

FACT SHEET:

Race discrimination

The *Anti-Discrimination Act 1991* makes it unlawful to discriminate against a person because of their race.

What is race discrimination?

A person's race includes their:

- colour; and
- descent or ancestry; and
- ethnicity or ethnic origin; and
- nationality or national origin.

Discrimination based on race can be direct or indirect. Direct discrimination means treating someone less favourably because of their race than someone else of a different race, in similar circumstances.

For example, an El Salvadorean factory worker is singled out for dirty jobs at work. Other workers at the same level are not asked to do this work.

Indirect discrimination may be less obvious. Sometimes a rule or policy seems to treat everyone the same, but in fact, some people end up being treated less favourably. Indirect discrimination happens when there is an unreasonable requirement that people with a certain attribute (or characteristic) would have difficulty complying with, compared to others without that attribute.

For example, a resort has a policy that staff must be 180cm or taller, which disadvantages people from some racial backgrounds who are much less likely to be able to fill this criteria.

It is also unlawful to discriminate against a person because of their association with a person identified on the basis of their race - such as a friend, family member or co-worker.

For example, an Aboriginal man and his friends are asked to leave a pub, and the barman says "we don't want Aborigines here". The Aboriginal man has been directly discriminated against because of his race, and his non-Indigenous friends have been discriminated against because of their association with him.

It doesn't matter if the person doesn't mean to discriminate, or whether they think they are being discriminatory or not. It also doesn't matter if their beliefs or assumptions about the person or people they are discriminating against are correct or not. Under the Act, someone's motive for discriminating is irrelevant.

If you have experienced any of these types of discrimination, you may be able to lodge a complaint with us at the Commission.

Racial vilification

More serious poor treatment because of your race might be vilification. Vilification is when someone incites hatred, serious contempt, or severe ridicule of someone else because of their race. Serious vilification is when this includes a threat of harm to the person or their property, and is a criminal offence.

When and where is race discrimination unlawful?

Race discrimination is unlawful in all aspects of work, including recruitment, terms and conditions on which a job is offered, employment benefits, training, transfers, promotion and dismissal.

It is also unlawful when a person is:

- a customer in a shop or restaurant;
- a student at school or university (if it is by the educator);
- looking for accommodation;
- applying for credit, insurance or a loan; or
- when dealing with tradespeople, businesses or State or local government.

The rights of people to discriminate when recruiting people to work in their homes does not apply to race. Racial discrimination is always unlawful in these circumstances.

Examples of race discrimination

A tradesman requires an Indian customer to pay for work done up front. He does not require this of other customers. The tradesman told the customer that 'You people always try to get out of paying'.

In a lunchroom a worker racially abused a co-worker and made repeated, offensive racist remarks, including mimicking the co-worker's accent in a derogatory way.

When and where is different treatment okay?

Not all treatment that might seem unfair is against the law. The Act lists some exemptions that allow conduct that would otherwise be discriminatory. Whether or not an exemption applies will depend on individual circumstances.

The exemptions have limited application to race discrimination. They include:

Genuine occupational requirement: There are limited occasions where a person's race will be a genuine occupational requirement for a positions. Examples include:

A television show casting for a person of a specific cultural background for a role, for reasons of authenticity.

United States security regulations exclude people of certain nationalities from receiving confidential defence information that is needed for work on defence projects in Queensland.

Eligibility for State government assistance: A specific exemption allows some State government bodies to impose restrictions on financial or other assistance based on a person's citizenship or visa status.