



Ontario Pay Transparency Act: Bill 3

The Ontario government has issued Bill 3, Chapter 5 of the Statutes of Ontario 2018. While not all details have been determined, this document summarizes what we know about the requirements so far.

The Act comes into effect on January 1, 2019.

1. Hiring Regulations

Job Postings

Publicly advertised job postings must include information about the expected compensation for the position or the range of expected compensation.

“Publicly advertised job posting” means an external job posting for a specific job that an employer advertises to the general public in any manner, but does not include recruitment campaigns, general help wanted signs or positions that are only advertised to existing employees.

Applicant Compensation and Compensation History

An employer cannot seek compensation history information about an applicant by any means, however, nothing prohibits an applicant from voluntarily disclosing their compensation history information to an employer or an employer’s agent.

Nothing prohibits an employer from seeking information about the **ranges** of compensation or aggregate compensation provided for positions comparable to the position for which the applicant is applying.

If an applicant has voluntarily disclosed their compensation history or the employer has obtained comparable compensation range information, nothing prohibits the employer from considering or relying on such information in determining the compensation for the applicant.



2. Reporting Requirements

Which employers must report this information?

Employers with 100 or more employees are required to submit the **prescribed information**.

What is the prescribed information?

This information has not yet been defined, but it will be “relating to the employer, the employer’s workforce composition and differences in compensation in the employer’s workforce with respect to gender and other prescribed characteristics.”

We can anticipate that employers will be reporting on such items as the mean or average pay by gender and possibly by minority/ethnicity. We can further anticipate reporting on values such as the gender split for each quartile of the population or the gender composition of a company’s leadership.

The requirements would likely need to set an “as of” date for the workforce composition picture and allow employers enough time to conduct an analysis and submit their report.

What is the deadline for reporting and when do we need to start reporting?

Employers must report by May 15 of each year. The starting dates of these reporting requirements depend on the number of employees in a company. While this is an Act generated by the province of Ontario, it should be noted that the requirement is related to the number of employees in the company and does not state that this is the number of employees that a company has in Ontario.

- Employers with 250 or more employees must submit their first report no later than May 15, 2020.
- Employers with 100-249 employees must submit their first report no later than May 15, 2021.

To whom is the report submitted?

- Employers must post their report online or in at least one conspicuous place in every workplace.
- Employers must submit their data to the Ministry of Ontario.



- The Ministry of Ontario will publish your report and/or make it publicly available and has the authority to post it to the internet.

Given the bullet points above, companies should assume that their entire report will be posted online. As such, Numerical Insights recommends posting your report to your own web site each year as the official release of your information.

3. Employee Rights

Employees have the right to:

- Make inquiries related to compensation, compensation ranges and to disclose their compensation to other employees.
- File a complaint or inquiry with the employer or the Ontario Labour Relations Board that an employer or person acting on behalf of the employer has not complied with the Act.
- Have their inquiry or complaint dealt with through arbitration.

There are further details in the Act regarding the procedures associated with these rights. One important note is that **the burden of proof that an employer or person acting on behalf of an employer did not act contrary to the requirements of this Act lies upon the employer or the person acting on behalf of the employer.**

4. Ensuring Compliance

The Act provides the ability to assign a compliance officer who has the ability to audit, inspect and investigate adherence to the Act. The powers of this officer are described in more detail in the full text of the Act. It may be a good idea to establish an audit policy containing audit content, frequency and official filing procedures of audits and corrective actions in order to establish “due diligence” of compliance.

The remainder of the Act outlines legal details and procedures.

Where can I Find the Official Act Document?

The full Act from the Legislative Assembly of Ontario can be found [here](#) .

Disclaimer: *This document is a summary of the Ontario Pay Transparency Act as it relates to HR Analytics reporting requirements. Please seek proper counsel for a legal interpretation of the Act.*