

New Pay Equity Regulations come into effect September 3, 2024 for Federally Regulated Employers

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23 August 2024

The *Pay Equity Act*, S.C. 2018, c. 27, s.416 (the “**Act**”) received Royal Assent on December 13, 2018, and came into force on August 31, 2021. Under the Act, federally regulated employers (i.e. banks, marine shipping, cross-border transportation and telecommunications employers) who have been subject to the Act since it came into force in August 2021, must develop and implement a pay equity plan for their workplace by **September 3, 2024**.

Under the Act, federally regulated employers are required to proactively analyze compensation practices to ensure equal pay is provided for work of equal value. The Act requires employers with 10 to 99 employees, where some or all of employees are unionized, and employers with more than 100 employees to form a pay equity committee made up of employer and employee representatives. This committee will be responsible for developing and updating the pay equity plan. Employers with 10 to 99 employees, with no unionized employees, can develop and implement a pay equity plan without having to establish a pay equity committee, although they can choose to form a committee voluntarily.

The pay equity plan must:

- Identify job classes in the workplace (i.e. positions that share certain similarities);
- Determine which job classes are commonly held by women and which ones are commonly held by men;
- Value the work done in each of these job classes;
- Calculate total compensation in dollars per hour for each predominantly male and female job class; and,
- Determine whether there are differences in compensation between jobs of equal value.

Employers must then post a draft of the pay equity plan and a notice to employees of their right to provide comments on the draft plan. Employees must be given 60 days to provide written comments on the plan.

Employers can find guidance on comparing compensation within their workplace by reviewing the “Interpretations, Policies and Guidelines” published by The Pay Equity Unit of the Canadian Human Rights Commission.[1] These guidelines provide useful technical details of compensation comparison required in a pay equity plan. For example, employers will need to ensure that they are assessing total compensation by looking at direct compensation (i.e. base pay, variable pay, incentive pay) and indirect compensation (i.e. benefits, paid time off, and indirect payments).

In addition, the guidelines (as well as the Act) outline the two different methods that employers can use to compare the total compensation of predominantly female job classes with the total compensation of predominantly male job classes of equal value to determine whether there are differences in total compensation. These two methods are (1) the equal average method and (2) the equal line method.

The equal average method involves the creation of value-of-work bands (i.e. a range of values of work that the employer or pay equity committee considers comparable). Once the bands have been created, the employer must then identify the predominantly female and predominantly male job classes that fall into each band. This means that those job classes that demonstrate equal or comparable values of work are grouped together in the appropriate band. Job classes that are gender-neutral are not considered for this purpose.

The equal line method involves the creation of two regression lines: one for female job classes and one for male job classes. Each regression line represents the relationship between the value of work and total hourly compensation. The compensation associated with a female job class is to be increased if:

- The female regression line is entirely below the male regression line; and,
- The female job class is below the male regression line.

The Act will require employers to submit annual statements to the Pay Equity Commissioner regarding their pay equity plans and maintenance activities. In addition, the Act also requires all federally regulated employers to review and update the version of their pay equity plans at least every 5 years to identify and close potential wage gaps.

It is important that federally regulated employers start turning their minds to creation of a pay equity plan sooner rather than later so as to ensure that they are compliant with the Act. A PDF version is available for download [here](#).

[1] <https://www.payequitychrc.ca/en/publications>

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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