



ONTARIO EQUAL PAY COALITION

IT'S TIME TO CLOSE THE GENDER PAY GAP

Pay Transparency to Close the Gender Pay Gap Act

APRIL 11, 2017

Preamble

Whereas, as a participant in the international community through the United Nations and the International Labour Organization, Ontario has the legal obligation under international human rights instruments to take active steps to eliminate sex-based discrimination in employment and, in particular, to eliminate sex-based pay discrimination,

Whereas these obligations are addressed in human rights instruments including but not limited to, the International Labour Organization Convention 100 – Equal Remuneration for Work of Equal Value and Convention 111 – Discrimination in Employment and Occupation, the UN Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Declaration and Platform for Action, the Durban Declaration and Programme of Action on Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Convention on the Rights of Persons with Disabilities, and the International Covenant on Economic Social and Cultural Rights;

Whereas women have the legal entitlement to be treated without discrimination on the basis of sex;

Whereas employers are obliged under the *Ontario Human Rights Code* and the *Pay Equity Act* to ensure that systemic gender discrimination in compensation practices is eliminated and redressed;

Whereas a large and persistent gender pay gap continues to exist in Ontario's labour market. The gender pay gap widens and disproportionately disadvantages women who are Indigenous, racialized, have disabilities, are immigrants, have temporary migration status, and who face other forms of systemic oppression;

Whereas pay secrecy facilitates and helps perpetuate systemic gender discrimination in compensation;

Whereas greater pay transparency will encourage accountability in pay practices and encourage and facilitate action to close the gender pay gap and redress gender discrimination in compensation practices;

Whereas it is desirable that employers to publish information relating to the pay of all employees and managers for the purpose of showing whether there are differences in the pay of male and female employees;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this *Act*,

"classification" means positions in an establishment that have similar duties and responsibilities and require similar qualifications and have the same compensation schedule, salary grade or range of salary rates,

"compensation" means all earnings, wages, payments and benefits paid or provided to or for the benefit of a person who performs functions that entitle the person to be paid a fixed or ascertainable amount, including,

- (a) monetary remuneration payable by an employer to an employee under the terms of an employment contract, oral or written, express or implied,
- (b) any payment required to be made by an employer to an employee, and
- (c) any allowances for room or board under an employment contract or prescribed allowances,

"employee" includes "worker" and is not limited to,

- (a) a person who performs work or supplies services for monetary compensation, including an officer of a corporation,
- (b) a person who receives training from a person who is an employer,
- (c) a person who is a homemaker or
- (d) a dependent contractor,

"employer" means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services;

“establishment” means all of the employees of an employer employed or working in a geographic area of the employer,

"gender pay gap" means the extent to which women's annual earnings are less than men's,

"job status" means the nature of the employment relationship whether direct or contract, full-time, part-time, partial, casual, temporary agency,

"Minister" means the Minister of Labour,

“Ministry” means the Ministry of Labour;

"pay range" means the salary schedule, wage schedule and/or pay grid;

“worker” means any person who performs work or supplies services for monetary compensation

To whom Act applies

2. This Act applies with respect to an employee and their employer if,
 - (a) the employee's work is to be performed in Ontario; or
 - (b) the employee's work is to be performed in Ontario and outside Ontario but the work performed outside Ontario is a continuation of work performed in Ontario.
3. This Act applies to all employers who have at least ten employees.
4. This Act applies to the Crown and its employees where the employee
 - (a) is a public servant employed under Part III of the Public Service of Ontario Act, 2006; or
 - (b) is employed by a body prescribed in the regulations

Disclosure Obligations and Pay Transparency Report to Minister

5. Every employee has the right to pay transparency about their employer's compensation structure by gender and classification.
6. Every employer has a duty to provide their employees with a written statement setting out the establishment's compensation structure by gender and classification. Every employer shall, upon the request of any employee, furnish the member, without charge, with a statement disclosing its compensation structure by gender and classification.

7. No later than May 15 of every year, each employer shall disclose the following information relating to the prior 12-month period ending on March 31 of each year, to the Minister in an annual Pay Transparency Report:
 - (a) annual individual compensation of male employees, categorized by each classification and job status within the establishment,
 - (b) annual individual compensation of female employees categorized by each classification and job status within the establishment,
 - (c) if an employee's compensation is expressed as an hourly rate, the hourly wage rate and the annual compensation of male employees categorized by each classification and job status within the establishment,
 - (d) if an employee's compensation is expressed as an hourly rate, the hourly wage rate and the annual compensation of female employees categorized by each classification and job status within the establishment,
 - (e) the number of steps in a pay range by each classification and job status within the establishment,
 - (f) the rate of progression through a pay range by each classification and job status within the establishment.
8. No later than May 15 of every year, employers are required to disclose whether and, if so, how the employer considers the gender pay gap when setting compensation ranges during the 12-month period ending on March 31 of each year. If the Employer does not consider the gender pay gap when setting the compensation, pay ranges and job status, disclose the employer's reasons for not doing so.
9. No later than May 15 of every year, each Employer shall report whether it has adopted a written policy relating to the identification of steps to close the gender pay gap. If the Employer has not adopted such a policy, disclose why it has not done so.
10. No later than September 15th of every year the Minister of Labour shall prepare an annual report and provide such report to the Speaker of the Legislative Assembly which summarizes the employer's reports during the 12-month period ending on March 31 of each year.
11. Every employer is obligated to place the annual Pay Transparency Report before each annual meeting of shareholders.

Posting in the workplace

12. The employer shall post a copy of the Pay Transparency Report in prominent places in each workplace for the establishment to which the document relates in such a manner that it may be read by all of the employees in the workplace.
13. The Minister shall prepare and publish a poster providing such information about this Act and the regulations as the Minister considers appropriate.

Procurement Agencies of the Ontario Public Service

14. No later than May 15th of each year, the Minister of Government and Consumer Services shall provide a report to the Minister providing an overview of the compensation practices, the pay ranges, and policies of any and all procurement agencies and suppliers awarded contracts for goods and services whether by open, non-competitive, or invitation only competitions.
15. Where a gender pay gap is demonstrated, the Minister of Government and Consumer Services shall report to the Minister any and all policies and directives issued to close the gender pay gap during the 12-month period ending on March 31 of each year.
16. This report shall be provided to the Speaker of the Legislative Assembly no later than September 15 of each year.

No Reprisals

17. No employer may do any of the following:
 - (a) Require, as a condition of employment, that an employee refrain from disclosing the amount of his or her wages.
 - (b) Require an employee to sign a waiver or other document that purports to deny the employee the right to disclose the amount of his or her wages.
 - (c) Discharge, formally discipline, suspend or threaten to discipline or suspend or otherwise discriminate, harass, intimidate or coerce an employee who discloses the amount of his or her wages or seeks to exercise a right to disclosure under this Act.

Act has primacy over other Acts

18. Nothing in this Act abrogates from the obligations set out in the *Employment Standards Act, 2000*, the *Pay Equity Act* or the *Ontario Human Rights Code*.
19. Where a provision in an Act or regulation purports to require or authorize conduct that is a contravention of this Act, this Act applies and prevails unless the Act or regulation specifically provides that it is to apply despite this Act.

Effective Date

20. This Act shall be effective January 1, 2018.