



## RACE DISCRIMINATION

It is unlawful under the *Equal Opportunity Act 1984* to treat a person unfairly because of their race.

**Direct race discrimination** takes many forms including a person being refused service, being singled out for criticism, excluded from applying for a particular job or being denied accommodation because of their race or colour. It is also unlawful to discriminate against a person because of the race of that person's relative or associate.

**Indirect race discrimination** takes place when an apparently neutral rule has a negative effect on a substantially higher proportion of people of a particular race, compared to people of another race, and the rule is unreasonable in the circumstances.

### Race

Includes colour, descent, ethnic or national origin or nationality and may comprise two or more distinct races.

### Where does protection apply?

The Act makes it unlawful to discriminate against a person because of their race in certain areas of public life and these areas include:

- \*Employment
- \*Education
- \*Accommodation
- \*Provision of goods, services and facilities
- \*Clubs
- \*Access to places and vehicles
- \*Application forms
- \*Advertisements
- \*Disposition of land.

### Exceptions

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

- Domestic workers in private households
- Genuine occupational qualification
- Measures intended to achieve equality or meet special needs
- Where Australian citizenship is required (this applies to public bodies only)
- Accommodation provided by charitable or other voluntary bodies solely for the people of one race
- Accommodation in private households
- Racial or ethnic clubs, except based on colour
- Disposal of an estate or interest in land by will or by way of a gift
- The provision of charitable benefits
- Admission as a member of a voluntary organisation
- Establishments providing accommodation for aged people – admissions and benefits
- 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.

### Responsibilities

Organisations must ensure they provide a working environment free from discrimination.

Organisations are liable for the unlawful action/s of their employees unless they can show they have taken all reasonable steps to prevent discrimination occurring.

### **Section 160 of the Act**

A person who causes, instructs, induces, aids or permits another person to do something that is unlawful under the Act shall, for the purposes of the Act, be taken to have done the act.

### **Making a complaint**

A person who believes they have been discriminated against because of their race can lodge a complaint with the Commissioner.

A complaint form can be requested from the Commission by calling 08 9216 3900 or 1800 198 149, or a copy can be down loaded from [www.eoc.wa.gov.au](http://www.eoc.wa.gov.au).

The onus of proof lies with the person making the complaint. The complaint must be lodged within 12 months of the last incident of discrimination however, in some circumstances, the Commissioner may rule there is good reason to accept a complaint that falls outside the 12 month time frame.

### **Examples of Race Discrimination**

- A qualified engineer was refused a job for which he was the best applicant because the employer thought customers would not like dealing with an Asian person.
- A couple visited a real estate agent seeking a rental property only to be told "... people like you have a reputation for not maintaining rental properties, I'm sorry, I don't want your business..."
- A couple telephoned their local kindergarten to see if there was a vacancy for their son. They were told there was plenty of room but when they turned up the kindergarten manager said "... look all the other kids are white, why don't you take him to a place where he'll fit in..."

- A job applicant was required to complete an English literacy test when literacy skills were not relevant to the position, and this constituted indirect discrimination as English was not his first language.

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

### **How to Contact the Commission**

By telephone:

General enquiries	08 9216 3900
Training courses	08 9216 3927
Facsimile	08 9216 3960
Country callers	1800 198 149
TTY	08 9216 3936

Interpreter can be arranged on request

By e-mail: [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

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