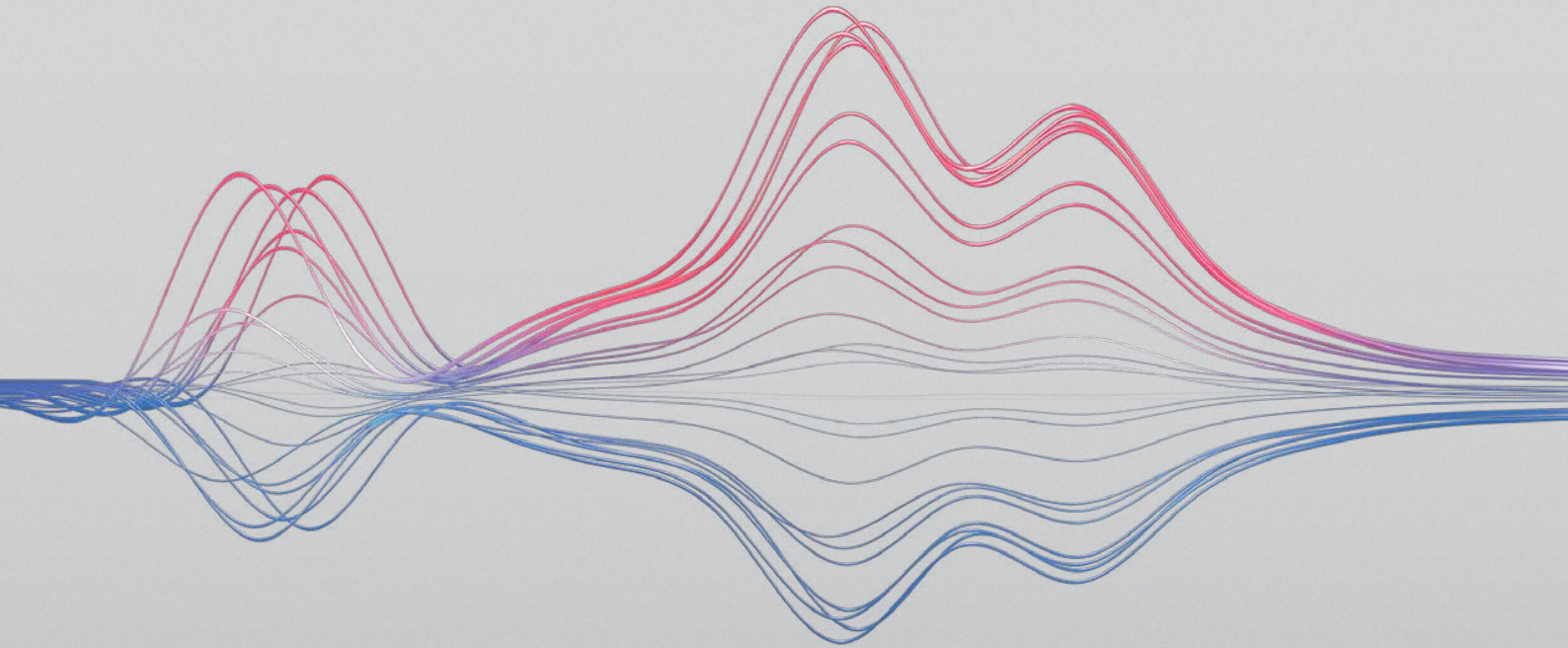


# Gender Pay Transparency

AN INTERNATIONAL SURVEY

MAY 2022



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# Overview

## Gender pay: Why it is a business critical issue for employers

The coronavirus pandemic has put a spotlight on the subjects of equity, diversity and inclusion and brought workplace inequities into sharper focus. Within this context, employers and governments around the world are increasingly focused on workplace pay and, in particular, the gender pay gap.

As we move forward, employers can expect gender pay issues (and pay equity more broadly) to remain front and centre. Anticipating and getting ahead of national and local developments will be mission critical from a risk and talent perspective.

This 2022 Gender Pay Transparency International Survey highlights recent developments in this area across 35 jurisdictions.

## Laws targeting gender pay gaps are on the rise

Governments are increasingly enacting legislation to address gender pay differences. In the UK, the requirement for large businesses to publish their gender pay gap took effect in 2018 and the stakes for non-compliance can be high. The Equalities and Human Rights Commission has shown itself unafraid of naming and shaming employers who fail to comply and pursuing enforcement proceedings where necessary.

Many EU jurisdictions likewise require employers to be transparent about gender pay differences. Countries such as France, Germany, Italy and Spain have extensive provisions, highlighting the global trend towards increased governance in this area. In France and Spain, sanctions for non-compliance can be onerous in certain circumstances. Gender pay reporting laws also apply in Austria, Belgium, Denmark, Finland, Ireland, Norway, Portugal, and Sweden.

Significantly, the EU Parliament has published a proposal for a directive to strengthen equal pay principles through pay transparency. This proposal notes that the gender pay gap in the EU stands at about 14% and states that its aim is to tackle the persistent inadequate enforcement of the fundamental right to

equal pay by establishing pay transparency standards as part of a 'multi-pronged approach.' The proposal was adopted by the European Commission in March 2021 and, in April 2022, the European Parliament, the Employment and Social Affairs Committee and the Women's Rights and Gender Equality Committee confirmed their decision to enter into informal dialogue negotiations on the final text of the directive.

The Directive seeks to establish common minimum requirements, with the option for Member States to introduce more favourable standards. Key measures include:

- Giving workers the right to request information from their employer on their individual pay level and average pay levels, broken down by sex, for categories of workers doing the same work or work of equal value, and requiring employers to remind workers annually of this right;
- Requiring employers with at least 250 workers to make publicly available and accessible certain information such as the pay gap between male and female workers, including in relation to variable components beyond ordinary basic salary (although NB the European Parliament is now indicating that the obligations should apply to employers of 50 or more employees); and
- Where there is a difference of average pay between female and male workers of at least 5% in any category of workers doing the same work or work of equal value which has not been justified by objective factors, requiring employers to carry out a pay assessment.

For further details on the EU Parliament proposal, please see: <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/eu-commission-proposes-transparency-measures-to-ensure-equal-pay-for-equal-work>

While implementation of the proposal is not immediate (Member States have two years from its adoption to transpose the Directive into national law), the direction of travel is clear. Employers are urged to monitor the progress of this proposal, which could significantly impact their obligations.

Other countries outside of the EU are similarly requiring pay reporting and transparency. For example, in 2020 the Israeli government published an amendment to its equal pay laws to introduce a gender pay gap reporting obligation for all private sector companies employing over 518 employees.

In the US, California Senate Bill 973 took effect in 2021 and requires most private employers with 100 or more employees (with at least one employee in California) to submit a pay data report to the Department of Fair Employment and Housing on an annual basis. Under a recent Illinois law, private employers with more than 100 employees in Illinois must obtain an "equal pay registration certificate" within three years of the law's 23 March 2021 effective date.

As we move forward, employers can expect more developments on this front. While some companies may have a longer runway to prepare than others, we encourage early attention to gender pay issues as part of an organization's overall risk assessment.

## **Global employers are preparing for greater pay transparency**

Global businesses are encouraged to be mindful of new and developing legislation concerning pay reporting and transparency. In many cases, these developments may require employers to conduct a pay audit to identify any gender or other disparities and to remediate any unexplained pay equity issues.

Even where not required, employers may want to consider a proactive audit as part of their talent recruitment and retention strategy. Audits can help employers to understand the gender make-up of their workforce and how those workers are compensated, to identify the reasons for any pay gaps, and ultimately to attract and reward talent for the long-term. In some circumstances, an audit can also be conducted in consultation with legal counsel, in a manner designed to protect confidentiality and privilege to the greatest extent under applicable law.

At DLA Piper we are here to help and look forward to discussing your needs and sharing strategies and best practices specific to your location, industry, size, workforce, policies and culture. To discuss any of these issues further, please reach out to any member of the DLA Piper Employment group or your DLA Piper relationship partner.

## Gender pay transparency: A summary across 35 countries

Country	Is there a duty on employers to report on gender pay difference? <sup>1</sup>	Is there a legal sanction for non-compliance with any legal duty?	Is the report required, or likely to be, published externally	Are employers required to take steps to reduce any identified gender pay gap?
Australia	✓	✗	✓	✗
Austria	✓	✓	✗	✗
Belgium	✓	✓	✗	✓
Brazil	✗	N/A	N/A	N/A
Canada <sup>2</sup>	✓	✓	✗	✓
Chile	✗	N/A	N/A	N/A
China	✗	N/A	N/A	N/A
Colombia	✗	N/A	N/A	N/A
Czech Republic	✗	N/A	N/A	N/A
Denmark	✓	✓	✗	✗
Finland	✓	✓	✗	✓
France	✓	✓	✓	✓
Germany	✓	✗	✓	✓
Hong Kong	✗	N/A	N/A	N/A
Hungary	✗	N/A	N/A	N/A
India	✓	✓	✗	✓
Ireland <sup>3</sup>	✓	✗	✓	✓
Israel	✓	✗	✓	✗
Italy	✓	✓	✗	✗
Japan	✓	✗	✓	✗

Country	Is there a duty on employers to report on gender pay difference? <sup>1</sup>	Is there a legal sanction for non-compliance with any legal duty?	Is the report required, or likely to be, published externally	Are employers required to take steps to reduce any identified gender pay gap?
Luxembourg	X	✓	X	✓
Mexico	X	N/A	N/A	N/A
Netherlands	X	N/A	N/A	N/A
Norway	✓	✓	✓	✓
Philippines	X	N/A	N/A	N/A
Poland	X	N/A	N/A	N/A
Portugal <sup>4</sup>	✓	✓	✓	✓
Romania	X	N/A	N/A	N/A
Singapore	X	N/A	N/A	X
South Africa <sup>5</sup>	✓	✓	X	✓
Spain	✓	✓	✓	✓
Sweden	✓	✓	X	✓
UAE	X	N/A	N/A	N/A
UK	✓	X	✓	X
US <sup>6</sup>	✓	✓	X	✓

<sup>1</sup> In many countries, the duty will only apply where a certain employee threshold is met. In some countries, there may be different/additional duties on government or state sector companies.

<sup>2</sup> Certain provinces in Canada only

<sup>3</sup> Regulations are due to be implemented which will outline the gender pay gap reporting requirements

<sup>4</sup> No general duty, but in some circumstances a duty may be triggered

<sup>5</sup> Only if they are a designated employer

<sup>6</sup> There is no general duty for employers to report on gender pay differences under federal law as of May 2022; however, federal contractors are required to conduct analyses of their total employment processes, including compensation systems, to determine whether there are gender, race, or ethnicity-based disparities, and such audits may be requested during a compliance evaluation. Certain states and localities (e.g., California, Illinois) may have laws requiring covered employers to assess and/or report on gender pay differences or take other affirmative actions.

# Australia

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes, private organisations with 100 or more employees must submit an annual report to the Workplace Gender Equality Agency (WGEA) that includes details of aggregated average base salary and total remuneration of male vs. female employees.</p>
<p>Which employers are covered?</p>	<p>Private sector employers with 100 or more employees are covered by the reporting requirements and private sector employers with 500 or more employees have an additional obligation to meet certain minimum standards for gender equality.</p>
<p>What are the key assessment/ reporting obligations?</p>	<p>Annual workplace profile, workforce management statistics and reporting questionnaire to be produced, signed by the CEO and which may be published on the WGEA website. Report to show information including:</p> <ul style="list-style-type: none"> <li>• aggregated average base salary and total remuneration of male vs. female employees in various occupational categories;</li> <li>• gender composition of the workforce and whether any policies are in place to support gender equality;</li> <li>• gender composition of the board of directors and whether any targets are in place for representation of women on the board;</li> <li>• details of gender pay equity objectives and policies (if any);</li> <li>• whether any gender remuneration gap analysis has been undertaken;</li> <li>• availability of flexible working arrangements;</li> <li>• availability of parental leave arrangements to primary and secondary carers;</li> <li>• details of support for employees experiencing family/ domestic violence;</li> <li>• consultation with employees on issues concerning gender equality in the workplace;</li> <li>• sex based harassment and discrimination policies; and</li> <li>• the number of new appointments, promotions and resignations during the reporting period by gender, employment status and manager/non-manager categories.</li> </ul> <p>No data on actual individual pay rates is required to be disclosed to the WGEA: all amounts are aggregated and individual data de-identified.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>Employees only.</p>



# Australia

<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The employer must inform employees (and shareholders) that it has lodged the report with the WGEA and the way in which it may be accessed (whether electronic or otherwise). The employer must also take all reasonable steps to inform each employee organisation (e.g. a union) that has members who are employees of the employer, that the employer has lodged the report.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>The report may be published by the WGEA on its website or in whole or in part in a report to the Minister, in which case it would then be tabled before Parliament. Remuneration and pay data provided to WGEA by employers is confidential. Employer-specific remuneration data will only be disclosed publicly by WGEA in aggregated form e.g. on an industry-wide basis.</p>
<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>No.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>No legal sanctions/fines, but employers who do not comply could be named and shamed by the WGEA in a report to the Minister or by some other means (e.g. on the WGEA's website). The employer may also be precluded from tendering for Commonwealth and some State contracts, or from receiving Commonwealth grants or other financial assistance.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>The introduction of the WGEA Act 2012 brought about significant changes to the WGEA and introduced more onerous reporting requirements than had previously existed. The reporting requirements also become more onerous in the reporting year 1 April 2015 to 31 March 2016.</p> <p>The impact of the measures has been that many leading employers seek to be recognised as an Employer of Choice for Gender Equality by the WGEA. There is also a trend in Australia towards greater public scrutiny around under-representation of women in executive positions and on boards.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>The WGEA Employer of Choice for Gender Equality citation is designed to encourage commitment to achieving gender equality. Organisations can apply for a citation by applying online and answering additional questions and providing additional information and examples.</p> <p>Chief Executive Officers, heads of department and directors in the public and private sector can also become Pay Equity Ambassadors under WGEA's Pay Equity Ambassador Program. This program aims to develop leaders in pay equity who drive change in the community. It requires the individual to sign a pay equity pledge, and commit themselves to working with the WGEA to promote and improve gender equality for at least two years.</p>

# Austria

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes, since March 2011 there has been a duty for employers with more than 150 employees to prepare a report every two years showing gender pay differences. The number of employees refers to the entire company (not corporate groups) and does not include temporary employees, freelancers or temporary workers. For a group of companies, a uniform group report does not have to be prepared. The number of employees in a group of companies is also not taken into account. However, for companies consisting of several establishments a single report must be submitted for the company as a whole, which contains the data of all employees of the individual establishments.</p>
<p>Which employers are covered?</p>	<p>Private employers with more than 150 employees.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>The report has to be produced every two years and must contain the following information:</p> <ul style="list-style-type: none"> <li>• number of male and female employees and their positions in salary schemes according to collective bargaining agreements or internal salary schemes and their seniority (“Verwendungsgruppe” and “Verwendungsgruppenjahre”);</li> <li>• average or median male vs. female salary; and</li> <li>• total remuneration including benefits, payments in kind, special payments (Christmas and vacation pay) and other forms of payment.</li> </ul> <p>The remuneration of part-time employees is based on full-time employment and the remuneration of non-full-year employees (e.g. on maternity leave) is based on an annual salary.</p> <p>The report must be prepared in an anonymous form, i.e. without names, personal numbers, etc. It must also not allow any conclusions to be drawn about individuals.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>It applies to all employees including apprentices.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The report must be sent to the central works council or – if there is no central works council – to the works committees. If no works committee has been established, the (blue-or white-collar) workers’ councils should be sent the report in the first quarter of the calendar year following the year under review. The entitled party is therefore the employee representative body. It has the right to the preparation and transmission of the report and to information about it. In addition, the employee representative bodies may, within the scope of their activities, provide details to the employees about the information relevant to them. In companies where no such body has been established for representing the employees, the report must be made available in the company – in a room that is accessible to all employees or to all employees belonging to a group. This must be pointed out in a company announcement. The information must be provided on an anonymous basis.</p>

# Austria

<p>Does the report have to be published and, if so, where?</p>	<p>As stated above, the report has to be published either by presenting it to the employees' representative body or, if there is none, by presenting it in a room easy accessible to employees followed by a notice containing information on where to find the respective report.</p>
<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>No.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>The works council or individual employees may bring a claim to the Labor Court within three years relating to the provision of the report.</p> <p>Employee representatives and individual employees are obliged to keep the report confidential. The works council is obliged to maintain secrecy about the content of the reports due to the fact that they are classified as company or business secrets. Failure to do so constitutes a breach of the duty of confidentiality on the part of the employee representatives, which may result in a fine of up to EUR2,180. If an employee breaches the duty of confidentiality, the employee can be fined up to EUR360. However, obtaining legal information or legal advice from interest groups and other persons or institutions or other persons or institutions who are themselves subject to a duty of confidentiality, as well as the initiation of proceedings for the enforcement of claims under the Equal Treatment Act or proceedings before the Equal Treatment Commission, do not violate the duty of confidentiality.</p> <p>The competent employee bodies or, in the absence of such bodies, the employees may bring a claim relating to the preparation or transmission of the report and associated information in court. The action has to be brought before the competent labor and social court. A 3-year limitation period applies both for the claim relating to the preparation of the report as well as for the transmission of the report and the provision of information. The period begins at the end of the first quarter of the calendar year following the reporting year.</p> <p>If a company that is subject to the income reporting obligation does not prepare an income report, no negative consequences or penalties apply. However, an initiative motion concerning a federal law creating the Income Transparency Act is currently being dealt with in the National Council. In the event of violations, the draft provides for administrative penalties. Unfortunately, the draft of the Income Transparency Act introduced in the National Council has been postponed indefinitely by the Equal Treatment Committee. It remains to be seen whether these penalties will actually be introduced.</p>

# Austria

<b>What has been the impact of any pay reporting measures introduced?</b>	<p>The gender pay gap has only narrowed insignificantly over the past 20 years but this cannot be explained by comprehensible factors. The pay reporting measures intend to reduce the gender pay gap, but it is too early to assess the impact of the legislation. The gender pay gap was assessed at 18.5% for Austria in 2021. However the gap is only likely to be significantly reduced if the dogma of income secrecy is dropped.</p>
<b>Are there any other relevant developments/measures relating to the gender pay gap?</b>	<p>A significant change to the Stock Corporation Act (AktG) and the Limited Liability Companies Act (GmbHG) has impacted on gender equality. As of 1 January 2018, the boards of Stock Companies (AG) and Ltds (GmbH) are subject to a minimum quota requiring 30% of members to be female.</p> <p>If the following requirements are fulfilled, the appointment of new board members is limited to female candidates until the quota of 30% is satisfied (appointments of non-female members made before this quota is reached will be invalid):</p> <ul style="list-style-type: none"><li>• The company must be listed or employ at least 1,000 employees;</li><li>• The board must have at least 6 shareholder representatives;</li><li>• The general woman/men quota of the workforce must be over 20%;</li><li>• The staff and shareholders representatives of the board have to fulfil the quota separately.</li></ul>

# Belgium

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes. Employers employing on average 50 employees or more need to draft an analysis report on the salary structures of employees every two years.</p> <p>This analysis report should enable an assessment to be made as to whether the company has a gender-neutral remuneration policy.</p>
<p>Which employers are covered?</p>	<p>Private sector employers with an average of 50 or more employees are covered; the threshold is measured at the level of the “technical operating unit”, i.e. the level at which the employee thresholds for, among others, social elections are to be verified.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>Bi-annual analysis report to be produced on the salary structure of employees.</p> <p>The analytical report should be drafted on the basis of the forms included in the Royal Decree of 25 April 2014.</p> <p>When the employer has at least 100 workers, a comprehensive report must be drawn up, in line with a template provided by the labor authorities.</p> <p>When the employer has between 50 and 100 workers, a more concise report must be drawn up, in line with a template provided by the labor authorities.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty only applies to the pay of employees.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The report has to be communicated and discussed with the works council, or in the absence of a works council, with the trade union delegation.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>No.</p>
<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>Once the analytical report has been drafted and communicated to the works council (or in absence thereof, with the trade union delegation), it is up to the works council to decide whether or not it is appropriate to draft an action plan for ensuring a remuneration structure independent of gender. In companies who have to draft an analytical report but do not have a works council, this decision should be taken by the union delegation “in consultation with the employer”. This raises the question of what should happen if the union delegation and the employer disagree.</p>

# Belgium

<p><b>What are the sanctions for non-compliance (if any)?</b></p>	<p>An employer who fails to draft the required analytical report, can be imposed with a level 2 sanction under the Social Criminal Code, i.e. a fine of up to EUR4,000.</p> <p>The same sanction can be imposed on a member of the works council or union delegation who illegally discloses the content of the analytical report outside the company. This requires sufficient evidence of who precisely leaked the report, which tends in practice to be notoriously difficult to establish in respect of information given to all members of a works council.</p>
<p><b>What has the impact been of any pay reporting measures introduced?</b></p>	<p>Currently unknown.</p>

# Brazil

**Are employers under a legal duty to assess and/or report on gender pay difference?**

No. Currently, Brazilian law does not require employers to assess and/or report on gender pay differences.

\* Content provided by Campos Mello Advogados

# Canada

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Pay equity legislation in Canada varies depending on the province in which the business operates and the nature of the business. Some jurisdictions do not have any express pay equity legislation*, some have express legislation which includes assessment and implementation obligations**, and some have legislation which includes assessment, implementation and filing or reporting obligations***. The only jurisdictions with pay equity legislation that applies to the private sector are the federal jurisdiction, Quebec and Ontario.</p> <p>*Alberta, British Columbia, Newfoundland, Saskatchewan, Northwest Territories, Nunavut and Yukon.</p> <p>** Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and federally regulated private sector employers and commercial Crown corporations.</p> <p>***Manitoba, Nova Scotia, Quebec, New Brunswick, Prince Edward Island, and the federal public sector.</p>
<p>Which employers are covered?</p>	<p><b>Manitoba:</b> employers in the broader public sector</p> <p><b>New Brunswick:</b> employers in the broader public sector</p> <p><b>Nova Scotia:</b> employers in the broader public sector</p> <p><b>Ontario:</b> private sector employers with 10 or more employees and all public sector employers</p> <p><b>Prince Edward Island:</b> employers in the broader public sector</p> <p><b>Quebec:</b> public and private sector employers with 10 or more employees</p> <p><b>Federal jurisdiction:</b> Employers under federal jurisdiction may be subject to two statutes or programs relating to pay equity, employment equity, and pay transparency:</p> <ol style="list-style-type: none"> <li>1. The Employment Equity Act applies to federally regulated industries, Crown Corporations, other federal organizations with 100 employees or more, and specific portions of the federal public administration identified in the Financial Administration Act, and as identified by order of the Governor in Council, which includes the Canadian Forces, and the Royal Canadian Mounted Police. Under the Federal Contractors Program, all contractors that have 100 or more permanent full-time and or permanent part-time employees and that are provincially regulated who are bidding on federal government contracts are also required to sign and comply with the Agreement to Implement Employment Equity (AIEE). When contractors who have won a no-value agreement sign the AIEE, they commit to implementing employment equity once the contract is in place.</li> </ol> <p>The requirement to implement this agreement comes into force when a contract that has a value of at least CAD1 million is awarded to a supplier. The application of this Agreement becomes an ongoing obligation. Contractors who fail to meet their Federal Contractor Program obligations during their execution of the contract may lose the right to receive further contracts of any value.</p>



# Canada

	<p>2. The federal Pay Equity Act came into force on 31 August 2021. The Act's federal pay equity regime applies to federally regulated workplaces with 10 or more employees including those in the private and public sectors (e.g., air transportation, banks, most federal Crown corporations, radio and television broadcasting, telecommunications); parliamentary workplaces; and the Prime Minister's and ministers' office. Indigenous governing bodies that are employers are exempt from the application of the federal Pay Equity Act until the date that the Governor in Council specifies by an order.</p>
<p>What are the key assessment/reporting obligations?</p>	<p><b>MANITOBA:</b></p> <ul style="list-style-type: none"> <li>• Pay Equity Act came into force in 1985. It only applies to public service employers, certain external agencies and Crown entities.</li> <li>• Public service employers to whom the Act applies were required to implement pay equity.</li> <li>• Employers were required to file pay equity agreements by staggered deadlines, the latest of which was in 1988.</li> </ul> <p><b>NEW BRUNSWICK:</b></p> <ul style="list-style-type: none"> <li>• Pay Equity Act came into force in 2010.</li> <li>• Public sector employers to whom the Act applies are required to take such actions as may be necessary to implement pay equity.</li> <li>• Public sector employers must ensure that an employee representative is appointed to represent the interests of female-dominated classifications if the employees are not represented by a trade union.</li> <li>• Public sector employers with 10 or more employees were required to report to the Pay Equity Bureau within 25 months of commencement of the Act regarding progress made towards pay equity.</li> <li>• Employers must conduct further reviews in accordance with the regulations.</li> <li>• The New Brunswick government originally promised to pass legislation to require pay equity for local governments and employers in the quasi-public sector by 2020 and for large businesses in the private sector by 2022. This ultimately did not come into fruition and as such there is no pay equity legislation governing the private sector in New Brunswick.</li> </ul> <p><b>NOVA SCOTIA:</b></p> <ul style="list-style-type: none"> <li>• Pay Equity Act came into force in 1989.</li> <li>• The obligations of employers to whom the Act applies were phased in over a period of years depending on the nature of the public sector in which the employer operates. The Act only applies to public sector employers and certain public sector corporations.</li> <li>• Employers and employee representatives were required to develop an evaluation system within 6 months of the pay equity process applicable to that employer commencing.</li> </ul>

# Canada

- Upon agreement of an evaluation system, employers and employee representatives were required to apply the evaluation system within 21 months of the pay equity process bargaining.

A pay equity plan agreement made pursuant to the Act must be filed with the Pay Equity Commission.

## ONTARIO:

- Pay Equity Act came into force 1990.
- Every employer to whom the Act applies must establish and maintain compensation practices that provide for pay equity.
- The Pay Equity Act covers all employers in Ontario except for private sector employers with fewer than 10 employees. The methods to be used by employers to achieve pay equity are set out in the Act.
- Public sector employers that existed prior to 1 January 1988 and private sector employers who employed 100 or more employees as of 1 January 1988 were required to create pay equity plans.
- Private sector employers who did not have 100 or more employees as of 1 January 1988 are not required to create pay equity plans, but are required to establish and maintain pay equity.
- Employers who prepare pay equity plans to which the Act applies must post the plan in the workplace.
- In March 2018, the Ontario government tabled the Pay Transparency Act 2018. The anticipated implementation date was 1 January 2019, however, the Act has not come into force, and, at this time, there is no timeline on when it will come into effect.
- Should the Pay Transparency Act 2018 come into force in its current form, it would:
  - Prohibit employers from requesting compensation history from any job applicant;
  - Require employers to post the expected compensation or compensation range on publicly advertised job postings;
  - Prohibit reprisals against employees who exercise certain rights or make inquiries under the Act; and
  - Require certain employers to submit pay transparency reports.
- Currently, there are no plans for the Act to come into effect.

# Canada

## PRINCE EDWARD ISLAND:

- Pay Equity Act came into force in 1989.
- Public sector employers to whom the Act applies are subject to timelines for the development, negotiation and implementation of pay equity plans. The Act does not apply to employers in the private sector.
- Employers are not required to make annual adjustments under their plans of more than 1% of the previous year's payroll.
- A copy of a pay equity plan agreement made pursuant to the Act must be filed with the Pay Equity Commissioner.

## QUEBEC:

- The Quebec Pay Equity Act came into force in 1996. It applies to both public and private sector employers.
- When an employer reaches 10 employees or more, the employer has 4 years to implement a pay equity exercise.
- The requirements of the exercise vary according to the size of the employer. Employers with more than 50 employees are required to establish a pay equity plan, while employers with less than 50 employees must undertake a process to determine any wage inequities. Where a pay equity plan is required, it must be filed with the Commission and posted publicly for 60 days to allow employees to make comments, ask for more information or file a complaint.
- After the exercise is completed, employers have up to 4 years to pay out any wage adjustments required to achieve pay equity.
- Employers must also conduct a pay equity audit every 5 years after the date of the initial requirement to post a pay equity plan or adjust compensation. On 10 May 2018, the Supreme Court of Canada ("SCC") confirmed that certain sections of the Quebec Pay Equity Act regarding pay equity audits were invalid, finding that sections 76.3, 76.5 and 103.1, paragraph 2, of the Act are discriminatory. The Quebec legislature amended the Pay Equity Act in 2019 to come into compliance with the SCC ruling.
- Notably, while the audit report always had to be publicly posted in the workplace for 60 days along with specific information, employers must now include in the report the date of the event leading to compensation adjustments (i.e., the date that pay inequity began). Additionally, any wage adjustments required to achieve pay equity must be paid in lump sum as of the date the pay inequity began, rather than the date of the audit report posting (as was previously the case).

# Canada

Employers with 11 employees or more in Quebec are also required to file an annual report on pay equity within 6 months of 1 March each year (referred to as DEMES). However, employers who have produced an initial pay equity exercise are only required to file a DEMES simultaneously with each 5 year audit. The DEMES must be filed in French, either online ([www.demes.gouv.gc.ca](http://www.demes.gouv.gc.ca)) or by the Annual Updated Declaration that employers are required to submit with the Registrar of Enterprises for Quebec. This report generally contains the type of industry in which the employer is operating, the number of employees working for the employer and if applicable, the date the pay equity exercise results and pay equity audit results were posted in the workplace.

#### FEDERAL JURISDICTION:

- The Employment Equity Act came into force in 1996. The Act's purpose is to redress systemic discrimination in employment against indigenous peoples, persons with disabilities and visible minorities, as well as women. The Act applies to public and private sector employers subject to federal regulation for employment matters, as well as federal contractors under the Federal Contractors Program. An employer must also establish and maintain employment equity records in respect of its workforce, its employment equity plan and the implementation of employment equity. The employer must file an employment equity report with the designated Minister prior to 1 June of each year.
- Amendments to the Employment Equity Regulations have introduced new reporting obligations under the Employment Equity Act. These amendments came into force on 1 January 2021.
  - Federally-regulated private sector employers are to include more detailed salary information in their annual employment equity report. This additional information must be included in the annual employment equity report, which is due on 1 June 2022 and every year following.
  - Federally-regulated private sector employers are also required to maintain detailed compensation records for each employee as per the Regulations.
- In addition to having to comply with employment equity obligations, federally-regulated employers subject to the federal Pay Equity Act must develop a pay equity plan.
- The federal Pay Equity Act and the supporting federal Pay Equity Regulations (Regulations) came into force 31 August 2021. The Act applies to federally regulated employers with more than 10 employees. All employers to which the federal Act applies are required to establish a pay equity plan. Only employers with more than 100 employees, or employers with 10 - 99 employees (if some or all of its employees are unionized) are required to make reasonable efforts to establish a pay equity committee.

# Canada

- Within 60 days of 31 August 2021, employers to which the federal Act applies must post a notice setting out their obligations to establish a pay equity plan and to make all reasonable efforts to establish a pay equity committee for that purpose (where applicable). Applicable employers must notify the Pay Equity Commissioner once the pay equity committee has been established.
- All employers to which the Act applies must post the final version of the pay equity plan no later than the third anniversary of the date on which it became subject to the Act. Employers with, on average, 10 or more employees in the year before 31 August 2021 will become subject to the Act on that date, while an employer who comes to employ 10 or more employees at any time after 31 August 2021, will be subject to the act on 1 April of the following fiscal year.
- Employers will be required to submit an annual statement the year after the third year of becoming subject to this Act. Employers that became subject to the Act on 31 August 2021, must file their annual statement by 30 June 2025. Employers are also required to update their pay equity plans every 5 years.

Does the duty apply only to employee pay or also to the pay of other workers?

**Manitoba:** The Pay Equity Act applies to employees. "Employee" is not defined. However, the Pay Equity Act applies to the civil service, which includes the employees of any agency of the government to whom any provision of the Civil Service Act has been declared to apply. It expressly excludes (a) persons employed to make or conduct a temporary and special inquiry, investigation or examination, on behalf of the assembly or the government, (b) persons who are patients, residents or inmates in a provincial institution and who help in the work of the institution, and (c) any person paid by fees or hired on a special contractual basis or as an independent contractor. The Pay Equity Act also applies to the employees of crown entities and external agencies.

"Crown entity" means any board, commission, association or other body corporate whose members are appointed by an Act of the Legislature or by the Lieutenant Governor in Council. External Agency includes any Health Care Facility or Post-Secondary Educational Institution named in the Act, and any other person or organization that receives 50% or more of their annual revenue from the government.

**New Brunswick:** "Employee" means "a person who is employed in the Public Service but does not include a chief executive".

**Nova Scotia:** "Employee" is defined in the Pay Equity Act as "a permanent employee, whether full-time or part-time, or a term employee employed for a term of more than one year, and includes a regular casual employee".

**Ontario:** "Employee" does not include a student employed for his or her vacation period, or a position that provides employment on a casual basis (where work is performed on an irregular and intermittent basis, or for less than one-third of the normal work period that applies to similar full-time work).

# Canada

**Prince Edward Island:** “Employee” means a person employed by a public sector employer but does not include (i) persons employed to make or conduct a temporary or special inquiry, investigation or examination, on behalf of the Legislative Assembly or the Government, (ii) persons who are patients or inmates in a provincial institution and who help in the work of the institution, (iii) any person paid by fees or hired on a special contractual basis or as an independent contractor, (iv) bona fide students temporarily employed in the period from May to September in any year.

- **Quebec:** “Employee” does not include students working during vacation period, trainees undergoing professional training recognized by law, senior management officers, police officers or fire fighters, and independent operators.
- **Federal jurisdiction:** Employee, for a private sector employer under the Employment Equity Act, does not include a person employed on a temporary or casual basis for fewer than 12 weeks in a calendar year. Various, limited exceptions also apply with respect to public sector employers. Under the Pay Equity Act, “employee” is defined as a person employed in the public service (with certain exceptions); an officer or non-commissioned member of the Canadian Forces; a person employed by a federally regulated employer or in connection with the operation of any federal work, undertaking or business (with the exception of students or interns) and dependent contractors.
- Employers will be required to submit an annual statement the year after the third year of becoming subject to this Act. Employers that became subject to the Act on 31 August 2021, must file their annual statement by 30 June 2025.
  - Private sector employers covered by the Act must send a statement each year, either on or before 30 June of the calendar year following the calendar year in which the previous annual statement was sent.
  - Public sector employers covered by the Act must send a statement each year, either on or before 30 June of the calendar year following the fiscal year in which the previous annual statement was sent. Employers are also required to update their pay equity plans every 5 years.

# Canada

Does the duty apply only to employee pay or also to the pay of other workers?

Canadian pay equity and pay transparency obligations apply to employees. However, the definition of “employee” under the various provincial and federal enactments varies. As such, the appropriate definition should be reviewed when determining the scope of pay equity and pay transparency obligations.

**Manitoba:** The Pay Equity Act applies to employees. “Employee” is not defined. However, the Pay Equity Act applies to the civil service, which includes the employees of any agency of the government to whom any provision of the Civil Service Act has been declared to apply. It expressly excludes (a) persons employed to make or conduct a temporary and special inquiry, investigation or examination, on behalf of the assembly or the government, (b) persons who are patients, residents or inmates in a provincial institution and who help in the work of the institution, and (c) any person paid by fees or hired on a special contractual basis or as an independent contractor. The Pay Equity Act also applies to the employees of crown entities and external agencies.

“Crown entity” means any board, commission, association or other body corporate whose members are appointed by an Act of the Legislature or by the Lieutenant Governor in Council. External Agency includes any Health Care Facility or Post-Secondary Educational Institution named in the Act, and any other person or organization that receives 50% or more of their annual revenue from the government.

**New Brunswick:** “Employee” means “a person who is employed in the Public Service but does not include a chief executive”.

**Nova Scotia:** “Employee” is defined in the Pay Equity Act as “a permanent employee, whether full-time or part-time, or a term employee employed for a term of more than one year, and includes a regular casual employee”.

**Ontario:** “Employee” does not include a student employed for his or her vacation period, or a position that provides employment on a casual basis (where work is performed on an irregular and intermittent basis, or for less than one-third of the normal work period that applies to similar full-time work).

**Prince Edward Island:** “Employee” means a person employed by a public sector employer but does not include (i) persons employed to make or conduct a temporary or special inquiry, investigation or examination, on behalf of the Legislative Assembly or the Government, (ii) persons who are patients or inmates in a provincial institution and who help in the work of the institution, (iii) any person paid by fees or hired on a special contractual basis or as an independent contractor, (iv) bona fide students temporarily employed in the period from May to September in any year.

**Quebec:** “Employee” does not include students working during vacation period, trainees undergoing professional training recognized by law, senior management officers, police officers or fire fighters, and independent operators.

# Canada

	<p><b>Federal jurisdiction:</b> Employee, for a private sector employer under the Employment Equity Act, does not include a person employed on a temporary or casual basis for fewer than 12 weeks in a calendar year. Various, limited exceptions also apply with respect to public sector employers. Under the Pay Equity Act, “employee” is defined as a person employed in the public service (with certain exceptions); an officer or non-commissioned member of the Canadian Forces; a person employed by a federally regulated employer or in connection with the operation of any federal work, undertaking or business (with the exception of students or interns) and dependent contractors; a person employed by the government of Yukon; a person employed by the government of the Northwest Territories; and a person employed by the government of Nunavut.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p><b>Manitoba:</b> Pay equity agreements are required to be negotiated with employee representatives or trade union bargaining agents.</p> <p><b>New Brunswick:</b> Pay equity agreements are required to be negotiated with employee representatives or trade union bargaining agents. In addition, the employer must ensure that employees affected by the maintenance of pay equity are informed about the maintenance of pay equity from time to time.</p> <p><b>Nova Scotia:</b> Pay equity agreements are required to be negotiated with employee representatives or trade union bargaining agents.</p> <p><b>Ontario:</b> Employers required to prepare and post a pay equity plan under the Pay Equity Act must post a copy of each pay equity plan prepared or amended in a prominent place in each workplace to which the document relates and in a manner that can be read by all employees.</p> <p><b>Prince Edward Island:</b> The employer must negotiate pay equity agreements with employee bargaining agents and must disclose to employee bargaining agents information relevant to the implementation of pay equity.</p> <p><b>Quebec:</b> The results of the pay equity plan will be posted for 60 days in prominent places easily accessible to the employees concerned, together with information concerning the rights exercisable and the time within which they may be exercised. Pay equity audit results (conducted every 5 years) will be posted for 60 days in a similar manner. Employees must be informed of the posting and provided with details such as the posting date, the posting period and how they may access its content.</p> <p><b>Federal jurisdiction:</b> Under the Employment Equity Act, employers are required to provide information to their employees explaining the purpose of employment equity and keep employees informed about the measures which the employer has undertaken or is planning to undertake to implement employment equity. Employers are also required to consult with employee representatives regarding the implementation of employment equity.</p>



# Canada

	<p>Under the federal Pay Equity Act, employers are required to provide notice to their employees about their obligations to develop a pay equity plan. Once an employer — or, if a pay equity committee has been established, that committee — has prepared a draft of the pay equity plan, the employer must post the draft as well as a notice informing employees to whom it relates of their right to provide the employer or committee, with comments on the draft and the time within which and the manner in which they may exercise that right. Employees have 60 days following the day on which the draft is posted to provide written comments. Employers must consider employee comments when preparing the final version of the pay equity plan, which must be posted no later than the third anniversary of the date on which the employer became subject to the Act.</p>
<p>Does the report have to be published and, if so, where?</p>	<p><b>Manitoba:</b> Employers were required to file pay equity agreements with the Pay Equity Bureau on specified dates.</p> <p><b>New Brunswick:</b> Employers were required to report to the Pay Equity Bureau within 25 months of commencement of the Act regarding progress made towards pay equity.</p> <p><b>Nova Scotia:</b> Pay equity plan agreements must be filed with the Pay Equity Commission.</p> <p><b>Ontario:</b> Public sector employers that existed prior to 1 January 1988 and private sector employers who employed 100 or more employees as of 1 January 1988 were required to create pay equity plans. Employers who prepared pay equity plans to which the Act applies must post the plan in the workplace.</p> <p><b>Quebec:</b> Employers with 11 employees or more in Quebec are required to file an annual report on pay equity referred to as DEMES).</p> <p><b>Federal Jurisdiction:</b> Under the Employment Equity Act, a federally-regulated employer subject to the Act must file an employment equity report with the designated Minister prior to 1 June of each year. Under the Pay Equity Act, employers are required to post the plan publicly in the workplace and the Pay Equity Commissioner has broad powers to investigate and enforce compliance.</p>

# Canada

<p><b>If a pay gap is identified, is there any duty to take steps to close the gap?</b></p>	<p>Both federal and provincial pay equity legislation requires employers to make pay equity adjustments with a view to closing pay equity gaps. The specific timelines and amounts to be paid are set out under each of the applicable federal and provincial pay equity enactments.</p> <p><b>Manitoba:</b> Yes. Employers are not required to make annual adjustments under their plans of more than 1% of the previous year’s payroll.</p> <p><b>New Brunswick:</b> Yes. Employers are not required to make annual adjustments under their plans of more than 1% of the previous year’s payroll. Employers are to make all required pay adjustments during the 4 consecutive years following the end of the 2011 fiscal year.</p> <p><b>Nova Scotia:</b> Yes. Within 24 months of the pay equity process beginning, the parties were required to reach an agreement on the quantum, allocation, and implementation of pay equity adjustments, which were to be completed within a period of four years. All wage adjustments required to achieve pay equity in the Nova Scotia public sector were completed in 1996.</p> <p><b>Ontario:</b> Yes. The date by which adjustment in compensation must occur depends on the number of employees working for the employer and whether the employer has posted a notice. Employers are not required to make annual adjustments under their plans of more than 1% of the previous year’s payroll.</p> <p><b>Prince Edward Island:</b> Yes. Employers to whom the Act applies are subject to timelines for the development, negotiation and implementation of pay equity plans, generally within 39 months of the Act being proclaimed in force. Employers are not required to make annual adjustments under their plans of more than 1% of the previous year’s payroll.</p> <p><b>Quebec:</b> Yes. Any wage gap discovered during the audit process must be corrected retroactive to the date of the event causing the wage gap. Women negatively impacted by same are therefore entitled to a retroactive lump sum indemnity, as well as compensation adjustment going forward. Employers are also required to identify and publish a list of any events having generated, increased or reduced a wage gap and to list the date on which the relevant event occurred. Interest and additional indemnities can be applied to late compensation adjustments.</p> <p><b>Federal jurisdiction:</b> Yes. Under the federal Employment Equity Act, employers are not required to increase compensation payable annually under the pay equity plan by more than 1% of the employer’s previous year’s payroll. Under the federal Pay Equity Act, employers will be required to adjust wage inequities and pay any increases in compensation on the day after the third anniversary of the date on which the employer became subject to this Act.</p>
<p><b>What are the sanctions for non-compliance (if any)?</b></p>	<p><b>Manitoba:</b> No sanctions.</p> <p><b>New Brunswick:</b> No sanctions.</p> <p><b>Nova Scotia:</b> All wage adjustments required to achieve pay equity in the Nova Scotia public sector were completed in 1996.</p>

# Canada

	<p><b>Ontario:</b> There are no sanctions specifically related to failing to report or assess. If an employer intimidates an employee in relation to the Act or impedes with a review officer carrying out his or her duties under the Act, the employer is guilty of an offence and on conviction is liable to a fine of CAD5,000 in the case of an individual, and of no more than CAD50,000 in any other case. Additional amounts (e.g., unpaid pay equity adjustments with interest) may be payable if required by the Pay Equity Commission or the Pay Equity Hearings Tribunal.</p> <p><b>Prince Edward Island:</b> No sanctions.</p> <p><b>Quebec:</b> If the employer fails to file a report, the employer is liable to a fine of CAD1,000 to CAD45,000.</p> <p><b>Federal jurisdiction:</b> Under the federal Employment Equity Act, if an employer fails to file an employment equity report as required, fails to include required information in the report or knowingly provides false or misleading information in the report, the employer commits a violation and may be assessed a monetary penalty which shall not exceed CAD10,000 for a single violation and CAD50,000, for repeated or continued violations. Federal contractors under the Federal Contractors Program may also be prevented on federal government contracts for goods and services. Under the federal Pay Equity Act, the maximum penalty that may be fixed under regulations ranges from CAD30,000 to CAD50,000 for non-compliance. The penalty is dependent on the number of employees and the type of violation.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>No information is publicly available about impacts related solely and specifically to pay reporting measures in Canada.</p> <p>Despite the pay equity legislation which has been variously implemented in a number of jurisdictions in Canada, according to Statistics Canada, as of 2021, the gender pay gap for both full-time and part-time women is 89 cents, meaning women make 89 cents of every dollar men make. For full-time employees, women make 90 cents of every dollar men makes. When calculated annually, women make 71% of what men make.</p> <p>The Federal Government's 2020 Annual Report on the Employment Equity Act indicates that since 1987, the representation of women in the federally-regulated private sector increased and peaked in 1993, but has been on a downward trajectory since the early 2000s. The representation of women in 2019 (39.5%) was lower than what it was in 1987 (40.9%).</p>
<p>Are there any other relevant developments/ measures relating to the gender pay gap?</p>	<p>Some jurisdictions with no pay equity legislation have developed policy frameworks for negotiating pay equity, but typically just with public sector employees and/or unions.</p> <p>Equal pay for equal work provisions can be found in human rights and employment standards legislation in some jurisdictions. In addition, disparities in pay due at least in part to sex discrimination may be challenged under human rights law across Canada.</p>

# Chile

<b>Are employers under a legal duty to assess and/or report on gender pay differences?</b>	No.
<b>Are there any other developments/ measures relating to the gender pay gap?</b>	No, but employers are obliged to comply with the principle of equal pay for men and women who perform the same job. Companies with 10 or more employees must have a complaints procedure for employees that consider they are not being paid in the same way as other employees performing the same functions. There are fines that can be imposed by the Labor Bureau if the procedure is not in place and/or the company does not respond within the maximum legal term of 30 days from the date the employee's complaint was made. Employees can also claim judicially through a special procedure for violation of fundamental rights.

# China

<b>Are employers under a legal duty to assess and/or report on gender pay differences?</b>	No.
<b>Are there any other relevant developments/measures relating to the gender pay gap?</b>	No, The gender pay gap is not a well-developed concept in China and no direct rules/measures have been introduced to date. In China, the laws and regulations set out general principles around eliminating any pay gaps, but these do not specifically focus on pay gaps caused by gender.

# Colombia

Are employers under a legal duty to assess and/or report on gender pay difference?	No, gender pay assessment or reporting obligations do not apply. Notwithstanding this, an employer should keep a record of employees' profiles and salary pay describing gender, role and compensation.
Which employers are covered?	Private and public employers must keep a record of employees' profiles.
What are the sanctions for non-compliance (if any)?	Failure to keep a record of employees' profiles and salary pay may trigger penalties of up to 150 x minimum monthly legal wages (for 2022 approx. USD39,000).

# Czech Republic

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>No. Czech law does not require employers to assess and/or report specifically on gender pay differences.</p> <p>Gender pay differences are considered discriminatory and employers must avoid any type of such mistreatment.</p> <p>Any kind of discrimination or unequal treatment carries a risk of claims from employees and financial sanctions from the Czech Labor Inspection Office.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p><b>Labor Inspection</b></p> <p>If there is a suspicion of pay discrimination, an employee can contact the relevant regional labor inspection office which will check compliance with the legislation.</p> <p>The State Labor Inspection has adopted a 2022 action plan which expresses its intention to take targeted action to decrease the gender pay gap.</p> <p>The action plan provides that the State Labor Inspection will conduct at least 100 inspections concerning equal remuneration in 2022 (in 2021, in total 81 inspections related to equal remuneration were carried out).</p> <p><b>The “22 Percent To Equality” Project</b></p> <p>The “22 percent to equality” project is a five-year project of the Ministry of Labor and Social Affairs focused on solving the problem of unequal pay for women and men in the Czech Republic.</p> <p>The project analyses the underlying causes of the gender pay gap to ensure better-targeted policy action.</p> <p>It assesses the possibility of making targeted amendments to the Labor Code and contributes to supporting practices aimed at improving the gender pay balance. The project offers data analytics tools, such as Logib which allows both private and public sector employers to test the level of equal pay for women and men within their organizations, and an online calculator for the real earnings of women and men by region, field of work, type of employment, age and education. More information can be found here <a href="https://rovnaodmena.cz/equal-pay-22-towards-equality/">https://rovnaodmena.cz/equal-pay-22-towards-equality/</a></p>

# Denmark

Are employers under a legal duty to assess and/or report on gender pay differences?	Yes. Employers are required to send information regarding pay to Statistics Denmark, who then provide the employer with gender segregated pay statistics.
Which employers are covered?	Private and public employers with 35 or more employees and at least 10 employees of each gender with the same work function are covered. The employees are categorised with regards to work function with a 6-digit "DISCO"-code. Employers are required to send information on pay for all employees who are paid according to the amount of time they have worked. Employees who are paid according to performance are not covered by these rules.
What are the key assessment/reporting obligations?	<p>Employers are required to send information regarding pay to Statistics Denmark, who then provide the employer with gender segregated pay statistics once every year. The statistics show the percentage difference between the salary of men and women in each employment category with at least 10 women and 10 men.</p> <p>By agreement with employees/employee representatives, employers can choose to make a statement on equal pay instead of providing the equal pay statistics. The statement must contain:</p> <ul style="list-style-type: none"> <li>• a description of factors that have an influence on the remuneration of men and women at the company;</li> <li>• a plan for how the company intends to prevent or reduce the pay gap between men and women; and</li> <li>• a follow-up procedure.</li> </ul>
Does the duty apply only to employee pay or also to the pay of other workers?	Employees only.
Does the report have to be provided to employees and/or employee reps?	Employees are entitled to receive information regarding the pay statistics and/or statement under the general rules on employee information and consultation.
Does the report have to be published and, if so, where?	No.
If a pay gap is identified, is there any duty to take steps to close the gap?	There is no mandatory obligation to close the gap; however, the statistics may give an indication that there are grounds for legal proceedings against the employer for violation of the Equal Pay Act.



# Denmark

<b>What are the sanctions for non-compliance (if any)?</b>	If an employer fails to report to Statistics Denmark, they must then produce their own statistics on equal pay. If an employer fails to comply with these rules they may also be subject to a fine.
<b>What has the impact been of any pay reporting measures introduced?</b>	There is still a pay gap between men and women corresponding to approximately 10-15%. In 2015, the scope of the rules on equal pay statistics were changed to cover even more employers due to the fact that the rules did not have the desired impact. Only one third of the employers covered by the rules complied with them. The rules were changed back to the original form at the beginning of 2016.
<b>Are there any other relevant developments/measures relating to the gender pay gap?</b>	The Danish Institute for Human Rights is especially appointed to further the equal treatment of all people regardless of gender, race or ethnic origin. In 2014, the institute published a report on the issues of equal pay and provided recommendations on how to solve the problems. The institute also has a mandate to bring cases before the Danish Board of Equal Treatment on its own initiative.

# Finland

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes. According to the Finnish Equality Act, employers are required to produce an equality plan every second year particularly with relation to pay and other terms of employment.</p>
<p>Which employers are covered?</p>	<p>Private and public employers with 30 or more employees on a regular basis.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>The equality plan must include a pay survey ensuring that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value. The pay survey must include:</p> <ul style="list-style-type: none"> <li>• details of the employment of women and men in different jobs;</li> <li>• a survey of the grade of jobs performed by women and men; and</li> <li>• the pay for those jobs (including bonus etc.) and the differences in pay.</li> </ul> <p>The disclosed data cannot be linked with any individual employee.</p> <p>The equality plan must include:</p> <ul style="list-style-type: none"> <li>• analysis of the state of equality at the workplace and in different areas of employment;</li> <li>• necessary measures planned for introduction or implementation with the purpose of, inter alia, achieving equality in pay; and</li> <li>• a review of the extent to which measures previously included in the gender equality plan have been implemented and of the results achieved.</li> </ul>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty applies to all employees in each personnel group.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>Yes, the employer has a statutory obligation to inform the employees about the equality plan (including the pay survey), its content and any amendments to it. Further, all employee representatives taking part in the pay survey must have access to the information for carrying out the survey (including the information in line with the classification system used on the average salaries of women and men as well as more detailed information on salaries according to salary component if required).</p>

# Finland

Does the report have to be published and, if so, where?	Yes, the equality plan must be available to the employees.
If a pay gap is identified, is there any duty to take steps to close the gap?	At first, the employer must account for reasons behind any pay gap. If no acceptable reason is found for the pay gap, the employer must take appropriate corrective action.
What are the sanctions for non-compliance (if any)?	If an employer neglects to produce the equality plan several times, the National Non-Discrimination and Equality Tribunal may impose an obligation on the employer to prepare an equality plan within a defined period, under threat of a fine if necessary.
What has the impact been of any pay reporting measures?	The equality plans and the pay surveys included within them are deemed useful in furthering gender and pay equality. Many employee representatives have started drafting a missing equality plan or updating an existing equality plan together with their employer. (In 2010, 62% of workplaces reported a valid equality plan; 14% reported an equality plan in the making). However, according to some employees, the handling of, and discussions on, equality plans have been inadequate, or even non-existent, in the workplace.
Are there any other relevant developments/measures relating to the gender pay gap?	The Finnish Ministry of Social Affairs and Health has published the Equal Pay Programme for 2020 – 2023. The Equal Pay Programme will promote pay equality with the aim to reduce the average pay gap between women and men. The measures under the programme will promote gender impact assessments of collective agreements, and pay systems that support equal pay and pay awareness, support the reconciliation of work and family life, and dismantle the traditional division of labor between genders. Possible measures include guidelines for equality plans at workplaces and an extensive project to dismantle the traditional division of labor.

# France

Are employers under a legal duty to assess and/or report on gender pay differences?	Pursuant to the 2018 Law for Freedom to Choose a Professional Future and the subsequent decree of 8 January 2019, employers are required to publish figures annually showing any gender pay gap between male and female employees.
Which employers are covered?	All companies employing 50 or more employees.
What are the key assessment/reporting obligations?	The gender pay gap is assessed on the 5 indicators detailed in the chart below (or 4 indicators in companies employing fewer than 250 employees – indicators 2 and 3 are merged). The overall score is obtained by adding up the total points from each indicator, giving an overall score of up to 100.

# France

INDICATOR	RESULT	SCORE (IN POINTS)
<p><b>The pay gap between men and women</b></p> <p>Employees are split into groups, based on their age and position.</p> <p>The age ranges are as follows:</p> <ul style="list-style-type: none"> <li>less than 30 years old;</li> <li>From 30 to 39 years old;</li> <li>From 40 to 49 years old;</li> <li>50 years old and over.</li> </ul> <p>Regarding the categories of equivalent positions, employees are split into the following categories:</p> <ul style="list-style-type: none"> <li>Blue-collar employees (“ouvriers”);</li> <li>Office workers (“employés”);</li> <li>Technicians and supervisory staff (“techniciens et agents de maîtrise”);</li> <li>Engineer and executive (“ingénieurs et agents de maîtrise”)</li> </ul> <p>Employers may alternatively, after consulting with the Social and Economic Committee, split employees based on their classification level or coefficient, as set by the applicable industry-wide or company CBA.</p> <p>The average compensation for men and women is calculated for each group, with compensation for all employees evaluated based on a FTE position.</p> <p>The gender pay gap is calculated (in %) for each group, and then added up on a pro-rata basis, to obtain a gender pay gap at company level.</p>	Equal to 0%	40
	0% to 1%	39
	More than 1%, up to 2%	38
	More than 2%, up to 3%	37
	More than 3%, up to 4%	36
	More than 4%, up to 5%	35
	More than 5%, up to 6%	34
	More than 6%, up to 7%	33
	More than 7%, up to 8%	31
	More than 8%, up to 9%	29
	More than 9%, up to 10%	27
	More than 10%, up to 11%	25
	More than 11%, up to 12%	23
	More than 12%, up to 13%	21
	Above 13%, up to 14%	19
	More than 14%, up to 15%	17
	More than 15%, up to 16%	14
More than 16%, up to 17%	11	
More than 17%, up to 18%	8	
More than 18%, up to 19%	5	
More than 19%, up to 20%	2	
More than 20%	0	

# France

INDICATOR	RESULT	SCORE (IN POINTS)
<b>The gap between the rate of individual salary increases (promotions excluded) between male and female employees</b>  Employees are divided into the 4 professional categories set for the gender pay gap indicator (above).  Only groups that include at least 10 women and 10 men are considered.	Lower or equal to 2 percentage points	20
	Above 2, up to 5 percentage points	10
	Above 5, up to 10 percentage points	5
	Above 10 percentage points	0
<b>The gap between the rate of promotions between male and female employees</b>  Employees are divided into the 4 professional categories set for the gender pay gap indicator (above).  Only groups that include at least 10 women and 10 men are considered.	Lower or equal to 2 percentage points	15
	Above 2, up to 5 percentage points	10
	Above 5, up to 10 percentage points	5
	Above 10 percentage points	0
<b>The number of women who received a salary increase on their return from maternity leave</b>	Equal to 100%	15
	Lower than 100%	0
<b>The number of women amongst the 10 top wage earners</b>	4 or 5 female employees	10
	2 or 3 female employees	5
	0 or 1 female employee	0

Does the duty apply only to employee pay or also to the pay of other workers?	The duty only applies to employees retained under an employment contract and who were employed for at least 6 months of the 12-month reference period.
Does the report have to be provided to employees and/or employee reps?	The indicators, the methodology and the associated score must be: <ul style="list-style-type: none"> <li>• filed with the labor inspector; and</li> <li>• made available to the Social and Economic Committee via the Economic and Social Data Base.</li> </ul> From March 2022, targets for improvement and corrective measures must also be sent to the Labor Inspection and Social and Economic Committee. 2022 is a transitional period where companies have until 1 September 2022 to communicate their improvement targets and corrective measures to the Committee.

# France

Does the report have to be published and, if so, where?

Previously only the overall score had to be published on the company's website in a clear and visible manner.

From March 2022, companies must publish data for each of the indicators relating to the gender pay gap:

- the average gender pay gap by age group and relevant job category;
- the gap in individual pay increase rate;
- the gap in promotion rates between women and men;
- the percentage of female employees who received a pay increase in the year following their return from maternity leave; and
- the gender breakdown of the 10 highest paid employees.

In addition, the information must also now be published on the Labor Ministry's website (as well as the company website). Companies without a website must inform their employees of this information by other means.

In addition, from March 2022, there are two new publication obligations:

**1. Companies which have an overall score of over 75 points but individual indicators with a score under 85 points must set and publish targets for improvement for each of these under-scoring indicators.**

These targets should be published in principle on the company's website, on the same page as the results, and should be kept on the website until the company obtains a result level of at least 85 points for the relevant indicators.

Companies which scored below 85 points for 2021 on certain indicators have until 1 September 2022 to publish their corrective measures and improvement targets.

**2. Companies which score less than 75 points must also set and publish progression targets as well as corrective and salary catch-up measures.**

The publication of these corrective measures should also be on the company's website, on the same page as the results, and should be kept on the website until the company obtains a result level of at least 75 points.

Companies which scored below 75 points for 2021 have until 1 September 2022 to publish their corrective measures and improvement targets.

# France

<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>Companies that obtain less than a total of 75 points (out of 100) must take corrective measures to reduce their gender pay gap. Companies that obtain less than 75 points for 3 consecutive years will be invited by the DIRECCTE (Regional Business, Work and Employment Directorate) to comment on and justify their failure to implement appropriate corrective measures.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>Where a company has obtained less than 75 points for 3 consecutive years, taking into account the discussions between the DIRECCTE and the employer, as well as circumstances such as economic difficulties, on-going restructuring or on-going insolvency proceedings, the DIRECCTE may either:</p> <ul style="list-style-type: none"> <li>• give the company an extra year to obtain at least 75 points; or</li> <li>• sanction the company with a civil penalty of up to 1% of the company's total payroll for the previous year. If the company fails to provide the DIRECCTE with the company's total revenue, then the penalty will be calculated on the basis of two times the monthly social security ceiling, per employee and per month. For 2020, the monthly social security ceiling amounts EUR3,428.</li> </ul> <p>This penalty also applies if a company fails to (i) publish its annual report on the gender pay gap; or (ii) take measures to reduce the gap.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>Figures have been published three times so far and show an increase from 2019 to 2022. The average scores were the following:</p> <ul style="list-style-type: none"> <li>• 89% for companies employing over 1000 employees in 2022 (82.9% in 2019);</li> <li>• 85% for companies employing between 250 and 999 in 2021 (82% in 2019);</li> <li>• 83% for companies employing between 50 and 249 employees in 2021</li> </ul> <p>As of 2019, the Administration has given out 400 formal notices for failing to publish the index and 66 for failing to take corrective measures. 32 companies have had to pay penalties.</p>



# France

Are there any other relevant developments/measures relating to the gender pay gap?

A new quota relating to senior managers and executive directors has been added for companies with over 1000 employees, as women are under-represented in these categories.

In companies which employ at least 1000 employees for three consecutive financial years, the employer is required publish each year any gaps in representation between women and men among senior managers and members of governing bodies of companies. This will be published on the company's website as of 2022 and on the Labor Ministry's website as of 2023.

The objective is to achieve a minimum of 40% of women in senior management and in the governing bodies of companies with more than 1000 employees by March 2029. The quota is currently set at 30% and will be set at 40% as of 1 March 2029. From this date, companies failing to meet the 40% target will have 2 years to comply with the obligation. They will first have to publish progress targets and corrective measures after one year. Failure to meet the 40% quota after 2 years will carry a risk of a financial penalty of up to 1% of payroll.

# Germany

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes, in some circumstances The Remuneration Transparency Act came into force on 1 July 2017 and contains a number of provisions in relation to the assessment and/or reporting of gender pay differences.</p> <p>Employers are encouraged to implement a regular audit to determine any pay gap and if necessary develop countermeasures.</p>
<p>Which employers are covered?</p>	<p>Employers with more than 200 employees in one operation, with additional obligations for employers with more than 500 employees in one operation.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>Employers with more than 200 employees in one operation:</p> <ul style="list-style-type: none"> <li>• Individual employees have a right to request information about the average pay of comparable employees of the opposite gender but only where there are at least 6 employees of the opposite gender in comparable positions (for data privacy purposes, so that no individual salary data is disclosed).</li> <li>• The request can cover information about the comparable employee's base salary plus two additional pay components, e.g. bonus, car allowance, etc.</li> </ul> <p>Also, employers with more than 500 employees across the whole business are:</p> <ul style="list-style-type: none"> <li>• "Encouraged" to implement a regular audit to determine any pay gap and, if necessary, develop countermeasures, but there is no legal obligation to do this.</li> </ul> <p>Also employers with more than 500 employees and who are under an obligation according to the German Commercial Code to publish management reports are:</p> <ul style="list-style-type: none"> <li>• Required to publish management reports about their measures to ensure equality and equal pay and their effects every 3 years (5 years if collective bargaining agreements are in place).</li> </ul>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty applies to permanent employee pay and trainee pay.</p> <p>However, temporary workers are generally covered by an equal pay principle. The Germany Temporary Workers Act gives temporary workers the right to request information regarding the pay of a comparable employee at the company which is leasing the temporary workers.</p>

# Germany

Does the report have to be provided to employees and/or employee reps?	The management report about measures to ensure equality and equal pay and their effects has to be made publicly available.
Does the report have to be published and, if so, where?	The management report has to be published in the Federal Gazette (Bundesanzeiger).
If a pay gap is identified, is there any duty to take steps to close the gap?	Provisions which violate the Remuneration Transparency Act are invalid and the employer must take appropriate steps to close the gap. In addition, employees have a right to equal pay. If their pay is lower than the remuneration of comparable employees, they can bring a claim for equal payment.
What are the sanctions for non-compliance (if any)?	There are no sanctions.
What has the impact been of any pay reporting measures introduced?	So far, the impact has been quite limited.
Are there any other relevant developments/measures relating to the gender pay gap?	In accordance with the Remuneration Transparency Act, any direct or indirect gender-based pay discrimination is prohibited. In a ruling on 21 January 2021, the Federal Labor Court (Bundesarbeitsgericht, BAG) strengthened the position of women (docket number: 8 AZR 488/19). They stated that if a woman earns less than her male colleague in terms of median wage for comparable work, the employer must prove that the lower pay is not gender-based.

## Hong Kong

<b>Are employers under a legal duty to assess and/or report on gender pay differences?</b>	No.
<b>Are there any other relevant developments/measures relating to the gender pay gap?</b>	The Sex Discrimination Ordinance (“SDO”) provides that a woman should not be treated less favorably than a man in comparable circumstances on grounds of her sex as regards the terms and conditions of employment. Although no specific provision is written in the SDO, the Hong Kong Equal Opportunities Commission (“EOC”) has issued a non-binding guide on equal pay (“Equal Pay Guide”) specifying that the objective to enforce pay equity between men and women under the SDO is clear.

# Hungary

Are employers under a legal duty to assess and/or report on gender pay difference?

No.

In general, the Hungarian Labor Code requires that employers adhere to the general principle of equal remuneration for equal duties which applies to every employee. No gap should exist, unless justified by reasons connected to the work performance/job duties/seniority/liability etc.

# India

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes. Whilst there is currently no law in India dealing directly with the gender pay gap, the Equal Remuneration Act 1976 (“ER Act”) has been enacted in India to secure equal pay for equal work for both men and women. Under the provisions of the ER Act and the Equal Remuneration Rules 1976 (“ER Rules”), an employer is required to maintain a register in the prescribed form (Form D) with respect to all the workers employed. The form contains details relating to the description of work, the number of men and women employed, the rate of remuneration paid and the breakdown of the components of the remuneration.</p> <p>Therefore, while there is no direct obligation to report/submit the data under the ER Act, the employers are under an obligation to maintain the data in Form D for assessment by the labor inspectors. The requirement to maintain such register may change once the Code on Wages 2019 (as explained below) is implemented.</p> <p>The Code on Wages 2019 (“Wage Code”), which is law though not yet in effect, prohibits discrimination on grounds of gender in matters relating to wages, in respect of the same work or work of similar nature done by an employee. Unlike the ER Act which mandated pay parity with respect to female employees only, the Wage Code provides that pay parity should be ensured for all genders.</p>
<p>Which employers are covered?</p>	<p>The ER Act came into force for different categories of employers over a period of time through various notifications by the central government. Through the years most categories of employers such as employers in manufacturing, information technology, financial services etc., have been notified under the ER Act.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>An employer is required to maintain a register in Form D, which has information relating to the description of work, the number of men and women employed, the rate of remuneration paid and the breakdown of the components of the remuneration. The Wage Code consolidates the requirement to maintain registers under the Payment of Wages Act 1936, the Minimum Wages Act 1948, the Payment of Bonus Act 1965 and the ER Act. There may be more clarity on the reporting obligations once the Wage Code is brought into effect.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>While the obligations under the ER Act are only applicable for employees, there is separate legislation – Contract Labor (Regulation and Abolition) Act, 1970 – which deals with third party contract workers. Under this legislation, one of the conditions for granting a licence to the contractor is an undertaking from the contractor to provide equal pay for equal work. There are also obligations to maintain registers with wage details. There is however no reporting obligation.</p>

# India

<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The obligation under the ER Act is to only make the register available to the authorities appointed under the ER Act.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>There is no obligation on the employer to publish the registers maintained under the ER Act. The only obligation is to maintain the registers for assessment by the labor inspectors.</p>
<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>The obligation under the ER Act is only to provide equal pay for equal work on an individual basis.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>Under the ER Act, if an employer fails to comply with the provisions relating to the maintenance of the information, then the employer could be punished with an imprisonment for 1 month or a fine of INR10,000 or both. If the employer fails to comply with the provisions relating to the recruitment or payment of remuneration, they can be punished with a fine not less than INR10,000 (which may be extended to INR20,000) or with imprisonment for a term of 3 months (which may be extended to 1 year) or both.</p> <p>Under the Wage Code, if an employer fails to comply with the provisions relating to the maintenance of records in the establishment, then the employer will be punishable with a fine of up to INR10,000. Fines could extend to INR50,000 if the employer pays its employees less than what is due under the Code. Further, if the employer fails to comply with any other provisions of the Code, they can be punished with a fine of up to INR20,000, and in case of a subsequent offence within 5 years from the date of the commission of the first or subsequent offence, be imprisoned for a term of up to 1 month and/or with a fine which may go up to INR40,000.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>The ER Act and the Wage Code also place an obligation on the employers to not discriminate on the basis of sex in matters relating to recruitment, promotions, training or transfer.</p>

\* Content provided by AZB & Partners

# Ireland

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>Yes. The Gender Pay Gap Information Act 2021 requires certain employers to publish this information from December 2022.</p> <p>The precise details of the reporting obligations are to be set out in regulations.</p> <p>The regulations are expected to be published in May 2022. However, on 8 March 2022 (International Women’s Day) the Irish government announced that employers would be required to select a ‘snapshot’ date of their employees in June 2022 and report on the hourly gender pay gap for those employees on the same date in December 2022.</p>
<p>Which employers are covered?</p>	<p>Initially applies to employers with 250 + employees.</p> <p>From the 2nd anniversary of the regulations, it will apply to employers with 150 + employees.</p> <p>From the 3rd anniversary of the regulations, it will apply to employers with 50 + employees.</p>
<p>What are the key assessment/ reporting obligations?</p>	<ul style="list-style-type: none"> <li>• The differences between the mean and the median hourly remuneration of male employees and female employees as a percentage;</li> <li>• The differences between the mean and the median bonuses of male employees and female employees as a percentage;</li> <li>• The differences between the mean and the median hourly remuneration of male part-time employees and female part-time employees as a percentage;</li> <li>• The percentage of all male employees and all female employees who were paid bonus remuneration; and</li> <li>• The percentage of all male employees and all female employees who received benefits in kind.</li> </ul> <p>Employers will be required to explain any differences and any measures that they have taken, or intended to take, to eliminate any difference.</p> <p>Employees who believe their employer has not complied with the obligations may make a complaint to the Workplace Relations Commissions (the “WRC”). The WRC will decide if there is a prima facie case that would warrant an investigation. If the complaint is upheld, the WRC can order the employer to take a specified course of action to comply with the regulations. There is no mechanism for the WRC to impose a fine on the employer or to make a compensatory award to the employee.</p>



# Ireland

Does the duty apply only to employee pay or also to the pay of other workers?	The Gender Gap Information Act 2021 only provides for the publication of employee information.
Does the report have to be published and, if so, where?	Regulations made under the Act may prescribe the form, frequency, and way the information is to be published to bring it to the attention of the public and the employees who are concerned.
If a pay gap is identified is there any duty to take steps to close the gap?	Employers will be required to publish a statement setting out the reasons for such differences in the employer's opinion and the measures, if any, being taken, or proposed to be taken, to eliminate or reduce the gap.

# Israel

Are employers under a legal duty to assess and/or report on gender pay differences	Yes, annually.
Which employers are covered?	Employers with more than 518 employees as well as employers that are publicly listed on the Tel Aviv Stock Exchange and that are non-profit corporations ( <i>amutah</i> ).
What are the key assessment/reporting obligations	Employers must report the categories according to the types of employees: position and employee rank, with average pay in each of these categories divided by gender, and by full-time vs. part-time within each category. Additionally, employers must report the total number of employees by gender who are below the average.
Does the duty apply only to employee pay or also to the pay of other workers?	The statute does not specify that the provisions apply to workers who are not on the employer's payroll; however the rationale of the provisions would seem to indicate that such workers should also be taken into account.
Does the report have to be provided to employees and/or employee reps?	Yes
Does the report have to be published and, if so, where?	The report needs to be actively published by the company; the manner is not specified, except that it "also" needs to appear on the company's website. The statute also requires an employer to provide relevant information to an employee inquiring about gender pay discrepancies relevant to their position.
If a pay gap is identified, is there any duty to take steps to close the gap?	There are no specific requirements; however the general non-discrimination obligations apply.
What is/are the sanctions for non-compliance, if any?	There are no specific sanctions; however a non-compliant company may be subject to employee discrimination claims.
What has the impact been of any pay reporting measures introduced?	Many companies are in the process of compiling appropriate reports; the first reports are due to be published in June 2022.
Are there any other relevant developments/measures relating to the gender pay gap?	As yet no, but it will be interesting to see if the publication of reports leads to a greater number of legal claims and class action suits.

\*Content provided by Yigal Arnon & Co

# Italy

Are employers under a legal duty to assess and/or report on gender pay differences?	Yes.
Which employers are covered?	Private and public employers with more than 50 employees.
What are the key assessment/reporting obligations?	<p>The employer must draft a report on the situation of male and female personnel in the following areas:</p> <ul style="list-style-type: none"> <li>• Hiring</li> <li>• Training</li> <li>• Professional promotion</li> <li>• Enrolment level</li> <li>• Changes of category or qualification</li> <li>• Redundancy events</li> <li>• Intervention of wage integration fund</li> <li>• Dismissals</li> <li>• Early retirements and retirements</li> <li>• Remuneration actually paid</li> </ul> <p>The report must be filed online through the Ministry of Labor's online portal which is expected to be available from 23 June 2022. For 2020-2021, the deadline for filing reports is 30 September 2022. For each following two year period, the deadline will be 30 April. Companies filing a report for the first time must include all staff as of 31 December 2021.</p> <p>An inter-ministerial decree issued by the Ministries of Labor and Equal Opportunities was published on 17 May 2022, providing instructions for employers on how to draft the electronic report.</p>
Does the duty apply only to employee pay or also to the pay of other workers?	Employees only.
Does the report have to be provided to employees and/or employee reps?	Yes, the report has to be provided, at least once every two years, by 30 April, to the work councils and to the "Regional Counselors for Equal Treatment". The report is then reviewed by the Counselors and sent to the "National Counselors for Equal Treatment", to the Labor Ministry and the Equal Treatment Department of the Government.
Does the report have to be published and, if so, where?	No.
If a pay gap is identified, is there any duty to take steps to close the gap?	In order to close the gap, the employer may adopt appropriate measures (take positive action) with the aim of removing any obstacles to equality between men and women. Employees who believe they have been discriminated against may also start individual or collective legal action themselves or through the "Counselor for Equal Treatment".

# Italy

<p>What are the sanctions for non-compliance (if any)?</p>	<p>Italian law provides the following sanctions for non-compliance:</p> <ul style="list-style-type: none"> <li>• If the employer does not send the report to the persons indicated by the law at least every two years, the Regional Labor Office may ask the companies to provide the report within 60 days;</li> <li>• If the employer does not fulfil this obligation it must pay an administrative sanction ranging from EUR515.00 up to EUR2,580.00;</li> <li>• Where discrimination regarding hiring, professional training, equality treatment for pay, duties and career and retirement age is proven, the employer must pay an administrative sanction ranging from EUR5,000.00 up to EUR10,000.00;</li> <li>• If the employer does not comply with the court order subsequent to the individual or collective action the sanction is imprisonment for up to 6 months or a fine of up to EUR50,000.00.</li> </ul>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>This is not a matter of public record.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>Since 3 December 2021, Law 162/2021, (which applies to companies controlled by public administrations, and not listed on regulated markets), has imposed a duty to appoint directors using criteria which ensures a balance between genders. For the first six terms of office, a gender balance will be considered reached when each gender is represented by 40% of the board members.</p> <p>Since 1 January 2022, private companies can be granted a reduction in social security contributions if they acquire the newly issued gender equality certification called bollino rosa ("Pink Label").</p> <p>The implementation of the certificate aims to:</p> <ul style="list-style-type: none"> <li>• reduce the gender gap in relation to career opportunities in companies;</li> <li>• ensure equal pay for equal tasks; and</li> <li>• implement policies for the management of gender differences and maternity protection.</li> </ul> <p>A ministerial decree (not yet issued) will establish the minimum parameters for obtaining the certification, with reference to remuneration, career opportunities and work-life balance.</p>

# Japan

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>The Labor Standards Act of Japan prohibits discrimination in salary based on the fact that an employee is female (Article 4). The Act on the Promotion of Women's Participation and Advancement in the Workplace requires companies which have more than 100 employees to research and understand, as a minimum, the company's (i) rates of newly hired female employees; (ii) the gender gap for years of continuous employment; (iii) working hours; and (iv) rates of female managers.</p> <p>In addition, these companies must prepare and submit an action plan based on their research to the Minister of Health, Labor &amp; Welfare. The plan should include (i) terms of the plan; (ii) targets; (iii) content; (iv) timing.</p>
<p>Which employers are covered?</p>	<p>The obligations set out in the Labor Standards Act apply to all employers.</p> <p>The obligations set out in the Act on the Promotion of Women's Participation and Advancement in the Workplace are imposed only on employers with more than 100 employees (for employers with 100 or fewer employees, it is only an obligation to make efforts).</p>
<p>What are the key assessment/reporting obligations?</p>	<p>Employers are obliged to report information such as (i) the percentage of women among all employees; (ii) the percentage of women in managerial positions; or (iii) the percentage of women in executive positions, and to publish this information in the database of the Ministry of Health, Labor and Welfare.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>Employers are prohibited from having an unreasonable gap in pay (and benefits) between full-time, part-time, or temporary workers on the basis of the worker's gender.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>No. However, the report will be made public, so employees will know about it naturally.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>Yes, the employer must submit the report to the Ministry of Health, Labor and Welfare.</p>
<p>If a pay gap is identified is there any duty to take steps to close the gap?</p>	<p>No, employers are not necessarily obliged to correct the pay gap.</p> <p>However, if an individual employee's salary is different from that of other employees based solely on the employee's gender, the employer must pay the difference in accordance with the Labor Standards Act.</p>

# Japan

<p>What are the sanctions for non-compliance (if any)?</p>	<p>Employers who violate Article 4 of the Labor Standards Act by discriminating wages solely on the basis of an employee's gender can be punished by imprisonment for no more than 6 months or a fine of no more than JPY300,000.</p> <p>However, since any wage gap between men and women in Japan can be attributed to various factors in addition to gender, such as differences in duties, positions, and responsibilities, there has not yet been any case in which an employer has been judged to have violated Article 4.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>The Ministry of Health, Labor and Welfare, based on the purpose of the Act on the Promotion of Women's Participation and Advancement in the Workplace, gives titles to companies that it recognizes as making proactive efforts towards gender equality based on the results of these reports, and makes these titles public.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>The Ministry of Health Labor &amp; Welfare carries out statistical research every year on employee salaries in Japan. In this research, the Ministry asks employers, who are randomly selected, to answer questionnaires regarding their employees' salaries. In addition to salary and benefits, the questionnaire requests information to account for factors such as: the type of business, type of employment, gender, full-time/part-time status, educational background, age, length of service, and title. While there are no penalties for employers who fail to respond to these questionnaires, according to the Ministry's web page, in 2016, out of 65,811 companies with 10 or more employees, 49,783 answered the survey.</p>

# Luxembourg

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>No.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>A gender pay report is not required but the employer must inform and consult the equal opportunities officer on the status, structure and likely changes in employment (and employment conditions) in the business. For example, the employer must share (twice a year) gender-based statistics on recruitment, promotions, transfers, dismissals, pay and training with the staff delegation.</p>
<p>If a pay gap is identified is there any duty to take steps to close the gap?</p>	<p>While there is no provision explicitly requiring employers to close a pay gap, the fact that the Labor Code requires gender pay equity, implies an obligation to close such gaps when they occur.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>Luxembourg law does not provide for a requirement to conduct audits or otherwise investigate employers with respect to pay equity.</p> <p>Nevertheless, the Labor and Mines Inspectorate (Inspection du travail et des mines, or the "ITM") and the Employment Development Agency (Agence pour le développement de l'emploi or "ADEM") are each responsible for ensuring compliance with pay equity. They may act as an informal mediator in any individual labor dispute which may arise such as a dispute regarding equal pay (article L. 614-2 of the Labor Code). Regarding companies with staff of more than 15 employees, the existing staff delegation must appoint an equal opportunities officer among its ranks. The equal opportunities officer is responsible for safeguarding gender equality in the workplace as regards access to jobs, training and promotion, and pay and working conditions (article L. 245-6 of the Labor Code).</p> <p>In April 2021, Luxembourg decided to join the Equal Pay International Coalition which is an international organization led by the International Labor Organization (ILO), the United Nations (UN Women), and the Organization for Economic Co-operation and Development (OECD).</p>

# Mexico

Are employers under a legal duty to assess and/or report on gender pay differences?	No.
Are there any other relevant developments/measures relating to the gender pay gap?	No.



# Netherlands

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>No.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>Currently, Dutch law does not require employers to assess and/or report on gender pay differences. Dutch law does prevent employers from making a distinction between men and women. Legislation requires that employers adhere to the general principle of equal treatment of men and women, including for remuneration. An employer is obliged to pay work of equal value equally. Employees with the same work/function must therefore receive equal remuneration. Where an employee is of the view that a distinction is made (wrongfully), they can to go to court.</p> <p>In addition, a legislative proposal called “Equal Pay for Women and Men” was introduced in 2019. This legislation proposes that companies with more than 50 employees are obliged to apply for a certificate evidencing equal pay between men and women in the company. In order to receive this certificate, companies must provide information to the organization that will issue the certificates on anonymised gross salary per position and standard data on their employees. If the companies meet the (yet to be disclosed) standards, the company receives the certificate as proof that women and men are paid equally. There will be a public register listing the companies that have been granted a certificate and those whose certificates have been refused, suspended or revoked. Upon request of employees, companies must provide access to anonymised data on the remuneration of other employees performing similar work in the company.</p> <p>Under this proposal, companies must also provide information in their annual report on the extent of differences in remuneration between female and male employees. If there is a gender pay gap, it should be explained and accounted for in the report together with how the differences in remuneration will be reduced.</p> <p>The debate on the legislative proposal in parliament is currently still ongoing. It is unclear when the legislation will come into force.</p> <p>Additionally, a draft bill, which includes a quota for female leadership within large companies, has been approved by the Senate. The legislation provides for (i) a “growth” quota, meaning that at least one-third of the supervisory board of Dutch listed companies must be men and at least one-third must be female. This “growth” quota applies to new appointees of the supervisory board; and (ii) that large companies are required to set up an appropriate and ambitious gender target to balance out the gender ratio in the (sub)top of the company. The latter also includes an annual progress reporting duty. The legislation entered into force on 1 January 2022.</p>

# Norway

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>All employers are required to take active, targeted and systematic steps to promote equality and this includes addressing the topic of salary.</p> <p>All public employers and private undertakings with more than 50 employees or, for private undertakings with more than 20 employees, where employees' representatives request it, are required to report extensively on actions they are taking to battle discrimination. This includes an obligation to report on salary levels and the use of part-time employees, categorized by gender. The reports, including the report on salary levels (in anonymized form), must be published in the undertaking's annual report or in another public document.</p> <p>The general report must be published annually and this includes a report on the actual situation with regard to gender equality in their operation. However, the specific requirement to report on salary levels and the use of part-time employees only requires reporting every second year.</p>
<p>Which employers are covered?</p>	<p>All public employers and private undertakings with more than 50 employees or, for private undertakings with more than 20 employees, where the employees' representatives request it.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>Employers that are covered by the legal duty to report on gender equality must report annually on the actual situation with regard to gender equality in their operation. The report must also include a description of measures that have been implemented to improve equality as well as any planned measures. The employer must include information that is designed to identify unintended and undesirable differences between men and women in the business. The employer must report on its gender ratio, preferably by percentage, in relation to both wages and employment levels.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty to report encompasses the undertaking's own employees. However, it is unclear whether the obligation also covers the pay of other workers such as hired in workers and consultants.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The report is a public document, see section below.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>The report must be filed, together with the annual report, at the Public Accounting Registry; this means that everyone can access it upon request.</p> <p>If the employer is not required by law to file its annual report, the equality report must still be made publicly available, for example on the company's website.</p>

# Norway

<b>If a pay gap is identified, is there any duty to take steps to close the gap?</b>	Employers who are required to report on gender equality are also under a duty to actively work to achieve gender equality, including gender pay equality.
<b>What are the sanctions for non-compliance (if any)?</b>	<p>The Anti-Discrimination Tribunal has authority to enforce the legal obligation to report on gender pay. The Tribunal may order the remediation of an employer's report. In the event that the employer breaches the deadline for complying with an order, the Tribunal may make an administrative decision and impose a fine to ensure implementation of the order. The fine can take the form of a lump-sum fine or a fine which accrues daily.</p> <p>Non-compliance can also result in reputational risk.</p>
<b>Are there any other relevant developments/measures relating to the gender pay gap?</b>	No.

# Philippines

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>No, as of yet there is no legal duty to assess and/or report on gender pay differences.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>In the Decent Work Statistics released by the Philippine Statistics Authority (PSA) covering the period of 1995 to 2018, the gender wage gap in 2018 was reported to be at 4.8%.</p> <p>In the Global Gender Gap Report 2020 of the World Economic Forum, the Philippines ranked 5th out of 153 countries on the indicator assessing gender wage equality.</p> <p>In the Philippine Statistical Development Program (PDSP) 2018 – 2023, one of the developmental programs and activities cited by the PSA was to review and improve methodology for estimating gender wage gap.</p> <p>The Gender Equality and Women’s Empowerment (GEWE) Plan 2019 – 2025, aims to increase wage rates of women and reduce the gender wage gap in agriculture, fishery, and forestry.</p> <p>In 2021, the Securities and Exchange Commission announced that it is working towards implementing annual sustainability reporting for publicly-listed companies. It will include information on employee wages and benefits. They are aiming to implement this in 2023; however due to the COVID-19 pandemic it will likely be delayed.</p>

\* Content provided by PJS Law

# Poland

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>No.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>Employers are required to observe a general statutory rule of equal treatment, obliging them to grant equal pay to employees performing the same work or work of equal value. However, there are no specific tools allowing the Polish authorities to monitor gender pay differences.</p> <p>In general, employees whose terms of remuneration have been established to be in breach of the equal treatment rule are entitled to demand compensation from their employer. The compensation cannot be lower than the statutory monthly Polish minimum wage (in 2022 PLN3,010) but the law does not specify the maximum amount of compensation. The Supreme Court has confirmed that the compensation should be proportionate to the employer's breach as well as acting as a deterrent. In practice, the affected employee may demand the difference between their current remuneration and the remuneration received by employees in comparable positions. In addition, a labor court can decide on the level of remuneration applicable to the employee in the future.</p> <p>Moreover, the Polish government has prepared a draft amendment to the Labor Code which, in the definition of mobbing, adds the issue of the gender gap. As of April 2022 the bill is currently in Parliament, and so at this stage it is difficult to estimate if, or when, it will come into force.</p> <p>In addition, according to the latest amendments to the Banking Law, banks are required to report their gender pay gap information for the previous year to the Financial Supervision Authority once a year by 31 January.</p>

# Portugal

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>There is no general legal duty for an employer to actively assess or report gender pay differences.</p> <p>However, a duty may be triggered by two circumstances:</p> <p>(i) a notification from the Authority for Working Conditions on remuneration differences (“evaluation plan”);</p> <p>(ii) following a request issued by an employee or a trade union representative to CITE (Commission for Equality in Labor and Employment), for the latter to issue an opinion on the existence of gender pay discrimination (“procedure for assessing the existence of pay discrimination”).</p>
<p>Which employers are covered?</p>	<p>All employers might be subject to the “evaluation plan”.</p> <p>The “procedure for assessing the existence of pay discrimination” applies solely for companies with 50 or more employees.</p>
<p>What are the key assessment/ reporting obligations?</p>	<p><b>Evaluation plan:</b> the employer must present an evaluation plan of the remuneration differences within 120 days.</p> <p><b>Procedure for assessing the existence of pay discrimination:</b> CITE will notify the employer to, within 30 days:</p> <ul style="list-style-type: none"> <li>• state its position;</li> <li>• provide information on its remuneration policy; and</li> <li>• provide information on the criteria used to calculate the remuneration of the claimant and the employees of the other gender in relation to whom the claimant considers to be discriminated against.</li> </ul>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty only applies to employee pay.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The report only has to be provided to employee reps in the procedure for assessing the existence of pay discrimination.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>The gender pay report is drafted and published by the Ministry of Labor, Solidarity and Social Security’s Strategy and Planning Office with the information companies provide in the Single Report (Relatório Único), which is a general compliance obligation.</p>

# Portugal

<p>If a pay gap is identified is there any duty to take steps to close the gap?</p>	<p><b>Evaluation Plan:</b> After the presentation of the plan, the employer has a period of 12 months to implement it, and at the end of that period the employer must communicate the results to the Authority for Working Conditions, justifying the remuneration differences that remain and showing that they have corrected the differences that were proved to be unjustified. Remuneration differences that are not justified by the employer are presumed to be discriminatory.</p> <p><b>Procedure for assessing the existence of pay discrimination:</b> After receiving the requested information from the employer, CITE has 60 days to notify the employer, the employee and the trade union representative of its technical proposal. If the technical proposal issued by CITE considers that there are indications of discrimination, the employer will be notified to justify these indications or to present the corrective measures to be adopted within 180 days. After the 180-day period, CITE has 60 days to issue and notify the employer, the employee and the Authority for Working Conditions of its final opinion. Remuneration differences that are not justified by the employer are presumed to be discriminatory.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>The following are considered serious administrative offences:</p> <ul style="list-style-type: none"> <li>(i) failure to present an evaluation plan;</li> <li>(ii) non-implementation of the evaluation plan;</li> <li>(iii) non-communication of the results derived from the implementation of the evaluation plan to the Authority for Working Conditions.</li> </ul> <p>These offences may result in fines for the employer.</p> <p>Complementary sanctions, (e.g. deprivation of the right to participate in public bids or tenders) may also be imposed.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>According to the statistics shared by the Ministry of Labor, Solidarity and Social Security's Strategy and Planning Office, the gender pay gap is reducing. However, this reduction is not possible to trace back to any specific reporting measure.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>No.</p>

# Romania

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>No. There are no express legal obligations for employers to specifically assess and/or report on gender pay differences.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<ul style="list-style-type: none"> <li>• In May 2019, Romania introduced specific secondary legislation to support its general non-discrimination laws, which regulates, amongst other things:             <ul style="list-style-type: none"> <li>• employer obligations aiming to raise awareness and to secure (higher) compliance with gender equality rules, including training for managers;</li> <li>• the implementation of action plans relating to remuneration/ salary policy (applicable to executive and management positions) comprising of measures aimed at (i) ensuring gender-based equality; (ii) eliminating remuneration/salary-related disparities between women and men (the gender pay gap), as well as; (iii) ensuring equitable retirement conditions.</li> </ul> </li> <li>• The National Strategy and Enforcement Plan for promoting equality between women and men for 2018 – 2021, approved by the Romanian Government, provides for actions of state bodies and NGOs to organise annual meetings in order to raise awareness in private and public sector employers about the importance of reducing the pay gap between women and men. The objectives provided under the National Strategy and Enforcement Plan for 2018 – 2021 are also promoted by the National Strategy and Enforcement Plan for 2021 – 2027, which is still pending approval, and aim to impose more efficient and transparent measures for ensuring the equality of payment between genders, both in public and private sectors.</li> <li>• The Romanian National Institute for Statistics, which has access to a wide range of information, is required to develop gender-based statistics and to assist in the implementation in Romania of the gender equality indicators promoted by the European Commission.</li> </ul>



# Singapore

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>No, there is no duty on employers to report on gender pay difference.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>From October 2020, a series of engagements between the public and private sectors, as well as non-governmental organisations, were held with the aim of identifying and tackling issues concerning women in Singapore.</p> <p>These ultimately led to a White Paper which consolidated feedback and recommendations during the sessions.</p> <p>On 3 August 2021, a motion tabled by the Workers' Party was passed in Parliament. It affirmed that "gender equality requires a whole of society effort to remove all barriers, in order to empower every woman to freely realize her full potential and participation in society". It was amended to state that Parliament also "looks forward to action plans" in the planned White Paper.</p> <p>In March 2022, the White Paper on Singapore Women's Development was submitted to Singapore's parliament. The White Paper highlights six action plans to create more equal opportunities in the workplace and includes measures aimed at gender equality, including career mentorship and networking for women in work, and gender board diversity. The White Paper considers societal gender stereotypes to be the key reason for existing unfairness in the workplace and hopes to break down barriers for women.</p> <p>Although there are no explicit rules mentioned in relation to gender pay gap reporting, employers are expected to follow the Tripartite Guidelines on Fair Employment Practices (TGFE) which is expected to be enshrined into Singaporean law. Under the TGFE, employers should ensure that employees are remunerated fairly, according to their ability, performance, contribution, skills, knowledge and experience. Therefore, it is expected that where there is unfair remuneration on the basis of gender, employers can be held legally liable in the future.</p>

# South Africa

<p>Are employers under a legal duty to assess and/or report on gender pay difference?</p>	<p>The Employment Equity Act 1998 (“EEA”) places an obligation on a “designated employer” (i.e. an employer with more than 50 employees or who has an annual turnover in excess of the prescribed threshold for that particular sector).</p> <p>A designated employer is obliged to prepare and implement an employment equity plan setting out numerical goals and the measures that will be taken to achieve equitable representation of people from designated groups across all occupational levels. In addition, on an annual basis every designated employer is required to submit an Income Differential Statement (EEA4) to the Employment Conditions Commission setting out the total remuneration and benefits per each occupational level of the employer’s workforce. This must be broken down by race and gender, but not per individual employee. The EEA4 must also include the average remuneration for the top 10% of earners, the bottom 10% of earners and the median remuneration in the organisation.</p> <p>Where disproportionate income differentials are reflected in the statement, a designated employer must identify the reason for the differentials and take measures to progressively reduce such differentials.</p> <p>In addition, the EEA requires every employer (and not just designated employers) to take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice. No person may unfairly discriminate against an employee on any protected groups, which includes gender. Furthermore, section 6(4) of the EEA provides that a difference in terms and conditions of employment between employees of the same employer performing the same or substantially the same work or work of equal value that is directly or indirectly based on one of the abovementioned grounds, including gender, is unfair discrimination.</p>
<p>Which employers are covered?</p>	<p>The reporting obligations only apply in respect of “designated employers” (i.e. an employer with more than 50 employees or who has an annual turnover in excess of the prescribed threshold for that particular sector).</p>
<p>What are the key assessment/reporting obligations?</p>	<p>A designated employer must submit an Income Differential Statement using the EEA4 form to the Employment Conditions Commission on an annual basis setting out the total remuneration and benefits per each occupational level of the employer’s workforce. This must also be broken down per race and gender but it is not broken down per individual employee. The EEA4 must also include the average remuneration for the top 10% of earners, the bottom 10% of earners and the median remuneration in the organisation. A designated employer must also have an employment equity plan in place and on file and submit an EEA2 form to the Department of Employment and Labor on an annual basis setting out the demographics of the workforce and the numerical goals of the organisation to achieve employment equity in the workplace.</p>

## South Africa

<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The Income Differentials Statement (EEA4) only requires the employer to report on employees, including temporary employees (i.e. those employees employed to work for less than three months). There is no reporting in respect of independent contractors or employees engaged through an agency/labor broker.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>A designated employer is not required to consult with the employees or provide the employees with the Income Differential Statement (EEA4). It must, however, consult with the employees or representatives of the employees on the employment equity plan and EEA2 report and therefore employees do have access to the employment equity plan and EEA2 report.</p> <p>The Regulations to the EEA provide that the EEA2 form is a public document and a copy may be requested by the public by submitting the required form to the Department of Labor. It expressly excludes the Income Differential Statement (EEA4) from this provision. Section 27 of the EEA provides that the Employment Conditions Commission may not disclose any information pertaining to individual employees and employers, but parties to a collective bargaining process may request information in the Income Differential Statement for collective bargaining purposes.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>No, the Income Differential Statement does not have to be published. Every designated employer is required to submit an Income Differential Statement (EEA4) to the Employment Conditions Commission setting out the remuneration and benefits per each occupational level of the employer's workforce. This must also be broken down per race and gender. The EEA 2 form (but not the Income Differential Statement reflected in the EEA4 form) that is submitted to the Department of Labor is a public document and a copy may be requested by a member of the public by completing and submitting the required forms.</p>
<p>If a pay gap is identified is there any duty to take steps to close the gap?</p>	<p>Yes. In the event of disproportionate income differentials or unfair discrimination a designated employer must take measures to progressively reduce such differentials subject to guidance by the Minister, such as collective bargaining, or applying norms and benchmarks set by the Employment Conditions Commission. This should also be addressed in the employment equity plan.</p> <p>Furthermore, if the employer does not take steps to close the gap then there may be a risk of employees instituting an equal pay for work of equal value claim in terms of section 6(4) of the EEA if the employee can demonstrate that the reason for the unequal pay is unfair discrimination on the basis of the grounds listed in the EEA or any other arbitrary ground.</p>

# South Africa

<p><b>What are the sanctions for non-compliance (if any)?</b></p>	<p>The government does not typically take action if pay equity is not achieved but this may change over time, particularly as there are proposals that a designated employer would only get a certificate of compliance if it complies fully with employment equity laws.</p> <p>Given the fact that there are no quotas, there are currently no fines/penalties if a “designated employer” does not achieve the numerical goals and targets set out in its employment equity plan. However, fines/sanctions may be imposed if a “designated employer” does not have an employment equity plan in place and/or does not submit its employment equity reports each year. The maximum fines/sanctions that may be imposed increase depending on whether or not there have been previous contraventions by the employer and in certain instances are turnover related. In the case of a failure by a “designated employer” to have an employment equity plan or to submit employment equity reports the maximum fine for a first offence is the greater of ZAR1,500,000 or 2% of the employer’s turnover. Depending on whether there are multiple offences this can increase to the greater of ZAR2,700,000 or 10% of the employer’s turnover. For other contraventions of the EEA the maximum fine is currently ZAR2,700,000.</p> <p>There is also a risk of employees instituting claims against the employer for equal pay for work of equal value or on the basis of unfair discrimination on one of the listed grounds. The court has wide ranging powers and may make any order that is just and equitable in the circumstances, including the award of compensation or uncapped damages.</p>
<p><b>What has the impact been of any pay reporting measures introduced?</b></p>	<p>There hasn’t been a major impact as the reporting measures only apply to designated employers. There has, however, been an increase in equal pay for work of equal value claims since these provisions were included in the EEA.</p>
<p><b>Are there any other relevant developments/measures relating to the gender pay gap?</b></p>	<p>There is an Employment Equity Act Amendment Bill which has been tabled in Parliament but has not been passed as yet. The Employment Equity Act Amendment Bill proposes some significant amendments to the EEA which may increase the level of enforcement in that certain employers will need a certificate of compliance stating that they have complied with their obligations in terms of the EEA in order to conclude an agreement with any organ of state for the provision of supplies or services.</p>

# Spain

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Since March 2019, employers have been required to keep a register of their employees' salaries, broken down by a number of categories including sex and professional group. The register must include the average salary and salary supplements, plus non-salary items. Employers with at least 50 employees must provide an explanation in the salary register if any wage paid to one gender is 25% higher than that paid to the opposite gender and also provide evidence that it does not relate to reasons relating to sex.</p> <p>The Workers' Statute also states that employers must pay an equal salary for the rendering of equal services without differences based on gender (or any other discriminatory grounds). Any discrimination in employment conditions (including pay and application of the salary registry) may be sanctioned with an administrative fine up to EUR225,018 (as increased from EUR187,515 on 1 October 2021).</p> <p>Additionally, Royal Decree 902/2020 has established an obligation for certain companies (those obliged to execute an Equality Plan, which affects employers with 50 or more employees), to carry out a remuneration audit that is part of the mandatory content of the Equality Plan.</p>
<p>Which employers are covered?</p>	<p>All employers are covered by the obligation to keep a register of their employees' salaries.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>The key obligation is that the salary data collection is to be broken down into categories including sex and professional group. The information must be available for the employee representatives or, where there are no representatives, the employees. No straight reporting applies in relation to the salary registry.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>The duty only applies to employee pay.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The information contained in the salary registry is available for the employee representatives and employees can access that information through their representatives. If there are no employee representatives within the company, the employees are entitled to be provided with information from the salary registry but limited to the average differences in percentages between women and men.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>The information does not have to be publicly published, but has to remain available for the employee representatives and the Labor Inspectorate. The remuneration audit must be included in the Equality Plan for companies obliged to have one.</p>

# Spain

<p>If a pay gap is identified is there any duty to take steps to close the gap?</p>	<p>If the registry shows a difference of over 25% in the mean salary between men and women, companies are obliged to provide in the salary registry the grounds for this difference (which should not be related to the employee's sex).</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>Non-compliance with the salary registry or discrimination derived from not applying equal working conditions can result in the imposition of administrative fines of up to EUR225,018 (as increased from EUR187,515 on 1 October 2021) in the worst case scenario.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>Companies are starting to comply with these obligations. Labor authorities may check compliance.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>Royal Decree 901/2020 has further developed the regulation and development of Equality Plans within companies. Amongst other things, the Equality Plan must include information on remuneration (the remuneration audit), and it must be registered in a newly created Registry of Equality Plans. Failure to draw up an Equality Plan is a serious administrative offence with penalties for non-compliance ranging between EUR751 – 7,500 (as increased from EUR626 – 6,250 on 1 October 2021) and may even prevent access to tenders with the Public Administration. Other sanctions such as loss of Social Security discounts or bonifications may also apply.</p> <p>Companies with over 50 employees are obliged to produce an Equality Plan. Those companies with between 50 and 100 employees had until March 2022 to comply with this obligation. For those companies with an Equality Plan in force it was mandatory to adapt it to the new regulations by March 2022.</p>

# Sweden

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>Yes.</p> <p>In Sweden a mandatory gender pay reporting regime was first introduced in 1994. Since then the rules have been subject to a few changes and the present wording that is found in the Swedish Discrimination Act (Sw. Diskrimineringslag (2008:567)) has been in force since 2009.</p>
<p>Which employers are covered?</p>	<p>All employers should conduct gender pay mapping; however only employers with at least 10 employees must document it in writing.</p>
<p>What are the key assessment/reporting obligations?</p>	<p>Under these rules, employers with at least 10 employees are obliged to document in writing an annual review of their applied practice in relation to salary and other employment conditions. The result of this review must be presented in writing and analysed with regards to e.g. existing salary differences between men and women who are performing the same or equivalent work or with regards to professions that are typically dominated by women. Using this analysis, the employer must then assess whether existing salary differences have a direct or indirect connection to gender. In addition, employers with at least 25 employees are also obliged to present an annual review, in writing, of current measures.</p> <p>Examples of practical issues that follow from this kind of regulation could be difficulties in identifying types of work that are comparable and assessing whether a certain profession is to be deemed to be dominated by women.</p> <p>However, the main practical issue in Sweden with respect to these rules is that there is a wide-spread lack of awareness amongst employers in general about their obligations in this regard.</p>
<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>In Sweden there are no differences between an employee and worker. The rules apply to all employed persons.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>The local union representatives will have access to the report.</p>

# Sweden

Does the report have to be published and, if so, where?	No.
If a pay gap is identified, is there any duty to take steps to close the gap?	Yes, if the pay gap cannot be reasonably explained by other reasons, such as education and skills for instance, the employer is under an obligation to close the gap.
What are the sanctions for non-compliance (if any)?	The relevant authorities – The Equal Opportunities Ombudsman – (Diskrimineringsombudsmannen) may conduct inspections and decide on liquidated damages and fines.
What has the impact been of any pay reporting measures introduced?	There is still a pay gap between men and women that cannot be explained by reasons other than sex. The overall impact is that employers are forced to conduct the survey.
Are there any other relevant developments/measures relating to the gender pay gap?	No.



# UAE

<p>Are employers under a legal duty to assess and/or report on gender pay differences?</p>	<p>No, employers are not required to report on gender pay differences.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>The Federal UAE Labor Law No 3 of 2021 (“Labor Law”) states that where a woman is performing work of an ‘equal value’ to that performed by a male counterpart she should receive the same remuneration; however employers’ compliance with this provision is not monitored.</p> <p>In the Dubai International Financial Centre (“DIFC”) and the Abu Dhabi Global Market (“ADGM”), there are no specific provisions in the legislation which address equal pay directly; however the discrimination provisions are likely to be relied upon if there is a pay differential where a man and a woman perform the same work.</p> <p>The Labor Law applies to all UAE private sector employers with the exception of those located in the DIFC and ADGM, both of which have their own employment regulations.</p> <p>The UAE Gender Balance Guide was published by the UAE Gender Balance Council in 2017. It is not mandatory and does not contain reporting requirements, but provides employers in the private and public sector with a reference point for achieving gender equality in employment.</p> <p>We may expect further legislative amendments in relation to gender equality as the UAE continues to advance its status on the global Gender Equality Index.</p>

## UK

Are employers under a legal duty to assess and/or report on gender pay differences?	Yes, for pay data as at 5 April each year.
Which employers are covered?	Private and public employers with 250 or more employees on the “snapshot date” (which is 5 April in the relevant year for private employers and 31 March for public sector employers).
What are the key assessment/reporting obligations?	<p>An annual pay gap report must be produced, signed by a director (or equivalent) of the relevant entity, confirming the information is accurate, and published on the UK website. The report must show:</p> <ul style="list-style-type: none"> <li>• Overall mean gender pay gap for full-pay employees;</li> <li>• Overall median gender pay gap for full-pay employees;</li> <li>• Mean bonus pay gender gap over past 12 months;</li> <li>• Median bonus gender gap over past 12 months;</li> <li>• Proportion of male and female employees who receive bonus;</li> <li>• Proportions of male and female full-pay employees in each pay quartile band.</li> </ul> <p>No data on actual individual pay rates is required to be disclosed – just the percentage differences/ratios.</p>
Does the duty apply only to employee pay or also to the pay of other workers?	“Employee” is not defined. However, further guidance explains that the wider definition of employment under section 83 Equality Act 2010 applies. “Employee”, therefore, is anyone employed under a contract of service, a contract of apprenticeship or a contract personally to do work. This will include employees, casual workers and some contractors.
Does the report have to be provided to employees and/or employee reps?	No, there is no obligation to give the report to employees or their representatives unless there is a separate duty to do this under a collective agreement, but once it is published on the employer’s and government’s website, it is publicly accessible in any event.
Does the report have to be published and, if so, where?	It must be published on the company’s UK website and the employer must retain the information online for three years. It must also be published on the government website, with the name of the director who has confirmed that the published information is accurate.
If a pay gap is identified, is there any duty to take steps to close the gap?	No.

## UK

<p>What are the sanctions for non-compliance (if any)?</p>	<p>There are no provisions for legal sanctions/fines in the legislation itself, but the Equality and Human Rights Commission (EHRC) considers it has the power to take enforcement action on the basis that a failure to comply would be an 'unlawful act' under the Equality Act 2010. The EHRC has published its enforcement strategy which comprises writing to the employer in the first instance, followed by an investigation and, ultimately, the issuing of an unlawful act notice and the application for a court order in the event of continuous non-compliance. The EHRC has written to a number of employers about failures to report and has previously commenced investigations into non-compliant organisations.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>Employers were required to publish their first reports by 4 April 2018. Over 10,000 did so with many setting out their action plans for reducing any gender pay gaps identified. Over 1,000 employers did not report on time, but the EHRC wrote to those employers requiring them to comply within 28 days and the majority either reported or confirmed that they were not subject to the reporting requirement.</p> <p>In 2019, a much smaller number of organisations were late in publishing their reports. However, the EHRC named and shamed each of those organisations and indicated that formal assessments and investigations against them would be commenced.</p> <p>Enforcement of the reporting obligations was suspended in 2020 as a result of the coronavirus pandemic. This meant that approximately only half of employers who would otherwise have been required to report, did so. In 2021, due to the ongoing impact of coronavirus in the UK, enforcement of the reporting obligations was extended by 6 months which, in practical terms, meant that 2020-21 reports could be filed up until 5 October 2021. Just over 9,700 employers met this deadline but the EHRC took action against 1,400 employers who failed to report on time. By 25 March 2022, 99% of these employers had taken the steps needed to comply with their obligations.</p> <p>In 2022, there has been no postponement of enforcement proceedings. All employers meeting the employee threshold were required to report their gender pay gaps by 4 April 2022. As yet, there is no information on the number of employers who have failed to publish on time; however, those who have not published their figures can expect scrutiny from the EHRC.</p> <p>A report by the BEIS Select Committee published on 23 July 2018 made a number of suggestions for amendment to the gender pay gap reporting requirements, including more stringent and simplified enforcement. However, although guidance has been updated, the majority of the other recommendations have not been implemented.</p>
<p>Are there any other relevant developments/measures relating to the gender pay gap?</p>	<p>No.</p>

## US

Are employers under a legal duty to assess and/or report on gender pay differences?

Employers do not have a federal legal duty to report on gender pay differences at this time. However, the Equal Employment Opportunity Commission (“EEOC”) has gone back and forth on requiring employers to submit summary pay data as part of annual EEO-1 reporting and may move to require such submissions in the future. In 2016, the EEOC announced that it would require employers to submit a new pay data collection form (Component 2), which included the total number of full and part-time employees by demographic category in each of 12 pay bands for each EEO-1 job category and the aggregate hours worked by all of the employees in each pay band. This was subsequently stayed in 2017, and has not since been reimplemented. Since then, in March 2022, EEOC Chair, Charlotte Burrows, announced that pay equity is one of four areas that the agency will focus on in 2022, noting that the Component 2 data collection from the 2017 and 2018 fiscal years could be useful to the agency. The EEOC is waiting for the National Academy of Sciences to provide its recommendations.

Likewise, the Office of Federal Contract Compliance Programs (OFCCP) – which oversees federal contractors – has signaled an interest in requiring the submission of pay data. In September 2021, the OFCCP announced that it was rescinding its previous position that it did not intend to request, accept or use EEO-1 Component 2 data. The agency plans to evaluate the data’s utility to help with investigations, compliance evaluations and enforcement as part of its efforts to combat pay discrimination.

In March 2022, the OFCCP issued a new directive outlining the agency’s position on its authority to access and review pay equity audits conducted pursuant to contractor compliance requirements.

Some states require employer reporting (e.g. California, Illinois), as described generally below.

# US

<p><b>Which employers are covered?</b></p>	<p>There is no general federal duty to report pay at this time. Other EEO-1 reporting requirements (on race and gender) apply to private sector employers with 100 or more employees and certain federal contractors with 50 or more employees.</p> <p>State and local requirements vary. For example, California’s Senate Bill (SB) 973 requires a private employer that has 100 or more employees (with at least one employee in California) and who is required to file an annual EEO-1, to submit a pay data report to California’s Department of Fair Employment and Housing (DFEH) by 31 March 2021 and annually thereafter.</p> <p>See <a href="https://www.dfeh.ca.gov/paydatareporting/">https://www.dfeh.ca.gov/paydatareporting/</a>.</p> <p>Illinois SB 1480 requires private employers to file an EEO-1 report and that have 100 or employees in Illinois to obtain an “equal pay registration certificate” within 3 years of 23 March 2021 and to recertify every two years thereafter. In January 2022, the Illinois Department of Labor (IDOL) announced that it would begin sending notices to employers confirming their assigned registration date (providing no less than 120 days notice). Covered businesses must file an application no later than 23 March 2024. See <a href="#">Equal Pay Registration Certificate FAQs</a>.</p>
<p><b>What are the key assessment/reporting obligations?</b></p>	<p>None at the federal level at this time. State and local requirements vary. For example, California SB 973 requires covered employers to report pay and hours-worked data by establishment, job category, sex, race, and ethnicity to the DFEH (see response above).</p> <p>In Illinois, covered businesses must submit wage records and an equal pay compliance statement. Wage records include a copy of the employer’s annual EEO-1 and a list of all employees employed in the past calendar year, separated by gender, race and ethnicity as reported in the business’s most recently filed EEO-1, and the county in which the employee works, the date the employee started working for the business and any other information the Department deems necessary to determine if pay equity exists among employees; and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest USD100.</p>

# US

<p>Does the duty apply only to employee pay or also to the pay of other workers?</p>	<p>There is no general federal duty to report pay at this time. Other federal EEO-1 reporting (race and gender) only includes employees (and not applicants or non-employees such as independent contractors).</p> <p>State requirements vary. For example, for purposes of pay data reporting to DFEH under California’s SB 973, Government Code section 12999(m)(1) defines “employee” to mean “an individual on an employer’s payroll, including a part-time individual, whom the employer is required to include in an EEO-1 Report and for whom the employer is required to withhold federal social security taxes from that individual’s wages.” According to the DFEH, if any temporary worker provided by a staffing agency or any independent contractor meets this definition of “employee,” then that individual is counted.</p>
<p>Does the report have to be provided to employees and/or employee reps?</p>	<p>There is no federal duty to report pay at this time. Other federal EEO-1 reporting (race and gender) does not have to be provided to employees.</p> <p>California’s SB 973 does not require the employer’s pay data report to be provided to employees or employee representatives and provides that individually identifiable information is considered confidential information and is not subject to disclosure. DFEH, however, may develop and publish aggregate reports based on the data obtained “provided that the reports are reasonably calculated to prevent the association of any data with any individual business or person.”</p> <p>Similarly, under Illinois law, individually identifiable information submitted to the Director related to equal pay registration certificates, or otherwise as part of its equal pay compliance statement, is confidential and will not be disclosed. A current employee of a business subject to Section 11 of the Equal Pay Act may request anonymized data regarding their job classification or title and the pay for that classification. See <a href="#">Equal Pay Registration Certificate FAQs</a>.</p>
<p>Does the report have to be published and, if so, where?</p>	<p>There is no federal duty to publish pay at this time.</p> <p>California and Illinois also do not require employers to publish pay data at this time; however, certain information may be disclosed to the public or to other agencies to aid in enforcement. For example, under Illinois law, the Illinois Department of Labor may disclose its decision to issue, not issue, revoke, or suspend an equal pay registration certificate, among other information. See <a href="#">Equal Pay Registration Certificate FAQs</a>.</p>

# US

<p>If a pay gap is identified, is there any duty to take steps to close the gap?</p>	<p>There is no federal duty to report pay at this time. Employers that decide to conduct a pay equity audit to determine whether there are pay disparities in their organization are encouraged to consider conducting the audit and related analysis under attorney-client privilege to help control whether, how and when to disclose information. If an employer learns of potential unexplained pay equity issues, there are various options to remediate the issue. An employer that does not take action to remedy a known problem may subject the employer to higher penalties or liquidated damages in the event of litigation.</p> <p>To acquire an equal pay certificate under Illinois law, an employer must submit a statement signed by a corporate officer, legal counsel, or other authorized agent of the business certifying the employer's compliance with Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, the Equal Wage Act, and the Equal Pay Act of 2003. Among other requirements, the signed statement must also pledge that the business corrects wage and benefit disparities when identified to ensure compliance with the above-cited Acts.</p>
<p>What are the sanctions for non-compliance (if any)?</p>	<p>There is no federal duty to report pay at this time.</p> <p>Under California's SB 973, if an employer does not make a timely report, DFEH may seek an order of compliance and shall be entitled to recover the costs of seeking such an order.</p> <p>Under Illinois law, a private employer who has 100 or more employees in Illinois and is required to file an annual EEO-1 with the EEOC, and who commits a violation of Section 11, can be fined up to USD10,000. Amendments in March 2021 also increased the civil fines an employer may be subject to for violating the Act. Any employer with 100 or more employees that fails to comply with the equal pay certification requirements "shall be fined up to USD10,000 per employee affected." Employers have a statutory time period to correct any deficiencies in their equal pay certification and to seek review of the Department's decision to impose civil penalties.</p>
<p>What has the impact been of any pay reporting measures introduced?</p>	<p>The discontinued Component 2 pay data reporting requirement posed significant challenges for employers. A survey conducted by the US Chamber of Commerce (which is a business organization, not a governmental agency) estimated overall compliance costs of USD1.3 billion annually. The Chamber argued that data collection processes would not capture the nuances of legitimate distinctions that comprise compensation systems and did not have any utility with respect to identifying incidents of pay discrimination. The Chamber also expressed concern that sensitive information could be made public.</p>

## US

Are there any other relevant developments/measures relating to the gender pay gap?

Employers can expect a continued focus on equal pay issues. The Biden Administration has announced its commitment to closing gender and racial pay gaps. President Biden has voiced support for reinstating the EEOC's pay-data reporting requirements and for the Paycheck Fairness Act (passed by the House on 15 April 2021 and stalled in the Senate), which would, among other things, restrict employer defenses to sex-based wage discrimination claims, update class action provisions of the Equal Pay Act (EPA), preclude the use of salary history to set wages or make hiring decisions, prohibit retaliation against workers for discussing wages, strengthen remedies available under the EPA, and require the federal collection of pay data.

States and localities continue to enact laws to address pay equity issues. For example, in addition to California's law requiring pay data reporting, laws passed in recent over the past few years ban salary history inquiries (e.g., New Jersey, New York, Maryland, Cincinnati, Colorado); prohibit retaliation against an employee for discussing wages or compensation with another employee (e.g., Virginia); and mandate compensation disclosure in job postings and/or other circumstances (e.g., Colorado, Connecticut, Nevada, New York City, Rhode Island, Washington). Legislation imposing new pay transparency requirements is also pending in a number of states.

In addition, various states have eliminated statutory defenses to pay gaps; the federal law compares the same jobs, whereas some states have moved to similar or comparable jobs in determining if an employee is inequitably paid. Similarly, some states have eliminated the affirmative defense of reliance on a "differential based on any factor other than sex," and required employers to only base pay gaps on a bona fide factor other than sex.

Employers also are under increasing pressure from investors and other stakeholders to do more to address racial, ethnic and gender equality issues, including to release pay gap information.





## About the Employment Group

DLA Piper's Employment group is a market-leading global practice with a strong reputation for delivering solutions-based advice and supporting clients in the day-to-day management of their people legal issues and risk. It includes over 350 specialist lawyers globally, on a strategic and operational level, on both contentious and non-contentious matters across the public and private sectors. The group advises on all areas of employment, including trade union and employee relations, discrimination and diversity management, global mobility and data privacy. We also advise on the legal, tax and regulatory aspects of remuneration, employee share incentives and other benefits, and we assist clients generally in designing and delivering their reward strategies.

This survey provides a headline review of gender pay reporting obligations in the countries identified as of May 2022. This is by way of guidance only and is not a substitute for full legal advice.

**FOR FURTHER DETAILS ABOUT THIS SURVEY PLEASE GET IN TOUCH WITH YOUR USUAL DLA PIPER EMPLOYMENT CONTACT OR REACH OUT TO:**



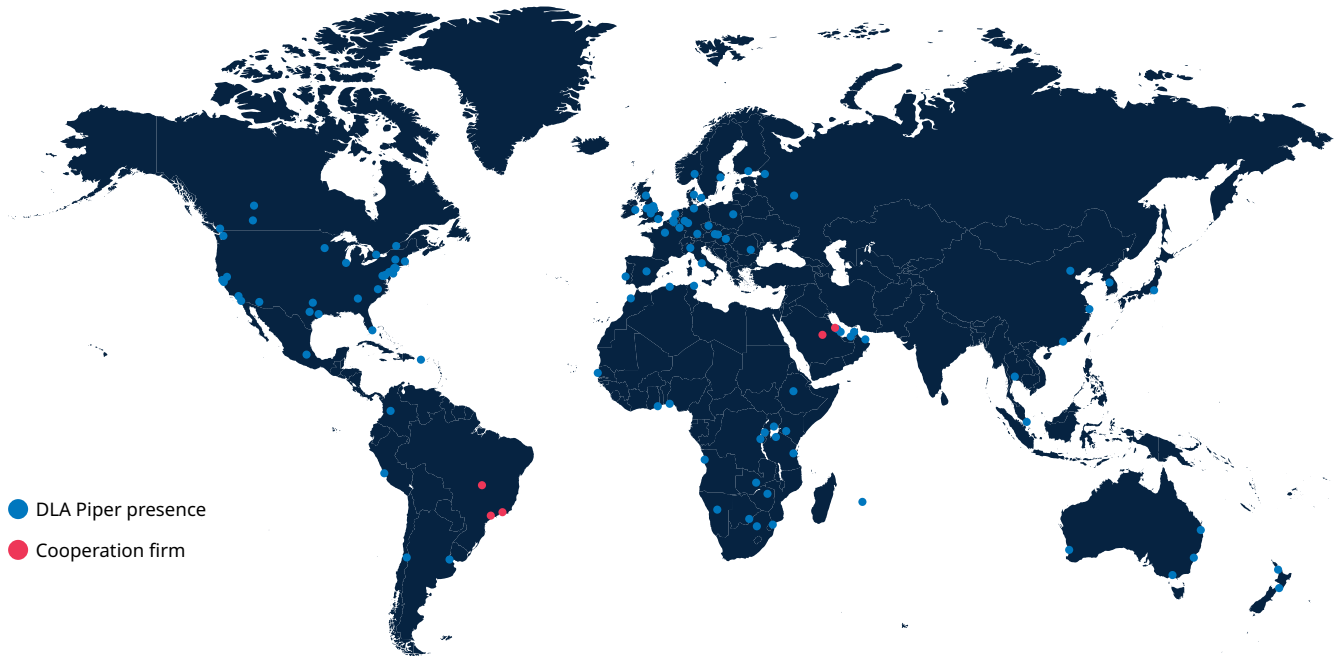
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