

Part 2-7—Equal remuneration

Division 1—Introduction

300 Guide to this Part

This Part allows the FWC to make orders to ensure that there will be equal remuneration for men and women workers for work of equal or comparable value.

301 Meanings of *employee* and *employer*

In this Part, *employee* means a national system employee, and *employer* means a national system employer.

Note: See also Division 2 of Part 6-4A (TCF contract outworkers taken to be employees in certain circumstances).

Division 2—Equal remuneration orders

302 FWC may make an order requiring equal remuneration

Power to make an equal remuneration order

- (1) The FWC may make any order (an *equal remuneration order*) it considers appropriate to ensure that, for employees to whom the order will apply, there will be equal remuneration for work of equal or comparable value.

Meaning of equal remuneration for work of equal or comparable value

- (2) *Equal remuneration for work of equal or comparable value* means equal remuneration for men and women workers for work of equal or comparable value.

Who may apply for an equal remuneration order

- (3) The FWC may make the equal remuneration order only on application by any of the following:
 - (a) an employee to whom the order will apply;
 - (b) an employee organisation that is entitled to represent the industrial interests of an employee to whom the order will apply;
 - (c) the Sex Discrimination Commissioner.

FWC must take into account orders and determinations made in annual wage reviews

- (4) In deciding whether to make an equal remuneration order, the FWC must take into account:
 - (a) orders and determinations made by the FWC in annual wage reviews; and
 - (b) the reasons for those orders and determinations.

Note: The FWC must be constituted by an Expert Panel in annual wage reviews (see section 617).

Restriction on power to make an equal remuneration order

- (5) However, the FWC may make the equal remuneration order only if it is satisfied that, for the employees to whom the order will apply, there is not equal remuneration for work of equal or comparable value.

303 Equal remuneration order may increase, but must not reduce, rates of remuneration

- (1) Without limiting subsection 302(1), an equal remuneration order may provide for such increases in rates of remuneration as the FWC considers appropriate to ensure that, for employees to whom the order will apply, there will be equal remuneration for work of equal or comparable value.
- (2) An equal remuneration order must not provide for a reduction in an employee's rate of remuneration.

304 Equal remuneration order may implement equal remuneration in stages

An equal remuneration order may implement equal remuneration for work of equal or comparable value in stages (as provided in the order) if the FWC considers that it is not feasible to implement equal remuneration for work of equal or comparable value when the order comes into operation.

305 Contravening an equal remuneration order

An employer must not contravene a term of an equal remuneration order.

Note: This section is a civil remedy provision (see Part 4-1).

306 Inconsistency with modern awards, enterprise agreements and orders of the FWC

A term of a modern award, an enterprise agreement or an FWC order has no effect in relation to an employee to the extent that it is less beneficial to the employee than a term of an equal remuneration order that applies to the employee.