

## Various international instruments relating to equal remuneration

### Universal Declaration of Human Rights, 1948, Article 23.2<sup>1</sup>

#### Article 23

2. Everyone, without any discrimination, has the right to equal pay for equal work.

### International Covenant on Economic, Social and Cultural Rights Article 7(a)(i)<sup>2</sup>

#### Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- a. Remuneration which provides all workers, as a minimum, with:
  - i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.

### Declaration on the Elimination of All Forms of Discrimination against Women, 1967 Article 11.1(d)<sup>3</sup>

#### Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
  - d. The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work

### ILO Equal Remuneration Convention, 1951 (No. 100) Recommendation, 1951 (No. 90) Article 2.1, 3.3<sup>4</sup>

- 2.1 “each member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers of work of equal value”.
- 3.3 “differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value”.



## Key Acts relating to the gender pay gap: the United Kingdom, United States and Canada

### United Kingdom

#### Equal Pay Act 1970, Equality Clause<sup>5</sup>

The effect of the act is to imply an “equality clause” into the contract of everyone.

This includes civil servants and persons employed by a Minister, the Crown, or government departments (s. 1). Its application also extends to collective agreements. However it does not cover service in the naval military or air forces of the crown.

The Act requires that men and women have equal terms and conditions of employment if they are both employed in similar or the same work. Discrimination is deemed to exist where there is a comparator of the opposite sex performing work of equal value or work rated as equivalent in the same employment, who is receiving a higher reward by the employer (ss. 1(1) and (2)).

The Act applies to work where a woman and a man are both employed on (s. 1):

- like work, where work is of a broadly similar nature and extant differences are not of practical importance in relation to the terms and conditions of employment;
- work rated as equivalent, by a Job Evaluation Scheme, in terms of the demand made upon her, such as effort, skill and decision, and;
- work of equal value in terms of the demands made upon her, for instance effort, skill and decision-making. Claims made under work of equal value are subject to complementary rules (*Employment Tribunals (Constitution and Rules of Procedure) Regulations, 1993*).

#### Treaty of the European Community Article 141<sup>6</sup>

##### Article 141

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

- (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
  - (b) that pay for work at time rates shall be the same for the same job.
3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.
  4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

## Canada

### Employment Standards Act, 2000, c. 41, s. 42 (1)<sup>7</sup>

#### Equal pay for equal work

42. (1) No employer shall pay an employee of one sex at a rate of pay less than the rate paid to an employee of the other sex when,
- (a) they perform substantially the same kind of work in the same establishment;
  - (b) their performance requires substantially the same skill, effort and responsibility; and
  - (c) their work is performed under similar working conditions.

### Pay Equity Act, 1990, Article 4. (1)<sup>8</sup>

#### Purpose of the Act

4. (1) The purpose of this Act is to redress systemic gender discrimination in compensation for work performed by employees in female job classes.

### Canadian Human Rights Act, 1985, Section 11<sup>9</sup>

“It is a discriminatory practice to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value.”

## United States

### United States Equal Pay Act of 1963, SEC. 206. [Section 6]<sup>10</sup>

- (d) Prohibition of sex discrimination
- (1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: Provided, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

1 Universal Declaration of Human Rights available at; <http://www.un.org/en/documents/udhr/>

2 International Covenant on Social Economic and Cultural Rights available at; <http://www2.ohchr.org/english/law/cescr.htm>

3 Declaration on the Elimination of all forms of Discrimination against Women available at; <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

4 ILO Equal Remuneration Convention 1951 available at; [http://www.ilocarib.org.tt/projects/cariblex/conventions\\_4.shtml](http://www.ilocarib.org.tt/projects/cariblex/conventions_4.shtml)

5 Equal Pay Act- United Kingdom available at; <http://www.ilo.org/public/english/employment/gems/eeo/law/uk/epa.htm#Equality%20Clause>

6 Treaty of the European Community available at; [http://eur-lex.europa.eu/en/treaties/dat/12002E/htm/C\\_2002325EN.003301.html](http://eur-lex.europa.eu/en/treaties/dat/12002E/htm/C_2002325EN.003301.html)

7 Employment Standards Act 2000 available at; [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_00e41\\_e.htm#BK64](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_00e41_e.htm#BK64)

8 Pay Equity Act 1990 available at; [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90p07\\_e.htm#BK6](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p07_e.htm#BK6)

9 Canadian Human Rights Act 1985 available at; <http://laws.justice.gc.ca/en/showtdm/cs/H-6>

10 The Equal Pay Act available at; <http://www.eeoc.gov/policy/epa.html>