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# Gender Pay Gap Information Act 2021

The Act will require employers to publish information relating to the gender pay gap (GPG) among their employees and, where there is a gap, to explain the measures being taken to reduce it

The gender pay gap in Ireland - the differential between the average pay of males and females within an organisation – is estimated at an average of 14%.

The 2021 *Pay and employment practices survey* from CIPD Ireland and IRN found that only a quarter of companies in Ireland had published a gender pay gap policy or action plan. This shows the need for legislation to address this perennial issue.

Our *CIPD HR Practices in Ireland surveys* tell us that our members support legislation for annual reporting of the gender pay gap, including bonuses and shares. The *CIPD HR Practices in Ireland 2019 survey* identified a number of action areas for both government and employers. Almost half of respondents said the Government needs to address childcare subsidies and career choice at second level. Organisations need to take actions such as increasing workplace flexibility, greater transparency in pay and reward processes, educating stakeholders on the impact of the gender pay gap, and increasing CEO and senior leadership commitment.

Bringing in legislation to report on the GPG is a necessary step in creating change. CIPD Ireland looks forward to further consulting with the Department on the details of the regulations required to implement the Act.

## Summary of Gender Pay Gap Information Act 2021

The Act amends the Employment Equality Act 1998, mainly by inserting a new Section 20. It involves the Minister for Children, Equality, Disability, Integration and Youth making regulations requiring employers to publish gender pay gap information for their employees. There are also additional details that the Minister can choose to bring in.

## Requirements under the Act

The Minister must make regulations requiring the publication of gender pay gap information as soon as practical after commencement of the Act. No date or timeline for its commencement is provided for.

### A. Employers covered

- employers with 250 or more employees from the start
- on or after the second anniversary of the regulations, employers with less than 250 employees
- on or after the third anniversary, employers with less than 150 employees
- there will be no requirement on employers with less than 50 employees to report
- all public sector bodies, for example, Government Departments, Scheduled Offices, An Garda Síochána, the Defence Forces and schools are included.

### B. Hourly pay and benefits information to be published

- The mean and median gap in hourly pay between men and women
- The mean and median gap in bonus pay between men and women
- The mean and median gap in hourly pay of part-time male and female employees
- The percentage of men and of women who received bonus pay
- The percentage of men and of women who received benefits in kind.

### C. Explanations to be provided

- the reasons for any gender pay gaps in the employer's case
- the measures (if any) that the employer is taking to eliminate or reduce the gender pay gap.

## Additional regulations

The Minister **may** choose to bring in regulations to cover the following, but these are not requirements under the Bill:

- the classes of employer covered (*clarifying who the employer is, subsidiary companies, etc*)
- the classes of employee covered (*clarifying the definition of an employee, the inclusion of partners, etc*)
- the classes of remuneration (*clarifying what is included in pay, bonuses, benefits in kind, etc*)
- how the number of employees that an employer has is to be calculated (*help to clarify how headcount is defined, treatment of those on protective leave, etc*)

- how the remuneration of employees are to be calculated. (*for example clarifying the calculation of pay, bonuses, benefit in kind*).

**CIPD Ireland** believes these regulations will be needed for the effective operation of the Act, and its commencement should not proceed until this clarity is provided. Employers cannot prepare, from a technical or systems perspective, until the requirements and definitions are clear.

Additional regulations could cover:

- the format and frequency (not more than once a year) for publishing the information, wanting to ensure that it is brought to the attention of employees and the public
- publishing the mean and median gap in hourly pay between male and female employees on temporary contracts
- publishing the percentage in each pay quartile who are men and who are women
- publishing the information by reference to job classifications
- where an employer does not have access to pay information on employees, regulations for the person who has such access to give the information, or access to the information, to the employer so that the latter can comply with the regulations (for example teachers who are employed by a school board but are paid by the Department of Education and Skills)
- measures to be taken by the employer to ensure that personal data is fully protected, as defined in Article 4 of the GDPR.

In making regulations, the Minister has to abide by the principle that employees and the public need to have access to any information which shows whether there is a gender pay gap and what is being done to eliminate it.

## **Enforcement**

There are three new sections in the Employment Equality Act 1998 to support enforcement. Enforcement will involve:

1. the appointment of designated officers to investigate how employers prepare the information and its accuracy
2. permission for the Irish Human Rights and Equality Commission (IHREC) to apply for Circuit Court orders requiring a person to comply with the regulations
3. allowing employees to make a complaint of non-compliance by their employer to the Workplace Relations Commission. The only remedy will be an order requiring the employer to comply, but no compensation may be awarded.

In other sections, the Minister will be allowed to request the Irish Human Rights and Equality Commission to consider carrying out of equality reviews and drawing up equality action plans.

A review of the Act will happen before its fourth anniversary.

## **Financial implications**

A number of Financial implications are mentioned in the *Explanatory and financial memorandum*, however no financial evaluation has happened and there is absolutely no consideration for the costs to be incurred outside the public sector.

It recognises costs to be incurred by the Exchequer from the requirement on State bodies, as employers, to comply with the regulations made under the Act. It claims these will be small, but no account is given of the education, systems and time that will be required by many Irish private sector businesses who do not have the expertise or infrastructure in place.

Other areas of State cost relate to enforcement, and the option of a central website that employers may have to use to upload their information. This approach has worked very effectively in the UK.