



Iván Blume

The Ministry of Labor issues a Guide on Equal Pay

The Ministry of labor has published a guide to assist employers in understanding and complying with the requirements of the Equal Pay Act for Men and Women. The document contains guidelines that can be used by employers to determine the value of the job via job evaluations, establish job categories and duties, and prepare a compensation policy.

On the first issue of the Newsletter (January, 2018, Volume 1, Issue 1), we published a brief article on the newly enacted Law No. 30709, Equal Pay Act for Men and Women (EPA). Its' Regulations, approved by Supreme Decree No. 002-2018-TR, followed on March 8th, 2018. As you may recall, the stated purpose of the Law is to ensure men and women would receive equal pay without discrimination.

As a result, companies will have to (i) implement a methodology for objectively determine pay in the workplace (e.g. via job evaluations), (ii) harmonize its' jobs categories and duties in the light of EPA' provisions, (ii) inform employees about the applicable compensation policy.

In this context, the Ministry of Labor has issued a Guide for achieving pay equality in the workplace, approved by of Ministerial Resolution N°243-2018-TR. The Guide contains referential guidelines that can be used by employers to objectively determining pay through job evaluations, define job categories and duties, including a template for these purposes and, provide the minimum content of the compensation policy.

Further, the Guide states that the employers can follow the methodology to achieve pay equality that best suits their needs. However, it recommends implementing the following procedure, which will be in charge of an equal pay committee.

- (i) Identify and group the jobs in the light of their duties, responsibilities, requirements, etc.
- (ii) Identify gender dominance according to the percentage of male and female employees in the jobs, the historical evolution and the stereotypes linked to the positions.
- (iii) Determine the value of the job positions via a point factor analysis according to qualifications, effort, responsibilities, conditions in which the job is performed, etc.
- (iv) Compare and calculate wage gaps by comparing female-dominated jobs with male-dominated job in order to identify the pay inequalities.
- (v) Implement measures to eliminate the wage gap. That is, an action plan that contain a diagnosis, a method to correct pay differences, a schedule for the wage adjustment and the mechanisms to monitor its compliance.

Although the Guide contains guidelines that are useful to understand how to achieve pay equality, that is, providing equal pay for work of equal or comparable value in the workplace, it has already drawn criticism as it introduces further requirements that do not derive from EPA (e.g. gender dominance, an equal pay committee, stringent requirements for the compensation policy, etc.). Therefore, it has raised questions as to whether the employers need to comply with EPA, the Guide or both.

In this context, we believe that the Guide should be understood as non-mandatory for employers. In other words, it only reflects the recommendations and good practices proposed by the Ministry of Labor for the purpose of the combatting the wage gap in workplace. However, it is likely that the Labor overseen agency (SUNAFIL) upcoming protocols shed more light on this issue.

As government audits by SUNAFIL will began on July 1st, 2019 for all employer, except for SMEs (December 1st, 2019), it is essential that employers start taking steps to review the status of their compensation policies and implementing job evaluation procedures in the workplace in order to comply with EPA requirements, and therefore, prevent fines imposed by SUNAFIL and claims from employees.