

Measure Intended to Achieve Equality

In Western Australia it is unlawful to discriminate because of attributes protected under the Equal Opportunity Act 1984 (the Act). However, the Act allows discriminatory practices when the aim is to achieve greater equality in areas of public life, such as work or education, for example.



 *Equal Opportunity Commission*



If an employer wants to increase the intake of female workers into an occupation, trade or profession which is dominated by male employees, an exception under section 31 of the Act enables them to advertise jobs, or offer courses exclusively for women without breaching the Act. It is up to an employer to prove the exception applies to the advertised positions by showing women are underrepresented in the occupation, trade, or profession the employer is involved in, due to barriers and practices that have favoured men over women.

Similarly, some employers advertise positions for Aboriginal and Torres Strait Islander applicants to ensure they are afforded "opportunities to meet their special needs in relation to employment, education, training, welfare or any ancillary benefits." These type of exceptions are known as measures intended to achieve equality.

Advertisements which aim to recruit or offer benefits to underrepresented groups of people in a particular occupation, education institution or service are not unlawful under the Act.

Similar provisions in the Act allow advertising and recruiting for applicants such as those with family responsibilities, particular sexual orientations, impairment, and age.

If organisations wish to do something not covered by an exception under the Act, they may apply to the State Administrative Tribunal (SAT) for an exemption, which is granted to a person or organisation to enable them to do something which would otherwise be unlawful under the Act.

The Commissioner for Equal Opportunity becomes a default respondent in exemption applications. The Commissioner may support the application, oppose it, or leave it up to the SAT to determine whether an exemption should be granted.

Exemption applicants must show that:

- The existing exceptions under the Act do not provide for what they want to do, and
- What they want to do is either in line with the objects of the Act, or necessary and in the public interest.


If you have any questions about a job advertisement, course or service that is only open to a certain cohort of people, you should contact the Equal Opportunity Commission to find out if it is lawful. If you wish to increase diversity in your organisation, you can contact the Commission for information.

Call


General enquiries: 08 9216 3900

Training courses: 08 9216 3927


Country callers: 1800 198 149

 Interpreter service: 13 14 50

Online

 eoc@eoc.wa.gov.au

 www.eoc.wa.gov.au

 @WA.EOC

Our Office

Albert Facey House

469 Wellington Street

Perth WA 6000

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