



EMPLOYMENT

Gender pay gap reporting: *The devil is in the detail*

On 3 June 2022, the long-awaited gender pay gap reporting regulations were published ([the Regulations](#)). The Regulations outline in some detail the gender pay gap reporting requirements and how employers should set about complying with these requirements.

The Regulations provide definitions for terms such as allowances, benefits in kind, ordinary pay and working hours along with information on how to calculate the hourly remuneration, bonus remuneration and total working hours of an employee. The content of the Regulations is similar, but not identical, to the government guidance, which was published in May. Our briefing on the government guidance on gender pay gap (GPG) reporting is available [here](#).

7 MIN READ

Employers with 250+ employees need to select a snapshot date in June 2022 and report for the first time within six months of that date. Over the next few years employers with 50+ employees will fall into the GPG reporting net on a staggered basis. The Regulations are the cornerstone of the GPG regime in Ireland and it is essential that employers understand their obligations under the Regulations, and the detailed explanations as to how GPG reporting is to be conducted, in order to ensure statutory compliance.

Differences between the Irish and GB reporting requirements

Many employers in Ireland will be in a position to leverage off the experience of companies within their corporate group, who have gender pay gap reported in Great Britain (**GB**), when it comes to complying with their reporting obligations in Ireland. Gender pay gap reporting has been a statutory obligation in GB since 2017. While the Regulations mirror many of the reporting requirements in GB, there are some notable differences, which include:

(i) The snapshot date and the deadline

In GB, the snapshot date is 5 April every year and the deadline for reporting is 4 April the following year. As mentioned above, employers in Ireland have more latitude when it comes to the snapshot date in that

they can pick any date in June 2022 and then report within six months of that date.

(ii) The information to be reported

The Regulations require additional information to be reported to that required in GB, such as the difference between the mean and median hourly pay of part-time and temporary male and female employees, along with the percentage of male and female employees who received benefits in kind.

(iii) The hourly pay reference period

Under the Regulations, the pay reference period for calculating the hourly pay to be reported is the 12-month period immediately preceding and including the snapshot date. This is different to the position in GB where the pay reference period is the pay period within which the snapshot date (5 April) falls e.g. for employees paid per calendar month it is the month of April.

(iv) Employees on leave

One key difference, which will likely require further government guidance in Ireland, is the treatment of employees who are on leave. In GB, employees are excluded from most aspects of the reporting requirements if they receive less than full pay because of being on leave on the snapshot date. They are not so excluded under the Regulations. This could affect the gender pay gap in a particular organisation if there are a significant number of employees on a form of leave during the pay reference period and during which they are paid less than full pay, for example, women on maternity leave or parents on parental leave etc.

(v) Publication

Irish employers must publish a statement setting out their opinion on the reasons for gender pay differences in their organisation and the measures (if any) being taken, or proposed to be taken, to eliminate or reduce such differences. In GB there is no obligation to publish such a statement, albeit it is common practice for employers who are obliged to report to do so.

(vi) Where to report?

Irish employers must report their GPG information on their website or in some other manner easily accessible to employees and the public (e.g. in hard copy at the reception of their office). The report must remain available for three years. There is no requirement to report the GPG information to any government department in 2022 but this is expected to change in the future, potentially before the reporting deadline in 2023. In GB, the report must be published on the employer's website and uploaded to a government website.

(vii) Enforcement

In terms of enforcement, the Irish Human Rights and Equality Commission (IHREC) may apply to the Circuit Court or High Court for an order requiring an employer to comply with the statutory GPG obligations. IHREC may itself carry out a review or an action plan following a request from the Minister. In practice, we expect court action by the IHREC to be rare and to be taken in circumstances where there has been a wholesale failure to comply.

Employers are most likely to be held accountable by the court of the public opinion, with employers who fail to report potentially being highlighted by the media. Employees may also seek to hold their employers to account and can refer an alleged non-compliance with the requirement to publish gender pay gap information to the Workplace Relations Commission (**WRC**). If the complaint is upheld, the WRC can order the employer to take a specified course of action to comply. The outcome may be appealed by either party to the Labour Court. Significantly, there is no provision for compensation to be awarded to the employee who makes the referral or for a fine to be imposed but there may, of course, be adverse publicity for the employer as a result of media commentary on the referral. In GB no statutory enforcement mechanisms exist but, at least for certain large employers, the media has carefully policed compliance and has not hesitated to publish headline articles where an employer failed to report, reported a very large gender pay gap or reported an implausibly low gender pay gap.

What should employers do now?

With the commencement of the Regulations, gender pay gap reporting is no longer a prospect on the horizon, and is instead now a mandatory legal obligation for many employers. Employers in scope should take immediate action to ensure that (i) they are familiar with their obligations arising from the Regulations (ii) they understand what data must be collated and analysed (iii) they establish a stakeholder group comprising HR, payroll and finance to project manage the GPG reporting exercise (iv) nominate a date in June as their reporting “snapshot” date (v) commence work analysing the data and preparing reports for publication.

Please continue to monitor our [GPG Hub](#) where we will provide further updates, resources and guidance for employers on GPG reporting in Ireland.

For further information in relation to this topic or for assistance in complying with your GPG reporting obligations, please contact [Michael Doyle, Partner](#), [Triona Sugrue, Knowledge Lawyer](#) or any member of [ALG's Employment team](#).

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Resources



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