

Ontario government seeks feedback on pay transparency reporting

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As many readers of Focus will recall, the *Pay Transparency Act, 2018* (the “PTA”) received Royal Assent on May 7, 2018 and was scheduled to come into force on January 1, 2019. Following the election of the new government, the coming into force of the PTA was deferred indefinitely by Bill 57 (see [Ontario’s omnibus legislation impacting pay transparency, collective bargaining in the fire sector and pensions receives Royal Assent](#)). Recently, the government released a consultation paper in order to seek feedback on the proposed pay transparency reporting requirements.

By way of background, the purpose of the PTA is to support the elimination of gender biases in employment and to promote gender equality and equal opportunity in the workplace. The underlying policy of the legislation is based on the notion that pay transparency enables an open, honest and informed dialogue between employees and employers regarding gender pay differences. The PTA therefore sets out a number of requirements relating to the disclosure of information about compensation of employees and potential employees. These include:

- a ban on employers seeking information about previous compensation from a job applicant, whether personally or through an agent (a job applicant may voluntarily disclose such information to an employer);
- a requirement that employers include information about the expected compensation or range of expected compensation on publicly advertised job postings;
- a requirement that employers with 100 or more employees and prescribed employers prepare a pay transparency report annually that details information about the employer, the employer’s workforce composition and differences in compensation in the employer’s workforce with respect to gender and other prescribed characteristics (the pay transparency report is required to be submitted to the Ministry of Labour and posted online or in a conspicuous place in the workplace); and
- a prohibition against reprisals against employees in exercising their rights under the PTA, including, for example:
 - asking about their own compensation;
 - disclosing their compensation to another employee;
 - inquiring about a pay transparency report; and
 - asking the employer to comply with the PTA or its regulations.

On February 19, 2019, the Ministry of Labour released a consultation paper entitled [Pay Transparency Reporting](#). The consultation paper provides information about the gender wage gap, how it can be measured in a workplace, and how the PTA may be used to address it. It includes a high level proposal for a regulation that will set out the detailed requirements for the pay

transparency report. The consultation paper poses a number of questions in respect of the proposal with a view to informing the detailed requirements for the future regulation. The questions are as follows:

- 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?
- 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.)? Please explain
- 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):
 - IT/software costs
 - Personnel costs
 - Other (please describe)
 - Total costs
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- How many hours do you anticipate pay transparency reporting will take in total? Please round up to the nearest half hour.
- 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?

The consultation paper requests that respondents provide written submission in response to the questions and the overall proposal by April 5, 2019. Written submissions can be sent by e-mail to: pta@ontario.ca

In our view

Given the potential costs associated with the PTA's reporting requirements, employers should review the consultation paper and the proposal, and consider the potential impact to their operations. This applies to both large and small employers. Although the PTA's reporting requirements currently apply only to employers with 100 or more employees, this could change in the future. As such, all employers should take the opportunity to provide candid feedback.

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