

## PROPOSED PAY EQUITY ACT IMPOSES SIGNIFICANT OBLIGATIONS ON FEDERALLY REGULATED EMPLOYERS

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On October 29, 2018, the federal government introduced the *Pay Equity Act* as part of *Bill C-86, Budget Implementation Act, 2018 No. 2.* If enacted, the *Pay Equity Act* will introduce a proactive pay equity regime which will significantly impact federally regulated employers in Canada.

The purpose of pay equity legislation is to address gender-based discrimination by ensuring employees in predominantly female job classes receive equal pay for work of equal value. Federally regulated employers in Canada already have an existing obligation to ensure that women and men working in federally regulated workplaces are being paid equally for work of equal value under the *Canada Labour Code and Canadian Human Rights Act*. However, the process to obtain redress is complaint based, which means that employees are obliged to file a complaint should they believe that they are being unfairly compensated.

By introducing the *Pay Equity Act* it is evident that the federal government has concluded that the goal of addressing gender-based discrimination in workplace compensation will not be sufficiently achieved under the existing complaint based process. Therefore instead of leaving pay equity in the workplace to possibly be achieved eventually through education measures and voluntary employer compliance, the proposed *Pay Equity Act* mandates that employers take concrete measures to ensure that the goal of equal pay for work of equal value is actually achieved in the near term.

Under the proposed legislation, all federally regulated employers with ten or more employees will be required to take steps to evaluate their compensation practices and then to make sure that they are providing equal pay for work of equal value in the workplace.

To achieve this result, employers will be required to establish a formal pay equity plan. The plan must identify the gender predominance of job classes, determine the value of work performed by each job class and compare the compensation for predominantly female job classes with compensation for predominantly male job classes of similar value. Finally the pay equity plan must identify predominantly female job classes that require an increase in compensation and must set out a date on which the increase in compensation is payable.



Employers with over 100 employees must also establish a pay equity committee that is responsible for developing the pay equity plan. The employee members of the pay equity committee are required to be provided sufficient time to perform committee work on a paid basis.

The Pay Equity Act will establish a Pay Equity Commissioner who will be responsible for administering and enforcing the legislation. The Pay Equity Commissioner will be authorized to conduct audits, assist in dispute resolution, conduct investigations, and impose administrative penalties for violations.

If enacted, the *Pay Equity Act* will impose significant obligations on federally regulated employers. Establishing a pay equity plan and then determining to what extent adjustments in compensation is required will undoubtedly be a complicated and time consuming process. This time commitment will be in addition to the monetary cost of wage adjustments which may be made necessary to achieve pay equity in the workplace.

Given the new obligations which will be imposed under the *Pay Equity Act*, it may be of some comfort for employers to know that the requirement to develop a pay equity plan will not arise until three years following the coming into force of the proposed legislation.

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## **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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