

Legal update

What to expect in pay transparency reporting

March 2019

Employment and labour

The [Pay Transparency Act, 2018](#) (the *Act*) received royal assent in 2018 and is expected to come into force in Ontario before the end of 2019. The intention behind the *Act* is to eliminate the gender wage gap through increased transparency of pay and workforce composition.

The *Act* aims to bridge the gender wage gap by requiring employers to exercise transparency in compensation history and compensation range information, prohibiting reprisal against employees with respect to pay transparency and requiring the development of annual pay transparency reports for employers with 100+ employees.

In particular, employers should be prepared for the upcoming deadlines to submit their first pay transparency reports (ss. 7(2) & (3)):

- **May 15, 2020**, for employers with 250+ employees; and
- **May 15, 2021**, for employers with 100+ employees.

However, the details for pay transparency reporting have yet to be hashed out. In developing the *Act's* regulations, the Ministry of Labour recently published a proposal for the pay transparency reporting requirements in order to seek public feedback by April 5, 2019. The proposal provides employers a glimpse on what to expect:

- **Calculation of Gender Wage Gap** – The employer calculates both the average and median hourly wage gap of its workforce based on employees' wages from a specified pay period. The terminology and calculations to be used are as follows:
 - a. Gender wage gap (%) = $(\text{men's pay} - \text{women's pay}) / \text{men's pay} \times 100$
 - b. Median hourly wage gap reflects the mid-point value if all employees' hourly wages are arranged in order from lowest to highest. To find the median hourly wage, an employer would first calculate the median hourly wage of both genders and then the gap between the two.
 - c. Average hourly wage gap reflects the average wage employees make per hour. To find the average hourly wage, an employer would first calculate the average hourly wage of both genders and then the gap between the two.
- **Calculation of Workforce Composition** – The employer calculates the proportion of men and women in each pay quartile. Pay quartiles group employees into four groups of pay based on their pay rate:

- a. Lower Quartile (bottom 25% of earners);
- b. Lower Middle Quartile;
- c. Upper Middle Quartile; and
- d. Upper Quarter (top 25% of earners).

- **Accompanying Explanatory Narrative** – An explanation or narrative that provides additional context can be included by the employer.

The proposal emphasized that the reports would be made available publicly and comply with Ontario privacy laws. Specifically, it was noted that neither the legislation nor any future regulation would require employers to publicize the compensation information of individual employees. Rather, the aggregate data collected would be anonymized.

With the aim of fine-tuning the requirements, the Ministry of Labour put forth the following public consultation questions:

Wage Gap Calculations

- In order to capture a more accurate picture of the differences in compensation between men and women at an organization, which additional wage gap calculations should be required (e.g., bonuses, overtime pay, commissions)?
- Given your answer to question 1, how should these gaps be calculated?

Reporting Period

What reporting period would you prefer to use to calculate average and median hourly gender wage gaps (e.g., calendar year, a prescribed period such as a pay period or specific week [please specify the date/period], fiscal year, etc.)?

Implementation and Costs to Employers

- If you are an employer with 100 or more employees, do you currently have all the information you would need to calculate your organizational median and hourly gender wage gaps for a specified period?
- If you are an employer with 100 or more employees, how much do you estimate the cost of pay transparency reporting will be, based on the proposal (for each of the categories below, please provide an estimated cost):
 - a. IT/software costs
 - b. Personnel costs
 - c. Other (please describe)
 - d. Total costs
- How many hours do you anticipate pay transparency reporting will take in total? Please round up to the nearest half hour.

General Feedback

- Do you have any general comments or feedback regarding the proposed pay transparency reporting requirements?
- How many employees work for your organization?

- In which sector or industry does your organization operate?

For more information, please visit the [Ministry of Labour's website](#).

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