What's New in HR Law

Federally-Regulated Employers, It Takes Longer than You Think: Post Your Draft Pay Equity Plans by end of June 2024

April 8, 2024 | By Cassandra da Costa

Bottom Line

Federally regulated employers with 10 or more employees have a critical deadline approaching on September 3, 2024 to post their pay equity plans and communicate any resulting pay increase to employees. Before this deadline, however, employees get 60 days to look over the draft plans and give feedback. This means that employers must have their draft pay equity plans ready by the end of June 2024. Preparing a pay equity plan takes longer than you think - employers should take steps, if they have not already, to prepare their pay equity plans.

Is your Federally-Regulated Organization Required to Comply with the *Pay Equity Act*?

In our earlier Insights, we discuss the requirements under the newly established *Pay Equity Act* (the "*Act*").

The *Act* came into effect on August 31, 2021 and requires federally regulated employers with an average of 10 or more employees, spanning private and public sectors, parliamentary workplaces, and offices of the Prime Minister and ministers, to take steps to ensure pay equity. This means identifying and rectifying wage disparities between male and female job classes for work of equal value.

Federally regulated employers subject to the *Act* are required to post their pay equity plans by no later than September 3, 2024. Applicable employers should have already posted a notice by November 1, 2021, or within 60 days of becoming subject to the *Act*, that advises employees of the employer's obligation to create a pay equity plan and, if applicable, set up a pay equity committee.

To Prepare the Pay Equity Plan, is your Federally-Regulated Organization Required to Have a Pay Equity Committee?

Employers must make "all reasonable efforts" to establish a pay equity committee consisting of management and employee representatives if they have more than 100 employees or if some of its employees are represented by a union. For example, a federally-regulated employer with 50 employees, some of whom are represented by a union, would be required to establish a pay equity committee.

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

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.

Employers must file an application with the Pay Equity Commissioner if they cannot either establish a pay equity committee or establish or continue a pay equity committee that meets the requirements outlined above.

While generally employers must establish a single pay equity plan, an employer may file an application for multiple plans if their workplace was required to establish a pay equity committee. Whether a single pay equity plan or multiple pay equity plans is appropriate is dependent on the unique circumstances of each workplace and the employer's ability to maintain multiple plans.

Start Now – It Takes Longer Than You Think

Employers who are subject to the *Act* must take systemic steps to develop a pay equity plan. This includes identifying job classes within their organization, assessing each class for gender predominance and the value of work performed, and then calculating and comparing compensation across these classes. The aim is to address and correct any disparities found between predominantly male and female job classes.

If our experience in Ontario is any indication, these steps take longer than you think they will. Employers should begin preparing their draft pay equity plans well in advance of the end of June 2024 preliminary deadline to ensure adequate time for employee feedback and any necessary adjustments. We recommend that you start this process now – if you haven't already done so.

Takeaway

You're a federally-regulated employer and you haven't started your pay equity compliance process? It's not too late! Take steps today to establish your pay equity committee, if required, and begin the process that leads up to drafting your pay equity plan. This approach will facilitate compliance with the September 3, 2024 final deadline for the submission of finalized pay equity plans and notices of pay increases, thereby fulfilling the *Act*'s requirements and promoting gender-based pay equity within federally regulated workplaces.

Our Pay Equity Team

Filion Wakely has a team of lawyers with the necessary knowledge and experience to assist clients with meeting the requirements of the federal *Act*, including:

- advising on the composition of pay equity committees
- identifying job classes
- assessing the gender of those job classes
- appropriately evaluating the work performed by each job class
- applying for multiple plans and
- reviewing draft pay equity plans

With our extensive experience acting for employers in Ontario before both the Pay Equity Commission and the Pay Equity Hearings Tribunal, we can assist with strategic advice throughout the entire pay equity process. The costs of pay equity can be significant and we encourage employers to act quickly and proactively.

Employers are best served by ensuring that they are well prepared before establishing and meeting with committees, including by consulting with experienced pay equity counsel.

Need More Information?

For more information or assistance with pay equity for federal or provincially regulated employers, contact Cassandra da Costa at cdacosta@filion.on.ca, one of our pay equity team leads, Carol Nielsen at cnielsen@filion.on.ca and Melanie McNaught at mmcnaught@filion.on.ca, or your regular lawyer at the firm.

Our thanks to Behnam Nadimfard, an Articling Student in the firm's Toronto office, for his assistance in preparing this website update.

FilionWakely Thorup Angeletti LLP
management labour and employment law

PROUD MEMBER OF L&E GLOBAL Alliance of Employers' Counsel Worldwide

aec ADVOCATES for EMPLOYERS of CANADA

Toronto
Bay Adelaide Centre
333 Bay Street
Suite 2500, PO Box 44
Toronto, Ontario M5H 2R2
tel: 416.408.3221
fax: 416.408.4814
toronto@filion.on.ca

London
252 Pall Mall Street, Suite 100
London, Ontario N6A 5P6
tel: 519.433.7270
fax: 519.433.4453
london@filion.on.ca

Hamilton
1 King Street West
Suite 1201, Box 57030
Hamilton, Ontario L8P 4W9
tel: 905.526.8904
fax: 905.577.0805
hamilton@filion.on.ca

Kitchener-Waterloo
137 Glasgow Street
Suite 210, Office 165
Kitchener, Ontario N2G 4X8
tel: 519.433.7270
fax: 519.433.4453
kitchener-waterloo@filion.on.ca