

Pregnancy Discrimination

It is against the law under the Equal Opportunity Act 1984 (WA) to discriminate against a person who is pregnant



 *Equal Opportunity Commission*

Direct pregnancy discrimination occurs when a person is treated less favourably because they are pregnant, compared to another person who is not pregnant, in the same or similar circumstances.

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

Where does the protection apply?

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

- Work
- Education
- Access to places and vehicles
- Provision of goods, services and facilities
- Accommodation
- Disposal of land or estate
- Clubs and incorporated associations
- Sport – in some instances
- Application forms
- Advertisements
- Insurances – 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.

For the purposes of the Act, a person who causes, instructs, induces, 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 pregnancy 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.

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.

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 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 becoming 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'.

Exceptions

There are some instances where it is not unlawful to discriminate against a person because they are pregnant. 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.

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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