

● EQUAL PAY ACT OF 1963

STATUTORY CITATION: 29 USC § 206(d)

RELATED REGULATIONS: 29 CFR Parts 1620 and 1621

GENERAL SUMMARY: The Equal Pay Act generally prohibits an employer subject to the federal minimum wage from discriminating between employees on the basis of sex by paying wages to employees at a rate less than that at which he or she pays employees of the opposite sex at the same establishment for substantially equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions. Different pay scales, however, may be utilized where payment is made pursuant to (1) a seniority system, (2) a merit system, (3) a system which measures earnings by quantity or quality of production, or (4) a differential based on any factor other than sex.

Wages withheld in violation of the Equal Pay Act have the status of unpaid minimum wages or unpaid overtime compensation under the Fair Labor Standards Act and may be recovered in the same manner.

PROVISIONS APPLICABLE TO AGRICULTURE: In accordance with the related minimum-wage coverage provisions (*see entry, U.S. — Wages & Hours — Minimum Wage*), only those agricultural workers who are employed by a farm operator or other agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are covered by the Equal Pay Act.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint or participated in any investigation or proceeding under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000)*. The Commission is authorized to investigate and gather data regarding wages, hours and other employment conditions and practices, to enter and inspect workplaces and records, to interview individuals, and to subpoena witnesses and order the production of documents. The Commission may file suit on behalf of any worker claiming to have been victimized by a violation of the Equal Pay Act, and may supervise payment of back wages and civil penalties. Certain violations may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Commission, a person who has been subjected to unlawful wage discrimination on the basis of sex may take civil action against the employer involved directly, using a private attorney or a public legal service provider. Any such action must be filed no later than 2 years after the discrimination occurred (within 3 years in the case of a willful violation).