



Pregnancy discrimination

Is discrimination against pregnant women against the law?

Yes. In NSW it is generally against the law to treat you unfairly or harass you because you are pregnant, in any of the following situations:

- **in employment;**
- **when you get, or try to get, most types of goods or services** — for example, from shops, hotels, entertainment venues, banks, lawyers, government departments, doctors or hospitals;
- **when you rent, or try to rent, accommodation** — for example, a unit, house, commercial premises, hotel room or motel room;
- **when you apply to get into, or are studying in, any State educational institution** — State school, college, TAFE or university; and
- **when you try to enter or join a registered club, or when you're inside one** — a registered club includes any club that sells alcohol or has gambling machines.

It is also against the law to treat you unfairly or harass you in any of the above circumstances because you have a relative, friend or associate who is pregnant.

Our statistics show that most discrimination against pregnant women occurs in employment.

What are my rights at work?

Generally, employers must treat pregnant employees the same way as they treat all their other employees. They must do this whether you are permanent, full-time, part-time or casual. They can only treat you differently if there's a legal reason for them to treat you differently.

For example, it is generally against the law to:

- not hire you because they think you might become pregnant;
- dismiss or retrench you because you are pregnant;
- harass you, or allow other employees to harass you, because of your pregnancy;
- not provide you with larger sizes of uniforms — if they normally provide your uniform;

- transfer you to another job 'out of sight' because you're pregnant — unless you willingly agree to the transfer;
- transfer you to another job where they think a pregnant woman will be safer — unless there are valid medical or safety reasons for this;
- deny you training just because you're pregnant;
- stop you being promoted just because you're pregnant; or
- not give you the same or a similar job when you return from maternity leave. Generally, if you've been working regularly for 12 months with the same employer, you have the right to take maternity leave and return to your job afterwards.

For full information about your maternity leave rights contact your employer, union or the NSW Department of Industrial Relations on 131 628.

The NSW law allows employers not to hire a woman if she is pregnant at the time of application or interview. However, in most cases it will be against the federal law not to hire you because you are pregnant. For more information contact the Human Rights & Equal Opportunity Commission — phone (02) 9284 9600.

Victimisation is also against the law

It is against the law for anyone to hassle or victimise you or treat you unfairly because:

- you have complained to your employer or another person about pregnancy discrimination;
- you have complained to the Anti-Discrimination Board; or
- you have supported someone with a pregnancy discrimination complaint, or acted as a witness in a pregnancy discrimination case.

You can lodge a separate complaint of victimisation with the Anti-Discrimination Board if you have been victimised because of a complaint relating to pregnancy discrimination.

What can I do if I'm treated unfairly or harassed because I'm pregnant?

Read through this factsheet to check that what's

happened seems to be against the law. If you aren't sure if it's against the law, phone us to check on your rights.

If what's happened seems to be against the law, you can try talking to the person or organisation that you think is discriminating against or harassing you. The organisation may have a policy on these issues and/or a process in place to deal with grievances, and you may be able to address your problem through these channels. You can also get help from other sources such as trade unions.

If talking to the person or organisation doesn't work, or isn't appropriate, you may decide to make a complaint to the Anti-Discrimination Board. It won't cost you any money for the Board's staff to help you, and you don't need a lawyer.

Making a complaint

If you want to make a complaint, it must be in writing and it is best if it is signed by you. You can either send us a completed discrimination complaints form, or write a letter to the President of the Anti-Discrimination Board, explaining what happened and why you think you have been discriminated against because of your marital status.

You can write to us in any language, or in Braille. If you need assistance to make a written complaint, phone the Board and we can help you or refer you to an organisation that can help you.

We also accept complaints on your behalf from your lawyer, or organisations such as unions and other representative bodies. However the complaint must make it clear that you agree with the complaint being made and you must be named in the complaint. In some circumstances you may also be required to show that you consent to the complaint being made on your behalf.

If you want to make a complaint on behalf of a child or a person with a disability, contact the Board for more information.

For us to be able to accept a complaint, the events involving unfair treatment because of your pregnancy must have occurred in the twelve months before the complaint is received by the Board. If you make a complaint about events that occurred more than twelve months before you lodge your complaint, the Board may refuse to investigate your complaint.

If your problem is urgent (for example, you think you are about to lose your job), tell us this in your letter and we will get back to you in time to do what we can to help.

The Anti-Discrimination Board of NSW

(open weekdays 9am-4.30pm)

Sydney

Level 4, 175 Castlereagh Street, Sydney NSW 2000
PO Box A2122, Sydney South NSW 1235
T: (02) 9268 5555, F: (02) 9268 5500, TTY: (02) 9268 5522

Wollongong

84 Crown St, Wollongong NSW 2500
PO Box 67, Wollongong NSW 2520
T: (02) 4224 9960, F: (02) 4224 9961, TTY: (02) 4224 9967

Newcastle

Level 1, 414 Hunter St, Newcastle West NSW 2302
T: (02) 4926 4300, F: (02) 4926 1376, TTY: (02) 4929 1489

Enquiries (02) 9268 5544

Employers Advisory Service (02) 9268 5544

Toll free number 1800 670 812

(if you are calling from rural or regional NSW)

Website www.lawlink.nsw.gov.au/adb

What happens after you make a complaint?

We have the legal power to investigate your complaint, and if it's against the law, to try to conciliate it. This means that we will try to help you and the person or organisation you are complaining about reach a private settlement that you both agree on. The Board is impartial in this process and does not take sides.

Any settlement will depend on the circumstances of your case, and on what you and the other parties are willing to offer and accept. It could be an apology, transfer to another position, financial compensation, the person who discriminated against you being reprimanded, awareness training about pregnancy discrimination at your workplace, access to facilities you were previously denied, and so on.

We treat all complaints confidentially, but we will need to inform the organisation or person you are complaining about of the complaint. We will not release information about your complaint to anyone else except with your permission or if we are required to by law.

Most complaints are conciliated. If yours isn't, you may go to the Equal Opportunity Division of the Administrative Decisions Tribunal which is like a court. It provides a legal judgment that must be followed. However, very few cases need to go to the Tribunal and in some circumstances it's possible to ask the Tribunal to keep your details confidential.