



Ailbhe Dennehy

Government's Gender Pay Gap Bill Now Published

The much-anticipated text of the Government's Gender Pay Gap (**GPG**) Information Bill (the **Bill**) has now been published.

In amending the Employment Equality Acts 1998-2015, the Bill envisages that the Minister for Justice and Equality (the **Minister**) will make additional regulations that will require certain Irish employers to report and publish details of both their GPG and gender bonus gaps. In addition, employers will also be required to provide, in their opinion, the reasons for such differences and outline the measures being taken by those employers to eliminate or reduce any GPG identified.

So where are we now when it comes to mandatory GPG reporting for employers in Ireland?

Which employers will be affected?

The Bill envisages that employers with 250+ employees will be required to report and publish their GPG data. This threshold will subsequently drop to employers with 150+ employees after two years of the relevant regulations and drop again to employers of 50+ employees within three years.

What data needs to be reported?

Employer reports must include information including the difference in male and female remuneration expressed as:

- mean and median hourly remuneration for full-time and part-time
- mean and median bonus remuneration
- percentage of all employees who have received a bonus or benefits in kind

The Bill also provides that further regulations may prescribe the following:

- the class of employer, employee and pay to which the regulations apply
- how the remuneration of employees is to be calculated
- the form, manner and frequency in which information is to be published

Going a step further than the UK GPG regulations, the Bill also envisages possible regulations requiring the following information to be published:

- the difference between the mean and median hourly pay of *temporary* male and female employees
- the percentage of employees in each of the four quartiles (lower, lower middle, middle and upper) who are male and female
- the publication of information by reference to job classifications

Will the data need to be published?

Yes. The Bill provides that further regulations will be required to set out the "*form, manner and frequency*" of gender pay gap reporting. The only guidance we have so far is that such reporting will be no more than once a year. Based on the existing UK model of mandatory GPG reporting, it is anticipated that affected employers will be required to publish the relevant data on their own website as well as a publically accessible government website.

Will employers be required to publish a "narrative"?

Yes. The Bill requires affected employers to publish a statement or narrative alongside its figures, effectively explaining and contextualizing the rationale for any identified GPG. In addition, employers will also be required to provide details of the action plan or measures it proposes to put in place going forward to help narrow that gap.

When will the Bill become law?

The precise timeframe for when the Bill will become law is unclear. However, the Bill has been included among 30 bills in the Government's list of "Priority Legislation" to progress before the Dail summer recess this year. In such circumstances we anticipate an enactment date in Q4 2019. However, while the Bill itself may come into law before the year is out, the timeline for the Minister's regulations (to be made "*as soon as reasonably practicable after the commencement*" of the legislation) remains unclear.

Will there be sanctions for non-compliance?

Unlike the UK model of GPG reporting, the Bill provides for some "*teeth*" (over and above "*naming and shaming*") when it comes to sanctions for non-compliance. The Bill provides that the Minister may appoint designated officers to "*investigate and prepare a report*" on how an employer prepared its calculations (to probe their accuracy). These officers will also have powers to enter an employer's premises and require copies of relevant information.

The Bill, as currently drafted, will give the Irish Human Rights and Equality Commission power to apply to the Circuit Court for an order directing compliance with the regulations. Non-compliance with such an order will result in the employer being in contempt of court.

Finally, an employee may take a claim alleging non-compliance on the part of his/her employer to the Workplace Relations Commission which may order a "*specified course of action*" on the part of the employer to ensure compliance.

Under the Bill there is no provision for sanctions in the form of financial compensation to any employee or a fine to be paid by the employer for non-compliance.

What should Irish employers be doing now to prepare?

Learning from the experiences of UK employers when similar mandatory reporting came into effect in 2017, the issue of GPG reporting is firmly on the Board agenda in terms of brand reputation, recruitment and retention of staff.

As detailed in our February 2019 [infographic](#), there are a number of practical steps employers should be taking now to get their "*house in order*" before the Bill becomes law. In particular, employers should:

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

Conclusion

The Minister for Justice and Equality recently commented that "*the aim of this Bill is to provide transparency on the gender pay gap*" and expressed a hope that mandatory reporting "*will incentivize employers to take measures to address the issue insofar as they can*".

The advantage of the recommended "trial run" will enable progressive employers to identify and diffuse any discrimination issues before they hit. It will also provide an invaluable opportunity for employers to analyze and stress-test areas within the business that may be contributing to the existence of any GPG. Given that many measures to reduce or eliminate a GPG may take some time in terms of recruitment and/or promotion of females to more senior roles, acting early is vital.

The Bill will now be debated before both Houses of the Oireachtas, following which amendments may be made.

For more information in relation to this topic, please contact [Ailbhe Dennehy](#), Senior Associate, or any member of the A&L Goodbody's [Employment](#) team.