

Equal Opportunities Act 2006 finally applies to Gibraltar

The Equal Opportunities Act 2006 came into effect on the 1st of March 2006 in Gibraltar and intends to establish ‘a general framework for equal treatment in employment and occupation and for connected purposes’.

This article will attempt to explain the meaning of this new Act and describe its application in Gibraltar.

As with all Acts (or Ordinances as they were previously known), the Equal Opportunities Act 2006 is written in terms that the layman may not readily understand, with certain words coming to mean a variety of things and terms becoming more than just the normal English dictionary translation. For these reasons, new Acts which are brought about must be explained and described in simpler terms so that every man may stand on the right side of the line.

Many of us have recently heard the shocking statistics relating to incomes of men and women in the same positions of employment in the workplace, where it seems men may earn up to 30% more than women in the same position. It is this kind of statistic that has pushed a re-enactment of the outdated Equal Opportunities Act of 2004 and amendments of parts of the Employment Act.

Society in Gibraltar is one of compact diversity and one must marvel at the ability of all members to live alongside one another in harmony. However, as we progress, guidance must be put into place to protect what we have here in Gibraltar. And so Acts, Laws and By-Laws are there to protect us.

In this particular case, several societal grounds are specifically covered under the new Equal Opportunities Act 2006. These are:

- **age or group**
- **disability**
- **pregnancy or maternity leave**
- **racial or ethnic origin**
- **religion or belief**
- **sex (including marital or family status)**
- **sexual orientation**
- **victimisation**

In the definitions of the Act, these grounds are exhaustively explained to cover every possible situation and individual under them.

What the above list means is that no employer (of which there are many definitions so as not to exclude) may discriminate against anyone under the above grounds.

A point to mention here, and a good indicator of our progression as a society, is the fact that this is one of the only, if not the only, Act which additionally addresses the female. Nearly all Acts, Laws and By-Laws exclusively addressed the male.

So let us now cover these grounds individually and give examples as to where discrimination under this Act would occur regarding employment.

Age or Age Group

The Act in this case is to prevent discrimination based solely upon the age of individuals. For example: -

Person A is 22 years old and Person B is 45 years old. Both persons apply for an offered promotion within the same workplace. With all other variables (such as experience and track record) being constant, if the employer were to choose Person B for the promotion over Person A, based solely on age, that would then be discrimination under the Equal Opportunities Act 2006.

Disability

In this case, the Act prevents discrimination on the basis of an individual's disability. For instance: -

Person A is disabled and Person B is not. Both apply for employment within the same company. If both persons have the same experience, with all other variables remaining constant, and the employer chooses to employ Person B over Person A, solely because Person A is disabled, that is discrimination under the new Act.

Pregnancy or Maternity Leave

Here the Act covers pregnant women in employment or women who are or will be on maternity leave from employment. The Act prevents these individuals from discrimination based solely on their condition.

Example 1: -

Person A is pregnant and Person B is not. Both persons apply for promotion. If the employer were to choose Person B for promotion based solely on the fact that Person A is pregnant (with all other variables constant), this would be discrimination.

Example 2: -

Person A is on maternity leave. The employer decides to relieve Person A of employment. If this decision is simply because Person A is on maternity leave, this would be discrimination.

Racial or Ethnic Origin

In the case of racial or ethnic origin discrimination, racial charges would most likely be brought upon the individual but for the purposes of this article, the Equal Opportunities Act 2006 also covers this in employment. For example: -

Person A is a white Caucasian while Person B is of Chinese origin. Both apply for employment within the same workplace. If the employer chooses Person A over Person B, simply because he is white, that would be discrimination against Person B.

Religion or Belief

The Act also covers different religions and beliefs. There must be no discrimination based on religion or beliefs. For instance: -

Person A is Catholic while Person B is Protestant. Both apply for promotion within the same employment. If the employer were to choose Person A over Person B, based solely on religion or beliefs, that would be discrimination.

Sex (including marital or family status)

In this case, the Act prevents discrimination based on the individual's gender or marital or family status. For example: -

Person A is male and Person B is female. If Person A were to be accepted for employment over Person B, simply because Person A is male, with all other variables remaining constant, that would be discrimination against the female.

This also includes discrimination against an individual solely on the basis of his or her marital or family status.

Sexual Orientation

This case is relatively new in these types of Acts in Gibraltar. Discrimination may not occur solely on the basis of sexual orientation. For instance: -

Person A is homosexual and Person B is heterosexual. If Person B were to receive employment over Person A, solely on the basis of sexual orientation, that would be discrimination.

Victimisation

This part of the Act protects any individual who, in coming forward with information about another individual who may have breached this Act, becomes victimised by that, or any other individual for doing so.

In an age of equality and equal rights, the Equal Opportunities Act 2006 protects individuals who may have been discriminated in the past, provides a safer working environment for those individuals for the present and prevents any further discrimination in the workplace for the future.

For more information on the Equal Opportunities Act 2006 or any other Acts, please visit www.gibraltarlaws.gov.gi

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