



# **DÁIL ÉIREANN**

---

**AN BILLE UM FHAISNÉIS FAOIN DIFRÍOCHT PÁ IDIR NA  
hINSCNÍ, 2019**

**GENDER PAY GAP INFORMATION BILL 2019**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

---



# DÁIL ÉIREANN

---

## AN BILLE UM FHAISNÉIS FAOIN DIFRÍOCHT PÁ IDIR NA hINSCNÍ, 2019 —AN TUARASCÁIL

### GENDER PAY GAP INFORMATION BILL 2019 —REPORT

---

#### *Leasuithe Amendments*

---

1. In page 3, line 13, after “2014;” to insert the following:

“to amend the National Minimum Wage (Low Pay Commission) Act 2015 to extend the functions of the Commission to examine structural pay inequalities for women and in work poverty;”.

—Kathleen Funchion.

2. In page 3, between lines 18 and 19, to insert the following:

#### **“Amendment of section 10C of Principal Act**

2. Section 10C of the Principal Act is amended in subsection (1) by the insertion of following paragraph after paragraph (a):

“(aa) examine structural pay inequalities for women and in-work poverty, and”.

—Kathleen Funchion.

3. In page 4, between lines 24 and 25, to insert the following:

“(ix) a gender breakdown of full time employees;  
(x) a gender breakdown of part time employees;  
(xi) a gender breakdown of employees with a flexible working hours contract;”.

—Kathleen Funchion.

4. In page 4, line 32, to delete “(if any)”.

—Kathleen Funchion.

5. In page 4, line 39, to delete “50 employees” and substitute “20 employees”.

—Kathleen Funchion.

6. In page 4, line 41, to delete “250 employees” and substitute “150 employees”.

—Kathleen Funchion.

7. In page 5, line 1, to delete “2nd anniversary of” and substitute “12 months following”.

—Kathleen Funchion.

8. In page 5, line 4, to delete “150 employees” and substitute “50 employees”.

—Kathleen Funchion.

9. In page 5, line 5, to delete “3rd anniversary of” and substitute “18 months following”.

—Kathleen Funchion.

10. In page 5, between lines 21 and 22, to insert the following:

“(4A) Regulations made under this section will apply to legal partnerships and multi-disciplinary practices as defined in the Legal Services Regulation Act 2015.”.

—Kathleen Funchion.

11. In page 5, to delete lines 29 to 35 and substitute the following:

“(6) (a) Regulations made under this section may require the employer to publish information in respect of a public body.

(b) In this subsection—

‘Act of 1998’ means the Education Act 1998;

‘Act of 2014’ means the Companies Act 2014;

‘board’ has the same meaning as it has in the Act of 1998;

‘company’ means a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act;

‘education and training board’ means an education and training board established under section 9 of the Education and Training Boards Act 2013;

‘enactment’ has the same meaning it has in the Interpretation Act 2005;

‘information’ includes data;

‘public body’ means—

(a) a Department of State,

(b) the Attorney General,

(c) the Comptroller and Auditor General,

(d) the Revenue Commissioners,

(e) the Commissioners of Public Works in Ireland,

(f) the Commissioner of Valuation,

(g) the Garda Síochána,

- (h) the Defence Forces,
  - (i) a local authority for the purposes of the Local Government Act 2001,
  - (j) the Health Service Executive,
  - (k) an education and training board,
  - (l) a recognised school established and maintained by an education and training board,
  - (m) a board of a recognised school established and maintained by an education and training board,
  - (n) a body established—
    - (i) by or under an enactment (other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), or
    - (ii) under the Act of 2014 (or a former enactment relating to companies within the meaning of section 5 of that Act) in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

in respect of which a public service pension scheme exists or applies or may be made,
  - (o) a body that is wholly or partly funded directly or indirectly out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made, or
  - (p) any subsidiary of, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which paragraph (i), (j), (k), (n) or (o) relates and in respect of which a public service pension scheme exists or applies or may be made;
- ‘public service pension scheme’ has the same meaning as it has in Part 4 of the Public Service Pay and Pensions Act 2017;
- ‘recognised school’ has the same meaning as it has in the Act of 1998.”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

**12.** In page 7, between lines 16 and 17, to insert the following:

“(iv) a gender breakdown of full time employees;

- (v) a gender breakdown of part time employees;
- (vi) a gender breakdown of employees with a flexible working hours contract;”.

—Kathleen Funchion.

13. In page 7, to delete lines 29 to 37, to delete page 8, and, in page 9, to delete lines 1 to 35 and substitute the following:

**“ “Application to Circuit Court or High Court in case of failure to comply with regulations made under section 20A**

- 85B.** (1) Subject to subsection (3), where the Irish Human Rights and Equality Commission is satisfied that it has reasonable grounds for believing that there has been a failure by a person (in this section referred to as the ‘person concerned’) to comply with regulations made under section 20A, it may make an application to the Circuit Court or the High Court for the grant of an order requiring the person concerned to comply with those regulations.
- (2) The Circuit Court or the High Court may grant the order sought by an application under subsection (1) if the Court is satisfied that the person concerned has failed to comply with regulations made under section 20A.
- (3) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the person concerned ordinarily resides or carries on any profession, business or occupation.

**Redress through Workplace Relations Commission**

- 85C.** (1) An employee (in this section referred to as the ‘complainant’) who claims that his or her current employer (in this section referred to as the ‘respondent’) has failed to comply with regulations made under section 20A (such claim in this section being referred to as the ‘complaint’) may refer the complaint to the Director General of the Workplace Relations Commission.
- (2) (a) Subject to paragraphs (b) and (d), the Director General shall investigate the complaint if he or she is satisfied that there is a *prima facie* case to warrant the investigation.
- (b) (i) The Director General may, by notice in writing given to the complainant or respondent, or both, require the complainant or respondent, or both, to give to the Director General, within the period specified in the notice (being a period reasonable in the circumstances), such further information that the Director General may reasonably require in order to assist the Director General to decide whether or not there is a *prima facie* case referred to in paragraph (a).
- (ii) The complainant or respondent given a notice under

subparagraph (i) shall comply with the notice.

- (c) The Director General may, as part of an investigation (if any) of the complaint and if he or she considers it appropriate to do so, hear persons appearing to the Director General to be interested and desiring to be so heard.
- (d) Section 77A shall, with all necessary modifications, apply to a complaint as that section applies to a claim.
- (3) Subsections (3A) and (4) of section 79 shall, with all necessary modifications, apply in relation to an investigation by the Director General under subsection (2) as they apply in relation to an investigation by the Director General under that section.
- (4) At the conclusion of an investigation under subsection (2) (including an investigation of a preliminary issue under subsection (3A) of section 79), the Director General shall make and issue a decision and, if the decision is in favour of the complainant—
  - (a) the Director General may provide for an order that the respondent take a specified course of action in order to comply with regulations made under section 20A, or
  - (b) in the case of a decision on a preliminary issue under subsection (3A) of section 79, it shall be followed by an investigation of the complaint.
- (5) Not later than 42 days from the date of such a decision, the complainant, on notice to the respondent, or the respondent, on notice to the complainant, may appeal to the Labour Court by notice in writing specifying the grounds of the appeal.
- (6) Proceedings under subsection (5) shall be conducted in public unless the Labour Court, upon the application of a party to the proceedings, determines that, due to the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.
- (7) The Labour Court shall issue a determination on the appeal under subsection (5) and the Court shall have power to grant such redress as the Director General has under subsection (4)(a).
- (8) Notwithstanding anything in section 89, the publication of decisions and determinations shall include the names of the complainant and respondent.”.”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.

**14.** In page 8, between lines 20 and 21, to insert the following:

“(2A) Failure to comply with an order granted by the Circuit Court by the person concerned would be a Category 4 offence subject to a class A

fine.”.

—Kathleen Funchion.

**15.** In page 8, between lines 24 and 25, to insert the following:

“(4) In making regulations under this section, where an employer fails to publish the required information on more than one occasion within a five year period the Minister shall request that the company title be published by the Irish Human Rights and Equality Commission.”.

—Kathleen Funchion.

**16.** In page 10, line 15, to delete “5th anniversary” and substitute “4th anniversary”.

—An tAire Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige.