

# LEGISLATIVE BRIEFING

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## Pay Transparency Act Receives Royal Assent

Further to the Legislative Briefing titled [BC Introduces Pay Transparency Legislation](#) published on March 10, 2023, Bill 13-2023, *Pay Transparency Act (Act)*, received Royal Assent on May 11, 2023. This legislation creates a framework that has a goal of identifying and narrowing the pay gap among groups of workers by bringing greater transparency to how employees are paid and where pay gaps exist.

### Key Points of the Legislation

The following are some key areas of the *Act* for employers to be aware of:

#### **Publicly Advertised Job Opportunities, Pay History & Prohibited Reprisals**

Effective immediately, BC employers are unable to (a) ask prospective employees, or ask a third party, for the prospective employee's pay history information, or (b) engage in reprisal action against employees who:

- make inquiries to their employer about their pay
- ask or disclose their pay to co-workers or potential job applicants
- make inquiries to their employer about a pay transparency report or information in the report
- ask their employer to comply with the employer's obligations under the *Act*
- make a report to the Director in relation to the employer's compliance with the employer's obligations under the *Act*.

Effective November 1, 2023, all employers are required to include wage or salary, or wage or salary ranges on all publicly advertised jobs.

#### **Pay Transparency Reports**

Employers will be required to prepare and publicly post reports on their gender pay gap on or before November 1 each year. This requirement is being introduced in stages based on the number of employees in an organization as of January 1 of a given year, to give employers time to prepare. The reporting thresholds are as follows:

- November 1, 2023: BC Public Service Agency and Crown corporations with more than 1,000 employees (ICBC, BC Hydro, WorkSafeBC, BC Housing, BC Lottery Corporation and BC Transit).
- November 1, 2024: employers with 1,000 employees or more
- November 1, 2025: employers with 300 employees or more
- November 1, 2026: employers with 50 employees or more

Employers will also be required to publish their annual pay transparency report on their own publicly accessible website. Employers who do not have a publicly accessible website must make copies available to employees in at least one conspicuous place and for members of the public who request it.

***What information will be included in the report?***

The pay transparency report must contain “prescribed information”, which is not defined in the *Act* but will be introduced by regulation. The *Act* allows for regulations that can be passed prescribing information such as, information about the reporting employer, the composition of the reporting employer's workforce, and differences in pay in the employer's workforce in relation to employees' self-identified gender and other characteristics. The regulations are expected to be published for Fall 2023 that will provide employers with more details on how to report on the pay gap.

The *Act* defines “pay” broadly, which likely provides an indication on some of the information an employer will have to report:

- (a) a salary, wage or commission that is paid or payable by an employer to an employee for labour or services provided by the employee;
- (b) money that is paid or payable by an employer to an employee as an incentive in relation to hours of work, production or efficiency; and
- (c) money that:
  - (i) is paid or payable by an employer to an employee at the discretion of the employer, and
  - (ii) is not related to hours of work, production or efficiency.

Employers must make reasonable efforts to collect the prescribed information from their employees, but disclosure is voluntary. In preparation for producing a pay transparency report, employers, in the first year in which they are required to prepare the report, must begin collecting the prescribed information from each employee. Going forward, at the time a new employee starts with the employer, they should collect the prescribed information from that new employee, and at least once in every calendar year, provide to each employee the opportunity to provide the prescribed information, and to update or make additions to any information already provided.

**Centralized Reporting of Gender Pay in BC**

As part of this legislation, starting in 2024, the Ministry of Finance will publish an annual report on the collective results that will serve as centralized reporting of gender pay in BC by June 1 each year. It is noteworthy that the legislation contemplates that the newly designated Director of Pay Transparency (Director) will consult with each Indigenous governing entity that is authorized to act on behalf of Indigenous peoples before completing the annual report.

**Compliance & Administration**

The role of the Director will also include supporting employers in complying with their obligations under the *Act*, to receive reports of non-compliance by employers and to publish other relevant reports. The legislation does not have any recourse mechanisms or penalties for non-compliance or to remedy where gender pay gaps have been

identified. Rather an individual’s primary recourse would be to file a wage discrimination complaint under the *BC Human Rights Code*.

### Review of the Effectiveness of the Act

Five years from the date the *Act* comes into force, the Minister of Finance (Minister), or an individual designated by the Minister, must complete a written review of the effectiveness of the *Act* and the regulations.

### What’s Next

This legislation increases employer obligations relating to pay disclosure and introduces new prohibitions protecting employees who discuss or share pay information. RES has prepared a Pay Transparency Checklist to support employers in preparing for these new requirements ([Appendix 1](#)). Effective immediately, employers must ensure that all employees involved in recruitment are aware of the restrictions on asking about wage history. Employers should review employment agreements, confidentiality agreements, policies or handbooks for existing prohibitions on the disclosure of pay information and amend such documents to ensure compliance with the *Act*.

Employers should also begin preparing for the changes which will be effective later this year. They should start reviewing their publicly advertised job postings and include expected salary or wage information to them. In order to do this, they must review how positions are paid, single step or a salary range, and include the relevant information.

Employers should begin planning for reporting out on their pay gap. The BC government is preparing regulations that are expected to be available in Fall 2023, and will assist in this process. More information is expected to be available as the first group of reporting employers go through the process. As this is new legislation, and there are many different aspects to it, RES will continue monitoring developments as pay reporting begins and as the regulations are introduced, and will keep employers informed.

Key Amendment:	Effective Date:
Employers are unable to enquire about pay history	Date of Royal Assent
Prohibited reprisals by employers	Date of Royal Assent
Include pay information in job postings	November 1, 2023
Pay Transparency Reporting	<ul style="list-style-type: none"> <li>• November 1, 2023: BC Public Service Agency and Crown corporations with more than 1,000 employees</li> <li>• November 1, 2024: employers with 1,000+ employees</li> <li>• November 1, 2025: employers with 300+ employees</li> <li>• November 1, 2026: employers with 50+ employees</li> </ul>
Ministry of Finance publishes annual report	June 1, 2024
Review of the effectiveness of the Act	May 11, 2028

## Pay Transparency Legislation elsewhere in Canada

BC is not the first province to introduce pay transparency legislation. Federal employers across Canada have been bound by the [Employment Equity Regulations](#) since 2021. Amendments were made to the Regulations in January 2021 which made it a requirement for all federally regulated private-sector employers to ensure workers receive equal pay for work of equal value. Federally regulated employers are required to report salary data for all workers in a way that shows aggregated wage gap information. Aggregated wage gap information will be released through an online application, which will provide comparable data on representation rates and designated group wage gaps by employer. The first release of wage gap information is expected for winter 2023.

In Ontario, legislation was introduced in 2018, the [Pay Transparency Act](#), but it was never brought into force due to a change in government. However, in more recent developments, on [March 13, 2023](#), the Ontario government announced that it would enact legislation requiring employers to include new hires with written information about their job, such as pay, work location and hours of work.

Prince Edward Island introduced amendments to their [Employment Standards Act](#) which came into effect in June 2022. The amendments made it a requirement for private sector employers to include pay in publicly advertised job postings and prohibits them from asking applicants about their pay history or retaliating against employees for disclosing information about their pay to other employees.

Newfoundland and Labrador introduced the [Pay Equity and Pay Transparency Act](#) in the fall of 2022, however they have not yet announced an effective date for the changes introduced. In a [March 13, 2023](#) news release, Newfoundland and Labrador announced that it is seeking public and stakeholder input to help inform the drafting of regulations under the new *Pay Equity and Pay Transparency Act*. The new legislation, which received Royal Assent on November 9, 2022, contains new pay equity rules for employers in the public sector, as well as new pay transparency protections applicable to both public and private sector employers. Under the *Act*, public sector employers are required to include pay in publicly advertised job postings and to prepare pay transparency reports. They are also prohibited from asking applicants about their pay history or retaliating against employees for disclosing information about their pay to other employees.

## Pay Transparency Legislation around the World

In the UK, companies with more than 250 employees have had to report pay and bonuses broken down by gender since the [Gender Pay Gap Information Regulations](#) were introduced in 2017. Moreover, in March 2022, a number of British companies began a [pilot project](#) where they agreed to list salary details on job adverts and to stop asking about salary history during the recruitment process. They are still in the pilot project and results have not been released as of yet.

On March 30, 2023, the European Parliament introduced [new pay transparency rules](#). Once they are signed into law, the new regulations will be binding on employers and will require EU companies to disclose information that will make it easier for employees to compare salaries and to expose existing gender pay gaps. The rules will also make it a requirement that pay structures to compare pay levels, will have to be based on gender-neutral criteria and include gender-neutral job evaluation and classification systems. Vacancy notices and job titles will have to be gender neutral

and recruitment processes led in a non-discriminatory manner. There will be a requirement on employers to conduct a joint pay assessment, along with their workers' representatives, if pay reporting shows a gender pay gap of at least 5%. Penalties, such as fines, will have to be introduced by Member States for employers that infringe the rules, and workers' who have suffered harm as a result of an infringement will also have the right to claim compensation. Furthermore, for the first time, intersectional discrimination and the rights of non-binary persons have been included in the scope of the new rules.

In the [U.S.](#), a number of states have introduced pay transparency legislation in recent years including California, New York, Colorado. However, due to a tight labour market and a rise in remote working, employers across the country who are not bound by such rules, are choosing to be more transparent about pay in order to stay competitive with companies that are required to post salary ranges under their states legislation.

## Learning Resources

The *Pay Transparency Act* is legislation that employers are required to implement and has been designed to increase pay visibility. This legislation is an important step towards reducing pay inequity in BC, however it is distinguished from pay equity legislation which has yet to be introduced in BC. For employers who are looking to learn more about the concept of equity in compensation along with suggestions to improving pay equity in their organization can visit the [BC Human Rights Commission](#) website for more information.

## QUESTIONS?

If you have any comments or questions about this update, please e-mail [RES360@metrovancover.org](mailto:RES360@metrovancover.org) or call 604-451-6558.

## SOURCES

Bill 13 – 2023: Pay Transparency Act ([leg.bc.ca](http://leg.bc.ca))

<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/42nd-parliament/4th-session/bills/progress-of-bills>

Learn more about the Gender and Sex Data Standard - Province of British Columbia ([gov.bc.ca](http://gov.bc.ca)) –

<https://www2.gov.bc.ca/gov/content/data/gender-sex-data-standard?keyword=1#:~:text=The%20Gender%20and%20Sex%20Data%20Standard%20defines%20the,data%20are%20to%20be%20collected%20only%20when%20necessary.>

Home - Anti-Racism Data Act ([gov.bc.ca](http://gov.bc.ca))

<https://engage.gov.bc.ca/antiracism/>

Employment Equity Regulations | CanLII

<https://www.canlii.org/en/ca/laws/regu/sor-96-470/latest/sor-96-470.html>

RSPEI 1988, c E-6.2 | Employment Standards Act | CanLII

<https://www.canlii.org/en/pe/laws/stat/rspei-1988-c-e-6.2/latest/rspei-1988-c-e-6.2.html?resultIndex=1>

Pay Transparency Act, 2018 | CanLII

<https://www.canlii.org/en/on/laws/stat/so-2018-c-5/latest/so-2018-c-5.html?autocompleteStr=pay%20tra&autocompletePos=2>

Consultations Underway to Inform Regulations of Pay Equity and Pay Transparency Act - News Releases (gov.nl.ca)

<https://www.gov.nl.ca/releases/2023/wge/0313n03/>

Government launches pay transparency pilot to break down barriers for women - GOV.UK (www.gov.uk)

<https://www.gov.uk/government/news/government-launches-pay-transparency-pilot-to-break-down-barriers-for-women>

Gender pay gap: Parliament adopts new rules on binding pay-transparency measures | News | European Parliament (europa.eu)

<https://www.europarl.europa.eu/news/en/press-room/20230327IPR78545/gender-pay-gap-parliament-adopts-new-rules-on-binding-pay-transparency-measures>

A map of pay transparency laws across the U.S. - Glassdoor for Employers

<https://www.glassdoor.com/employers/blog/pay-transparency-laws-across-the-us/>

Pay transparency legislation too weak to close gender wage gap - BC's Office of the Human Rights Commissioner (bchumanrights.ca)

<https://bchumanrights.ca/news/pay-transparency-legislation-too-weak-to-close-gender-wage-gap/>

Employment equity toolkit - BC's Office of the Human Rights Commissioner (bchumanrights.ca)

<https://bchumanrights.ca/employment-equity-toolkit/>

Appendix 1

**Pay Transparency Checklist:**

**Overview:**

This checklist outlines the key elements of the legislative requirements and is intended to be used as a guideline\* to assessing and updating recruitment and existing pay and related people practices.

Immediate	Completed
<b>Salary History Inquiry Ban:</b> Job applicants are not asked for their pay history information (unless it is publicly available)	<input type="checkbox"/>
<b>Disclosure of Wages:</b> Employers may not prevent employees from sharing pay details or retaliate against them for disclosing their pay details (e.g. confidentiality clauses/pay secrecy)	<input type="checkbox"/>
Employers may not discipline or threaten to discipline employees for making inquiries to their employer about their pay	<input type="checkbox"/>
Employers may not discipline or threaten to discipline employees for making inquiries to their employer about a pay transparency report or information in the report (if required)	<input type="checkbox"/>
Employers may not discipline or threaten to discipline employees for asking their employer to comply with the employer’s obligations under the <i>Act</i>	<input type="checkbox"/>
Employers may not discipline or threaten to discipline employees for making a report to the Director in relation to the employer’s compliance with the employer’s obligations under the <i>Act</i>	<input type="checkbox"/>
Educate leaders and employees responsible for overseeing recruiting and compensation practices on the <i>Act</i> , its associated requirements, and related organizational pay transparency policies and practices	<input type="checkbox"/>
Communicate the organization’s pay transparency requirements to any agency used to recruit talent, if applicable.	<input type="checkbox"/>
<b>For November 1, 2023:</b>	
Review pay ranges or bands for existing roles and develop pay or pay range information for all roles, if required.	
<b>Job Postings:</b> Include the expected pay or pay range information in publicly advertised job postings	<input type="checkbox"/>

<b>Pay Transparency Reporting</b>	
Determine when the reporting requirements will apply by determining the number of employees in an organization as of January 1 of a given year	<input type="checkbox"/>
Monitor upcoming regulations for exemptions as well as further guidance on the specific content to complete pay transparency reporting	<input type="checkbox"/>
Reporting employers should develop a process to collect prescribed information and plan to provide the opportunity to employees to update or make additions to any information already provided, each year.	<input type="checkbox"/>
Reporting employers should develop a plan to publish their annual pay transparency report on their own publicly accessible website. Reporting employers who do not have a publicly accessible website must make arrangements to have copies available to employees in at least one conspicuous place and for members of the public who request it	<input type="checkbox"/>

*\*It is not meant to be exhaustive and does not address all potential compliance issues with pay transparency laws in BC*