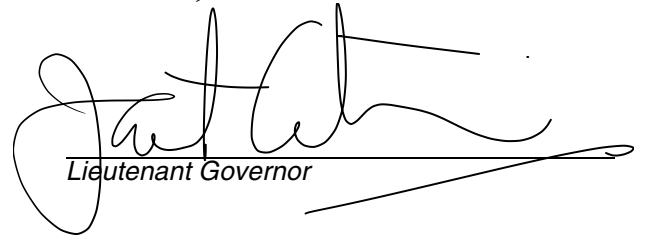


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 576

, Approved and Ordered October 23, 2023



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Pay Transparency Regulation is made.



Minister of Finance



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Pay Transparency Act, S.B.C. 2023, c. 18, s. 13 (2)*

Other: _____

R10697011

PAY TRANSPARENCY REGULATION

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Definitions and interpretation

- 1** (1) In this regulation:

“**Act**” means the *Pay Transparency Act*;

“**bonus pay**” means any of the following:

- (a) pay as defined in paragraphs (b) and (c) of the definition of “pay” in the Act;
- (b) a bonus received by an employee in the form of securities;
- (c) money received by an employee as a commission;

“**employee**” means an employee of a reporting employer;

“**gender category**”, in relation to an employee, means the applicable category set out in subsection (2);

“**hourly rate of pay**”, in relation to an employee, means the amount determined under subsection (3);

“**NAICS code**” means the North American Industry Classification System Canada 2022 sector code that applies to the greatest number of employees of a reporting employer;

“**ordinary pay**” means any of the following:

- (a) money paid as salary;
- (b) money paid for an employee’s usual hours of work;
- (c) money paid for hours worked in excess of an employee’s usual hours of work, if the money is not overtime pay;

“**overtime hours**” means hours worked for which an employee receives overtime pay;

“**overtime pay**” means money paid to an employee if

- (a) the money is for hours worked in excess of the employee’s usual hours of work, and

(b) the money is based on a rate of pay that is at least 1.5 times the rate of pay applicable to the employee's usual hours of work;

“reference category”, in relation to a pay transparency report, means the applicable gender category determined under subsection (4);

“reporting period”, in relation to a pay transparency report, means the applicable 12-month period described in section 4.

- (2) The following are the gender categories that apply in relation to reporting requirements under this regulation:
 - (a) Man, for an employee who identifies as a man;
 - (b) Woman, for an employee who identifies as a woman;
 - (c) Non-binary, for an employee who identifies as non-binary;
 - (d) Unknown, for an employee
 - (i) who does not identify as being in a gender category set out in paragraph (a), (b) or (c),
 - (ii) who does not wish to specify which gender category applies, or
 - (iii) about whom the reporting employer does not have information respecting the employee's gender category.
- (3) For the purposes of this regulation, an employee's hourly rate of pay for a reporting period is to be determined by dividing the total amount of ordinary pay received by the employee during the reporting period by the number of hours for which the employee received ordinary pay during that reporting period.
- (4) For the purposes of preparing a pay transparency report, the reference category is
 - (a) the gender category Man, if there are 10 or more employees in that gender category,
 - (b) the gender category Unknown, if there are fewer than 10 employees in the gender category Man and 10 or more employees in the gender category Unknown, or
 - (c) the gender category Non-binary, if
 - (i) there are 10 or more employees in the gender category Non-binary, and
 - (ii) there are fewer than 10 employees in both the gender category Man and the gender category Unknown.
- (5) Despite subsection (4) (a), if there are fewer than 10 employees in each of the gender categories Man, Non-binary and Unknown then there is no reference category.
- (6) For greater certainty, bonus pay includes
 - (a) a holiday bonus,
 - (b) a year-end bonus, and
 - (c) money that relates to profit-sharing.

Information to be collected by reporting employers

- 2** For the purposes of section 6 (1) (a), (b) and (c) of the Act, the prescribed information is the gender category of each employee of the reporting employer.

Information to be included in pay transparency reports

- 3** (1) For the purposes of section 5 (a) of the Act, the following is the prescribed information that must be included in a pay transparency report:
 - (a) the name of the reporting employer;
 - (b) the reporting employer's mailing address;
 - (c) the applicable NAICS code;
 - (d) the dates on which the reporting period began and ended;
 - (e) the number of employees of the reporting employer as of January 1 in the year the pay transparency report is prepared, expressed in terms of one of the following ranges as applicable:
 - (i) 50 to 299 employees;
 - (ii) 300 to 999 employees;
 - (iii) 1 000 or more employees;
 - (f) the applicable reference category determined under section 1 (4);
 - (g) the information described in subsection (2), unless there is no reference category;
 - (h) subject to subsection (3),
 - (i) the percentage of employees in each gender category who received overtime pay during the reporting period, and
 - (ii) the percentage of employees in each gender category who received bonus pay during the reporting period.
- (2) Subject to subsection (3), the following information must be included in a pay transparency report:
 - (a) the difference between the mean hourly rate of pay of employees in the reference category and the mean hourly rate of pay of employees in each of the other gender categories, determined in accordance with section 5;
 - (b) the difference between the median hourly rate of pay of employees in the reference category and the median hourly rate of pay of employees in each of the other gender categories, determined in accordance with section 6;
 - (c) the difference between the mean amount of overtime pay of employees in the reference category who received overtime pay during the reporting period and the mean amount of overtime pay of employees in each of the other gender categories who received overtime pay during that reporting period, determined in accordance with section 7;
 - (d) the difference between the median amount of overtime pay of employees in the reference category who received overtime pay during the reporting period and the median amount of overtime pay of employees in each of the other gender categories who received overtime pay during that reporting period, determined in accordance with section 8;

- (e) the difference between the mean number of overtime hours of employees in the reference category who worked overtime hours during the reporting period and the mean number of overtime hours of employees in each of the other gender categories who worked overtime hours during that reporting period, determined in accordance with section 9;
 - (f) the difference between the median number of overtime hours of employees in the reference category who worked overtime hours during the reporting period and the median number of overtime hours of employees in each of the other gender categories who worked overtime hours during that reporting period, determined in accordance with section 10;
 - (g) the difference between the mean amount of bonus pay of employees in the reference category who received bonus pay during the reporting period and the mean amount of bonus pay of employees in each of the other gender categories who received bonus pay during that reporting period, determined in accordance with section 11;
 - (h) the difference between the median amount of bonus pay of employees in the reference category who received bonus pay during the reporting period and the median amount of bonus pay of employees in each of the other gender categories who received bonus pay during that reporting period, determined in accordance with section 12;
 - (i) the information described in section 13.
- (3) A reporting employer must not include any of the following information in a pay transparency report:
- (a) the information described in subsections (1) (h) and (2) (a) to (h) respecting a gender category in which there are fewer than 10 employees;
 - (b) if there is only one gender category in which there are 10 or more employees, the information described in subsection (1) (h) and section 13.
- (4) If subsection (3) (a) or (b) applies, the reporting employer must, in the pay transparency report, include a statement that explains why the subsection applies.
- (5) The information that a reporting employer is required to include in a pay transparency report must, to the extent practicable, be set out in the following order:
- (a) the information described in section 3 (1) (a) to (f);
 - (b) the information described in section 3 (2) (a) to (f);
 - (c) the information described in section 3 (1) (h) (i);
 - (d) the information described in section 3 (2) (g) and (h);
 - (e) the information described in section 3 (1) (h) (ii);
 - (f) the information described in section 13.

Time periods respecting pay transparency reports

- 4** A pay transparency report must, at the option of the reporting employer, cover one of the following 12-month periods:
- (a) the most recently completed financial year of the reporting employer;

- (b) the calendar year immediately preceding the year in which the pay transparency report is prepared.

Differences between gender categories – mean hourly rates of pay

- 5 The difference between the mean hourly rate of pay of employees in the reference category and the mean hourly rate of pay of employees in each of the other gender categories is to be determined by taking the following steps in sequence:
 - (a) calculate the hourly rate of pay for each employee in the manner described in section 1 (3);
 - (b) for each gender category, add the hourly rate of pay for each employee in the gender category and divide the total by the number of employees in that gender category;
 - (c) for each gender category other than the reference category, subtract the amount determined under paragraph (b) from the amount determined under paragraph (b) for the reference category;
 - (d) divide each amount determined under paragraph (c) by the amount determined under paragraph (b) for the reference category;
 - (e) multiply each amount determined under paragraph (d) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the mean hourly rate of pay of employees in the reference category and the mean hourly rate of pay of employees in the other gender category.

Differences between gender categories – median hourly rates of pay

- 6 The difference between the median hourly rate of pay of employees in the reference category and the median hourly rate of pay of employees in each of the other gender categories is to be determined by taking the following steps in sequence:
 - (a) calculate the hourly rate of pay for each employee in the manner described in section 1 (3);
 - (b) for each gender category, list the hourly rate of pay for each employee in the gender category from lowest to highest, and
 - (i) if there is an odd number of employees in the list, the median hourly rate of pay for employees in the gender category is the hourly rate of pay in the middle of the list, and
 - (ii) if there is an even number of employees in the list, the median hourly rate of pay for employees in the gender category is the amount that is half-way between the two hourly rates of pay in the middle of the list;
 - (c) for each gender category other than the reference category, subtract the rate of pay determined under paragraph (b) from the median hourly rate of pay determined under paragraph (b) for the reference category;
 - (d) divide each amount determined under paragraph (c) by the rate of pay determined under paragraph (b) for the reference category;
 - (e) multiply each amount determined under paragraph (d) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the median hourly rate of pay of

employees in the reference category and the median hourly rate of pay of employees in the other gender category.

Differences between gender categories – mean overtime pay for reporting period

- 7 The difference between the mean amount of overtime pay of employees in the reference category who received overtime pay during a reporting period and the mean amount of overtime pay of employees in each of the other gender categories who received overtime pay during that reporting period is to be determined by taking the following steps in sequence:
- (a) for each gender category, add the total amount of overtime pay of all employees in the gender category who received overtime pay during the reporting period and divide the total by the number of employees in that gender category who received overtime pay during the reporting period;
 - (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category;
 - (c) divide each amount determined under paragraph (b) by the amount determined under paragraph (a) for the reference category;
 - (d) multiply each amount determined under paragraph (c) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the mean amount of overtime pay received by employees in the reference category who received overtime pay during the reporting period and the mean amount of overtime pay received by employees in the other gender category who received overtime pay during that reporting period.

Differences between gender categories – median overtime pay for reporting period

- 8 The difference between the median amount of overtime pay of employees in the reference category who received overtime pay during a reporting period and the median amount of overtime pay of employees in each of the other gender categories who received overtime pay during that period is to be determined by taking the following steps in sequence:
- (a) for each gender category, list from lowest to highest the overtime pay received by each employee in the gender category who received overtime pay during the reporting period, and
 - (i) if there is an odd number of employees in a list, the median amount of overtime pay for the gender category is the amount of overtime pay in the middle of the list, and
 - (ii) if there is an even number of employees in a list, the median overtime pay for the gender category is the amount of overtime pay that is half-way between the two amounts of overtime pay in the middle of the list;
 - (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category;

- (c) divide each amount determined under paragraph (b) by the amount determined under paragraph (a) for the reference category;
- (d) multiply each amount determined under paragraph (c) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the median amount of overtime pay received by employees in the reference category who received overtime pay during the reporting period and the median amount of overtime pay received by employees in the other gender category who received overtime pay during that reporting period.

Differences between gender categories – mean number of overtime hours for reporting period

- 9** The difference between the mean number of overtime hours of employees in the reference category who worked overtime hours during a reporting period and the mean number of overtime hours of employees in each of the other gender categories who worked overtime hours during that reporting period is to be determined by taking the following steps in sequence:
- (a) for each gender category, add the total number of overtime hours of employees in the gender category who worked overtime hours during the reporting period and divide the total by the number of employees in that gender category who worked overtime hours during the reporting period;
 - (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category, and round the result to the nearest whole number, which whole number is the difference between the mean number of overtime hours of employees in the reference category who worked overtime hours during the reporting period and the mean number of overtime hours of employees in the other gender category who worked overtime hours during the reporting period.

Differences between gender categories – median number of overtime hours for reporting period

- 10** The difference between the median number of overtime hours of employees in the reference category who worked overtime hours during a reporting period and the median number of overtime hours of employees in each of the other gender categories who worked overtime hours during that reporting period is to be determined by taking the following steps in sequence:
- (a) for each gender category, list from lowest to highest the number of overtime hours of each employee in the gender category who worked overtime hours during the reporting period, and
 - (i) if there is an odd number of employees in a list, the median number of overtime hours for the gender category is the number in the middle of the list, and
 - (ii) if there is an even number of employees in a list, the median number of overtime hours for the gender category is the number that is half-way between the two numbers in the middle of the list;

- (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category, and round the result to the nearest whole number, which whole number is the difference between the median number of overtime hours of employees in the reference category who worked overtime hours during the reporting period and the median number of overtime hours of employees in the other gender category who worked overtime hours during the reporting period.

Differences between gender categories – mean bonus pay for reporting period

11 The difference between the mean amount of bonus pay of employees in the reference category who received bonus pay during a reporting period and the mean amount of bonus pay of employees in each of the other gender categories who received bonus pay during that reporting period is to be determined by taking the following steps in sequence:

- (a) for each gender category, add the total amount of bonus pay of all employees in the gender category who received bonus pay during the reporting period and divide the total by the number of employees in that gender category who received bonus pay during the reporting period;
- (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category;
- (c) divide each amount determined under paragraph (b) by the amount determined under paragraph (a) for the reference category;
- (d) multiply each amount determined under paragraph (c) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the mean amount of bonus pay of employees in the reference category who received bonus pay during the reporting period and the mean bonus pay of employees in the other gender category who received bonus pay during the reporting period.

Differences between gender categories – median bonus pay for reporting period

12 The difference between the median amount of bonus pay of employees in the reference category who received bonus pay during a reporting period and the median amount of bonus pay of employees in each of the other gender categories who received bonus pay during that reporting period is to be determined by taking the following steps in sequence:

- (a) for each gender category, list from lowest to highest the amount of bonus pay received by each employee in the gender category who received bonus pay during the reporting period, and
 - (i) if there is an odd number of employees in a list, the median amount of bonus pay for the gender category is the amount in the middle of the list, and
 - (ii) if there is an even number of employees in a list, the median amount of bonus pay for the gender category is the number that is half-way between the two amounts in the middle of the list;

- (b) for each gender category other than the reference category, subtract the amount determined under paragraph (a) from the amount determined under paragraph (a) for the reference category;
- (c) divide each amount determined under paragraph (b) by the amount determined under paragraph (a) for the reference category;
- (d) multiply each amount determined under paragraph (c) by 100 and round the result to the nearest whole number, which whole number is the difference, expressed as a percentage, between the median amount of bonus pay of employees in the reference category who received bonus pay during the reporting period and the median amount of bonus pay of employees in the other gender category who received bonus pay during the reporting period.

Information about the percentage of employees in specified segments

- 13**
- (1) The reporting employer must, for the purpose of preparing a pay transparency report,
 - (a) rank all of its employees from the lowest hourly rate of pay to the highest hourly rate of pay, and
 - (b) divide the employees, as ranked under paragraph (a), into four segments, each containing an equal number of employees or as close as is possible to an equal number of employees.
 - (2) If, in respect of the division of employees into segments under subsection (1) (b), employees with the same hourly rate of pay could be allocated to more than one segment, the employer must, in respect of those employees, allocate an equal number, or as close as is possible to an equal number, of employees from each gender category into each of those segments.
 - (3) For each segment into which employees are divided, the reporting employer must specify the percentage of employees who are in each of the gender categories, unless subsection (4) applies.
 - (4) If, in respect of a segment into which employees are divided, a gender category has fewer than 10 employees in the segment, the reporting employer must not specify the percentage of employees who are in that gender category in that segment.
 - (5) For the purpose of calculating the percentage of employees who are in a gender category in a segment, the number of employees in the respective segment must be reduced by the number of employees in that segment who are in gender categories consisting of fewer than 10 employees.
 - (6) If, in accordance with subsection (5), the total number of employees in a segment is reduced, the reporting employer must, in the pay transparency report, state that this has been done.