

What is the Racial Discrimination Act ?

Fact sheet from: Human Rights and Equal Opportunity Commission, 1995.

What is the Racial Discrimination Act?

The Racial Discrimination Act makes racial discrimination against the law.

It aims to ensure that everyone is treated equally, regardless of their race, colour, descent, or national or ethnic origin.

Since the Act was passed, over 10,500 complaints have been received. Over 3,500 of these were from Aboriginal and Torres Strait Islander peoples and over 4,000 from people of non-English speaking background.

What is Racial Discrimination?

Racial discrimination happens when someone is treated less fairly than someone else in a similar situation, because of their race, colour, descent or national or ethnic origin.

Racial discrimination can also happen when a policy or rule treats everyone in the same way, but has an unfair effect on more people of a particular race, colour, descent, or national or ethnic origin than others.

It is Against the Law to Discriminate in Areas such as:

Employment

For example, when seeking employment, training, promotion, equal pay or conditions of employment.

Land, Housing and Accommodation

For example, when buying a house or land, or when renting a flat or a house.

Provision of Goods and Services

For example, when buying something; applying for credit or finance; using banks; seeking assistance from government departments, lawyers, doctors and hospitals; or attending restaurants, pubs, entertainment venues, and so on.

Access to Places and Facilities for Use by the Public

For example, when seeking access to parks, libraries, government offices, hotels, places of worship, entertainment centres, hire cars, and so on.

Advertising

For example, when publishing advertisements. They should not show an intention to discriminate.

Joining a Trade Union

Who Can Make a Complaint?

Complaints can be made by:

- one or more persons who believe they have been discriminated against on the grounds of their race, colour, descent, or national or ethnic origin, on their own behalf or on behalf of other people who have been discriminated against in the same way;

- person(s) included in a class of people who believe they have been discriminated against, on behalf of that class;
- a trade union on behalf of its members.

What Happens if Someone Makes a Complaint?

An Enquiry Officer at the Human Rights and Equal Opportunity Commission ("the Commission") can answer enquiries, but formal complaints must be made in writing. However, the complaints do not have to be written in English. Commission staff can assist you in putting your complaint in writing, or arrange for the translation of your complaint.

If a complaint is covered by the law, an officer of the Commission interviews the person complaining (the complainant). After the details of the complaint have been obtained, the officer may interview the person or organisation who is said to have discriminated (the respondent). Usually they will ask for documents or interview other people involved.

The aim is to try to help the complainant and respondent reach an agreement which is satisfactory to both sides. This is called conciliation. A conciliated agreement relating to discrimination in employment might include:

- an apology;
- financial compensation;
- reinstatement to a job;
- agreement to stop a particular practice or procedure;
- introduction of training programs, grievance procedures and so on to prevent future acts of racial discrimination.

This whole process is free and privacy is respected.

What Happens if a Complaint Cannot be Resolved by Conciliation?

When attempts to conciliate have not succeeded, and there appears to be evidence of unlawful behaviour, the complaint may be referred to the Commission, which can hold an inquiry.

This is a formal, public process heard by a Hearing Commissioner, in which both sides may have legal representation. Representatives of the media are allowed to attend and report on the hearing.

The Commission will hear evidence from both sides. Other witnesses may be asked to give evidence.

The Commission can make a determination and issue orders. In a complaint about racial discrimination in employment, for example, orders may include one or more of the following, depending on the details of the complaint:

- financial compensation;
- employment, reinstatement, or promotion, or transfer to a different section or location;
- putting in place new procedures, or education or training programs to prevent the discrimination from happening again.

For further information, contact or write to:
Human Rights and Equal Opportunity
Commission GPO Box 5218 Sydney 2001.
Complaints Information Line: (02) 9284 9800
Charge free: 1800 021 199 TTY: 1800 620 241

Disclaimer: The information on this fact sheet is intended only as a guide. It is not a substitute for legal advice.

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