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Countries Implement New Gender Pay Gap Measures

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This past year, multiple countries enacted new laws aimed at reducing gender pay disparity. Although it has long been illegal in many countries to pay women less than men, a noticeable gender pay gap has persisted. The laws described below demonstrate that countries are now attempting bolder and more innovative strategies toward reaching true pay equality.

We've previously written on the UK's new regulations that require companies to publicly report their gender pay gap. Under the UK's approach, companies with over 250 employees are required to publish any differences in salaries and bonuses between men and women within their organizations. Companies' first reports under this legislation were released in April 2018, and over 10,000 companies reported. Failure to report is considered an unlawful act and could lead to an enforcement action by the UK's Equality and Human Rights Commission. But specific penalties for noncompliance remain unclear. Instead, the reputational harm that companies may face from not reporting or reporting large pay disparities is likely the main consequence contemplated by the law. A recent analysis conducted by Leathwaite indicates that the UK's gender pay gap has already begun to noticeably improve since the law's enactment.

In September 2018, France enacted a similar regulation that requires companies to publish information regarding their gender pay gap and what actions they have taken to remove it. If a company's pay gap surpasses a certain threshold, it will be required to propose an improvement plan. Failure to report or to adequately improve pay disparity within three years can result in financial penalties of up to 1% of the company's total payroll. France is planning to phase companies into compliance, with companies employing over 250 employees being covered beginning in January 2019. All other companies will be covered starting in January 2020. Earlier this year, France also announced that it was considering requiring companies to install software directly into their payroll systems that would allow the government to monitor any gender pay gap within their company. Assumedly, this software would cut out the risk that companies choose not to report or inaccurately report their pay equity figures.

Meanwhile, Germany's newly-enacted Wage Transparency Act has created the novel approach of allowing employees to find out from their employer whether they earn less than their male or female counterparts. Under the German law, employees of companies with over 200 employees now have the right to find out what their coworkers of the same level and opposite gender are being paid.

Although an employee will be unable to find out what any specific employee makes, he or she will have the right to learn the average salary of employees of the opposite gender. The law requires that there be at least six comparable employees so that the employer may create a meaningful average. The assumed goal of Germany's approach is that greater transparency will increase employees' requests for raises, ultimately lessening the gender pay gap. But some have criticized the law for putting the onus on employees to act, rather than requiring that companies themselves take steps to equalize pay. Additionally, companies with over 500 employees will be required to publish reports regarding any pay disparities that they have, as well as their efforts to lessen those disparities.

Perhaps the most aggressive approach to date has come out of Iceland. Despite already being considered one of the world's most gender-equal country, Iceland's new pay equity law, which took effect in January 2018, requires that any company with at least 25 employees prove to an external auditor that it provides equal pay to its employees. After reviewing the company's data, the auditor will determine whether to certify that the company is in compliance with Icelandic law. This certification process will be required every three years and companies that fail to be certified may face stiff fines. Experts have praised Iceland's bold approach, as employees will no longer need to file legal action should they believe that they are receiving unequal pay. Instead, it will now be the employer's responsibility to proactively demonstrate that all of its employees are being paid fairly. Iceland's law currently is being phased in, and all companies will be covered by 2021.

Finally, the Canadian federal government is considering legislation that would apply to all federally regulated employers with at least ten employees. While some Canadian provinces already have pay equity measures in place, Canada's new federal proposal would require that covered employers ensure that they are providing equal pay and create a pay equity plan that detects and corrects any unjustified differences in compensation. Employers with over 100 employees also will be required to create a pay equity committee. If the law is passed, the Canadian government would establish the position of Pay Equity Commissioner, whose role will be to administer and enforce this legislation.

We will be tracking which of these new approaches has the most significant effect on the gender pay gap, how companies choose to comply with these new requirements, and whether more countries join in on the trend of trying bolder strategies towards equalizing pay.

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