



EQUAL PAY COALITION

Pay Transparency

What you need to know to respond to Bill 149

#ShowUsTheMoney

On 14 November 2023, Ontario introduced Bill 149 which would require employers to include a job's expected compensation or compensation range in public job postings. At the same time, the government gives itself the power to exempt job postings from this requirement and also impose restrictions, limitations and conditions on the posting of expected compensation.

Ontario says this gives workers "pay transparency".

It does not.

Instead, it is one of the **weakest pay transparency laws in Canada.**

And it significantly undercuts the rights enacted in Ontario's Pay Transparency Act, 2018. That true pay transparency law was never repealed. But, the government blocked it from coming into force after the 2018 provincial election.

**Bill 149 has only passed First Reading.
Demand that the government bring the full
Pay Transparency Act, 2018 into force.**

What is pay transparency?

Pay transparency is a tool to root out discrimination in pay structures.

Pay transparency is an access to information right to protect workers. Unless workers can freely access information about the pay structure where they work, it is impossible to enforce their guaranteed human right to receive pay that is free of discrimination.

Bill 149 is simply a job posting requirement. It does not link the purpose of the posting requirement to eliminating wage discrimination.

It also does not require employers to disclose if the posted compensation reflects actual compensation or whether existing compensation practices are discriminatory.

The government will also, as its discretion, determine which jobs will be exempted from the posting requirement.

And, the Bill does not provide any enforceable right for workers. If job postings do not include compensation information, there is no remedy for workers with respect to the job competition that takes place.

What is the difference between Bill 149's job posting requirement and true pay transparency?

Pay transparency laws require that employers publicly disclose information about

- the wage structure in their workplaces;
- the gender wage gaps in their wage structure;
- the gender distribution across income levels at the workplace;
- the gender distribution across job security categories (full-time, part-time, casual, seasonal, hired through temporary help agencies, etc.); and
- wage information in job postings.

Through these mandatory public disclosures, pay transparency laws can reveal where:

- women and men are paid differently for the same work;
- women are underpaid because their work is undervalued; and
- women are concentrated in lower-paid and precarious work.

Pay transparency laws also

- allow workers to ask for and receive information on the wage structure;
- allow workers to share wage and salary information;
- prohibit employers from disciplining or imposing reprisals on workers for seeking and sharing wage information; and
- prohibit employers from asking job applicants about their compensation history.

Pay transparency laws can be drafted to provide weaker or stronger protections.

The Equal Pay Coalition's checklist of pay transparency measures to hold employers accountable demonstrates that Bill 149 does not provide pay transparency for workers in Ontario.



A Checklist for Pay Transparency

Bill 149 does not pass to be true pay transparency legislation.

Key elements to look for in Pay Transparency legislation	Present or missing in Bil 149
1. Is there a clear purpose statement linking pay transparency to the elimination of discrimination in pay?	<i>missing</i>
2. Does the law apply to both private-sector and public-sector employers?	<i>missing</i>
3. Does the law apply to all employers with 10 or more workers to ensure it is consistent with the Ontario <i>Pay Equity Act</i> ?	<i>missing</i>
4. Does the law apply to require pay transparency for all jobs at all income levels in the workplace?	<i>missing</i>
5. Does the law require an annual report to the Ministry of Labour detailing wage structure, gender pay gaps, gender distribution across income levels, and gender distribution by job security?	<i>missing</i>
6. Does the law require that employers' annual pay transparency reports be publicly posted and accessible on a government website?	<i>missing</i>
7. Does the law require that employers provide the annual pay transparency report to all workers at the same time that it is filed with the Ministry of Labour?	<i>missing</i>
8. Does the law prohibit employers from asking job applicants about their compensation history?	<i>missing</i>
9. Does the law require employers to track and report pay gaps in hourly wages, median earnings and annual earnings by gender, race, disability and other key human rights grounds?	<i>missing</i>
10. Does the law require employers to track and report pay gaps in total compensation, including incentive payments, allowances, profit-sharing, bonuses, etc.?	<i>missing</i>

11. Does the require employers to track and report pay gaps by actual job classifications, particularly jobs dominated by women?	<i>missing</i>
12. Does the law require employers to track and report gender and other human rights pay gaps based on job status (full-time, part-time, casual, seasonal or hired through temporary help agencies)?	<i>missing</i>
13. Does the law require that the actual pay for all jobs (annual salary and pay per hour equivalent) be publicly available to current and prospective employees?	<i>missing</i>
14. Does the law protect workers' right to ask for and receive from the employer information about the wage structure and pay policies?	<i>missing</i>
15. Does the law protect workers' right to share pay information with other workers?	<i>missing</i>
16. Does the law prohibit employers from disciplining or imposing reprisals on workers for seeking and sharing wage information?	<i>missing</i>
17. Does the law empower Ministry of Labour inspectors to require employers to disclose records relating to pay and review pay structures for gender inequality and other human rights inequalities?	<i>missing</i>
18. Does the law give workers the right to file complaints to enforce their right to receive annual pay transparency reports if employers fail to file the mandatory pay transparency reports with the Ministry of Labour or provide them to workers?	<i>missing</i>
19. Does the law impose significant financial penalties on employers who fail to comply with the pay transparency law?	<i>missing</i>

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PAY TRANSPARENCY BACKGROUNDER

QUESTIONS & ANSWERS

Doesn't Ontario already have a *Pay Transparency Act*?

- Yes. The *Pay Transparency Act, 2018* was passed in April 2018.
- It was scheduled to take effect on 1 January 2019.
- Employers were scheduled to begin filing pay transparency reports in May 2020.
- But, after the 2018 provincial election, in November 2018 the government indefinitely suspended the *Pay Transparency Act's* coming into effect. They did this through Schedule 32 of the *Restoring Trust, Transparency and Accountability Act, 2018*.
- The *Pay Transparency Act, 2018* has not been repealed. It has instead been blocked from taking effect.

What does it cost employers to prepare pay transparency reports?

- **Employers already have the data – this is basic payroll data.** Pay transparency reports can be produced simply and quickly by even the most basic payroll systems. If an Ontario employer operates in the federal jurisdiction, they must already file this kind of information annually under the federal pay transparency law and employment equity law.
- **Data on workers' annual earnings is already prepared by employers for reporting to Canada Revenue Agency.**
- **It is not costly to prepare pay transparency reports.** The *Pay Transparency Act, 2018* and the Canadian pay transparency law are similar to the United Kingdom's pay transparency law. UK employers have filed annual pay transparency reports since 1 April 2018. Employers stated it cost less than \$1,000 to produce the reports.¹
- When the UK government consulted on their pay transparency reporting scheme, 82% of employers and business organisations agreed that the publication of gender pay information would encourage employers to take action to close the gender pay gap.

¹ See United Kingdom, Government Equalities Office, Closing the Gender Pay Gap: government response to the consultation, February 2016.

- Less than 2% of organizations in the UK said they were unable to measure the difference in the pay of male and female employees from existing data and systems.

Pay Transparency is good for Ontario's economy because it helps close the gender pay gap.

According to the Ontario government's [own study](#) on the gender pay gap,

"a qualified working woman who has [the] same socio-economic and demographic characteristics (e.g., education level, age, marital status), and experience in the workplace (e.g., job status, occupation, and sector) as a man, on average receives \$7,200 less pay per year."

- This is equal to \$18 billion of foregone income each year for all working women in Ontario, which translates to about 2.5% of Ontario's Gross Domestic Product.
- The government's own report concluded that closing the gender wage gap in Ontario would increase revenues from personal and sales tax by \$2.6 billion and decrease government expenditures on social assistance, tax credits and child benefits by \$103 million.

There should be no delay in fully implementing the *Pay Transparency Act, 2018*.

Pay transparency helps close the gender pay gap and eliminate other pay discrimination by making employers prove they are complying with existing laws to deliver discrimination-free pay.

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.
- Australia implemented pay transparency measures.
- In 2016, the United Kingdom passed a Pay Transparency law after voluntary efforts did not work.
- In 2018, the global Equal Pay International Coalition was launched by the ILO, UN Women and the OECD and identified pay transparency as a key tool for closing the gender pay gap. Canada is a member of the EPIC Steering Committee.



Now is the time for Ontario to implement strong pay transparency legislation. It needs to catch up with its own 2018 commitment and catch up with the global leaders in closing the gender pay gap.