women and women

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with disabilities are particularly concentrated in low wage precarious work. Bill 148's aim to ensure precarious workers receive equal pay will help to close the gender pay gap.

2. The economy will strengthen with improved equal pay amendments.

Bill 148's approach follows the equal pay provisions adopted in the European Union for over twenty years. The European Union's economy has not collapsed with part-time, contract, casual and temporary workers guaranteed the same pay as their full-time counterparts.

The equal pay provisions will help improve the Ontario economy. In 2016, the Ministry of Labour retained Deloitte LLP to assist in estimating the potential costs and opportunities to the province's economy from closing the gender wage gap. Deloitte LLP calculated that, in Ontario alone, the gender wage gap represents \$18 billion in "foregone income" each year. As the Ontario government's own Gender Wage Gap Steering Committee highlighted, that \$18 billion in missing wages equals 2.5% of the province's annual GDP. That's as large as Ontario's motor vehicle and auto parts industries combined.

3. Equal work, equal pay is simple for employers.

Equal pay for equal work is not complex. In unionized sectors, labour arbitrators regularly consider whether employees should be paid the same because they do similar work by examining job titles, core duties and responsibilities and educational requirements. Besides, equal pay for equal work makes payroll administration simple. It costs employers more administratively to track different pay structures and pay rates between full-time employees and employees in precarious jobs. As with arguments on minimum wage, hard economic evidence does not support the notion that equal pay causes job loss. The 1983 Wallace Commission on Part-Time Work in Canada looked at the alleged costs of ensuring equal pay to part-time workers and found employers' argument of high economic costs was not supported by evidence.

4. Many economic sectors in Ontario already ensure part-time or casual employees are paid as full-timers

The 1983 Wallace Commission recommended that part-time employees be treated the same as full-time employees. Some employers followed the recommendation. In health care, particularly hospitals and long-term care facilities, education, the Ontario public service, and many other sectors in Ontario, part-time workers are paid the same wage rate as full-time employees. In some sectors, full-time and part-time employees have been paid the same pay rate since the 1980's.

It is not a new proposal. As the Changing Workplace Review highlighted, numerous commissions and other jurisdictions support and follow the same work/same pay principle, including: the 1984 Royal Commission on Equality Report; Arthurs Report to the Federal Government on Federal Labour Standards; partially adopted by two provinces in Australia; and has been in place in Europe for 20 years.

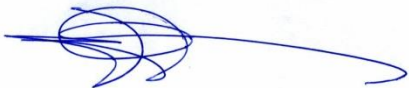
Make Bill 148 Meaningful: The Fix

Bill 148's proposed equal pay provisions need to be improved by closing loopholes in the language to ensure that women truly benefit from the proposed changes. Bill 148 currently requires that jobs be "substantially the same" before they can be paid the same. However, this replicates the same language of the past. Employers have created insignificant differences between men's and women's jobs, or different job titles, that are then used to justify significant disparities in pay. The law currently allows many exceptions to the same work/same pay principle. For example, even when work is substantially the same, differences in pay have been permitted for "any other factor other than sex." The Coalition proposes that amendments following Second Reading:

- Tighten the language in s. 42 to ensure that the equal pay provisions apply to workers working in "similar" positions. Make housekeeping changes to ensure that the language in s. 42 of the ESA is consistent with the *Pay Equity Act* and the *Human Rights Code*.
- Create meaningful pay transparency so that the equal pay protections can be effective. Employees need to know what the wage structure is in their workplace. But Bill 148's proposed "written response" provisions wrongly place the onus solely on the non-union employee to ask an employer for a review of their rate of pay and whether it is in compliance with the equal pay provisions. The employee has a right to ask, without fear of reprisals, but it should be an employer's obligation to report the details of the pay structure to employees. Employees can't have a reasonable basis to know they should ask for a review, if they don't know the wage structure in their workplace.
- Delete the equal pay transition provision in Bill 148. Unionized employees should not be penalized and exempt from the equal pay provisions.

Bill 148 presents an important opportunity to make meaningful change to close the gender pay gap. It is important to get the language right if there are to be real rights to equality.

In Solidarity,



Fay Faraday and Jan Borowy
Co-Chairs