Australian Bill of Rights Bill 2017

No.  , 2017

(Mr Wilkie)

A Bill for an Act relating to the human rights and fundamental freedoms of all Australians and all people in Australia, and for related purposes
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A Bill for an Act relating to the human rights and fundamental freedoms of all Australians and all people in Australia, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the Australian Bill of Rights Act 2017.
Part 1  Preliminary

Section 2

2  Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

<table>
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<th>Provisions</th>
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<td>1. The whole of this Act</td>
<td>The day this Act receives the Royal Assent.</td>
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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3  Objects

The objects of this Act are:

(a) to promote universal respect for, and observance of, human rights and fundamental freedoms for all persons without discrimination; and

(b) to that end, to enact an Australian Bill of Rights giving effect to certain provisions of:

(i) the International Covenant on Civil and Political Rights done at New York on 16 December 1966; and

(ii) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966; and

(iii) the Convention on the Rights of the Child done at New York on 20 November 1989;

being guided by:

(iv) the Declaration on the Rights of Mentally Retarded Persons; and
(v) the Declaration on the Rights of Disabled Persons; and
(vi) the Declaration on the Elimination of All Forms of
    Intolerance and of Discrimination based on Religion or
    Belief; and
(c) to ensure that any person whose rights or freedoms as set out
    in the Australian Bill of Rights are infringed by or under any
    law in relation to which that Bill of Rights operates has an
    effective remedy; and
(d) to promote, enhance and secure, as paramount objectives, the
    freedom and dignity of the human person, equality of
    opportunity for all persons and full and free participation by
    all Australians in public affairs and public debate.

Note 1: The International Covenant on Civil and Political Rights is in
Australian Treaty Series 1980 No. 23 ([1980] ATS 23) and could in
2017 be viewed in the Australian Treaties Library on the AustLII
website (http://www.austlii.edu.au).

Note 2: The International Covenant on Economic, Social and Cultural Rights
is in Australian Treaty Series 1976 No. 5 ([1976] ATS 5) and could in
2017 be viewed in the Australian Treaties Library on the AustLII
website (http://www.austlii.edu.au).

Note 3: The Convention on the Rights of the Child is in Australian Treaty
Series 1991 No. 4 ([1991] ATS 4) and could in 2017 be viewed in the
Australian Treaties Library on the AustLII website
(http://www.austlii.edu.au).

4 Definitions

(1) In this Act:

  act means an act done:

  (a) by or on behalf of the Commonwealth, a State or a Territory;
  or

  (b) by or on behalf of an authority of the Commonwealth, of a
      State or of a Territory;

  being an act done:

  (c) in relation to an Australian citizen—within or outside
      Australia; or

  (d) in any other case—within Australia.
Australia, when used in a geographical sense, includes the external Territories.

Australian Capital Territory enactment means an enactment of the Australian Capital Territory, within the meaning of the Australian Capital Territory (Self-Government) Act 1988, or an instrument made under such an enactment.

authority means:

(a) in relation to the Commonwealth:

(i) a body (whether incorporated or unincorporated) established for a purpose of the Commonwealth by or under a Commonwealth enactment; or

(ii) an incorporated company over which the Commonwealth is in a position to exercise control; or

(iii) a person holding or performing the duties of an office or appointment established or made under a Commonwealth enactment or by the Governor-General or a Minister of State of the Commonwealth (not being an office or appointment referred to in subparagraph (c) (iii)); or

(iv) a body, or a person holding or performing the duties of an office or appointment, that is declared by the regulations to be an authority of the Commonwealth for the purposes of this Act; or

(b) in relation to a State:

(i) a body (whether incorporated or unincorporated) established for a purpose of the State by or under an enactment of the State; or

(ii) an incorporated company over which the State is in a position to exercise control; or

(iii) a person holding or performing the duties of an office or appointment established or made under an enactment, or by the Governor or a Minister, of the State; or

(iv) a local government body in the State; or

(v) a body, or a person holding or performing the duties of an office or appointment, that is declared by the
(c) in relation to a Territory:

(i) a body (whether incorporated or unincorporated)
   established for a purpose of the Territory by or under a
   Commonwealth enactment or an enactment of the
   Territory; or
(ii) an incorporated company over which the Administration
    of the Territory is in a position to exercise control; or
(iii) a person holding or performing the duties of an office or
     appointment established or made under an enactment of
     the Territory or by the Administrator of a Territory; or
(iv) a body, or a person holding or performing the duties of
     an office or appointment, that is declared by the
     regulations to be an authority of the Territory for the
     purposes of this Act.

Bill of Rights means the Australian Bill of Rights set out in
section 19.

Commission means the Australian Human Rights Commission
established by the Australian Human Rights Commission Act 1986.

Commonwealth enactment means an Act or an instrument (other
than a Territory enactment) made under an Act, and includes any
other legislation or rule of the common law applied (otherwise than
by virtue of the Commonwealth Places (Application of Laws) Act
1970) as a law of the Commonwealth, to the extent that it operates
as such a law.

enactment means a Commonwealth enactment, a State enactment
or a Territory enactment.

infringe includes abrogate and abridge.

instrument includes a rule, regulation or by-law.

law means a law of the Commonwealth, a law of a Territory or a
law of a State.
law of a State means any law in force in a State, including a rule of the common law but not including a law of the Commonwealth.

law of a Territory means any law in force in a Territory, including a rule of the common law but not including a law of the Commonwealth.

law of the Commonwealth means:
(a) a Commonwealth enactment; or
(b) any other law (other than a rule of the common law) in force throughout Australia; or
(c) any rule of the common law as it has effect in relation to or for the purposes of the operation of a Commonwealth enactment or a law referred to in paragraph (b).

Minister means:
(a) in relation to a State—a Minister of the Crown of the State; or
(b) in relation to the Australian Capital Territory and the Northern Territory—a Minister of that Territory.

Northern Territory enactment means an enactment of the Northern Territory within the meaning of the Northern Territory (Self-Government) Act 1978 or an instrument made under such an enactment.

Parliament, in relation to the Australian Capital Territory, means the Legislative Assembly of the Australian Capital Territory, and in relation to the Northern Territory, means the Legislative Assembly of the Northern Territory.

person includes an individual or group of persons, depending on the context.

practice means a practice engaged in:
(a) by or on behalf of the Commonwealth, a State or a Territory; or
(b) by or on behalf of an authority of the Commonwealth, of a State or of a Territory;
being a practice engaged in:
(c) in relation to an Australian citizen—within or outside Australia; or
(d) in any other case—within Australia.

*President* means the President of the Commission.

*proposed enactment* means:
(a) a proposed law introduced into the Parliament of the Commonwealth or the legislature of a Territory; or
(b) a proposed law prepared on behalf of:
   (i) the Government of the Commonwealth or the Administration of a Territory; or
   (ii) a Minister of State of the Commonwealth; or
   (iii) a body established by law that has the function of recommending proposed laws of the Commonwealth or of a Territory; or
(c) a proposed State enactment; or
(d) an instrument proposed to be made under a Commonwealth enactment or under a Territory enactment.

*proposed State enactment* means:
(a) a proposed law introduced into the Parliament of a State; or
(b) a proposed law prepared on behalf of:
   (i) the Government of a State; or
   (ii) a Minister of the State; or
   (iii) a body established by law that has the function of recommending proposed laws of a State; or
(c) an instrument proposed to be made under a State enactment.

*responsible Minister* means:
(a) in relation to a Commonwealth enactment, a Territory enactment or a proposed enactment (other than a proposed State enactment)—the Minister of State of the Commonwealth responsible for the administration of the matter to which the enactment or proposed enactment relates; or
(b) in relation to a State enactment or a proposed State enactment—the Minister of the State responsible for the
Section 4

administration of the matter to which the enactment or proposed enactment relates; or

(c) in relation to an act done or practice engaged in by or on behalf of the Commonwealth or a Territory or by or on behalf of an authority of the Commonwealth or of a Territory—the Minister of State of the Commonwealth responsible for the administration of the matter in connection with which the act was done or the practice was engaged in; or

(d) in relation to an act done or practice engaged in by or on behalf of a State or by or on behalf of an authority of a State—the Minister of the State responsible for the administration of the matter in connection with which the act was done or the practice was engaged in.

State includes the Australian Capital Territory and the Northern Territory.

State enactment means a State Act or an instrument made under a State Act and includes an Australian Capital Territory enactment and a Northern Territory enactment.

suit includes any action or original proceeding between parties.

Territory does not include the Australian Capital Territory or the Northern Territory.

Territory Act means an Act passed by a legislature of a Territory and duly assented to.

Territory enactment means:

(a) a Territory Act; or

(b) an Ordinance of a Territory; or

(c) an instrument made under such an Act or Ordinance; or

(d) any other legislation or rule of the common law applied as a law of a Territory, to the extent that it operates as such a law; or

(e) an instrument made under legislation referred to in paragraph (d).
(2) In this Act, a reference to the Governor of a State, in relation to the Northern Territory, means a reference to the Administrator of the Northern Territory.

(3) In this Act:
   
   (a) a reference to, or to the doing of, an act includes a reference to a refusal or failure to do an act; and
   
   (b) a reference, in relation to the doing of an act or the engaging in of a practice, to the person who did the act or engaged in the practice will, in the case of an act done or practice engaged in by an unincorporated body of persons, be read as a reference to that body.

(4) Subject to subsection (5), a law will, for the purposes of this Act, be taken to be inconsistent with the Bill of Rights if it:
   
   (a) infringes, or authorises the infringement of, a right or freedom set out in the Bill of Rights; or
   
   (b) makes, or authorises the making of, a provision that according to the Bill of Rights, is not to be made by any law.

(5) Where a law:
   
   (a) promotes, enhances or secures a right or freedom set out in the Bill of Rights, but infringes, or authorises the infringement of, another right or freedom set out in the Bill of Rights; or
   
   (b) promotes, enhances or secures for a person a right or freedom set out in the Bill of Rights, but, in relation to another person, infringes, or authorises the infringement of, a right or freedom set out in the Bill of Rights;

   it is the intention of the Parliament that the law will not be determined to be inconsistent with the Bill of Rights unless such a determination would further the objects of this Act, and in particular the paramount objectives referred to in paragraph 3(d), to a greater extent than a determination that the law is not inconsistent with the Bill of Rights.

(6) A reference in this Act to a right or freedom set out in the Bill of Rights is a reference to such a right or freedom limited only as permitted by Article 3 of the Bill of Rights.
Part 1 Preliminary

Section 5

(7) A reference in this Act to the date on which an enactment other than this Act came into force will, in the case of an enactment different provisions of which came into force on different dates, be read as a reference to the date on which the provision concerned came into force.

(8) For the purposes of this Act, an Act will be taken to have been enacted at the time when it receives the Royal Assent.

(9) A reference in this Act to prejudice to the security, defence or international relations of Australia includes a reference to any such prejudice that might result from the divulging of information or matters communicated in confidence by or on behalf of the government of a foreign country, an authority of a government of a foreign country or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

5 Interpretation of Bill of Rights

(1) For the purposes of the interpretation of the Bill of Rights, each Article of the Bill of Rights is taken to be a section of this Act.

(2) Except as expressly provided in this Act, the Bill of Rights may not be interpreted so as to limit or adversely affect the rights of any person.

(3) The Bill of Rights may not be interpreted so as to adversely affect the rights particular to Aboriginal and Torres Strait Islander people.

6 Extension to external Territories

The Act extends to every external Territory.

7 Extent to which Act binds the Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to be prosecuted for an offence.
8 Act not to apply so as to exceed Commonwealth power

(1) Unless the contrary intention appears, if a provision of this Act:

(a) would, apart from this section, have an application (an invalid application) in relation to:
   (i) one or more particular persons, things, matters, places, circumstances or cases; or
   (ii) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases;
   because of which the provision exceeds the Commonwealth’s legislative power; and

(b) also has at least one application (a valid application) in relation to:
   (i) one or more particular persons, things, matters, places, circumstances or cases; or
   (ii) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases;
   that, if it were the provision’s only application, would be within the Commonwealth’s legislative power;
   it is the Parliament’s intention that the provision is not to have the invalid application, but is to have every valid application.

(2) Despite subsection (1), the provision is not to have a particular valid application if:

(a) apart from this section, it is clear, taking into account the provision’s context and the purpose or object underlying this Act, that the provision was intended to have that valid application only if every invalid application, or a particular invalid application, of the provision had also been within the Commonwealth’s legislative power; or

(b) the provision’s operation in relation to that valid application would be different in a substantial respect from what would have been its operation in relation to that valid application if every invalid application of the provision had been within the Commonwealth’s legislative power.

(3) Subsection (2) does not limit the cases where a contrary intention may be taken to appear for the purposes of subsection (1).
Part 1 Preliminary

Section 9

(4) This section applies to a provision of this Act, whether enacted before, at or after the commencement of this section.

9 Acquisition of property

This Act, or any instrument made under this Act, does not apply to the extent (if any) that the operation of this Act or the instrument would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).
Part 2—Operation of Bill of Rights

10 Application of Bill of Rights

(1) Subject to subsection (2), any law, whether passed or made before, on or after the commencing day of this Act, that is inconsistent with this Act does not, to the extent of the inconsistency, have any force or effect.

(2) Subsection (1) does not apply in relation to a Commonwealth, State or Territory law if an Act expressly declares that law operates notwithstanding this Act.

(3) A declaration made under subsection (2) ceases to have effect 2 years after it comes into force or on such earlier date as may be specified in the declaration.

(4) The Parliament of the Commonwealth, a State or a Territory may re-enact a declaration made under subsection (2).

(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

11 Interpretation of legislation

(1) Notwithstanding anything in any other law relating to the construction or interpretation of legislation, in the interpretation of:

(a) a provision of a Commonwealth enactment; or

(b) a provision of a State enactment; or

(c) a provision of a Territory enactment;

a construction of the provision that would result in the enactment not being inconsistent with the Bill of Rights, or that would further the objects of this Act, will be preferred to any other construction.

(2) Without limiting the generality of subsection (1), in the interpretation of:
Part 2  Operation of Bill of Rights

Section 12

(a) an Act that authorises the making of an instrument (including a Territory enactment but not including an enactment of the Australian Capital Territory or of the Northern Territory); or

(b) a Territory enactment that authorises the making of an instrument;

a construction that would result in the Act or Territory enactment not authorising the making of an instrument that would be inconsistent with the Bill of Rights will be preferred to any other construction.

12 No civil or criminal liability under Bill of Rights

(1) Nothing in the Bill of Rights renders any individual liable to any civil proceedings in respect of the doing of an act that infringes a right or freedom set out in the Bill of Rights.

(2) Nothing in this Act renders any person liable to any criminal proceedings in respect of the doing of an act that infringes a right or freedom set out in the Bill of Rights.
Part 3—Functions of the Australian Human Rights Commission

13 Additional powers and functions of Commission

In addition to the powers and functions of the Commission under the Australian Human Rights Commission Act 1986, the Commission has the following powers and functions:

(a) to inquire into any act or practice that may infringe a right or freedom set out in the Bill of Rights, and

   (i) where the Commission considers it appropriate to do so—to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and

   (ii) where the Commission is of the opinion that the act or practice infringes a right or freedom set out in the Bill of Rights, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement—to report to the Minister in relation to the inquiry;

(b) to promote an understanding and acceptance in Australia of the rights and freedoms set out in the Bill of Rights and of the objects of this Act, and to promote the protection of those rights and freedoms in Australia;

(c) to undertake research and educational programs and other programs, on behalf of the Commonwealth, for the purpose of promoting the rights and freedoms set out in the Bill of Rights and the objects of this Act;

(d) to examine enactments and, when requested by the Minister, proposed enactments for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with the Bill of Rights, and to report to the Minister the results of any such examination;

(e) on its own initiative or when requested by the Minister, to report to the Minister as to the enactments that should be made by the Parliament, or action that should be taken by the
Part 3  Functions of the Australian Human Rights Commission

Section 14

Commonwealth, on matters relating to the rights and
freedoms set out in the Bill of Rights; and
(f) to do anything incidental or conducive to the performance of
any of the preceding functions.

14 Performance of Commission in relation to Bill of Rights

(1) Subject to subsection (2), the powers and duties of the Commission
set out in Division 2 of Part II of the Australian Human Rights
Commission Act 1986 are extended to apply also to rights and
freedoms set out in the Bill of Rights.

(2) Before inquiring, under this Act, into an act or practice, the
Commission must tell the responsible Minister that the
Commission proposes to inquire into the act or practice.

15 Complaints and redress for infringement of rights or freedoms

(1) A written complaint may be lodged with the Commission, alleging
that an act or practice infringes a right or freedom set out in the Bill
of Rights.

(2) After a complaint is lodged with the Commission, a complainant, a
respondent, an affected person or the Commission may apply for
an interim injunction to the Federal Court or the Federal Circuit
Court. The Courts may grant an interim injunction to maintain the
status quo or maintain the rights of any complainant, respondent or
affected person.

(3) Except as provided by this Part, Part IIB of the Australian Human
Rights Commission Act 1986 applies in relation to a complaint
under subsection (1) to the extent necessary to enable the
complaint to be dealt with as applicable, through:
   (a) conciliation by the President; and
   (b) proceedings in the Federal Court and the Federal Circuit
       Court.

(4) For the purposes of subsection (2), reference to unlawful
discrimination in Part IIB of the Australian Human Rights
Section 16

Commission Act 1986 is read as including an act or practice that infringes a right or freedom set out in the Bill of Rights.

16 Reporting to Parliament

(1) The Minister must cause a copy of every report given to the Minister by the Commission under paragraphs 13(a), (d) or (e) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by the Minister.

(2) Where the Commission gives to the Minister under paragraph 13(a), (d) or (e) a report that relates to:

(a) a State enactment, or proposed State enactment; or

(b) an act done or practice engaged in:

(i) by or on behalf of a State; or

(ii) by or on behalf of an authority of a State;

the Minister must immediately give a copy of the report to the Attorney-General of that State.

(3) The Minister:

(a) must not cause a copy of a report of the kind referred to in subsection (2) to be laid before either House of the Parliament until:

(i) the expiration of 30 days after a copy of the report was given to the Attorney-General of the State concerned under subsection (2); or

(ii) the Minister receives from the Attorney-General of the State concerned a statement relating to the enactment, act or practice to which the report related, whichever happens first; and

(b) must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days after the happening of the first of the events referred to in subparagraphs (a) (i) and (ii); and

(c) if the event referred to in subparagraph (a) (ii) is the first to happen, or if, before the report is laid before either House of the Parliament pursuant to paragraph (b), the Minister receives from the Attorney-General concerned a statement of the kind referred to in subparagraph (a) (ii)—must cause a
Section 16

copy of the statement to be attached to each copy of the report that is laid before a House of the Parliament pursuant to paragraph (b).
Part 4—Miscellaneous

17 Jurisdiction of Federal Court and Federal Circuit Court

The Federal Court and the Federal Circuit Court have concurrent jurisdiction with respect to civil matters arising under Part 3.

18 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
Part 5—Declaration of Rights

19 Australian Bill of Rights

The Australian Bill of Rights is as follows:

Australian Bill of Rights

Division 1—Guarantee of rights and freedoms

Article 1

Entitlement to rights and freedoms without distinction

Every person is entitled to equality before the law and to the human rights and fundamental freedoms set out in this Bill of Rights irrespective of distinctions such as race, colour, sex, intersex status, sexual orientation, gender identity, language, religion, political or other opinion, national or social origin, property, birth, mental or physical disability or other status.

Article 2

Effect of Bill of Rights on existing rights and freedoms

A right or freedom existing under, or recognised by, any other law may not be taken to have been diminished or derogated from by reason only that the right or freedom is not set out in this Bill of Rights.
Article 3

Permissible limitations

(1) The rights and freedoms set out in this Bill of Rights are subject only to such reasonable limitations prescribed by law as can be demonstrably justified in a free and democratic society.

(2) A right or freedom set out in this Bill of Rights may not be limited by any law to any greater extent than is permitted by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Division 2—Fundamental freedoms

Article 4

Freedom of expression

(1) Every person has the right to freedom of expression, including the freedom of the press and other media of communication, and the freedom to seek, receive and impart ideas or information of any kind in any form, without interference and regardless of frontiers.

(2) A law may not authorise a person or group to express information that advocates national, racial or religious hatred and incites discrimination, hostility or violence.

Article 5

Freedom of thought and conscience

Every person has the right to freedom of thought and conscience, including the right to hold opinions without interference.
Section 19

Article 6

Freedom to have or adopt a religion or belief

Every person has the right to have or adopt a religion or belief of that person’s choice without coercion of any kind, and to manifest that religion or belief in worship, observance, practice and teaching, whether individually or in community with others and whether in public or in private.

Article 7

Right of peaceful assembly

Every person has the right of peaceful assembly.

Article 8

Freedom of association

Every person has the right to freedom of association with others, including the right to form and join trade unions for the protection of that person’s interests.

Division 3—Equality rights

Article 9

Equal protection of the law

(1) Every person has the right without any discrimination to the equal protection of the law.

(2) Nothing in this Bill of Rights affects the operation of any earlier or later law by reason only of the fact that the law discriminates in favour of a class of persons for the purpose of redressing any disabilities particularly suffered by that class or arising from discrimination against that class.
Article 10

Rights of Indigenous peoples

Aboriginal and Torres Strait Islander people have the following individual and collective rights and responsibilities:

(a) the right to revive, maintain and develop their ethnic and cultural characteristics and identities, including:
   (i) their religion and spiritual development; and
   (ii) their language and educational institutions;
(b) the right to claim native title for Indigenous lands and natural resources based on the recognition of their prior ownership;
(c) the right to manage their own affairs to the greatest possible extent while enjoying all the rights that other Australian citizens have in the political, economic, social and cultural life of Australia;
(d) the right to obtain reasonable financial and technical assistance from the Government to pursue their political, economic, social and cultural development in a spirit of co-existence with other Australian citizens and in conditions of freedom and dignity;
(e) the responsibility to respect their laws and customs and to promote Indigenous culture.

Article 11

Rights of minority groups

Persons who belong to an ethnic, religious or linguistic minority have the right, in community with other members of their own group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Division 4—Civil and democratic rights
Part 5 Declaration of Rights

Section 19

Article 12

Right to life

(1) From birth, every human being has the inherent right to life and no person may be arbitrarily deprived of life.

(2) Every person has the right to bodily and psychological integrity.

(3) Every person has the right to end his or her life.

Article 13

Liberty and security of person

(1) Every person has the right to liberty and security of person.

(2) No law may authorise the arbitrary arrest, detention or imprisonment of any person.

(3) No person may be deprived of liberty except on such grounds, and in accordance with such procedures, as are established by law.

(4) No person may be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 14

No torture or inhuman treatment and no experimentation without consent

(1) No person may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(2) No person may be subjected to medical or scientific experimentation without that person’s free consent.

(3) Every person has the right to refuse any medical treatment for themselves.

Australian Bill of Rights Bill 2017 No. 2017
Article 15

Slavery and servitude

No person may be held in slavery or servitude or be required to perform forced or compulsory labour.

Article 16

Right of participation in public life

Every Australian citizen has the right and will have the opportunity:

(a) to take part in the conduct of public affairs, directly or through freely chosen representatives; and

(b) to vote and to be elected at genuine periodic elections, which will be by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors; and

(c) to have access on general terms of equality to public employment.

Article 17

Right to marry and to found a family

Recognising that the family is the natural and fundamental group unit of society and is entitled to protection by society and the Commonwealth or State Government:

(a) every person of marriageable age has the right to marry and to found a family; and

(b) no marriage may be entered into without the free and full consent of the intending spouses.
Part 5 Declaration of Rights

Section 19

Article 18

Rights of the child

Recognising that every child has the right to such measures of protection as are required by the child’s age:

(a) every child has the fundamental rights and freedoms set out in this Bill of Rights to the greatest extent compatible with the age of the individual child; and

(b) every child will be registered immediately after birth and will have a name; and

(c) every child has the right to acquire a nationality; and

(d) every child will be protected from economic and social exploitation. Their employment under set age limits, or in work harmful to their morals or health, dangerous to life or likely to hamper their normal development should be prohibited and punishable by law.

Article 19

Rights of movement within Australia

(1) Every person lawfully in Australia has the right to freedom of movement and choice of residence.

(2) A person who is lawfully in Australia but is not an Australian citizen may not be required to leave Australia except on such grounds and in accordance with such procedures as are established by law.

Article 20

Right to enter Australia

(1) Every Australian citizen has the right to enter Australia.

(2) A law may restrict a citizen’s right to enter if that person is under legal investigation or sentence in another country.
Article 21

Right to leave Australia

(1) Every person has the right to leave Australia.

(2) A law may restrict a person’s right to leave if that person is under legal investigation or sentence in Australia.

Division 5—Economic and social rights

Article 22

Property

(1) Every natural or legal person has the right to peacefully enjoy the person’s possessions. No person may be deprived of the person’s possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

(2) This right does not impair the right of the Commonwealth or State Government to enforce laws it considers necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 23

Standard of living

(1) Every person has the right to an adequate standard of living, including:

   (a) sufficient food and water; and
   (b) clothing and housing; and
   (c) access to health care services; and
   (d) access to social security, including if they are unable to support themselves and their dependants, appropriate social assistance.

(2) No one may be refused emergency medical treatment.
Part 5 Declaration of Rights

Section 19

(3) The Commonwealth or State Government will take reasonable legislative and other measures to provide for the progressive realisation of each of these rights.

Article 24

Right to live in a safe society

Every person has the individual and collective right to live in a safe society and the collective and individual responsibility to act in a peaceful and non violent way.

Article 25

Right to adequate child care

A parent or other person responsible for the care of a child has the right of reasonable access to adequate child care facilities and the responsibility to ensure that the child is properly cared for.

Article 26

Right to education

No person may be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the Commonwealth or State Government will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 27

Work

(1) Every person has the right to work including the right to the opportunity to gain reasonable payment for work the person freely chooses or accepts.

(2) Every person has the right to just and favourable conditions of work including:
Section 19

(a) fair and reasonable payment for work so as to provide a decent living as a minimum; and
(b) safe and healthy working conditions; and
(c) rest, leisure and reasonable limitation of working hours and periodic and public holidays with pay.

Article 28

Individual and collective development

Every person has the right to participate in and contribute to individual and collective economic, social and cultural development including:
(a) taking part in cultural life; and
(b) enjoying the benefits of scientific progress and its applications; and
(c) benefiting from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which the person is the author.

Article 29

Environment

(1) Every person has the right to an environment that is not harmful to their health or well-being.

(2) The Commonwealth or State Government will take appropriate steps to protect the environment for the benefit of present and future generations, through reasonable legislative and other measures that:
(a) prevent pollution and ecological degradation; and
(b) promote conservation; and
(c) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Division 6—Legal rights
Part 5 Declaration of Rights

Section 19

Article 30

Right to protection from arbitrary interference

Every person has the right to:
(a) protection of privacy, family, home and correspondence from arbitrary or unlawful interference; and
(b) protection from unlawful attacks on honour and reputation.

Article 31

Right to procedural fairness

(1) Every person has the right to have a decision by a tribunal or other public authority that may affect the person’s rights made in a way that observes the rules of procedural fairness.

(2) The rules of procedural fairness include:
(a) the rule that a person whose interests may be adversely affected by a decision will be given a reasonable opportunity to present a case; and
(b) the rule that the tribunal or authority will be impartial in the matter to be decided.

Article 32

Right to legal assistance

Every person has the right to reasonable access to legal aid and the responsibility to accept assistance from a suitably qualified representative appointed by a court.

Article 33

Right to be informed of reasons for detention or arrest and of charges

Any person who is detained or arrested will be informed at the time of detention or arrest of the reasons for it, and will be informed.
promptly and in detail of any charges in a language which that
person understands.

Article 34

Right to consult with lawyer and to remain silent

Any person detained in custody has the right to remain silent and
the right to consult with a lawyer.

Article 35

Hearings, release and trial

(1) Any person detained or arrested on a criminal charge will be
brought promptly before a judge, magistrate or justice of the peace.

(2) No person awaiting trial may be unreasonably deprived of the right
to release on giving a guarantee to appear for trial.

(3) Any person detained or arrested on a criminal charge has the right
to be tried within a reasonable time.

Article 36

Right to test lawfulness of detention

Any person deprived of liberty has the right to take proceedings
before a court for the determination of the lawfulness of the
detention and to be released if the court finds that the detention is
not lawful.

Article 37

Presumption of innocence

Any person charged with a criminal offence is presumed innocent
until proved guilty according to law.
Part 5 Declaration of Rights

Section 19

Article 38

Right to fair hearing

In the determination of any criminal charge, or of any rights or obligations in a suit at law, every person has the right to a fair and public hearing by a competent, independent and impartial tribunal.

Article 39

Right to reasonable standard of criminal procedure

(1) Every person charged with a criminal offence has the following rights:

(a) the right to have the principles of due process applied to matters arising from the charge;
(b) the right to obtain legal assistance;
(c) the right to communicate with a lawyer;
(d) the right to legal assistance without cost, if the interests of justice so require and the person lacks sufficient means to pay for the assistance;
(e) the right to have adequate time and facilities to prepare a defence;
(f) the right to trial by jury if the person may be imprisoned for 3 or more years for the offence;
(g) the right to be present at any trial relating to the offence and to present a defence;
(h) the right to examine the witnesses against the person;
(i) the right to obtain the attendance of, and to examine, witnesses for the person;
(j) the right to have the free assistance of an interpreter if the person cannot understand or speak the language used in court;
(k) the right not to be compelled to testify or confess guilt;
(l) in the case of a child, the right to be dealt with in a manner which takes account of the child’s age.
(2) Every person who is found guilty to an offence has the right to be sentenced within a reasonable time and to be informed in a language that the person understands of the reasons for the sentence.

Article 40

No retrospective criminal offences or penalties

(1) No person may be convicted of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it occurred.

(2) No person convicted of any criminal offence is liable to a heavier penalty than was applicable at the time the offence was committed.

Article 41

Right of review of conviction and sentence

Every person convicted of a criminal offence has the right to have the conviction or sentence reviewed by a higher tribunal according to law.

Article 42

No trial or punishment for same offence

No person finally convicted or acquitted of a criminal offence may be tried or punished again for the same offence or for substantially the same offence arising out of the same facts.

Article 43

Rights when deprived of liberty

(1) Every person deprived of liberty has the right to be treated with humanity and with respect for the inherent dignity of the human person.
Part 5 Declaration of Rights

Section 19

(2) So far as is practicable:
   (a) accused persons will be segregated from convicted persons, and will be treated in a manner appropriate to their status as unconvicted persons; and
   (b) accused children will be segregated from accused adults; and
   (c) convicted children will be segregated from convicted adults, and will be treated in a manner appropriate to their age and legal status.