

# MERCER'S RESPONSE ON THE PAY TRANSPARENCY ACT

Ontario's new [Pay Transparency Act](#) comes into effect on Jan. 1, 2019, but if you are an employer in the province, you can't afford to wait. Now is the time to get to know the Act and make sure your organization is ready.

The Act, which is the first of its kind in Canada, covers three main categories: (1) transparency of compensation; (2) reporting on pay differences based on gender and other prescribed characteristics; and, (3) employee protection against retaliation.

It is intended to help improve pay equity and equal opportunity in the workplace – including reducing the gender pay gap – through greater pay transparency and disclosure of employment and compensation inequities.

We believe this is welcome news when it comes to building a thriving workforce that accepts no level of inequality. In our [2017 Global Talent Trends study](#), 45 per cent of employees said that fair and competitive pay would have the most impact on their work situation. With these changes, employees will be empowered to find out what is fair and competitive themselves.

As an employer, your only choice is to engage and get to work modifying foundational inequities or better still, build a brand new employee value proposition that embraces equality, transparency and accountability.

## PAY DISCLOSURE AND TRANSPARENCY

As the name indicates, you will need to disclose pay or pay ranges in several situations including expected compensation for the position when publicly advertising job openings, and you will not be able to ask job applicants for past salaries.

These changes create risk: after these reporting requirements go into effect, employees will be empowered to make their own salary comparisons. You need to be ready to have frank discussions with your employees about their placement within the corporate pay structures and make changes ahead of time to your recruitment processes to mitigate this risk.

But there is also opportunity: if you provide more information to employees about how salaries are determined and market-tested, you will be able to reinforce your commitment to transparency and your employee value proposition.

## REPORTING ON PAY DIFFERENCES

Differences in pay based on gender and other prescribed characteristics (which have not yet been explicitly determined) will need to be analyzed. You will then need to report on these differences by May 15 of each year, in a Pay Transparency Report.

At this point, the government hasn't specified what method you will need to use to report on your gender pay difference. We anticipate a requirement to disclose simple averages of male and female salaries. However, you should analyze multiple variables to understand the drivers of the female wage gap in your organization and to identify actionable items to address the gap.

It is likely that the Ministry of Labour will provide further clarification before the first reports are required – May 15, 2020, for companies with more than 250 employees. (Employers with 100–249 employees must begin submitting reports by May 15, 2021.)

We are monitoring this process and will advise when the Ministry of Labour provides further guidance.

## EMPLOYEE PROTECTION AGAINST RETALIATION

Finally, you won't be able to penalize an employee for asking or sharing compensation information with others.

Employees will also be able to inquire about pay transparency reports, disclose their compensation to another employee, or report their employer to the Ministry of Labour for compliance without risk of retaliation.

When the Act comes into force, employees will be able to bring a complaint to the Ontario Labour Relations Board if they believe their employer has retaliated against them for inquiring about compensation. If unionized, they will be able to file a grievance and/or initiate arbitration under their collective agreement. In each case, you will bear the burden of proof that you have not breached the Act.

These protections further underscore the need to be prepared for frankness with your workforce. Employees will now be newly protected and empowered – but if you are transparent with your workforce, and manage pay equitably, you can strengthen your brand.

## TAKE ACTION NOW

We believe it is crucial for Ontario employers to take action now in order to be ready by the time the legislation goes into effect.

But we also believe that with these requirements comes opportunity. Our [When Women Thrive report](#) found that true gender parity worldwide would lead to a \$12 trillion increase in global GDP. Pay equity is a first step towards making that a reality.

You will likely need to make changes to the processes of recruitment, annual salary planning and overall talent management. Further, you should begin to review your HR analytics, programs and information systems to determine if they are able to meet the new transparency requirements.

Do not wait to act. If you review pay policies and practice now, you will give yourself the time to address challenges and prepare the organization with the right messages ahead of the legislation coming into effect. If you are frank with your workforce, these changes may be an opportunity to engage your employees and strengthen your employment brand.

[Contact your Mercer consultant today](#) to discuss how your organization can best prepare for these new pay transparency requirements.

## ABOUT MERCER

At Mercer, we make a difference in the lives of more than 110 million people every day by advancing their health, wealth, and careers. We're in the business of creating more secure and rewarding futures for our clients and their employees – whether we're designing affordable health plans, assuring income for retirement or aligning workers with workforce needs. Using analysis and insights as catalysts for change, we anticipate and understand the individual impact of business decisions, now and in the future. We see people's current and future needs through a lens of innovation, and our holistic view, specialized expertise, and deep analytical rigour underpin each and every idea and solution we offer. For more than 70 years, we've turned our insights into actions, enabling people around the globe to live, work, and retire well. At Mercer, we say we *Make Tomorrow, Today*.

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