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2nd SESSION, 66th GENERAL ASSEMBLY
Province of Prince Edward Island
70 ELIZABETH II, 2021

(Bill No. 119)

An Act to Amend the Employment Standards Act

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MLA

PRIVATE MEMBER'S BILL

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**For House
Use Only**

**Prince Edward Island
Legislative Assembly**

ASSEMBLY / SESSION / YEAR
66th General Assembly / 2nd / 2021

AMENDMENTS

BILL NUMBER: 119

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TITLE: An Act to Amend the Employment Standards Act

#	SECTION	AMENDMENT	DATE

NOTED:

CERTIFIED CORRECT:

COMMITTEE CLERK

CHAIR, IN COMMITTEE



AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT (NO. 4)

BILL NO. 119

2021

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Clause 1(a) of the *Employment Standards Act* R.S.P.E.I. 1988, Cap. E-6.2, is repealed and the following substituted:**
 - (a) “**applicant**” means an individual who applies for employment with an employer, other than an individual who is an employee of the employer at the time of applying;
 - (a.1) “**board**” means the Employment Standards Board established under this Act;
2. **Clause 2(4)(d) of the Act is amended by the deletion of the words “pay, protection of pay and payroll records as contained in sections 5.1 to 5.3, 5.6, subsection 30(1) and sections 31, 32 and 39.1” and the substitution of the words “pay, protection of pay, payroll records and pay transparency as contained in sections 5.1 to 5.3, 5.6, 5.10, subsection 30(1), and sections 31, 32 and 39.1”.**
3. **The Act is amended by the addition of the following after section 5.7:**

PAY TRANSPARENCY

5.8 Pay history

- (1) No employer shall seek pay history information about an applicant by any means, whether personally or through an agent.

Unprompted disclosure

- (2) Nothing in this section prohibits an applicant from voluntarily and without prompting disclosing pay history information to an employer or an employer’s agent.

Comparable pay

- (3) Nothing in this section prohibits an employer from seeking information about the ranges of pay or aggregate pay provided for positions comparable to the position for which the applicant is applying.

Use of information

- (4) Where an applicant has made a disclosure of pay history information described in subsection (2) or the employer has obtained information described in subsection (3), nothing in this section prohibits the employer from considering or relying on such information in determining pay for the applicant.

Exception, public information

- (5) This section does not apply to pay history information that is publicly available.

5.9 Pay range information

- (1) In this section “**publicly advertised job posting**” means an external job posting for a specific job that an employer advertises to the general public in any manner, but for greater certainty does not include recruitment campaigns, general help wanted signs or positions that are only advertised to existing employees of the employer.

Required information

- (2) Every employer who publishes a publicly advertised job posting shall include in the posting information about the expected pay for the position or the range of expected pay for the position.

5.10 Anti-reprisal

No employer or person acting on behalf of an employer shall intimidate, dismiss or otherwise penalize an employee or threaten to do so because the employee has

- (a) made inquiries to the employer about the employee’s pay, or made inquiries or requested information relating to the employer’s pay policies;
- (b) disclosed the employee’s pay to another employee;
- (c) given information about the employer’s compliance or non-compliance with the requirements of sections 5.8, 5.9 or this section to the Department; or
- (d) asked the employer to comply with sections 5.8, 5.9 or this section.

4. Section 30 of the Act is amended

- (a) **by the addition of the following after subsection (2):**

Complaint respecting pay transparency

- (2.1) Where an employer has failed to comply with section 5.10, the employee may, within twelve months of the alleged violation, make a complaint to an inspector, who may make a determination in the matter.
- (b) **in subsection (3), by the deletion of the words “subsection (2)” and the substitution of the words “subsection (2) or (2.1)”;**
 - (c) **in subsection (4), by the deletion of the words “subsection (1) or (2)” and the substitution of the words “subsection (1), (2) or (2.1)”.**
 - (d) **in subsection (11), by the deletion of the words “subsection (1) or (2)” and the substitution of the words “subsection (1), (2) or (2.1)”.**



- 4. The moneys required for the purpose of this Act shall be paid out of moneys appropriated for that purpose by the Legislature.**
- 5. This Act comes into force on June 1, 2022.**



EXPLANATORY NOTES

SECTION 1 adds a definition of “applicant to the *Employment Standards Act*.

SECTION 2 amends clause 2(4)(d) of the Act to establish that provisions relating to pay transparency as contained in section 5.10 apply to employees whose terms and conditions of work are established by a collective agreement pursuant to the *Labour Act*.

SECTION 3 amends the Act to establish a new section 5.8, which prohibits an employer from seeking pay history information about an applicant but provides that where an applicant has made a voluntary disclosure of pay history or the employer has obtained information about salary ranges nothing prohibits the employer from considering or relying on such information in determining pay for the applicant; establish a new section 5.9, which requires every employer who publicly advertises a job posting to include in the posting information about the expected pay or the range of expected pay for the position; and establish a new section 5.10, which prohibits employers or persons acting on behalf of an employer from intimidating, dismissing or otherwise penalizing an employee or threatening to do so because the employee has done any of a variety of lawful activities listed in that section.

SECTION 4 amends section 30 of the Act to authorize an employee to make a complaint to an inspector where an employer has failed to comply with section 5.10 of the Act and to update other subsections to include references to the new subsections.

SECTION 5 provides for the moneys needed for the purpose of this Act to be paid out of moneys appropriated for that purpose by the Legislature.

SECTION 6 provides for the commencement of this Act.



(Bill No. 119)

An Act to Amend the Employment Standards Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Colin LaVie, Speaker

Joseph Jeffrey, Clerk

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PRIVATE MEMBER'S BILL

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