

# Guideline # 4

## Definition of Establishment

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### PAY EQUITY IMPLEMENTATION SERIES

The *Pay Equity Implementation Series* is designed to help employers, employees and bargaining agents to achieve pay equity and to understand their rights and obligations under the *Pay Equity Act, R.S.O. 1990, c. P7, as amended (the Act)*. These guidelines do not restrict review officers of the Commission or the Pay Equity Hearings Tribunal in their interpretation of the *Act*. The series is published in a sequence that generally reflects the steps for implementing pay equity. (**Revised Summer 2002**).

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### SIGNIFICANCE

Employers are required by subsection 7(1) of the Pay Equity Act to establish and maintain compensation practices that provide for pay equity in “**every establishment of the employer**”. An establishment is all the employees of an employer who work in a geographic division. A geographic division is a county, territorial district or regional municipality described in the *Territorial Division Act*.

The number of establishments an employer has is one factor in determining the number of pay equity plans needed. At minimum, an establishment is all of an employer’s employees within a geographic division, which is the county, regional municipality or territorial division in which the employer is located. An employer can decide, or where there is a bargaining agent can agree that an establishment include employees in two or more geographic divisions.

Where pay equity plans are prepared, a pay equity plan is required for each bargaining unit and one for all non-union employees in an employer's establishments.

In pay equity plans based on the job-to-job and proportional value comparison methods, pay equity comparisons are made only among job classes *within the same establishment*. This means that decisions concerning the definition of establishment will also determine which female and male job classes will be compared for pay equity purposes.

Only public sector employers unable to achieve pay equity for all female job classes using the job-to-job and proportional value comparison methods will need to make comparisons outside their establishment using the proxy comparison method.

## EXPLANATION

As described above, an employer may decide or, in a union workplace, negotiate with a bargaining agent to include two or more geographic divisions in one establishment. Where there are both union and non-union employees, the employer may choose to include employees from more than one geographic division while negotiating a different definition of establishment for employees in a bargaining unit.

All employees of an employer in a given geographic division are always included in the same establishment.

### Centralized Bargaining

The *Act* allows two or more employers who normally negotiate a collective agreement together to continue that practice to implement pay equity if the affected bargaining agent or agents agree. Municipalities in the same geographic division, with the agreement of any affected bargaining agents, may also agree that their employees are one establishment and that they are one employer for pay equity purposes. However, the individual employer is always responsible for implementing the plan and maintaining pay equity for their employees.

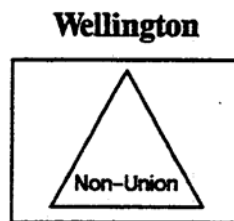
### Number of Plans Within an Establishment

A pay equity plan covering all non-union employees in the establishment must be prepared. One plan must also be negotiated and prepared for each separate bargaining unit in the establishment. As a result, one employer, even with only one establishment, may have several pay equity plans.

In the examples that follow, a rectangle represents an establishment, and a triangle represents a pay equity plan.

**Example 1:** All employees of the ABC Company are located in one geographic division (Wellington County). All employees are non-union.

**Requirement:** One pay equity plan.

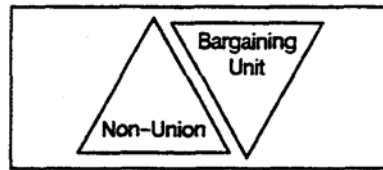


**One establishment, one plan**

**Example 2:** All ABC Company employees are located in one geographic division (Wellington County). There is one bargaining unit and one group of non-union employees.

*Requirement:* Two pay equity plans: one for the bargaining unit and one for the group of non-union employees.

**Wellington**

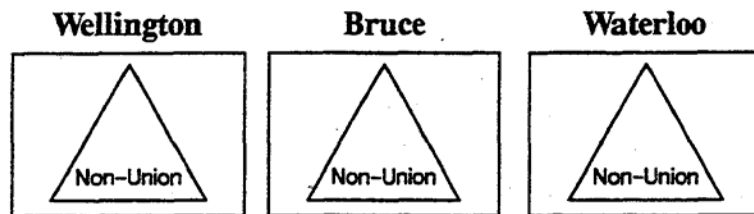


**One establishment, two plans**

**Example 3:** Employees of the ABC Company are located in three different geographic divisions (Wellington, Bruce and Waterloo counties). There is no union.

*Requirement:* There are three choices:

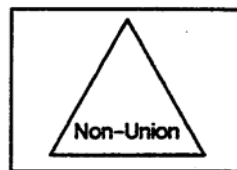
- A. **Three pay equity plans**, one for each establishment of the ABC Company, if it chooses not to combine geographic divisions for pay equity purposes. In this case, female job classes in the Wellington County establishment can only be compared with male job classes in Wellington County.



**Three establishments, three plans**

- B. **One pay equity plan**, if the ABC Company decides to combine facilities in all three geographic divisions into one establishment. In this case, female job classes in all three regions can be compared with male job classes in all three regions.

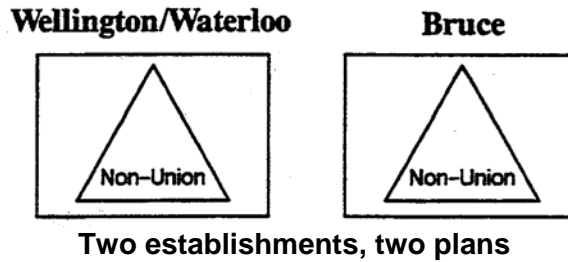
**Wellington/Bruce/Waterloo**



**One establishment, one plan**

- C. **Two pay equity plans**, if the Company decides to combine two geographic divisions (e.g. Wellington and Waterloo) into one establishment, while leaving the third (Bruce) separate. In this example, female job classes in Wellington County can be compared with male job classes in ABC's plants in Wellington and Waterloo counties because

these are part of the same establishment. These same female job classes are not compared with male job classes in the second establishment, those in Bruce County.

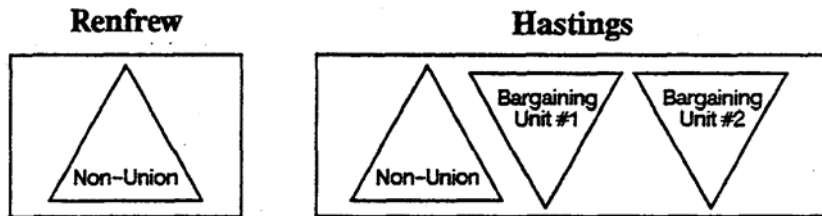


**Example 4:** Employees of ABC Company are located in two geographic divisions (Renfrew and Hastings counties). One (Renfrew) has only non-union employees. The other (Hastings) has two bargaining units, represented by different bargaining agents, and a group of non-union employees.

**Requirement:** There are three choices:

- A. If the decision is made to keep two separate establishments, then **four pay equity plans** are needed: one covering each group of non-union employees in both establishments and one covering each of the two bargaining units in the second establishment (Hastings).

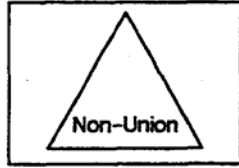
Non-union female job classes in the ABC's Renfrew County establishment, in this case, are only compared to non-union male job classes in the same establishment. Male comparators are not sought from among either the union or non-union male job classes in the company's Hastings County establishment.



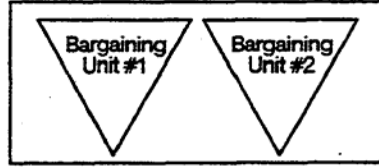
**Two establishments, four plans**

- B. If the decision is made to combine the two establishments but only for the non-union employees, then **three pay equity plans** are needed for ABC Company: one for all non-union employees (Renfrew and Hastings), and one for each of the bargaining units (Hastings).

**Renfrew/Hastings**



**Hastings - Unions Only**

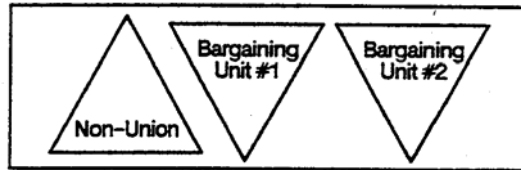


**One establishment (Renfrew/Hastings), one plan  
 plus  
 One establishment (Hastings), two plans**

In this case, non-union female job classes in Renfrew and Hastings counties could potentially be compared with union job classes in Hastings since the establishment for the non-union employees includes *all* employees in Renfrew and Hastings Counties. On the other hand, female job classes in either of the bargaining units in Hastings County could not be compared with non-union male job classes in Renfrew County since the employer and bargaining agent did not agree to include Renfrew in the same establishment. They could, however, be compared with non-union male job classes in Hastings.

- C. If the decision is made to combine the two geographic divisions (Renfrew and Hastings counties) in one establishment for all employees of the ABC Company, **three pay equity plans** are still needed: one for all non-union employees and one for each bargaining unit.

**Renfrew/Hastings**



**One establishment, three plans**

Under this option, the establishment for the union job classes would include Renfrew and Hastings rather than Hastings only.

For full information on seeking male comparator job classes for female job classes, see *Guideline #10: Which Job Classes to Compare Using the Job-to-Job Comparison Method.*

## Employers Not Required to Post Pay Equity Plans

Employers not required to post pay equity plans must also establish pay equity in all of their establishments. They would follow the same principles, described above, for determining the number of establishments.

### RELEVANT SECTIONS IN THE ACT

|                  |   |
|------------------|---|
| Subsection 1(1)  | Defines establishment and geographic division.  |
| Section 2        | Explains the rights of employers to negotiate jointly and the rights of municipalities to combine into one employer.  |
| Subsection 7(1)  | States the requirement for employers to establish and maintain compensation practices that provide for pay equity in each of their establishments.            |
| Subsection 14(l) | Defines the number of pay equity plans needed in an establishment where a bargaining agent exists.  |
| Subsection 14(3) | States that the employer and bargaining agent may agree that establishment includes two or more geographic divisions.   |
| Subsection 15(2) | States that the employer may decide, where employees are not represented by a bargaining agent, that establishment includes two or more geographic divisions. |

### REFERENCES:

*Pay Equity Implementation Series (Revised) - Guideline #2: Determination of Employer and Employee*

*Pay Equity Implementation Series (Revised) - Guideline #10: Which Job Classes to Compare Territorial Division Act*

### For More Information:

We are here to help. We can answer your questions by e-mail at <mailto:Pecinfo.Pecinfo@ontario.ca> or by phone at (416) 314-1896, or toll-free at 1-800-387-8813. You can also register for a free seminar. Visit our website at <http://www.payequity.gov.on.ca/peo/english/seminar.html>

All communications are confidential.

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### The Pay Equity Commission

**This fact sheet is for information only, and is not intended to restrict Review Officers or the Pay Equity Hearings Tribunal in their determination of matters. Refer to the *Pay Equity Act* for exact interpretation.**

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