

Section 51 of the Equal Opportunity Act 1984

Landgate acknowledges the Traditional Owners of Country throughout Western Australia and we pay our respects to their Elders past, present and emerging. We acknowledge the Noongar people as the original custodians of the Land on which our Midland, Perth and Bunbury offices sit.

What is the Equal Opportunity Act 1984?

The [Equal Opportunity Act 1984](#) (the Act) was enacted by the Western Australian Parliament in 1984 and came into operation in July 1985. The Act promotes equality of opportunity in Western Australia and provides remedies in respect of discrimination on the grounds of sex, marital status, pregnancy, sexual orientation, family responsibility or family status, race, religious or political conviction, impairment, age, or publication of details on the Fines Enforcement Registrar's website, or involving sexual or racial harassment or, in certain cases, on gender history grounds.

What is Section 51 of the Act?

Section 51 of the Act is a measure intended to achieve equality. It is a measure to ensure that persons of a particular race have equal opportunities with other persons in circumstances in relation to which provision is made by the Act; or to afford persons of a particular race access to facilities, services or opportunities to meet their special needs in relation to employment, education, training or welfare, or any ancillary benefits.

Why is Landgate using Section 51?

Landgate is committed to increasing First Nations representation across the agency and continuing to create and maintain an inclusive and diverse workplace. This aligns with our Reconciliation Action Plan objectives to increase workforce representation and provide opportunities for First Nations peoples. It is anticipated that a Section 51 selection process will attract a greater number of applications from First Nations peoples, thereby increasing the possibility that a First Nations person may be appointed. Also, section 51 allows the appointment of a First Nations applicant to be prioritised.

What is the difference between Section 50(d) and Section 51?

Section 51 provides the agency with the ability to advertise jobs targeting a specific group; however, applicants not of the specified group may still apply for the opportunity.

Section 50(d) applies when the agency identifies that service provision to people of a particular race, is best provided by a person of the same race. Therefore, it is a genuine qualification for the position and only applicants of that racial group may apply.

Are First Nations applicants assessed differently in a Selection 51 selection process?

No, all applicants are assessed equitably against the role requirements and must meet the minimum requirements to be found suitable. However, in cases where more than one applicant meets these requirements, the applicant that has declared they are of Aboriginal and/or Torres Strait Islander descent will be the recommended applicant.

Are selection 51 opportunities still subject to redeployment clearance?

Yes, Section 51 process are still bound by the redeployment process as outlined in [Filling a Public Sector Vacancy Commissioners Instruction No.2](#).

Are job advertisements encouraging applications from First Nations peoples discriminating unlawfully?

Where an agency can demonstrate that the advertised position is a measure intended to provide equal opportunities in employment to a target group, there is no unlawful discrimination. The [Equal Opportunity Commission](#) provides information and resources on unlawful discrimination.

How does Landgate identify First Nations applicants?

As part of the application process, applicants will need to identify themselves as Aboriginal and/or Torres Strait Islander via JobsWA.

Does Landgate require an exemption from the State Administrative Tribunal to use Section 51?

No, an exemption is not required from the State Administrative Tribunal.

Where can I find more information about Section 51?

To find out more about Landgate or Section 51 of the Act, please see below:

- Landgate - <https://www.landgate.wa.gov.au/>
- Equal Opportunity Commission <http://www.eoc.wa.gov.au>
- Public Sector Commission www.psc.wa.gov.au
- Director of Equal Opportunity in Public Employment www.psc.wa.gov.au/deope
- Equal Opportunity Act 1984 www.legislation.wa.gov.au

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