

# **Industrial Relations (Equal Remuneration) Amendment Bill 2018**

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Western Australia

LEGISLATIVE COUNCIL

*(Introduced by the Hon. Alison Xamon MLC)*

**Industrial Relations (Equal Remuneration)  
Amendment Bill 2018**

**A Bill for**

**An Act to amend the *Industrial Relations Act 1979*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Industrial Relations (Equal Remuneration)*  
3           *Amendment Act 2018*.

4   **2.     Commencement**

5           This Act comes into operation as follows —

- 6           (a)   sections 1 and 2 — on the day on which this Act  
7                receives the Royal Assent;
- 8           (b)   the rest of the Act — on a day fixed by proclamation,  
9                and different days may be fixed for different provisions.

10 **3.     Act amended**

11           This Act amends the *Industrial Relations Act 1979*.

12 **4.     Section 6 amended**

13           In section 6 delete paragraph (ac) and insert:

- 14
- 15                   (ac)   to ensure equal remuneration for men and  
16                        women employees for work of equal or  
17                        comparable value; and

18

19 **5.     Section 7 amended**

20           (1)   In section 7(1) insert in alphabetical order:

21

22                        *equal remuneration for work of equal or comparable*  
23                        *value* has the meaning given in section 23C(1);

24                        *equal remuneration order* has the meaning given in  
25                        section 23C(2);

26                        *remuneration*, for a provision relating to work of equal  
27                        or comparable value, includes —

- 28                        (a)   the wage or salary payable to an employee; and

1 (b) amounts payable or other benefits made  
2 available to an employee under a contract of  
3 service;  
4

5 (2) In section 7(1) in the definition of *industrial matter* after  
6 paragraph (a) insert:  
7

8 (ba) equal remuneration for men and women  
9 employees for work of equal or comparable  
10 value;  
11

12 **6. Section 23 amended**

13 In section 23(3):

14 (a) in paragraph (h)(ii) delete “section 23A.” and insert:

15  
16 section 23A;

17

18 (b) after paragraph (h) insert:

19

20 (i) on a claim for equal remuneration for work of  
21 equal or comparable value, make any order  
22 except an order that is authorised under  
23 section 23C.  
24

25 **7. Section 23C inserted**

26 After section 23B insert:

27

28 **23C. Equal remuneration order**

29 (1) In this section —

30 *equal remuneration for work of equal or comparable*  
31 *value* means equal remuneration for men and women  
32 employees for work of equal or comparable value.

**s. 7**

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- 1           (2) The Commission may make an order (an *equal*  
2           *remuneration order*) if the Commission considers it  
3           appropriate to ensure that, for employees to whom the  
4           order will apply, there will be equal remuneration for  
5           work of equal or comparable value.
- 6           (3) However, the Commission may make the equal  
7           remuneration order only if it is satisfied that, for the  
8           employees to whom the order will apply, there is not  
9           equal remuneration for work of equal or comparable  
10          value.
- 11          (4) Without limiting subsection (2), an equal remuneration  
12          order may provide for such increases in rates of  
13          remuneration as the Commission considers appropriate  
14          to ensure that, for employees to whom the order will  
15          apply, there will be equal remuneration for work of  
16          equal or comparable value.
- 17          (5) An equal remuneration order must not provide for a  
18          reduction in an employee's rate of remuneration.
- 19          (6) An equal remuneration order may implement equal  
20          remuneration for work of equal or comparable value —  
21               (a) immediately; or  
22               (b) progressively, in stages as provided in the  
23               order.
- 24          (7) An employer must not reduce an employee's  
25          remuneration because a claim for an equal  
26          remuneration order, or an equal remuneration order,  
27          has been made.
- 28          (8) If an employer purports to do so, the reduction is of no  
29          effect.

- 1 (9) A term of an award, industrial agreement or order has  
2 no effect in relation to an employee to the extent that it  
3 is less beneficial to the employee than a term of an  
4 equal remuneration order that applies to the employee.
- 5 (10) Subject to section 29AB, this section does not limit any  
6 right a person may otherwise have to secure equal  
7 remuneration for work of equal or comparable value.  
8

9 **8. Section 29 amended**

10 In section 29(1):

- 11 (a) in paragraph (b)(ii) delete “employment,” and insert:  
12  
13 employment; or  
14
- 15 (b) after paragraph (b)(ii) insert:  
16  
17 (iii) for equal remuneration for work of  
18 equal or comparable value,  
19
- 20 (c) in paragraph (b) delete “by the employee.” and insert:  
21  
22 by the employee; or  
23
- 24 (d) after paragraph (b) insert:  
25  
26 (c) in the case of a claim for equal remuneration  
27 for work of equal or comparable value, by the  
28 Commissioner for Equal Opportunity appointed  
29 under the *Equal Opportunity Act 1984*  
30 section 75.  
31

1   **9.       Section 29AB inserted**

2           After section 29AA insert:

3

4           **29AB.   Certain equal remuneration claims not to be**  
5           **determined**

- 6           (1)   The Commission must not determine a claim for an  
7           equal remuneration order in relation to an employee if  
8           proceedings for an alternative remedy —
- 9               (a)   to ensure equal remuneration for work of equal  
10              or comparable value for the employee; or
- 11              (b)   against unequal remuneration for work of equal  
12              or comparable value for the employee,
- 13           have commenced under another provision of this Act  
14           or another law of the State or the Commonwealth.
- 15           (2)   Subsection (1) does not prevent the Commission from  
16           dealing with the claim if the proceedings for the  
17           alternative remedy —
- 18               (a)   have been discontinued by the party who  
19              commenced the proceedings; or
- 20              (b)   have failed for want of jurisdiction.
- 21           (3)   If a claim has been made to the Commission for an  
22           equal remuneration order in relation to an employee, a  
23           person is not entitled to commence proceedings for an  
24           alternative remedy under this Act or any other law of  
25           the State —
- 26               (a)   to ensure equal remuneration for work of equal  
27              or comparable value for the employee; or
- 28              (b)   against unequal remuneration for work of equal  
29              or comparable value for the employee.



- 1           (4) Subsection (3) does not prevent a person from  
2           commencing proceedings for an alternative remedy if  
3           proceedings for an equal remuneration order —  
4           (a) have been discontinued by the party who  
5           commenced the proceedings; or  
6           (b) have failed for want of jurisdiction.  
7           (5) A remedy that —  
8           (a) exists under a law of the State or the  
9           Commonwealth relating to discrimination in  
10          relation to employment; and  
11          (b) consists solely of compensation for past  
12          actions,  
13          is not an alternative remedy for the purposes of this  
14          section.

15   **10. Section 96 amended**

16          In section 96(3) after paragraph (b) insert:

- 17  
18                   (ca) to make an equal remuneration order.  
19

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