



# What's New in HR Law

## Federal Government introduces Amendments to the Employment Equity Regulations

December 17, 2020

### Bottom Line

On November 25, 2020, the Federal Government published [amendments](#) to the *Employment Equity Regulations* (the “*Regulations*”) under the federal *Employment Equity Act* (the “*Act*”). The amended *Regulations* introduce new pay transparency requirements that will come into force on January 1, 2021. The *Act* and the *Regulations* apply to federally regulated private-sector employers who employ one hundred or more employees.

### Purpose of the Amendments

Each year, federally regulated private-sector employers are required to file an employment equity report with the federal Minister of Labour. The amendments introduce modified reporting obligations that introduce measures to address wage gaps within the designated groups through the inclusion of new pay transparency reporting obligations. The measures are part of the Federal Government’s initiative to assist Canadian workplaces to “become more just,

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[Fillon Wakely Thorup Angeletti LLP](#) [www.fillon.on.ca](http://www.fillon.on.ca)

#### 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@fillon.on.ca](mailto:toronto@fillon.on.ca)

#### London

620A Richmond Street, 2nd Floor  
London, Ontario N6A 5J9  
tel 519.433.7270 | fax 519.433.4453  
[london@fillon.on.ca](mailto:london@fillon.on.ca)

#### Hamilton

1 King Street West, Suite 1201, Box  
57030  
Hamilton, Ontario L8P 4W9  
tel 905.526.8904 | fax 905.577.0805  
[hamilton@fillon.on.ca](mailto:hamilton@fillon.on.ca)

inclusive, diverse and ultimately more productive”. Moreover, the measures raise awareness of wage gaps that affect women, Aboriginal peoples, persons with disabilities, and members of visible minorities.

## Salary Calculation

The most significant changes relate to the calculation of salaries for reporting purposes. Under the previous regulations, the calculation of employee salaries was complex and employers raised concerns about the burden these requirements placed on their human resources and accounting practices. For simplicity, the amendments modify the salary calculation and introduce a broader definition of the term “salary”. The term “salary” is now defined as:

... remuneration paid for work performed by an employee, before deductions, in the form of basic pay, pay for piecework, shift premiums, bonus pay and overtime pay, but does not include benefits, securities, severance pay or termination pay, vacation pay, payment in kind, supplementary payments, allowances, retroactive payments, reimbursements for employment expenses or compensation for extra-duty services other than overtime pay.

This modification allows employers to collect information that is more readily available through their human resources and accounting systems. Further, the modifications facilitate the determination of hourly rates of pay, bonus pay, and overtime pay for the purpose of reporting wage, bonus, and overtime pay gaps within federally regulated private-sector workforces.

In addition to the current list of records, employers are required to maintain records of every employee’s salary, the period over which the salary is paid, hours worked, bonus pay, overtime pay, and overtime hours worked. Employers must also record each employee’s occupational group classification and the following information for employees in each designated group:

- the mean and median difference in hourly rates;
- the mean and median difference in bonus pay;
- the mean and median difference in overtime pay corresponding to the overtime hours;
- the proportion of employees who have received bonus pay; and
- the proportion of employees who have received overtime pay.

The new amendments require employers to include aggregated wage gap data in their annual employment equity reports. With the *Regulations* coming into force on January 1, 2021, and recognizing that employers report on June 1 of each year based on data collected in the previous calendar year, the new salary reporting obligations will be due on June 1, 2022.

## Mandatory Use of Designated Group Definitions

The amendments require the mandatory use of the definitions provided in the *Act* for designated groups. These definitions are used when employers conduct voluntary self-identification workforce surveys. Previously, the *Act* allowed for the use of definitions that were “consistent” with those in the *Act*. This meant that employers could modify the definitions which resulted in inconsistencies in the data collected by these surveys. The new requirement for mandatory use of the definitions remedies this issue.

## Additional Changes

The amendments remove outdated references to the Census Metropolitan Areas (“CMAs”) and the North American Industry Classification System (“NAICS”). Going forward, the annual employment equity requirements will no longer be limited to the “designated” CMAs. The term “designated” is removed which means that employers will be required to report on the basis of the expanded CMAs as provided by the official Statistics Canada Publication. In addition, the NAICS codes are incorporated by reference into the *Act* to increase clarity for employers

## Check the Box

While the amendments clarify and simplify the reporting process, the changes mean that employers are required to modify their current reporting practices. As mentioned above, the *Regulations* are set to come into force on January 1, 2021, and the accompanying reporting obligations are due on June 1, 2022. As such, employers should use this interim period before the reporting obligations arise to streamline their human resources and accounting systems to ensure that the new requirements are complied with.

## Need more information?

For more information about pay equity compliance or related litigation, please contact [Tawanda Masimbe](#) at 416.408.3221 or your regular lawyer at the firm.



management labour and employment law



### Toronto

Bay Adelaide Centre  
333 Bay Street, Suite 2500,  
PO Box 44  
Toronto, Ontario M5H 2R2  
tel: 416.408.3221  
fax: 416.408.4814

### London

620A Richmond Street, 2<sup>nd</sup> Floor  
London, Ontario N6A 5J9  
tel: 519.433.7270  
fax: 519.433.4453  
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### Hamilton

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Box 57030  
Hamilton, Ontario L8P 4W9  
tel: 905.526.8904  
fax: 905.577.0805  
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