

PREGNANCY DISCRIMINATION

It is unlawful under the *Equal Opportunity Act 1984* to discriminate against a woman who is pregnant.

Direct pregnancy discrimination means treating a pregnant woman less favourably than someone who is not pregnant, in the same or similar circumstances, and the treatment is unreasonable.

Indirect discrimination is when an apparently neutral rule has a negative effect on a substantially higher proportion of pregnant women, compared to persons who are not pregnant, and the rule is unreasonable in the circumstances.

Where does the Act apply?

Under the Act it is unlawful to discriminate against a person because of pregnancy in certain areas of public life and these areas include:

- Employment
- Education
- Provision of goods, services and facilities
- Access to places and vehicles
- Accommodation
- Clubs
- Disposal of land
- Application forms
- Advertisements
- Sport – in some instances
- Insurance – in some instances.

Exceptions

There are some instances where it is not unlawful to discriminate against a pregnant woman under the Act, and these exceptions include:

- Measures intended to achieve equality or meet special needs
- Application forms requesting information of a medical nature from a pregnant woman

- Accommodation provided in private households
- Accommodation provided by religious, charity or voluntary bodies
- Disposal of an estate or interest in land by will or by way of a gift
- Right or privileges granted to a woman in connection with pregnancy or childbirth
- Charitable benefits to pregnant women
- Admission of a pregnant woman as a member of a voluntary organisation, or the provision of benefits to that woman
- Employment, education or training at a religious educational institution
- 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.

Responsibilities

Organisations must ensure they provide a working environment, plus services, free from pregnancy discrimination.

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

Section 160 of the Act

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

How to Lodge a Complaint

A woman who believes she has been discriminated against on the grounds of her pregnancy 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 Discrimination

A woman was refused life insurance when she was seven months pregnant. She was told the company did not extend life insurance to pregnant women, only offering it to women three months after the birth of their children.

A pregnant woman was dismissed from her position as a bar attendant because she didn't fit the 'image' of the bar.

A pregnant woman was not told about internal positions coming available because her immediate supervisor assumed 'she would be leaving soon and not returning anyway'.

A casual employee's contract was not renewed when her employer became aware she was pregnant.

An employer decided to cut costs by reducing the number of sales representatives from two to one. The employer told the dismissed sales representative 'she had been chosen for dismissal because she was pregnant'.

A pregnant woman working at the front counter of a dry-cleaning business was moved to a less skilled position at the back of the shop when it became obvious she was pregnant.

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 services 13 14 50

By e-mail

eoc@eoc.wa.gov.au

By visiting our website

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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