

Government Consultation on Closing the Gender Pay Gap

The Government has published a consultation on the introduction of mandatory gender pay gap reporting for large private and voluntary sector organisations.

The regulations will require employers with 250 or more employees to publish the difference between the average pay of their male and female employees.

The gender pay gap

While the overall UK gender pay gap (19.1%) is the lowest since records began, progress is slow. The Annual Survey of Hours and Earnings (ASHE) published by the Office for National Statistics shows that a woman, on average, earns around 80p for every £1 earned by a man.

The Small Business, Enterprise and Employment Act 2015

The power to introduce new regulations requiring employers with at least 250 employees to publish gender pay gap information was introduced under section 78 of the Equality Act 2010. To date, this section has never been implemented. Instead the Government favoured a voluntary approach to gender pay gap reporting under the *Think, Act, Report* initiative. However, while more than 275 employers signed up to the scheme, only four of them had published their gender pay gap information by August 2014.

The Government made an amendment to the Small Business, Enterprise and Employment Act 2015, which received Royal Assent on 26 March 2015.

The provision requires that regulations setting out the obligation under section 78 of the Equality Act 2010 must be made within 12 months of the Act coming into force i.e. by 26 March 2016.

The Government believes that greater transparency will encourage employers to take action to help close the gender pay gap. Furthermore, it asserts that equalising female productivity to the same level as men's could add almost £600 billion to the UK economy and clear a third of our national debt.

The gender pay gap consultation

The consultation seeks views on how mandatory gender pay gap reporting will work in practice, including the following:

- Public authorities and small businesses with fewer than 250 employees are exempt from the requirement. Is this an appropriate threshold?
- A failure to comply with the requirement will be a criminal offence, for which the maximum penalty will be £5,000. Will introducing civil enforcement procedures ensure compliance with the proposed regulations?
- What method should be used to calculate the gender pay gap? Should the figures be broken down according to full-time and part-time employment, grade or job type?
- Should employers be able to provide some additional narrative that provides context/explains any gender pay gaps?

- Should the regulations specify where the information is published? For example, in a prominent place on the employer's website?
- How often should employers report the information? For example, annually or every 2-3 years?

The consultation ends on 6 September 2015 and results will be published this winter.

A further consultation to look at the detail of the regime is expected later this year.

What does this mean for employers?

The Government recognises that employers may need to introduce new structures, systems or processes to comply with the regulations. In fact, the consultation suggests that whilst regulations must be made in the first half of 2016, the commencement should be delayed to allow businesses an opportunity to prepare for the implementation.

It is worthwhile for larger employers to get ahead of the game and consider how their data are stored, what level of data they hold and whether any changes need to be made to this.

It remains to be seen if gender pay reporting will create a flurry of equal pay claims.

We will update you on the outcome of the consultation upon publication.

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