

Global People Solutions

Canada introduces gender pay gap reporting obligation

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The Canadian government passed legislation mandating federally regulated employers with a current minimum of 10 employees to proactively establish a pay equity plan identifying and addressing gender pay disparities between men and women in the workplace by 31 August 2024.

The pay equity Act (the "Act"), which received royal assent on 13 December 2018, finally entered into effect along with its supporting regulations on 31 August 2021.

Key details

The Act applies only to federally regulated businesses (except those located in the governments of Yukon, the Northwest Territories, Nunavut, and Indigenous governing bodies), and is limited to certain sectors such as air transportation, banks, telecommunications, etc.

The Act includes the establishment of a pay equity plan, pay equity committees, compliance with filing and audits requirements, and remediation of gender pay disparities found.

Pay equity plan

Covered employers must proactively implement pay equity plans identifying and correcting differences in compensation between male and female employees. The pay equity plan must be established by 31 August 2024, or, after that date, on 1 January of the following year when an employer reaches an average threshold of 10 employees.

Pay equity plans must include the following information:

- Identification of job classes in the workplace.
- Determination of both gender predominance and compensation levels for each job class.
- Calculation of a value of work for each job class identified, including consideration of the necessary skills and responsibilities required for the job.
- Comparison of the compensation levels of predominantly male and predominantly female job classes of equal or similar value.
- Identification of female job classes that require an increase in compensation and explain how and when such increase will enter effect.

Employers are required to seek the feedback of their employees on their pay equity plan draft. The draft plan must be posted internally for employees' review within 60 days after its development. Employees' feedback should be considered for the establishment of the final version of the pay equity plan. In addition, covered employers must update and amend their pay equity plan at least every five years, or as needed, to ensure gender pay gaps are properly closed and provide the Pay Equity Commissioner annual statements.

The pay equity plan will prevail in case of inconsistencies with any applicable collective agreement.

Pay equity committee

Covered employers with 100 or more employees, as well as those with 10 to 99 employees if some or all their employees are unionized, must make all reasonable efforts to establish a pay equity committee that will develop the employer's pay equity plan.

The pay equity committee members should include:

- A minimum of one member from each union, if unionized.
- A minimum of one member representing non-unionized employees.
- A minimum of one member representing the employer.

In addition, the committee members should be comprised of at least 50% of women and at least two-thirds of the members should represent employees.

Enforcement

The Act creates a new federal role for a Pay Equity Commissioner (PEC), who is responsible for monitoring and ensuring compliance with the Pay Equity Act. The PEC powers and duties include:

- Facilitating the resolution of disputes.
- Conducting compliance audits.
- Investigating disputes, objections and complaints.
- Making orders and imposing administrative monetary penalties for violations of the Act.

Monetary penalties may range from CAD 30,000 to CAD 50,000 depending on the violation.

Covered employers will be required to submit annual statements to the PEC regarding their pay equity plan and maintenance. Employers should be aware that where an employee files a complaint they do not need to prove their case. In the enforcement action, the burden of proof is placed on the employer to prove that they complied with the Act.

Next steps

When applicable, employers should be proactive and start reviewing their compensation practices, preparing for the development of a pay equity plan and creating a pay equity committee when applicable. Although the Act only applies to certain federally regulated employers, it will likely be a model for provincial legislation in those provinces which do not currently have a gender pay legal framework. Currently, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island, Ontario and Quebec have enacted gender pay legislation.

Additional resources

[Pay Equity Act](#)

[Pay Equity Regulations](#)

[Lockton Global Compliance article on Canada \(discusses the Pay Equity Act\)](#)

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