

# Pay Transparency – Know The Laws Of Your Province



Six jurisdictions have recently enacted pay transparency laws

Six of Canada's 14 jurisdictions—Federal, BC, Newfoundland, Nova Scotia, Ontario and Prince Edward Island—have adopted pay transparency laws. However, these laws haven't actually taken effect and may not ever take effect in Newfoundland and Ontario. Proposed pay transparency legislation has also been proposed but voted down in Manitoba and Saskatchewan.

Where they are in effect, pay transparency laws generally require employers to:

- Refrain from seeking information about a job applicant's pay history;
- List salary information for a position in job ads;
- Refrain from retaliating against applicants for asking about their pay or discussing how much they make with co-workers.

Two jurisdictions, Federal, BC, also require employers to submit annual pay transparency reports.

Here's a look at the current pay transparency laws in each part of Canada. See also:

- <https://hrinsider.ca/pay-transparency-compliance-game-plan/>
- <https://hrinsider.ca/pay-transparency-policy/>

## **PAY TRANSPARENCY LAWS ACROSS CANADA**

### **FEDERAL**

1. Employers with at least 100 employees must include detailed data about gender-based wage gaps at their organization as part of annual employment equity reports required by *Employment Equity Act*; ESDC to publish wage gap data in searchable format to ensure transparency (*Employment Equity Regs.*)

## ALBERTA

1. No pay transparency laws

## BRITISH COLUMBIA

1. Effective Nov. 1, 2023: 1. Employer must list salary or wage amount or range in an ad for a publicly advertised job opportunity; 2. Employer may not seek job applicant's pay history, including via third party, unless the information is publicly accessible; 3. Employer may not (or threaten to) dismiss, suspend, demote, discipline, harass or otherwise disadvantage employees for: (a) Asking about their pay; (b) Disclosing information about their pay to a co-worker or job applicant; (c) Asking about information in a pay transparency report; (d) Asking the employer to comply with the Act; or (e) Reporting about the employer's compliance with the Act; (4) Employer must collect data and prepare and submit a pay transparency report by Nov. 1 of each year; and (5) Employer must make annual pay transparency report available to employees (*Pay Transparency Act*)

## MANITOBA

1. Assembly tabled but voted down legislation (Bill 222) similar to BC *Pay Transparency Act* in March 2022.

## NEW BRUNSWICK

1. No pay transparency law.

## NEWFOUNDLAND

Legislation has been adopted but hasn't yet and may not ever take effect stating that: 1. Employer may not seek job applicant's pay history, including via third party (other than information that's publicly available), but may seek information about ranges of pay or aggregate pay provided for comparable positions; 2. Employer must list salary or wage amount or range in an ad for a publicly advertised job opportunity; 3. Employer must gather data and prepare annual pay transparency report; 4. Employer may not (or threaten to) intimidate, dismiss or otherwise penalize employees or job applicants for: (a) Asking about their pay; (b) Disclosing information about their pay to a co-worker or job applicant; (c) Asking about information in a pay transparency report; (d) Asking the employer to comply with the Act; or (e) Reporting about the employer's compliance with the Act (*Pay Equity & Pay Transparency Act*)

## NOVA SCOTIA

1. Prospective employer may not: (a) ask prospective employees for their wage history; (b) ask a prospective employee's current or former employer for the prospect's wage history; or (c) require a prospective employee's wage history to meet maximum or minimum levels or any other criteria set by the prospective employer;

2. Prospective employers may confirm a prospective employee's wage history if the prospective employee (a) voluntarily discloses it to them; (b) provides written authorization allowing them to obtain the confirmation; and (c) acknowledges in the written authorization that the prospective employee has determined that it is beneficial to the prospective employee to disclose the prospective employee's wage history to the prospective employer;
3. Employer may not ban employees from discussing or disclosing information within the workplace about their own wages or the wages of another employee; and
4. An employer or employee whose job functions relate directly to the employer's finances or HR may not disclose wage information about any employee unless: (a) the employee provides written authorization for release of that wage information; (b) the wage information is a matter of public record; (c) the disclosure is within the course of the job functions of the employer or a finance or HR employee of the employer; or (d) the wage information must be disclosed by law (*Labour Standards Code*, Secs. 57A and 57B)

## ONTARIO

Assembly is working on and likely to pass in its first session of 2024 legislation to amend the *Employment Standards Act* that would require employers who advertise a publicly advertised job to list in the posting the expected compensation or range of composition for the position, subject to exceptions to be listed in regulations implementing the law (Bill 149, *Working for Workers Four Act, 2023*, Sec. 8.2)

In 2018, Ontario passed but hasn't and may never proclaim effective pay transparency legislation stating that:

1. Employer may not seek job applicant's pay history by any means, including via an agent (other than information that's publicly available), but may seek information about ranges of pay or aggregate pay provided for comparable positions;
2. Employer may rely on information about pay ranges or aggregates for comparable positions or pay history information that job applicant discloses voluntarily discloses in determining the applicant's compensation;
3. Employer must list expected compensation amount or range in a publicly advertised job posting for the position;
4. Employer with 100 or more employees must collect the information specified by regulations and prepare an annual pay transparency report by May 15 of each year; and
5. Employer or person acting on its behalf may not (or threaten to) intimidate, dismiss or otherwise penalize employees for: (a) Asking about their pay; (b) Disclosing their pay to another employee; (c) Asking about information in a pay transparency report; (d) Asking the employer to comply with the Act; or (e) Reporting about the employer's compliance with the Act (*Pay Transparency Act, 2018*—not in effect)

## PRINCE EDWARD ISLAND

1. Employer may not seek pay history information about an applicant by any means, whether personally or via an agent;
2. Applicants may disclose their pay history voluntarily, and without prompting, to either the employer or agent;
3. Employer may seek information about ranges of or aggregate pay for comparable positions;

4. Employer may use voluntarily disclosed pay history or pay ranges or aggregates for comparable positions in determining the applicant's pay;
5. Above requirements don't apply to publicly available information;
6. Employer must include expected pay amount or range in job ads for the position; and
7. Employer or person acting on its behalf may not (or threaten to) intimidate, dismiss or otherwise penalize an employee for (a) making inquiries to the employer about the employee's pay or company pay policies; (b) disclosing the employee's pay to another employee; (c) giving information about the employer's compliance or non-compliance to the Department; or (d) asking the employer to comply with the law (*Employment Standards Act*, Secs. 5.8 to 5.10)

## QUÉBEC

No pay transparency law

## SASKATCHEWAN

No pay transparency law

## NORTHWEST TERRITORIES

No pay transparency law

## NUNAVUT

No pay transparency law

## YUKON

No pay transparency law