

# Pay Transparency

British Columbia and Ontario

March 26, 2024

# Land Acknowledgement

# Meet the team



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# Agenda

## Topic

1. Overview of British Columbia's *Pay Transparency Act*
2. Overview of Ontario's Bill 149
3. Fact Patterns and Panel Discussion

# British Columbia's Act

# *Pay Transparency Act*

- Assented to on May 11, 2023
- Requirements for job postings came into effect November 1, 2023
- Provincially-regulated employers – not federal employers
- Intended to address systemic discrimination
  - Provides transparency into workforce pay disparities
- Certain obligations apply to the Minister and Director of Pay Transparency, such as publishing annual reports and consultation with Indigenous peoples

# Pay Transparency Act

## Positive Obligations

- Employers must specify certain pay information in publicly-advertised job opportunities
- Certain employers must publish a Pay Transparency Report on or before November 1 of each year
  - *Pay Transparency Regulation* sets out information that must be included in the Pay Transparency Report
  - Voluntary collection of employee information
  - Publish the report on a publicly accessible website or otherwise post a copy in the workplace and make copies available to the public, if requested

# *Pay Transparency Act*

## **Information to be included in pay transparency reports**

- Employer information (name, mailing address, etc.)
- Number of employees
- Employers will be required to collect gender information from their employees according to the Gender and Sex Data Standard in order complete the Pay Transparency Report.
  - Mean and median analyses for hourly rate, overtime pay, overtime hours, bonus pay
  - Percentage of employees in each gender category who received overtime pay and bonus pay
  - Rank employees from lowest to highest rate of hourly pay



# *Pay Transparency Act*

## **Prohibitions**

- Cannot directly or indirectly ask job applicants about what they have been paid at positions with other employers
- Cannot dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee who:
  - Asks their employer about their pay
  - Reveals their pay to another employee or someone applying to work with their employer
  - Asks their employer about its pay transparency report
  - Asks their employer to comply with the Act or made a report to the Director of Pay Transparency about their employer's compliance

# Ontario's Bill 149

# *Working for Workers Four Act, 2023*

- Received Royal Assent on March 22, 2024
- Another omnibus statute amending several existing statutes
  - *Digital Platform Workers' Rights Act, 2022*
  - *Fair Access to Regulated Professions and Compulsory Trades Act*
  - *Workplace Safety and Insurance Act, 1997*
  - Most importantly for today: *Employment Standards Act, 2000*

# *Working for Workers Four Act, 2023*

## **New Part III.1 “Job Postings”**

- Public job postings – Subject to regulations, must include:
  - expected compensation; or
  - range of expected compensation
- Subject to regulations, ban on requiring candidate to have Canadian experience in job posting or any associated application form
- Subject to regulation, statement disclosing the use of AI in the posting if the employer uses AI to screen, assess, or select applications
- Must retain copies of, for three years:
  - every publicly advertised job posting, and
  - any associated applications after access to the posting removed

# Pay Transparency Act, 2018

## A New Requirement?

- Passed under the previous Liberal government and received Royal Assent on May 7, 2018
  - Coming into force changed under the *PC Restoring Trust, Transparency and Accountability Act, 2018*
  - Was much more comprehensive than Bill 149 and had (1) prohibitions against asking about compensation history, (2) anti-reprisal provisions, (3) pay transparency reports
- Section 6 of that Act: “Every employer who advertises a publicly advertised job posting shall include in the posting information about the expected compensation for the position or the range of expected compensation for the position.”

# Fact Patterns

# New Wave Software

- New Wave Software Inc. is a software company based in Vancouver with offices in Edmonton, Ottawa and Québec City.
- Its business focuses on providing network performance and bandwidth monitoring software to the telecommunications industry.
- After the recent slump in the technology industry, New Wave has received a series of new contracts from large telecommunications providers.
- The Human Resources team has been tasked with recruiting new employees to help fill gaps in New Wave's complement.

# Job Posting

- As the Human Resources Director, you requested that each hiring department head provide you with a description of the roles they need filled.
- The engineering team comes to you with a summary job posting and asks you to post this on LinkedIn:

## **Entry Level Software Developer**

*We're a Canadian provider of software to the telecommunications industry in Canada and abroad. We are looking for a full-time, entry level software developer to join our team. Possibility for full remote work, if desired.*

*Experience working in the telecommunications industry an asset but not prerequisite.*

*Salary starting at \$85,000 per year with opportunity for advancement, bonuses, benefits and paid sick leave.*



# Job Offer

Harman has just received a job offer from New Wave as a software engineer. While the job offer was originally made through Human Resources, Taylor, the Vice President of Software Engineering, gets anxious that Harman will not accept the offer because they have not heard back after two days. Taylor decides to call Harman directly and follow up.

On their call, Taylor gets the sense that Harman is concerned about the starting salary of New Wave's offer. Taylor asks Harman how much Harman earned at a previous job as a junior software engineer. Harman advises that the previous salary was \$80,000 but also mentions having spoken to Omar, another software engineer currently at New Wave, and Omar's salary is \$110,000.

Omar is disciplined a few days later for telling Harman that about Omar's salary of \$110,000 and Taylor retracts Harman's job offer.

# Collection of Information

- New Wave is collecting information to complete its Pay Transparency Report.
- The Human Resources department works with the Operations team to develop an internal employee survey. The survey requests voluntary disclosure of gender category.
- Once the survey is finalized, you ask the Operations team to send a general email directing employees to the survey on the company's portal.
- Upon receiving the email, you note that the employees have been given a deadline of October 31, 2024 to complete the survey.

# Pay Transparency Report

New Wave published its Pay Transparency Report on its website in November 2024.

Morgan, who identifies as non-binary, reviews the Pay Transparency Report in advance of an interview for a position with New Wave based in Ontario. During the interview with the hiring manager, Morgan asked several questions about the report, which appeared to be unclear to them in many respects.

As the Director of Human Resources, you meet with the hiring manager to discuss the candidates and how their interviews went. You are surprised to hear the manager say they were not particularly keen on Morgan because Morgan asked a lot of annoying questions and does not have Canadian experience in the telecommunications industry in any event.

# Thank you!



Please use the QR code above to access the survey



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