

**A LAW TO PROVIDE FOR EQUAL PAY BETWEEN MEN AND WOMEN
FOR THE SAME WORK OR
FOR WORK TO WHICH EQUAL VALUE IS ATTRIBUTED**

1. This Law may be cited as the Equal Pay between Men and Women for the Same Work or for Work to Which Equal Value is Attributed Law 2002.

2. In this Law, unless the context otherwise requires -

“direct sex discrimination” means unfair treatment, directly and clearly related to a person’s sex;

“pay” includes the usual basic contribution and any other additional contributions paid directly or indirectly, either in money or in kind, by the employer to the employee, in exchange for work provided;

“employment” means the paid provision of work or services based on a personal contract of employment, an employment or apprenticeship relationship or other personal contract or relationship under private or public law, in any sector or branch of economic activity, private or public, including the Public Service, the Judicial Service, the Public Education Service, the Local Authorities, the legal persons or the organisations governed by public or private law, the Armed Forces and the Security Forces.

“Competent Authority” means the Minister of Labour and Social Insurance;

“principle of equality in pay” means the absence of any kind of direct or indirect discrimination based on sex, as regards pay for the same work or for work to which equal value is attributed;

“employment contract” means any written or oral agreement in relation to employment, concluded between an employee or a group of employees or employees’ trade union(s) and the employer(s) or the employer’s organisation(s);

“indirect discrimination based on sex” exists when a provision, practice, term or criterion, which at first appears to be neutral, affects a considerably higher percentage of persons belonging to one sex, unless such provision, practice, or criterion may be justified by objective factors not relating to sex;

“Inspector” means the Inspector or other officer appointed according to the provisions of Section 10;

“Committee” means the Committee for the Inspection and Assessment of Work, appointed in accordance with section 15;

“Work of Equal Value” means work carried out by men and women, which is of identical or materially identical nature or to which equal value is attributed, based on objective criteria, as determined in section 18;

“employee” means a man or woman working or in apprenticeship, full time or part time, for a determined or undetermined, continuous, or not, time, irrespective of the place of employment, including employees working from home, but not including self employed persons;

“practice” means any repeated unilateral action, of any form, by the employer, which is relevant to the matter governed by this Law;

“Technical Committee” means the Technical Committee appointed under the provisions of section 20;

“Minister” means the Minister of Labour and Social Insurance;

"Ombudsman" means the Ombudsman in accordance with the Ombudsman Laws

3. The purpose of this Law is to ensure that the principle of equal pay between men and women for equal work or equal value work is applied.

4. This Law shall apply to all employees, for all activities related to employment.

5. - (1) Every employer must provide equal pay to men and women for the same work or for work to which equal value is attributed, irrespective of the sex of the employee.

(2) Without prejudice to the generality of subsection (1) of this section, in particular, where a system of professional classification is used for the determination of pay, such a system must be based on common criteria for male and female employees, and must be designed in such a manner that discrimination based on sex is excluded.

(3) The comparison between employees shall be made with reference to employees who are employed or were employed by the same employer, or in a business controlling the employer during the last previous or following years.

6. – (1) The competent authority must inform employees and employers and the organisations thereof about the provisions of this Law and the provisions adopted for the application thereof, by the means of forms and any other appropriate means.

(2) The employees' organisations shall inform the employees about the content of this Law and the measures taken for the implementation so as to ensure the application of the principle of equality in pay, by the means of announcements in writing posted on boards found in the work place, outside working hours, or in any other appropriate manner.

(3) Employers must facilitate the employees' organisations and inform employees as referred to in subsection (2).

7. -(1)(a) Any existing legislative provision, which is contrary to the provisions of this Law, shall be repealed at the part where it directly or indirectly discriminates against one sex.

(b) If the discrimination referred to in paragraph (a) of this subsection regards the granting of a right or other benefit only to persons of one sex, such right or benefit shall be extended by right, to persons of the other sex.

(2) The competent authority may revoke or amend accordingly any individual or regulatory administrative action that is contrary to the provisions of this Law.

(3) Subject to the exclusive jurisdiction of the Supreme Court under section 146 of the Constitution-

(a) If there is doubt or dispute about whether a Law has been repealed or not, the matter shall be examined by a competent District Court and the procedure shall start by the filing of an originating summons;

(b) Notwithstanding the procedure before the District Court referred to in paragraph (a) of this subsection, each Court may, when exercising its jurisdiction, try the matter provided that it is necessary for the completion of the procedure that is before it.

(4) Each existing collective agreement or individual contract of employment, internal business regulation or rule of free vocation, which is contrary to the provisions of this Law, shall be repealed, where it directly or indirectly discriminates against one sex. Paragraph (b) of subsection (1) of this section shall apply mutatis mutandis to these cases.

(5) Any new provision of a collective agreement or an individual contract of employment, internal business regulation or rule of free vocation which is contrary to the provisions of this Law, shall be void where it directly or indirectly discriminates against one sex. Paragraph (b) of subsection (1) of this section shall be applied mutatis mutandis to these cases.

(6) The final decision made under subsection (3) of this section shall apply to every one. The decisions regarding collective agreements shall be notified by the Court Registrar to the competent employers' and workers' organisations, which must note in the text of the collective agreement concerned at the appropriate place, the cancellation, invalidity and the extent ascertained.

(7) If no cancellation, invalidity or extension of a provision or regulation has been ascertained in accordance with the above, the validity thereof shall be examined in interlocutory proceedings, on the opportunity of a relevant trial from every District Court or the Labour Disputes Court which, if the discrimination concerns the granting of a right or other advantage to persons of one sex, shall order its extension to persons of the other sex.

8. -(1) Within three months from the coming into force of this Law, the competent authority must invite the employers' and workers' organisations to examine the existing provisions of collective agreements, in order to find any provisions that may be contained in them, which are contrary to this Law and amend it so that any direct or indirect discrimination against one sex may be formally eliminated. At the same time, the competent authority must set a time limit for the execution of this task, which must not exceed one year.

(2) If no use is made of the prescribed time limit, the competent authority must, by an application thereof to the Industrial Disputes Court, submitted within six months from the expiration of the time limit, request to ascertain the repeal of any regulation of a collective agreement, contrary to the provisions of this Law, where it directly or indirectly discriminates against one sex, provided that such ascertainment has not been concluded in the meantime, in accordance with the procedures provided for in section 7 of this Law. The Industrial Disputes Court shall ascertain the repeal, after having heard the interested parties. If the ascertainment concerns the granting of a right or other benefit to persons of one sex only, the Court shall order the extension of such right to persons of the other sex.

(3) The final decisions which accept applications under subsection (2) of this section shall apply to every one and be notified by the Court Registrar of the Industrial Disputes Court, to the competent employers' and workers' organisations, which must immediately note in the text of the relevant collective agreement, at the correct position, the repeal, invalidity or extension ascertained.

(4) If the repeal or invalidity, or order for the extension of a regulation has not been ascertained, in accordance with subsection (2) of this section, the validity thereof shall be examined interlocutory, on the opportunity of a relevant trial by each competent District Court or the Industrial Disputes Court, which, if the discrimination

concerns the granting of a right or other benefit to persons of one sex, it orders the extension thereof to persons of the other sex.

9. -(1) No person shall be dismissed from his/her work or subjected to adverse treatment by his/her employer for having made a complaint or testified or contributed in the prosecution of an offender, or the taking of any other measures based on this Law.

(2) Any employer who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable upon conviction, to a fine not exceeding one thousand pounds.

10. -(1) The Minister shall be responsible for the application of this Law. He shall appoint the Inspectors necessary for the effective application of the provisions of this Law or other officers, who shall carry out the powers and duties provided for in section 11, 12 and 13 of this Law.

(2) The Inspectors shall be permanent civil servants and hold instrumental posts in the Ministry of Labour and Social Insurance.

(3) Inspectors must have suitable qualifications, adequate training for the carrying out of their duties, be further trained and educated constantly. They must have suitable offices, accessible to the public, adequate secretarial and other support, material and technical infrastructure and adequate transport means, in order to exercise their duties and be equipped with specific identity cards.

11. The major task of the Inspectors shall be-

- (a) To ensure the full and effective application of the provisions of this Law, either by carrying out an investigation on their own volition for the control of the application thereof, or by examining complaints submitted for violations of this Law;
- (b) to provide information, advice and suggestions to employers and employees as regards more effective ways to comply with the provisions of this Law;
- (c) report problems to the Minister, arising from the application of this Law and submit recommendations concerning measures that may be taken to tackle them.

12. -(1) Every Inspector, shall have the following powers for the purpose of the application of this Law:

(a) To enter freely, upon presentation of his/her identity card and without any previous notice, any time of the day or night, in any work place with the exception of house dwellings:

Provided that, entrance in house dwellings may be made following the consent of the person in charge of them.

(b) to enter during daytime, in any place if he/she reasonably believes that it must be inspected. In the case of house dwellings, paragraph (a) of this subsection shall apply;

(c) to be accompanied by a police officer, if he/she reasonably believes that he/she will be obstructed from exercising his/her powers or duties. The Police force must provide one or two police officers to accompany the Inspector when he/she so requests;

- (d) to be accompanied by any other person if he/she deems necessary;
- (e) to perform inspections, investigations, interrogations or examinations that he/she deems necessary in order to ascertain the application of the provisions of this Law, and especially-
 - (i) to require from any person, against whom he/she has a reasonable cause to believe that he/she may be able to provide information or clarifications in relation to any inspection regarding the application of the provisions of this Law, answer to relevant questions on his/her own or in the presence of any other person that the Inspector may require or allow and require from such person to sign a statement that his/her answers are true;
 - (ii) to require the presentation of any book, record, certificate or any other document or information that he/she may deem necessary to examine for the purpose of investigating the application of the provisions of this Law, inspect them, examine them and take copies thereof either in whole or partly;
 - (iii) impose the posting of announcements and other documents that have been provided for this purpose by the Competent Authority or the employees' organisations, in application of section 6 of this Law;
 - (iv) require from any person in his/her work place to provide, facilities and help, for matters for which he/she is controlling or responsible of, which will enable him/her to carry out any of the powers conferred upon him/her under this section;
- (f) To require the assistance of any public service or authority, which must be provided.

(2) During the Inspector's visit under subsection (1) of this section, the Inspector shall inform the employer or representative thereof about his/her presence, unless he/she considers that it may adversely affect the carrying out of his duties.

13. -(1) The Inspector shall accept complaints relating to any contravention of this Law by any person that deems to be prejudiced by such contravention, and on behalf of such person, by employees' organisations and non governmental organisations, the purpose of which is to promote the equality between men and women or defend the individual's rights in general, and as soon as he/she receives such information, he/she shall make the following actions, provided that the case has not been admitted in Court:

- (a) In exercise of the powers conferred upon him/her by this Law, he/she shall investigate the complaints using a fruitful manner and in particular he/she shall call the person against whom the complaint has been made, any other person referred to in section 14 of this Law, and any other person responsible for the complaints, to provide information, clarifications or any evidence he/she may have or control which help or facilitate the investigation of the complaints and attempts to settle the dispute;
- (b) If the dispute is settled, he/she shall write minutes of compromise, signed by both parts;

- (c) If the dispute is not settled, the dispute shall be forwarded to the Committee ex officio or through a request of any of the interested parties;
- (d) Following the submission to him/her of the Report of the Committee, he/she shall take appropriate actions to settle the dispute and if the dispute is settled, he/she shall write minutes of compromise signed by both parts;
- (e) If the dispute is not settled, he/she shall write minutes, in which he/she notes all his/her actions and ascertainments, which may later be used before a Competent Court in proceedings.

(2) Subject to the provisions of section 146 of the Constitution any valid time limit available to the person who submitted the complaint or on behalf of whom the complaint was submitted, to appeal to the Industrial Disputes Court and any valid time period for the prescription of his/her request shall be interrupted, from the date of submission of the complaint under subsection (1), until the day the minutes referred to in paragraph (e) of subsection (1) were prepared.

14. Every employer or representative thereof and every employee working for such employer must, if requested by the Inspector, give him/her any information, book, record, certificate or other document, or any other particular that he/she possesses, in relation to the matters regulated by this Law. The employer, his/her representatives or his/her employees, must in general provide the means requested by the Inspector, necessary for him/her to enter, inspect, examine, investigate or exercise any other power of this Law in relation to the business of such employer.

15. -(1) If the dispute has been referred in accordance with section 13 of this Law, to a Committee for Investigation and Assessment of Work, the Minister shall appoint this Committee.

(2) Payment shall be paid to the members of the Committee for each case undertaken, the amount of which shall be determined by the Minister, with the approval of the Minister of Finance.

16. -(1) The Committee shall have three members selected from a list established by the Minister in consultation with the workers' and employers' organisations.

(2) The members of the Committee must have specialised knowledge in matters relating to equal treatment between men and women, in the field of assessment and classification of professions and must be knowledgeable about industrial relations and the labour market.

17. -(1) The Committee shall, for the purpose of carrying out its powers relating to the application of his Law, collect information, carry out investigations, assess comparable jobs and submit its Report to the Inspector within three months from the assignment of this task.

(2) For the purpose of concluding its task, the Committee shall have the power to:

- (a) Make any examination and carry out any investigation necessary for the preparation of its Report;
- (b) require the presentation of any records or documents which at its judgement, contain information directly related to the carrying out of its task;

- (c) require from any person, who it reasonably believes to be in a position to provide information relating to the matter being examined, to answer relevant questions.

18. For the purpose of comparison, the Inspectors and the Committee shall take into account criteria regarding the field of comparison in a particular category of profession or field of economic activity and in particular:

- (i) The nature of duties;
- (ii) the degree of responsibility;
- (iii) the qualifications, skills and seniority;
- (iv) the requirements relating to natural or mental qualifications, capabilities, effort invested etc;
- (v) the conditions under which work is carried out;
- (vi) whether any differences in relation to the work carried out or the terms under which it is carried out are of minor importance in comparison with the totality of work carried out or whether the frequency in which differences appear does not affect the totality of work.

19. -(1) The Inspectors and the members of the Committee must consider and handle confidentially every matter and information, whether oral or in writing which came to their knowledge during the carrying out of their duties and must not disclose or transmit any such matter or information.

(2) If any Inspector or member of the Committee acts in contravention of his/her obligation for confidentiality as prescribed in subsection (1) of this section, any person who has been prejudiced by such action shall have the right to compensation.

20. -(1) If the dispute is referred before the Industrial Disputes Court, the latter may either take into account the Report of the Committee, if such Report has been prepared, or appoint a Technical Committee from the list established by the Minister, in accordance with section 16 of this Law, so as to help in the determination of equal value work.

(2) Compensation shall be paid to the members of the Technical Committee, the amount of which shall be determined by the Industrial Disputes Court.

(3) The provisions of sections 17, 18 and 19 of this Law shall apply to the terms of reference and powers of the Technical Committee, the criteria that are taken into account for the purpose of comparison and assessment of equal value work and the obligation of the members thereof for confidentiality.

21. -(1) Any person who deems to have been prejudiced by the contravention of this Law, shall have the right to petition for his/her rights before the competent Court and use any fruitful means to prove that the contravention has been made and the damage of any nature that he has been subjected to, and the counter proof of the allegations of the adverse party:

Provided that if the litigant who alleges to have been prejudiced by the contravention of the provisions of this Law, adduces and proves real facts which substantiate the contravention, the Court shall oblige his adverse party to prove that there has been no contravention of this Law:

Provided further that if the adverse party does not prove the absence of contravention, the contravention shall be deemed to have been proved, for the determination of the extent of the consequences thereof, the Court shall order him to furnish under oath all information that he possesses or controls.

(2) Every person who deems to be prejudiced by a contravention of this Law, shall be entitled to protection from the Inspectors, for the intervention of whom, the invocation of true facts by the person who complains shall suffice, proving the contravention of this Law, and the person against whom the complaint has been made shall be called to prove that there has been no contravention of this Law.

22. -(1) Subject to the exclusive jurisdiction of the Supreme Court under section 146 of the Constitution and if this Law does not provide otherwise, the Industrial Relations Court shall have the jurisdiction to try the disputes arising from the application of this Law.

(2) In case of appeal before a District Court under paragraph 6 of Section 146 of the Constitution and provided that the conditions of the material right for a fair and reasonable compensation are fulfilled, the competent District Court shall adjudicate to the beneficiary whichever of the two amounts is greater:

- (a) the adjudicated fair and reasonable compensation under paragraph 6 of section 146, or
- (b) the total real damage and pecuniary satisfaction for any moral damage of the plaintiff caused by the decision, action or omission which was declared void in accordance with paragraph 4 of section 146 of the Constitution. In each case, the legal interest rate shall be added to the adjudicated amount, from the date the above damage occurred until the full payment of the compensation.

(3) The Industrial Disputes Court shall adjudicate a fair and reasonable compensation, covering most of the assessed damage and include the pecuniary satisfaction for any moral damage caused to the plaintiff by the offender and in either case, the legal interest rate shall be added to the above adjudicated amount, from the day the contravention was made until the full payment of the compensation.

(4) Irrespective of the penalties provided for in subsection (3) of this section, the Industrial Disputes Court shall, where it deems necessary, issue an Order of binding recognition of the rights of the applicant in relation to the contravention about which the complaint has been made.

(5) Without prejudice to the generality of subsection (1) of section 6 of the Termination of Employment Law 1967 to (no.2) of 2001, applied in cases or dismissal made in contravention of the provisions of this Law, during the trial of the disputes before the Industrial Disputes Court referred to in subsection (1) of this section, subsection (1) of section 21 of this Law shall also be applied, in relation to the reversal of the burden of proof.

23. -(1) In case of contravention of this Law, the provisions which set as a precondition the liability of the offender or/and the right to compensation or other treatment, a minimum term of employment or a minimum number of working hours of the employee shall not apply, neither shall apply the provisions which determine a maximum limit of compensation. Any agreement between an employer and an employee providing for such a precondition shall be void.

(2) The amount of compensation adjudicated each time this Law is contravened shall be paid entirely by the employer.

23A. Any person that believes that he/she has been offended by a contravention of this Law, may submit a complaint to the Ombudsman, who has the authority to investigate the said complaint in accordance with the Law Against Racial and Other Forms of Discrimination (Ombudsman), of 2004. Law 193(I)2004

24. -(1) Whoever intentionally contravenes the provisions of section 5 of this Law, shall be guilty of an offence and be punished with a fine not exceeding four thousand pounds, or imprisonment not exceeding six months or with both such penalties.

(2) If the offence provided for in subsection (1) of this section is committed by a legal person or organisation, the managing director, chairman, manager, secretary or any other similar officer of the legal person shall be guilty, if it is proved that the offence has been committed with the consent, co-action or tolerance thereof, who shall be punished under subsection (1) of this section and the legal person or organisation shall only be punished with a fine not exceeding seven thousand pounds.

(3) If the offence provided for in subsection (1) of this section is committed due to severe negligence, a fine not exceeding two thousand pounds shall be imposed, assuming the offence is not punished more severely under any other provision. If the said offence is committed by a legal person or organisation, the managing director, chairman, manager, secretary or any other similar officer of the legal person shall be guilty, if it is proved that the offence has been committed with the consent, co-action or tolerance thereof, who shall be punished with a fine not exceeding two thousand pounds and the legal person or organisation shall also be punished with an offence not exceeding four thousand pounds.

25. -(1) Whoever intentionally:

- (a) Obstructs an Inspector, or the members of the Committee, or the members of the Technical Committee from the exercise of any of the powers conferred upon them by this Law;
- (b) refuses to answer or lies during any investigation for which authority is granted under this Law;
- (c) omits to present any evidence, certificate, book or any other document or particular which he is required to present in accordance with this Law;
- (d) removes any document posted under this Law or if the Inspector so orders, or damages or alters it;
- (e) obstructs or attempts to obstruct any person from presenting himself before the Inspector, the Committee, or the Technical Committee, or to be examined by them,

shall be guilty of an offence and be liable to imprisonment not exceeding three months, or to a fine not exceeding three thousand pounds, or to both such penalties, if such action is not more severely punished by other provisions.

(2) If the offences provided for in subsection (1) of this section are committed by a legal person or organisation, the managing director, chairman, manager, secretary or

any other similar officer of the legal person shall be guilty, if it is proved that the offence has been committed with the consent, co-action or tolerance thereof, who shall be punished in accordance with subsection (1) of this section, and the legal person or organisation shall be punished with a fine not exceeding five thousand pounds, provided that such action is not more severely punished by other provisions.

(3) If the offences provided for in subsection (1) of this section, are committed due to severe negligence, a fine not exceeding one thousand pounds shall be imposed, provided that such action is not more severely punished by other provisions. If the offences are committed by a legal person or organisation, the managing director, chairman, secretary or other similar officer of the legal person shall be guilty, if it is proved that the offence has been committed with the consent, co-action or tolerance thereof, who shall be punished by a fine not exceeding one thousand pounds and the legal person or organisation shall also be punished with a fine not exceeding three thousand pounds.

26. -(1) The Inspectors shall submit to the Minister annual reports about the complaints submitted, containing the following:

- (a) the identification of the problems ascertained from the application of this Law and submission of suggestions for effectively dealing with them;
- (b) the number of cases submitted and investigated, of the contraventions noticed and the penalties imposed.

(2) Based on the reports referred to in subsection (1) of this section, the Minister shall prepare and publish an Annual Report of Proceedings, a copy of which must be notified to the International Labour Bureau, the Attorney General of the Republic, the House of Representatives and the Labour Advisory Body.

(3) A copy of the General Annual Proceedings Report shall be notified by the Minister to the European Commission.

27. The Council of Ministers may make Regulations for the better application of the provisions of this Law or the regulation of a matter that may be regulated by Regulations.

28. From the date of the coming into force of this Law, the Equal Payment between Men and Women for Equal Value Work Law of 1989 and 2000 and the regulations made there under are repealed.

29. (1) Subject to the provision of subsection (2) of this section, this Law shall enter into force on 1 January 2003.

(2) Subsection (3) of section 26 of this Law shall enter into force by a notification of the Council of Ministers published in the gazette.