

Federal Pay Equity Act Deadlines Fast Approaching

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The federal [Pay Equity Act](#) (“Act”)¹ came into force on August 31st, 2021. The purpose of the Act is to proactively address the pay gap between predominantly female and male job classes so work of equal value is compensated equally. The Act applies to private and public sector **federally regulated employers** with an average of ten or more employees.²

The Act requires an employer to create and post a pay equity plan within three years of becoming subject to the Act. That said, an employer with an average of ten or more employees when the Act came into force became subject to the Act immediately. For those employers, a final version of each employer’s pay equity plan must be posted by **September 3rd, 2024**. In advance of this deadline, a draft plan must be posted for employee comment before **July 5, 2024**.

This briefing note provides a high-level overview of the requirements. If the Act applies to your organization, and you have not yet prepared a draft plan, now is the time. To learn more, or if Sherrard Kuzz LLP can be of assistance, kindly contact your SK lawyer or info@sherrardkuzz.com.

Establishing a Pay Equity Committee

An employer that has a union, or an average of 100 or more employees, must establish a pay equity committee. The committee must consist of at least three members and the Act imposes specific requirements regarding employee, employer and union (if applicable) representation. Specifically:

- At least two thirds of the members must represent employees included in the pay equity plan
- At least 50% of the members must be women
- At least one member must be an employer representative
- If any affected employees are unionized, there must be at least one employee selected by each affected union to represent it
- If any affected employees are non-unionized, there must be at least one member selected by those employees to represent them.

¹ *Pay Equity Act*, SC 2018, c 27 s 416.

² The Act considers the average number of employees employed in the “reference year.” For a public-sector employer, this is the previous fiscal year. For a private-sector employer, this is the previous calendar year. Once an employer becomes subject to the Act it remains subject to the Act, even if its average number of employees falls below 10.

Creating a draft Pay Equity Plan

The committee (if required) or the employer (if a committee is not required) must take the following steps to create a draft pay equity plan:

1. Identify job classes
2. Identify predominantly female and predominantly male job classes
3. Determine the value of work performed per job class
4. Calculate total compensation in dollars per hour for each predominantly male and female job class
5. Determine whether there are differences in compensation between jobs of equal value. If so, the employer may need to increase compensation for predominantly female job classes.

Next, the committee or employer must prepare a draft plan which must include the following:

- The number of employees
- Prescribed details regarding the pay equity committee, if applicable
- Information about the job classes
- The methods used and the determinations made related to the value of work performed
- Differences in compensation in predominantly female and predominantly male job classes
- A list of each predominantly female job class that requires an increase in compensation, the amount of each increase and how the employer will increase the compensation (*e.g.*, by increasing salary).
- When and how any obligations to increase compensation will be implemented
- The dispute resolution procedure available to employees.

Posting the draft Pay Equity Plan

An employer must post a draft of the pay equity plan in the workplace and allow employees to provide comments and feedback on the plan for at least 60 days before posting the final plan.

Posting the final Pay Equity Plan

A final plan must have considered comments received from employees during the 60-day comment period. Once posted, an employer must correct any pay equity gaps. The final pay equity plan will be valid for up to five years from the date it is posted.

What happens if an employer can't meet the September 3rd deadline?

Recall, for an employer that became subject to the Act when proclaimed (August 31, 2021), a final pay equity plan must be posted by September 3, 2024. If an employer is unable to meet the September 3rd deadline it can request an extension from the Pay Equity Commissioner. The Commissioner will consider:

- What steps the employer has taken to establish a Pay Equity Plan in the prescribed timeline
- Reasons why the employer has failed to meet the prescribed timeline
- Why an extension is the appropriate solution.

If an employer applies for an extension, a memo to all employees must be posted to ensure they are aware of possible changes in the timeline.

If an extension is approved and the final plan requires increased compensation for some job classes, an employer must make a lump sum payment to affected employees, covering the total amount of adjustments owed to employees during the period of the extension, plus interest.

An extension can be requested through the [Pay Equity Portal](#) - an online platform that allows employers, employees and unions to submit requests and interact with Pay Equity Officers. All relevant forms and documents regarding extensions can be accessed via the Portal.

Ongoing obligations

The Act requires an employer to file an annual statement. For an employer that became subject to the Act when it came into force, the first annual statement is due by **June 30, 2025**. Subsequent annual statements must be filed by June 30th of each year.

The Act requires an employer to update its pay equity plan at least every five years. There are also obligations with respect to posting and record keeping.

To learn more or for assistance, contact your Sherrard Kuzz lawyer or info@sherrardkuzz.com.

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