

## CONVENTION 100

## NEW ZEALAND (TOKELAU)

### ARTICLE 22 OF THE CONSTITUTION OF THE ILO

Report for the period 1 July 2008 to 31 May 2010  
made by Tokelau

on the

### EQUAL REMUNERATION CONVENTION, 1951 (No 100)

- I** *Please give a list of the legislation and administrative regulations the decisions of legally established or recognised bodies or if the principle of the Convention is applied according to paragraph 2(c) of Article 2 the collective agreements which apply the provisions of the Convention. Where this has not already been done please forward copies of the said legislation and regulations to the International Labour Office with this report together with any available copies of the decisions of legally established or recognised bodies and of existing collective agreements. Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit of, or as a result of, ratification.*

No change from the previous report.

- II** *Please indicate in detail for each of the following Articles of the Convention the provisions of the legislation and administrative regulations or any other measures, in particular the decisions of legally established or recognised bodies and the provisions of collective agreements relating to the application of each of these Articles. In addition, please provide any indication specifically requested below under individual Articles. If in your country the ratification of the Convention gives the force of national law to its provisions please indicate the constitutional texts from which this effect is derived. Please specify also any measures which have been taken to give effect to those provisions of the Convention which require the intervention of the national authorities, such as measures designed to promote or to ensure the application of the principle of equal remuneration for men and women workers for work of equal value, and measures designed to promote the objective appraisal of jobs on the basis of the work to be performed and the co-operation of the employers' and workers' organisations concerned. If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.*

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of-

- (a) national laws or regulations;
- (b) legally established or recognised machinery for wage determination;
- (c) collective agreements between employers and workers; or
- (d) a combination of these various means.

No change from the previous report

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

No change from the previous report.

**III Please state to what authority or authorities the application of the above mentioned legislation and administrative regulations, etc., is entrusted and by what methods application is supervised and ensured.**

The Public Service Rules 2004 set out the lines of accountability in relation to National Public Service.

Previous reports have explained the special constitutional relationship between New Zealand and Tokelau.

**IV Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so please supply the text of these decisions.**

No court or tribunal decisions of this kind have been issued in Tokelau.

**V Please give a general appreciation of the manner in which the Convention is applied, including for instance extracts from official**

**reports information concerning the number and nature of the contraventions reported and any other bearing on the practical application of the Convention.**

Please see comments in previous reports.

**VI Please indicate the representative organisations of employers and workers to which copies of the present report have been communicated in accordance with article 23 paragraph 2 of the Constitution of the International Labour Organisation. If copies of the report have not been communicated to representative organisations of employers and/or workers or if they have been communicated to bodies other than such organizations please supply information on any particular circumstances existing in your country which explain the procedure followed. Please indicate whether you have received from the organisations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate the observations received, together with any comments that you consider useful.**

New Zealand Council of Trade Unions  
Business New Zealand

## **Responses to comments made by the Committee of Experts on the Application of the Conventions and Recommendations in 2009.**

### **1. Article 2 of the Convention. Application of equal remuneration in the public service.**

***The Committee notes "that following the Tokelau Public Service Manual (section 3.1(a)), the salaries for the employees in the public service are derived from unified salary scales. The employer will decide the commencement salary of an individual employee from the approved salary range for the position. However, the Committee also notes that an employer may, in exceptional cases, place an employee on any salary step they deem fit, notwithstanding the normal salary range applying to the position in accordance with section 3.1(c) of the Manual. The Committee asks the Government to provide information on how it is ensured that employers do not discriminate between male and female employees when deciding on which salary step will apply. While noting the Government's information on the functioning of the village employees committees, the Committee must reiterate its request to the Government to indicate the manner in which these committees are promoting in practice the application of the Convention".***

The comments are made in response by the Government of Tokelau:

The Tokelau Public Service Manual provides equal opportunity for all. In Section 2.5 (Appointment Criteria) it states, "When making an appointment to an established position, the appointment is to be given to the person who has the most merit". This section indicates that gender should never be a ground to determine appointment.

The determination of salary scale for new employees in the Tokelau Public Service was never gender based. Salaries for new employees always are determined based on their experience and qualifications they bring into the position. For the last decade, there was never a single complaint from a new or existing employee against their salary based on discrimination grounds.

Finally, scale increments in the Tokelau Public Service are based on satisfactory conduct and performance of duties. Again, gender as a ground for scale increment is not tolerated nor accepted in the Tokelau Public Service.

There is evidence that some females are paid less than some males in the same position, but they are not outcomes of discrimination. These situations arise mainly when female senior officials are locally recruited and males recruited from outside of Tokelau. Evidence shows that there are more females in the seven highest paid positions than males in the senior level.

There are currently no employee committees. However, the Human Resources Manual is currently under review, and is a very good opportunity to discuss employment and salary matters.

## 2. Distribution of men and women in the public service

***The Committee notes "the information provided by the Government on the distribution of men and women in the public service. It notes that out of the 45 national public servants, 19 are men and 26 are women. A total of 28 staff fall within the salary grading, with eight men and 20 women. The other 17 staff members are contract workers, 11 of whom are men and six of whom are women. The Committee would be grateful if the Government could provide an indication of the number of male and female public servants occupying the higher paid posts in the public service".***

The comments are made in response by the Government of Tokelau. The following statistics are as at 31 March 2010.

### **Directors & General Managers:**

3 females  
5 males

### **Advisers:**

2 females  
3 males

### **Managers:**

3 males

### **Senior Officials:**

2 females  
1 male

### **Village General Managers/Directors:**

2 females  
1 male

In total there are 13 males and 9 females occupying established senior positions in the Tokelau Public Service at both national and village level.

## 3. Application of the principle in the private sector.

***The Committee notes "the Government's reply that the private sector in Tokelau is very small and that both men and women have equal opportunities to sell their handicrafts. The Committee further notes from the Government's report that a draft national policy for women and a national plan of action is being developed. The Committee would be grateful to receive a copy of the national policy and action plan on women, once they have been adopted, and it hopes that these will include activities to promote the application of the principle of equal remuneration for men and women for work of equal value".***

The comments are made in response by the Government of Tokelau:

The draft National Policy and the Action Plan for Women of Tokelau 2010-2015 were presented to the General Fono in March 2010 and both documents were endorsed. The General Fono, however, directed that both the Policy and Action Plan

be taken back to each Taupulega or Village Councils for further clarifications. These will be made available to the office when the process is concluded.

The National Policy on women has a section on equal economic participation for women. It does not, however, contain a specific section on equal remuneration. This was not an issue addressed by the Women of Tokelau during consultations. Salaries for the Tokelau Public Service at both National and Village level are not gender based.