Equal pay for work of equal value. This mantra is a reasonable expectation from workers and a proven winning proposition for employers, yet some Canadian organizations might not be ready for the new sweeping federal legislation which mandates just that. Are you?
**THE LEGISLATION WILL BRING ABOUT A DRAMATIC SHIFT IN HOW PAY EQUITY IS PROTECTED IN FEDERALLY REGULATED WORKPLACES.**

**WHERE WE ARE NOW**

In October 2018, the Canadian government introduced pay equity legislation that could impact 18,000 organizations and nearly 1 million employees, according to the government.¹ The Pay Equity Act received Royal Assent on December 13, 2018, and calls for federally regulated employers to apply an enterprise-wide common pay equity methodology across its various compensation plans to ensure gender-neutrality of all pay practices and related pay-equity compliance.

The legislation, considered by many to be somewhat complex and daunting, will bring about a dramatic shift in how pay equity is protected in federally regulated workplaces. We can help you navigate through this new legislation by starting with a brief history, highlights, compliance issues, potential impact on your organization, and outline actions you can take to ensure your organization is prepared **before** the wheels of change gain momentum.

**Note:** As of publication, the Act’s effective date has not yet been established, however, employers are advised to start planning today for the eventual three-year timeline to become compliant.
**HOW DID WE GET HERE?**

According to the federal government, in 2017, a Canadian female worker earned 88.5 cents for every dollar her male counterpart earned for the same position when considering hourly wages for full-time work. The figure lowers to 69 cents per dollar when comparing overall annual earnings.

The government points to many causes for the discrepancy, including “undervaluation of work typically performed by women,” caused by over-representation of women in part-time work and low-paying sectors, the lack of equal representation of women in senior positions, unconscious bias and possible discrimination in various pay and performance management practices.

Since provincial pay equity statutes are not applicable to federally regulated employers, some have argued, ‘Why not rely on the existing federal Human Rights Act?’ In many cases, existing laws do not provide the teeth or legal will to ensure compliance, rather, they often rely on complaints and litigation for enforcement. In essence, many employers – though not necessarily against pay equity in theory – were not obliged to pursue and integrate pay equity in their defined compensation strategies. The federal mandate changes all of this.

**IN A NUTSHELL**

The Pay Equity Act will require federally regulated employers to establish a pay equity plan within three years after the Act comes into force. In what might seem like an ample transition period, there are many parts that must be implemented in preparation for that date. Many experts are recommending that organizations start this process today to ensure full implementation and compliance by the three-year milestone.

Enforcement and education will be conducted by a pay equity commission appointed within the Canadian Human Rights Commission. The commissioner can initiate audits, investigate and issue monetary penalties, according to terms of the legislation.

In addition to doing foundational and preparatory homework, federally regulated organizations (such as banks, transportation, federal agencies, etc.) should start thinking about their committee composition as soon as possible.

At the heart of the Act, and every organization’s pay equity plan, is the need for a core and common approach that includes multi-representational employee input and participation – this starts with the establishment of a pay equity committee. In addition to doing foundational and preparatory homework, federally regulated organizations (such as banks, transportation, federal agencies, etc.) should start thinking about their committee composition as soon as possible. Committees are required for employers with 100 or more employees (10 or more if unionized). For non-unionized employers with 10-99 employees, the establishment of a pay equity committee is optional.

**BRIEF OVERVIEW OF THE PROPOSED ACT**

The federal Pay Equity Act will impact organizations differently, however, in the following section, we provide an overview to help you start the process of realigning your compensation planning, preparing for compensation committee representation, building a case for pay transparency and compliance, and educating key constituents.
**Pay equity committees**, whose roles will be quite broad, will identify job classes, determine gender predominance of each and, crucially, compare the value of the work performed by each job class based on an assessment using a gender-neutral job evaluation system. The committees must have at least three members, and at least two-thirds of the members must represent the employees under the pay equity plan. At least 50% of the members must be women, and at least one member must be a representative of the employer (for one vote). Where employees are represented by a bargaining agent, each bargaining agent must select at least one employee to represent the bargaining unit. Where there are non-bargaining unit employees, at least one member must be selected as their representative. Collectively, all unionized and non-unionized employees have one vote.

According to the Act, a single-pay equity plan is required and will include all employee groups from executives to front-line and entry-level employees. In some cases, an organization may consider requesting an exception from the Pay Equity Commissioner to allow for more than one plan. For example, a large organization consisting of multiple and different lines of business, with very different workforce profiles, may want to pursue separate and aligned pay equity plans.

Within a pay equity plan, job classes will be clarified, and each will consist of positions with similar duties, responsibilities and qualifications within the same salary range. To determine classes, each organization will need to use one enterprise-wide job evaluation method – the procedure or tools for comparing the internal value of different jobs (e.g. a mechanic, a life guard, an accounts payable clerk) – and will use a common set of factors. The method must measure skill, responsibility, effort and working conditions.

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**The job evaluation method **DOES**:  
- establish the relative value of different jobs within an organization (across functions, divisions and locations);  
- provide a consistent and credible framework for determining job grades;  
- facilitate internally equitable compensation management;  
- support compliance with Pay Equity legislation

**The job evaluation method **DOES NOT**:  
- compare volume of work in different roles;  
- measure the performance of individuals;  
- determine individual salary levels;  
- involve a scientific process without judgment
Gender predominance is a key factor to help committees determine if an imbalance exists in certain jobs. For example, a job class that is considered female-predominant will have at least 60% of the positions in the job class occupied by women (or historically, at least 60% of the positions were occupied by women) or the job class is one that is commonly associated with women due to gender-based occupational stereotyping.

Wage comparison methodologies and adjustments will be based on total compensation in the form of salaries, commissions, vacation pay, bonuses, employer contributions to pension plans, health insurance plans, etc. There are additional caveats and methods (such as Equal Average and Equal Line) to the wage comparison, which can be more fully outlined and applied to your specific case in a conversation with your Mercer representative.

The predominantly female job classes will be compared to the predominantly male job classes to determine the presence of, and the extent of, a wage gap. When a differential in compensation is discovered, the employer must provide an increase by the day after the third anniversary of when the employer becomes subject to the Act. A phase-in is allowed as long as payments are at least 1% of the organization’s annual payroll. Employers must post a notice to employees providing information with respect to the date on which any increase becomes payable, including if the increase will be phased in.

Once the employer or committee has completed its evaluations and compensation comparisons, and drafted a pay equity plan, the employer must post the draft as well as a notice informing employees of their right to provide comments within 60 days.

There are additional caveats and methods (such as Equal Average and Equal Line) to the wage comparison, which can be more fully outlined and applied to your specific case in a conversation with your Mercer representative.
Impact on Your Organization

As mentioned, the federal Pay Equity Act will affect organizations differently and will include a unique set of complexities based on an employer’s union status, diversity of job classes, employee training/certifications/education, and prior efforts to implement diversity and inclusion programs.

Both union and non-union federally regulated organizations must adhere to the new regulations (subject to previously stated employment minimums), but the level of impact increases significantly when an employer includes both union and non-union workers, in addition to a wide variety of job classes. Also, for organizations with multiple unions representing workers, each bargaining unit will be entitled to one pay equity committee representative.

So, What If You Are Slow to Act?

If you don’t comply or file a plan on time, the Act allows the Pay Equity Commissioner to impose a fine for every day an organization is in violation. If you don’t file a plan on time and there’s a gap, you are also required to adjust the relevant salaries and pay retroactively, with interest. In addition, the federal Human Rights Act remains in force, and your organization could be in violation. There are other risks of not acting, including negative publicity and harm to your employment brand.

Your Recommended Next Steps

While the three-year trigger date has yet to be announced (as of publication date), and directives and regulations have not been released by the Pay Equity Commission, there are a number of activities that you should undertake to get ready for the committee-based approach and process:

1. Assess your current job evaluation system and classification of jobs to determine whether it can accommodate all jobs at all levels
2. Identify your male- and female-dominated job classes
3. Conduct initial comparisons and modelling

Mercer is already helping federally regulated employers conduct these activities in anticipation of the trigger date being announced.
WHAT ABOUT HR?

HR must be heavily involved in this process, as key coordinator, educator and facilitator. HR also must know legal ramifications and compliance and should be involved with job evaluation, job levelling, compensation structure, periodic updates based on inflation and market changes, and more.

For those organizations in which HR has previously evaluated jobs effectively and has implemented an equitable plan, your work won’t be as daunting as those organizations that moved this issue to the back burner.

THE ROLE OF EXPERTISE, TOOLS AND ANALYTICS

Few organizations or individuals have the expertise to fully comprehend all legal aspects, implications and next steps in order to implement these changes from start to finish. With the stakes so high, you might consider the support of outside experts who have the experience, contacts, industry knowledge and analytical tools to help you make the right moves for your organization’s unique situation.

For example, at Mercer, our diversity and inclusion efforts to support clients go well beyond “feel good” efforts; we measure employers’ current status and use the latest tools and knowledge to help you drive success, attract and retain the best, and build your workforce for the future. Our research indicates that inclusivity continues to improve business results worldwide. To do this correctly, you need the right analytics that support all the decisions being made to advance equality, encourage courageous leadership at all levels and implement holistic coordination and linkages across all aspects of the change effort to accelerate progress.
WHERE DO YOU GO FROM HERE?

For most federally regulated organizations in Canada, the next steps might at first appear a bit confusing and overwhelming. In fact, it might be appealing to delay acting on pursuing your pay equity plan, but don’t. The following steps should show you that the transition period is shorter than you think. Don’t be distressed, however; we can help you every step of the way. Through our expertise in labour law, compensation and talent management to our finger on the pulse of latest trends to our proprietary tools and analytics, Mercer can move you well beyond compliance. We can help position your organization as an industry leader and top employer. The following section provides an overview of some steps you might take to get you to compliance.

STEPS TO COMPLIANCE:

1. Understand the Situation. Take this time to fully understand the legislation. Know the facts and don’t become mired in rumour or hearsay. Then, use data, analytics and expertise to know factually how the new legislation will impact you. For those with a less complex situation or who have striven for pay equity in the past – even if not fully equitable, but close – your road will be less challenging. For many, there will be a few twists and turns, but we can help guide you through this.

2. Assess Your Current Status. Review your current methods, tools and practices, and your gender dominance calculations, and conduct a review to determine any existing gaps. Mercer can assist in conducting a pay equity audit, which can help you:

   - confirm your list of job classes;
   - define job rates for your organization;
   - confirm the gender predominance of key roles;
   - run preliminary analyses to identify potential gaps

3. Develop a Pay Equity Committee. How close are you to implementing a pay equity plan? You might be a little farther off than you thought, but again, don’t despair – just act. Now is the time to find out who your key constituents and potential committee representatives are. Consider whether best practices or your own unique approach would best serve your organization. Many will conform to the letter of the law, and some might discover that even going farther will be better for talent management efforts and your employment brand.
4. **Build a Job Evaluation System.** For those with complex systems and job classes or who might have given less attention to pay equity in the past, a more thorough analysis will be needed before creating a job evaluation system. Some points to consider include:

- reviewing your current systems to see if you need to modify them;
- ensuring you have all the required job information

5. **Continue to Educate, Communicate, Promote.** The Act does not require employers to disclose competitive compensation strategies and rates of pay. By this stage, however, you not only are compliant with federal laws, but you have a terrific story to tell key stakeholders. Employees, potential workers, trade media, shareholders, watchdogs, federal agencies and more will all be interested in how your organization has taken tangible steps to become compliant, transparent, equitable, diverse, inclusive and more. Revisit talent analytics to measure the impact of diversity on your business.

6. **Reevaluate Pay Equity.** Once you’re in compliance, much of the heavy lifting is completed, but you’re not done. You should continue to analyze and monitor the effectiveness and compliance of the pay equity committee, representation, pay equity, pay transparency and more. This isn’t a one-time effort; this new approach must be built into your talent management efforts.

**GET AHEAD OF TOMORROW’S EVOLVING D&I LANDSCAPE, TODAY**

Mercer has deep expertise in pay equity legislation and can help federally regulated clients navigate new legislative requirements and align pay equity with your overall workforce strategies. We listen to, and address, your needs, help you attract and retain the best and brightest, become and remain compliant, and develop a winning approach to attracting, retaining and developing tomorrow’s leaders.

Contact us today to get started on building your workforce for the future.

**SOURCES**


3 Ibid
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 Make Tomorrow, Today.

HOW MERCER CAN HELP

Elevate your workforce with improved management, compensation, and communication strategies. Draw from rigorous analytics and data-driven insights to increase the efficacy of your workforce systems. Mercer can help you to design value propositions that appropriately recognize your talent and inspire engagement.

For further information, please visit www.mercer.ca

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