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CLIENT UPDATE

New Israeli Law Requiring Employers to Publish Wage Gender Gap Data

September 2, 2020

According to a new amendment to the Equal Pay for Male and Female Workers Law, 5756-1996, which will enter into force on October 25, 2020, large employers (having over 518 employees) will be required to prepare an internal report and publish data, based on various segments, regarding the pay gaps between men and women.

This amendment is another legislative step intended to promote equality between men and women in terms of employment, including salary. These steps have included the creation of incentives and control mechanisms designed to bring about true gender equality, as a major value in Israeli society.

The following are the main points of the law, which will apply to employers with more than 518 employees (the number 518 was determined arbitrarily) and to certain other employers who had a previous obligation in this respect (various public bodies):

1. Preparation of an internal report – Once a year, the employer will prepare an internal report specifying the average salary of the employees according to various segments, and setting forth the average pay gap between men and women in percentage, for each segment.

The internal report should include various data, including segmentation of the employees into groups and types, data regarding salary and the average salary for each group, percentage pay gaps between men and women, the percentage of workers, by gender, whose salary is lower than the average salary in the workplace, and a report on employees who are paid less than the minimum wage.

2. Provision of information to employees – Once a year and upon preparing the internal report, the employer must provide each employee with information about the group to which he or she belongs according to the segmentation of employees, types of employees, jobs or rankings in the group and the percentage pay gaps in that group.

3. Publication of a public report – Once a year and upon preparing the internal report, the employer must publish a report to the general public, including on its website (if it has one). The public report will include various data, including percentage data regarding the average wage gender gaps of the groups of employees, the same data with reference to full-time and part-time jobs, and a report on employees who are paid less than the minimum wage.

The employer may include additional information in the public report in order to explain the wage gaps in each group of employees.

4. First publication date – The employer must prepare an internal report and publish a first public report by June 1, 2022, regarding the year preceding the reporting date.

5. Extension of application to smaller employers – As of June 1, 2022, the Minister of Labor, Social Affairs and Social Services will be authorized to promulgate an order applying these provisions to employers with a lower number of employees.

6. Trends regarding the publicity of employee salary data – The amendment is consistent with a growing trend eroding the confidentiality of employees' salary data, which was previously perceived as one of the employer's key secrets (see in this regard Labor Case 57327-01-18, discussed in our newsletter dated August 19, 2020).

7. Penalties and shifting of the burden of proof – No specific sanctions were set out in the amendment for failure to publish the reports or for the existence of gaps discovered following such publication. However, the law makes it possible to claim compensation for both pecuniary and non-pecuniary damages. Therefore, it would be reasonable to assume, at this stage, that non-compliance with the provisions of the law would result in the shifting of the burden of proof to the employer, which could make a significant difference in legal proceedings.

8. Practical recommendations –

8.1 We recommend taking action as soon as possible to comply with the provisions of the law. In view of the intention to extend the application of the law to smaller employers as well, we recommend that smaller employers (having 100 employees or more) or employers who expect a significant increase in the number of their employees, to commence preparations by classifying their employees and compiling the required data.

8.2. With awareness of the matter on the rise, and the creation of an information transparency mechanism in this context, we also anticipate the possibility of employees filing claims regarding pay gaps. Such claims could be filed as class actions and accordingly involve substantial amounts.

8.3. This law, as well as other laws adopted in recent years, emphasize the importance attributed by the legislature to the principle of gender equality, both in terms of salary and in other aspects relating to labor relations. Employers should therefore recognize the importance of gender equality in the workplace, both in light of the legislation and the fundamental principles of the Israeli legal system, and work to implement these principles.

Please seek appropriate legal advice prior to taking action in respect of the foregoing matters.

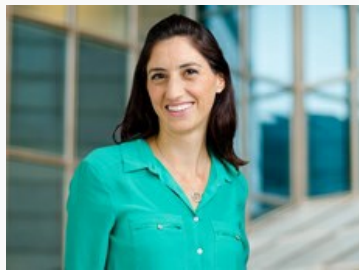
Contact Information



Hila Silverstein, Partner
Employment and Benefits
+972-3-6103183
hilas@meitar.com



Rami Landa, Partner
Employment and Benefits
+972-3-6103152
ramil@meitar.com



Lilach Shacham Kaneti, Partner
Employment and Benefits
+972-3-6103899
lilachk@meitar.com



Hedvat Yanko Wollman, Partner
Employment and Benefits
+972-3-6103898
hyanko@meitar.com



David Apfeldorf, Associate
Employment and Benefits
+972-3-6103100
davida@meitar.com

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