



## Employers looking for talent? Don't ask about their prior compensation

On March 6, 2018, the Ontario government introduced Bill 203 - *The Pay Transparency Act* (the "PTA") as another measure to create gender pay equity throughout the province. If passed, it will come into force on January 1, 2019 and implement a number of obligations on employers in seeking and maintaining talented employees. Notably, it will prohibit employers from directly or indirectly asking about a candidate's compensation history (barring a few exceptions) during the interview process. The PTA seeks to ensure that compensation is based on job requirements and candidate qualifications.

The PTA goes on to include a number of other suggested measures that seek to make compensation more transparent and equitable. These include:

- a broad definition of 'compensation' that means more than base salary, and seeks to capture the full remuneration package;
- requiring employers to include a rate or range of expected compensation for any publicly advertised job posting;
- requiring certain employers to create a "transparency report" which outlines compensation gaps based on gender and diversity. This report would be posted conspicuously in the workplace and potentially online;
- prohibiting reprisal against employees for making inquiries about compensation or disclosing his or her compensation to another employee;
- allowing individuals to make reprisal complaints to the Ontario Labour Relations Board (the "Board") who will look to the employer to prove that they did not engage in the alleged reprisal; and
- if a finding of reprisal is made, empowering the Board to order discipline "as seems just and reasonable in the circumstances."

If implemented, the PTA will require fundamental shifts in the way many organizations address compensation and will likely have a broad impact on the culture of the organization as a whole. If you have any questions about the status of the PTA or how it may affect your organization, please contact us at 416 646 5169 or [cvokey@robinsonheeneey.com](mailto:cvokey@robinsonheeneey.com) to discuss.

