

Pay & Employment Rights Service

PERS leaflet number 7

EQUAL PAY for WORK of EQUAL VALUE

What you need to know about:

**WHAT IT IS
WHO CAN MAKE A CLAIM
WHO CAN HELP YOU**

*Community
Legal Service*



Aug 2009

EQUAL PAY - THE LAW

The Equal Pay Act was passed in 1970 because at that time men were earning, on average, nearly twice as much as women. The aim of the Act was to ensure that women earned the same as men for doing the same work. However, even now, more than 30 years after the Act was passed, men working full time still earn on average over a third as much again as women. Although women make the majority of claims, the law can also be used by a man in appropriate circumstances. Initially, the Act said that women and men must be paid the same when carrying out 'like work'.

This meant that the work must be identical or similar; any differences between the two jobs must not be of practical importance. At first it was not easy for women to use this law to obtain equal pay. Many jobs, such as clerical or care work, were done almost exclusively by women. This meant there was often not a man doing the same job, or 'like work', for women to compare themselves with.

However, in 1984 the **Equal Pay for Work of Equal Value Amendment** came into operation. This means that a woman's job can be compared with that of a man (a **comparator**) who is doing completely different work, as long as she works in the same company as him. If the woman's job is found to be of equal value to his, then her pay must also be equal. Male workers may also compare their work with that of a woman.

Victimisation for taking action under the Equal Pay Act is also unlawful.

Depending on the situation, you may sometimes be able to argue that a lower rate of pay than another comparable worker amounts to **unlawful discrimination** on grounds of your race or disability or to **unfavourable treatment** because you work part-time. Although you may be able to challenge these inequalities through the courts under other relevant pieces of legislation, they are not usually grounds for legal action under the Equal Pay Act. See PERS Leaflets No. 8, "Race Discrimination", No 13 "Disability Discrimination" and No. 10 "Part timers" for more information.

WHAT IS INCLUDED?

Many other aspects of pay and conditions, as well as basic pay, can be looked at in an equal pay claim. These include overtime and shift pay, bonuses, sick pay, holiday pay, redundancy agreements and other benefits such as meal vouchers or occupational pension schemes.

WHO DOES THE ACT APPLY TO?

You can claim for equal pay if you are an **employee**, male or female, full or part-time, temporary or permanent. You can make a claim from when you start work up to six months after your last payment. Sometimes groups of employees doing the same work make joint claims. The Equal Pay Act applies to England, Scotland and Wales but not to Northern Ireland, which has its own specific legislation. There is no upper or lower age limit on the right to claim equal pay.

The Act applies from the first day of employment regardless of the number of hours worked per week.

'EQUAL' OR 'LIKE' WORK

If you are a woman or a man and you think that the demands made on you are comparable to those made on a better paid work colleagues, you can consider making a claim. You will need to show that your job requires the same skill, effort and decision making etc. as a job done by a comparator in the same or a similar job in your company. Your job can be compared to a number of different jobs done by others in your workplace.

The 'comparator' **has to be someone of the opposite sex.**

If other workers do the same work as you, discuss with them the idea of making a joint claim. It is sometimes difficult to work out whether to claim for 'like work' or for 'equal value', but if in doubt you can claim for both.

SUCCESSFUL EXAMPLES

- A female cook was compared with male painters, joiners and thermal insulation engineers. They all worked in a shipbuilder's yard.
- Women packing fish were compared with a labourer in the same firm who was paid more.

- In a supermarket chain, women checkout operators were compared with a warehouse worker.

This case and other similar ones were negotiated without having to go through the full tribunal procedure.

TAKING ACTION

If you want to pursue an equal pay claim, you should first of all try negotiating with your employer. (See **PERS** leaflet No. 1 "**Contracts of Employment**"). You should also find out if there is an equal opportunities policy at your workplace - if there is, you may be able to use the policy as one basis for your argument. If that fails, there may be advantages in beginning Employment Tribunal (ET) procedures, even if you never actually reach the tribunal stage. The initial procedures themselves may lead to a settlement of your claim.

These procedures allow for:

- **pre-hearing informal discussions.** Often agreement can be reached at this stage.
- **powers of discovery.** This means that documents from your employer can be applied for (such as any written pay or equal opportunities policies).
- **a report by an independent expert.** He or she is appointed by the Advisory, Conciliation and Arbitration Service (ACAS) to prepare a report for the ET on whether the jobs are of 'equal value'.

WHO CAN HELP YOU?

Since equal pay claims are usually quite complicated, it can be difficult to take a case without appropriate support. Your local Citizens Advice or Law Centre may be able to give you free help. Contact PERS for our leaflet “**Where to go for more help**”.

TRADE UNIONS. Many unions are now becoming experienced in pursuing equal pay, even though claims sometimes overturn agreements that they have previously negotiated. If you are not in a trade union, it may be worth joining one since most unions would take up an equal pay case on your behalf as soon as you join.

EQUALITY AND HUMAN RIGHTS COMMISSION

The EHRC has a great deal of relevant information on its website and may help you if you have a case .

Contact the EHRC on **0845-604 6610** www.equalityhumanrights.com

This leaflet is intended as a guide and is not a full statement of the law - please seek advice before taking any action.

PERS has a complaints and comments procedure. Please contact us for a copy if you wish to make a complaint or comment about our services.

PERS LEAFLETS

This is one of a series of leaflets which look at aspects of your rights at work:

- 1 Contracts of Employment
- 2 NI and Income Tax
- 3 Statutory Sick Pay
- 4 Paid Holidays
- 5 Maternity and Paternity Rights
- 6 Redundancy
- 7 Equal Pay
- 8 Race Discrimination
- 9 Sex Discrimination
- 10 Part Timers
- 11 Dismissal
- 12 Trade Unions
- 13 Disability Discrimination
- 14 The National Minimum Wage

PERS ACTION PACKS

We currently have three Action Packs which give more detailed information and advice on how to get your rights at work. They include model letters you can use to claim your rights or to query disagreements with your employer.

- No.1 Changes to Employment Contracts**
 - No.2 A Fair Day's Pay (about pay and deductions)**
 - No.3 Notice and Notice Pay**
- Contact PERS if you want an Action Pack**

PAY & EMPLOYMENT RIGHTS SERVICE

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www.pers.org.uk

Telephone advice is available from PERS at the following times:

Monday: 10am to 1pm

Tuesday: 10am to 4pm & 5.30pm to 7.30pm

Wednesday: 10am to 4pm

Thursday: 10am to 4pm

Friday: 10am to 1pm

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