

The Deadline for Pay Equity Exercises Under The Amended Quebec Equity Pay Act Has Passed. Is Your Company in Compliance?

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In May 2009, the Quebec Equity Pay Act, which was initially passed in 1996, was substantially revised. The amendments to the Pay Act, whose main effects are detailed below, became fully effective on December 31, 2010.

The amendments modify the timing of when an employer subject to the Act (generally, one with 10 or more employees) must comply with the Act. Under the 2009 amendments, an employer that grows to 10 or more employees during a calendar year must comply with the Act beginning in the following calendar year. In addition, an employer that drops below 10 employees during a calendar year must continue to comply with the Act for the remainder of that calendar year.

Generally speaking, all employers were required to take the following steps by December 31, 2010 (note that there are additional requirements for employers of greater size):

- Identify predominantly female and male job categories and calculate salary adjustments;
- In conducting this equity exercise, use salary data from February 1, 2009
- If salary adjustments are necessary, make these payments retroactive to March 12, 2009, along with statutory interest;

The amount of time an employer will have to make any required payments will depend on whether the employer had begun, but not finished, the equity exercise as of March 12, 2009. Employers that had not started the process by this date are required to make payments to affected employees in a lump sum. Employers that had started the equalization exercise by this date are permitted to make payments in installments over four years.

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For those employers that are now in noncompliance with the December 31, 2010 deadline, there are serious consequences. They may have a complaint filed against them with the Commission, and be subject to increased fines and penalties, as well as a waiver of their right to pay in installments.

If you have operations in Quebec that subject you to the Equity Pay Act, and haven't taken the steps necessary to bring your equity pay plan into compliance, now is the time – there are considerable ongoing penalties if your company does not comply.