

## SCHEDULE 1

Regulation 3

### Gender pay gap reporting

#### 1.—(1) In this Schedule—

“bonus pay” has the meaning given in paragraph 4;

“full-pay relevant employee” means a relevant employee who is not, during the relevant pay period, being paid at a reduced rate or nil as a result of the employee being on leave;

“hourly rate of pay” has the meaning given in paragraph 6;

“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003<sup>(1)</sup>;

“leave” includes—

- (a) annual leave;
- (b) maternity, paternity, adoption, parental or shared parental leave;
- (c) sick leave; and
- (d) special leave;

“ordinary pay” has the meaning given in paragraph 3;

“pay period” has the meaning given in paragraph 5(1);

“piecework” means work in respect of which an employee is entitled to be paid by reference to a number of pieces made or processed, or a number of tasks performed, instead of by reference to a period of time worked;

“relevant employee” means a person who is employed by, (or in the case of Crown employment, under or for the purposes of) the relevant public authority on the snapshot date;

“relevant pay period” has the meaning given in paragraph 5(2);

“relevant public authority” means a public authority listed in Schedule 2 to these Regulations which has 250 or more employees on the snapshot date;

“snapshot date” means the 31st March in the year to which the information required by paragraph 2 relates.

(2) For the purposes of this Schedule, the amount of an employee’s ordinary pay or bonus pay is to be calculated before deductions made at source (for example deductions in relation to income tax).

#### **Duty to publish annual information relating to pay**

2.—(1) A relevant public authority must publish, for 2017 and each subsequent year, the following information—

- (a) the difference between the mean hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees (see paragraph 8);
- (b) the difference between the median hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees (see paragraph 9);
- (c) the difference between the mean bonus pay paid to male relevant employees and that paid to female relevant employees (see paragraph 10);
- (d) the difference between the median bonus pay paid to male relevant employees and that paid to female relevant employees (see paragraph 11);
- (e) the proportions of male and female relevant employees who were paid bonus pay (see paragraph 12); and

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(1) 2003 c. 1.

- (f) the proportions of male and female full-pay relevant employees in the lower, lower middle, upper middle and upper quartile pay bands (see paragraph 13).
- (2) The relevant public authority must publish the information required by sub-paragraph (1) within the period of 12 months beginning with the snapshot date.
- (3) In compiling the information required by sub-paragraph (1), a relevant public authority is not required to include data relating to a relevant employee if—
  - (a) the employee is employed under a contract personally to do work, and
  - (b) the public authority does not have, and it is not reasonably practicable for the public authority to obtain, the data.

### **Meaning of “ordinary pay”**

- 3.—(1) In this Schedule, “ordinary pay” means (subject to sub-paragraph (2))—
- (a) basic pay;
  - (b) allowances;
  - (c) pay for piecework;
  - (d) pay for leave; and
  - (e) shift premium pay.
- (2) “Ordinary pay” does not include—
- (a) remuneration referable to overtime;
  - (b) remuneration referable to redundancy or termination of employment;
  - (c) remuneration in lieu of leave; or
  - (d) remuneration provided otherwise than in money.
- (3) In sub-paragraph (1)—
- (a) “allowances” includes any sum paid with respect to—
    - (i) any duty of the employee, such as a duty in connection with the role of fire or bomb warden, that is ancillary to the main duties of the employee’s employment;
    - (ii) the location of the employment in a particular area;
    - (iii) the purchase, lease or maintenance of a vehicle;
    - (iv) the recruitment and retention of an employee; or
    - (v) the purchase, lease or maintenance of an item;
- but excludes any payment to reimburse expenditure wholly and necessarily incurred by the employee in the course of his or her employment;
- (b) “shift premium pay” means the difference between basic pay and any higher rate paid by the public authority for work during different times of the day or night.

### **Meaning of “bonus pay”**

- 4.—(1) In this Schedule, “bonus pay” means (subject to sub-paragraph (2)) any remuneration that—
- (a) is in the form of money, vouchers, securities, securities options or interests in securities, and
  - (b) relates to profit sharing, productivity, performance, incentive or commission.
- (2) “Bonus pay” does not include—

- (a) ordinary pay;
- (b) remuneration referable to overtime; or
- (c) remuneration referable to redundancy or termination of employment.

(3) For the purpose of sub-paragraph (1), remuneration in the form of securities, securities options and interests in securities, is to be treated as paid to the employee at the time, and in the amounts in respect of which, the securities, securities options and interests in securities give rise to (or would give rise to, if the employee were an employee for the purposes of Part 2 of ITEPA 2003 (employment income))—

- (a) any taxable earnings within the meaning of section 10(2) of ITEPA 2003(2); or
- (b) any taxable specific income within the meaning of section 10(3) of ITEPA 2003(3).

(4) In this paragraph “securities”, “securities options” and “interests in securities” have the same meaning as in section 420 of ITEPA 2003(4).

### **Meaning of the “pay period” and the “relevant pay period”**

5.—(1) In this Schedule, “pay period”, in relation to a relevant employee, means—

- (a) the period in respect of which the relevant public authority pays the employee basic pay, whether weekly, fortnightly, monthly or any other period, or
- (b) if the relevant public authority does not pay the employee basic pay, the period in respect of which the public authority most frequently pays the employee one of the elements of ordinary pay mentioned in paragraph 3(1)(b) to (e).

(2) In this Schedule, the “relevant pay period” means the pay period within which the snapshot date falls.

### **Meaning of “hourly rate of pay”**

6.—(1) The “hourly rate of pay” in relation to a relevant employee, is to be determined as follows—

#### *Step 1*

Identify all amounts of ordinary pay and bonus pay paid to the employee during the relevant pay period.

#### *Step 2*

Where an amount identified under Step 1 is an amount of ordinary pay, exclude any amount that would normally fall to be paid in a different pay period.

#### *Step 3*

Where an amount identified under Step 1 is an amount of bonus pay, and is paid in respect of a period (“the bonus period”) which is not the same length as the relevant pay period, divide the amount by the length of the bonus period (in days) and multiply it by the length of the relevant pay period (in days).

#### *Step 4*

Add together the amounts identified under Step 1 (as adjusted, where necessary, under Steps 2 and 3).

#### *Step 5*

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(2) Section 10(2) was amended by paragraph 4(2) of Schedule 7 to the Finance Act 2008 (c. 9).

(3) Section 10(3) was amended by paragraph 6(2) of Schedule 2 to the Finance Act 2011 (c. 11).

(4) 2003 c. 1. Section 420 was substituted by paragraph 2(1) of Schedule 22 to the Finance Act 2003 (c. 14).

Multiply the amount found under Step 4 by the appropriate multiplier (see sub-paragraphs (2) and (3)).

*Step 6*

Divide the amount found under Step 5 by the number of working hours in a week for that employee (see paragraph 7).

(2) In this paragraph, “the appropriate multiplier” means 7 divided by the number of days in the relevant pay period.

(3) In determining for the purposes of this paragraph the number of days in the relevant pay period or bonus period where those periods are (or are determined by reference to) a month or a year—

- (a) a month is treated as having 30.44 days;
- (b) a year is treated as having 365.25 days.

**Employee’s working hours in a week**

7.—(1) The number of working hours in a week for a relevant employee, for the purposes of Step 6 in paragraph 6, is to be determined as follows.

(2) Subject to sub-paragraph (6), where an employee has normal working hours that do not differ from week to week or over a longer period, the number of working hours in a week for a relevant employee is the number of the normal working hours in a week for that employee under the employee’s contract of employment, or terms of employment, in force on the snapshot date.

(3) Subject to sub-paragraph (6), where the employee has no normal working hours, or the number of the normal working hours differs from week to week or over a longer period, the number of working hours in a week for the employee is—

- (a) the average number of working hours calculated by dividing by twelve the total number of the employee’s working hours during the period of twelve weeks ending with the last complete week of the relevant pay period, or
- (b) where the employee has not been at work for a sufficient period, or for some other reason the public authority is not reasonably able to make the calculation under paragraph (a), a number which fairly represents the number of working hours in a week having regard to such of the considerations specified in sub-paragraph (5) as are appropriate in the circumstances.

(4) In calculating the average number of working hours for the purposes of sub-paragraph (3) (a), no account is to be taken of a week in which no hours were worked by the employee, and hours worked in earlier weeks must be brought in so as to bring up to twelve the number of weeks of which account is taken.

(5) The considerations referred to in sub-paragraph (3)(b) are—

- (a) the average number of working hours in a week which the employee could expect under the employee’s contract of employment, or terms of employment; and
- (b) the average number of working hours of other employees engaged in comparable employment with the same public authority.

(6) Where the employee is paid on the basis of piecework, the number of working hours in a week for the employee is the number of hours of output work for that employee in the week during the relevant pay period within which the snapshot date falls, determined in accordance with Chapter 4 of Part 5 of the National Minimum Wage Regulations 2015(5).

(7) In its application by virtue of sub-paragraph (6), Chapter 4 of Part 5 of the National Minimum Wage Regulations 2015 has effect as if—

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(5) [S.I. 2015/621](#).

- (a) references to a worker were references to an employee, and
  - (b) references to a pay reference period were references to a week.
- (8) In this paragraph, “working hours”—
- (a) includes hours when an employee is available, and required to be available, at or near a place of work for the purposes of working unless the employee is at home, and
  - (b) excludes any hours for which an employee is entitled to overtime pay.
- (9) In sub-paragraph (8), hours when an employee is “available” only includes hours when the employee is awake for the purposes of working, even if an employee by arrangement sleeps at or near a place of work and the employer provides suitable facilities for sleeping.

#### **Difference in mean hourly rate of pay**

8. The difference between the mean hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees must be expressed as a percentage of the mean hourly rate of pay of male full-pay relevant employees and is to be determined as follows—

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

where—

- A is the mean hourly rate of pay of all male full-pay relevant employees; and
- B is the mean hourly rate of pay of all female full-pay relevant employees.

#### **Difference in median hourly rate of pay**

9. The difference between the median hourly rate of pay of male full-pay relevant employees and that of female full-pay relevant employees must be expressed as a percentage of the median pay of male full-pay relevant employees and is to be determined as follows—

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

where—

- A is the median hourly rate of pay of all male full-pay relevant employees; and
- B is the median hourly rate of pay of all female full-pay relevant employees.

#### **Difference in mean bonus pay**

10.—(1) The difference between the mean bonus pay paid to male relevant employees and that paid to female relevant employees must be expressed as a percentage of the mean bonus pay paid to male relevant employees and is to be determined as follows—

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

where—

- A is the mean bonus pay paid during the relevant period to male relevant employees who were paid bonus pay during that period; and
- B is the mean bonus pay paid during the relevant period to female relevant employees who were paid bonus pay during that period.

(2) In this paragraph, “the relevant period” means the period of 12 months ending with the snapshot date.

**Difference in median bonus pay**

11.—(1) The difference between the median bonus pay paid to male relevant employees and that paid to female relevant employees must be expressed as a percentage of the median bonus pay paid to male relevant employees and is to be determined as follows—

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

where—

A is the median bonus pay paid during the relevant period to male relevant employees who were paid bonus pay during that period; and

B is the median bonus pay paid during the relevant period to female relevant employees who were paid bonus pay during that period.

(2) In this paragraph, “the relevant period” means the period of 12 months ending with the snapshot date.

**Proportion of male and female employees who were paid bonus pay**

12.—(1) The proportion of male relevant employees who were paid bonus pay must be expressed as a percentage of male relevant employees and as is to be determined as follows—

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

where—

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

B is the number of male relevant employees.

(2) The proportion of female relevant employees who were paid bonus pay must be expressed as a percentage of female relevant employees and is to be determined as follows—

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

where—

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

B is the number of female relevant employees.

(3) In this paragraph, “the relevant period” means the period of 12 months ending with the snapshot date.

**Proportion of male and female employees according to quartile pay bands**

13.—(1) The proportions of male and female full-pay relevant employees in the lower, lower middle, upper middle and upper quartile pay bands is to be determined as follows.

*Step 1*

Determine the hourly rate of pay for each full-pay relevant employee and then rank those employees in order from lowest paid to highest paid.

*Step 2*

Divide the employees, as ranked under Step 1, into four sections, each comprising (so far as possible) an equal number of employees, to determine the lower, lower middle, upper middle and upper quartile pay bands.

*Step 3*

The proportion of male full-pay relevant employees within each quartile pay band must be expressed as a percentage of the full-pay relevant employees within that band as follows—

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

where—

A is the number of male full-pay relevant employees in a quartile pay band; and

B is the number of full-pay relevant employees in that quartile pay band.

*Step 4*

The proportion of female full-pay relevant employees within each quartile pay band must be expressed as a percentage of the full-pay relevant employees within that band as follows—

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

where—

A is the number of female full-pay relevant employees in a quartile pay band; and

B is the number of full-pay relevant employees in that quartile pay band.

(2) Where employees receiving the same hourly rate of pay fall within more than one quartile pay band, the public authority must (so far as possible) ensure that, when ranking the employees under Step 1, the relative proportion of male and female employees receiving that rate of pay is the same in each of those pay bands.

### **Manner of publication**

**14.**—(1) The requirement in paragraph 2(1) to publish information is a requirement that that information be published on the public authority's website—

(a) in a manner that is accessible to all its employees and to the public; and

(b) for a period of at least three years beginning with the date of publication.

(2) A relevant public authority must also publish the information required by paragraph 2(1) on a website designated for that purpose by the Secretary of State.

(3) Where the relevant public authority comprises one of the armed forces, the information required by paragraph 2(1) may be published by a government department on its behalf.

(4) Where a government department publishes information by virtue of sub-paragraph (3), the reference in sub-paragraph (1) to the public authority's website is to be read as a reference to that government department's website.