

Equal Remuneration Convention, 1951

Canada ratified the Equal Remuneration Convention, 1951 on 16 November 1972.

Adoption: The Convention was adopted by the General Conference of the International Labour Organization on 29 June 1951.

Entry into force: 23 May 1953

Number of signatories and ratifications/accessions: 173 countries have ratified the Equal Remuneration Convention, 1951.

Summary information

Member states are required to ensure that the principle of equal remuneration for men and women workers for work of equal value applies to all workers and may do so through legislation or through collective agreements between employers and workers.

History

The International Labour Organization (ILO) had considered the problem of equal pay for equal work since its inception. The preamble to its Constitution, drafted in 1919, included in the areas requiring improvement “recognition of the principle of equal remuneration for work of equal value.” However, it was not until more than 30 years later that the ILO considered the issue of equal remuneration for men and women performing the same work.

In 1948, the Economic and Social Council of the United Nations (ECOSOC) requested Member States adopt measures to ensure equal rights in terms of employment and remuneration and apply the principle of equality to wages for working men and women who perform the same work, without distinction as to nationality, language, race or religion. The same year, the Commission on the Status of Women of the United Nations adopted a resolution calling for action by the ILO with respect to equal pay for equal work. ECOSOC also adopted a resolution that year “approving the principle of equal remuneration for work of equal value for men and women workers and inviting the International Labour Organisation to proceed as rapidly as possible with the further consideration of this subject and to report to the Council on the action which it had taken.”

Later in 1948, the 31st session of the International Labour Conference “adopted a Resolution concerning equal remuneration for work of equal value which, inter alia, invited the Governing Body to place on the agenda of the earliest possible session of the Conference, preferably the next general session, with a view to the adoption of appropriate international regulations, the question of equal remuneration for men and women workers for work of equal value.” Subsequently, The Governing Body decided to place the subject on the agenda of the 33rd Session of the Conference.

In 1950, the 33rd session of the International Labour Conference established a Committee on Equal Remuneration to consider how to proceed with international regulations. The report from the Committee was considered in 1951 during the 34th session. The Committee presented two alternative proposals: one – a proposed Convention containing general principles supplemented by a recommendation setting forth methods of application; the other – a proposed recommendation covering both principles and methods of application. “It was thought that the existence of two draft texts would facilitate the choice of the most suitable form of international regulation.” The Conference decided that the regulations should take the form of a convention only and on June 29, 1951 adopted the Equal Remuneration Convention, 1951.

Key Provisions

Following a brief preamble, the convention begins by defining “remuneration” as including “the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment.”

Member states are required to ensure that the principle of equal remuneration for men and women workers for work of equal value applies to all workers and may do so through national laws or regulations, legally established or recognized machinery for wage determination, collective agreements between employers and workers or a combination of these means. Different rates of remuneration between workers are allowed provided they are determined by objective appraisal and established without regard to gender.

Member states are required “to co-operate as appropriate with the employers’ and workers’ organisations concerned for the purpose of giving effect to the provisions of this Convention.” Once a member state has ratified the convention, it comes into force for that state 12 months after the registration has been registered.

Canada’s Commitments and Responsibilities

Canada ratified Convention in 1972.

“The right to gender equality and to be free from gender-based discrimination is guaranteed by section 15 of the Canadian Charter of Rights and Freedoms.” More specifically, “Pay equity is a human right protected under the Canadian Human Rights Act (CHRA). Section 11 of the CHRA stipulates that establishing or maintaining a difference in wages between male and female employees employed in the same establishment and performing work of equal value is a discriminatory practice. Employees or their bargaining agents may file complaints with the Canadian Human Rights Commission if they believe that their right to pay equity has been violated.”

International Monitoring and Implementation

The Equal Remuneration Convention, like other international labour standards, is backed by a supervisory system to ensure that countries implement the conventions they ratify and to indicate where the standards could be better applied. There are two kinds of supervisory mechanism:

- The regular system of supervision: examination of periodic reports submitted by Member States on the measures they have taken to implement the provisions of a ratified Convention; and
- Special procedures: a representations procedure and a complaints procedure.

The ILO set up the Committee of Experts on the Application of Conventions and Recommendations in 1926 to examine the growing number of government reports on ratified conventions. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

Today the Committee of Experts is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. There are no Canadian experts currently serving on the Committee.

“When examining the application of international labour standards the Committee of Experts makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.”

“The annual report of the Committee of Experts, usually adopted in December, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance. The discussions and conclusions of the situations examined by the Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.”

Special Procedures

There are two types of special procedures:

The Representations procedure “grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, “has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party”. A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response.”

Under the Complaints procedure “a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. To date, 11 Commissions of Inquiry have been established.”

Canada is scheduled to provide a report in 2018 and again in 2021 on the measures which it has taken to give effect to the provisions in the Equal Remuneration Convention.

The Committee of Experts last provided observations and requests for information to Canada with respect to the Equal Remuneration Convention in 2012. With respect to work of equal value, the Committee of Experts noted that “in a number of Canadian jurisdictions, full legislative expression had not been given to the principle of equal remuneration for work of equal value, because the legislation limited comparisons to jobs involving the same work, similar work or substantially similar work.” The Committee added that the Government does not provide information on any changes in this regard.

References

ILO Constitution

Social Justice for Women: The International Labor Organization and Women

International Labour Conference 33rd Session 1950

The Pursuit of Equality Between Women and Men. The Contribution of the United Nations

International Labour Conference 34th Session 1951

Equal Remuneration Convention

Constitution Act 1982

Canadian Human Rights Act

Applying and promoting International Labour Standards

Committee of Experts on the Application of Conventions and Recommendations

Conference Committee on the Application of Standards

Representations

Complaints

[CEACR Observations with respect to Canada](#)