



New Pay Equity Legislation for Federally Regulated Employers on the Horizon

At a glance and why is it important

In an effort to promote gender equality and fairness in the workplace, the Federal Government has introduced its plan for establishing pay equity in federally regulated sectors, moving away from the former complaint-based pay equity approach as set out in the *Canadian Human Rights Act*, and the *Equal Wage Guidelines*. On October 29, 2018, Bill C-86 (Budget Implementation Act, 2018, the *Pay Equity Act*) passed First Reading and will take a proactive approach to helping employers comply with the law, rather than “waiting” for employees to lodge complaints about discriminatory wages.

Employers will have **three years** from the time the proposed law comes into force to evaluate their current compensation practices and ensure they align with the new regime. This will apply to employers with **10 or more employees** within **the federal private and public sectors**. This includes banks, telecommunications, utilities, transport industries as well as offices of the prime minister / other ministers and parliamentary workplaces – covering over 900,000 Canadian workers.

As anticipated, many of the new requirements are similar to the provincial legislations in the establishment of a Pay Equity Plan – definition of job class, role of committee members, allowing some flexibilities around the definition “employer”, and permissible differences in compensation, and the requirement of plan posting.

Federally regulated employers should familiarize themselves with the new pay equity legislation, including the process of comparing jobs, posting, the role of unions and implications for collective bargaining, and the reporting obligations. Below are highlights to consider:

HIGHLIGHTS OF THE NEW FEDERAL PAY EQUITY

Definition of “Employer”	<ul style="list-style-type: none"> ○ “Group of employers” may be recognized as a single employer
Determination of Number of Employees	<ul style="list-style-type: none"> ○ Employers with 10 to 99 employees <ul style="list-style-type: none"> ▪ requirement to establish a pay equity committee if some or all employees are unionized ○ Employers with 100 or more employees <ul style="list-style-type: none"> ▪ requirement to establish a pay equity committee
Composition of a Pay Equity Committee	<ul style="list-style-type: none"> ○ At least 3 members with specific requirements around female and employee / employer representations
Gender Predominance Determination	<ul style="list-style-type: none"> ○ At least 60% among incumbents is the required threshold for both male job classes and female job classes ○ Considerations to historical incumbency and gender-based occupational stereotyping
Comparison Methods	<ul style="list-style-type: none"> ○ Equal Average Method – comparing average compensation of female job classes to male job classes within the band/comparable value ○ Equal Line Method – comparing a female regression line based on predominately female job classes to a male regression line
Requirement of Plan Posting	<ul style="list-style-type: none"> ○ Requirement to post a plan for 60 days that includes, among other requirements, job class gender, method of comparisons and results

Maintenance Review	<ul style="list-style-type: none"> ○ Requirement of annual statement submission ○ Requirement of every 5 years review / update of plan(s) with possible retroactively pay adjustments if gap exists
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In addition to the above prescribed obligations, a new **Pay Equity Commissioner** will be appointed within the **Canadian Human Rights Commission** to oversee pay equity matters, such as leading the education process and creating a process to enforce, monitor, audit and resolve disputes / complaints. As outlined in the *Act*, employers are expected to notify and/or apply to the Commissioner for authorization or approval for action on numerous situations that are “outside” of the *Act*.

Both employers and employees stand to gain from proactive pay equity legislation. An equitable and fair workplace will result in greater employee engagement and an improved ability to retain and attract talented employees. In addition, achieving pay equity in a timely manner will help employers avoid large retroactive payouts.

About Gallagher’s Human Resources & Compensation Consulting Practice

Gallagher has extensive expertise in assisting organizations with job evaluation exercises that underpin any pay equity program. We are experts in the design and application of a range of job evaluation methodologies covering the required factors of skill, effort, responsibility, and working conditions. The Gallagher team is at the forefront of providing expert pay equity consulting services in Canada and US markets where more stringent provincial / state pay equity laws are being introduced.

With experience in over 300 client projects in Canada, Gallagher is committed to using its expertise in pay equity consulting to assist employers in response to the evolving requirements of pay equity regulations and to approach gender wage gap issues in a thoughtful and strategic manner. While the legislation does allow employers three years to develop their pay equity plans, we recommend that employers commence work on the foundations for their pay equity programs as soon as possible to proactively manage the process and ensure compliance.

If you have any questions or would like more information about our services, please call Gallagher in the Toronto office at 416.644.6584.

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For more information, see links below;

Bill C-86 – A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures

<http://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=10127729>

Government released of report titled “Proactive Pay Equity: What We Heard” – which incorporated input and feedback from employers, workers, advocacy groups and other stakeholders

<https://www.canada.ca/en/employment-social-development/programs/pay-equity/reports/pay-equity-what-we-heard.html#h2.2>