

APPL 34 of 2018: Draft Equal Remuneration Principle

NOTE: In response to Application 34 of 2018, a draft Equal Remuneration Principle has been jointly developed by the Minister for Industrial Relations, Unions WA and the Chamber of Commerce and Industry of WA. The Draft Equal Remuneration Principle is yet to be formally considered by The Western Australian Industrial Relations Commission.

1. Applications may be made under this Principle to implement equal remuneration for work of equal or comparable value.
2. The Western Australian Industrial Relations Commission (Commission) must apply this principle when it:
 - a) hears applications to vary an award in order to implement equal remuneration for work of equal or comparable value;
 - b) arbitrates industrial disputes about equal remuneration; or
 - c) values or assesses the work of employees in “female dominated” industries, occupations or callings.
3. In assessing the value of work, the Commission is required to examine the nature of work, skill and responsibility required and the conditions under which work is performed (which has the same meaning as it does for Principle 7 Work Value Changes) as well as other relevant work features.
4. The assessment is to be transparent, objective, non-discriminatory and free of assumptions based on gender.
5. The purpose of the assessment is to ascertain the current value of work. Changes in work value do not have to be demonstrated.
6. Prior work value assessments and/or the prior setting of pay rates for the work cannot be assumed to have been free of assumptions based on gender.
7. In assessing the value of the work, the Commission is to have regard to the history of the award including whether there have been any assessments of the work in the past and whether remuneration has been affected by the gender of the workers. Relevant matters to consider may include:
 - a) whether there has been some characterisation or labelling of the work as “female”;
 - b) whether there has been some underrating or undervaluation of the skills of female employees;
 - c) whether remuneration in an industry or occupation has been undervalued as a result of occupational segregation or segmentation;
 - d) whether there are features of the industry or occupation that may have influenced the value of the work such as the degree of occupational segregation, the disproportionate representation of women in part time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or

informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or

- e) whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

8. Gender discrimination is not required to be shown to establish undervaluation of work, therefore there is no requirement for a male comparator
9. Comparisons within and between occupations and industries are not required in order to establish undervaluation of work on a gender basis.
10. Such comparisons may be used for guidance in ascertaining appropriate remuneration. The proper basis for comparison is not restricted to similar work.
11. Where the Commission determines that there is not equal remuneration for work of equal or comparable value, the Commission is to make an assessment as to how equal remuneration is to be achieved. Outcomes may include but are not limited to the reclassification of work, the establishment of new career paths, changes to incremental scales, wage increases, the establishment of new allowances and the reassessment of definitions and descriptions of work to properly reflect the value of the work.
12. There will be no wage leapfrogging as a result of any changes in wage relativities arising from any adjustments under this principle.
13. The Commission will guard against contrived classifications and over classification of jobs.
14. The Commission may determine in each case whether any increases in wages will be absorbed into overaward payments.
15. Equal remuneration will not be achieved by reducing current wage rates or other conditions of employment.
16. The Commission may decide to phase in any decision arising from this principle. Any affected employer may apply to have any decision phased in. The merit of such application will be determined in the light of the particular circumstances of each case and any material relating thereto will be rigorously tested.
17. Claims brought under this principle will be considered on a case by case basis.