

# British Columbia Pay Transparency Regulation Provides Information On Preparing Pay Transparency Reports



- New regulation provides guidance on the implementation of British Columbia, Canada's Bill 13, *Pay Transparency Act*, which requires covered employers to prepare and make public a pay transparency report.
- The Regulation provides that reporting employers must make reasonable efforts to collect prescribed gender information from their employees, and clarifies what information must be included in a pay transparency report.

By way of [Order in Council](#) approved and ordered on October 23, 2023, British Columbia's *Pay Transparency Regulation* (Regulation) was made. The Regulation provides information about how pay transparency reports are to be prepared.

## Background

British Columbia's [Bill 13, Pay Transparency Act](#) (Act) [received Royal Assent](#) on May 11, 2023. The Act provides that "reporting employers" are required, **on or before November 1 of each year**, to prepare a pay transparency report, and publish it on a publicly accessible website as soon as practicable after the report's completion. If the employer does not have a publicly accessible website, it must make a copy of the report available to its employees in at least one conspicuous place in each of its workplaces and make a copy available to any member of the public who requests one.

The Act establishes that specified employers will be "reporting employers" effective November 1, 2023. Other employers will be "reporting employers" on November 1 of subsequent years; the specific subsequent year will depend on the minimum number of employees they have on January 1 of that year:

- **November 1, 2023:** the government of British Columbia; British Columbia Housing Management Commission; British Columbia Hydro and Power Authority; British Columbia Lottery Corporation; British Columbia Transit; Insurance Corporation of British Columbia; Workers' Compensation Board.
- **November 1, 2024:** an employer that has 1,000 or more employees on January 1, 2024.
- **November 1, 2025:** an employer that has 300 or more employees on January 1, 2025.
- **November 1, 2026:** an employer that has 50 or more employees on January 1, 2026.
- **November 1 of a year after 2026:** an employer that has more than the lesser of 49

or any prescribed number of employees on January 1 of that year.

## Gender Information

The Regulation provides that to prepare a pay transparency report, reporting employers must make reasonable efforts to collect prescribed gender information from their employees during the first year they must prepare a pay transparency report and whenever an individual becomes an employee.

Reporting employers must also provide an opportunity for employees to provide or update information about their “gender category” at least once each calendar year. An employee’s disclosure of their “gender category” is voluntary; employees can decline to give their gender information to their employer.

The Regulation also provides that the gender information to be collected is the “gender category” of each employee and the following gender categories apply:

- “Man” – for an employee who identifies as a man.
- “Woman” – for an employee who identifies as a woman.
- “Non-binary” – for an employee who identifies as non-binary.
- “Unknown” – for an employee who does not identify as a man, woman, or non-binary individual, who does not wish to specify their gender category, or about whom the employer does not have information respecting the employee’s gender category.

## Reference Categories

For the purposes of preparing a pay transparency report, the reference category is:

1. the gender category Man, if there are 10 or more employees in that gender category;
2. 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
3. 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.

If, however, there are fewer than 10 employees in each of the gender categories Man, Non-binary and Unknown, there is no reference category.

## Information That Must be Included in Pay Transparency Report

The Regulation clarifies that the following “prescribed information” must be included in a pay transparency report:

- The reporting employer’s name;
- The reporting employer’s mailing address;
- The North American Industry Classification Canada 2022 sector code (**NAICS code**) that applies to the greatest number of the reporting employer’s employees;
- The dates on which the 12-month reporting period began and ended; the 12-month reporting period must correspond with (i) the most recently completed financial year, or (ii) the calendar year immediately preceding the year in which the report is made;
- The number of employees of the reporting employer as of January 1 in the year the report is prepared, expressed in one of the following ranges: 50-299 employees; 300-999 employees; or 1,000 or more employees;
- The percentage of employees in each gender category that received overtime pay

or bonus pay (unless there are fewer than 10 employees in a gender category or there is only one gender category in which there are 10 or more employees);

- Except where there are fewer than 10 employees in a gender category or there is no reference category:
  - The difference between the mean and median hourly rate of pay of employees in the reference category and each of the other gender categories;
  - The difference between the mean and median amounts of overtime pay of employees who received overtime pay during the reporting period in the reference category and each of the other gender categories;
  - The difference between the mean and median amounts of overtime hours of employees who worked overtime hours during the reporting period in the reference category and each of the other gender categories; and
  - The difference between the mean and median amounts of bonus pay of employees who received bonus pay during the reporting period in the reference category and each of the other gender categories. Bonus pay includes a holiday bonus, a year-end bonus, money that relates to profit-sharing, a bonus received by an employee in the form of securities, or money received by an employee as a commission.

The Regulation explains how to determine and express the differences in hourly rate of pay, overtime pay, and bonus pay.

In preparing the report, reporting employers must rank all of their employees by pay from lowest to highest hourly rate of pay, and divide them into four segments that are equal in number of employees, or as close as is possible to an equal number of employees. For each segment, the reporting employer must specify the percentage of employees in each gender category, except if a gender category has fewer than 10 employees in the segment. If, however, there is only one gender category with 10 or more employees, this information is not included.

## **Format**

The information that a reporting employer must include in a pay transparency report must, to the extent practicable, be set out in the order specified at section 3(5) of the *Regulation*.

## **Online Reporting Tool**

The Government of British Columbia has stated that an online reporting tool is in development to assist reporting employers in preparing their pay transparency reports.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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