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**An Bille fá Choimisiún na hÉireann um Chearta an  
Duine agus Comhionannas  
(Faisnéis Faoin Difríocht Pá idir na hInscní), 2017  
Irish Human Rights and Equality Commission  
(Gender Pay Gap Information) Bill 2017**

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*Meabhrán Mínitheach agus Airgeadais  
Explanatory and Financial Memorandum*

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IRISH HUMAN RIGHTS AND EQUALITY COMMISSION  
(GENDER PAY GAP INFORMATION) BILL 2017**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Purpose of Bill**

The Bill's purpose is to require large employers to publish information relating to employee pay, for the purpose of showing whether there are differences in the pay of male and female workers and, if so, the nature and scale of such differences.

Specifically, it is proposed to confer on the Human Rights and Equality Commission a power to create an information disclosure scheme for employers about the gender pay gap, if any, in their operations.

The Bill is in the first instance a diagnostic rather than a curative measure. It enables information to be gathered to assist in public policy formation. Significantly, it also assists employers to benchmark their firms against competitors.

But the information gathered may potentially serve another purpose, in the hands of the Human Rights and Equality Commission. Equal pay legislation is under the aegis of the Commission. Under Part 3 ("Enforcement and compliance") of the Irish Human Rights and Equality Commission Act 2014, the Commission may invite an undertaking to carry out an equality review and, following such a review, to prepare and implement an equality action plan. The Commission is also empowered to carry out a review or prepare an action plan of its own volition.

A review or action plan may relate to equality of opportunity generally or to a particular aspect of discrimination, within an undertaking or group of undertakings, or undertakings making up a particular industry or a sector. To be subject to such a review or action plan, an organisation must have 50 or more employees.

Once a review and action plan is completed by the Commission, it may serve notice if an undertaking fails to implement the requirements of the plan. There is provision for appeal, following which the notice comes into operation after 56 days. Failure to comply is an offence.

The Commission also has powers of inquiry, modelled on the Commissions of Investigation Act, and can serve an 'equality and human rights compliance notice' following or in the course of an inquiry.

Such a notice can specify the nature of the discrimination or violation of rights concerned and require the persons on whom they are served to act

on the notice. The notice also outlines the steps to be taken to address the violation and specifies the timeframe which applies.

The Circuit Court may grant an injunction against a person who does not comply with a human rights and equality compliance notice.

The gender pay gap disclosure requirements in this Bill should therefore be read in the context of an existing statutory regime that enables the Commission to acquire information, to assess compliance with employment equality law and to direct steps to be taken by employers where it finds institutional inequalities.

### **Provisions of Bill**

*Section 1* inserts a new section 32A into Part 3 of the Irish Human Rights and Equality Commission Act 2014, discussed above. The new section, headed, “Gender pay gap information”, provides that the Commission may make a scheme requiring employers to publish information relating to employee pay, for the purpose of showing whether there are differences in the pay of male and female employees and, if so, the nature and scale of those differences. However, a scheme shall not apply to employers having fewer than 50 employees.

A great deal of the detail is left to the drafting of the scheme. The scheme must prescribe the classes of employer and employee to which it relates, how to calculate, for ease of comparison, the number of employees in a firm and the pay of employees, the details to be published, and the form and manner in which, and the frequency with which information is to be published.

But a scheme must require employers to publish information in relation to—

- the difference between the mean hourly rate of pay of male and of female employees,
- the difference between the median hourly rate of pay of male and of female employees,
- the difference between the mean bonus pay paid to male and to female employees,
- the difference between the median bonus pay paid to male and to female employees,
- the proportions of male and female employees who were paid bonus pay, and
- the proportions of male and female employees in the lower, lower middle, upper middle and upper quartile pay bands.

A scheme must also require the breakdown of information by reference to the full-time or part-time status of employees and by reference to their ages.

Finally, the section provides that an employer who contravenes the provisions of a scheme is guilty of an offence and is liable on summary conviction to a Class A fine.

*Section 2* makes standard provision for the Bill’s short title, collective citation and construction.

*Senator Ivana Bacik,  
Bealtaine, 2017.*