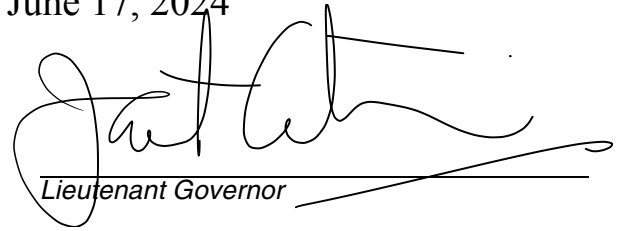


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 340

, Approved and Ordered June 17, 2024



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, effective September 3, 2024,

- (a) sections 1, 2 and 5 of the *Labour Statutes Amendment Act, 2023*, S.B.C. 2023, c. 44, are brought into force, and
- (b) the Employment Standards Regulation, B.C. Reg. 396/95, is amended as set out in the attached Schedule.



Minister of Labour



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: *Labour Statutes Amendment Act, 2023*, S.B.C. 2023, c. 44, s. 11
Employment Standards Act, R.S.B.C. 1996, c. 113, s. 127

Other: OIC 1155/95

R40754311

SCHEDULE

1 Section 1 of the Employment Standards Regulation, B.C. Reg. 396/95, is amended

(a) in subsection (1) by adding the following definitions:

“applicable online order” means an order placed and paid for by means of a delivery services online platform if the following conditions are satisfied:

- (a) the order is for one or more delivery service items;
- (b) a delivery services worker
 - (i) picks up the delivery service item from the person who is the seller of the item, and
 - (ii) delivers the delivery service item to
 - (A) the person who placed and paid for the order, or
 - (B) a person specified by the person who placed and paid for the order;
- (c) the seller referred to in paragraph (b) (i) is not a platform operator or platform operator affiliate;

“delivery service item” means the following:

- (a) prepared food;
- (b) a beverage;
- (c) a good, including a grocery item;

“delivery services online platform” means an online platform that connects delivery services workers with persons who require the services of those workers;

“delivery services worker” means an online platform worker who performs work described in section 1.1 (a);

“engaged time” has the meaning given to it in subsection (4);

“online work earnings” means money that is paid or payable to a delivery services worker or ride-hail services worker for platform work assignments;

“platform operator” means a person who operates a delivery services online platform or a ride-hail online platform;

“platform operator affiliate” means an affiliate, as defined in the *Business Corporations Act*, of a platform operator;

“platform work assignment” means a platform work offer that is accepted by a delivery services worker or ride-hail services worker;

“platform work offer” means

- (a) work described in section 1.1 (a) that is offered to delivery services workers by means of a delivery services online platform, and
- (b) work described in section 1.1 (b) that is offered to ride-hail services workers by means of a ride-hail online platform;

“ride-hail online platform” means an online platform that connects ride-hail services workers with persons who require the services of those workers;

“ride-hail services worker” means an online platform worker who performs work described in section 1.1 (b); , *and*

(b) by adding the following subsections:

- (4) In this regulation, **“engaged time”** means, subject to subsections (5) and (6), the time that
 - (a) begins when a delivery services worker or ride-hail services worker accepts a platform work offer, and
 - (b) ends when
 - (i) the platform work assignment is completed, or
 - (ii) the platform work assignment is cancelled by one of the following prior to the completion of the assignment:
 - (A) the delivery services worker or ride-hail services worker;
 - (B) the applicable customer;
 - (C) the applicable platform operator.
- (5) If a delivery services worker or ride-hail services worker accepts a platform work offer but does not begin to carry out the platform work assignment at the time the offer is accepted, engaged time does not begin until the worker begins to carry out the assignment.
- (6) There is no engaged time in relation to a platform work assignment if the delivery services worker or ride-hail services worker
 - (a) cancels the assignment, and
 - (b) did not begin to carry out the assignment before cancelling it.
- (7) For greater certainty,
 - (a) online work earnings do not include any distance expense allowance paid or payable under section 45.29, and
 - (b) a distance expense allowance is not a wage for the purposes of the Act or this regulation.

2 *The following Part is added:*

PART 1.1 – ONLINE PLATFORM WORKER PRESCRIBED WORK

Online platform worker prescribed work

- 1.1** For the purposes of the definition of “online platform worker” in section 1 (1) of the Act and section 3.1 (b) of the Act, the following work is prescribed:
 - (a) work performed for the purpose of picking up and delivering an applicable online order;
 - (b) work performed for the purpose of transporting one or more passengers whose transportation is ordered through a ride-hail online platform.

3 *The following section is added to Part 4:*

Minimum wage – delivery services worker and ride-hail services worker

- 18.2** (1) The minimum hourly wage for a delivery services worker or ride-hail services worker is \$20.88.
- (2) The minimum hourly wage under subsection (1) applies only to engaged time.
- (3) For the purpose of applying subsections (1) and (2) to a delivery services worker or ride-hail services worker, the employer of the worker must pay to the worker any shortfall that arises if the worker’s total online work earnings in a pay period are less than the minimum hourly wage multiplied by the number of hours of engaged time for that pay period.

4 *The following section is added:*

Delivery services and ride-hail services workers

- 34.3** The following provisions of the Act do not apply to delivery services workers and ride-hail services workers:
- (a) section 27;
 - (b) Part 4, other than section 39;
 - (c) Part 5;
 - (d) section 49.1 (1) (a);
 - (e) section 52.13;
 - (f) section 52.5 (4) (a);
 - (g) Part 7;
 - (h) section 65 (1) (a).

5 *The following Part is added:*

**PART 7.2 – CONDITIONS OF EMPLOYMENT FOR
DELIVERY SERVICES WORKERS AND RIDE-HAIL SERVICES WORKERS**

Definitions for Part

45.27 In this Part:

- “**distance expense allowance**” means an allowance described in section 45.29;
- “**motor vehicle**” has the same meaning as in section 1 of the *Motor Vehicle Act*.

Employer may require worker to pay specified costs

- 45.28** (1) The employer of a delivery services worker may require the worker to pay for the cost of using any mode of transportation, other than travelling on foot, for the purpose of platform work assignments.
- (2) The employer of a ride-hail services worker may require the worker to pay for the cost of operating a motor vehicle for the purpose of platform work assignments.

Distance expense allowance

- 45.29** (1) If a delivery services worker uses any form of transportation, other than travelling on foot, to carry out a platform work assignment, the employer of the worker must, in accordance with subsection (3), pay to the worker a distance expense allowance of at least \$0.35 for each kilometre travelled during engaged time.
- (2) If a ride-hail services worker operates a motor vehicle to carry out a platform work assignment, the employer of the worker must, in accordance with subsection (3), pay to the worker a distance expense allowance of at least \$0.45 for each kilometre travelled during engaged time.
- (3) At least semimonthly and within 8 days after the end of each pay period, the employer must pay to the delivery services worker or ride-hail services worker, as applicable, the aggregate amount of all distance expense allowances payable to the worker under this section.

Information to be provided in relation to platform work offer

- 45.30** (1) A platform work offer must specify at least the following information:
- (a) the anticipated location at which the passenger or applicable online order is to be picked up;
 - (b) the anticipated location at which the passenger or applicable online order is to be dropped off;
 - (c) an estimate of the amount that will be payable if the platform work offer is accepted and the platform work assignment completed, which amount is to be the sum of the estimated online work earnings and distance expense allowance that will be payable.
- (2) The location described in subsection (1) (a) or (b) must be no more than 300 m from the actual location.

Wage statement must be given by employer

- 45.31** (1) On every payday, the employer of a delivery services worker or ride-hail services worker must, in accordance with the provisions of this section, give to the worker a wage statement for the applicable pay period.
- (2) A wage statement given to a delivery services worker or ride-hail services worker must include at least the following information:
- (a) the employer's name and address;
 - (b) the total number of hours of engaged time in the pay period;
 - (c) the total number of kilometres travelled during engaged time in the pay period;
 - (d) the total amount of all online work earnings paid or payable for the pay period;
 - (e) any shortfall amount paid or payable under section 18.2 (3) for the pay period;
 - (f) in relation to the distance expense allowance payable under section 45.29 (1) or (2), as applicable,
 - (i) the rate per kilometre applicable to the worker, and

- (ii) the total of all distance expense allowances paid or payable for the pay period;
 - (g) the total amount of gratuities paid by customers by means of the applicable online platform for platform work assignments during the pay period;
 - (h) the amount of each deduction from online work earnings for the pay period and an explanation for each deduction;
 - (i) the net amount paid or payable for the pay period, which net amount is the sum of the amounts under paragraphs (d) to (g) minus the amounts under paragraph (h).
- (3) The employer of a delivery services worker or ride-hail services worker may give a wage statement to the worker electronically, provided that the wage statement is given in a form that enables the worker to make a paper copy of the statement.

Standards respecting temporary removal of ability to accept platform work offers

- 45.32** (1) If the employer of a delivery services worker or ride-hail services worker intends to temporarily remove the worker's ability to accept platform work offers, the employer must give written notice to the worker that meets the following requirements:
- (a) the notice must be given at least 72 hours prior to removing the worker's ability to accept platform work offers, unless the employer, acting reasonably, determines that any of the following apply:
 - (i) the worker has engaged in serious misconduct;
 - (ii) the worker's continued use of the online platform would pose an immediate risk to the health or safety of any person;
 - (iii) immediate removal is required in order for the employer or worker to comply with
 - (A) any applicable law, or
 - (B) an order made by a law enforcement authority;
 - (b) the notice must specify the reasons for the removal;
 - (c) the notice must inform the worker of any process, including applicable time periods, under which the worker may do one or both of the following:
 - (i) respond to the notice;
 - (ii) ask the employer to reconsider the employer's decision to remove the worker's ability to accept platform work offers.
- (2) If the ability of a delivery services worker or ride-hail services worker to accept platform work offers is temporarily removed, the employer must restore that ability by no later than 14 days after the removal takes effect unless the employer, acting reasonably, determines that a longer period of time is necessary
- (a) in order to comply with
 - (i) any applicable law, or
 - (ii) an order made by a law enforcement authority, or

- (b) because the worker has not complied with a request made by the employer for information in relation to the reasons or the removal.
- (3) If an employer determines under subsection (2) that a longer period of time is necessary, the employer must restore the worker's ability to accept platform work offers as soon as reasonably possible following the removal of that ability.

Written reasons respecting permanent removal of access to online platform

- 45.33** (1) If the employer of a delivery services worker or ride-hail services worker permanently removes the worker's access to an online platform, the employer must give written reasons for the removal to the worker.
- (2) Written reasons under subsection (1) must be given to the delivery services worker or ride-hail services worker
- (a) at the same time the worker is given written notice under section 63 (3) of the Act, if applicable, or
 - (b) as soon as practicable, in all other cases.
- 6** *Section 47 is amended by striking out "21," and "23 or" and by adding "or 45.29 to 45.33" after "35 (2)".*