



# What's New in HR Law

## Federal Employers must post Pay Equity Notice by November 1<sup>st</sup>

October 4, 2021

### Bottom Line

Federally-regulated employers with 10 or more employees must post pay equity notices in their workplaces by November 1, 2021.

### Notice under *Pay Equity Act*

As discussed in our earlier [insight](#), the new federal *Pay Equity Act* (“PEA”) came into force on August 31, 2021. One of the first deadlines under the *PEA* is fast approaching.

Federally-regulated employers must post notices regarding pay equity in their workplaces within 60 days of becoming subject to the *PEA*. For employers that had 10 or more employees when the *PEA* came into force, the notice must be posted by November 1, 2021.

The Canadian Human Rights Commission has developed [template notices](#) that employers can modify and post, or employers can create their own notices.

The notice must be in print or electronic form, and posted in such a way as to be readily available to all employees and accessible to employees who require accommodation due to disability.

The notice must remain posted until the final pay equity plan is posted, or until the employer posts a modified notice.

**This update is for general discussion purposes and does not constitute legal advice or an opinion.**

The notice must advise employees of the employer's obligation to create a pay equity plan and, if applicable, to set up a pay equity committee.

In order to understand what to include in the notice, employers first must understand a few key concepts under the *PEA*:

- Pay equity committees
- Pay equity plans
- Groups of employers

## Pay Equity Committees

A pay equity committee consisting of management and employee representatives is required under the *PEA*, if the employer has over 100 employees, or if some of its employees are represented by a union.

Smaller, non-union employers may voluntarily establish a pay equity committee.

The notice must state whether a pay equity committee will be established. If so, the notice must describe the requirements for the pay equity committee's membership, and the right of non-union employees and/or the bargaining agent to choose the committee members who will represent them.

The composition of a pay equity committee should be as follows:

- at least three members;
- at least two-thirds must represent the employees covered by the pay equity plan;
- at least 50% of the members must be women;
- at least one member selected by the employer or group of employers to represent it;
- at least one member selected by each of the bargaining agents, where there are unionized employees; and
- at least one member selected by non-unionized employees to represent them.

## Pay Equity Plans

The default under the *PEA* is that employers will have one pay equity plan for all of their employees, regardless of where employees work or how the business is structured. However, employers that are required to establish a pay equity committee, or those that have done so voluntarily, can apply to have multiple plans.

The notice must indicate whether the workplace will have a single plan or multiple plans.

If the notice indicated that the employer was going to post one pay equity plan for the workplace and the employer subsequently received authorization to post multiple plans, an updated notice must be posted.

Employers will be required to post a final version of their pay equity plans on or before August 31, 2024. Employers must post a draft version of their plans first, and give employees 60 days to comment.

## Group of Employers

Under the *PEA*, two or more employers can apply to be recognized by the Pay Equity Commissioner as a single employer. The employers must all be part of the same industry, have similar compensation practices, and have positions with similar duties and responsibilities.

If an employer is part of a group of employers, each employer must post a notice or updated notice in the workplace indicating that it is part of a group of employers. The notice requirements will be based on the total number of employees in the group and their union status.

## Notice Requirements

An employer with 100 or more employees, or fewer if some employees are represented by a union, must post a notice including the following information:

- its obligation to establish a pay equity plan;
- its obligation to make all reasonable efforts to establish a pay equity committee;
- the requirements for the committee's membership;
- that non-union employees have the right to designate the committee members who will represent them; and
- that the bargaining agent has the right to designate the committee members who will represent employees in their bargaining unit.

Smaller, non-union employers are not required to include information about pay equity committees in their notices, unless they decide to establish one.

The notice should also include the date it is posted. While not strictly required, it is a best practice to describe the pay equity process and employees' rights, such as freedom from reprisal.

## Check the Box

Federally-regulated employers should review the requirements for pay equity notices and determine what information they must include to ensure compliance with this upcoming obligation. While the Canadian Human Rights Commission has provided useful templates on its Website, employers will need to first understand what is required for their specific workplace.

Once the notice is posted, employers can begin the next step of establishing their pay equity committee, if one is required.

## Need more information?

For more information about pay equity, please contact [Melanie McNaught](#) at 416-408-5561, or your regular lawyer at the firm.



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