

Your Guide to The Human Rights Act

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Introduction

The **Human Rights Act 1998** brings the **European Convention on Human Rights (ECHR)** into **local law** in Northern Ireland. These rights are known as 'convention rights.'

The **Human Rights Act** makes **your convention rights** the **responsibility of 'public authorities'** in Northern Ireland.

Public Authorities include for example **central and local government, government agencies** such as the **Police Service (PSNI), Health Service**, the **Courts** and **all public services**.

This also includes **other bodies** that have **public functions**, such as **local nursing homes**.

Article 1

So, what does this mean for you in relation to your daily life? This means that you can **apply** to take a case to court if you feel that a public authority has ignored your convention rights, using the Human Rights Act. You can also use the Human Rights Act to tell a public authority that they have ignored your rights.

Some rights are **absolute** meaning they **always apply** (e.g. **Article 2, 3, 4 & 7**). Other rights are **limited** meaning they can be **interfered with in accordance with the law and in times of war or emergency** (e.g. **Article 5, 6 & 12**).

And finally some rights can be **qualified when there is a legitimate aim to protect the wider public interest** (e.g. **Articles 8, 9, 10, 11, 14 & Protocol 1 Article 1**).

Article 2

Article 2 says everyone has the right to have his or her life protected by law. This means that the government:

- Cannot deprive you of your life, except in very **limited** circumstances
- Must take reasonable steps to protect the lives of everyone

- Must carry out effective investigations into deaths, especially where the state has used force and where it has failed to protect a life

Article 3

Article 3 says everyone is entitled to be protected from torture, inhuman and degrading treatment or punishment.

- This right is **absolute** and can never be interfered with
- This usually applies to treatment of people when they are in custody

This means that:

- You cannot be restrained in a way that would cause you further harm
- If this right is interfered with there must be an effective official investigation

Article 4

Article 4 says that no one shall be held in slavery or servitude or be required to perform compulsory labour. This means that:

- You cannot be held as a slave or forced to work against your will
- This applies at all times even in times of war, armed conflict or emergency, and is an **absolute right**

Article 5 says that everyone has the right to liberty and security. This means that:

- Nobody shall be put into detention without good reason (no arbitrary detention)
- If you are arrested, you must be told promptly of the reason for the arrest and any charge against you in a language you understand

- You must be brought before a judge promptly after arrest and are entitled to a hearing within a reasonable time or else be released pending trial

This right can be limited in certain circumstances

EVERY HUMAN HAS RIGHTS

Committee on the Administration of Justice
www.caj.org.uk
+44(0)28 9031 6000

Law Centre NI
www.lawcentreni.org
+44(0)28 9024 4401 (Belfast)
+44(0)28 7126 2433 (Derry/Londonderry)

Article 6

Article 6 is about everyone getting a fair public hearing, in a reasonable time, by an independent court or tribunal established by law. This means that you are entitled to have:

- Access to a civil or criminal court
- A hearing before an independent judge or tribunal

- As equal a hearing as the other party involved in the case
- No delay in relation to appearing in a court
- A public hearing (though there are exceptions to this)

When you are involved in a court case the following rights should be observed.

- That you are innocent until proven otherwise

Article 7

Article 7 says that there shall be no punishment without law. This means that:

- That you have adequate time to prepare your case
- That you are able to challenge evidence against you properly
- That you may get legal aid in certain circumstances

This right can be limited in certain circumstances

Article 7 says that there shall be no punishment without law. This means that:

- You cannot be convicted of a criminal offence if at the time you committed the act it was not an offence in law

- The penalty imposed on you for a crime can only be the penalty that existed in law at the time you committed the offence

This is an absolute right

THERE SHALL BE NO PUNISHMENT WITHOUT LAW.

Guide 1

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CAJ
Committee on the Administration of Justice
Promoting Justice / Protecting Rights



Article 8

Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. This means that a public authority cannot intrude on your privacy and in some cases is obliged to protect it, as well as respect it.

For example:

- The police cannot tap your telephone without legal authority

- Prison authorities cannot usually interfere with private mail
 - Councils cannot carry out surveillance on you without legal authority
- This right is qualified**
- A court may intervene and allow for police or others to act outside these laws if it is necessary for the protection of or in the interest of the public

Article 9

Article 9 says that everyone has the right of freedom of thought, conscience and religion. This means that:

- You can have any religious beliefs or non-religious beliefs that you want
- You cannot be forced to follow a particular religion

- You have the right to practice your religion in public or in private
- Like Article 8, **this right is a qualified right** and the court may intervene where the aim is to protect the rights and freedoms of others or is in relation to maintaining public order



Article 10

Article 10 says that everyone has the right to freedom of expression and it is seen as one of the most important rights in a democracy. This means that:

- It protects not only those whose voices we agree with or think are important people in

society, but it allows all our voices to be heard equally

- Importantly it also allows those voices that may be unpopular or not the majority view to be heard

This is also a **qualified right** and in **certain circumstances** this right may be **restricted by law:**

- In relation to national security
- In relation to the rights or reputation of others
- In relation to preventing disorder or crime

Article 11

Article 11 says that everyone has the right to peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of their interests. This means that:

- You can gather to protest peacefully for or against issues that you are concerned about

- You can join and form trade unions
- As with other **qualified rights** these may be restricted in certain situations

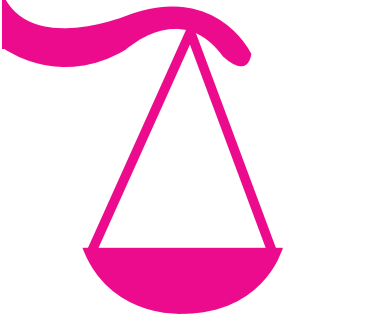
Article 12

Article 12 says that men and women of marriageable age have a right to marry and found a family.

This means that you can get married and have a family if the domestic law that covers issues of age and consent and other relevant provisions allow you to.

Article 14

Domestic laws must NOT interfere with the right to marry or found a family. **This right can be limited in certain circumstances**



Article 14 says that the enjoyment of the above rights and freedoms means:

- You are entitled to enjoy or have access to all of these rights as equally as the next person and without any discrimination. This is not a free standing right.

Protocol

This right is qualified and may be restricted in certain circumstances.

Supporting all of these convention rights is another document called Protocol 1 which protects rights to property, education and elections.

Article 1 of Protocol 1 protects your right to peaceful enjoyment of your possessions—this includes land and other property **and is also a qualified right so in certain circumstances you may be deprived of land or possessions.**

Article 2 Protocol 1 protects your right to education. Parents can choose to have their children educated in

accordance with their religious and other views. This does not guarantee any particular level or quality of education. **This right is also qualified.**

Article 3 Protocol 1 protects your right to regular, free and fair elections.

This information is intended to provide a general

overview of the Human Rights Act 1998 and should not be relied upon as a source of legal advice. If you need assistance you should obtain the advice of a legal representative.

To the right is a list of some organisations that may be able to help in certain areas.

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Northern Ireland Human Rights Commission
www.nihrc.org
+44(0)28 9024 3987

Equality Commission Northern Ireland
www.equalityni.org
+44(0)28 9050 0600

Northern Ireland Commissioner for Children and Young People
www.niccy.org
+44(0)28 9031 1616