

Test: Equal Pay Act violations

Factor: Was the wage differential between male night workers and female day workers justifiable?

Answer: Based on the presented passages, the principles of equal pay for equal work enshrined in the Equal Pay Act of 1963 apply directly to the situation at hand. According to the legal opinion delivered by Mr. Justice Marshall, Corning Glass Works potentially ran afoul of these principles by instituting a wage discrepancy between male night shift inspectors and female day shift inspectors. This discrepancy cannot be justified by other factors such as a separate night shift differential paid to all employees for night work (Opinion *190 Mr. Justice MARSHALL).

The legal foundation of this argument lies within the Fair Labor Standards Act of 1938 and the Equal Pay Act of 1963 (77 Stat. 56, s 3, 29 U.S.C. s 206(d)(1), referenced by Justice Marshall), which both underscore the principle of equal pay for equal work, irregardless of sex. Specifically, in the Equal Pay Act, Congress correlated the value of work with the task performed, not the time or circumstances under which it is performed. This carries significant weight in this situation as it's disclosed in the legal passages provided.

Further strengthening this argument is the understanding that Corning's decision to ultimately allow women to take up higher-paying night jobs still did not achieve full compliance with the Act (474 F.2d, at 235 Judge Friendly). To put it differently, the law argues that despite women being granted access to these higher-wage roles, the fundamental pay discrepancy still existed; the base wage was not equal. This is precisely what the Equal Pay Act aims to prevent, and further serves as an indication that there was, indeed, a violation of the Act.

In light of the given passages, which are anchored in firm legal precedents established in the Fair Labor Standards Act and the Equal Pay Act, it is evident that the wage differential between male night workers and female day workers at Corning Glass Works was not justifiable. As long as the work performed by female day shift workers at Corning Glass Works was equal to that performed by their male night shift counterparts, the requirement for the company to pay them an equal base wage came into effect on the date of the Act. Allowing the company to bypass this requirement by offering some women higher-paid jobs at nighttime, as vacancies arose, would counter, rather than promote, Congress's intentions (474 F.2d, at 235 Judge Friendly).

In conclusion, considering all of the legal viewpoints and precedents presented, it can be authoritatively affirmed that the wage differential between male night workers and female day workers at Corning Glass Works constituted a violation of the Equal Pay Act.

Factor: Was the higher wage paid to male night workers intended as compensation for the undesirable nature of night work or if it constituted an added payment based on sex?

Answer: In analyzing whether the test for Equal Pay Act (EPA) violations applies where the factor in question is the "higher wage paid to male night workers," we must review the

passages in the context of established case law, the Act's intent, and its established exceptions.

Significantly, in the given passages, Corning's payment of a higher wage to male night workers raises questions under the EPA. The Act mandates that men and women receive equal pay for equal work. The EPA admits certain exceptions: seniority, merit, a system measuring earnings by quantity or quality of production, and "a differential based on any other factor other than sex" (29 USC §206(d)(1)).

The court agrees with Judge Friendly that Corning's pay differential remained unjustified by factors other than sex, even after allowing women to work the higher- paid night jobs. This indicates that the higher wage for night work was initially rooted in sex discrimination. Such a differential would violate the EPA unless justified by another factor.

The second passage outlines how some factors, such as shift timing and seniority, can justify pay differentials under the EPA. This affirms the contention that night shift work, being less desirable due to its psychological and physiological impacts, may warrant higher compensation. The burden of proof, however, is on Corning to demonstrate that the pay difference was for night work, rather than an additional payment based on sex.

The objective of the EPA: to raise women's wages to match those of men in equal work scenarios, not to lower men's wages. By showing Corning's pay disparity for equal work post-EPA, the Secretary cogently argues that the fair wage should be the night shift base wage. This implies that the lower pay given to women constitutes an unfair practice under the EPA.

In conclusion, when a company pays a higher wage for night work, the EPA violation test applies if that wage difference is rooted in sex discrimination and not justified by a non-sex-related factor. Corning thus needs to prove that the wage differential attributes solely to the undesirable nature of night work. Congressional intent and case law, such as *Shultz v. American Can Co.*—*Dixie*, suggest that any unjustified pay inequalities, not corrected by raising the lower wages, violate the EPA.

Factor: Did Corning Glass Works fail to prove that the higher rate for night work was intended as compensation?

Answer: Given the salient question at hand—whether Corning Glass Works failed to prove that the higher rate for night work was viewed as compensation—it is vital to analyze the applicable provisions of the Equal Pay Act. In so doing, we will primarily focus on its requirement for “equal pay for equal work regardless of sex.”

The U.S. Supreme Court in its ruling noted from the outset that Corning violated the Act by paying a higher base wage to male night shift inspectors compared to female day shift inspectors performing the same tasks, if the higher wage was paid in addition to a separate night shift differential paid to all employees for night work (Opinion *190). The court further stipulated that Corning's action left the female inspectors on the day shift earning a lower

base wage than the night inspectors due to a differential initially based on sex and unaccounted for by any other factor (474 F.2d, at 235).

Within the framework of the Equal Pay Act, a violation occurs when an employer makes differential wages to employees of different sexes for equal work, except under conditions exempted by the Act. Most crucially in this case, one such exemption allows for wage differentials 'based on any other factor other than sex' (*189).

Applying this statute, the court found that Corning did not support its claim that the higher base wage for the all-male night inspection work prior to June 1966 served as added compensation for night work. The evidence pointed out that this differential was not based on a 'factor other than sex', as it emerged primarily because men would not work at the low rates paid to women inspectors (Pp. 2232—2233).

This scenario signified that the higher rate for night work was not designed as compensation, but rather it reflected a job market in which Corning could pay women less than men for the same work. Hence, this runs afoul of the 'Equal Pay Act,' which necessitates equal pay for equal work, pointing decisively to a violation.

In conclusion, it is paramount to underscore that Corning Glass Works indeed failed to prove that the higher rate for night work was meant as compensation, thus flouting the Equal Pay Act's provision for equal pay for equal work, regardless of sex. Their action of having a differential wage scale originally based on sex and maintained without justification by any other factor solidifies their violation of the Act.

Test: Interpretation of 'similar working conditions'

Factor: What is the interpretation of the phrase 'performed under similar working conditions' in the context of the Equal Pay Act?

Answer: To begin with, analyzing the passages provided, it becomes evident that the term 'similar working conditions' is a component of the broader legal principle instituted by the Equal Pay Act. Congress enacted the Equal Pay Act with a core purpose in mind: to rectify a deeply entrenched problem of wage discrimination stemming from the belief that men, owing to societal roles, deserved higher pay than women for performing identical duties (S.Rep. No. 176, 88th Cong., 1st Sess., 1 (1963)).

The Equal Pay Act's structural complexity is straightforward. An employer is prohibited from paying different wages to employees of opposite sexes 'for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.' This exact wording is significant because it defines the legal parameters for equal pay. It is the Secretary's responsibility to provide evidence in cases of suspected violation of this principle. Once this burden of proof is sufficiently carried, the employer then has the duty to prove that any pay differential exists due to one of the four exceptions specified by the Act.

The interpretation of 'similar working conditions' within the context of the Equal Pay Act demands careful examination of both the textual framework and the historical context of the Act. In amending the bill's definition of equal work, Congress responded to demands for inclusivity (House debates note). The expansion of equal pay requirements to encompass equal effort, responsibility, and similar working conditions was seen as a cornerstone for legitimate pay differentials.

Therefore, the interpretation of 'similar working conditions' is not a standalone descriptor, but an interconnected part of the general framework of the Equal Pay Act, signifying that having the same job roles, responsibilities, and working conditions can be considered as grounds for equal pay regardless of gender. This extends beyond just the physicality of the work environment to encapsulate factors such as hours, seniority, and risk.

However, cautioning words from Judge Friendly point us towards understanding 'similar working conditions' from a legislative lens rather than attempting to reconcile conflicting interpretations by individual legislators or committee reports. Paraphrasing Justice Frankfurter in the context of the Fair Labor Standards Act, understanding the specific history and evolution of the legislative process provides more robust grounds for attributing appropriate meaning.

In conclusion, to apply the 'Interpretation of 'similar working conditions' within the context of the Equal Pay Act implies recognition of equal work requiring equal skills, effort, and responsibility performed under comparable conditions warranting equal pay. This argues against wage discrimination based on gender and instead promotes the principle of pay equity, reinforcing the values of fairness and gender equality within the workplace.

Factor: Does the legislative history of the Act provide a more solid ground for interpreting 'similar working conditions'?

Answer: In assessing the applicability of the test 'Interpretation of 'similar working conditions' in the scenario wherein 'Does the legislative history of the Act provide a more solid ground for interpreting 'similar working conditions' is the deciding factor, the culmination of statutory language, legislative intent, and the meaning of 'similar working conditions' within the realm of industrial relations become critical considerations.

In the case of *United States v. Universal C.I.T.*, the court ruled that 'regard for the specific history of the legislative process that culminated in the Act now before us affords more solid ground for giving it appropriate meaning.' This pronouncement by Justice Frankfurter establishes a key precedence, emphasizing the value of legislative history in deciphering statutes, particularly within specific industries (*United States v. Universal C.I.T.*).

The same applies to the Fair Labor Standards Act and the interpretation of 'similar working conditions'. The legislative history and the specialized language of the field provide the most comprehensive comprehension of the term's specifics. As stated in *Greenleaf v. Goodrich*, 'where Congress has used technical words or terms of art, 'it (is) proper to explain them by reference to the art or science to which they (are) appropriate' (*Greenleaf v. Goodrich*, 101 U.S. 278, 284).

In the light of industrial relations, 'working conditions' encompasses two subfactors: 'surroundings' and 'hazards.' These factors deliberate upon the elements encountered by a worker, their frequency, and the potential for injury and harm. Notably, the definition of 'working conditions' does not consider 'time of day worked' as a determining criterion (NLRB v. Highland Park Mfg. Co., 341 U.S. 322, 326).

Given that this explicit definition was incorporated into the legislative language to overcome industry objections of ambiguity (as reflected in Corning's job evaluation plans), it is significant in emphasizing the nexus between legislative history and the legal interpretation of the phrase (Corning vs Secretary).

Therefore, when considering the legislative history of the Act in the interpretation of 'similar working conditions,' the context-laden, industry-specific definition provides a firm ground. Differing factors like 'time of day worked,' regardless of their potential impact on a layman's perception of 'working conditions,' do not hold weight in the specialized jargon of industrial relations and do not necessitate a different pay scale.

In conclusion, the legislative history of the Act, along with established legal precedents, indeed provides a more solid ground for the interpretation of 'similar working conditions' under the Fair Labor Standards Act. It puts forth a definite and industry-specific understanding that transcends individual interpretations or assumptions, thereby ensuring consistency and fairness.

Test: Judicial decisions consistency

Factor: Was the decision of the District Court in favor of the Secretary consistent with the Equal Pay Act?

Answer: In examining the question at hand, we must turn to the application of the Equal Pay Act as it pertains to the case of the Secretary of Labor versus Corning. A crucial point in understanding the question is whether the District Court's decision in favor of the Secretary was consistent with the Act's provisions.

The pertinent pieces of evidence include:

Firstly, we must establish whether Corning violated the Equal Pay Act by paying male night shift inspectors at a higher rate than their female day shift counterparts. As stated in the first passage, the relevant question is whether the company remedied the violation of the Act, which the Secretary proved. The Second Circuit and other Circuits have consistently held that a violation of the Act can be remedied only by equalizing base wages. Gender discrimination in pay is unequivocally prohibited by the Act, so Corning's previously established pay disparity indeed represents a breach of the Act.

The second and third questions deal with whether Corning remedied the violation in question in 1966 by allowing women to work as night-shift inspectors and in 1969 by standardizing day and night inspector wage rates but providing higher "red circle" rates for existing night-shift employees. According to the second passage, the aim of the Equal Pay Act is not to bring men's wages down to women's but rather to elevate women's wages where discrimination exists. This is a clear indication that the only lawful way to remedy the violation is by raising the lower wages to the higher. Corning's demeaning pay to female day inspectors, as confirmed by the Secretary, implies that the wages for female inspectors were

unlawfully reduced. Hence, the Act requires the base wage paid to female inspectors to match that provided to the male inspectors.

Drawing from the third passage, if Corning has simply equalized the rate of pay between day and night staff or initiated differential rates for existing inspectors while leaving the gender-based disparity unaddressed, its actions would not constitute an acceptable remedy under the Act. It is crucial to understand that Congress viewed wage discrimination on the basis of sex as an unfair method of competition, demonstrating their intention to abolish such practices.

In conclusion, it is apparent that the decision of the District Court in favor of the Secretary aligns with the intended application of the Equal Pay Act. The Court holds Corning accountable for its discriminatory wage practices, insisting that the company rectify the violation by equalizing the base wages paid to male and female inspectors. This outcome reflects the Act's objective of eradicating pay disparities based on gender and ensuring a fair labor market. Hence, there exists a clear consistency between the judicial decision and the Equal Pay Act's provisions.

Factor: Was the decision of the Court of Appeals for the Third Circuit consistent with the District Court ruling?

Answer: The test 'Judicial decisions consistency' asks whether two or more decisions made by the judicial branch are in alignment and follow similar reasoning. Whether or not two decisions are consistent hinges on whether the laws and precedents applied in each of the cases are the same, and whether the facts in both situations are similar for both situations to warrant a similar legal outcome.

In the two cases brought before the Court of Appeals for the Second and Third Circuit, both courts faced a similar question: Did Corning Glass Works violate the Equal Pay Act of 1963 by paying a higher base wage to male night shift inspectors than it paid to female inspectors performing the same tasks on the day shift?

However, the Court of Appeals for the Second Circuit and the Court of Appeals for the Third circuit came to opposite conclusions. In *Brennan v. Corning Glass*, No. 73—29, the Second Circuit affirmed the District Court's decision that Corning's wage practice was in violation of the Equal Pay Act of 1963. Comparatively, in No. 73—695, the Third Circuit affirmed the District Court's decision that Corning's wage practice did not violate the Act.

This established that while the facts of the cases and the law applied were technically the same, the decisions were on the contrary. Therefore, the decision of the Court of Appeals for the Third Circuit was not consistent with the District Court ruling that the Second Circuit affirmed.

In terms of Judicial decisions consistency, the Supreme Court's role was to reconcile the incongruity between the Second and Third Circuit's decision. It is noted that the Supreme Court affirmed judgment in No. 73-29 and reversed and remanded the judgment in No. 73-695. Essentially, they sided with the Second Circuit's interpretation of the law and fact

Hence, based on the Supreme Court's decision, the Third Circuit court's ruling was not found to be consistent with the legal reasoning and conclusions of the Second Circuit court's decision of a similar case, even though the legal question and the relevant law applied were the same.

In sum, the test 'Judicial decisions consistency' does not apply in this situation, and the ruling of the Court of Appeals for the Third Circuit wasn't consistent with the District Court ruling that the Second Circuit court affirmed.