

Client Advisory

Canada pay equity

April 20, 2023

Summary

Organizations have to comply with a growing number of fair pay, pay transparency and pay equity legislations in Europe, US, and now in Canada with the new Federal pay equity legislation for federally regulated organizations and the new pay transparency legislation in British Columbia.

Introduction

Worldwide, women are paid about 20% less than men on average, according to the [International Labour Organization](#). Even after decades of efforts to combat gender-based pay discrepancies, fair pay remains an issue for companies and their workforces. Governments are taking note, sparking a global movement to close the gender pay gap with targeted legislation and pay transparency requirements. Initiatives are ramping up in the European Union and throughout North America, including in Canada. On December 13, 2018, the federal government passed the [Pay Equity Act](#) to ensure employers deliver equal pay to men and women doing work of equal value. Effective August 31, 2021, the Act requires employers to develop and share a draft version of the Pay Equity Plan by July 5, 2024 — meaning the time for employers to act is now if they have not started yet.

Canada Pay Equity Act

Because pay equity is a fundamental human right that should be protected, the Canadian Human Rights Commission is responsible to administer and enforce the *Pay Equity Act*.

The *Pay Equity Act* affects federally regulated workplaces with 10 or more employees, including banks, telecommunication companies, transportation companies, grain elevators and feed seed mills, along with federal Crown corporations and federal contractors. Pay differences, if any, must be for objective reasons and not based on gender.

While the approach under human rights legislation was complaint driven, under the *Pay Equity Act*, employers must proactively assess their compensation practices and *demonstrate* that they have achieved pay equity. A key component of that requirement is the Pay Equity Plan.

Pay Equity Plan

The *Pay Equity Act* requires existing employers to establish a Pay Equity Plan by September 3, 2024, that includes the following communication process:

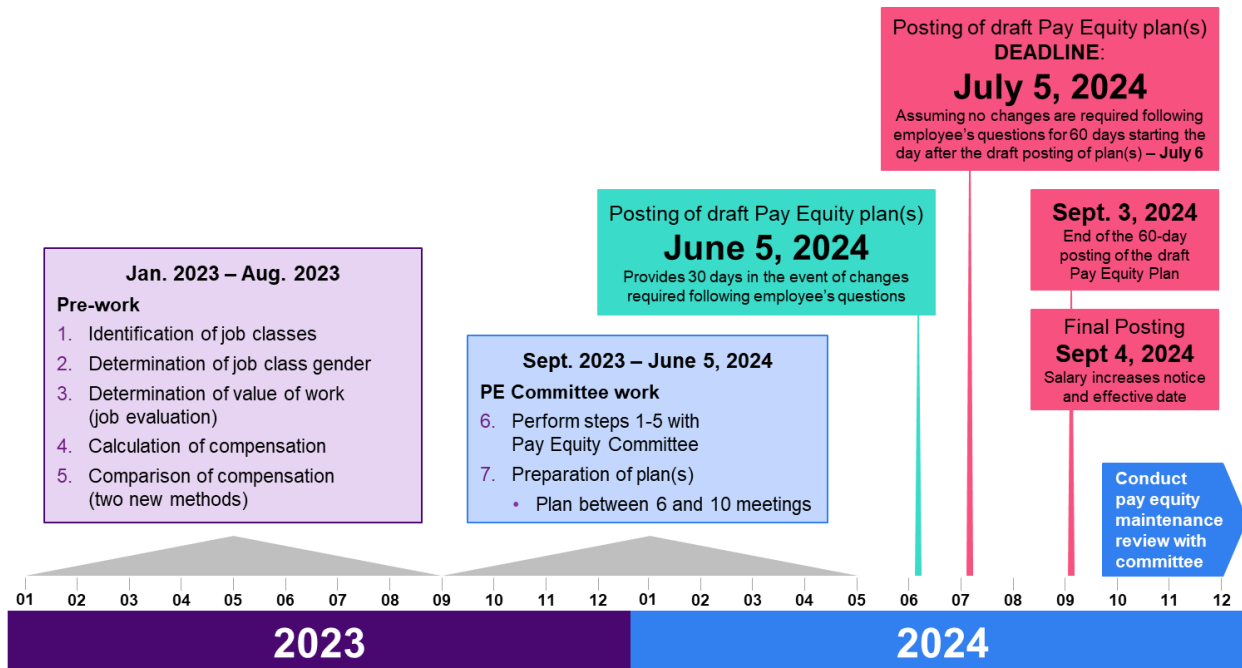
- Employees must be given 60 days to provide written comments on a draft Pay Equity Plan.
- A draft version of the Pay Equity Plan must be posted by July 5, 2024, but ideally June 5, 2024, in the event of questions from the employees.
- The final Pay Equity Plan must be implemented by September 3, 2024, with adjustments (if required) effective September 4, 2024.

For many organizations, a Pay Equity Committee must then, over the course of multiple meetings, prepare a Pay Equity Plan, with an aim to understand patterns of how employees are paid and to make adjustments where needed to bring female pay levels up to those of their male counterparts. Certain employers may be eligible to phase in the increases over three to five years. Plans must be updated every five years to ensure pay equity is maintained and to close any new pay gaps.

Prior to starting work with the Committee, organizations should validate if all necessary documentation is available (job description, plan documentation, etc.), perform a high-level pay equity audit and perform on a preliminary basis the tasks that the Committee will have to go through. As time goes by, some employers may want to skip the pre-work and others may decide not to meet the deadline depending on their respective degree of risks.

Next steps and potential timing

Knowing where to start to comply with the *Pay Equity Act* requirements depends on each individual company's needs. For most organizations, here are the next steps to meet the deadline and avoid going through retroactive adjustment calculations:



Pay transparency legislation

Pay transparency requirements are also a growing trend in Canada and in the United States, and companies face additional requirements depending on which city or state/province they operate in. In certain jurisdictions, pay must be disclosed in job postings and during the hiring/interviewing process, and shared with existing employees upon request and upon a promotion/transfer.

The US has also seen the emergence of shareholder initiatives over the past decade, asking companies to report pay data by gender or report on policies to reduce gender pay gaps. In 2018, salary history ban mandates started taking effect, prohibiting employers from asking job applicants about their current or past compensation. Currently 22 states, the territory of Puerto Rico and 21 counties/cities have salary bans in place.

In 2021, Colorado became the first state to require the disclosure of pay ranges in job postings.

Currently eight states and seven cities/counties have some form of pay range disclosure requirements for job seekers and/or employees, while 11 states and two cities have proposed legislation, making this an area for employers to closely watch. In Canada, British Columbia, Newfoundland & Labrador, Nova Scotia, Prince Edward Island and Ontario have passed pay transparency statutes, but they are not effective yet.

EU Pay Transparency Directive

The European Union's Pay Transparency Directive was approved by the European Council on March 30, 2023. Under its current provisions, Member States will have until 2026 to transpose the requirements into local law, making it possible that employers will need to start complying by 2027. Because some Member States may work on a faster timeline, employers may need to be prepared as early as 2025.

To prepare for the required level of transparency and ensure they are delivering equal pay, employers should review their policies to ensure the following:

- Job levelling allows for reliable identification of employees doing same or similar work or work of equal value.
- Any differences in male and female pay are for objective reasons.
- Relevant data and analytics are regularly available for the company to track its progress.
- Managers and employees are being educated on pay and other elements of their compensation, to provide a firm base for additional transparency.

WTW can help

Are you ready for pay transparency? For most employers, this will require significant time, effort, and strategic planning. Organizations should consult with advisors on integrating varying local regulatory requirements, identifying existing pay gaps using advanced analytics, and driving and sustaining measurable change to ensure employees of all genders are paid fairly.

For more information

This Advisory is not intended to constitute or serve as a substitute for legal, accounting, actuarial or other professional advice. For information on how this issue may affect your organization, please contact your WTW consultant, or:

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