

Are you ready for pay transparency?

On January 1, 2019, Ontario's "Pay Transparency Act" comes into force. Ontario is the first province to introduce pay transparency legislation and it certainly will not be the last. The spirit of the Act can be viewed as an extension of the "Equal Pay for Equal Work" requirements in the Ontario Employment Standards Act, 2000 that came into effect on April 1, 2018, whereby employees performing similar work must be paid equally, regardless of their employment status (i.e. full-time, part-time, casual, temporary, or seasonal).



THERE ARE 2 NOTEWORTHY IMPLICATIONS FOR EMPLOYERS UNDER THE PAY TRANSPARENCY ACT:

▶ Hiring practices

- Starting on January 1, 2019, employers are required to include compensation information—expected compensation, salary range—when publicly advertising jobs.
- Employers are not permitted to ask a candidate about their compensation history.

▶ Reporting

- Starting on May 15, 2020, employers with 250 or more employees will submit to the Ministry of Labour a "Pay Transparency Report" noting workforce composition and differences in compensation related to gender and other prescribed characteristics; employers with 100 to 250 employees will submit their first transparency report no later than May 15, 2021.
- Employers will need to post their Pay Transparency Report online, or in at least one conspicuous place, in every workplace.

The impact of this legislation will vary from company to company. Dr. Catherine Connelly, Professor and Canada Research Chair of Organizational Behaviour at the DeGroote School of Business at McMaster University, believes, “Pay transparency can have a negative or positive effect on the trust levels between employers and employees, depending on how it’s handled. If every employee is included in the pay transparency (and if the pay is indeed fair), then the employer has demonstrated its integrity and employees will trust them. This has the potential to be very positive. But, if some employees learn that they have been underpaid compared to their coworkers, trust will likely be irreparably broken. Companies need to fix inequities and then ensure that pay transparency is implemented carefully.”

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AS SUCH, WE ADVISE YOU TO BEGIN MAKING THE NECESSARY PLANS TO MANAGE THE JANUARY 1, 2019 CHANGE. WE HAVE LISTED BELOW THE AREAS OF WORK THAT REQUIRE YOUR ATTENTION:

MUST DO

- ▶ Update job postings to include the necessary compensation information.
- ▶ Inform and train the Talent Acquisition / Recruitment teams and hiring managers to not ask any compensation history questions.
- ▶ Begin to identify compensation gaps based on gender and make the necessary adjustments.
- ▶ Draft a report to review gender pay differences and discuss the next steps, including the communication strategy.

STRONGLY RECOMMEND DOING

- ▶ Review your broad-based pay practices and policies
 - *Do you need to update your salary structure?*
 - *Is your market pricing or benchmarking up-to-date?*
 - *Are your pay practices and policies (i.e. merit, promotions) unconsciously gender biased?*
 - *Are your job levels and job evaluation practices—not to mention job descriptions—current?*
 - *If your organization has restructured or endured a merger and acquisition, have you updated or harmonized any items mentioned above?*
 - *What would you need to do to pass a pay equity audit?*
- ▶ Communicate your compensation philosophy
 - *Do your managers and employees understand your salary ranges and market position (e.g. 50th percentile and comparators)?*
 - *Do your managers and employees understand the value of their total rewards?*
 - *How will you explain to your employees the inclusion of compensation in your job postings? Additionally, how will you manage the inclusion of compensation information in job postings from your competitors?*

total rewards

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how will the act be enforced?

Note that Compliance Officers have the authority to enter a workplace without a warrant to conduct a compliance audit or investigate a possible contravention of the Act; they can also impose penalties. Maria Gergin, Senior Associate at Borden Ladner Gervais (BLG) indicates, “the impact of a non-compliance to the Pay Transparency Act could be wider than only those penalties. So, an Ontario employer who does not remedy its gender pay gaps faces not only the potential for public scrutiny of its compensation practices, but also monetary penalties. Therefore, there are a number of good reasons for Ontario employers to begin to audit their pay practices, correct inequalities, and, of course, consult with advisors in preparing to comply with their reporting obligations.” It’s also worth pointing out that employers cannot intimidate, dismiss, or penalize employees for making enquiries about their compensation.

what’s next

As the regulations related to the Act have yet to be drafted, there is limited guidance on what compensation is to be tracked and reported. We expect companies will need to continue to invest in pay compliance related work as it’s an essential part of managing relevant total rewards.

The Act intends to close the wage gap between men and women. Making pay distinctions based on gender is already prohibited by the Employment Standards Act and the Pay Equity Act, and the Pay Transparency Act will ensure compensation levels will be based on job requirements and the candidate’s qualifications.

For those who wish to learn more about how organizations plan to prepare for the enforcement of the bill, we will be organizing round-tables in the fall in Toronto and Ottawa. If you would like to participate, please contact us.

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With over 180 experts, we help hundreds of clients create human capital and financial performance every year. Our team of compensation professionals approach situations from a targeted results standpoint. Whether through very specialized assignments or on-site interventions, we deliver simple and innovative solutions to meet your strategic and tactical needs. Our knowledge of market practices includes every aspect of total rewards, from base pay and incentive pay to employee benefits plans and retirement plans, as well as paid time off.