

# Pregnancy Discrimination



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

**Direct pregnancy discrimination** occurs when a woman is treated unfairly because she is pregnant, compared to another person who is not pregnant in the same or similar circumstances and the treatment is unreasonable.

**Indirect pregnancy discrimination** is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone that is pregnant and is unreasonable in the circumstances.

## Exceptions

There are some instances where it is not unlawful to discriminate against a pregnant woman 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 gift
- Rights 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.

## Examples of pregnancy 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.

### Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia  
[www.wa.gov.au](http://www.wa.gov.au)

May 2013

**The Commissioner for Equal Opportunity provides information about the Act, investigates and conciliates complaints, conducts community education and training and develops programs to promote equal opportunity.**

### Where does the protection apply?

Under the Act it is unlawful to discriminate against a person because of their pregnancy, in certain areas of public life, including:

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

### Responsibilities

Organisations must ensure they provide a working environment and services that are free from pregnancy discrimination and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

A person causing, instructing, inducing, helping or permitting another person to do something unlawful is the same as doing it, for the purpose of the Act.

### Making a complaint

A person who believes they have been discriminated against because of their pregnancy can lodge a complaint with the Commissioner. The onus of proof lies with the person making the complaint.

The incident or incidents you are including in your complaint must have occurred within the 12 months previous to the date you lodge your Complaint Form.

In some circumstances the Commissioner may rule there is good reason, or good cause, to include incidents that occurred more than 12 months before the Complaint Form is lodged.

### How to contact the Commission:

#### By telephone

General enquiries: 9216 3900  
Training courses: 9216 3927  
Facsimile: 9216 3960  
County callers: 1800 198 149  
TTY: 9216 3936

#### By email

[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



An Interpreter can be arranged on request.