



# HUMAN RIGHTS ACT

AN INTRODUCTION



## PREFACE

Hundreds of laws have been passed affecting every aspect of our lives. Sometimes it can be difficult to know what our basic rights really are. Fifty years ago Britain helped to enshrine our basic liberties into the European Convention on Human Rights. But we could only claim them by taking the long road to Strasbourg. The Human Rights Act means that we can safeguard our rights here in the UK. And we can all be clearer about the basic values and standards we share. This leaflet introduces the Human Rights Act and says how it works. UK Governments have respected the European Convention for some 50 years. So you'll probably never need the Act. But if your rights ever are infringed, it's good to know there's something you can do about it.

JACK STRAW

LORD IRVINE OF LAIRG

## WHAT IS THE HUMAN RIGHTS ACT?

The Human Rights Act 1998 is a new law in full force from 2 October 2000. It gives further effect in the UK to the fundamental rights and freedoms in the European Convention on Human Rights (ECHR).

## WHAT DOES IT DO?

The new law does three simple things:

- It makes it unlawful for a public authority, like a government department, local authority or the police, to breach the Convention rights, unless an Act of Parliament meant it couldn't have acted differently
- It means that cases can be dealt with in a UK court or tribunal. Until now, anyone who felt that their rights under the Convention had been breached had to go to the European Court of Human Rights in Strasbourg
- It says that all UK legislation must be given a meaning that fits with the Convention rights, if that's possible. If a court says that's not possible it will be up to Parliament to decide what to do

## WHAT IS THE EUROPEAN CONVENTION ON HUMAN RIGHTS?

This is one of the earliest and most important treaties passed by the Council of Europe, a group of nations invited by Sir Winston Churchill to come together after the Second World War to stop such atrocities and acts of cruelty happening again.

The Council of Europe is quite separate from the European Union (EU). It has its own Court of Human Rights in Strasbourg. You are already able to go to the Strasbourg court to claim your rights under the ECHR. However the ECHR has until now not been part of the UK's domestic law. So our courts have not normally been able to deal with claims.

## YOUR CONVENTION RIGHTS

There are sixteen basic rights in the Human Rights Act, all taken from the European Convention on Human Rights. They don't only affect matters of life and death like freedom from torture and killing; they also affect your rights in everyday life: what you can say and do, your beliefs, your right to a fair trial and many other similar basic entitlements.

(Article 1 is introductory)

### ARTICLE 2 RIGHT TO LIFE

You have the absolute right to have your life protected by law. There are only certain very limited circumstances where it is acceptable for the State to take away someone's life, eg if a police officer acts justifiably in self defence.

### ARTICLE 3 PROHIBITION OF TORTURE

You have the absolute right not to be tortured or subjected to treatment or punishment which is inhuman or degrading.

### ARTICLE 4 PROHIBITION OF SLAVERY AND FORCED LABOUR

You have the absolute right not to be treated as a slave or forced to perform certain kinds of labour.

## ARTICLE

5

## RIGHT TO LIBERTY AND SECURITY

You have the right not to be deprived of your liberty - 'arrested or detained' - except in limited cases specified in the Article (eg where you are suspected or convicted of committing a crime) and where this is justified by a clear legal procedure.

## ARTICLE

6

## RIGHT TO A FAIR TRIAL

You have the right to a fair and public hearing within a reasonable period of time. This applies to both criminal charges against you, or in sorting out cases concerning your civil rights and obligations. Hearings must be by an independent and impartial tribunal established by law. It is possible to exclude the public from the hearing (though not the judgement) if that is necessary to protect things like national security or public order. If it is a criminal charge you are presumed innocent until proved guilty according to law and have certain guaranteed rights to defend yourself.

## ARTICLE

7

## NO PUNISHMENT WITHOUT LAW

You normally have the right not to be found guilty of an offence arising out of actions which at the time you committed them were not criminal. You are also protected against later increases in the possible sentence for an offence.

The rights in Articles 8 to 11 may be limited where that is necessary to achieve an important objective. The precise objectives in each Article which allow limitations vary, but they include things like protecting public health or safety, preventing crime, and protecting the rights of others.

## **ARTICLE 8** RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

You have the right to respect for your private and family life, your home and your correspondence. This right can only be restricted in specified circumstances.

## **ARTICLE 9** FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

You are free to hold a broad range of views, beliefs and thoughts, as well as religious faith. Limitations are permitted only in specified circumstances.

## **ARTICLE 10** FREEDOM OF EXPRESSION

You have the right to hold opinions and express your views on your own or in a group. This applies even if they are unpopular or disturbing. This right can only be restricted in specified circumstances.

## ARTICLE 11 FREEDOM OF ASSEMBLY AND ASSOCIATION

You have the right to assemble with other people in a peaceful way. You also have the right to associate with other people, which can include the right to form a trade union. These rights may be restricted only in specified circumstances.

## ARTICLE 12 RIGHT TO MARRY

Men and women have the right to marry and start a family. The national law will still govern how and at what age this can take place.

(Article 13 is not included in the Human Rights Act)

## ARTICLE 14 PROHIBITION OF DISCRIMINATION

In the application of the Convention rights, you have the right not to be treated differently because of your race, religion, sex, political views or any other status, unless this can be justified objectively. Everyone must have equal access to Convention rights, whatever their status.



## ARTICLE 1 OF PROTOCOL 1 PROTECTION OF PROPERTY

(a 'protocol' is a later addition to the Convention)

You have the right to the peaceful enjoyment of your possessions. Public authorities cannot usually interfere with things you own or the way you use them except in specified limited circumstances.

## ARTICLE 2 OF PROTOCOL 1 RIGHT TO EDUCATION

You have the right not to be denied access to the educational system.

## ARTICLE 3 OF PROTOCOL 1 RIGHT TO FREE ELECTIONS

Elections for members of the legislative body (eg Parliament) must be free and fair and take place by secret ballot. Some qualifications may be imposed on those that are eligible to vote (eg a minimum age).

## ARTICLE 1 OF PROTOCOL 6 / ARTICLE 2 OF PROTOCOL 6

### ABOLITION OF THE DEATH PENALTY

These provisions abolish the death penalty. There can be limited exceptions in times of war but only in accordance with clearly specified laws.

## HOW DOES THE HUMAN RIGHTS ACT AFFECT ME?

- DOES THE HUMAN RIGHTS ACT CHANGE MY RIGHTS?

No. But the Human Rights Act makes claiming your rights much quicker and easier. Instead of having to go to Strasbourg, you can now bring a case in a court in the UK.

- DOES THE HUMAN RIGHTS ACT AFFECT THE WAY GOVERNMENT AND PUBLIC BODIES BEHAVE?

Yes. The Human Rights Act says that all public authorities must pay proper attention to your rights when they are making decisions that affect you. Public authorities include Government Ministers, civil servants, your local authority or health authority, and also agencies like the police, the courts and private companies when carrying out public functions.

That's nothing new – respecting rights and balancing rights and responsibilities has always been an important part of public service in this country. But the Human Rights Act makes sure that those in authority over you will have to check that they do not ride roughshod over your rights, even when they believe they are doing so for a good reason. They will have to be careful about the balance they are striking and think hard about how they can cause the least possible harm to individuals.

People who work for public authorities have been trained in the new law. And every time Government proposes a new law in Parliament it has to make a statement under the Human Rights Act about how the new law fits in with the Convention rights.

- CAN I USE THE HUMAN RIGHTS ACT AGAINST ANOTHER PRIVATE INDIVIDUAL WHO INFRINGES MY RIGHTS?

Not directly. You cannot sue, or be sued by, another individual for breaking the Convention rights. But you may benefit indirectly because the Human Rights Act means all laws have to be given a meaning and effect which is as close as possible to the Convention rights.

It's also a lot easier to insist on your rights if they are written down. You can point them out to the person who you think is ignoring them.

- BUT WHAT ABOUT RESPONSIBILITIES? ARE MY RIGHTS UNDER THE ACT UNLIMITED?

They are not. Most of the rights in the Human Rights Act have some boundaries to prevent them unfairly affecting the rights of others - or overriding the rights of the wider community. In a democratic society everyone has rights. Your rights come first, but so do everyone else's. So we all have to accept some limits on our rights in order to make sure others are treated fairly.

For example, someone's right to liberty might have to be restricted if they have committed a crime. Freedom of speech cannot mean the freedom to shout 'Fire!' in a crowded hall, when there isn't one.

- WILL THE HUMAN RIGHTS ACT REALLY CHANGE ANYTHING?

It should do. This is a type of higher law, affecting all other laws. The rights and their limitations are really a set of basic values. Respect for the rights and everything that goes with them should help change the way people think and behave and create an atmosphere in which decisions and policies are discussed and understood. How far the Human Rights Act will improve the quality of life for all in the UK depends on how far we all respect the values it enshrines.

- WHAT DOES THE HUMAN RIGHTS ACT MEAN FOR DEMOCRACY?

Democracy is the only form of government which fits with the Convention rights. Tolerance and broad-mindedness are the bedrock of democracy - and the bedrock of the Convention rights. The Human Rights Act recognises the central place of Parliament in our democracy. It should encourage transparency and openness in Government because public authorities will use the language of the Convention rights to

debate problems. Because that's a language we can all understand we will be better able to understand what's being said - and to join in.

- WILL THE HUMAN RIGHTS ACT PLEASE EVERYONE?

Not all the time. There is bound to be argument over some decisions and clashes between rights. We won't all agree on subjects like measures about privacy, victims' rights or freedom of expression. The Human Rights Act may affect decisions on these things. Some people are bound to feel that the wrong answer is reached. But the Human Rights Act should ensure proper debate and that basic rights are respected in a balanced way.

- WHAT DOES THE HUMAN RIGHTS ACT MEAN FOR OUR COURTS AND JUDGES?

The Human Rights Act will help them protect individuals' Convention rights. And they will be able to check that the rights of the wider community are properly balanced. If individuals' rights have to be affected, the public authority will need to show that it is not using a sledgehammer to crack a nut. This is often referred to as 'proportionality': interfering with rights only so far as it is necessary in order to achieve a specific purpose set out in the Convention.

For example, there is a fundamental right to assembly - and a right to meet with others.

So if the police or public authorities are thinking of banning certain demonstrations or restricting marches to certain routes, they must not just impose a blanket ban. They must think carefully about what is proportionate so they don't go any further than necessary to guard against the risks to others which they reasonably anticipate. Every court in the land has been trained to help you when a public authority is acting against your rights.

- SO WILL THE COURTS BE ABLE TO OVERRULE PARLIAMENT?

No. The Human Rights Act specifically says judges can't overrule Parliament. But the courts will be able to develop the law in line with the Convention rights. Judges have always been able to develop the law themselves. But the Human Rights Act means they will operate within a democratic code of values, based on your Convention rights.

- DOES THE HUMAN RIGHTS ACT MEAN MORE COURT CASES?

Not in the long run. Going to court is always a last resort. The Human Rights Act will help clarify rights and public authorities will soon understand how the courts are likely to interpret the law. In the early days people may try to use the new law to find out just how the balance will be struck between their rights

and other people's rights. But judges have already made it clear that they will not want to waste time on arguments that have no merit.

For example, one of our fundamental rights is to marry if we are of marriageable age. In the UK the law sets this at 16. It would almost certainly be regarded as a time-waster to go to court to argue that you should be allowed to marry at a younger age. This is the sort of decision that every country is allowed to take for itself.

- WHAT ABOUT SCOTLAND, WALES AND NORTHERN IRELAND?

The Parliament in Westminster has power to pass any laws, no matter what the Convention says. The Assemblies in Wales and Northern Ireland and the Parliament in Scotland do not have this power. If they pass laws which don't fit with the Convention rights the courts will overrule them.

## ● HOW CAN I FIND OUT MORE?

For more information about the Human Rights Act visit:  
**[www.homeoffice.gov.uk/hract](http://www.homeoffice.gov.uk/hract)**.

**Or write to:** Human Rights Unit Helpdesk, Home Office,  
50 Queen Anne's Gate, London SW1H 9AT.

**In Northern Ireland write to:** The Human Rights Directorate,  
Office of the First Minister and Deputy First Minister, Castle  
Buildings, Stormont, Belfast  
BT4 3SG.

**In Scotland write to:** Scottish Justice Department, Saughton  
House, Broomhouse Drive, Edinburgh  
EH11 3XD.

**In Wales write to:** 'Human Rights', PEP Division, National  
Assembly for Wales, Crown Buildings, Cathays Park, Cardiff  
CF10 3NQ.

**A more detailed guide to the Human Rights Act, called the  
Study Guide, is available in the English and Welsh  
languages.**

Call 0845 600 1151 or Minicom 0845 600 0347 for a free copy.

If you would like a copy of this leaflet on audio cassette or in  
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