

## MARITAL STATUS

It is unlawful under the *Equal Opportunity Act 1984* to treat a person unfairly because of their marital status.

For the purposes of the Act marital status refers to the status of being single, married, married but living apart from one's spouse, divorced, widowed or the de facto partner of another person.

**Direct marital discrimination** occurs when someone is treated less favourably because of their marital status than someone of a different marital status, in the same or similar circumstances.

**Indirect marital discrimination** is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone because of their marital status, and is unreasonable in the circumstances.

### Where does Act apply?

The Act makes it unlawful to discriminate against a person because of their marital status in certain areas of public life and these areas include:

- Employment
- Education
- Access to places and vehicles
- Provision of goods, services and facilities
- Accommodation
- Disposal of land
- Clubs
- Application forms.

### Exceptions

There are some instances where it is not unlawful to discriminate against a person based on their marital status, and these exceptions include:

- Accommodation provided in a private household, by a religious, charitable or voluntary body

- Accommodation provided for employees
- Accommodation provided for aged persons
- Partnerships of less than six people
- Employment, when the job is one of two that will be held by a married couple or partners in a de facto relationship
- Employment in a religious, educational institution
- The provision of education by a religious organisation
- Residential care of children
- Disposal of an estate or interest in land or by way of a gift
- Measures intended to achieve equality or meet special needs
- Superannuation and insurance, based on statistical evidence
- The provision of charitable benefits
- Admission as a member of a voluntary organisation
- The ordination of priests or ministers of religion.

If an individual or organisation relies upon an exception under the Act when a complaint is made against them, they must justify the use of that exception to the Commissioner for Equal Opportunity.

### Employers' Responsibilities

Employers must ensure their current and prospective employees have a working environment free from discrimination.

Employers are liable for the unlawful action/s of their employees unless they can show they have taken all reasonable steps to prevent discrimination occurring.

## Liability

A person who causes, instructs, induces, aids or permits another person to do something that is unlawful under section 160 the Act shall, for the purposes of the Act, be taken to have done the act.

## How to Lodge a Complaint

A person who believes they have been discriminated against on the ground of their marital status can lodge a complaint with the Commissioner.

The onus of proof lies with the person making the complaint. The complaint must be lodged within 12 months of the last incident of discrimination however, in some circumstances, the Commissioner may rule there is good reason to accept a complaint that falls outside the 12 month time frame.

## Examples of Direct Marital Status Discrimination

\*A de facto couple was denied accommodation because the landlord said he wanted to rent the property to a married couple.

\*A transport company refused to employ an unmarried female applicant as office manager, even though she was the best candidate, because the Human Resources Manager thought her being single would make her a target for harassment.

\*After a female customer of a health insurance company got married and notified the company of her changed marital status, the company made all refund cheques payable to her husband which meant she required her husband's signature to cash the cheques.

## Example of Indirect Marital Status Discrimination

\*A financial organisation refused a loan application by a recent divorcee on the ground of residential

instability. It failed to take into account her residential instability was caused by her recent divorce and did not affect her ability to repay the loan.

*The Commissioner for Equal Opportunity provides information about the Act, investigates complaints and conducts community education and training services.*

## How to contact the Commission

By telephone	
General enquiries	08 9216 3900
Training courses	08 9216 3927
Facsimile	08 9216 3960
Country callers	1800 198 149
TTY	08 9216 3936
Interpreter service	13 14 50

By e-mail

[eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

By visiting our website

[www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)

By visiting our office

Level 2

Westralia Square

141 St Georges Terrace

Perth WA 6000

By post

PO Box 7370

Cloisters Square

Perth WA 6850

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December 2004