

Marital Status Discrimination

It is against the law under the Equal Opportunity Act 1984 (WA) to discriminate against a person due to marital status.



 *Equal Opportunity Commission*

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

Direct marital status discrimination occurs when a person is treated less favourably because of their marital status compared to another person of a different marital status, in the same or similar circumstances.

Indirect marital status 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 the protection apply?

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

- Work – 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 marital status discrimination and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

For the purposes of the Act, a person who causes, instructs, persuades, aids, or permits another person to engage in unlawful conduct is taken to have engaged in that conduct themselves.

Making a complaint

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

Complaints must be submitted in writing, but you are not required to use English. You may write your complaint in the language you feel most comfortable using.

The incident or incidents referred to in the complaint must have occurred within the 12 months prior to the date the complaint is lodged.

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.

Examples of 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 fund 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.

A financial organisation indirectly discriminated against a recent divorcee when they refused a loan application 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.

In some circumstances, the Commissioner may determine that there is good reason — or good cause — to include incidents that occurred more than 12 months before the complaint was submitted.

Exceptions


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

- Accommodation provided in a private household or 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.

Call

General enquiries: 08 9216 3900
Training courses: 08 9216 3927
Country callers: 1800 198 149

 **Interpreter service:** 13 14 50

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