

Gender Pay Gap Information Act, 2021



On 13 July 2021, the Gender Pay Gap Information Act 2021 was signed into law.

The legislation aims to oblige employers to establish whether a gender pay gap exists in their organisation. Where it does, employers are required to analyse the causes and address them, with a view to reducing the gap. Data recently released by the Central Statistics Office (CSO) shows the average gender pay gap in Ireland is 14.4%, which is in line with the European average.

How does it work?

The legislation amends the Employment Equality Act 1998 and requires Regulations to be made that will oblige certain employers to publish data regarding the hourly pay, and bonuses received by their male and female employees ("the Regulations"). The Regulations will require employers to publicly report on the following:

- the difference between the **mean** (i.e. the average) hourly remuneration of full time and part time male and female employees expressed as a percentage;
- the difference between the **median** (i.e. the midpoint in each salary range) hourly remuneration of full time and part time male and female employees expressed as a percentage;
- the difference between the **mean** bonus remuneration of male and female employees expressed as a percentage;
- the difference between the **median** bonus remuneration of male and female employees expressed as a percentage;
- the respective percentages of all male and female employees who were paid **bonus** remuneration;
- the percentage of all male and female employees received **benefit in kind**.

The Regulations will also require employers to explain, in their opinion, the reasons for these gaps and outline what actions they are taking to address these causes. Employers should also note that gender pay gap reporting must be in accordance with GDPR and must not breach their employees' data protection rights.

Who will it apply to?

Reporting will be required of organisations within both the private and the public sector with employees numbering 250 or more initially, reducing to 150 or more after two years and, finally, to 50 or more after three years. There will be no reporting requirements for organisations with fewer than 50 employees.

How will it be enforced?

Where an employee claims their employer has failed to comply with the Regulations, they can complain to the Workplace Relations Commission (WRC). The WRC will investigate the complaint once satisfied that a *prima facie* case exists that warrants investigation. Where the complaint is upheld, the WRC may order the employer to take specific action to comply with the Regulations.

There are no provisions for the WRC to order that compensation be paid to an employee, nor is it possible for them to fine the employer. However, employers may be wary of the adverse publicity an investigation might attract. There is also an interesting provision made for the Irish Human Rights and Equality Commission (IHREC) to apply to the Circuit Court or High Court for an order compelling any person who has failed to comply with the Regulations to comply with same. This can be done on the basis of IHREC having "reasonable grounds" for believing such a failure has occurred.

When will it begin?

The Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman, has confirmed that the Regulations will be published and in force by the end of 2021. On that basis, it is likely that this reporting process will begin sometime in 2022.

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