

EMPLOYMENT

Gender Pay Gap Reporting in Ireland is set to become law

On 7 July 2021, the Gender Pay Gap Information Bill passed all stages of the legislative process in the houses of the Oireachtas. It will now go to the President for consideration and signature.

While the implementation of Gender Pay Gap reporting in Ireland has been in the pipeline for quite some time, the requirement to report the gender pay gap in Ireland is now set to become law.

6 MIN READ

The Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman has described the legislation in the following terms:

“Pay transparency on its own will not end the pay disparity between men and women but it is an important further step on the road to equality”. The legislation “will provide transparency and accountability for employees. It will demand of employers real and substantive action to reduce any gender pay disparity that exists within their organisation and it will help ensure that workplaces become more equal”.

“Most organisations want to be better employers. This legislation can support them in reporting their gender pay gap data, in understanding and most importantly in taking measures to address it”.



What next?

After the Bill is enacted, regulations prescribing the details of the information to be published by employers will need to be made. The Minister has stated there will be “no delay or foot dragging” in drawing up and providing these regulations and also that a website to deliver employers’ gender pay gap information will be developed as quickly as possible. The Minister has indicated he intends to have the regulations in place by the end of this year, perhaps sooner. It is therefore likely that the reporting process will begin sometime in 2022.

The legislation will require employers with 250 or more employees to publish details relating to employees pay and bonus for the purpose of showing their gender pay gap. The regulations will likely provide for this threshold to decrease to 150 or more employees after two years and to 50 or more employees after three years.

We have set out below the key details employers need to know.

01

What information will need to be published?

The regulations will require the following information to be published:

- » The difference between the mean and median hourly pay of male and female employees
- » The difference between the mean and median bonus pay of male and female employees
- » The difference between the mean and median hourly pay of part-time male and female employees
- » The percentage of male and female employees who received bonuses and benefits in kind

02

What is the difference between the “mean” and the “median”?

The **mean** pay gap is the difference between men and women’s average hourly wage across the organisation.

The **median** pay gap is the difference between the middle paid woman’s and the middle paid man’s hourly wage, ie if the men and women are listed separately in order of pay, it is the difference in the hourly wage between the person in the middle of each list.

03

Will employers be required to publish a “narrative”?

Employers will be required to publish a statement setting out, in the employer’s opinion, the reasons for such differences and the measures (if any) being taken, or proposed to be taken, by the employer to eliminate or reduce such differences.

04

What other information will be in the regulations?

When the regulations are introduced they may, but are not required to, prescribe details of the following:

- The class of employer, employee and pay to which the regulations apply
- How the number of employees that an employer has and pay is to be calculated
- The form and manner in which information is to be published (no more frequently than once a year) in order to bring such information to the attention of:
 - » the employees to whom the information relates
 - » the public

The regulations may require the publication of the difference between the mean and median hourly pay of temporary male and female employees, the percentage of employees in each of the four quartile pay bands who are male and female or by reference to job classification.

05

How will employees' personal data be protected?

The regulations may require classification of employee bands and the narrower the classification, the higher the risk that personal data may be processed in a manner that is potentially contrary to GDPR. The Regulations may prescribe measures to ensure personal data has undergone pseudonymisation.

06

How will gender pay gap reporting be enforced?

The Irish Human Rights and Equality Commission

Where the Irish Human Rights & Equality Commission is satisfied, on reasonable grounds, that an employer has failed to comply with the gender pay gap reporting obligations, it may apply to the Circuit Court or High Court for an order requiring the employer to comply. The Irish Human Rights & Equality Commission may itself carry out a review or an action plan following a request from the Minister.

Workplace Relations Commission

An employee who claims that their current employer has failed to comply with the requirement to publish gender pay gap information may make a complaint to the Workplace Relations Commission (WRC). The WRC will investigate the complaint if it is satisfied that there is a prima facie (apparent) case to warrant the investigation. If the complaint is upheld by the WRC, it can order the employer to take a specified course of action to comply with gender pay gap reporting obligations. The outcome may be appealed by either party to the Labour Court. There is no provision for compensation for the employee or for a fine to be imposed but there may be publicity for the parties through the publication of decisions.

07

What should employers be doing to prepare?

The requirement that the Minister makes regulations means that the finer details of the reporting obligations are not yet known. However, given that the Minister has stated there will be “no delay or foot dragging”, there are a number of practical steps employers should be taking now to get their “house in order”. In particular, employers should:

- **Pay audit:** identify the relevant “quartiles” across your employee headcount and gather and analyse payroll data.
- **Technology:** consider what software and hardware may be required to “run” the requisite calculations and ensure payroll teams receive appropriate training.
- **Policies:** review HR policies and compensation structures and evaluate recruitment and promotion practices to identify any unintentional gender bias that may impact on the overall gender pay gap.
- **Legal advice:** seek advice at the outset to understand what elements of “pay” need to be inputted in the calculations. Identify and mitigate any equal pay or discrimination issues and ensure compliance with data protection principles. Depending on how the “trial run” is conducted, the output may be subject to legal privilege to the extent possible.
- **Stakeholders:** identify and work with key stakeholders, such as Finance/payroll, HR, legal and public relations at an early opportunity to ensure a collaborative approach to reporting.
- **Communication:** given the potential impact on an employer’s brand reputation, recruitment and retention of staff, it is vital that both the internal and external messaging of any GPG be managed carefully.

Please visit our [Gender Pay Gap hub](#) where we will continue to produce further updates, resources and guidance for employers in order to prepare for reporting their gender pay gap and particularly in relation to the above key steps. For any further information in relation to this topic, please contact [Triona Sugrue](#), Knowledge Lawyer or any member of the [ALG Employment team](#).

Key contact



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Resources



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