

Human Rights Act 1998

Since 1953 when the European Convention on Human Rights came into force, UK citizens seeking legal remedies in the event of a breach had to go to the European Court of Human Rights in Strasbourg.

This changed with the UK Human Rights Act of 1998, which gave legal effect in the UK to the fundamental rights and freedoms contained in the Convention. The Act came into force in October 2000. Cases can now be brought to a court or tribunal in the UK.

Taking legal action

Where you believe your rights have not been respected and you cannot resolve the problem outside courts, you are entitled to bring a case before the appropriate court of tribunal.

Before taking legal action, it is advisable to take advice. You can get this from a Citizens Advice Bureau, a Community Legal Adviser or a Law Centre. The Human Rights Commission also publishes an easy to read leaflet that tells you how to proceed with a claim and what remedies are likely to be available.

If you don't get satisfaction from a UK court you are entitled to appeal to the European Court of Human Rights in Strasbourg.

Public bodies have to comply

Under the Act it is unlawful for a public authority such as a central government department, local government or police authority to breach Convention rights, unless an Act of Parliament meant that it could not have acted otherwise.

UK law to be compatible

All new laws passed by Parliament have in principle to be compatible with Convention rights. And all public bodies have to ensure their decisions do not breach Convention rights.

Will the Act please everybody? Not all the time. We won't all agree, for example, on privacy, freedom of expression, victim's rights. But the Act should ensure that there is a proper debate and that rights are respected in a balanced way.

It is up to the courts to ensure proportionality. For example if the police want to ban demonstrations or marches, they won't be able to impose a blanket ban. The police will be allowed to go no further than guard against risks to others they could reasonably anticipate.

Courts will not be able to overrule Parliament. But courts, based on individual cases, will be able to develop the law in line with Convention rights.

Assemblies in Wales and Northern Ireland, and the Scottish Parliament can be overruled by courts if they make any laws that don't fit with the Convention.

UK Bill of Rights

An independent commission was set up in March 2011 to consider the case for a UK Bill of Rights. Such a Bill of Rights would not replace the Convention rights but would incorporate and build on them. It might in time replace the Human Rights Act.

The UK is unlike most other democratic states in Europe in not having its own fundamental charter of rights enjoying constitutional protection. Some people think a UK Bill of Rights should enshrine the right to jury trial. And that it should include responsibilities as well as rights, for example the responsibility to pay tax.

In August the Commission published a consultation document and received 900 replies by the close of the consultation on November 11, 2011. The Commission will analyse the response and produce a report at latest by December 2012.

The background to the setting up of the Commission is the dissatisfaction at Westminster over the European Court of Human Rights' ruling against the UK's blanket ban on the right of prisoners to have the vote. In April 2011 the European Court rejected the UK government's appeal against the ruling.

The Commission will advise the government on the reform of the European Court of Human Rights which is now in progress. The UK holds the chairmanship of the Council of Europe's Committee of Ministers that will publish its proposals in April 2012.

The Court is seen to need to become more efficient and restrict itself to important cases. It has a huge and growing backlog of applications that currently number 155,000. The UK will be pressing that member states rather than the ECHR should have primary responsibility for protecting human rights.

For more information on *Rights & Responsibilities*, including Human Rights,
see

<http://www.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/index.htm>