Cassels

Ontario Passes Pay Transparency Legislation Imposing New Obligations on Employers

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On April 26, 2018, the Ontario government passed Bill 3, the *Pay Transparency Act, 2018*. The *Pay Transparency Act, 2018* imposes requirements for employers relating to the disclosure of information about the compensation of its employees and prospective employees for the purpose of promoting "gender equality and equal opportunity" in employment. The new legislation follows on the heels of the Ontario government's recent amendment to the *Employment Standards Act, 2000*, which came into effect on April 1, 2018, and requires employers to provide equal pay for part-time, temporary and seasonal employees who perform the same job as full-time employees. (Find our previous article on Bill 148 here.)

Effective January 1, 2019, the *Pay Transparency Act, 2018* will impose the following new obligations on employers in Ontario:

- Employers will be prohibited from asking a job applicant information about their compensation history in previous positions.
- Employers will be required to include in any publicly advertised job posting information about the expected compensation or range of compensation for the position.
- Employers with over 100 employees will be required to prepare pay transparency reports to be submitted to the Ministry of Labour. The reports must include information about the employer, the employer's workforce composition and differences in compensation in the employer's workforce with respect to gender and other prescribed characteristics. The reports must be posted online or in at least one conspicuous place in every workplace, and will be published by the Ministry of Labour.
- Employers will be prohibited from intimidating, dismissing or otherwise penalizing employees for making inquiries about the employee's compensation, disclosing their compensation to another employee, or asking the employer to comply with the requirements of the legislation. Employees who feel they have been reprised against will be permitted to bring a complaint to the Ontario Labour Relations Board.

With respect to the pay transparency reports, the following deadlines apply:

- Employers with 100 or more employees must collect prescribed information for the purposes of preparing a pay transparency report no later than May 15 each year.
- Employers with 250 or more employees must submit the first pay transparency report no later than May 15, 2020.

- Employers with 100 to 249 employees must submit the first pay transparency report no later than May 15, 2021.

Employers in Ontario should take this opportunity to review their job posting and interview processes to ensure compliance with the new legislation in advance of the January deadline. For large employers, we also recommend reviewing compensation data and practices in preparation for the upcoming pay transparency reports.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.