

THE EQUAL REMUNERATION ACT, 1976

[25 OF 1976]

An Act to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Equal Remuneration Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date, not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments.

2. Definitions.- In this Act, unless the context otherwise requires,-

- (a) “appropriate Government” means,-
 - (i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oil-field or major port or any corporation established by or under a Central Act, the Central Government, and
 - (ii) in relation to any other employment, the State Government;
- (b) “commencement of this Act” means, in relation to an establishment or employment, the date on which the Act comes into force in respect of that establishment or employment;
- (c) “employer” has the meaning assigned to it in clause (f) of section 2 of the Payment of Gratuity Act, 1972 (39 of 1972):
- (d) “man” and “woman” means male and female human beings, respectively, of any age,;
- (e) “notification” means a notification published in the Official Gazette;
- (f) “prescribed” means prescribed by rules made under this Act;
- (g) “remuneration” means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;
- (h) “same work or work of a similar nature” means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of woman are not of practical importance in relation to the terms and conditions of employment;

- (i) “worker” means a worker in any establishment or employment in respect of which this Act has come into force;
- (j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meanings respectively assigned to them in that Act.

3. Act to have overriding effect.- The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

CHAPTER II

PAYMENT OF REMUNERATION AT EQUAL RATES TO MEN AND WOMEN WORKERS AND OTHER MATTERS

4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.- (1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

(3) Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her before the commencement of this Act.

5. No discrimination to be made while recruiting men and women workers.- On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, ¹[or in any condition of service subsequent to recruitment such as promotions, training or transfer,) make any discrimination against women except where the employment of workmen in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment of the posts in an establishment or employment.

6. Advisory Committee.- (1) For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent

¹ Inserted by the Equal Remuneration (Amendment) Act, 1987.

to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf.

(2) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(3) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment and such relevant factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

7. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints.- (1) The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the Purpose of hearing and deciding-

- (a) complaints with regard to the contravention of any provision of this Act;
- (b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature;

and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be described

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1) it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct,-

- (i) in the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;
- (ii) in the case of complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) Any employer or worker aggrieved by any order may be an authority appointed under sub-section (1), on a complaint or claim may, within thirty days

from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33-C of the Industrial Disputes Act, 1947 (14 of 1947), shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

CHAPTER III MISCELLANEOUS

8. Duty of employers to maintain registers.- On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

9. Inspectors.- (1) The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(3) An Inspector may, at any place within the local limits of his jurisdiction,-

- (a) enter, at any reasonable time, with such assistance as he thinks fit, any building, factory, premises or vessel;
- (b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;
- (c) take on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;
- (d) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;
- (e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

10. Penalties.- (1) If after the commencement of this Act, any employer, being required by or under the Act, so to do-

- (a) omits or fails to maintain any register or other document in relation to workers employed by him, or
- (b) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or

- (c) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or
- (d) omits or refuses to give any information.

he shall be punishable ¹[with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both).

(2) If, after the commencement of this Act, any employer-

- (a) makes any recruitment in contravention of the provisions of this Act, or
- (b) makes any payment of remuneration at unequal rates to men and women workers. for the same work or work of a similar nature, or
- (c) makes any discrimination between men and women workers in contravention of the provisions of this act, or
- (d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6,

he shall be punishable ³[with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with imprisonment for a term which shall be not less than three months but which may extend to one year or with both for the first offence, and with imprisonment which may extend to two years for the second and subsequent offences].

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

11. Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed, to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offences was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

¹ Substituted for "with fine which may extend to one thousand rupees" by the Equal Remuneration (Amendment) Act, 1987.

¹[12. Cognizance and trial of offences.- (1) No Court inferior to that of a metropolitan Magistrate or judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) No Court shall take cognizance of an offence punishable under this Act except upon-

- (a) its own knowledge or upon a complaint made by the appropriate Government or an officer authorised by it in this behalf, or
- (b) a complaint made by the person aggrieved by the offence or by any recognised welfare institution or organisation.

Explanation.-For the purposes of this sub-section recognised welfare institution or organisation means a social welfare institution or organisation recognised in this behalf by the Central or State Government.]

13. Power to make rules.- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the manner in which complaint or claim referred to in sub-section (1) of section 7 shall be made:
- (b) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;
- (c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and- if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. Power of Central Government to give directions.- The Central Government may give directions to a State Government as to the carrying into execution of this act in the State.

²[15. Act not to apply in certain special cases.- Nothing in this Act shall apply-

- (a) to cases affecting the terms and conditions of a woman's employment in complying with the requirements of any law giving special treatment to women, or
- (b) to any special treatment accorded to women in connection with-
 - (i) the birth or expected birth of a child, or
 - (ii) the terms and conditions relating to retirement, marriage or death or to any provision made in connection with the retirement, marriage, or death.]

1 Substituted by the Equal Remuneration (Amendment) Act, 1987.

2 Substituted by the Equal Remuneration (Amendment) Act, 1987.

16. Power to make declaration.- Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration, or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

17. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by notification, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

18. Repeal and saving.- (1) The Equal Remuneration Ordinance, 1975 (12 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

THE EQUAL REMUNERATION RULES, 1976¹

In exercise of the powers conferred by Section 13 of the Equal Remuneration Act, 1976 (25 of 1976) and in supersession of Equal Remuneration Rules, 1975, the Central Government hereby makes the following rules, namely:-

CHAPTER I PRELIMINARY

1. Short title and commencement:-(1) These rules may be called the Equal Remuneration Rules, 1976.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-In the rules, unless the context otherwise requires,—

- (a) “Act” means the Equal Remuneration Act, 1976 (25 of 1976);
- (b) “Authority” means an authority appointed by the appropriate Government under sub-section (1) of section 7;
- (c) “Form” means the form appended to these rules;
- (d) “section” means a section of the Act;
- (e) “registered Trade Union” means a Trade Union registered under the Trade Unions Act, 1926 (16 of 1926).

CHAPTER II COMPLAINTS AND CLAIMS UNDER THE ACT

3. Complaints regarding contravention of the Act:-(1) Every complaint under clause (a) of sub-section (1) of section 7 shall be made in triplicate, in Form ‘A’ to the Authority.

(2) A single complaint may be made by, or on behalf of, or in relation to, a group of workers, if they are employed in the same establishment and the complaint relates to the same contravention.

(3) A complaint may be made by the worker himself or herself or by any legal practitioner, or by any official of a registered Trade Union, authorised in writing to appear and act on his or her behalf or by any Inspector appointed under section 9 or any other person acting with the permission of the Authority.

4. Claim regarding non-payment of wages, etc.:-(1) Every claim under clause (b) of sub-section (1) of section 7 shall be made by petition in triplicate, in Form ‘B’ to the Authority.

(2) A single petition may be made by, or on behalf of, or in relation to, a group of workers, if they are employed in the same establishment and their claims are of the same nature.

(3) A claim may be made by the worker himself or herself or by any legal practitioner, or by any official of a registered Trade Union, authorised in writing to appear and act on his or her behalf or by any Inspector appointed under section 9 or any other person acting with the permission of the Authority.

5. Authorisation:-The authorisation referred to in sub-rule (3) of rule 3 or sub-rule (3) of rule 4 shall be in Form “C” which shall be presented to the Authority to whom the complaint or the Claim, as the case may be, is made alongwith such complaint or claim and shall form part of the record.

¹ Vide, G.S.R. 119 (E), dated 11th March, 1976.

**CHAPTER III
REGISTERS TO BE MAINTAINED**

1[6. Registers to be maintained by the employer:-Every employer shall maintain up-to-date a register in relation to the workers employed by him, in Form 'D', at the place where workers are employed.]

**FORM A
(TO BE SUBMITTED IN TRIPLICATE)
[SEE RULE 3(1)]**

**COMPLAINT UNDER CLAUSE (A) OF SUB-SECTION (1) OF SECTION 7 OF
THE EQUAL REMUNERATION ACT, 1976 (25 OF 1976)**

To

The Authority appointed under sub-section (1) of section 7.
.....(Address)
A.....Complainant(s)
.....Full address

Versus

B.....Opposite Party
.....Full address

The complainant(s) begs/ beg to complain that the opposite party has been guilty of contravention(s) of the provisions of the Equal Remuneration Act, 1976 (25 of 1976) as shown below:-

[Here set out briefly the particulars showing the manner in which the alleged contravention(s) has/have place and the grounds supporting the complaint.]

The complainant(s) accordingly prays/pray that the Authority.....maybe pleased to decide the complaint set out above and pass such order or orders thereon as it may deem fit and proper.

The number of copies of the complaint (alongwith its annexures) as required under sub-rule (1) of rule 3 of the Equal Remuneration Rules, 1976 are submitted herewith.

The complainant(s) does/do solemnly declare that the facts stated in this complaint are true to the best of his/her their knowledge, belief and information.

Signature(s)/thumb impression(s)
of the complaint(s)

²I have been duly authorised in writing by.....[here insert the name of the worker(s)], to appear and act on his/her their behalf.

Signature of the legal practitioner/official of
a registered Trade Union duly authorised.

Station:

Date:

**FORM B
(TO BE SUBMITTED IN TRIPLICATE)
[SEE RULE 4(1)]**

**CLAIM UNDER CLAUSE (B) OF SUB-SECTION (1) OF SECTION 7 OF THE
EQUAL REMUNERATION ACT, 1976
(25 OF 1976)**

To

The Authority appointed under sub-section (1) of section 7.

1 Subs. by G.S.R. 4095, dated 24th October, 1983.
2 Strike out this portion if inapplicable.

.....Petitioner(s)
 A.....Full address
Versus
 B.....Opposite Party
Full address

The petitioner(s) above named states/state as follows:-

- (1) The petitioner(s) was/were /is/are employed from to.....as..... (category) in..... (name of the establishment) of Shri/Messrs.....(name of the employer and address).
- (2) The opposite party is the employer within the meaning of clause (c) of section 2 of the Equal Remuneration Act, 1976 (25 of 1976).
- (3) The petitioner(s) was/were/has/have not been paid wages at rates equal to those of workers of the opposite sex for the same work or work of a similar nature for the period from.....to.....
- (4) The petitioner(s) was/were/has/have been paid wages at the rate of.....whereas workers of the opposite sex the rate of.....during the said period.
- (5) The petitioner(s) estimates/estimate the value of relief sought by him/them at Rs.....[Rupees.....(in words)].
- (6) The petitioner(s) therefore, prays/pray that the Authority may be pleased to decide the claim set out above and pass such order or orders thereon as it may deem fit and proper.
- (7) The petitioner(s) begs/ beg leave to amend or add to or make alterations in the petition, if and when necessary, with the permission of the Authority.

The petitioner(s) does/do solemnly declare that the facts stated in this petition are true to the best of his/her/their knowledge, belief and information.

Signature(s)/thumb impression(s)
of the petitioner(s)

I have been duly authorised in writing by.....[here insert the name of the worker(s)], to appear and act on his/her/their behalf.

Signature of the legal practitioner official of
a registered Trade Union duly authorised.

Station:
Date:

FORM C
(SEE RULE 5)
FORM OF AUTHORITY IN FAVOUR OF LEGAL PRACTITIONER OR ANY
OFFICIAL OF A REGISTERED TRADE UNION

I/We hereby authorise Shri/ Shrimati/ Kumari.....a legal practitioner/an official of.....which is a registered trade Union to appear and act on my/our behalf, under² sub-rule (3) of rule 3, sub-rule (3) of rule 4 in respect of the ³complaint/claim against(mention name of employer) on account of(mention violation of the Act).

Signature(s)/thumb impression(s)

1 Strike out this portion if inapplicable.
 2 Strike out whichever is inapplicable.
 3 Strike out whichever is inapplicable.

of the worker(s)

Station:

Date:

Witness:

(1)

(2)

(3)

I accept the authorisation.

Station:

Date:

¹Legal practitioner

Official of a registered Trade Union.

**FORM D
(SEE RULE 6)**

**REGISTER TO BE MAINTAINED BY THE EMPLOYER UNDER RULE 6 OF THE
EQUAL REMUNERATION RULES, 1976**

Name of the Establishment with full address.....

Total number of workers employed.....

Total number of men workers employed.....

Total number of women workers employed.....

					Components of remuneration				
Category of workers	Brief Description of work	No. of men employed	No. of women employed	Rate of remuneration paid	Basic wage or salary	Dearness allowances	House Rent allowance	Other allowances	Cash value of concessional supply of essential commodities
1	2	3	4	5	6	7	8	9	10

1 Strike out whichever is inapplicable.

THE CENTRAL ADVISORY COMMITTEE ON EQUAL REMUNERATION RULES, 1991

(25 OF 1976)

In exercise of the powers conferred by section 13 of the Equal Remuneration Act, 1976 (25 of 1976) the Central Government hereby makes the following rules, namely:-

1. Short title and commencement:-(1) These rules may be called the Central Advisory Committee on Equal Remuneration Rules, 1991.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-In the rules, unless the context otherwise requires,—

(a) “Committee” means the Central Advisory Committee constituted by the Central Government under sub-section (1) of section 6 of the Equal Remuneration Act, 1976 (25 of 1976);

(b) “Chairman” means the Chairman of the Committee

3. Composition of the Committee:-The Committee shall consist of not less than ten persons and not more than twenty persons excluding the Chairman, to be nominated by the Central Government, of which one-half shall be women. Nomination shall be made from amongst the representatives of the Central Government, State Governments/Union Territory Administrations, Members of Parliament ‘Employers’ Organisations, engaged in the study and welfare activities of women labour. The composition of the Committee shall not be invalid for the reason that representative belonging to any of the aforesaid categories has not been included in the Committee.

4. Term of office of members of the Committee:-(1) Save as otherwise expressly provided in these rules, the term of office of a non-official member of the Committee shall be two years from the date of his nomination:

Provided that such member shall notwithstanding the expiry of the said period of two years, continue to hold office until his successor is nominated.

(2) A non-official member of the Committee nominated to fill a casual vacancy shall hold office for the remainder period of the term of office of the number in whose place he is nominated.

(3) The official members of the Committee shall hold office during the pleasure of the Central Government.

5. Allowances of members:-(1) The travelling allowances of an official member shall be governed by the rules applicable to him for journey performed by him on official duties and shall be paid by the authority paying his salary.

(2) The non-official members of the Committee shall be paid travelling allowance for attending the meeting of the Committee, at such rates as are admissible to Group ‘A’ officers of the Central Government and daily allowances shall be calculated at the maximum rate admissible to Group ‘A’ officers of the Central Government in their respective places.

6. Cessation of membership:-If any member of the Committee not being an *ex-officio* member of the Committee, fails to attend three consecutive meetings of

the Committee, without obtaining the leave of the Chairman for such absence, he shall cease to be a member of the Committee:

Provided that the Chairman may, if he is satisfied that such member was prevented by sufficient cause from attending three consecutive meetings of the Committee without obtaining such leave, direct that such cessation shall not take place and on such direction being made, such member shall continue to be member of the Committee.

7. Disqualification of membership:-(1) A person shall be disqualified on being nominated as, and for being, a member of the Committee if he,—

- (i) is of unsound mind and stands so declared by a competent court; or
- (ii) is an undischarged insolvent; or
- (iii) has been or is convicted of an offence which, in the opinion of the Central Government involves moral turpitude.

(2) If a question arises as to whether a disqualification has been incurred under sub-rule (1), the Central Government shall decide the same.
