

---

# Human Rights Act for Queensland

It's official! Queensland has now joined Victoria and the ACT with its own legislation protecting human rights.

The Act introduces protection for 23 human rights including recognition and equality before the law, freedom of expression, protection of families and children, and the rights to education and health services (full list below). The Act offers protection to individuals only, not corporations.

Who is in the firing line?

The Act specifically protects individuals against actions and decisions of public entities that are incompatible with the human rights protected under the Act. Public entities include local governments (including local government employees), the Queensland Police Service, public service employees, Ministers, and other entities prescribed by regulation or legislation to be a public entity.

Public entities do not include the Legislative Assembly, a court or a tribunal (unless acting in an administrative capacity).

What legal action is available under the Act?

The Act provides that it is unlawful for a public entity to act or make a decision that is incompatible with human rights, or fails to give proper consideration to a human right relevant to the decision. The Act does not create a standalone legal action.

Instead, if an individual is seeking relief or remedy against a public entity, and if the public entity's action or decision is also unlawful due to incompatibility with the human rights protected by the Act, then relief or remedy may also be sought for this reason.

Importantly, no monetary damages can be awarded in response to a claim under this Act.

## Queensland Human Rights Commission

The Act renames the Anti-Discrimination Commission as the Queensland Human Rights Commission.

Where there has been a contravention of the Act by a public entity, and an individual's complaint to the public entity has not been responded to (or adequately responded to) within 45 days, then the individual may lodge a complaint with the Commission.

The Commission will investigate the complaint, which may involve a conciliation conference if the Commissioner considers it would be useful.

Complaints which are deemed frivolous, trivial, vexatious, misconceived or lacking in substance will be refused.

## Implications

Public entities need to be aware of their obligations under the Act and ensure that they have adequate procedures in place, including responding to complaints within 45 days of receipt.

The Act does not create rights for individuals to bring any claim against another member of the public, or against a corporation or entity that is not a public entity.

## Summary

The Act does not create a separate, standalone legal action for breach of human rights. It is a claim that can only be added to an existing right against a public entity.

The specific codification of these human rights now provides that all statutory provisions must be interpreted in a way that is compatible with human rights, and questions of interpretation can be referred to the Supreme Court for determination.

The Human Rights Act is expected to commence in two stages:

1. The Queensland Human Rights Commission to commence on 1 July 2019; and
2. The commencement of the complaints process on 1 January 2020.

The Act is slated for review in 2023.

The 23 human rights protected by the Act

1. Recognition and equality before the law
2. Right to life
3. Protection from torture and cruel, inhuman or degrading treatment
4. Freedom from forced work
5. Freedom of movement
6. Freedom of thought, conscience, religion and belief
7. Freedom of expression
8. Peaceful assembly and freedom of association
9. Taking part in public life
10. Property rights
11. Privacy and reputation
12. Protection of families and children
13. Cultural rights - generally
14. Cultural rights - Aboriginal people and Torres Strait Islanders
15. Right to liberty and security of person
16. Humane treatment when deprived of liberty
17. Fair hearing
18. Rights in criminal proceedings
19. Protection of children in the criminal process
20. Right not to be tried or punished more than once
21. Retrospective criminal laws

22. Right to education
23. Right to health services.

## Authors



Onjawli Chakravarty

Phone: [+61 3231 6375](tel:+6132316375)

Email: [onjawli.chakravarty@bnlaw.com.au](mailto:onjawli.chakravarty@bnlaw.com.au)