

MALE AND FEMALE WORKERS EQUAL PAY LAW, 5756-1996

[N.B. This Law came into force on 21.9.96 and replaces the Male and Female Workers (Equal Pay) Law 5724-1964, which was repealed.]

Purpose of the law.

1. This Law is intended to promote equality and to prevent discrimination between the sexes in all matters of pay or of any other remuneration in connection with employment.

The right to equal pay.

2. Male and female employees, employed by the same employer in the same workplace, are entitled to equal pay for the same work, for essentially equal work or for equivalent work; this provision shall also apply to any other remuneration, which an employee gives to or for the employee in connection with his work, for the purposes of this Law, "other remuneration" means – any supplement, benefit, allocation, grant, fringe benefit, payment to cover expenses, payments for vehicle maintenance, use of telephone, overtime quota, purchase of professional literature, clothing, use of vehicles, or any other compensation in cash or in kind, direct or indirect, and even if they do not constitute wages.

Equivalent work.

3. Work shall be deemed to be equivalent to other work, even though it is not the same work or essentially equal work, if it is of equal importance, also in terms of the qualifications, effort, skill and responsibility required for the performance thereof, and in terms of the environmental conditions under which such work is performed.

Jurisdiction.

4. The Labour Court has sole jurisdiction to hear actions under this Law.

Appointment of job evaluation expert on behalf of the Court.

5. (a) In an action under this Law the Labour Court may, on the application of one of the parties, appoint a job evaluation expert on behalf of the Court, who shall express his opinion on the question of whether the categories of work in dispute are equal, essentially equal or equivalent, as the case may be (hereinafter referred to as – the expert); where no party has applied for the appointment of an expert, then the Court may appoint one, if, under special circumstances, it finds it necessary to do so.

(b) The Labour Court may fix the fee and expenses of the expert, that is to paid by some or all of the parties, or, in special circumstances, and for reasons that shall be recorded, by the State Treasury, all as prescribed by the Court.

(c) The Minister of Justice may, in consultation with the Minister of Labour and Social Affairs, prescribe procedures for the giving of the expert's opinion, his appointment, powers and obligations, and, with the agreement of the Minister of Finance – the maximum tariff of fees to be paid to him.

Wage differential.

6. (a) The provisions of Section 2 shall not preclude any differential in wages or other remuneration rendered necessary by the character or nature of the work under consideration, including output, quality of work, seniority in the job, training or education, or the geographic location of the workplace, all provided that nothing by virtue thereof shall not constitute sex discrimination.
- (b) Where, in an action under this Law, a Labour Court finds that the types of work in dispute constitute equal work, essentially equal work, or equivalent work, and where the employer contends that there are circumstances as provided in subsection (a) that justify a wage differential or other remuneration, the onus of proving the same shall be on him.

Giving information.

7. An employer shall give his employee, on the employee's demand, information for the purposes of this Law regarding the wage levels of persons employed by him, according to categories of employees, categories of jobs or categories of grades, provided that the employee shall only be required to deliver such information to such extent as the circumstances require, that avoids disclosure of details of the identity of employees, and which does not by virtue thereof, constitute a breach of any other law.

Differentials in wages or other remuneration.

8. (a) An employee shall not, by virtue of this Law, be entitled to a wage or other remuneration differentials for a period of more than twenty-four months prior to the date of the commencement of proceedings.
- (b) Where an employee is entitled to wage differentials, times for the payment of which are prescribed under the Wage Protection Law 5718-1958, then in any action brought pursuant to this Law, the payment day for the purposes of that law shall be the eighth day after judgment is given, and the "determining – shall be the ninth day after the said payment day.
- (c) Where a Labour Court has ordered that there be a stay of execution on a judgment in an action brought under this Law until an appeal has been decided, then no wage delay compensation within its meaning in the Wage Protection Law 5718-1958 shall apply to wage differentials by virtue of the judgment for the period from the day on which the said judgment was given until the appeal is decided, unless the judgment given in the appeal provides otherwise.

Right of action.

9. (a) An action under this law may be brought by -
- (1) the employee;
 - (2) the representative employees organisation at that workplace, and if there is no such employees organisation to which the employee belong – by an employees organisation to which the employee belongs.
 - (3) with the employee's consent – by an organisation that deals with women's rights;

In this section, "representative employees organisation" – is as defined in the Collective Agreements Law 5717-1957.

Intervention in actions.

10. In an action under this Law, the Labour Court may allow an organisation that deals with women's rights, an employee who is liable to be prejudiced by the action, a representative employee organisation or other employee organisation as provided in Section 9, to be heard and to state their case in such manner as the Court shall prescribe, even where they are not parties to the action.

Class action.

11. (a) Subject to the provisions of this section, an employee may bring an action in the name of a group of employees on grounds on which he may, under this law, bring an action in his own name (hereinafter referred to as –a class action) .
- (b) Judgment in a class action shall constitute *res judicata* in relation to all persons belonging to the group.

(c) Commencement of class action requires the leave of the Labour Court, and leave shall be given if the Court is satisfied that the following conditions have been met:

- (1) the action is brought in good faith;
- (2) the size of the group justifies the bringing of the action as a class action.
- (3) under the circumstances of the case, a class action is the most efficient and fairest way of deciding the dispute,
- (4) there is a basis for assuming that the Plaintiff suitably represents the interest of all persons belonging to the group.

(d) Where the Court gives leave for the action to be brought as a class action, it shall first define the group of employees in whose name the action is to be brought, and it shall prescribe the manner in which its decision shall be made public.

(e) Every person who belongs to the group defined by the Court shall be deemed to have agreed to the bringing of the action as a class action, unless he informs the Court, within forty five days after the Court's decision is made public, of his desire not to be included in the group.

(f) A Plaintiff shall not discontinue a class action and shall not make a settlement or compromise with the Defendant, other than with leave of the Court.

Prohibition of conditions and stipulations.

12. A right of an employee under this law shall not be made subject to conditions or waiver.

Saving of rights.

13. Benefits accorded to an employee in connection with childbirth or parenthood shall not be taken into account for the purposes of this Law.

The State as employer.

14. The provisions of this Law shall apply to the State as employer, provided that -

- (1) every Ministry, as defined in Section 1 of the State Service (Appointments) Law 5719-1959, shall be deemed to be a separate workplace;
- (2) The Minister of Labour and Social Affairs and the Minister of Finance may, with the approval of the Knesset Labour and Social Affairs Committee, determine by order that a particular unit or a number of units in one department are a separate workplace.

Implementation and regulations.

15. (a) The Minister of Labour and Social Affairs is charged with the implementation of this Law and he may make regulations on any matter concerning the same.

(b) The Minister of Justice may, after consultation with the Minister of Labour and Social Affairs, make regulations concerning special rules of procedure and the admissibility of evidence for the purposes of this Law before a Labour Court, and also with regard to rules of procedure for class actions and the conduct thereof pursuant to this Law.

Repeal.

16. The Male and Female Workers (Equal Pay) Law 5724-1964 – is repealed.

Commencement.

17. This Law shall come into force six months after the publication thereof.