

NEW YORK CITY COUNCIL DELAYS EFFECTIVE DATE OF PAY TRANSPARENCY LAW TO NOVEMBER 1, 2022

Hodgson Russ Labor & Employment Alert
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On April 28, 2022, the New York City Council amended the City's recently enacted pay transparency law to delay its effective date from May 15, 2022 to November 1, 2022 (the "Amended Law"). As discussed in our previous [client alert](#), the new pay transparency law (the "New Law") amends the New York City Human Rights Law ("NYCHRL") to require that employers disclose a salary range for positions in all job postings, including postings for promotion or transfer opportunities for current employees.

The Amendments

In addition to the Amended Law pushing back the implementation of the New Law to November 1, 2022, the Amended Law made a few other adjustments to the New Law. First, it clarifies that jobs that pay an hourly wage (as opposed to a salary) are also subject to the wage disclosure requirement. Second, the Amended Law states that the salary disclosure requirement does NOT apply to positions that cannot or will not be performed, at least in part, in New York City. This provision implies that the Amended Law applies to positions that *can* be performed in New York City, whether remotely or in person. Accordingly, even if a business does not have a physical location in New York City, its job postings for remote positions must disclose the salary range, so long as the business has four or more employees, at least one employee works in New York City, and it is possible that the new remote hire will work in New York City. Third, the Amended Law eliminates the private right of action for applicants to bring a lawsuit against an employer for violation of the law. Current employees, however, are still permitted to bring an action in court against their employer for advertising (via a posting or otherwise) a job, promotion, or transfer opportunity without posting a minimum and maximum hourly wage or annual salary. The Amended Law, moreover, states that employers will not face penalties for a first-time violation, and employers will have 30 days to correct the violation.

Notably, the Amended Law provides no exception for small employers. Accordingly, the New Law, as amended, will apply to all employers covered by the New York City Human Rights Law. The New York City Commission on Human Rights takes the position that the NYCHRL covers all employers, with at least one employee in New

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York City, that have four or more employees (or one or more domestic workers). All four employees do not have to be located in New York City for the NYCHRL to apply, according to the Commission.

Next Steps for Employers

The delayed implementation date provides a respite for employers, and enables them to prepare better for the New Law, as amended, to go into effect on November 1. At this time, employers should begin reviewing their current job advertisements (including internal promotion and transfer opportunities, listings on bulletin boards, business intranets, and on the internet) that they post for positions physically located in New York City for employees and independent contractors. All such advertisements should be updated to include the minimum and maximum salary or rate of pay for each position. Employers, moreover, should consider documenting salary ranges for all positions with incumbents currently working in New York City to assist in making good-faith salary range determinations for open positions.

If you have any questions about this new Local Law requiring the posting of salary or rate of pay ranges, please contact [Charles H. Kaplan](#) (646.218.7513), [Monaliza Rainwater](#) (646.218.7542), or any other member of our [Labor & Employment Practice](#).