

The 8 Things You Must Know to Comply with the New Federal Pay Equity Law



You must implement a pay equity plan by August 31, 2024

When are we legally allowed to require employees to submit to drug testing?

One of the most significant pieces of new HR federal legislation in recent years has just taken effect. Here are the 8 things covered employers must know to ensure compliance.

Question 1: Isn't Pay Equity Already a Legal Obligation?

Answer: Technically yes, to the extent that paying women less than men for equivalent work at the same establishment is a form of sex discrimination banned in all parts of Canada. But pay equity laws take things to a different level by requiring employers to take active steps to systematically identify and eliminate pay gaps and ensure "equal pay for work of equal value." The impact of this distinction is how the laws are enforced. Liability for sex discrimination becomes a possibility only if somebody actually files a complaint. Pay equity, by contrast, is actively enforced by government inspectors on an ongoing basis regardless of whether an employee or union sues.

Question 2: Whom Does the Federal Pay Equity Law Cover?

Answer: The federal *Pay Equity Act* and *Pay Equity Regulations* apply to public and private sector employers (including Ministers' offices) that both:

- Are federally regulated; and
- Have 10 or more employees.

Question 3: What's the Timetable for Compliance?

Answer: The federal pay equity law officially takes effect on August 31, 2021. However, employers have 3 years to implement it, that is, put into place a pay equity plan.

Question 4: What Must Employers Do to Comply?

Answer: There are 4 things employers may have to do to comply with the *Pay Equity*

Act, depending on the size of the organization:

- Establish a pay equity committee;
- Create a pay equity plan;
- Eliminate pay gaps identified; and
- Maintain pay equity.

Let's break down each of these requirements in detail.

Question 5: How Do You Comply with the Pay Equity Committee Rules?

Answer: Employers with 100 or more employees and all unionized workplaces with more than 10 employees must establish a joint committee made up of employer and employee representatives to develop and maintain a pay equity plan for the workplace. Committees are voluntary for employers with fewer than 100 non-union employees.

Rules:

- 2/3 of committee members must be employee representatives;
- At least 50% of committee members must be women;
- In unionized workplaces, all bargaining agents must be represented on the committee; and
- Each group represented on the committee must get one vote.

Question 6: How Do You Comply with the Pay Equity Plan Rules?

Answer: The committee has 3 years, that is, until August 31, 2024, to develop a pay equity plan that:

- Identifies all of the job classes made up of positions in the workplace;
- Determines whether each job class is predominantly male, predominantly female or gender neutral;
- Determines the value of the work done by each predominantly female or male job class;
- Calculates the compensation of each predominantly female or male job class; and
- Compares the compensation between predominantly female and male job classes doing work of equal value to identify any wage gaps that exist.

The employer must also post the pay equity plan for employee review and comment within 60 days of creating it.

Question 7: How Do You Comply with the Pay Equity Elimination Rules?

Answer: If the committee identifies a gap between predominantly male and female job classes, the employer must increase the female job class's compensation to close the gap. The extra compensation would first become due 3 years after the Act takes effect, i.e., January 1, 2023. Exception: If the pay increase is greater than 1% of yearly payroll, the employer can phase in the increase over 3 to 5 years. The one thing employers **may not** do to eliminate male-female wage gaps is decrease the compensation of the predominantly male job class. If there's an inconsistency between the plan and a collective agreement, the plan prevails and the pay increase is deemed to be part of the collective agreement.

Question 8: How Do You Comply with the Pay Equity Maintenance Rules?

Answer: After the 3-year compensation adjustment(s) are made, employers must continue to review their plans to identify and eliminate wage gaps over a 5-year maintenance cycle. Other ongoing employer obligations:

- Posting employee notices listing their pay equity duties and employees' pay equity rights, e.g., to file complaints or comment on the plan; and
- Submitting an annual pay equity statement to the new federal Pay Equity Commissioner.