



What Ontario Employers should know about the New Legislation Bill 3, *Pay Transparency Act, 2018* in advance of January 2019

Closing the gender wage gap has increasingly become a focus of government both at the provincial and federal levels, evidenced by the new provincial legislation recently passed in Ontario, as well as prospective federal legislation expected in the Fall of 2018. While many of the details regarding this provincial and federal legislation are not known at this time, clearly employers need to be aware of gender wage gap issues and consider how they will respond to the requirements of the new legislation as it is understood now, and with the anticipated requirements of legislation in the near future.

Similar pay equity and pay transparency laws currently exist in other countries such as Australia, Iceland, Germany and United Kingdom.

NEW ONTARIO PAY TRANSPARENCY LEGISLATION

Bill 3, the *Pay Transparency Act, 2018*, making Ontario the first province in Canada to establish comprehensive legislation around pay transparency. The purpose of the *Pay Transparency Act* is to promote gender equality and equal compensation between men and women in the workplace through increased transparency. This legislation is a broader strategy aimed at increasing “pay awareness” in both hiring and compensation practices for employees in Ontario, with a view to advancing the Ontario government’s stated objective of closing the gender wage gap.

The Act will come into force on **January 1, 2019**. *The Pay Transparency Act* aligns well with the recently amended and enhanced “Equal Pay for Equal Work” requirements in the *Ontario Employment Standards Act, 2000* (under the *Fair Workplaces, Better Jobs Act, 2017*) which came into force on April 1, 2018.

We have highlighted below the new and significant obligations for employers in Ontario according to the timeline for implementation:

Effective January 1, 2019 - Recruitment:

- Require all publicly advertised job postings to include the expected compensation (salary range or rate) for the position;
- Prohibit employers from seeking compensation history from prospective employees.

Effective 2020 / 2021 – Annual Pay Transparency Report and Filing:

- Require employers (with 100 or more employees) and every ‘prescribed’ employer to file a pay transparency report **by May 15 of each year**
- Must contain prescribed information relating to:
 - The employer,
 - The workforce composition,
 - The differences in workforce compensation with respect to gender and other prescribed (diversity) characteristics.

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- Require employers to post the report online or in a conspicuous place in every workplace and also submit it to the Ministry of Labour
- The **first mandatory** prescribed reporting period is;
 - Employers with 250 or more employees must submit the first pay transparency report no later than **May 15, 2020**.
 - Employers with 100 to 249 employees must submit the first pay transparency report no later than **May 15, 2021**.

Employers in Ontario should take this opportunity to review their job posting and recruitment/interview processes to ensure compliance with the new legislation. In addition, employers with more than 100 employees, we recommend reviewing your workforce, compensation data and practices in preparation for the upcoming pay transparency reports.

It is not clear at this time what and how precisely employers will need to convey information in the proposed pay transparency reports. If pay transparency reporting in the UK is any guide as to the ultimate requirements in Ontario, then employers can anticipate using “mean” and “median” in the pay and bonus calculations, as well as proportion calculations receiving bonus by gender.

Regardless of eventual requirements under provincial pay transparency, it is clear that the process involving compliance will be a data intensive process. Employers should be considering how relevant data regarding gender wage gap and other possible measures of inequities related to employment of women and other Ontarians can be extracted from their HRIS systems in preparation for analyses at this time.

In today’s competitive landscape, it is imperative that legislative compliance is a fundamental part of an effective total rewards strategy for attraction and retention, and corporate sustainability. At Gallagher, we have conducted research with a dedicated team who are compliance experts in the federal and provincial legislations and can assist organizations to strengthen their value proposition and achieve strategic goals.

If you have any questions or would like more information about our services, please call Gallagher McDowall Associates at 416.644.6584.

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