Equal Pay for Work of Equal Value in Terms of the Employment Equity Act 55 of 1998: Lessons from the International Labour Organisation and the United Kingdom

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Abstract

Equal pay is an area of employment law that is complex and not easily understood. This complexity is recognised by the International Labour Organisation (ILO), which notes that equal pay for work of equal value has proved to be difficult to understand, both with regard to what it entails and in its application. Amendments have been made to the *Employment Equity Act* 55 of 1998 (EEA) to include a specific provision to regulate equal pay claims in the form of section 6(4)-(5) of the EEA. The amendments were made in terms of the *Employment Equity Amendment Act* 47 of 2013, which came into effect on 1 August 2014 by presidential proclamation. Prior to section 6(4), the EEA did not contain a specific provision regulating equal pay claims. Claims could be brought in terms of section 6(1) of the EEA, which prohibits unfair discrimination on a number of grounds. The recent amendments to the EEA in the form of section 6(4)-(5) (including the *Employment Equity Regulations* and the *Code of Good Practice on Equal Pay for Work of Equal Value*) in respect of equal pay claims is a response to the ILO's criticism of South Africa's failure to include specific equal pay provisions in the EEA.

Section 6(4) of the EEA provides for three causes of action in respect of equal pay. They are as follows: (a) equal pay for the same work; (b) equal pay for substantially the same work; and (c) equal pay for work of equal value. The first two causes of action are not difficult to understand as opposed to the third cause of action, which is complex. The ILO has recognised the complexity of the third cause of action, "equal pay for work of equal value". In *Mangena v Fila South Africa* 2009 12 BLLR 1224 (LC), the Labour Court remarked in the context of an equal pay for work of equal value claim that it does not have expertise in job grading and in the allocation of value to particular occupations. This article will deal with the third cause of action only, "equal pay for work of equal value".

The purpose of this article is to critically analyse the law relating to equal pay for work of equal value in terms of the EEA (including the *Employment Equity Regulations*) and evaluate it against the equal pay laws of the ILO and the United Kingdom, which deal with equal pay for work of equal value. Lastly, this article seeks to ascertain whether the EEA (including the *Employment Equity Regulations*) provides an adequate legal framework for determining an equal pay for work of equal value claim.

Keywords

Equal pay; Employment Equity Act; Equality Act; International Labour Organisation; Equal Pay Guide; Equal Remuneration Convention; equal pay for work of equal value.

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1 Introduction

Equal pay is an area of employment law that is complex and not easily understood. This complexity is recognised by the International Labour Organisation (ILO), which notes that equal pay for work of equal value has proved to be difficult to understand, both with regard to what it entails and in its application.[1] Amendments have been made to the *Employment Equity Act*[2] to include a specific provision to regulate equal pay claims in the form of section 6(4)-(5) of the EEA. The amendments were made in terms of the *Employment Equity Amendment Act* 47 of 2013, which came into effect on 1 August 2014 by presidential proclamation.[3]

Section 6(4) of the EEA prohibits unfair discrimination in terms and conditions of employment between employees performing the same or substantially the same work or work of equal value. Section 6(5) of the EEA allows the Minister of Labour to prescribe the criteria and methodology for assessing work of equal value after consultation with the Commission for Employment Equity. In this regard, the Minister has published the *Employment Equity Regulations* of 2014.[4] The Regulations set out the factors which should be used to evaluate whether two different jobs are of equal value. It further provides for the methodology which must be used to determine an equal pay dispute and it sets out factors which would justify a differentiation in pay. The Minister has, moreover, issued a *Code of Good Practice on Equal Pay for work of Equal Value*.[5] An important purpose of the Code is to provide practical guidance to both

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1 Oelz, Olney and Manuel *Equal Pay* iii.

2 *Employment Equity Act* 55 of 1998 (EEA). The amendments were made in terms of the *Employment Equity Amendment Act* 47 of 2013.

3 Proc 50 in GG 37871 of 21 July 2014 (*Proclamation of the Commencement of the Employment Equity Amendment Act, 2013*).

4 GN R595 in GG 37873 of 1 August 2014 (*Employment Equity Regulations*) (the Regulations).

5 GN 448 in GG 38837 of 1 June 2015 (*Code of Good Practice on Equal Pay/Remuneration for Work of Equal Value*) (the Code).

employers and employees regarding the application of the principle of equal pay for work of equal value in the workplace.[6]

Prior to section 6(4), the EEA did not contain a specific provision regulating equal pay claims. Claims could be brought in terms of section 6(1) of the EEA, which prohibits unfair discrimination on a number of grounds. The amendments to the EEA in the form of section 6(4)-(5) (including the Regulations and the Code) in respect of equal pay claims is a response to the ILO's criticism of South Africa's failure to include specific equal pay provisions in the EEA.[7] South Africa has ratified two key ILO Conventions which relate to equal pay. These Conventions are the *Equal Remuneration Convention*[8] and the *Discrimination (Employment and Occupation) Convention*.[9] The former Convention requires each member state to promote the principle of equal pay for work of equal value in respect of both male and female workers.[10] It states that the principle of equal pay for work of equal value may be applied by means of national laws or regulations and other means.[11] The latter Convention seeks to eliminate any discrimination in respect of opportunity and treatment in employment.[12] It also generally applies to the principle of equal pay for work of equal value.[13] South Africa is a signatory to the *SADC Protocol on Gender and Development*.[14] The Protocol requires member states to ensure the application of the principle of equal pay for work of equal value to both males and females. It suggests that member states should review, adopt and implement legislative measures in this regard.[15]

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6 Item 1.1 of the Code.

7 Commission for Employment Equity in respect of opportunity and treatment in Commission for Employment Equity *Annual Report* 3; cl 3.3.3 of the *Memorandum on Objects of Employment Equity Amendment Bill* 2012 as found in the *Employment Equity Amendment Bill* [B31B of 2012] http://www.gov.za/sites/www.gov.za/files/B31B-2012_17Oct2013.pdf (accessed on 24 August 2016); McGregor 2011 *SA Merc LJ* 497; Benjamin 2010 *ILJ* 866.

8 *ILO Equal Remuneration Convention* 100 of 1951, ratified in 2000 (*Equal Remuneration Convention*).

9 *ILO Discrimination (Employment and Occupation) Convention* 111 of 1958, ratified in 1997 (*Discrimination Convention*).

10 Article 2(1) of the *Equal Remuneration Convention*.

11 Article 2(2)(a) of the *Equal Remuneration Convention*). The other means are: legally established or recognised machinery for wage determination; collective agreements between employers and workers; or a combination of these various means (arts 2(2)(b)-(d)).

12 Article 2 of the *Discrimination Convention*.

13 Oelz, Olney and Manuel *Equal Pay* 3 wherein it is stated that the *Discrimination Convention* is closely linked to the *Equal Remuneration Convention*.

14 *SADC Protocol on Gender and Development* (2008) (the Protocol). South Africa signed the Protocol on 17 August 2008.

15 Article 19(2)(a) of the Protocol.

Section 6(4) of the EEA provides for three causes of action in respect of equal pay. They are as follows: (a) equal pay for the same work; (b) equal pay for substantially the same work; and (c) equal pay for work of equal value. The first two causes of action are not difficult to understand as opposed to the third cause of action which is complex. The ILO has recognised the complexity of the third cause of action, "equal pay for work of equal value".[16] In *Mangena v Fila South Africa (Pty) Ltd*[17] the Labour Court remarked in the context of an equal pay for work of equal value claim that it does not have expertise in job grading and in the allocation of value to particular occupations.[18] It is apposite to note that this article will deal with the third cause of action only, "equal pay for work of equal value".

Against this background, the purpose of this article is to critically analyse the law relating to equal pay for work of equal value in terms of the EEA (including the Regulations) and evaluate it against the equal pay laws of the ILO and the United Kingdom, which deal with equal pay for work of equal value. Lastly, this article seeks to ascertain whether the EEA (including the Regulations) provides an adequate legal framework for determining an equal pay for work of equal value claim.

2 Equal pay for work of equal value in terms of the EEA

2.1 Legislative framework

Prior to the amendments in the form of section 6(4)-(5) relating to equal pay, the EEA dealt with equal pay claims indirectly under section 6(1) read with the definition of an employment policy or practice in section 1.[19] *Mangena* held that section 6(1) was wide enough to include equal pay claims.[20] Section 6(1) of the EEA provides the following:

> No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or any other arbitrary ground.

Section 1 defines "employment policy or practice" to include remuneration, employment benefits and terms and conditions of employment. Sections

16 Oelz, Olney and Manuel *Equal Pay* iii.
17 *Mangena v Fila South Africa (Pty) Ltd* 2009 12 BLLR 1224 (LC) (*Mangena*).
18 *Mangena* para 15.
19 Benjamin 2010 *ILJ* 866; McGregor 2011 *SA Merc LJ* 488.
20 *Mangena* para 5.

6(1) and 1 read together formed the basis of an equal pay claim in terms of the EEA.

Section 6(4) of the EEA deals with equal pay directly and provides the following:

> A difference in terms and conditions of employment between employees of the same employer performing the same or substantially the same work or work of equal value that is directly or indirectly based on any one or more of the grounds listed in subsection (1), is unfair discrimination.

The legislature, acknowledging the complexity of an equal pay for work of equal value claim, has introduced section 6(5) to the EEA, which allows the Minister to prescribe the criteria and methodology for assessing work of equal value. To this end, the Minister has published the Regulations.[21] Regulation 5 sets out the methodology for assessing a claim for equal value as follows: it must be established whether the work concerned is of equal value and whether there is a difference in terms and conditions of employment, whereafter it must be established whether the difference constitutes unfair discrimination.[22] The onus in the EEA has also been amended. The amended section 11 reads as follows:

> (1) If unfair discrimination is alleged on a ground listed in section 6(1), the employer against whom the allegation is made must prove, on a balance of probabilities, that such discrimination-
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> (a) did not take place as alleged; or
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> (b) is rational and not unfair, or is otherwise justifiable.
>
> (2) If unfair discrimination is alleged on an arbitrary ground, the complainant must prove, on a balance of probabilities, that-
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> (a) the conduct complained of is not rational;
>
> (b) the conduct complained of amounts to discrimination; and
>
> (c) the discrimination is unfair.

Regulation 6 sets out the criteria for assessing whether work is of equal value. Regulation 6(1) states that the relevant jobs under consideration must be assessed objectively taking the following criteria into account: a) the responsibility demanded of the work, including the responsibility for people finances and material; b) the skills, qualifications, including prior

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21 Regulation 2 states that the Regulations have been published to prescribe the criteria and methodology for assessing work of equal value as contemplated in s 6(4) of the EEA.

22 Regulation 5(1)-(2).

learning and experience, required to perform the work, whether formal or informal; c) the physical, mental and emotional effort required to perform the work; d) the conditions under which work is performed, including the physical environment, psychological conditions, the time when and the geographic location where work is performed; and e) any other relevant factor.[23] The Code states that the factors listed in (a)-(d) above are generally regarded as being sufficient for evaluating all the tasks performed in an organisation.[24] The weighting to be attached to the criteria will vary depending on the sector, the employer and the job.[25] The Code, importantly, recognises that the undertaking of an objective job appraisal by an employer (job evaluation) is a necessary element of applying the principle of equal pay for work of equal value.[26]

2.2 South African case law

Not many equal pay cases have come before the Labour Courts.[27] The most important of these cases are *Louw v Golden Arrow Bus Services (Pty) Ltd*[28] and *Mangena v Fila South Africa (Pty) Ltd*.[29] An analysis of these two cases is thus important.

2.2.1 Louw v Golden Arrows

In *Louw*, the applicant, a black male employed as a buyer, alleged that the respondent committed direct unfair discrimination on the ground of race in that it paid his comparator, who was a white male employed as a warehouse supervisor, a higher salary for work of equal value.[30] Alternatively, the respondent committed indirect discrimination because the difference in salaries was based on race as a result of the respondent applying factors in its pay evaluation that had a disparate impact on black

23 Items 6(1)(a)-(d), 6(2) of the Regulations.
24 Item 5.5 of the Code.
25 Item 5.6 of the Code.
26 Item 5.2 of the Code.
27 *SA Chemical Workers Union v Sentrachem Ltd* 1988 9 ILJ 410 (IC); *National Union of Mineworkers v Henry Gould (Pty) Ltd* 1988 9 ILJ 1149 (IC); *Sentrachem Ltd v John* 1989 10 ILJ 249 (WLD); *Mthembu v Claude Neon Lights* 1992 13 ILJ 422 (IC); *TGWU v Bayete Security Holdings* 1999 4 BLLR 401 (LC); *Heynsen v Armstrong Hydraulics (Pty) Ltd* 2000 12 BLLR 1444 (LC); *Ntai v SA Breweries Ltd* 2001 22 ILJ 214 (LC); *Co-operative Worker Association v Petroleum Oil and Gas Co-operative of SA* 2007 1 BLLR 55 (LC); *Louw v Golden Arrow Bus Services (Pty) Ltd* 2000 21 ILJ 188 (LC); *Mangena v Fila South Africa (Pty) Ltd* 2009 12 BLLR 1224 (LC); *Mutale v Lorcom Twenty Two CC* 2009 3 BLLR 217 (LC).
28 *Louw v Golden Arrow Bus Services (Pty) Ltd* 2000 21 ILJ 188 (LC) (*Louw*).
29 *Mangena v Fila South Africa (Pty) Ltd* 2009 12 BLLR 1224 (LC) (*Mangena*).
30 Pieterse 2001 *SALJ* 18 has stated that the principle of equal remuneration for work of equal value is a manifestation of the constitutional concept of substantive equality.

employees. These factors were *performance*, *potential*, *responsibility*, *experience*, *education*, *attitude*, *skills*, *entry-level* and *market forces*.[31] The applicant sought compensation in the amount of the difference between his salary and that of his comparator. The respondent acknowledged the difference in salary between the applicant and the comparator but denied that it was as a result of discrimination and stated that it was attributable to non-discriminatory considerations.[32]

The Labour Court held that the mere differential treatment of persons from different races was not *per se* discriminatory on the ground of race unless the difference in race was the reason for the disparate treatment. Based on the Peromnes system, which was used to determine the rate of remuneration, there was at least one Peromnes grade difference between the size of the applicant's work (buyer) and that of the comparator (warehouse supervisor). The Labour Court further found that the applicant had failed to prove that the two jobs, on an objective evaluation, were of equal value. The Labour Court remarked that this does not mean that the reason for the difference in salary was not due to racial discrimination but it meant that racial discrimination had not been proved. It would not finally dismiss the application in the interests of justice and it handed down an order of absolution from the instance.[33] It is clear that an *objective job evaluation method* lends legitimacy to the relevant value which is attributed to the various jobs.[34]

2.2.2 Mangena v Fila

In *Mangena* the applicant, a black male, alleged that the respondent discriminated against him on the ground of race in that it paid his chosen comparator, a white female, a higher salary even though the work performed by both of them was the same or alternatively of equal value.[35] The Labour Court remarked that the EEA does not specifically regulate equal pay claims, as is the position with equality legislation in many other jurisdictions. It further remarked that a claim of equal pay for equal work falls to be determined in terms of the EEA, as the Act is broad enough to

31 Emphasis added.

32 *Louw* paras 4-7, 59.

33 *Louw* paras 26, 105-106, 130, 133.

34 Emphasis added. Pieterse 2001 *SALJ* 17 has suggested that in order to prevent disadvantage from perpetuating, analytical job evaluation programmes should be prescribed. It is axiomatic that the analytical job evaluation programmes would of necessity have to contain factors which are objective in order to be fair.

35 *Mangena* paras 2, 4. This claim represents the first part of the claim in the case, which relates to the applicant, Shabalala. The second and third parts of the claim will not be dealt with.

incorporate a claim of equal pay for work of equal value, notwithstanding the fact that the principle is not mentioned in the EEA.[36] The Labour Court, noting that the *Equal Remuneration Convention* refers only to the prohibited ground of sex, held that the principle of equal pay for work of equal value should be extended beyond the prohibited ground of sex to include the prohibited ground of race *in casu*. It held that it could therefore entertain a claim of equal pay for work of equal value under the EEA. The Labour Court noted that it was enjoined by section 3(d) of the EEA to interpret the Act in compliance with South Africa's international law obligations which, *inter alia*, includes the *Equal Remuneration Convention*.[37]

The Labour Court found that the applicant could not adduce evidence as to the precise functions performed by the comparator and he had an exaggerated view of the nature of the work performed by him. It rejected the applicant's evidence as to the nature of the work performed by both him and the comparator and instead accepted the respondent's version in this regard. It concluded that the factual foundation which was necessary to sustain a claim of equal pay for equal work was non-existent, as the applicant had failed to establish that the work performed by him and the comparator was the same/similar.[38]

The Labour Court then noted that the applicant had not pleaded a claim of equal pay for work of equal value. It remarked that, the absence of a pleaded case aside, there was no evidence before it to establish the relative value that should be accorded to the work performed by the applicant and the comparator. The applicant argued that the Court could take a view on the facts before it, as to the relative value of the respective work. The Labour Court, indulging the applicant in this regard, remarked that to the extent that the issue of relative value was self-evident, the work which the applicant was engaged in was of considerably less value than that performed by the comparator, taking into account the *demands made*, *levels of responsibility* and *skills* in relation to both jobs.[39] The Labour Court correctly acknowledged that it had no expertise in job grading or in

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36 McGregor 2011 *SA Merc LJ* 497 has stated that the Labour Court's finding that the EEA is broad enough to incorporate claims of equal pay for equal work and work of equal value is plausible and purposive.

37 *Mangena* para 5.

38 *Mangena* para 14.

39 Emphasis added. It is apposite to note that the Labour Court concluded the sentence with the abbreviation, etc (etcetera), which would suggest that similar factors could be taken into account when determining the relative value of the jobs (*Mangena* para 15).

the allocation of relative value to different functions or occupations. The Labour Court went further and stated that an applicant claiming equal pay for work of equal value must lay a proper factual foundation of the work performed by himself and that of his chosen comparator to enable the court to make an assessment as to what value should be attributed to the work. This factual foundation might include evidence of *skill*, *effort*, *responsibility* and *the like*[40] in relation to the work of both the claimant and the comparator.[41] It concluded that the basis for the applicant's claim of equal pay for work of equal value was non-existent. Both the claims of equal pay for equal work and of work of equal value were consequently dismissed.[42]

2.3 Factors for assessing work of equal value from the case law

It is clear from the aforementioned analysis of the case law that the following factors have been referred to as applying to the assessment of the value of the work:

a) skill;[43]

b) physical and mental effort;[44]

c) responsibility;[45] and

d) like factors.[46]

It is clear from the last factor (d) above, that the list of factors is not intended to be a *numerus clausus*.

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40 This would mean that one could adduce evidence regarding like factors in relation to the work performed.

41 *Mangena* para 15.

42 *Mangena* paras 15, 17; McGregor 2011 *SA Merc LJ* 503 has stated that *Mangena* is the *locus classicus* on equal pay claims and will retain such status, notwithstanding possible changes to the EEA.

43 *Mangena* paras 6, 15.

44 *Mangena* paras 6, 15.

45 *Mangena* paras 6, 15.

46 *Mangena* paras 6, 15. In *Louw,* the court noted that the factors used in the Peromnes pay evaluation method were: performance, potential, responsibility, expertise, education, attitude, skills, entry level and market forces; Meintjes-Van Der Walt 1998 *ILJ* 26 has stated that the evaluation of job content is normally based on four criteria, namely skill, responsibility, physical and mental effort, and the conditions under which the work is performed.

3 The Equal Remuneration Convention and the Equal Pay Guide

It is well established that the main sources of international labour law are to be found in the form of the Conventions and Recommendations of the ILO.[47] The *Equal Remuneration Convention* promotes the principle of equal pay for equal work and work of equal value. Equal work is easily determined and does not pose a problem in an equal pay claim.[48] Equal value, however, is not easily determined.[49] There are guidelines which have been published under the auspices of the ILO to assist member states to better understand and implement the principle of equal pay for work of equal value as espoused in the *Equal Remuneration Convention*. Guidance will be sought from these guidelines regarding the factors which are relevant to assess the value of the work in an equal pay claim.

The *Equal Remuneration Convention* does not set out the factors for assessing work of equal value, but states that the methods to be followed in objective appraisals (objective factors) may be decided upon by the member states.[50] The *Discrimination Convention* does not assist in this regard. The *Equal Pay Guide*, however, states that it may be used to apply the principle of equal pay for work of equal value in national law and practice. The Guide states that the value of different work should be determined on the basis of objective criteria such as skill, working conditions, responsibilities and effort.[51] It is apposite to note that these criteria correspond closely to the evaluation factors used in most point methods of job evaluation, namely qualifications, effort, responsibility, and the conditions under which the work is performed.[52] The Guide further mentions that job evaluations which measure the relative value of work are different from performance appraisals. Performance appraisals evaluate the performance of an individual worker. The result of a successful

47 Valticos and Potobsky *International Labour Law* 49; Servais *International Labour Law* 65.

48 See ILO *Gender Equality* 120. Landau and Beigbeder *From ILO Standards to EU Law* 67 states that the *Equal Remuneration Convention* is recognised as a core Convention of the ILO human rights conventions.

49 Valticos and Potobsky *International Labour Law* 210 states that the application of the principle of equal remuneration for work of equal value may result in difficulty when comparing different types of work. They further state that "[t]hese difficulties are increased where there does not exist a system of objective appraisal of the work to be performed".

50 Articles 1-2 of the *Equal Remuneration Convention*.

51 Oelz, Olney and Manuel *Equal Pay* iv, 25.

52 Chicha *Promoting Equity* 27.

performance appraisal normally results in a (performance) bonus for the individual worker.[53]

While the *Equal Remuneration Convention* does not specifically mention which job evaluation method/s should be used, it does, however, make it clear that the method/s used must be free from discrimination. The *Equal Pay Guide* states that "[o]bjective job evaluation methods are the best means of determining the value of the work to be performed".[54] The Guide sets out the following list of matters to be considered when drafting equal pay provisions for the purpose of including them in domestic legislation:

a) the right to claim equal pay for work of equal value should be clearly set out;[55]

b) explaining the concept of "work of equal value" provides guidance to claimants on how to prove whether the work is of equal value. The guidance may take the form of setting out objective criteria for determining whether work is of equal value;[56]

c) remuneration should be broadly defined;[57]

d) discriminatory job evaluation methods may be specifically prohibited. In this regard, guidance may be given by illustrating what constitutes job evaluation methods which are free from discrimination;[58]

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53 Oelz, Olney and Manuel *Equal Pay* 26.

54 Oelz, Olney and Manuel *Equal Pay* 38.

55 Oelz, Olney and Manuel *Equal Pay* 79. The guide states that general protection from unfair remuneration discrimination based on sex is important but fails to reflect fully the principle of equal remuneration for equal work and work of equal value as required by the *Equal Remuneration Convention*. It further states that giving full effect to the principle of equal remuneration results in claimants being able to have the right to claim equal remuneration for work of equal value (Oelz, Olney and Manuel *Equal Pay* 79). The principle of equal remuneration for work of equal value conforms to the notion of substantive equality (ILO *Decent Work* 41). The *SADC Protocol on Gender and Development* (2008) (signed by South Africa on 17 August 2008) requires member states to implement legislative measures to ensure the application of the principle of equal remuneration for equal work and work of equal value to both men and women. Servais *International Labour Law* 155 states that the concept of equal value is wider than that of equal work. Valticos and Potobsky *International Labour Law* 210 state that the concept of equal value has a wider meaning than that of equal work.

56 Oelz, Olney and Manuel *Equal Pay* 81. The Guide lists skills, responsibility, effort and working conditions as objective factors (Oelz, Olney and Manuel *Equal Pay* 81). Chicha *Promoting Equity* 2 refers to the Committee of Experts on the Application of Conventions and Recommendations (2007), which notes that the difficulties in applying the concept of equal value result from a poor understanding of the concept of work of equal value.

57 Oelz, Olney and Manuel *Equal Pay* 81.

e) collective agreements may be required to ensure that they comply with the principle of equal pay for work of equal value;[59]

f) complainants should have access to competent remedies in relation to a violation of the equal pay principles;[60] and

g) pro-active provisions should require the employer to eliminate unfair discrimination relating to the principle of equal pay for work of equal value.[61]

The *Equal Pay Guide* observes that courts, tribunals and related bodies are able to give effect to the principle of equal pay for work of equal value by delivering justice (effective remedies) to those whose equal pay rights have been infringed. It further observes that these institutions also clarify the subject matter relating to what constitutes unequal pay and what does not. Such decisions lead to a better understanding of the principles relating to equal pay.[62]

It is clear from the above analysis of international labour law that the following factors are regarded as suitable factors to assess the value of work:

a) skill;

b) working conditions;

c) responsibilities; and

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58 Oelz, Olney and Manuel *Equal Pay* 82; see ILO *Decent Work* 121, where it is stated that "[w]ithout a methodology to compare different work that might be of equal value, key aspects of women's jobs are disregarded or scored lower than those performed by men, thus reinforcing discrimination in pay" and Chicha *Promoting Equity* v, where it is stated that job evaluation methods are required to determine whether two jobs which are different are, however, of equal value. Chicha *Promoting Equity* 25 states that the purpose of a job evaluation method is to use common (objective) criteria to assess jobs in order to establish their relative value. She further states (Chicha *Promoting Equity* 26) that the most appropriate job evaluation method for the purposes of pay equity (equal remuneration) is the "point method".

59 Oelz, Olney and Manuel *Equal Pay* 83.

60 Oelz, Olney and Manuel *Equal Pay* 84. The Guide mentions the remedy of having the unequal pay reversed and the imposition of fines. It further states that "[w]here the burden of proof is on the complainant, it is more difficult to enforce equal remuneration through legal proceedings. Often the complainant may not have the information to prove pay discrimination. A number of countries have therefore introduced rules partially or wholly shifting the burden of proof to the employer" (Oelz, Olney and Manuel *Equal Pay* 84).

61 Oelz, Olney and Manuel *Equal Pay* 85.

62 Oelz, Olney and Manuel *Equal Pay* 91.

d) effort.[63]

4 Equal pay in the United Kingdom

4.1 The legislative framework

The United Kingdom gives effect to the principles of equal pay for equal work and work of equal value by means of provisions in the *Equality Act*.[64] It should be noted that there is an *Equal Pay Statutory Code of Practice to the EA*.[65] The *Equal Pay Code* does not itself impose legal obligations but instead explains the legal obligations under the EA and provides guidance in this regard.[66] It should further be noted that the EA makes reference to *terms and conditions of work* and not pay. It is, however, clear that terms and conditions of work include a wide spectrum of work-related benefits which include pay, as this is one of the fundamental terms of work. In terms of section 65(1) of the EA, equal work includes like work, work rated as equivalent, and work of equal value.[67] Section 65 of the EA explains what is meant by these concepts as follows:

a) *Like work*: includes work that is broadly the same/similar and work where the differences between the jobs are not of practical importance (material) in relation to the terms of the work.[68]

b) *Work rated as equivalent*: work is rated as equivalent if a job evaluation study "(a) gives an equal value to A's job and B's job in terms of the demands made on a worker, or (b) would give an equal value to A's job and B's job in those terms were the evaluation not made on a sex-specific system".[69]

c) *Work of equal value*: "A's work is of equal value to B's work if it is - (a) neither like B's work nor rated as equivalent to B's work, but (b)

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63 Oelz, Olney and Manuel *Equal Pay* 25. Chicha *Promoting Equity* 27 states that the point method of job evaluation uses the following factors: a) qualifications; b) effort; c) responsibility; d) conditions under which work is performed. These factors closely resemble the factors mentioned in international law for assessing the value of the work. See Landau and Beigbeder *From ILO Standards to EU Law* 68-69.

64 *Equality Act*, 2010 (EA).

65 *Equal Pay Statutory Code of Practice to the Equality Act*, 2010 (*Equal Pay Code*).

66 Item 16 of the *Equal Pay Code*.

67 Section 65(1)(a)-(c) of the EA.

68 Section 65(2)(a)-(b) of the EA.

69 Section 65(4)(a)-(b) of the EA. Section 80(5)(a) defines a job evaluation study as "a study undertaken with a view to evaluating, in terms of the demands made on a person by reference to factors such as effort, skill and decision-making, the jobs to be done – (a) by some or all of the workers in an undertaking or group of undertakings".

> nevertheless equal to B's work in terms of the demands made on A by reference to factors such as effort, skill and decision-making".[70]

It is interesting to note that section 66(1) of the EA provides that if the terms of an employee's work[71] do not include a sex equality clause then this clause is implied in the terms of work. A sex equality clause has the following effect:

> (a) [I]f a term of A's is less favourable to A than a corresponding term of B's is to B, A's term is modified so as not to be less favourable.
>
> (b) [I]f A does not have a term which corresponds to a term of B's that benefits B, A's terms are modified so as to include such a term.[72]

This provision provides an employee aggrieved with unequal pay for work of equal value with a cause of action based on the implied sex equality clause. The sex equality clause is thus the cause of action upon which the equal pay claim should be based and this claim is then brought within the ambit of the EA.

An employment tribunal faced with an equal pay claim for work of equal value may require an independent expert to prepare a report for it on the value of the work in question.[73] It is thus clear that there is support for the employment tribunals (courts) in the form of using experts to assess the value of the work in question. If the claimant's work is alleged to be of equal value to the comparator but the claimant and the comparator's work have been given different values in terms of a *job evaluation study*, the tribunal must determine that the claimant's work is not of equal value to the comparator's work unless it has *reasonable grounds for suspecting* that the factors used for the evaluation in the study were based on a system that discriminates on the ground of sex or is unreliable.[74]

4.2 Factors for assessing work of equal value from the Equality Act

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70 Section 65(6)(a)-(b) of the EA.

71 The terms of an employee's work are defined in s 80(2)(a) of the EA *inter alia* as "the terms of the person's employment that are in the person's contract of employment".

72 Section 66(2)(a)-(b) of the EA. Item 20 of the *Equal Pay Code* states that the equal pay provisions in the EA apply to women as well as men.

73 Section 131(2) of the EA.

74 Section 131(5)-(6) of the EA. Section 131(7) provides that "a system discriminates because of sex if a difference (or coincidence) between the values that the system sets on different demands is not justifiable regardless of the sex of the person on whom the demands are made".

It is clear from the above analysis of the EA that the following factors should be used to assess the value of the work:

a) effort;

b) skill;

c) decision making; and

d) the demands of the work.[75]

The reference to the words "factors such as" preceding the factors above as mentioned in section 65(6)(b) makes it clear that the list of factors does not constitute a *numerous clausus*.

4.3 The case law

4.3.1 Case law dealing with the assessment of work of equal value

In *Bromley v H & J Quick Ltd*[76] the female appellants were employed by the respondent as clerical workers and they claimed that their work was of equal value to that of male managers in the employ of the respondent. Their claims were dismissed by both the Industrial Tribunal and the Employment Appeal Tribunal. The respondent requested a firm of independent management consultants to undertake a job evaluation study within its workplace. The firm used five factors for consideration in the study. These factors were: a) skill[77]; b) mental demand; c) responsibility; d) physical environment; and e) external contacts. It was common cause that the jobs of the appellants and the comparators were assessed by management using an approach which assesses the job as a whole and without having regard to the five factors[78] which were used in the job evaluation study. The Court of Appeal held that a job evaluation study as defined in section 1(5) of the *Equal Pay Act*[79] requires the jobs of each worker to be valued in terms of the factors used in the study. In *casu*, this was not done and as a result thereof, the appeal was allowed and the

75 Section 65(6)(a)-(b) of the EA.
76 *Bromley v H & J Quick Ltd* 1988 IRLR 249 CA (*Bromley*).
77 Alternatives to skill were training and experience.
78 Only two of the appellants' jobs were assessed under the five criteria (*Bromley* para 25).
79 *Equal Pay Act*, 1970 (EPA). This Act was the predecessor to the EA in respect of equal pay claims. S 1(5) of the EPA is now contained in s 65(4) of the EA read with s 80(5) of the EA.

appellant's claims were remitted to the Industrial Tribunal with the directive that a report from an independent expert be sought.[80]

It is clear from this case that a job evaluation study must apply to all employees which it covers, and the value to be attached to an employee's work has to emanate from an assessment of the employee's job in terms of the factors used in the study. It is further clear that where there is no job evaluation study or if it does not comply with the EA, then obtaining a report from an expert relating to the value to be attached to the jobs under scrutiny is recommended.

In *Murphy v Bord Telecom Eireann*[81] the High Court of Ireland referred three questions to the European Court of Justice under article 177 of the *Treaty establishing the European Community* of 1957. Reference will be made to only the first question, namely:

> [d]oes the community law principle of equal pay for equal work extend to a claim for equal pay on the basis of work of equal value in circumstances where the work of the claimant has been assessed to be of higher value than that of the person with whom the claimant sought comparison?

The factual matrix giving rise to this question was briefly as follows: Murphy and 28 other women brought proceedings against their employer, Bord Telecom Eireann, and sought equal pay to that of a specified male comparator in the same employ, who was paid more than they were. The women were employed as factory workers and they were responsible for dismantling, cleaning, oiling, and reassembling telephones and other equipment. The male comparator was responsible for cleaning, collecting and delivering equipment, and general assistance. The Equality Officer who handled the case in the first instance took the view that the women's jobs were of a higher value than that of the male comparator and, therefore, did not constitute "like work." This view was upheld on appeal by the Labour Court. The European Court of Justice held that the community law principle of equal pay should be interpreted to cover a situation where a worker is engaged in work of higher value than that of the chosen comparator.[82]

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80 *Bromley* paras 11, 13, 15, 25, 34.

81 *Murphy v Bord Telecom Eireann* 1988 IRLR 267 ECJ (*Murphy*).

82 *Murphy* paras 1-4, 12. Item 45 of the *Equal Pay Code*, however, provides that "[a] woman may also bring a claim of equal pay where her job is rated higher than that of a comparator under a job evaluation scheme but she is paid less. However, this will not entitle her, if an equality clause applies, to better terms than those her comparator has".

The principle of equal pay for work of equal value does not only apply to a claimant who is engaged in work that is of equal value to that of the comparator but also applies to a situation where the claimant is engaged in work that is of a higher value than that of the comparator, provided that he/she is paid less than the chosen comparator and discrimination is proved.

In *Leverton v Clwyd County Council*[83] the appellant was employed by the respondent as a nurse in an infant's school. She claimed under the EPA that her work was of equal value to that of male clerical staff in different establishments. It is apposite to note that both the appellant and the comparators were employed under the Scheme of Conditions of Service of the NJC for Local Authorities' Administrative, Professional, Technical and Clerical Services. The appellant's annual salary was £5058 whereas her comparators' annual salaries ranged from £6081 to £8532. She clearly earned less than her comparators. The appellant worked 32,5 hours per week and had 70 days' annual leave whereas her comparators worked 37 hours per week and had 20 days' annual leave. The House of Lords held, *inter alia*, that the employer was entitled to rely on the difference in the hours worked per week and the number of annual leave days to successfully establish the genuine material factor defence to the equal pay claim of the appellant. The appeal was consequently dismissed.[84]

An employee who works less hours than her comparator will have a difficult time establishing that the work is of equal value to that of the comparator and will be defeated by the employer raising the genuine material factor defence. It is submitted that this comment is not restricted to hours of work and annual leave but may apply *mutatis mutandis* to other terms and conditions of employment.

In *Dibro Ltd v Hore*[85] the female respondents were employed by the appellant as assemblers.[86] They claimed that their work was of equal value to that of two male operators within the employ of the respondent. The appellant raised the defence that the work of the respondents and the comparators had been rated as unequal in terms of a job evaluation scheme. This job evaluation scheme did not, however, comply with a job evaluation study as envisaged in section 1(5) of the EPA. At some stage,

83 *Leverton v Clwyd County Council* 1989 IRLR 28 HL (*Leverton*).

84 *Leverton* 28-29, 33.

85 *Dibro Ltd v Hore* 1989 IRLR 129 EAT (*Dibro*).

86 It is apposite to note that in para 1 of *Dibro* the respondents are referred to as having been employed as packers, whereas on page 129 of *Dibro* they are referred to as having been employed as assemblers.

the Advisory, Conciliation and Arbitration Service became involved in the case, and job evaluation meetings were held. The result of the meetings was an analytical job evaluation scheme which was enforced in the workplace of the appellant. The appellant argued that this scheme was in fact a job evaluation study which complied with section 1(5) of the EPA and, according to this scheme, the work of the respondents and the comparators were not of equal value. The Industrial Tribunal refused to allow the appellant to rely on the scheme as a defence because it was carried out after the respondents presented their claim. The appellant appealed this decision. The Employment Appeal Tribunal held that the issue was whether the work of the respondents and the comparators was of equal value at the time when the proceedings were issued. The Employment Appeal Tribunal further held that the work must be compared as when the work was being carried out at the date of the issuing of the proceedings. It further held that a job evaluation scheme which comes into existence after the initiation of proceedings, but which nevertheless complies with section 1(5) of the EPA, is admissible in evidence and may be relied upon by the employer provided it relates to the facts and circumstances which existed at the time when the proceedings were initiated. The appeal was upheld and the case was remitted to the Industrial Tribunal for further hearing.[87]

An employer may rely on a job evaluation study which was undertaken after equal pay proceedings were initiated provided the study complies with section 1(5) of the EPA (this defence is now contained in section 69 of the EA read with section 80(5) of the EA) and it evaluates the relevant work of the parties as carried out at the date the proceedings were instituted. This would also mean that where a job evaluation study does not exist, a Court or Tribunal must assess the value of the work as it existed at the time when the proceedings were initiated. This seems to be not only in accordance with the law but also logical.

In *Redcar & Cleveland Borough Council v Bainbridge* (No 2)[88] the England and Wales Court of Appeal had to decide, *inter alia*, the novel question relating to the effect of the doctrine of *res judicata* on an equal pay claim, and in particular:

87 *Dibro* paras 2, 4-5, 11-12, 17, 20, 28, 31, 34.

88 *Redcar & Cleveland Borough Council v Bainbridge (No 2)* 2008 IRLR 776 EWCA (*Redcar*).

> [i]s the cause of action for equal pay for a particular pay period based on equal value the same as, or different from, the cause of action for equal pay claim for the same period based on RAE [work rated as equivalent]?[89]

If the causes of action were distinct that would mean that the doctrine of *res judicata* would not be applicable, but if they were the same cause of action then the doctrine would afford a complete defence to an attempt to establish and obtain a remedy for that same cause of action in a new action. The Court of Appeal held that there was nothing inconsistent with the three different legal bases for the claim of equal pay namely; a) equal pay for like work; b) equal pay for work rated as equivalent and c) equal pay for work of equal value, and there was nothing in the EPA which restricted a claimant to only one way of framing her claim (there is likewise, nothing in the EA which restricts a claimant to only one way of framing her claim). It further held that the different claims may have different outcomes as a result of the different considerations required to establish them. The Court of Appeal, however, qualified this by stating that "it is not permissible to allege a new cause of action in respect of a particular pay period in another action under the same head for the same pay period simply by selecting a different comparator". It stated that with regard to a new cause of action for the same period it would be necessary to bring the claim under a different head, usually with different comparators.[90]

A claimant is therefore entitled to bring a claim under either or all of the three causes of action mentioned above. The successful or unsuccessful outcome of a claim under one of the heads does not preclude a later claim under either of the remaining causes of action for the same pay period as claimed in the initial cause of action.

In *Potter v North Cumbria Acute Hospitals NHS Trust*[91] the Employment Appeal Tribunal heard an appeal against a decision of the Employment Tribunal wherein the Tribunal held that "[t]he correct comparison period for the evaluation of equality by the independent expert is at the date of the presentation of the claim". The appellants appealed this decision. The Employment Appeal Tribunal[92] held that where material changes in job content during the claim period is alleged, it will be prudent, subject to the particular circumstances of a particular case, to:

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89 *Redcar* paras 213, 217.
90 *Redcar* paras 213, 216-217, 257, 261.
91 *Potter v North Cumbria Acute Hospitals NHS Trust Potter* 2009 IRLR 22 EAT (*Potter*).
92 *Potter* paras 6-7.

> consider and decide the question first in relation to one part of the period and to deal later, if necessary, with an earlier or later period pre- or post- the alleged change.[93]

It stated that this amounted to the splitting of issues. The Employment Appeal Tribunal noted that the Chairman in the Tribunal below was of the view that the better course was to allow the independent experts to produce their reports, having done the comparison for the evaluation as at the date of the presentation of the claim, and that the Tribunal would then consider the impact of any changes in the work content. The Employment Appeal Tribunal held that this reasoning was unassailable and dismissed the appeal.[94]

Where a claimant alleges material changes in her job and that of the comparator and the claim involves different periods, such changes should be dealt with separately, and a useful procedural tool in this regard is for the Tribunal/Courts to order the splitting of issues. The independent expert's report should deal with the first period of the claim and the Tribunal should be able to determine the impact of the changes on the work content. The Tribunal would then be able to make a decision on the further conduct of the proceedings. For example, the issues could be split and/or separate reports could be sought from independent experts relating to the different claim periods.

In *Hosvell v Ashford & St Peter's Hospital NHS Trust*[95] the issue before the Court of Appeal was whether an Employment Tribunal erred in law by refusing an application by the appellant that a decision to appoint an independent expert be revoked. It is apposite to note that the appellant and the respondent in the Tribunal below requested the Judge to order the request of a report of an independent expert on the issue of equal value. This order was granted by agreement between the parties. Prior to the appointment of an expert, the appellant made an application requesting the Tribunal to withdraw the order that an expert be appointed to determine the issue of equal value. The Tribunal refused the application. The appellant then appealed to the Employment Appeal Tribunal and the appeal was dismissed. The appellant then launched an appeal to the Court of Appeal which dismissed it and stated, *inter alia*, that the Tribunal must determine if it wishes to obtain an independent expert's report to assist it. It further stated that the fact that in some cases the Tribunal may find that the two jobs are of equal value does not mean that in such

93 *Potter* para 15.
94 *Potter* paras 15, 19-20.
95 *Hosvell v Ashford & St Peter's Hospital NHS Trust* 2009 IRLR 734 CA (*Hosvell*).

circumstances it is deprived of requesting a report, especially if it is of the opinion that it will be prejudiced by the absence thereof. The discretion to appoint an independent expert and request a report lies with the Tribunal.[96]

A Tribunal has the final say as to whether or not an expert should be appointed and a report be sought. It cannot be deprived of requesting such a report even where it can successfully be argued that the Tribunal is in a position to properly make a decision on the value of the work in question in the absence of it. The Tribunal should decide whether or not it needs the report because it is the Tribunal which will ultimately have to make a decision on the value of the work in question. It would be absurd to allow a party to proceedings to deprive a Tribunal of a report where it seeks such a report. Requesting an independent expert's report in an equal value case is viewed as normal practice.[97]

4.4 Factors for assessing work of equal value from the case law

It is apposite to note from the case law above that the Tribunals and Courts make regular use of section 131(2) of the EA, which allows them to request an independent expert's report on the value of the work in question. This is normal practice, as was stated in *Hosvell v Ashford & St Peter's Hospital NHS Trust*. Section 131(2) of the EA provides that:

> [w]here a question arises in the proceedings as to whether one person's work is of equal value to another's, the tribunal may, before determining the question, require a member of the panel of independent experts to prepare a report on the question.

The case law does not discuss the factors for assessing the value of the work in detail, but it is clear that the factors emerging from the EA are used as well as objective factors which are used in terms of a job evaluation study and an independent expert's report. It is apposite to list the crucial aspects relating to equal value from the above case law. The list is as follows:

a) a job evaluation study has to assess the employees' work in terms of the factors used in the study;

b) the principle of equal pay for work of equal value applies to a situation where a claimant is engaged in work that is of higher value than that of

96 *Hosvell* paras 1, 15-17, 45-46.
97 *Hosvell* para 15.

the chosen comparator, provided the claimant is paid less than the comparator;

c) a court or tribunal must assess the value of the work as it existed at the time when the equal pay proceedings were initiated;

d) a claimant is entitled to bring an equal pay claim under either or all of the following causes of action; equal pay for like work, equal pay for work rated as equivalent, and equal pay for work of equal value;

e) where a claimant alleges material changes in her job and that of the comparator and the claim involves different periods, such changes should be dealt with separately by splitting the issues;

f) a tribunal has the ultimate say as to whether or not an expert should be appointed and a report sought on the value of the work in question.[98]

5 Conclusion

It is clear that international labour law plays an important role in the interpretation to be accorded to the EEA, as the EEA requires the Act to be interpreted in accordance with international labour law. International labour law explains that the value of the work in an equal pay claim should be determined on the basis of certain objective criteria. It also sets out a list of matters which should be considered when drafting equal pay provisions. International labour law recognises that the courts have a vital role to play in shaping the jurisprudence relating to equal pay claims. In particular, their decisions can lead to a better understanding of the principles relating to equal pay.

It is clear that the United Kingdom has a more than adequate legislative framework in the form of the EA, which is able to give effect to the principle of equal pay for work of equal value. The EA sets out the following three causes of action: a) equal pay for like work; b) equal pay for work rated as equivalent; and c) equal pay for work of equal value. A fourth cause of action should be added in the form of the sex equality clause, which allows a woman's contract to be brought in line with her male counterpart's contract where there is/are provision/s in the male's contract that is/are not contained in the female's contract or not contained in the same beneficial manner. The female's contract should then be

98 See para 4.3.1 hereof.

modified to include such a term. It is apposite to note that where the tribunals/courts are faced with an equal pay for work of equal value claim, it is common practice to request an independent expert to submit a report on the value of the work in question. The EA sets out the factors for assessing the value of the work. The analysis of the case law clearly shows that the tribunals/courts have given meaning to the statutory provisions relating to the principle of equal pay. The result is a rich jurisprudence relating to equal pay claims.

The *Employment Equity Regulations* contain the following criteria for assessing work of equal value: responsibility; skills (qualifications); physical, mental and emotional effort; the conditions under which the work is performed; and any other factor indicating the value of the work, provided the employer establishes its relevance.[99] It is clear from the above analysis that these factors are in accordance with the factors for assessing work of equal value as found in South African case law,[100] international labour law[101] and the equality laws of the United Kingdom.[102]

The EEA, unlike the *Equality Act*[103] in the United Kingdom, does not contain a provision which allows a court to refer a question relating to the value of work to an independent expert for the submission of a report. In the United Kingdom it is common practice for a court to request a report from an expert in an equal pay for work of equal value claim.[104] The Labour Court in *Mangena* has admitted that it does not have expertise in job grading and in allocating value to different occupations.[105] Expertise in job grading and in the allocation of value to different occupations is important in an equal pay for work of equal value claim, as the jobs to be assessed are different. This problem does not arise where, for example, both parties adduce expert evidence regarding the value to be accorded to the different jobs. The court will then be in a proper position to make a finding as to the relative value of the jobs. This problem is real and is exacerbated when the claimant cannot afford the services of a job evaluation expert and the court is not in a proper position to accord value to the different jobs. This is where the request by the Court to an independent expert for a report on the question of the value of the work is most needed.

99 Regulation 6(1)(a)-(d), (2).
100 Para 2.3 hereof.
101 Para 3.1 hereof.
102 Paras 4.2, 4.4 hereof.
103 Section 131(2) of the *Equality Act*.
104 Para 6.4 hereof.
105 *Mangena* para 15.

In order to address this situation, it is submitted that section 131(2) of the *Equality Act* should be incorporated in the EEA under section 6 and should read as follows:

> (6) Where a question arises in the proceedings as to whether [one person's] the claimant's work is of equal value to [another's] that of the comparator, the [tribunal] court[106] may, before determining the question, require a member of the panel of independent experts to prepare a report on the question.[107]

This provision would be dependent upon a list of independent experts, and provision should be made in this regard. For example, the Regulations could mention that an independent expert as referred to in the proposed provision should be accredited by the Department of Labour and should appear on the list of experts as maintained by the Department. A court using the proposed provision would then be in a position to appoint an expert from this list. It is submitted that the inclusion of the proposed provision would result in the courts being able to have the much-needed assistance of a report from an expert, without having to evaluate the work itself. This does not mean that the courts should adopt the expert's report uncritically, because the court will always be the final arbiter, as in any other case, involving the use of expert evidence. The proposed provision would address the comment made in *Mangena* to the effect that the Labour Court does not have expertise in job grading or in the allocation of relative value to different functions or occupations.[108]

In conclusion, it is submitted that section 6(4) of the EEA, read together with the Regulations and the Code, is a definite improvement on the equal pay laws in South Africa, but the legal framework for determining an equal pay for work of equal value claim will remain inadequate until a provision is introduced in the EEA which will allow the Courts to request a report from an expert on the value of the respective jobs.

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106 This would include the CCMA, where the employee earns less than the amount stated in the determination made by the Minister in terms of s 6(3) of the *Basic Conditions of Employment Act* 75 of 1997 (s 10(6)(aA)(ii) of the EEA) or where all the parties to the dispute consent to arbitration by the CCMA (s 10(6)(b) of the EEA).

107 Section 131(2) of the EA. The words in square brackets indicate omissions, while the words and the number underlined indicate insertions.

108 *Mangena* para 15.

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List of Abbreviations

CCMA	Commission for Conciliation, Mediation and Arbitration
EA	Equality Act, 2010
EEA	Employment Equity Act 55 of 1998
EPA	Equal Pay Act, 1970
ILJ	Industrial Law Journal
ILO	International Labour Organisation
SADC	Southern African Development Community
SALJ	South African Law Journal
SA Merc LJ	South African Mercantile Law Journal