



STATUTORY INSTRUMENTS.

S.I. No. 264 of 2022

EMPLOYMENT EQUALITY ACT 1998 (SECTION 20A) (GENDER PAY
GAP INFORMATION) REGULATIONS 2022

EMPLOYMENT EQUALITY ACT 1998 (SECTION 20A) (GENDER PAY GAP INFORMATION) REGULATIONS 2022

I, RODERIC O'GORMAN, Minister for Children, Equality, Disability, Integration and Youth, in exercise of the powers conferred on me by section 20A (inserted by section 2 of the Gender Pay Gap Information Act 2021 (No. 20 of 2021)) of the Employment Equality Act 1998 (No. 21 of 1998) and the Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020 (S.I. No. 436 of 2020) (as adapted by the Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 437 of 2020)), hereby make the following regulations:

Part 1

Preliminary and General

Citation and commencement

1. (1) These Regulations may be cited as the Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) Regulations 2022.
- (2) These Regulations shall come into operation on 31 May 2022.

Part 2

Interpretation

Definitions

2. In these Regulations –

“allowance” means a sum of money payable to a relevant employee in relation to –

- (a) an ancillary duty of the employee,
- (b) the travel he or she is obliged to undertake to his or her place of work or to other locations by virtue of his or her employment duties or responsibilities,
- (c) the purchase, lease or maintenance of a vehicle used by the employee for the purposes of his or her employment,
- (d) his or her recruitment and retention by a relevant employer, or
- (e) the purchase, lease or maintenance of an item relating to the employee’s employment,

but does not include sums payable to the relevant employee by way of reimbursement of expenditure wholly and necessarily incurred by him or her in the course of his or her employment;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 3rd June, 2022.*

“benefit in kind” includes any non-cash benefit of an estimated monetary value;

“bonus remuneration” shall be construed in accordance with Regulation 5;

“hourly remuneration” shall be construed in accordance with Regulation 3;

“ordinary pay” means the following types of remuneration, payable to a relevant employee, before any statutory deductions are made -

- (a) basic pay,
- (b) allowances,
- (c) pay for piece-work,
- (d) shift premium pay, or
- (e) overtime pay,

but does not include -

- (i) remuneration referable to redundancy or termination of employment, or
- (ii) remuneration other than money;

“part-time employee” has the same meaning as in Part 2 of the Protection of Employees (Part-Time Work) Act 2001 (No. 45 of 2001);

“piece-work” means work in respect of which a relevant employee is entitled to be paid by reference to the number of pieces made or processed, or the number of tasks performed, by the employee, rather than by reference to a period of time worked;

“relevant date” means the date, in the month of June each year, that is selected by a relevant employer for the purposes of these Regulations;

“relevant employee” means an employee of a relevant employer on the relevant date and includes a part-time employee;

“relevant employer” means an employer who employs not less than 250 employees on the relevant date;

“relevant pay period” means the period of 12 months ending on the relevant date;

“shift premium pay” means the difference between basic pay and any higher rate paid by an employer for work during different times of the day or night;

“total number of working hours” shall be construed in accordance with Regulation 4;

“working hours” means the hours when a relevant employee is available, or required to be available, at or near his or her place of employment for the purposes of working, but does not include the hours when the relevant employee is asleep, notwithstanding that the relevant employee, by arrangement, sleeps at or near his or her place of employment and the relevant employer provides suitable sleeping facilities for that relevant employee.

Hourly remuneration

3. For the purposes of these Regulations, a relevant employer shall determine the hourly remuneration paid to a relevant employee in accordance with the following procedure:

- (a) subject to subparagraphs (b) and (c), a relevant employer shall—
 - (i) identify all amounts of ordinary pay and bonus remuneration paid to a relevant employee during the relevant pay period,
 - (ii) add together the amount of ordinary pay and amount of bonus remuneration or adjusted bonus remuneration, as the case may be, and
 - (iii) divide the sum of the amounts referred to in clause (ii) by the total number of working hours worked by the relevant employee during the relevant pay period;
- (b) where a relevant employer has identified, in accordance with subparagraph (a)(i), an amount of ordinary pay, he or she shall, for the purposes of a determination in accordance with this Regulation, exclude from the amount of ordinary pay any amount of such pay payable in relation to work done or carried out during a period other than the relevant pay period;
- (c) where a relevant employer has identified, in accordance with subparagraph (a)(i), an amount of bonus remuneration and the amount of bonus remuneration so identified was paid in respect of a period (in this Regulation referred to as the “bonus period”) that is not of the same duration, in days, as the relevant pay period, he or she shall, for the purposes of the determination, calculate an amount (in this Regulation referred to as the “adjusted bonus remuneration”) in the following manner:
 - (i) divide the amount of bonus remuneration identified in accordance with subparagraph (a) by the number of days in the bonus period;
 - (ii) multiply the amount determined under clause (i) by the number of days in the relevant pay period.

Total number of working hours

4. (1) For the purposes of these Regulations, the total number of working hours of a relevant employee during a relevant pay period shall -

- (a) where his or her working hours are fixed or do not differ from week to week or over a longer period, be the number of working hours that are specified in his or her contract of employment, which is in force on the relevant date,
- (b) where his or her working hours are not fixed or differ from week to week -

- (i) subject to paragraph (2), in relation to a relevant employee who has worked for not less than 12 weeks during the relevant pay period, be determined in accordance with the following formula:

$$\frac{A}{12} \times 52.14$$

where –

A is the total number of working hours of the employee during the period of 12 weeks ending with the last full week of the relevant pay period, or

- (ii) in relation to a relevant employee who has worked for less than 12 weeks during the relevant pay period or it is not reasonably possible for the relevant employer concerned to calculate the total number of working hours of the relevant employee concerned during the relevant pay period concerned, be a number that fairly represents that employee's number of working hours in a year, having regard to –

- (I) the average number of working hours in a week that the employee could expect to work under his or her contract of employment or terms of employment, and
- (II) the average number of working hours in a week of other employees engaged in comparable employment for the same relevant employer, and

- (c) where the relevant employee concerned is paid remuneration by the relevant employer on the basis of piece-work, the number of hours worked by that employee while working on a piece-work basis in the relevant pay period concerned.

- (2) For the purposes of clause (i) of paragraph (1)(b) –

- (a) a relevant employer shall not take account of a week in which no hours were worked by a relevant employee, and
- (b) where, in relation to a particular week in the 12 week period referred to in that clause, no hours were worked by a relevant employee, a relevant employer shall include the hours from an earlier week in which the employee worked so that 'A' shall always relate to the hours worked in a 12 week period.

Bonus remuneration

5. (1) For the purposes of these Regulations, remuneration that –

- (a) is in the form of money, vouchers or shares, share options or interests in shares provided to a relevant employee, and
- (b) relates to profit sharing, productivity, performance, incentive or commission,

before any statutory deductions are made, but does not include –

- (i) ordinary pay,
- (ii) overtime pay,
- (iii) remuneration referable to redundancy or termination of employment, or
- (iv) benefits in kind,

shall be known as bonus remuneration.

(2) Remuneration in the form of shares shall be deemed to be paid to a relevant employee –

- (a) when such remuneration is provided to him or her, and
- (b) at the value of the share when it was issued.

(3) In this Regulation, “shares” includes share options and interests in shares.

Part 3

Form and manner of publication

Manner and timing of publication of information and relevant report

6. (1) A relevant employer shall, each year and not later than 6 months after the relevant date, publish or make available in the manner specified in paragraph (2), the following information regarding his or her relevant employees in relation to the relevant pay period concerned:

- (a) the information specified in –
 - (i) Regulation 7(1),
 - (ii) Regulation 8(1),
 - (iii) Regulation 9(1), and
 - (iv) Regulation 10(1);
 - (b) where the information specified in Regulation 7(1), 8(1), 9(1) or 10(1) shows differences relating to remuneration that are referable to gender, a relevant report.
- (2) A relevant employer shall –
- (a) publish the information referred to in paragraph (1)(a) and a relevant report (where required under paragraph (1)(b)) on the relevant employer’s website in a manner that is accessible to all the relevant employer’s employees and the public, or
 - (b) where the relevant employer does not have a website, make the information referred to in paragraph (1)(a) and a relevant report (where required under paragraph (1)(b)) available in physical form for inspection during normal business hours by the relevant employer’s employees and the public at the relevant employer’s registered office or principal place of business.

(3) A relevant employer shall ensure that the information referred to in paragraph (1)(a) and relevant report (where required under paragraph (1)(b)) remain on his or her website or available for inspection, as the case may be, in the manner specified in paragraph (2) for a period of not less 3 years from the date of their publication or on which they were made available, as the case may be.

(4) In this Regulation, “relevant report” means a written statement in which the following is set out:

- (a) in the relevant employer’s opinion, the reasons for the differences relating to remuneration that are referable to gender in that relevant employer’s case;
- (b) the measures (if any) being taken, or proposed to be taken, by the relevant employer concerned to eliminate or reduce such differences in that relevant employer’s case.

Part 4

Information to be published

Information relating to mean hourly remuneration

7. (1) The information, which is required to be published or made available under Regulation 6(1)(a)(i), shall contain the following:

- (a) the difference between the mean hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender expressed as a percentage of the mean hourly remuneration of relevant employees of the male gender;
- (b) the difference between the mean hourly remuneration of part-time employees of the male gender and that of part-time employees of the female gender expressed as a percentage of the mean hourly remuneration of part-time employees of the male gender;
- (c) the difference between the mean hourly remuneration of relevant employees of the male gender on temporary contracts and that of relevant employees of the female gender on such contracts expressed as a percentage of the mean hourly remuneration of relevant employees of the male gender on temporary contracts.

(2) For the purposes of subparagraphs (a), (b) and (c) of paragraph (1), the difference between the mean hourly remuneration of persons of the male gender and that of persons of the female gender, expressed as a percentage of the mean hourly remuneration of persons of the male gender, shall be determined in accordance with the following formula:

$$\frac{(A - B) \times 100}{A}$$

where –

- (a) in relation to paragraph (1)(a), A is the mean hourly remuneration of all relevant employees of the male gender, and B is the mean hourly remuneration of all relevant employees of the female gender,
- (b) in relation to paragraph (1)(b), A is the mean hourly remuneration of all part-time employees of the male gender, and B is the mean hourly remuneration of all part-time employees of the female gender, and
- (c) in relation to paragraph (1)(c), A is the mean hourly remuneration of all relevant employees of the male gender on temporary contracts, and B is the mean hourly remuneration of all relevant employees of the female gender on such contracts.

Information relating to median hourly remuneration

8. (1) The information, which is required to be published or made available under Regulation 6(1)(a)(ii), shall contain the following:

- (a) the difference between the median hourly remuneration of relevant employees of the male gender and that of relevant employees of the female gender expressed as a percentage of the median hourly remuneration of relevant employees of the male gender;
- (b) the difference between the median hourly remuneration of part-time employees of the male gender and that of part-time employees of the female gender expressed as a percentage of the median hourly remuneration of part-time employees of the male gender;
- (c) the difference between the median hourly remuneration of relevant employees of the male gender on temporary contracts and that of relevant employees of the female gender on such contracts expressed as a percentage of the median hourly remuneration of employees of the male gender on temporary contracts.

(2) For the purposes of subparagraphs (a), (b) and (c) of paragraph (1), the difference between the median hourly remuneration of persons of the male gender and that of persons of the female gender, expressed as a percentage of the median hourly remuneration of persons of the male gender, shall be determined in accordance with the following formula:

$$\frac{(A - B)}{A} \times 100$$

where -

- (a) in relation to paragraph (1)(a), A is the median hourly remuneration of relevant employees of the male gender, and B is

- the median hourly remuneration of relevant employees of the female gender,
- (b) in relation to paragraph (1)(b), A is the median hourly remuneration of part-time employees of the male gender, and B is the median hourly remuneration of part-time employees of the female gender, and
 - (c) in relation to paragraph (1)(c), A is the median hourly remuneration of relevant employees of the male gender on temporary contracts, and B is the median hourly remuneration of relevant employees of the female gender on such contracts.

Information relating to bonus remuneration and benefits in kind

9. (1) The information, which is required to be published or made available under Regulation 6(1)(a)(iii), shall contain the following:

- (a) the difference between the mean bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender, expressed as a percentage of the mean bonus remuneration of relevant employees of the male gender;
- (b) the difference between the median bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender, expressed as a percentage of the median bonus remuneration of relevant employees of the male gender;
- (c) the percentage of all relevant employees of the male gender who were paid bonus remuneration and the percentage of all relevant employees of the female gender who were paid such remuneration;
- (d) the percentage of all relevant employees of the male gender who received benefits in kind and the percentage of all relevant employees of the female gender who received such benefits.

(2) For the purposes of subparagraph (a) of paragraph (1), the difference between the mean bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender, expressed as a percentage of the mean bonus remuneration of relevant employees of the male gender, shall be determined in accordance with the following formula:

$$\frac{(A - B)}{A} \times 100$$

where –

A is the mean bonus remuneration of relevant employees of the male gender who were paid bonus remuneration during the relevant pay period, and

B is the mean bonus remuneration of relevant employees of the female gender who were paid bonus remuneration during the relevant pay period.

(3) For the purposes of subparagraph (b) of paragraph (1), the difference between the median bonus remuneration of relevant employees of the male gender and that of relevant employees of the female gender, expressed as a percentage of the median bonus remuneration of relevant employees of the male gender, shall be determined in accordance with the following formula:

$$\frac{(A - B) \times 100}{A}$$

where –

A is the median bonus remuneration of relevant employees of the male gender who were paid bonus remuneration during the relevant pay period, and

B is the median bonus remuneration of relevant employees of the female gender who were paid bonus remuneration during the relevant pay period.

(4) For the purposes of subparagraph (c) of paragraph (1), the percentage of all relevant employees of the male gender who were paid bonus remuneration shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees of the male gender who were paid bonus remuneration during the relevant pay period, and

B is the number of relevant employees of the male gender.

(5) For the purposes of subparagraph (c) of paragraph (1), the percentage of all employees of the female gender who were paid bonus remuneration shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees of the female gender who were paid bonus remuneration during the relevant pay period, and

B is the number of relevant employees of the female gender.

(6) For the purposes of subparagraph (d) of paragraph (1), the percentage of all employees of the male gender who received benefits in kind shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees of the male gender who received benefits in kind during the relevant pay period, and

B is the number of relevant employees of the male gender.

(7) For the purposes of subparagraph (d) of paragraph (1), the percentage of all employees of the female gender who received benefits in kind shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees of the female gender who received benefits in kind during the relevant pay period, and

B is the number of relevant employees of the female gender.

Information relating to quartile pay bands

10. (1) The information which is required to be published or made available under Regulation 6(1)(a)(iv) is the respective percentages of all relevant employees who fall within -

- (a) the lower remuneration quartile pay band,
- (b) the lower middle remuneration quartile pay band,
- (c) the upper middle remuneration quartile pay band, and
- (d) the upper remuneration quartile pay band,

(each of which is referred to in this Regulation as a “relevant quartile pay band”) who are of the male gender and who are of the female gender.

(2) For the purposes of paragraph (1), the percentage of relevant employees who fall within a relevant quartile pay band shall be determined by a relevant employer in accordance with the following procedure:

- (a) subject to paragraph (3), the hourly remuneration for each relevant employee shall be determined and those relevant employees placed in order from the lowest paid to the highest paid;
- (b) the relevant employees placed in order in accordance with paragraph (a) shall be divided into 4 parts (each of which is referred to in this Regulation as a “quartile pay band”), each comprising an equal number of relevant employees, and referred to as follows:
 - (i) the quartile of relevant employees with the lowest hourly pay shall be referred to as the lower remuneration quartile pay band;
 - (ii) the quartile of relevant employees with the second lowest hourly pay shall be referred to as the lower middle remuneration quartile pay band;
 - (iii) the quartile of relevant employees with the second highest hourly pay shall be referred to as the upper middle remuneration quartile pay band;

- (iv) the quartile of relevant employees with the highest hourly pay shall be referred to as the upper remuneration quartile pay band;
- (c) the percentage of relevant employees who fall within a relevant quartile pay band who are of the male gender shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees in the relevant quartile pay band concerned who are of the male gender, and

B is the number of relevant employees in the relevant quartile pay band concerned;

- (d) the percentage of relevant employees who fall within a relevant quartile pay band who are of the female gender shall be determined in accordance with the following formula:

$$\frac{A}{B} \times 100$$

where –

A is the number of relevant employees in the relevant quartile pay band concerned who are of the female gender, and

B is the number of relevant employees in the relevant quartile pay band concerned.

(3) Where relevant employees receiving the same hourly remuneration fall within more than one relevant quartile pay band, the relevant employer concerned shall, as far as possible, ensure that, in ordering the relevant employees in accordance with subparagraph (a) of paragraph (2), the relative proportion of male and female relevant employees receiving that rate of remuneration is the same in each of those relevant quartile pay bands.



GIVEN under my Official Seal,
30 May, 2022.

RODERIC O'GORMAN,
Minister for Children, Equality, Disability, Integration and
Youth.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
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