

Pregnancy

Discrimination

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



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 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.

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:

- 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 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 WA Commissioner for Equal Opportunity. The onus of proof lies with the person making the complaint.

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

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

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

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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'.

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

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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'.

Disclaimer

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The Government of Western Australia

www.wa.gov.au

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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.

How to contact the Commission

By telephone

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

Address

Albert Facey House
469 Wellington Street
PERTH WA 6000

By email

eoc@eoc.wa.gov.au

By visiting our website

www.eoc.wa.gov.au



Interpreter service: 13 14 50

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How to follow the Commission



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