



## Briefing Note:

### Have your say on the *Human Rights Act 2019 (Qld)* Review

An independent review has commenced of the *Human Rights Act 2019 (Qld)* (**HR Act**).

This review is required under the HR Act and must be completed as soon as practicably after the 1 July 2023.

Professor Susan Harris Rimmer has been formally appointed as the independent reviewer.

Public comment on the independent review of the HR Act is currently [open](#).

Submissions on the HR Act review close on **Friday, 21 June 2024**.

You can have your say on the review [here](#).

Information about making submissions is available [here](#).

This Briefing Note provides a quick explainer of the purpose of the HR Act, the current operation of the HR Act, a summary of the review information and our proposed reforms.

### The Human Rights Act 2019

The HR Act commenced on 1 January 2020 and, at the time, was the third jurisdiction to introduce human rights legislation in Australia, after the Australian Capital Territory<sup>1</sup> and Victoria.<sup>2</sup> The HR Act operates to legislate the protection of human rights that have been recognised in various international treaties.<sup>3</sup>

The purpose of the HR Act is to:<sup>4</sup>

- protect and promote human rights;
- help build a culture in the Queensland public sector that respects and promotes human rights; and
- help promote a dialogue about the nature, meaning and scope of human rights.

The HR Act protects 23 rights, including the right to life, property rights, cultural rights and rights of children.

Read: See the full list of human rights protected in [Part 2](#) of the HR Act.

<sup>1</sup> *Human Rights Act 2004 (ACT)*.

<sup>2</sup> *Charter of Human Rights and Responsibilities 2006 (Vic)*.

<sup>3</sup> See e.g. International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, the United Nations Declaration on the Rights of Indigenous People and the International Covenant on Economic, Social and Cultural Rights.

<sup>4</sup> *Human Rights Act 2019 (Qld)* (**HR Act**) s 3.

## The review of the HR Act

The HR Act is subject to an independent review, with Professor Susan Harris Rimmer requested by the Attorney-General to prepare a report by 20 September 2024 on the operation of the Act since its commencement in 2020.

Read: See the HR Act review Terms of Reference [here](#).

The review is intended to determine whether, and how well, the Act is meeting its objectives. Specifically, Professor Harris Rimmer is being asked to consider whether:

- additional human rights should be included as human rights under the Act;
- further or different provision should be made in the Act with respect to remedies available under the Act; and
- whether the amendments made by the Act to the *Corrective Services Act 2006* and the *Youth Justice Act 1992* are operating effectively.

The reviewer has requested that submissions address the matters outlined on page 3 of the Terms of Reference, including but not limited to:

1. Inclusion of additional human rights;
2. Any need for reform of existing rights, obligations of public entities under the HR Act and the complaints and dispute resolution procedures; and
3. Whether victims' rights in the *Victims of Crime Assistance Act 2009* should be incorporated.

## Our proposed reforms following the review

EDO is preparing a submission on the HR Act review and has identified several key areas to focus our submission on, comprising:

1. retention of existing rights; and
2. addition of a Right to a Healthy Environment;
3. increasing the powers of community members to defend their rights under the Act.

### Retention of Existing Rights

As noted above, the existing rights in the HR Act provide a strong foundation to build upon to protect the rights of Queenslanders and, in our view, it is essential that these existing rights are maintained and only added to following the outcome of this review.

### Inclusion of the Right to a Healthy Environment

On 28 July 2022 the United Nations General Assembly declared that the right to a clean, healthy and sustainable environment is a human right.<sup>5</sup>

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<sup>5</sup> The resolution is available [here](#). You can read more about the move to make this declaration [here](#).

Australia voted in favour of this resolution; however, the recognition of this right is not legally binding in Australia until it is entrenched in legislation. In our view, the current review of the operation of the HR Act provides an excellent opportunity to embed the right to a healthy environment as a human right under the Act.

We believe the right to a healthy environment should be included as a named right under the HR Act as it will:

- Improve outcomes for people's health and the planet;
- Mean stronger regulation and environmental protection laws;
- Make justice more accessible for issues impacting the environment; and
- Reduce environmental injustices and improve people's quality of life, particularly people already being impacted by climate change, pollution and loss of biodiversity.

### **Increasing the power to defend human rights**

Currently there is a power to make a complaint to a decision maker and the Human Rights Commission, and the power to 'piggy-back' an action onto any other proceeding where there is another ground of action to litigate. However, there is no existing standalone cause of action to enforce breaches of the HR Act in court.

We believe that a standalone cause of action, being a right under the HR Act to enforce breaches of human rights, should be included in the HR Act to broaden the powers of the Queensland Human Rights Commission to investigate and enforce breaches of the HR Act. Further there should be broad standing granted to those who have experienced or who represent categories of people, such as civil society groups and public interest organisations, who have experienced breaches of human rights to take legal action in court under the HR Act without needing another cause of action. Providing a power to enforce human rights complaints in court will help ensure that the public and Queensland Human Rights Commission are more able to ensure the HR Act is upheld and breaches are addressed.

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