

MACFARLANES

MANDATORY GENDER PAY REPORTING

The government has long had in its sights reducing the gender pay gap and has today published the draft *The Equality Act (Gender Pay Gap Information) Regulations 2016* to tackle the issue. In short, the new regulations will require large employers to publish their overall mean and median gender pay gaps, with the average earnings figures based on an hourly rate of pay for each employee. The disclosures will be required annually, starting in 2017 and using 30 April as a reference point. The purpose is to highlight potentially discriminatory pay practices as well as disproportionate representation of one gender in a higher or lower pay grade. The draft regulations released today are subject to further consultation, and expected to come into force later this year in October.

The regulations set out in detail the proposed gender pay reporting requirements. The key considerations for employers are:

- ◆ The regulations will apply to employers with 250 or more employees. Smaller employers are not currently caught and nor has the Government indicated an intention to extend the reach of the regulations but, given the general direction of travel in this area, the possibility cannot be ruled out.
- ◆ “Pay” for these purposes will include all basic pay, paid leave, maternity leave, sick pay, area allowances, shift premium pay and bonuses. It will exclude overtime pay, expenses, the value of salary sacrifice schemes, benefits in kind, redundancy pay, arrears of pay and tax credits.

- ◆ As well as publishing information relating to salaries, some employers will also be required to publish the difference between the mean bonus payments paid to men and women and the proportion of male and female employees who received bonuses at all.
- ◆ Employers will be required to publish how many men and women appear in each quartile of pay in the workforce. This is designed to address situations where one gender makes up more lower paid positions than the other.
- ◆ The pay report information must be published on the employer’s website every year, and must be accessible to both employees and the wider public. The information must be left online for at least three years, and will also be uploaded to a government-sponsored website.

The government is carrying out further consultation as to whether sanctions should be imposed on employers for non-compliance and has also indicated its intention to publish guidance, including advice on providing voluntary narrative by way of explanation.

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