

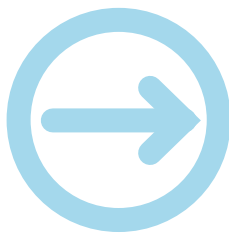


What is industrial activity?

Under the Tasmanian *Anti Discrimination Act* 1998 (“the Act”), one of the attributes covered is ‘industrial activity.’
Discrimination on the basis of industrial activity is unlawful.

“industrial activity” means-

- being or not being a member of, or proposing or refusing to join, an industrial organisation; or
- participating in, not participating in, or proposing or refusing to participate in, a lawful activity organised or promoted by an industrial organisation.



industrial Activity

What is an industrial organisation?

An industrial organisation is defined as:

- an organisation of employees; or
- a trade union; or
- an organisation of employers; or
- any other organisation established for the purposes of persons who carry on a particular industry, trade, profession or employment.

This means you must not discriminate against a person who:

- is a member of an industrial organisation; or
- refuses to join an industrial organisation; or
- participates in a lawful activity organised by an industrial organisation, for example, attending a union meeting; or
- refuses to participate in a lawful activity organised by an industrial organisation.

Where is it unlawful to discriminate?

The Act prohibits industrial activity discrimination in the following areas:

Employment – this includes paid or unpaid, casual, permanent or temporary employment.

Education and Training – at schools, colleges, universities or other educational institutions where education and training is provided.

Provision of facilities, goods and services – this includes access and use of public places, transportation and travel and private or government service providers.

Accommodation – this includes residential housing and business accommodation ie. rental property, hotel, motel, boarding house or caravan.

Membership and activities of clubs – being a member of a club and participating in activities associated with the club.

Examples of direct discrimination

Sophia, a workplace union delegate, felt she was not given a promotion because of her membership of a union. Sophia was clearly the best applicant for the position so she lodged a complaint of industrial activity discrimination.

Emanuel's hours were reduced because he refused to join a union.

Contact Us

To lodge a complaint or seek further information, contact the office or visit the website. Please note the office is unable to provide legal advice to parties of a complaint.

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

Telephone **1300 305 062 (local call)**
(03) 6233 4841

Facsimile **(03) 6233 5333**

TTY **(03) 6233 3122**

Email **antidiscrimination@justice.tas.gov.au**

www.antidiscrimination.tas.gov.au

Disclaimer: This information is intended to provide a general understanding of the Anti-Discrimination Act 1998. To maintain confidentiality case examples are not based on actual complaints lodged with this office.

Direct discrimination

Direct industrial activity discrimination takes place if a person treats another person on the basis of industrial activity less favourably than a person without that attribute or characteristic.

For direct discrimination to take place it is not necessary:

- that industrial activity be the sole or dominant ground for the unfavourable treatment; or
- that the person who discriminates regards the treatment as unfavourable; or
- that the person who discriminates has any particular motive in discriminating.

Indirect discrimination

Indirect industrial activity discrimination takes place if a person imposes a condition, requirement or practice, which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who share a particular attribute (industrial activity) more than a person who is not a member of that group.

When is it lawful to discriminate?

In certain circumstances, industrial activity discrimination is permitted. The following exception applies:

Employment based on industrial activity

Section 49 states that a person may discriminate against another person on the ground of industrial activity in relation to employment, if it is based on a genuine occupational qualification in relation to a particular position.

Where a person/organisation argues that it should be exempted from the requirements of the Act because an exception applies, it is up to the person/organisation to prove that the exception applies.

Example of lawful discrimination

A union seeking to employ an industrial officer may require a candidate who has experience organising industrial events or activities over a person who does not have experience organising industrial events, or activities, if it is a genuine occupational qualification.

Who can lodge a complaint?

The following persons may complain about discrimination on the basis of industrial activity:

- a person who has been discriminated against because of industrial activity;
- an advocate, representative or agent on behalf of another person;
- an organisation on behalf of the person discriminated against, so long as a majority of the members of the organisation consent;
- an associate of a person who has engaged in industrial activity; and
- a trade union that represents –
 - (i) a member of that union against whom the discrimination was directed; or
 - (ii) a class of members of that union against whom the discrimination was directed, so long as a majority of those members are likely to consent.

If you are unsure whether your complaint involves industrial activity discrimination, you can contact the Office of the Anti-Discrimination Commissioner and/or arrange an appointment with an Investigation Officer.

Please advise the office prior to an appointment if you require special assistance or the services of an Interpreter/Auslan.