



**STRENGTHENING HUMAN RIGHTS ACCOUNTABILITY:  
PAY TRANSPARENCY TO CLOSE THE GENDER PAY GAP**

**Equal Pay Coalition Submissions to  
The Standing Committee on Social Policy**

**Bill 3, *Pay Transparency Act, 2018***

**17 April 2018**



**ONTARIO  
EQUAL PAY COALITION**

474 Bathurst Street, Suite 300, Toronto, ON M5T 2S6  
info@equalpaycoalition.org  
www.equalpaycoalition.org

## Table of Contents

<b>I. OVERVIEW .....</b>	<b>1</b>
<b>II. CONTEXT AND PRINCIPLES TO GUIDE GOVERNMENT’S APPROACH TO BILL 3 .....</b>	<b>3</b>
A. Pay Transparency is a tool to enforce compliance with existing law .....	3
B. Pay Transparency is needed because employers are flouting the law .....	4
C. Without Pay Transparency women can’t enforce their rights to equal pay.....	4
D. Pay Transparency is the global best practice and Ontario is playing catch up.....	5
<b>III. 8 PRIORITY AMENDMENTS TO STRENGTHEN PAY TRANSPARENCY.....</b>	<b>6</b>
Amendment #1: Extend the Act’s Application to all employers with 10 or more employees ...	6
Amendment #2: Transparency Reporting Obligations must be intersectional and they must be set out in the Act, not regulations.....	8
Amendment #3: The Act Must Include Mandatory Timelines for Filing Pay Transparency Reports .....	11
Amendment #4: The Act Must Include Penalties for Failure to Comply .....	12
Amendment #5: Pay Transparency should be enforced through the Pay Equity Office rather than the Labour Board.....	13
Amendment # 6: The Act Must Include a Strong Purpose Clause .....	14
Amendment #7: Strengthen the Protection against Systemic Discrimination Caused by Reliance on Compensation History .....	15
Amendment #8: The Act should have a Preamble to Establishes its Context.....	16
<b>IV. ACCESS TO INFORMATION.....</b>	<b>17</b>
<b>V. CONCLUDING COMMENTS.....</b>	<b>19</b>
<b>APPENDIX A: Who is the Equal Pay Coalition?.....</b>	<b>20</b>
<b>APPENDIX B: 12 Steps to Close the Gender Pay Gap.....</b>	<b>22</b>
<b>APPENDIX C: Summary of the Amendments Proposed by the Equal Pay Coalition .....</b>	<b>27</b>

**STRENGTHENING HUMAN RIGHTS ACCOUNTABILITY:  
PAY TRANSPARENCY TO CLOSE THE GENDER PAY GAP**

**Equal Pay Coalition Submissions to  
The Standing Committee on Social Policy**

**Bill 3, *Pay Transparency Act, 2018***

**17 April 2018**

**I. OVERVIEW**

1. The Equal Pay Coalition is an organization that unites more than 41 women's groups, trade unions, community groups and business organization. Since it was formed in 1974, the Coalition has been at the forefront of advocating for women's economic security. The Coalition advocates to close the gender pay gap through law reform, collective bargaining and other policies and practices to advance women's economic security.
2. The Coalition continues to pursue its vision that Ontario must eliminate systemic discrimination against women. The Coalition calls for planning and action on many levels so that Ontario achieves a 0% gender pay gap by 2025. A background history of the Coalition's campaigning is found at **Appendix A** to this submission and a list of the Coalition's member organizations and further information is available at [www.equalpaycoalition.org](http://www.equalpaycoalition.org).
3. The Coalition knows that a strong statutory framework is a key tool to close the gender pay gap. The Coalition's 12 Steps to Close the Gender Pay Gap, attached at **Appendix B**, sets out the range of action needed to provide economic security for women. Step 4 in the Coalition's Steps to Close the Gender Pay Gap specifically advocates for the introduction of a strong pay transparency law.
4. For literally generations, it has been against the law in Ontario to discriminate against women in employment. Women in Ontario have been entitled to equal pay for equal work since the 1951 *Female Employees' Fair Remuneration Act*. They have been guaranteed equal rights in employment without discrimination based on sex under the *Human Rights Code* since 1962. They have been

protected by equal pay provisions under the *Employment Standards Act* since 1968. And they have been entitled to equal pay for work of equal value under the *Pay Equity Act* since 1987.

5. Despite all of these laws, the gender pay gap persists because of systemic sex discrimination in employment. Women continue to be paid less when doing the same work as men. They continue to be paid less when doing work of equal value to men. They continue to face systemic sex discrimination in hiring, and in access to full time work, training, mentoring and promotions. Women continue to predominate in part-time, temporary, casual, seasonal and temporary agency work where they continue to face pay discrimination.
6. Because of this systemic sex discrimination women continue to be paid average annual earnings that are significantly lower than men's. Statistics Canada has recorded that in 469 out of 500 occupations it tracks, men are paid more than women. The gender pay gap exists at all income levels, at all education levels, at all age levels.
7. The latest Census figures reveal that Indigenous women in Ontario face a 43% gender pay gap in average annual earnings. Racialized women face a 38% gender pay gap. Immigrant women face a 34% gender pay gap. On average, women in Ontario face a 29.3% gender pay gap.
8. A study by Deloitte, prepared for Ontario's Ministry of Labour in 2016 as part of the Gender Wage Gap Steering Committee review, calculated that the gender pay gap costs Ontario \$18 billion in lost wages every year – an amount that is the equivalent of losing the entire auto and auto parts industries.
9. In his Equal Pay Day Statement on 10 April 2018, Minister of Labour Flynn stated that "By advancing workplace gender equality, Ontario could add an extra \$60 billion in GDP by 2026, or up to an additional 9 per cent in GDP."
10. As outlined below, pay transparency is a critical tool that has been adopted internationally specifically to address the persistence of the gender pay gap. Pay transparency has been designed and adopted specifically in order to reinforce accountability for closing the gender pay gap and to strengthen enforcement with existing legal obligations to deliver discrimination-free pay.
11. It is the Coalition's position that Bill 3 must be strengthened to ensure it contains:
  - a. broad coverage of the Act to all employers in both the public and private sectors with 10 or more employees;
  - b. clear reporting obligations and timelines;

- c. a robust and explicit purpose clause; and
  - d. a robust enforcement mechanism, including significant public penalties and human rights damages to ensure compliance with the Act.
12. In these submissions the Coalition details the principled framework the Legislative Committee should bring to its analysis of Bill 3 and any proposed amendments. The Coalition then provides analysis and specific language to address the eight key amendments that are proposed. Finally, the submissions respond to concerns about privacy. The Coalition underscores that transparency is the paramount value in this circumstance because the very purpose of a pay transparency law is to ensure employee access to information without which they are unable to enforce their fundamental workplace rights. Without access to pay information, women’s rights to equal pay cannot be enforced. A summary of the Coalition’s proposed amendments is found at **Appendix C**.

## **II. CONTEXT AND PRINCIPLES TO GUIDE GOVERNMENT’S APPROACH TO BILL 3**

13. Four key perspectives and principles should inform the Standing Committee’s analysis of the amendments that are proposed to Bill 3. These are set out below:
- A. Pay Transparency is a tool to enforce compliance with existing law**
14. Pay Transparency is an important legal tool that has been designed specifically to buttress enforcement of the existing human rights laws that can help close the gender pay gap. Pay transparency promotes human rights compliance by creating accountability for non-discriminatory pay.
15. Women have the fundamental human right to be free from systemic sex discrimination in pay. A “right” is just that – it is a legal entitlement that must be enforced. It is not a privilege. It is not an option. It is a baseline entitlement for every woman in the workplace. And it is a baseline obligation for every employer to ensure they in fact deliver non-discriminatory pay and working conditions.
16. Under existing law, individual women must come forward to file complaints if they are experiencing sex discrimination in pay. But we know that the gender pay gap is not an individual problem; it is a systemic problem. We know that systemic discrimination persists because of entrenched practices and attitudes. The problem is not isolated. It is able to persist because of pay secrecy.

17. Pay transparency laws have been adopted because without a significant intervention to disrupt these patterns of systemic discrimination, the gap will not close. Employers have had literally generations to eliminate the gender pay gaps in their workplaces. Pay transparency laws effectively tell employers that “Time’s Up”. Employers must now positively demonstrate that they are complying with the multitude of laws that guarantee women discrimination-free pay.

**B. Pay Transparency is needed because employers are flouting the law**

18. All employers in Ontario have had a legal obligation to deliver discrimination-free pay since at least the 1960s. But employers continue to flout the law.
19. Enforcement of the equal pay provisions under the *Employment Standards Act* has been notoriously weak for decades with very few cases being adjudicated. The lack of claims reflects difficulty of accessing pay information in a context where non-unionized workers can be terminated for asking about or sharing pay information.
20. As reported by Ontario’s Pay Equity Office, 54% of employers have gender pay gaps contrary to the *Pay Equity Act* even though pay equity has been the law since 1987. In 2016 the provincial Gender Wage Gap Steering Committee reported that the pay gap has not closed in thirty years.
21. In its March 2018 *Women’s Economic Empowerment Strategy*, the government acknowledged that “The gender wage gap in Ontario has remained stagnant for the last decade, with women earning around 30 per cent less than men.” Canada’s gender pay gap is the 7<sup>th</sup> largest out of the 34 countries in the OECD.
22. This persistent non-compliance makes a mockery of women’s fundamental right to equality in the workplace. Public accountability is needed to ensure that employers deliver on their fundamental human rights obligations.

**C. Without Pay Transparency women can’t enforce their rights to equal pay**

23. At present, non-unionized workers do not know the pay structure in their workplaces. They can be disciplined and even terminated for asking about or sharing wage information. Yet, provincial laws require individual workers to file individual complaints to enforce their rights to discrimination-free pay. That right *cannot* be enforced – it is illusory – if women don’t know their employer’s pay structure.

24. Pay Transparency remedies this defect.
25. Pay Transparency puts the onus on employers to disclose their wages to *prove* that they are complying with their existing legal obligations under Ontario's *Human Rights Code, Employment Standards Act, and Pay Equity Act*.
26. Pay Transparency in the form of mandatory disclosure of compensation information enables workers, particularly non-unionized workers, to know and enforce their right to non-discriminatory pay.

**D. Pay Transparency is the global best practice and Ontario is playing catch up**

27. Pay Transparency is an internationally recognized approach to closing the gender pay gap. In 2014, the European Union Commission passed a recommendation that its member states implement pay transparency. Numerous countries have introduced pay transparency legislation, including Iceland, Denmark, Belgium and the UK. Australia has also implemented pay transparency measures.
28. The OECD, ILO and UN Women led Equal Pay International Coalition (EPIC) which launched in 2017 has identified pay transparency as an important tool in closing the gender pay gap. Canada plays a leading role in EPIC, holding a seat on the Coalition's Interim Steering Committee. In addition, Premier Kathleen Wynne is one of 25 global Equal Pay Champions tasked with promoting EPIC.
29. Now is the time for Ontario to implement strong pay transparency legislation so that it can catch up with the global leaders in closing the gender pay gap.
30. The Equal Pay Coalition has been demanding pay transparency for nearly a decade. On Equal Pay Day in April 2017, the Coalition launched its fully drafted model [\*Pay Transparency to Close the Gender Pay Gap Act\*](#).
31. The Equal Pay Coalition calls on the Ontario government to strengthen the *Pay Transparency Act* to ensure that it makes an advance in securing robust, effective protection for women's human rights.
32. The Bill has left too much to be introduced through regulations to be designed by the Minister of Labour. Leaving key obligations to be developed in regulations undercuts the strength of the Act and creates a democratic transparency deficit by removing key elements of the Act to private consultations.
33. The Coalition outlines its 8 Priority Amendments below.

### III. 8 PRIORITY AMENDMENTS TO STRENGTHEN PAY TRANSPARENCY

#### Amendment #1: Extend the Act's Application to all employers with 10 or more employees

34. Bill 3 has left the Act's application to be determined by regulations. Public announcements at the time of Bill 3's introduction indicated that pay transparency would initially apply only to the Ontario Public Service, and that following consultations would be extended to employers with 500 or more employees, and some years later to employers with 250 or more employees.
35. This undercuts the existing obligations in the *Human Rights Code*, *Employment Standards Act* and *Pay Equity Act* each of which have much more stringent standards for compliance:
  - a. Under the *Human Rights Code* every employer in the province, regardless of size, must treat women without discrimination in all aspect of employment, including pay.
  - b. Under the *Employment Standards Act*, every employer in the province, regardless of size, must provide women equal pay for equal work.
  - c. Under the *Pay Equity Act*, every employer in the province with 10 or more employees must have a pay equity plan which ensures that female job classes are paid as much as male job classes of similar value. Employers under the *Pay Equity Act*, including employers with 10 employees, are required to post pay equity plans in their workplaces demonstrating that they have achieved and continue to maintain pay equity.
36. As noted above, in paragraphs 13-16, the purpose of pay transparency legislation is to buttress these fundamental workplace laws by requiring employers to demonstrate that they are actually complying with these long-standing bedrock obligations. But if the law only applies to a small fraction of employers it doesn't operate as an effective deterrent to discriminatory behaviour and does not shift the institutionalized discrimination.
37. An analogy can be made to speeding tickets. If the maximum speed on the highway is 100 km/hour, but drivers know that tickets will not be issued unless a driver in fact exceeds 120 km/hour, it effectively condones speeding up to 120 km/hr.
38. Similarly, if Bill 3 only applies to employers with more than 250 employees it is



effectively signalling to employers with fewer than 250 employees that they need not worry because they will not be held publicly accountable for compliance and their employees will not have access to the tools to enforce their rights to discrimination-free pay.

39. If Bill 3 is phased in on the timetable and in the restricted manner proposed by the government, Ontario's pay transparency act will have the weakest scope of pay transparency laws on the global stage. For example, pay transparency in Iceland, Denmark and Belgium apply to employers with 25, 35, and 50 employees respectively. Australia's law applies to employers with 100 employees. The UK's law applies to employers with 250 employees.
40. It is worth noting that the Ontario government has, in its own economic statements, noted that 98% of employers in the province have 49 or fewer employees. The *Closing the Employment Standards Enforcement Gap* report noted that 22% of workers in the private sector work in workplaces with 20 or fewer employees. This trend to smaller workplaces is escalating in an era of contracting out and fissured workplaces. It is a feature of precarious employment that was stressed in the *Changing Workplaces Review*. Moreover, women are more likely to be employed in small workplaces than men.
41. It is women working in small, non-unionized workplaces who are most in need of access to pay transparency to enforce their rights. Unless, pay transparency legislation aligns with employer obligations to deliver non-discriminatory pay, accountability will not be achieved and the culture of non-compliance that devalues women's work and impoverishes women will not be broken.

**To remedy this:**

- \* The new Act must encompass employers in both the public and private sectors.
- \* The new Act must apply to all private and public sector employers with more than 10 employees. This matches the posting the obligations under the *Pay Equity Act*. It would also keep pace with federal initiatives. In its 2018 Budget, the federal government announced that it would introduce pay transparency legislation to apply to all public and private employers in federal jurisdiction with ten or more employees.
- \* The new Act must apply to all provincial vendors of record and employers contracted under provincial procurement. Potential vendors are immediately disqualified if they do not file a timely mandatory pay transparency report.

**PROPOSED NEW LANGUAGE:**

Add new sections 2.1 – 2.3 as follows:

**2.1 This Act applies with respect to an employee and 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.**

**2.2 This Act applies to all employers that have at least ten employees.****2.3 This Act applies to all vendors of record who have at least ten employees who do or seek to do business with the Ontario government.****Amendment #2: Transparency Reporting Obligations must be intersectional and they must be set out in the Act, not regulations**

42. Existing equal pay laws establish three different kinds of entitlements which are reflected in pay structures:
- a. The *Employment Standards Act* establishes the right to equal pay for equal work without distinction based on sex. Bill 148 extended this right to equal pay for equal work to ensure that part-time, casual and seasonal workers are paid the same as full-time workers doing substantially the same work; and to ensure that workers hired through temporary help agencies are paid the same as directly hired employees doing substantially the same work.
  - b. The *Pay Equity Act* guarantees equal pay for work of equal value by ensuring the jobs that are predominantly done by women are paid the same as jobs predominantly done by men that are of equal value in terms of the skill, effort, responsibility and working conditions.
  - c. The *Human Rights Code* guarantees that women are entitled to equal treatment without discrimination in all aspects of employment. For example, systemic discrimination that limits access to jobs, promotions, training and other aspects of employment will be reflected in gendered clustering of women in particular jobs, employment status and pay levels.

43. A strong pay transparency law can provide accountability on all these measures by revealing (1) when women and men are paid differently for the same work; (2) when female-dominated jobs are underpaid relative to men's work of similar value; (3) when women are concentrated in precarious employment; and (4) when women encounter glass ceilings, glass walls and sticky floors that deny them career progression.
44. Bill 3 contains no specifics regarding the nature of information that must be disclosed in a pay transparency reports. This information is the core of the law and it must be set out in the Act itself rather than being left to legislation. The core obligations must be set out in the Act itself. The Bill can be designed to provide authority to develop regulations which would allow reporting obligations to be expanded in the future. But the core reporting obligations to address the gender pay gap must be included in the legislation itself.
45. The scope of reporting obligations is not something that needs to be subject to further consultation with employers. The standard for compliance is already set out in existing law. The scope of reporting obligations must mirror the actual existing legal obligations to which employers are already bound – that is the intersecting obligations set out in the above three laws which guarantee discrimination-free pay.

**To remedy this:**

- \* The new Act must require that Pay Transparency reports that are intersectional in order to reflect these existing legal obligations that relate to discrimination-free pay.
- \* The new Act must specify the pay transparency reporting obligations, including compensation structure and wage grids by gender, job classification, and job status (full-time, part-time, casual, seasonal and temporary help agency workers).
- \* The Equal Pay Coalition's 2017 [model Pay Transparency to Close the Gender Pay Gap Act](#) itemized the intersectional reporting requirements that would align with employer obligations under the *ESA*, *Pay Equity Act* and *Human Rights Code*.

**PROPOSED NEW LANGUAGE:**

*The definition of "employment status" should be added to the section 1 definitions as follows:*

**"employment status" means the nature of the employment status including**

- (a) whether an employee works full-time, part-time or casual hours;**
- (b) whether an employee has permanent, temporary, seasonal or casual status; or**
- (c) whether an employee is hired directly by an employer or through a temporary help agency.**

*Following the heading "PAY TRANSPARENCY REPORTS", add new sections 6A and 6B, and amend section 6 to read as follows:*

**Right to Pay Transparency**

**6A. Every employee has the right to pay transparency about their employer's pay structure by gender.**

**Obligation to Disclose Pay Information**

**6B. Every employer,**

- (a) has a duty has to provide their employees with a written pay transparency report that sets out the establishment's pay structure by gender; and**
- (b) shall, upon the request of any employee, furnish the employee, without charge, with a copy of its pay transparency reports.**

**Pay Transparency Reports**

**6.(1) Every employer shall prepare an annual pay transparency report for each establishment that relates to the 12-month period ending on March 31 of each year.**

**(1A) The pay transparency report shall contain information relating to the employer, the employer's workforce composition, the employer's pay structure, and differences in the employer's workforce with respect to gender as follows:**

- (a) annual individual compensation of male employees, categorized by each classification and employment status within the establishment;**
- (b) annual individual compensation of the female employees categorized by each classification and employment 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 the male employees categorized by each classification and employment 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 the female employees categorized by each classification and employment status within the establishment;

(e) the number of steps in a pay range by each classification and employment status within the establishment; and

(f) the rate of progression through a pay range by each classification.

(1B) The pay transparency report shall contain such further information as may be prescribed by regulation.

Same

(2) Every employer shall submit the pay transparency report to the Ministry by May 15 of each year, and in accordance with any prescribed requirements.

Posting

(3) Every employer shall post the pay transparency report online or in at least one conspicuous place in every workplace of the employer where it is likely to come to the attention of employees in that workplace.

Publication

(4) The Ministry shall publish, or otherwise make available to the public, the pay transparency reports submitted under subsection (2).

Internet publication

(5) Authority to publish under subsection (4) includes authority to publish on the Internet.

### **Amendment #3: The Act Must Include Mandatory Timelines for Filing Pay Transparency Reports**

46. Bill 3 does not contain any mandatory time frame for filing pay transparency reports. This obligation must be contained in the Act itself, rather than being left

to regulation so that there is clarity in the law and so that the obligation cannot be changed without public debate.

47. There is an important publicly accountability factor that comes from having a single filing deadline that all employers must meet. To the extent that different employers have different year ends, there is no single date that will be equally convenient for all employers.
48. But ultimately the pay transparency reports are about having a consistent marker in time for addressing the gender pay gap. All employers must then have the same filing date. This will allow for consistent comparison within a year and year-over-year. It will also facilitate annual government analysis, reporting and policy making in response to the gender pay gap.

**To remedy this:**

- \* The new Act must require that Pay Transparency reports are filed annually.
- \* The Pay Transparency reports should be filed by 15 May of each year.

**PROPOSED NEW LANGUAGE:**

*The new language proposed is set out in the revised s. 6(2) which is proposed above. For ease of reference it is repeated here:*

- 6. (2) Every employer shall submit the pay transparency report to the Ministry by May 15 of each year, and in accordance with any prescribed requirements.**

**Amendment #4: The Act Must Include Penalties for Failure to Comply**

49. Bill 3 contains no provisions setting out any penalties for failure to comply with the pay transparency obligations. The penalty provisions should be set out in the legislation itself in order to ensure that there is public deterrence from non-compliance and the penalties should be set at a level at which the cost of non-compliance is significant.
50. The penalties should also be crafted so that they reflect both the public harm of non-compliance with the law and also the individual harm that is done to employees when an employer flouts their human rights.
51. A pay transparency report is important to all employees in a workplace. All workers have a right to know that their employer is complying with human rights laws. A failure to report to demonstrate compliance with fundamental human

rights evidences a disregard for employees' human rights and their ability to enforce their human rights. This must be recognized through human rights damages.

**To remedy this:**

- \* The new Act should include penalties by which an employer must pay a fine of \$50,000 for failure to file an annual pay transparency report.
- \* The new Act should also include penalties such that an employer who fails to file a pay transparency report must also pay a \$1,000 damage award to each employee in the establishment. This damage award is in recognition of the fact that the right to non-discriminatory pay is a fundamental human right and the failure to report on compliance with this fundamental law undermines an employee's human rights and undermines respect for the fundamental law of the province.

**PROPOSED NEW LANGUAGE:**

*Section 12(2) should be replaced by sections 12(2) and (2.1) as follows:*

**12.(2) Where an employer has failed to file a pay transparency report, the employer shall be subject to pay**

**(a) a fine of \$50,000 or such higher amount as may be prescribed in regulations; and**

**(b) human rights damages in the amount of \$1,000 or such higher amount as may be prescribed in regulations to each employee in the establishment.**

**(2.1) Such further penalties, including additional penalties for repeated breaches, shall be determined in accordance with the regulations.**

**Amendment #5: Pay Transparency should be enforced through the Pay Equity Office rather than the Labour Board**

52. Bill 3 proposes that the pay transparency obligations be enforced by the Ontario Labour Relations Board. We note that the OLRB does not have expertise in systemic wage discrimination which lies at the core of the reporting obligations in the legislation.

53. Meanwhile, the Pay Equity Office and Pay Equity Hearings Tribunal under the

*Pay Equity Act* do have expertise in systemic wage discrimination. There is extensive jurisprudence under the *Pay Equity Act* regarding the obligation to disclose wage information and the Review Officers and Tribunal under the *Pay Equity Act* are very experienced in issuing orders to disclose necessary wage-related information. In addition, the *Pay Equity Act* contains anti-reprisal provisions and the Review Officers and Tribunal have an expedited process for addressing complaints about reprisal.

**To remedy this:**

- \* In the new Act, responsibility for enforcing the pay transparency obligations should be assigned to the Pay Equity Office Review Officers and Pay Equity Hearings Tribunal.
- \* As pay transparency is an enforcement tool designed to ensure compliance with fundamental human rights, it must be enforced by the state, in a manner that ensures public accountability for compliance with the rule of law. To ensure this public accountability, pay transparency reporting obligations should be enforced exclusively through the Review Officers and Tribunal rather than through arbitration.

**PROPOSED AMENDMENTS:**

*The reference in Bill 3 to the Ontario Labour Relations Board should be replaced by references to the Pay Equity Office and Pay Equity Hearings Tribunal.*

**Amendment # 6: The Act Must Include a Strong Purpose Clause**

54. Bill 3 did not contain a purpose clause. A purpose clause is a very important part of any piece of legislation because it articulates the core principle which will be used to interpret the other provisions of the legislation.
55. Pay transparency laws do not mandate transparency for transparency's sake. They mandate pay transparency in order to provide a tool to support enforcement of fundamental workplace and human rights laws that mandate equal pay. This purpose should be clearly articulated in the legislation.
56. This is particularly important in the Pay Transparency legislation because the purpose clause will help establish the relationship between that Act and the rights in the *ESA*, *Pay Equity Act* and *Human Rights Code*.



**To remedy this:**

- \* The new Act must include an explicit purpose clause.

**PROPOSED NEW LANGUAGE:**

*The following new section 3A should be inserted following section 3:*

**3A.(1) The purpose of this Act is to protect and promote women's fundamental right to receive pay free of sex discrimination by requiring employers to disclose information about the pay structure and wage grids in each establishment, disaggregated in the manner detailed in this Act.**

**(2) Nothing in this Act abrogates from the obligations or enforcement provisions set out in the *Employment Standards Act, 2000*, the *Pay Equity Act* or the *Ontario Human Rights Code*.**

**(3) 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.**

**Amendment #7: Strengthen the Protection against Systemic Discrimination Caused by Reliance on Compensation History**

57. In a labour market such as Ontario's in which systemic wage discrimination is widespread, the discriminatory pay that women receive in one job is perpetuated in subsequent jobs as employers use compensation history as a benchmark for subsequent pay. This is one driver of the gender pay gap that impoverishes women throughout their careers. The Bill prohibits an employer from asking a job applicant about compensation history. However, the Bill undermines this prohibition by allowing employers to rely on compensation history if they obtain such information.

**To remedy this:**

- \* The new Act must clearly state that an employer cannot consider or rely on compensation history in any way which undermines a job applicant's right to receive pay that is free of discrimination.

- \* The new Act must ensure that the information disclosed through the Sunshine List is anonymized.

**PROPOSED NEW LANGUAGE:**

*Section 4(4) should be amended as follows:*

- 4. (4) Where an applicant has made a disclosure of compensation history information described in subsection (2) or the employer has obtained information described in subsection (3), an employer cannot consider or rely on compensation history in any way which undermines a job applicant's right to receive pay that is free of discrimination.**

**Amendment #8: The Act should have a Preamble to Establishes its Context**

58. The new Act can also include a Preamble (as does the *Human Rights Code* and the *Pay Equity Act*) which sets the context for its introduction as a means to address widespread non-compliance with existing law. This will assist with the Act's interpretation and reinforce the significance of the human rights at stake.

**PROPOSED NEW LANGUAGE:**

***Whereas** women's right to equality without discrimination is recognized in the Universal Declaration of Human Rights as proclaimed by the United Nations;*

***Whereas** women's right to equality without discrimination in employment and women's right to equal pay for work of equal are recognized in the International Covenant on Economic Social and Cultural Rights; the 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 as proclaimed by the United Nations; and Convention 100 – Equal Remuneration for Work of Equal Value and Convention 111 – Discrimination in Employment and Occupation as proclaimed by the International Labour Organization; and*

***Whereas** the gender pay gap continues to discriminate against and*

*impoverish women in the province; and*

**Whereas** *it is desirable to take proactive action to enhance compliance with employer's existing legal obligations to deliver discrimination-free pay;*

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

#### **IV. ACCESS TO INFORMATION**

59. The information provided in pay transparency reports is not personal information. It is information that relates to the pay structure of positions in a workplace. Pay transparency laws do not disclose individual employee data. They provide aggregate figures, in an anonymized way, to describe the wage structures and patterns at the workplace.
60. It is important to remember that the entire pay transparency exercise is about ensuring that (1) employees have access to the information that is necessary for them to be able to enforce their rights to non-discriminatory pay; and that (2) employers are subject to public accountability for their compliance with fundamental human rights and workplace laws.
61. Pay transparency serves the significant public policy objective of closing the gender pay gap. As the Minister of Labour stated in his Equal Pay Day statement on 10 April 2018, "It's 2018. There shouldn't be a reason why women continue to experience inequality in business, in the workplace and in society."
62. Without access to pay information, however, women cannot enforce their rights to non-discriminatory pay and the gender pay gap will not be closed.
63. Ontario has, through Bill 148, just introduced enhanced protection for equal pay based on employment status and assignment employee status. These are rights that have the potential to make a real impact for women. But at the moment those rights are fragile because women do not have a right of access to the pay information they need to enforce their rights. Anti-reprisal provisions are insufficient on their own to allow women to take the risk of seeking wage information from their employer and enforcing their rights. Many years of experience with employment standards show that non-unionized workers who seek to enforce their rights are at serious risk of discipline and termination. In order to ensure those new Bill 148 rights are meaningful, the onus to disclose

pay information must lie with the employer. And that information must be available to workers in all workplaces with more than 10 employees. That information cannot be restricted to larger workplaces.

64. Meanwhile, workers who have tried to enforce their rights under the *Human Rights Code* and the *Pay Equity Act* for decades routinely face extended litigation in order to access the pay data that they need to enforce their rights. This happens even in unionized workplaces. And it happens even in a context where pay equity jurisprudence has for decades confirmed that workers and unions have a right to broad access to any information that may be relevant to negotiating a pay equity plan.
65. This culture of secrecy – which facilitates unfair pay practices – is what pay transparency must disrupt. Pay transparency must give women the tools to enforce their rights so that the gender pay gap can be closed.
66. Bill 3 itself, in s. 5, recognizes that pay information that relates to a position must be publicly available in order to ensure that there is legitimacy and accountability in an employer's hiring and compensation practice.
67. It is important to note that right now, every single collective agreement in the province must be filed with the Ministry of Labour. Every collective agreement is publicly available to anyone who wants to see it. Every collective agreement contains a wage grid. Even where there is only one individual in a position in a unionized work place, their wage information is publicly available to anyone who cares to access their collective agreement. Anonymous wage data collected under pay transparency legislation should be treated the same way. This is information that relates to a position and is the kind of information that has in law been disclosed as an important element of rights enforcement and public accountability.
68. Moreover, under the *Pay Equity Act*, for three decades employers with 10 or more employees are already required to develop and post pay equity plans in their workplaces which disclose job classes and their associated pay.
69. Pay transparency reporting obligations are in line with these existing pay reporting obligations and should not be less rigorous.
70. Pay transparency should not be designed to exclude all employers with less than 250 employees out of a fear that at some point in the future a more refined intersectional collection of data that delves beyond gender may breach employee privacy. Instead, the legislation should be designed to encompass as many

employers as possible (employers with 10 or more employees) in order to fulfil its public accountability and rights enforcement purposes. The Bill can then grant the ability to make a regulation to limit the publication (but not collection) of specific data if it may lead to a breach of privacy. In that way the legislation will be fine-tuned to guard against the actual problem rather than excluding the majority of employers out of an anticipation of a potential problem.

71. As a matter of legislative design, the restriction on access to data should be the exception which is developed through regulation. The anticipated future exception should not in the present drive the exclusion of vast numbers of employers from monitoring and accountability.

## **V. CONCLUDING COMMENTS**

72. Bill 3 presents an opportunity to add an important legislative tool to enhance enforcement to close the gender pay gap. But in order to have the desired impact, the legislation must apply broadly and be rigorous in its application. The amendments proposed by the Equal Pay Coalition will ensure that the legislation will be strong and align with the leading pay transparency legislation globally.
73. We need bold action to close the gender pay gap. This is an opportunity to make the amendments that will allow Bill 3 to be that bold action.
74. Women have waited generations to close the gender pay gap. They should not have to wait any longer. Women are done waiting. It is time to show us the money.

**RESPECTFULLY SUBMITTED**

**FAY FARADAY and JAN BOROWY**

**Co-Chairs of the Equal Pay Coalition**

**17 April 2018**

## APPENDIX A

### Who is the Equal Pay Coalition?

With the founding of the Ontario Equal Pay Coalition in 1974, the Coalition brought together trade unions, women's and business women's organizations and community organizations to lobby for the implementation of ILO Convention 100 Equal Pay for Work of Equal Value.

The Equal Pay Coalition is a coalition of organizations to seek the implementation of equal pay for work of equal value both through legislation and collective bargaining. The Coalition has over 41 constituent and partner groups which represent Ontario women and men who support equal pay for work of equal value. Some of our member groups include:

The Coalition met with a succession of Ontario Ministers of Labour pushing for a strong equal pay for work value law; increases to the minimum wage as a pay equity down payment for the most vulnerable women workers; strong collective bargaining laws to help women bargain pay equity; and implementation of sectoral wages in female-dominated sectors.

With a strategy of working with all political parties who supported equal pay for work of equal value, the Coalition gained the support of both the New Democratic Party and the Liberal Party which resulted in pay equity being part of the Liberal/NDP Accord when the Liberals came to power in 1985.

As such, the Liberal Government issued a *Green Paper on Pay Equity* in 1985 which called for input on the design of the law. After two years of consultations, the Legislature passed the 1987 *Pay Equity Act*, effective January 1, 1988.

As this law was based on the job-to-job method and did not cover women who had no direct comparator in a workplace, the *Predominantly Female Workplace Study* was made part of the Act. This Study reported to the Minister of Labour and resulted in the amendments to the Act in 1992 which provided for the proportional and proxy comparison method. This provides women in predominantly female workplace with a mechanism to identify their discriminatory pay gap. At the same time, as a result of cases which were finding that the Ontario Government and larger public sector employers were being found to be "employers" under the Act and responsible for pay equity, the Ontario Government in the early 1990's agreed to fund all public sector pay equity adjustments. In exchange, the Government included an amendment which prevented the Ontario Government from being found as an employer of another entity in the public sector. As well, after lobbying efforts by many groups, Ontario passed the *Employment Equity Act*.

When the Progressive Conservative government came to power in 1995, Ontario's leadership in the pay equity field ended. The Government quickly moved to repeal the proxy

comparison sections of the Act which covered approximately 100,000 public sector women; ended the funding of such adjustments; eliminated funding for Pay Equity Legal Clinic; repealed the *Employment Equity Act*; and repealed *Labour Relations Act* provisions which had assisted and facilitated the union organizing of women workers.

As a result of the *SEIU et al. v. Attorney General (Ont)* legal challenge, Mr. Justice O'Leary struck down provisions of the *Savings and Restructuring Act, 1996* as a violation of section 15 of the *Charter of Rights and Freedoms*. With the proxy provisions reinstated, the Coalition lobbied again for the funding of the proxy adjustments. After paying out more than \$200 million in funding adjustments after years of delay, the government then stated that pay equity was the cost of doing business and it was not prepared to fund public sector agencies to pay these adjustments. A further *Charter* challenge, *CUPE et. al v. Attorney General (Ont)* was brought in 2001 which resulted in the Government reaching a settlement two years later in 2003. This led to the requirement for the Government to pay out up to \$414 million in pay equity adjustments for the over 100,000 women in predominantly female workplaces. This settlement lasted for a period of three years and the Ontario Government has again reverted to refusing to pay the necessary pay equity adjustments.

From 2006- 2008, the Coalition lobbied all political parties to take immediate steps to improve the enforcement of the Pay Equity Act and continues to do so today.

In 2008, the twentieth anniversary of the Pay Equity Act, the Coalition released the *Framework for Action on Pay Equity* in Ontario which called upon the Provincial government to take action to end the gender pay gap crisis in the Ontario.

The Coalition has continued to advocate for a multi-dimensional response to closing the gender pay gap. Between 2008 and 2014 former Coalition Chair, Mary Cornish, published five studies with the Canadian Centre for Policy Alternatives documenting the size and impact of the gender pay gap, including *Every Step You Take* in 2014.

The Coalition released a further detailed analysis of the gender pay gap, its causes and strategies to close the gap in 2016 *Securing Human Rights Justice for Women's Work: The Path to a 0% Gender Pay Gap by 2025*.

In 2017 the Coalition participated as a member of the Ontario Ministry of Labour's Gender Wage Gap Working Group advising on strategies to close the gender pay gap. In 2017, the Coalition also advocated for enhanced equal pay protection based on employment status and temporary agency status, minimum wage, intimate partner violence leave, personal emergency leave protection and other protections in Bill 148's *Fair Workplaces and Better Jobs Act, 2017*.

## APPENDIX B



### 12 STEPS TO CLOSE THE GENDER PAY GAP

How do we get to a

0% Gender Pay Gap by 2025?

**Ontario's Gender Pay Gap is unacceptable. The latest Census figures confirms a staggering gender pay gap that impoverishes women: 43% for Indigenous women, 38% for racialized women, 34% for immigrant women and 29.3% on average for all women in Ontario.**

**The Equal Pay Coalition calls on the Ontario government to develop a comprehensive strategy to close the gender pay gap.**

#### **STEP 1      Treat closing the gap as a human rights priority**

Discriminatory pay gaps are a violation of human rights. The right of women to equal pay for work of equal value and equal treatment in pay and employment opportunities are internationally recognized human rights and labour standards.

Closing the gender pay gap has not been a priority in public policy and employer practices. That has to change. Women's right to equal pay and employment opportunities is not a "frill" or a "perk" to be ignored when inconvenient or costly.

Human rights enforcement is not a partisan issue. It is a legal fundamental obligation of all those who govern, regardless of their party, to co-operate to take the necessary human rights measures to close the pay gap.

#### **STEP 2      Raise awareness through annual Equal Pay Days and education**

The gender pay gap is not a matter for the history books. There is a need to raise awareness about the gender pay gap in order to ignite action to close it. Equal Pay Day represents the fact that women in Ontario on average must work more than 15 months – some 3.5 months into the new year – in order to earn what men earned on average by 31 December in the previous year. All governments should enshrine an annual Equal Pay Day in April each year. Businesses should embed awareness of closing the gender pay gap in



business vision, values and goals. Awareness of pay equity issues should also be embedded in educational curriculum for students. 10 April 2018 was Equal Pay Day in Ontario.

### **STEP 3      Develop the "Close the gender pay gap by 2025 Plan"**

Solving a persistent problem requires leadership and planning. The Coalition calls on Ontario Premier Kathleen Wynne, NDP Leader Andrea Horwath and Progressive Conservative Leader Doug Ford to work with the Coalition, employers, trade unions and other equality seeking stakeholders to develop, implement and resource a province-wide plan to close Ontario's gender pay gap by 2025. Ending the gender pay gap by 2025 requires a clear action plan with realistic and timely goals, targets and resources.

### **STEP 4      Enforce and expand pay equity laws**

Pay equity laws and policies are directed at ensuring that men and women are paid equally where they do work of equal value. Employment equity laws and policies are directed at ensuring that steps are taken to remove barriers and take positive measures to give women equal access to higher paying, often male-dominated work. Employment standards and labour laws set the minimum floor of rights and access for employees to a voice in the workplace. These three sets of laws and policies are necessary to work together close the gender pay gap. All employers must comply with the existing *Pay Equity Act*, *Employment Standards Act*, *the Labour Relations Act* and *Human Rights Code* obligations.

*A new pay transparency standard* would require employers to report and post the hourly wage and pay structures, any merit pay systems, the occupation and the nature of the employment relationship (such as part-time, contract, temporary agency).

*Modernize the Employment Standards Act Equal Pay for Equal Work sections.* The Coalition recommends that, given that women are the majority of workers in a non-standard employment relationship, the ESA should be amended to ensure part-time, part-year, contract, temporary agency workers are paid the same rate as full-time workers.

Ontario delivers public services through its own employees or through transfer payment agencies without providing proper funding to ensure pay equity is both achieved and maintained for those doing women's work. *The pay equity adjustments that are owed to women working to provide public services to Ontarians require full funding.*

There is a need to *restore sufficient funding to the Pay Equity Commission* to carry out its important tasks. The Government must introduce effective and fully-staffed enforcement mechanisms to ensure compliance with the *Act*.

## **STEP 5      Implement employment equity law and policies**

Pay disparities faced by racialized women, aboriginal women and women with disabilities are greater. Access to better paying jobs is a critical step in closing the gender pay gap.

Employment equity laws and policies should be implemented requiring employers to plan to end discriminatory practices facing women, racialized and aboriginal peoples, people living with disabilities and others who are similarly disadvantaged.

It's time to reintroduce Ontario's repealed *Employment Equity Act*. This proactive legislation helped to redress workplace discrimination in recruitment, employment conditions and retention against women, racialized workers, aboriginal peoples and persons with disabilities – all major factors contributing to the gender pay gap.

## **STEP 6      Promote access to collective bargaining**

Unionization is one of the most effective tools to close the gender pay gap. One reason that the pay gap has decreased over the years is the increasing unionization of women, particularly in the public sector. The “union advantage” in pay is on average \$5.11 per hour compared to non-unionized workers. Unions have a joint role with employers to create pay equity plans and unionized women were much more likely to receive pay equity adjustments which helped to close the gap with their male co-workers performing work of comparable value. However, unionization rates are declining, particularly in the private sector. The rise of precarious employment relationships, such as short-term contract, temporary agency and other forms has weakened the trade union representation of women .

The *Labour Relations Act* must be amended to include card-based certification and expanded access to remedial certification without a vote. We question why does the construction sector, a male-dominated sector, have access to card-based certification and female-dominated sectors do not? The Coalition further supports measures to improve union access to employee information to facilitate organizing.

In order to redress the gender wage gap and the increase in precarious work in the Ontario labour market, sectoral and broader based bargaining approaches should be implemented. For example, Australia has a system of wage awards for sectors.

## **STEP 7      Increase the minimum wage**

Women are the majority of Ontario's 534,000 minimum wage workers. Aboriginal women, immigrant and refugee women, women with disabilities and racialized women are even more likely to be working at the minimum wage.

Any increase to statutory minimum wage laws serves as a down payment on closing the gender pay gap for vulnerable workers. The Coalition calls for the Ontario government to

bring in emergency legislation to increase the minimum wage to \$15 per hour effective immediately. The minimum wage must keep up with inflation and keep on increasing until it is at the level of a living wage.

### **STEP 8 Provide affordable and accessible child care**

Women with children earn much less money. Many women work part-time because of lack of affordable child care. In 1988, the Government fully recognized that access to an affordable child care program was a cornerstone to ensure women's equality.

Despite many other reports calling for affordable, high quality child care, we have made little progress in access to a child care program. In Ontario, there are licensed spaces for just 1 in 5 children and fees are upwards of \$40 to \$60 per day, per child. The time for a program is now.

### **STEP 9 Mainstream equity compliance into government laws and policies**

All social and economic policies should be vetted by government departments for their impact, answering this question: *do they help close or widen gender pay gaps?*

Public policies use an approach which assumes all employees face "similar" or "neutral" circumstances to predominantly able-bodied, white, male workers. There is a systemic failure to account for the different and unequal circumstances facing women and particularly those who racialized, Aboriginal, have disabilities or are poor. Cabinet policy submissions should include a sign off to ensure proposed laws and policies have been reviewed for their contribution to closing these pay gaps. Labour market knowledge, research and monitoring that is sensitive to human rights is key to an effectively ending the gender wage gap.

### **STEP 10 Mainstream equity compliance into workplaces and businesses**

Employers also need to mainstream equity compliances into their workplace practices, including analyzing the impact recruitment and retention practices as well as pay and promotion structures and conditions of work have on vulnerable groups. The pay transparency law above is a starting point to make this happen.

### **STEP 11 End Violence and Harassment of Women**

Sexual violence and harassment is connected to gender inequality and contributes to the gender wage gap. A woman who is the victim of assault or harassed out of a job is left with few economic resources. The closing the gender wage gap strategy needs to respond to the root causes of violence, including education, employment, and poverty. The Ontario government designed a targeted strategy to end Gender-based violence. This strategy

needs to be continued. There is no reason why Ontario doesn't create its own task force examining the disproportionate rates of missing and murdered Aboriginal women and girls in the province as part of the strategy to end gender inequality.

### **STEP 12      Secure Decent Work for Women Across the Economic Spectrum**

It is time for the Ontario government to commit to the Decent work agenda. For almost four decades, the notion of labour market “flexibility” has been one-sided. The employers' cut costs and find ways to reduce the unit cost of labour. The employment relationships most strongly associated with women and dominated by women, the precarious forms of part-time, contract, and temporary, have taken hold as the new model. The precarious labour market means predominantly lower wages, less access to benefits, holiday pay, overtime pay, pensions, severance pay and employment insurance. A Decent work agenda will redress precarious jobs in the labour market.

**APPENDIX C**

**SUMMARY OF AMENDMENTS PROPOSED  
BY THE EQUAL PAY COALITION**

**Preamble**

**Whereas** women's right to equality without discrimination is recognized in the Universal Declaration of Human Rights as proclaimed by the United Nations;

**Whereas** women's right to equality without discrimination in employment and women's right to equal pay for work of equal are recognized in the International Covenant on Economic Social and Cultural Rights; the 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 as proclaimed by the United Nations; and Convention 100 – Equal Remuneration for Work of Equal Value and Convention 111 – Discrimination in Employment and Occupation as proclaimed by the International Labour Organization; and

**Whereas** the gender pay gap continues to discriminate against and impoverish women in the province; and

**Whereas** it is desirable to take proactive action to enhance compliance with employer's existing legal obligations to deliver discrimination-free pay;

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

**Section 1, definitions:**

"employment status" means the nature of the employment status including

- (a) whether an employee works full-time, part-time or casual hours;
- (b) whether an employee has permanent, temporary, seasonal or casual status; or
- (c) whether an employee is hired directly by an employer or through a temporary help agency.

## **Application**

- 2.1 This Act applies with respect to an employee and 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.
- 2.2 This Act applies to all employers that have at least ten employees.
- 2.3 This Act applies to all vendors of record who have at least ten employees who do or seek to do business with the Ontario government.

## **Purpose**

- 3A.(1) The purpose of this Act is to protect and promote women's fundamental right to receive pay free of sex discrimination by requiring employers to disclose information about the pay structure and wage grids in each establishment, disaggregated in the manner detailed in this Act.
- (2) Nothing in this Act abrogates from the obligations or enforcement provisions set out in the Employment Standards Act, 2000, the Pay Equity Act or the Ontario Human Rights Code.
  - (3) 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.

## **Compensation History**

4. (4) Where an applicant has made a disclosure of compensation history information described in subsection (2) or the employer has obtained information described in subsection (3), an employer cannot consider or rely on compensation history in any way which undermines a job applicant's right to receive pay that is free of discrimination

## **PAY TRANSPARENCY REPORTS**

### **Right to Pay Transparency**

- 6A. Every employee has the right to pay transparency about their employer's pay structure by gender.

## **Obligation to Disclose Pay Information**

- 6B. Every employer,
- (a) has a duty has to provide their employees with a written pay transparency report that sets out the establishment's pay structure by gender; and
  - (b) shall, upon the request of any employee, furnish the employee, without charge, with a copy of its pay transparency reports.

## **Pay Transparency Reports**

- 6.(1) Every employer shall prepare an annual pay transparency report for each establishment that relates to the 12-month period ending on March 31 of each year.
- (1A) The pay transparency report shall contain information relating to the employer, the employer's workforce composition, the employer's pay structure, and differences in the employer's workforce with respect to gender as follows:
- (a) annual individual compensation of male employees, categorized by each classification and employment status within the establishment;
  - (b) annual individual compensation of the female employees categorized by each classification and employment 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 the male employees categorized by each classification and employment 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 the female employees categorized by each classification and employment status within the establishment;
  - (e) the number of steps in a pay range by each classification and employment status within the establishment; and
  - (f) the rate of progression through a pay range by each classification.
- (1B) The pay transparency report shall contain such further information as may be prescribed by regulation.

**Same**

- (2) Every employer shall submit the pay transparency report to the Ministry by May 15 of each year, and in accordance with any prescribed requirements.

**Posting**

- (3) Every employer shall post the pay transparency report online or in at least one conspicuous place in every workplace of the employer where **it is likely to come to the attention of employees in that workplace.**

**Publication**

- (4) The Ministry shall publish, or otherwise make available to the public, the pay transparency reports submitted under subsection (2).

**Internet publication**

- (5) Authority to publish under subsection (4) includes authority to publish on the Internet.

**Penalties**

- 12.(2) Where an employer has failed to file a pay transparency report, the employer shall be subject to pay
- (a) a fine of \$50,000 or such higher amount as may be prescribed in regulations; and
  - (b) human rights damages in the amount of \$1,000 or such higher amount as may be prescribed in regulations to each employee in the establishment.
- (2.1) Such further penalties, including additional penalties for repeated breaches, shall be determined in accordance with the regulations.