



BELIZE

**EQUAL PAY ACT
CHAPTER 302:01**

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CHAPTER 302:01

EQUAL PAY

27 of 2003.

[10th January, 2004]

Short title.

1. This Act may be cited as the Equal Pay Act.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires,

“appointed day” means the date of commencement of this Act;

“employee” means a person who has entered into or works under a contract of service or apprenticeship;

“employer” means a person who hires one or more employees;

“equal pay” means a rate or scale of remuneration for works in which rate or scale there is no element of differentiation among male and female employees based on the sex of the employees;

“equal work” means work performed for one employer by male and female employees in which,

- (a) the duties, responsibilities or services to be performed are similar or substantially similar in kind, quality and amount;
- (b) the conditions under which such work is performed are similar or substantially similar;
- (c) similar or substantially similar qualifications, degree of skill, effort and responsibility are required; and
- (d) the difference (if any) between the duties of male and female employees are not of practical importance in relation to terms and conditions of employment or do not occur frequently;

“Minister” means the Minister for the time being responsible for Labour;

“referee” means a member for the time being of the panel of persons appointed by the Labour Commissioner to be referees in accordance with the Schedule to this Act;

“remuneration”, in relation to an employee, means the salary or wages actually and legally payable to that employee and includes,

- (a) time and piece work wages and overtime, bonus and other payments;
- (b) allowances, fees, commission and every other emolument, whether in one sum or several sums and whether paid in cash or kind.

(2) For the purposes of this Act, a person shall be regarded as employed in an establishment if that person is employed to work in the establishment or, where that person is employed to work otherwise than in the establishment, if the employment is carried out from the establishment.

(3) A person shall not be regarded for the purposes of this Act as being employed in Belize if that person’s employment is wholly or mainly outside of Belize, but employment on an aircraft or ship, as the case may be, registered in Belize shall not be regarded for the purposes of this Act as employment outside Belize, unless it is wholly outside Belize.

(4) Insofar as any specially favourable treatment approved as such by a referee is accorded to women in connection with,

- (a) the birth or expected birth of a child; or
- (b) terms and conditions of employment related to retirement, marriage or death,

such treatment shall be deemed for the purposes of this Act not to be in contravention of the requirement not to discriminate between male and female employees.

(5) In determining whether there exists an element of differentiation, in the rates of remuneration for male employees and female employees for any class of work, no account shall be taken of any provision in any Act which limits the work which female employees may perform.

(6) If, on the application of any employer or employee or any organization recognized by the Minister as representative of employers or of employees, the Minister is satisfied that there is need to determine whether or not any treatment mentioned in subsection (4) of this section is favourable to the women concerned, the Minister shall refer the matter to a referee for decision.

(7) Where a reference is made under subsection (6) of this section the referee,

- (a) shall give all opportunity to parties appearing to the referee to be affected by, or concerned with, the matter to present evidence and make representations to the referee; and
- (b) may determine the procedure to be followed and may take into account the extent to which the employees concerned in the matter, or a majority of them, consider the treatment to be favourable to them.

(8) This Act does not prejudice an employee's right to bring a civil action to recover monies for work performed for an employer.

3.-(1) From and after the appointed day no employer shall, by failing to pay equal pay for equal work, discriminate between male and female employees employed by the employer's establishment.

(2) Subject to subsection (5) of this section, any employer who contravenes subsection (1) of this section in respect of any employee commits an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term of six months and in the case of a continuing offence, to a fine not exceeding fifty dollars for each day on which the offence is continued after conviction.

Payment of equal pay for equal work.

(3) Where an employer is convicted of an offence under this section the Court may, without prejudice to its powers under subsection (2) of this section, order the employer to pay to any employee in relation to whom the offence was committed, such sums as may appear to the Court to be due to that employee having regard to the provisions of subsection (1) of this section.

(4) In determining any sum under subsection (3) of this section, no account shall be taken of any period before the period of six (6) years immediately preceding the date on which the relevant information or complaint was laid and in any event no account shall be taken of any period before the appointed day.

(5) No prosecution for an alleged offence under this section shall be undertaken,

(a) unless in relation thereto the mediation procedure set out in the Schedule has been adopted; and

(b) until, pursuant to that Schedule, there is no restriction on proceedings for prosecution.

(6) Any employee aggrieved by determination made after the mediation procedure set out in the schedule may bring a tort action in the Supreme Court for discrimination against the employer.

4.–(1) If the employer is convicted of a contravention of section 3 of this Act or is acquitted on the ground of the special defence created by section 5(2) of this Act, the Court may, without prejudice to its powers under section 3(2) of this Act, order the employer to pay to the employee concerned such sums (hereinafter referred to as “arrears of remuneration”) as appear to the Court to be due to the employee having regard to the provisions of section 3(1) of this Act.

Power of Court
under payments.

(2) In determining any sum referred to in subsection (1) of this section, no account shall be taken of any period before the period of six years immediately preceding the date on which the relevant information or complaint was laid and in any event no account shall be taken of any period before the appointed day.

(3) An order under subsection (1) of this section for the payment of any arrears of remuneration to any person may be enforced by that person against the employer in like manner as a judgment in favour of that person and, until the sum is paid, the order shall not be in derogation of any right of that person to recover remuneration by any other proceedings.

Offence of agent.

5.—(1) Where an offence for which an employer is by virtue of this Act liable to penalty, has in fact been committed by some agent of that employer or by some other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if the agent or other person were the employer, either together with, or after the conviction of the employer and shall be liable on conviction to the same punishment as that to which the employer is liable.

(2) Where an employer who is charged with an offence against this Act proves to the satisfaction of the Court that,

- (a) the employer has used due diligence to enforce the execution of this Act; and
- (b) the offence was in fact committed by the agent of the employer or by some other person without the employer's knowledge, consent or connivance,

then in the event of the conviction of that agent or other person for the offence, the employer shall not be convicted of the offence, without prejudice, to the power of the Court to make an order under section 4(2) of this Act.

(3) Where the immediate employer of any employee is also in the employment of some other person and that employee is employed on the other person's premises, that other person shall, for the purposes of the provisions of this Act relating to the enforcement of section 3(1) of this Act, be deemed to be an employer of the employee jointly with the immediate employer.

Prevention of evasion.

6.—(1) Any provision of a contract of employment, express or implied, made in, or which would result in, contravention of section 3(1) of this Act, shall be void and *in lieu* thereof the provisions of section 3 shall be deemed to apply.

(2) The acceptance by an employee of remuneration in contravention of section 3 shall not be,

- (a) a defence to any action by that employee to recover remuneration at a different rate as provided for in this Act;
- (b) a bar to any proceedings under this Act; or
- (c) a defence to any prosecution under this Act.

(3) No employer shall dismiss any employee because that employee has made a complaint or given evidence or assisted in any way in relation to the initiation or prosecution of a complaint or other proceeding under this Act or because that employee's remuneration, as respects any period before the appointed day, is likely to be regulated by this Act.

(4) Any person who contravenes subsection (3) of this section, commits an offence and shall be liable on summary conviction for a first offence to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months and for a second or subsequent offence to imprisonment for a term not exceeding six months.

7. In any prosecution of a person for a contravention of section 3, the burden of proving that equal pay has been paid for equal work shall be on the employer.

Burden of proof.

8.-(1) Every employer who employs both men and women shall,

Records to be kept.

- (a) keep such records as the Minister may by Order published in the *Gazette* require to be kept for any purpose connected with the provisions of this Act; and
- (b) keep records of remuneration as are necessary to show that the provisions of this Act are being complied with in respect of persons employed by that employer.

(2) Any employer who fails to keep any record as required by subsection (1) of this section shall be liable on summary conviction in

respect of each offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months and to an additional fine not exceeding twenty-five dollars for each day in which the offence is continued after conviction.

Assignment of officers and power of entry and inspection.

9.—(1) The Labour Commissioner may designate officers as he may think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of the provisions of this Act.

(2) Any officer designated pursuant to subsection (1) of this section (hereinafter referred to as “a designated officer”), may at any reasonable time, enter the premises of any employer who employs both men and women and may,

- (a) require the production of wage sheets, records of remuneration or occupation, or any other record required to be kept pursuant to section 8 of this Act; and
- (b) inspect and examine such wage sheets and records and copy any material therefrom.

(3) A designated officer shall be furnished with a certificate of designation on entering any premises pursuant to subsection (2) of this section, the officer shall, if required to do so, produce the certificate to the employer or other person in charge of the premises.

(4) Any employer or other person in charge of any premises in which a designated officer has entered pursuant to subsection (2) of this section, shall give the designated officer all reasonable assistance and furnish the officer with such records or information as the officer may reasonably require.

Offences of obstruction, etc.

10.—(1) Any person who,

- (a) obstructs, hinders or prevents any designated officer from entering premises pursuant to section 9(2) of this Act; or

- (b) fails or refuses to produce any wage sheet and record required to be produced in accordance with section 9(2) of this Act, being a wage sheet or record which was made or should have been made within the preceding six years,

commits an offence and shall be on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and term of imprisonment.

(2) Any person who,

- (a) makes or causes to be made or knowingly allows to be made any wage sheet, record of remuneration or occupation which is false in any material particular or produces or causes to be produced or knowingly allows to be produced any wage sheet or other record to any designated officer acting in the exercise of the powers given to that officer by this Act, knowing the same to be false; or
- (b) not being a designated officer, with intent to deceive any employer or employee, pretends to be such an officer,

commits an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and term of imprisonment.

11.—(1) Proceedings against any person for an offence against or for the recovery of any penalties under this Act or any regulations made thereunder, may be instituted by any designated officer assigned pursuant to section 9(1) of this Act, who is authorized in that behalf by the special or general directions of the Labour Commissioner and any such officer may prosecute such offence or conduct such proceedings.

Designated officer may institute proceedings.

(2) In any action or other legal proceedings brought against any designated officer in respect of any act done in pursuance or execution or intended execution of this Act, the plaintiff shall not recover unless

the plaintiff alleges in the pleadings and proves at the trial that such act was done either maliciously or without reasonable and probable cause.

Regulations.

12.—(1) The Minister may make regulations generally for giving effect to this Act and, without prejudice to the generality of the foregoing, such regulations may provide for,

- (a) the furnishing of information which the Labour Commissioner may require from time to time to enable the Labour Commissioner to review the operation of this Act;
- (b) the amendment, repeal or replacement of the Schedule;
- (c) any matter required by this Act to be prescribed.

(2) Any regulations made pursuant to subsection (1)(b) of this section, shall be subject to negative resolution.

SCHEDULE

EQUAL PAY ACT

Mediation Procedure

(Section 3(5))

1. Any person claiming to be aggrieved because of an alleged breach of section 3 of this Act, or any person on behalf of that person, may make a complaint to the Labour Commissioner.

Complaints.

2. Where, pursuant to a complaint under paragraph 1 or pursuant to any other information coming to the attention of the Labour Commissioner, the Labour Commissioner is of the opinion that a breach of section 3 of this Act, may have occurred, the Labour Commissioner may direct a designated officer to investigate the alleged breach and to attempt to effect a settlement between the persons affected by, or concerned with, the alleged breach.

Reference to assigned officer for settlement.

3. A designated officer shall, within sixty days of receiving a direction under paragraph 2, report to the Labour Commissioner as to the results of the investigation and to the officer's success in attempting to effect a settlement between the persons affected by, or concerned with, the alleged breach.

Report of assigned officer.

4. Where a designated officer fails to effect a settlement between persons affected by, or concerned with, the alleged breach the Labour Commissioner may refer the matter for review by a referee.

Reference to referee if no settlement reached.

5. A referee,

Procedure of referee.

(a) shall give full opportunity to all parties affected by, or concerned with, the alleged breach to present evidence and make representations to the referee; and

(b) may determine the procedure to be followed and, subject to subparagraph (a), the evidence to be

received and accepted, whether or not that evidence would be admissible in a court of law.

Report of referee.

6. The referee shall submit a report to the Labour Commissioner and recommend to the Labour Commissioner the course that the referee thinks should be taken with respect to the alleged breach.

Publication of report.

7. The Labour Commissioner shall furnish a copy of the report and recommendation of the referee to each of the persons affected by, or concerned with, the alleged breach and if the Labour Commissioner deems it advisable, may publish the report and recommendation in such manner as the Labour Commissioner thinks fit.

Order of Labour Commissioner.

8.-(1) Upon receipt of the report and recommendation of the referee the Labour Commissioner may make such order as the Labour Commissioner deems necessary to carry into effect the recommendation of the referee and without prejudice to the generality of the foregoing may,

(a) order the employer concerned in the alleged breach to pay equal pay to employees affected thereby; or

(b) order the employer to pay to any employee of the employer a sum of money to make up any difference between the rate of pay paid to that employee and the rate paid to any other employee performing similar or substantially similar kind or quality of work during the period for which a difference existed in the respective rates of pay,

or order both those things together with such other order he deems necessary.

(2) An order under subparagraph (1)(b) of this section, shall not take account of any difference in the rate of pay before the appointed day or before the period of six years immediately preceding the date of the report of the referee, whichever is the latter.

Panel of referees.

9. For the purpose of this Act the Labour Commissioner may appoint a panel of such number of persons as the Labour Commissioner thinks fit to be referees and may make such rules as the Labour Commissioner thinks fit for the distribution of business between such referees.

10. Where a person makes complaint under paragraph 1 in respect of an alleged breach of section 3 of this Act, that person shall not commence, or give evidence or assist in any way, any proceeding to prosecute any person for the alleged breach unless,

Restriction on prosecution.

- (a) the Labour Commissioner fails within fifteen days after the complaint is made, to direct a designated officer to investigate the alleged breach;
- (b) a designated officer fails to effect a settlement between the persons affected by, or concerned with, the alleged breach and the Labour Commissioner fails to refer the matter to a referee within thirty days after receiving the report of the designated officer;
- (c) after reference has been made to a referee, the Labour Commissioner fails within thirty days after receiving the referee's report, to make an order under paragraph 8;
- (d) an order is made under paragraph 8 and the employer fails to comply with that order within thirty days after the date thereof.

11. There shall be paid to the referee such remuneration (whether by way of salary or travelling or other allowances) as the Labour Commissioner may determine.

Remuneration of referee.

12. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any referee in respect of any act done *bona fide* in the performance of the referee's duties under this Act.

Protection of referee.