



Closing the Gender Pay Gap

Gender pay has dominated the headlines recently and prompted some countries to introduce legislation, but what are the implications for Asia-based employees of UK companies?

– By Kathryn Weaver

This year, Iceland became the first country to legally enforce equal pay, and in the UK, the US and Germany, organisations of a certain size are now required to publish their gender pay data and/or provide this data to the government (with other countries, such as Australia, Belgium and Austria having had gender pay reporting obligations in place for years). Whilst equality of pay between men and women has been the subject of debate and legislation for many decades (the US Equal Pay Act was signed in 1963 and the UK Equal Pay Act received Royal Assent in 1970), there does seem to be a renewed focus on this topic in 2018 and a more targeted attack on addressing this still prevalent issue. That said, the World Economic Forum has recently estimated that it will take 217 years to close the gender pay gap, so there is still much work to be done!

Gender pay gap reporting obligations in the UK and what this means for Asia

Looking specifically at the UK, for years the government encouraged companies to voluntarily make public their gender pay gap but only seven companies came forward

to do this. As a result, and in a move to bring about better gender equality in the workplace, the UK Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 were introduced and came into force on 6 April 2017.

These regulations require companies with 250+ employees to file pay disclosures with the government and publish the same on their company website. Specifically, these companies have to report on:

- the difference between men's and women's mean and median pay, based on an hourly pay rate for the pay period including 5 April each year;
- the difference between men's and women's mean and median bonus pay in the 12 months to April each year;
- the proportion of male and female employees falling within each of the company's four quartile pay bands; and

- the proportion of male and female employees who received bonus pay in the relevant pay period.

The reporting obligations refer to “relevant employees”, which are defined as persons employed by a relevant employer on the “snapshot date” of 5 April and include individuals working under a contract of service, some casual/bank workers and some contractors (if they are providing a personal service for a company). It does not include partners or LLP members.

If employers fail to comply with the regulations, there are no statutory penalties set out in the legislation (contrast this with the proposed Northern Ireland legislation, where companies could face fines of £5,000 per employee for failing to comply). That said, the Equality and Human Rights Commission believes it does have the powers to take action (on the basis that failure to publish would be an “unlawful act” under the Equality Act) and has written to the 1,500+ employers who failed to publish their gender pay gaps on time, advising them that they could be investigated if they continue to fail to comply with the legislation, and giving them a timescale in which to comply. No further update has been published on how many actual investigations have since taken place.

Implications for Asia-based employees of UK companies

The regulations may be relevant to Asia-based employees working for UK companies because the concept of “relevant employees” extends to employees based overseas with a “close connection to Great Britain”, e.g. their employment contract is

subject to UK law, they have a residence in the UK and/or UK tax legislation applies to them. Therefore, the Asia offices of UK companies should ensure they are familiar with the regulations and what information they are required to collate and provide to their UK-based colleagues in order to ensure the company meets its obligations year on year.

Cross collaboration with the head office is essential to ensure an effective process is in place for this. HR personnel will need continually to ensure their data is up-to-date for the employees who are covered by the regulations, including assessing on-going factors, such as part-time versus full-time work, career breaks, parental leave and bonuses, and the impact this may have on their reporting figures.

Asia has a wider role to play

All UK employers caught by the regulations would have published their first gender pay gap reports on or before 4 April 2018. This would have caused conversations within organisations not only in the UK, but in the company’s Asian offices too, as to their gender pay gap and how to reduce it.

While Asian companies have no legal obligation to report their gender pay gap statistics, they may wish at least to consider analysing their pay data, and assessing whether they may have a problem. Furthermore, Asian companies, irrespective of whether they have a UK office, may decide to use this as an opportunity to review and improve their hiring, compensation, promotion and retention policies and processes to ensure that every employee is compensated fairly and has the same career opportunities at every level. 

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