**EQUAL REMUNERATION ACT, 1976**

The Equal Remuneration Act, 1976 provides for the payment of equal remuneration to men and women workers for the same work and prevents discrimination, on the ground of sex, against women in the matter of employment, recruitment and for matters connected in addition to the that or incidental to it. This Act applies to virtually every kind of establishment.

## Duties of Employer

Under the Equal Remuneration Act, employers are required to ensure the following with respect to workmen:

* 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.
* No employer for the purpose of complying with the Equal Remuneration Act can reduce the rate or salary of any worker.
* In India, the Vedic period gave equal status to men and women, but this ideology had a tectonic shift over a period. The men have overshadowed the position of women in society. At the time of Independence, the inequality was apparent, and the constitutional framers had to address this as it chose a democratic republic as a form of governance. Systems must be put in place for the operation of the democratic forces to ensure equality.  The constitutional provisions and various legislations have been enacted which became a bedrock towards ensuring equal opportunities to men and women. When equal opportunities are put in place, the next line of action needed is equal remuneration for the same work done without reference to the gender. To make this legislation a success, the onus is on the employer for effective implementation.
* The employment of women has been increasing gradually over the years. Moreover, the works which were considered gender-specific underwent a sea of change. Women were usually seen as less productive than their male counterparts. The general perspective of women was that they weren’t as serious as men in their work as family and home are their main priority. Economic dependency is the major cause for women to have weak bargaining power. This usually makes the employer take them for granted, and the wage rate would be unequal.
* In modern times, women are no longer restricted to minimal jobs or traditional works. They are employed at par with men and to protect their interests and ensure they get a fair chance, statutory recognition is given through different legislations, enacted both at center and state levels. The Workmen Compensation Act, Payment of Wages Act, Factories Act, Minimum Wages Act, The Equal Remuneration Act, Maternity Benefits Act, ESI Act, etc. are some of the legislation aimed at ensuring equal wages without gender bias.

In addition, no employer while making recruitment for the same work or work of a similar nature can make any discrimination against women except where the employment of women in such work is prohibited or restricted by a law in force.

## **Maintenance of Register**

All employers are required to maintain a register and other documents in relation to the workers employed as per the prescribed rules. Rule 6 of the Equal Remunerations Rules provides that every employer maintains a register in relation to the workers employed by him in Form D.

## The penalty under Equal Remuneration Act

The penalty provided under the Equal Remuneration Act can be divided into two categories as follows:

### Minor Infraction

If an employer commits any of the following offenses under the Equal Remuneration Act, a penalty of Rs.1000 can be levied.

* Omits or fails to maintain any register or document in relation to workers employed.
* Omits or fails to produce any register, muster-roll or other document pertaining to the employment of workers.
* 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.

### Major Infraction

If an employer commits any of the following offenses under the Equal Remuneration Act, a penalty of Rs.5000 can be levied.

* Discriminates in recruitment in contravention to the Equal Remuneration Act.
* Makes a payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature.
* Makes any discrimination between men and women workers in contravention of the Equal Remuneration Act.
* Omits or fails to carry out any direction made by the Government.

In case any of the offenses are committed by a Company, every person who, at the time of the offence committed was in charge of and was responsible to the company, for the conduct of the business will be deemed to be guilty of the offence and will be liable to be proceeded and punished accordingly.

**Constitutional validity**

Gender Justice is an important ingredient of every civilized society. It’s no longer the popular mindset that the female is a weaker sex. To imbibe this principle in society, various steps were taken at the international level:

* The International Labour Organization held in 1951 a Convention concerning Equal Remuneration for Men and Women Workers for the Work of Equal Value.
* The Universal Declaration of Human Rights, under Article 23 ensures that everyone without any discrimination has the right to equal pay for equal work.
* The Convention on Elimination of all forms of Discrimination, 1979 has it’s the main objective to prevent discrimination especially in the case of women.

At the national level, certain legislations were enacted by British India. But it’s the national leaders, freedom fighters and intellectuals and the democratic movements sweeping the world over brought about positive changes in the position of women and in achieving equality.

* The Preamble of the Constitution provides for Justice and Equality to all.
* Article 14 equality before the law
* Article 15 guarantees a right against discrimination
* Article 15(3) recognizes ‘protective discrimination’ to bring women at par with men in all possible respects.
* Article 16 provides the right to equal opportunity regarding public employment irrespective of the sex of the person.
* Article 39(a) states that the citizens, men, and women, equally, have the right to an adequate means of livelihood.
* Article 39(d) “that there is equal pay for equal work for both men and women”.
* Article 42 requires the state to make provision for securing humane conditions of work and maternity relief.

The Doctrine of ‘equal pay for equal work’ is not a fundamental right but a Constitutional right. Equal remuneration for men and women is the right of an employee without any qualification. The Act of Equal Remuneration, 1976 was enacted to comply with the provisions of the Directive Principle of State Policy (DPDP) under Article 39. The Act, being a beneficial legislation, ensures adequate payment or remuneration to be made irrespective of the physical strength of employees and removing the scope of social and economic injustice merely on the ground of sex, thereby working to establish a just society in the country.