



# Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs, rights and lives of the most vulnerable people with disability in Queensland.

*Systems and Individual Advocacy for vulnerable People with Disability*

## Human Rights Act 2019 (Qld)

The *Human Rights Act 2019* (Qld) (the Act) was passed by the Queensland Parliament on 27 February 2019. At this time, Queensland joined the Australian Capital Territory and Victoria in being the only Australian jurisdictions with statutory protection for human rights. There is no federal Human Rights Act or Charter.

The Queensland Act has been described as the most 'broad reaching and accessible' Human Rights Act in Australia as it extends beyond similar legislation in the ACT and Victoria and also:

- protects the economic, social and cultural rights to education and healthcare;
- establishes for human rights complaints to be made to the Queensland Human Rights Commission (an accessible, inexpensive way for human rights issues to be heard and resolved).

### Who does the act apply to?

Human rights are the basic rights that belong to every person, regardless of age, race, sex, social status or any other characteristic. The Act will protect the rights of all people in Queensland.

Most human rights are individual, but some belong to particular groups of people (such as the human rights protecting families and the rights of Aboriginal and Torres Strait Islander peoples).

The Act binds 'public entities' (the Queensland Government and organisations performing public functions).

### When does the Act commence?

The Act will take effect in two stages:

1. The first stage will rename the Anti-Discrimination Commission of Queensland the Queensland Human Rights Commission and the educative functions of the Commission will start (expected to be from 1 July 2019).
2. The second stage will be the commencement of the complaints processes (expected to be from 1 January 2020).

The Act will be reviewed within four years of commencing, and then after a further four years.

### Why is it important to have a Human Rights Act?

The Act is an important development in recognising the essential role human rights play in a democratic and inclusive society.

A Human Rights Act is important because it will:

- Protect the rights of vulnerable Queenslanders by addressing disadvantage;
- Result in development of a human rights culture across communities in Queensland;
- Lead to improved law making and government policy;
- Result in improved public service delivery;
- Assist Australia to fulfil its international human rights obligations.

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

## What human rights are protected?

The Act protects 23 fundamental human rights and freedoms, including:

<b>Civil and Political Rights:</b>	
Recognition and equality before the law	Right to life
Protection from torture and cruel, inhuman or degrading treatment	Freedom from forced work
Freedom of movement	Freedom of thought, conscience, religion and belief
Freedom of expression	Peaceful assembly and freedom of association
Taking part in public life	Property rights
Privacy and reputation	Protection of families and children
Cultural rights – generally	Cultural rights of Aboriginal and Torres Strait Islander peoples
Right to liberty and security of person	Humane treatment when deprived of liberty
Fair hearing	Rights in criminal proceedings
Children in the criminal process	Right not to be tried or punished more than once
Retrospective criminal laws	
<b>Economic, social and cultural rights:</b>	
Right to education	Right to health services

## What can you do if your human rights are breached?

Under the Act, if you feel that your human rights have been breached by a public entity, you can:

- In the first instance, raise the issue directly with the relevant public entity;
- Lodge a complaint with the Queensland Human Rights Commission;
- Include the human rights complaint as part of court action to protect another legal right.

By taking these actions, you might be able to get the public entity to change their decision or actions taking into account your human rights. The Human Rights Commission can hold a conciliation between the parties, and help you to achieve an agreed outcome that recognises your human rights. The Courts can make declarations about whether your human rights have been breached.

## Are there limits to human rights under the Human Rights Act?

The Human Rights Act allows for reasonable limits to be placed on human rights, which may be justified 'in a free and democratic society based on human dignity, equality and freedom'. When determining whether a limit is reasonable and justifiable, the 'proportionality test' applies and the nature of the human right, the nature of the purpose of the limitation, the relationship between the limitation and its purpose, whether there are less restrictive and reasonably available options to



achieve that purpose, the importance of the purpose of the limitation and the importance of safeguarding the human right is considered.

### **What is QAI doing in this space?**

QAI has been a long-time campaigner for greater human rights protection in Queensland and Australia. QAI participated as an NGO in the drafting of the UN Convention on the Rights of Persons with Disability, has been involved in shadow reporting since its finalisation and has been represented in NGO delegations to United Nations conferences and sessional reviews of human rights treaties. QAI publishes resources aimed at helping people with disability and their families, advocates and practitioners understand the human rights conventions and how to comply with them. QAI was extensively involved in the campaign from a Human Rights Act in Queensland since its inception and auspiced the campaign to give it formal structure.

QAI is currently undertaking work aimed at preparing ourselves, our allies and individuals seeking assistance from the community legal sector to understand the new rights, responsibilities and options created by the legislation. QAI will also provide support to the Queensland Human Rights Commission under the new regime.

### **Where can you go for advice or assistance?**

- ❖ Queensland Advocacy Incorporated [www.qai.org.au](http://www.qai.org.au); p: (07) 3844 4200
- ❖ Legal Aid Queensland [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au), p: 1300 65 11 88
- ❖ Community Legal Centres Queensland: [www.communitylegalqld.org.au](http://www.communitylegalqld.org.au); p: (07) 3392 0092 (referrals to relevant CLCs)
- ❖ Queensland Human Rights Commission: [www.adcq.qld.gov.au](http://www.adcq.qld.gov.au); p: 1300 130 670 (referrals to relevant advocacy services)

*This factsheet has been prepared by Queensland Advocacy Incorporated (QAI), an independent, community-based systems and legal advocacy organisation for people with disability in Queensland ([qai.org.au](http://qai.org.au)).*

*This publication is for general information only. It must not be relied on as legal advice. You must seek legal advice about your own particular circumstances.*

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