

Human Rights in Scotland: Quick Fact Sheet

Human rights are based on values including dignity, fairness, equality, respect and independence. The [Universal Declaration of Human Rights \(UDHR\)](#) was established by the United Nations on 10 December 1948, and was a direct response to the crimes committed during World War II. It contains 30 articles that set out for the first time fundamental human rights to be universally protected, but it is **not** a treaty. This means that it does not directly translate into law applicable by citizens.

The [European Convention on Human Rights \(ECHR\)](#) is an international **treaty**, which is a formal legal agreement between member states, and signed by the UK on 3 September 1953. So that courts could hear human rights cases, the [Human Right Act 1998](#) was passed to bring [European Convention on Human Rights \(ECHR\)](#) into domestic law. The same year saw the founding of the Scottish Parliament with [Scotland Act 1998](#), which was designed to be fully compatible and inclusive of the [Human Right Act 1998](#)¹. The rights that are covered by the act are described briefly below:

Article 2: Right to life

This means that nobody, including government authorities, can try to end your life. It also means governments should make laws to safeguard and protect you and (in some circumstances) by take steps to protect you if your life is at risk.

Article 3: Freedom from torture and inhuman or degrading treatment

This right protects individuals from torture (mental or physical) and inhuman or degrading treatment or punishment. It also applies to deportation or extradition if there is a risk to face torture or inhuman or degrading treatment or punishment in the country concerned.

Article 4: Freedom from slavery and forced labour

This right protects individuals from being held in slavery or servitude, or made to do forced labour. Slavery is defined as when someone actually owns another individual, while servitude is when you might live on the person's premises, work for them and be unable to leave. Forced labour means being forced to do work under the threat of punishment. This does not apply to prison work or community service, or work required in a state of emergency or during disasters and is part of normal civic obligations, like jury service.

¹ **Note:** The Human Rights Act does not protect individuals from discrimination in all areas of life compared to the [Equality Act 2010](#) which offers more general and practical protection. The Equality Act was created as a modern, single legal framework complementary to the Human Rights Act. Which has a clear, streamlined law to more effectively tackle disadvantage and discrimination.



Article 5: Right to liberty and security

This right protects individuals from unreasonable detention and means that individuals must not be imprisoned or detained without good reason. If you are arrested, you have the right to know why you have been arrested and what charges you face. It also means you can challenge your detention if you think it is unlawful, and have right for compensation if you have been unlawfully detained

Article 6: Right to a fair trial

This article assures that individuals are given a fair trial within a reasonable period of time. This applies both to criminal charges and cases concerning their civil rights and obligations. Hearings must be before an independent and impartial court or tribunal established by law. A person who is charged with a criminal offence is presumed innocent until proven guilty according to law and must also be guaranteed certain minimum rights in relation to the conduct of the criminal investigation and trial.

Article 7: No punishment without law

This right means that individuals cannot be charged with a criminal offence for an action that was not a crime when you committed it. This means that public authorities must explain clearly what counts as a criminal offence so you know when you are breaking the law.

Article 8: Respect for your private and family life, home and correspondence

This right protects the privacy of individual and their family life, as well as content of correspondence (e.g. letters, phone conversations, email or social media).

This includes the right to determine their sexual orientation, to choose a lifestyle and the right to control who sees or touches their body and means that public authorities cannot do things like leave you undressed in a busy ward, or take a blood sample without permission.

Personal information such as official records, photographs, letters, diaries and medical records should be kept securely and not shared without permission, except in certain circumstances. Public authorities can interfere with this right are only in order to protect national security or public safety.



Article 9: Freedom of thought, belief and religion

This article protects the right of everyone to hold a broad range of views, beliefs and thoughts, and to follow a religious faith. It includes the right to change religion or beliefs at any time and the right to put your thoughts and beliefs into action. This could include rights to wear religious clothing, the right to talk about beliefs or take part in religious worship. Public authorities cannot stop individuals practising their religion, without very good reason.

Note: This right protects a wide range of non-religious beliefs including atheism, agnosticism, veganism and pacifism. For a belief to be protected under this article, it must be serious, concern important aspects of human life or behaviour, be sincerely held, and be worthy of respect in a democratic society.

Article 10: Freedom of expression

This right protects your right to hold your own opinions and to express them freely without government interference and includes the right to express your views aloud (for example through public protest and demonstrations) or through:

- published articles, books or leaflets
- television or radio broadcasting
- - works of art, and the internet and social media.

The law also protects your freedom to receive information from other people by, for example, being part of an audience or reading a magazine.

Article 11: Freedom of assembly and association

This right protects individuals so they have the right to assemble with other people in a peaceful way. They also have the right to associate with other people, which includes the right to form a trade union. These rights may be restricted only in specified circumstances, such as in order to protect national or public safety.

Article 12: Right to marry and start a family

This right protects the right for men and women of marriageable age to marry and to start a family, subject to national laws on marriage, including those that make marriage illegal between certain types of people (for example, close relatives). This right extends to trans people through the Marriage and Civil Partnership (Scotland) Act 2014.



Article 14: Protection from discrimination in respect of these rights and freedoms

This article guarantees that people have the right not to be treated differently because of their race, religion, sex, political views or any other status, unless there is an 'objective justification' for the difference in treatment. **Note:** 'Any other status' status' includes age, disability, imprisonment, marital status, sexual orientation, illegitimacy, trade union membership and trans status.

Protocol 1², Article 1: Right to peaceful enjoyment of your property

This article requires that everyone has the right to the peaceful enjoyment of their possessions. Public authorities cannot usually interfere with a person's property or possessions or the way that they use them except in specified limited circumstances.

Protocol 1, Article 2: Right to education

This article requires that everyone has the right to access to the educational system. Parents also have a right to ensure that their religious and philosophical beliefs are respected during their children's education. This does not mean the right to learn whatever you want, wherever you want. The right to education depends on the education system that already exists and does not require the government to provide or subsidise any specific type of education.

Protocol 1, Article 3: Right to participate in free elections

This article requires governments to support individual's right to free expression by holding free elections at reasonable intervals. These elections must also enable you to vote in secret. Government can put some limits on the way elections are held. It can also decide what kind of electoral system to have – such as 'first past the post', as in UK general elections, or proportional representation.

Note: Prisoners serving a custodial sentence in the UK do not have the right to vote at this time. This is still being discussed and as of December 2017 the UK government was planning to remove the blanket ban to allow prisoners with short sentences to vote.

Protocol 13, Article 1: Abolition of the death penalty

This article prohibits the use of the death penalty in all circumstances as sentencing a person to death is a violation of the right to life and the right to freedom from torture and inhuman or degrading treatment.

² Protocols 1 and 13 were later additions to the ECHR and some areas are still under negotiation.

