

**WESTERN  
AUSTRALIAN  
GOVERNMENT  
Gazette**

ISSN 1448-949X

3523



**PERTH, FRIDAY, 25 AUGUST 2006 No. 149 SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

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**EQUAL OPPORTUNITY ACT 1984**

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**NOTICE OF THE MAKING OF A  
DECISION UNDER s135**

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**EX PARTE  
DIANA WILLIAMS AND FERNWOOD  
WOMEN'S HEALTH CLUB**



Section 136 of the *Equal Opportunity Act 1984* requires the State Administrative Tribunal to publish in the *Government Gazette* a notice of the making of a decision under s135 of the Act, which relates to applications for exemption from the operation of some or all of the provisions of the *Equal Opportunity Act*.

The following constitutes the notice published by the Tribunal under s136 of the *Equal Opportunity Act* with respect to an application for exemption by Fernwood Women's Health Club—

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<b>JURISDICTION</b>	:	STATE ADMINISTRATIVE TRIBUNAL
<b>STREAM</b>	:	HUMAN RIGHTS
<b>ACT</b>	:	EQUAL OPPORTUNITY ACT 1984 (WA)
<b>CITATION</b>	:	RE APPLICATION FOR EXEMPTION UNDER S 135 OF THE EQUAL OPPORTUNITY ACT 1984; EX PARTE DIANA WILLIAMS AND FERNWOOD WOMEN'S HEALTH CLUB [2006] WASAT 180
<b>MEMBER</b>	:	JUDGE J ECKERT (DEPUTY PRESIDENT)
<b>HEARD</b>	:	DETERMINED ON THE PAPERS
<b>DELIVERED</b>	:	4 JULY 2006
<b>FILE NO/S</b>	:	EOA 130 of 2005 EX PARTE DIANA WILLIAMS AND FERNWOOD WOMEN'S HEALTH CLUB Applicant

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*Catchwords—*

Exemption application - Discrimination on the grounds of sex - Discrimination in the area of employment - Goods and services - Health Clubs - Welfare and education of persons - Dominant or substantial purpose - Measure to achieve equality

*Legislation—*

*Anti-Discrimination Act 1991* (Qld)

*Equal Opportunity Act 1984* (WA), s 3, s 4, s 8, s 11, s 11(2)(a), s 12, s 12(2)(a), s 13, s 13(1), s 19, s 19(c), s 19(e), s 20, s 27, s 30, s 31, s 31(b), s 35, s 135, s 135(1), s 135(3), s 135(6), s 136, Pt II, Div 5

*Equal Opportunity Act 1995* (Vic)

*Equal Opportunity Regulations 1986* (WA), reg 24

*State Administrative Tribunal Act 2004* (WA), s 47, s 60(2)

*Result—*

The application for exemption is dismissed as being unnecessary

*Category:* B

**Representation—**

*Counsel—*

Applicant : Self-represented

*Solicitors—*

Applicant : Self-represented

**Case(s) referred to in decision(s)—**

Beach House Fitness Centre Pty Ltd [1998] VADT 9

Exemption application re Fernwood Women's Health Club Pty Ltd [2003] QADT 27

Fernwood Womens Health Clubs Pty Ltd (Anti-Discrimination) [2005] VCAT 246

Stevens v Fernwood Fitness Centres Pty Ltd (1996) EOC 92-782

Womens Health East Inc [2000] VCAT 1859

**Case(s) also cited—**

Nil

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**Summary of Tribunal's decision**

- 1 In these proceedings the applicant, Ms Diana Williams on behalf of Fernwood Women's Health Clubs, sought an order from the Tribunal exempting Fernwood from the operation of some of the provisions of the *Equal Opportunity Act 1984* (WA), which make it unlawful for a person to discriminate against another person based on their gender.
- 2 The exemption was sought by the applicant to allow Fernwood to—
  1. open and operate health clubs in Western Australia which would provide services to women only;
  2. advertise to employ only women in its health clubs in Western Australia; and
  3. employ only women for the operation of its health clubs in Western Australia.

- 3 The Tribunal dismissed the application for the exemption on the basis that the conduct for which the applicant sought exemption constituted a measure to achieve equality under s 31(b) of the *Equal Opportunity Act 1984*. The conduct was therefore within a statutory exception to the operation of Part II of the Act and it was unnecessary for the applicant to seek, and the Tribunal to grant, an exemption under s 135 from the operation of the provisions of the *Equal Opportunity Act 1984*.
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