



New South Wales

Human Rights Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to recognise the following—

- (a) human rights apply from the time an individual is born and are universal, indivisible and interdependent, and interrelated,
- (b) human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom,
- (c) human rights belong to all people without discrimination and the diversity of the people of Australia enhances our community,
- (d) human rights should be limited only after careful consideration and any limitation must only be done in a way that may be justified in a free and democratic society based on human dignity, equality, freedom and the rule of law,
- (e) the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and pursue their economic, social and cultural development.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 provides for the dictionary in proposed Schedule 3 to define certain words and expressions used in the proposed Act.

Clause 4 sets out the objectives of the proposed Act.

Clause 5 provides for the application of the proposed Act, including extraterritorial application.

Clause 6 provides that the proposed Act is not intended to exclude or limit the operation of a law of the Commonwealth, a State or a Territory that furthers the objects of human rights and may operate concurrently with the proposed Act.

Clause 7 sets out the circumstances in which an act, decision or statutory provision is compatible with human rights.

Clause 8 sets out which entities are public authorities for the proposed Act.

Clause 9 provides for when a function of an entity is of a public nature for the proposed Act.

Part 2 Human Rights

Division 1 provides the following—

- (a) only individuals have human rights,
- (b) the human rights included in the proposed Act are in addition to other rights and freedoms not included in the proposed Act,
- (c) the circumstances in which human rights may reasonably and justifiably be limited,
- (d) nothing in the proposed Act gives any entity a right to limit a human right of an individual to a greater extent than provided for under the proposed Act.

Division 2 states the rights and freedoms that are human rights for the proposed Act.

Part 3 Application of human rights

Division 1 provides that a statutory provision must be interpreted in a way that is—

- (a) so far as is reasonably possible, compatible with human rights, or
- (b) if not reasonably possible, most compatible with human rights.

The proposed division also provides that if a question about the application or interpretation of the proposed Act arises in a proceeding—

- (a) a party to the proceeding must notify the New South Wales Human Rights Commission established under proposed section 58 (the *Commission*), and
- (b) if the proceeding is before a court—the Commission and the Attorney General may intervene in, or be joined as a party to, the proceeding.

Division 2 provides for when it is unlawful for a public authority—

- (a) to act or make a decision in a way that is not compatible with human rights, or
- (b) in making a decision, to fail to properly consider a human right relevant to the decision.

The proposed division also sets out the avenues available to individuals and representative applicants affected by a public authority acting, or proposing to act, in a way that is unlawful under the proposed division. The avenues include lodging a complaint with the Commission and bringing proceedings before the Civil and Administrative Tribunal or the Supreme Court. The proposed division also provides for the payment of costs in the proceedings.

Part 4 Parliamentary Joint Committee on Human Rights

Part 4 provides that a Parliamentary Joint Committee on Human Rights (the *Committee*) must be appointed by the Parliament after the commencement of the first session of each Parliament. The

Committee must consist of 4 members of the Legislative Assembly and 4 members of the Legislative Council, who are not Ministers. The Committee must appoint a Legislative Assembly member as the Presiding Member. The powers of the Committee must be determined by resolution of both Houses of Parliament and the functions of the Committee, set out in the proposed part, include examining legislation and proposed legislation for compatibility with human rights, inquiring into human rights matters and reporting to Parliament on human rights matters.

Part 5 Statements of compatibility

Part 5 provides that a statement of compatibility must be prepared—

- (a) for a Bill—by the member of Parliament introducing the Bill, and
- (b) for a statutory rule—by the Minister recommending the making of the rule.

A statement of compatibility must indicate whether the legislation is compatible with human rights and indicate any limitation the legislation may impose on human rights and why the limitation is reasonable and justified. A statement of compatibility does not bind a court, tribunal or the Commission and the failure to prepare a statement of compatibility for legislation does not affect the validity, operation or enforcement of the legislation or any law of the State.

Part 6 New South Wales Human Rights Commission

Division 1 establishes the New South Wales Human Rights Commission as a body corporate to handle human rights complaints, provide remedies for contraventions of the proposed Act and provide education about the rights of individuals under the proposed Act and sets out the Commission's functions. The proposed division also establishes the role of New South Wales Human Rights Commissioner (the **Commissioner**) to carry out the Commission's functions and provides for the Commissioner to have staff.

Division 2 is composed of Subdivisions 1–5.

Subdivision 1 defines **human rights complaint**.

Subdivision 2 sets out the following—

- (a) who may make a human rights complaint to the Commissioner,
- (b) how and when a human rights complaint may be made.

The Ombudsman, the Independent Commission Against Corruption and the President of the Anti-Discrimination Board may refer complaints they consider may be human rights complaints to the Commissioner.

Subdivision 3 provides for how the Commissioner may deal with a human rights complaint, including by making preliminary inquiries and referring the complaint to certain entities. The proposed subdivision also enables the Commissioner to direct an entity to give information about the human rights complaint and makes failure to comply with the direction an offence.

Subdivision 4 enables the Commissioner to conduct a conciliation conference to promote the informal, quick and efficient resolution of a human rights complaint and provides for the conduct of conciliation conferences.

Subdivision 5 provides that the Commissioner must prepare a report for a human rights complaint that is not resolved by conciliation conference or otherwise and give a copy of the report to the complainant and respondent. The Commissioner must notify the complainant and respondent of the resolution of a human rights complaint. The Commissioner may publish information about a human rights complaint the Commission has finished dealing with.

Division 3—

- (a) requires the Commissioner to, at the end of each financial year, prepare a report about the operation of the proposed Act during the financial year (an **annual report**), and
- (b) provides for other reports by the Commissioner about matters relevant to the performance of the Commission's or Commissioner's functions under the proposed Act, and

- (c) requires the Commissioner, when proposing to make an adverse comment about an individual in a report, to give the individual an opportunity to make submissions to the Commissioner about the adverse comment, and
- (d) requires the Attorney General to table, in the Legislative Assembly, copies of certain reports by the Commissioner.

Part 7 Review

Part 7—

- (a) requires public authorities to include certain information about human rights in their annual reports, and
- (b) enables the Commissioner to ask a public authority for information the Commissioner reasonably requires to prepare certain reports and makes failure to comply with the request an offence, and
- (c) protects an individual who, acting honestly, gives information under the proposed Act from certain liability, and
- (d) enables the Commissioner to prohibit the disclosure of information that may identify an individual involved in a human rights complaint and makes failure to comply with the prohibition an offence.

Part 8 Miscellaneous

Part 8—

- (a) provides for the review of the proposed Act, and
- (b) enables the Secretary of the Department to approve forms for use under the proposed Act, and
- (c) enables the Governor to make regulations for the proposed Act.

Schedule 1 Sources of international human rights law

Schedule 1 sets out a non-exhaustive list of sources of international human rights law for the proposed Act.

Schedule 2 Savings, transitional and other provisions

Schedule 2 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 3 Dictionary

Schedule 3 defines certain words and expressions used in the proposed Act.



New South Wales

Human Rights Bill 2025

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Human Rights Bill 2025

No , 2025

A Bill for

An Act to respect, protect and promote human rights.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—	1
Preamble	2
In enacting this Act, the Parliament of New South Wales recognises the following—	3
(a) human rights apply from the time a person is born, and are universal, indivisible and interdependent, and interrelated,	4 5
(b) human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom,	6 7
(c) human rights belong to all people without discrimination and the diversity of the people of New South Wales enhances our community,	8 9
(d) human rights should be limited only after careful consideration and any limitation must only be done in a way that may be justified in a free and democratic society based on human dignity, equality, freedom and the rule of law,	10 11 12 13
(e) all land and waters in New South Wales were traditionally owned and occupied by First Nations persons and, because of the sacred ancestral tie between the lands and waters and the First Nations peoples of New South Wales, the Parliament acknowledges the right of First Nations peoples to self-determination and the important role that human rights protections, including the rights set out in the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> and international human rights law, may play in addressing the dispossession and discrimination experienced by First Nations peoples in New South Wales.	14 15 16 17 18 19 20 21 22

Part 1	Preliminary	1
1	Name of Act	2
	This Act is the <i>Human Rights Act 2025</i> .	3
2	Commencement	4
	This Act commences on the date of assent to this Act.	5
3	Definitions	6
	The dictionary in Schedule 3 defines words used in this Act	7
	Note —The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	8 9
4	Objectives	10
	The objectives of this Act are as follows—	11
	(a) to respect, protect and promote human rights,	12
	(b) to help build a culture in the public sector of respecting, protecting and promoting human rights,	13 14
	(c) to help promote a dialogue about the nature, meaning and scope of human rights,	15 16
	(d) to establish the Parliamentary Joint Committee on Human Rights within the Parliament,	17 18
	(e) to establish the Human Rights Commission and set out the Commission’s functions and complaints handling processes,	19 20
	(f) to ensure that a statutory provision, whenever enacted, is interpreted so far as is reasonably possible, in a way that is compatible with human rights,	21 22
	(g) in conjunction with other laws, to give effect to Australia’s obligations under international human rights law.	23 24
5	Application	25
(1)	This Act binds all individuals, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.	26 27
(2)	This Act applies to—	28
	(a) a court or tribunal, to the extent the court or tribunal is performing functions of a public nature, and	29 30
	(b) the Parliament, to the extent the Parliament is performing functions of a public nature, and	31 32
	(c) a public authority as defined in section 8.	33
6	Concurrent operation intended	34
	This Act is not intended to exclude or limit the operation of a law of the Commonwealth or a law of a State or Territory that furthers the objects of human rights and is capable of operating concurrently with this Act.	35 36 37
7	Meaning of “compatible with human rights”	38
	An act, decision or statutory provision is <i>compatible with human rights</i> if the act, decision or statutory provision—	39 40
	(a) does not limit a human right, or	41
	(b) limits a human right only in accordance with section 12.	42

8 Meaning of “public authority”

- (1) Each of the following is a *public authority*—
 - (a) a public body with functions under the law of the State, including the following—
 - (i) government sector agencies within the meaning of the *Government Sector Employment Act 2013*,
 - (ii) Commissions,
 - (iii) the Ombudsman,
 - (iv) statutory corporations,
 - (v) Ministers,
 - (vi) tribunals,
 - (vii) courts when acting in an administrative capacity, and if the Act applies to the court’s own procedures,
 - (b) a private entity whose functions are, or include, functions of a public nature when the entity is exercising functions of a public nature, whether under contract or otherwise,
 - (c) an individual employed or appointed by or to any of the bodies or entities mentioned in paragraph (a) or (b) when exercising functions under a law of the State or exercising functions of a public nature,
 - (d) a private entity that has advised the Commissioner, in writing, that the entity wishes to be a public authority for this Act.
- (2) Each of the following is not a public authority—
 - (a) the Parliament, except when acting in an administrative capacity,
 - (b) the courts, except when acting in an administrative capacity, or if the Act applies to the court’s own procedures.

9 When function is of public nature

- (1) In deciding whether a function of an entity is of a public nature for this Act, any of the following matters may be considered—
 - (a) whether the function is conferred on the entity under a statutory provision,
 - (b) whether the function is connected to or generally identified with functions of government,
 - (c) whether the function is of a regulatory nature,
 - (d) whether the entity is publicly funded to perform the function,
 - (e) whether the entity is a State owned corporation.
- (2) Subsection (1) does not limit the matters that may be considered in deciding whether a function is of a public nature.
- (3) Without limiting subsection (1) or (2), the following functions are of a public nature—
 - (a) the operation of prisons, correctional facilities and all other places of detention, under the jurisdiction or control of the State, within the meaning of the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* done at New York on 18 December 2002 ([2018] ATS 5), as amended and in force for Australia from time to time,
 - (b) the provision of public health services, public disability services, public education, including early childhood, public primary and secondary education

and public vocational and higher education, emergency services, public	1
housing and aged care services.	2

Part 2 Human Rights	1
Division 1 Preliminary	2
10 Who has human rights	3
Only individuals have human rights.	4
Note— Bodies corporate and bodies politic do not have human rights.	5
11 Human rights are in addition to other rights and freedoms	6
A right or freedom not included, or only partly included, in this Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included.	7 8 9
12 Limitations on rights	10
(1) A human right may be subject under law only to limits that are reasonable and may be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.	11 12 13
(2) In deciding whether a limit on human rights is reasonable and justified, the following considerations are relevant—	14 15
(a) the nature of the right,	16
(b) whether the limitation is aimed at achieving a legitimate objective,	17
(c) the relationship between the limitation and the limitation's objective, including whether the limitation will be effective to achieve the objective,	18 19
(d) whether the limitation is proportionate to the objective sought to be achieved, including consideration of the following—	20 21
(i) the extent of the interference with the human right,	22
(ii) whether there are effective safeguards or controls over the means adopted to achieve the objective,	23 24
(iii) whether the means adopted are sufficiently circumscribed,	25
(iv) whether there is oversight of the means adopted and access to review,	26
(v) whether there are any less right restrictive and reasonably available means to achieve the objective,	27 28
(vi) whether the means adopted provide sufficient flexibility to treat different cases differently,	29 30
(vii) whether any affected groups are particularly at risk.	31
Note— A legitimate objective is a necessary objective that addresses a public or social concern that is pressing and substantial enough to warrant limiting the right.	32 33
(3) In considering the nature of the rights in sections 37(2), 38–42 and 44, a type of limitation includes—	34 35
(a) the taking of backwards steps, known under international human rights law as retrogressive measures, and	36 37
(b) not satisfying certain minimum aspects of the rights, known under international human rights law as minimum core obligations, and	38 39
(c) not ensuring the rights are enjoyed without discrimination.	40
13 Protection of human rights	41
Nothing in this Act gives any individual or other entity a right to limit a human right of any individual to a greater extent than is provided for under this Act.	42 43

Division 2 Human rights

14 Right to recognition and equality before law and freedom from discrimination

- (1) Every individual has the right to recognition as an individual before the law.
- (2) This right must not be subject to limitation.
- (3) Every individual has the right to enjoy human rights without discrimination.
- (4) Every individual is equal before the law and is entitled to the equal protection of the law without discrimination.
- (5) Every individual has the right to equal and effective protection against discrimination.
- (6) Individuals living with a disability have a right to access and use supports the individuals may require to make decisions that have legal effect.
- (7) Measures taken for the purpose of assisting or advancing individuals or groups of individuals disadvantaged because of discrimination do not constitute discrimination.
- (8) In this section—
discrimination means discrimination against an individual on a ground set out in the *Anti-Discrimination Act 1977*, Parts 2–4G.

15 Right to life

- (1) Every individual has, from the time of birth—
 - (a) the right to life, and
 - (b) the right not to be arbitrarily deprived of life.
- (2) If the deprivation of life constitutes the crime of genocide, this right must not be subject to limitation.

16 Prohibition of torture and cruel, inhuman or degrading treatment or punishment

An individual must not be—

- (a) subjected to torture or to cruel, inhuman or degrading treatment or punishment, or
- (b) subjected to medical or scientific experimentation or treatment without the individual's free consent.

17 First Nations peoples

- (1) First Nations peoples hold distinct rights, including cultural, spiritual, political, social and economic rights.
- (2) First Nations peoples must be able to access and exercise the right with other members of their community—
 - (a) to enjoy, maintain, control, protect and develop their identity and cultural heritage, including traditional knowledge, distinctive spiritual practices, observances, beliefs and teachings, and
 - (b) to enjoy, maintain, control, protect, develop and use their languages, including traditional cultural expressions, and
 - (c) to enjoy, maintain, control, protect and develop their kinship ties, and
 - (d) to maintain and strengthen distinctive spiritual, material and economic relationships with the land, territories, waters, coastal seas and other resources with which First Nations peoples have a connection under their tradition or

custom, including the right to own, use, develop and control those lands, territories, waters, coastal seas and resources, and	1
	2
(e) to conserve and protect the environment and productive capacity of their lands, territories, waters, coastal seas and other resources, and	3
	4
(f) to be consulted and to give or withhold their free, prior and informed consent, through their own representative institutions, before the approval of any project affecting their lands, territories, waters, coastal seas or other resources, particularly in relation to the development, use or exploitation of mineral, water or other resources.	5
	6
	7
	8
	9
(3) First Nations peoples have the right not to be subjected to forced assimilation or destruction of culture and the State must take effective measures to prevent and redress any policies or practices that have or have had that effect.	10
	11
	12
18 Rights of children	13
(1) Every child has the right—	14
(a) without discrimination, to the protection that is needed by the child because of being a child, and	15
	16
(b) to express the child's views freely in all matters affecting the child, and	17
(c) to have access to age-appropriate and disability assistance, if applicable, to enable the child to express the child's views freely in all matters affecting the child, and	18
	19
	20
(d) to have the child's views be given due weight in accordance with the child's age and maturity, and	21
	22
(e) to a name and to be registered as having been born under a law of New South Wales as soon as practicable after birth.	23
	24
(2) In all actions concerning children, the best interests of the child must be a primary consideration.	25
	26
Note— A child also has the other human rights set out in this Act.	27
19 Protection of families	28
(1) The family, including kinship groups and the non-nuclear family, is the fundamental group unit of society and is entitled to protection.	29
	30
(2) Everyone has the right to respect for their family life.	31
(3) Without limiting subsection (2), the right of First Nations families and communities to retain shared responsibility for the upbringing, training, education and wellbeing of their children, consistent with the rights of the child, must be recognised and respected.	32
	33
	34
	35
20 Right to privacy and reputation	36
An individual has the right—	37
(a) not to have the individual's privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and	38
	39
(b) not to have the individual's reputation unlawfully attacked.	40
Note— The right to privacy includes the collection, processing or retention of personal data through all forms of technology and includes state surveillance measures.	41
	42
21 Freedom of movement	43
Every individual lawfully within the State has the right to move freely within the State and to enter and leave the State, and has the freedom to choose where to live.	44
	45

22	Freedom of thought, conscience and religion	1
(1)	Every individual has the right to freedom of thought, conscience and religion, which includes—	2
		3
(a)	the freedom to have or to adopt a religion or belief of the individual's choice, and	4
		5
(b)	the freedom, either individually or in community with others and in public or private, to manifest the religion or belief in worship, observance, practice and teaching.	6
		7
		8
	Note— The freedom to have or adopt a religious or other belief or opinion must not be subject to limitation, except in achieving a legitimate objective. The following limits are recognised under international human rights law as legitimate—	9
		10
		11
(a)	limits that are necessary to protect public safety,	12
(b)	limits that are necessary to protect public order,	13
(c)	limits that are necessary to protect public health or morals,	14
(d)	limits that are necessary to protect the fundamental rights and freedoms of others.	15
(2)	An individual must not be subject to coercion which would impair the individual's freedom to—	16
		17
(a)	have or adopt a religion or belief of the individual's choice, or	18
(b)	have or adopt no religion or belief.	19
23	Right to peaceful assembly and freedom of association	20
(1)	Every individual has the right to peaceful assembly.	21
(2)	Every individual has the right to freedom of association with others, including the right to form and join trade unions.	22
		23
	Note— See also <i>ILO Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise done at San Francisco on 9 July 1948 ([1974] ATS 3)</i> .	24
		25
24	Freedom of opinion and expression	26
(1)	Every individual has the right to hold opinions without interference.	27
(2)	Every individual has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of borders, whether orally, in writing or in print, by way of art, or in another form or medium of the individual's choice.	28
		29
		30
		31
25	Right to take part in public life	32
(1)	Every individual has the right and must have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.	33
		34
		35
(2)	Every eligible individual has the right, and must have the opportunity, without discrimination—	36
		37
(a)	to vote and be elected at periodic elections that guarantee the free expression of the will of the electors, and	38
		39
(b)	to have access, on general terms of equality, to the public service and public office.	40
		41
26	Right to liberty and security of individual	42
(1)	Every individual has the right to liberty and security.	43
(2)	An individual must not be subjected to arbitrary arrest or detention.	44

(3)	An individual must not be deprived of liberty except on grounds, and in accordance with procedures, established by law.	1 2
(4)	An individual who is arrested or detained must be informed at the time of arrest or detention of the reason for the arrest or detention and must be promptly informed about any proceedings to be brought against the individual.	3 4 5
(5)	An individual who is arrested or detained on a criminal charge—	6
(a)	must be promptly brought before a court, and	7
(b)	has the right to be brought to trial without unreasonable delay, and	8
(c)	must be released if paragraph (a) or (b) is not complied with.	9
(6)	An individual who is awaiting trial must not be detained in custody as a general rule, but the individual's release may be subject to guarantees to appear for trial, at any other stage of the judicial proceeding, and, if appropriate, for execution of judgment.	10 11 12
(7)	An individual who is deprived of liberty by arrest or detention is entitled to apply to a court so that the court may decide the lawfulness of the detention and the court must—	13 14 15
(a)	make a decision without delay, and	16
(b)	if the detention is unlawful—order the individual's release.	17
(8)	An individual who has been unlawfully arrested or detained has the right to compensation for the arrest or detention.	18 19
(9)	An individual must not be imprisoned only because of the inability to fulfil a contractual obligation.	20 21
27	Right to humane treatment when deprived of liberty	22
(1)	Every individual deprived of liberty must be treated with humanity and respect for the inherent dignity of the human individual.	23 24
(2)	An accused individual who is detained, or an individual detained without charge, must—	25 26
(a)	be separated from convicted individuals except in exceptional circumstances, and	27 28
(b)	be treated in a way that is appropriate for an individual who has not been convicted.	29 30
28	Rights of children in criminal process	31
(1)	A child accused of, charged with or convicted of a criminal offence or otherwise deprived of liberty must be separated from adults accused of, charged with, or convicted of, a criminal offence.	32 33 34
(2)	A child charged with a criminal offence—	35
(a)	must be treated in a way that is appropriate for an individual of the child's age who has not been convicted, and	36 37
(b)	must be brought to trial as quickly as possible, and	38
(c)	has the right to a procedure that takes account of—	39
(i)	the child's age, and	40
(ii)	the child's disability, if present, and	41
(iii)	the desirability of promoting the child's rehabilitation.	42
(3)	A child who has been convicted of an offence must be treated in a way that is appropriate for an individual of the child's age.	43 44

(4)	A child should be deprived of liberty only as a last resort and for the shortest necessary period of time.	1 2
(5)	Alternative and appropriate means to criminal proceedings must be continuously explored for every child alleged to have committed, or that has been charged with, a criminal offence.	3 4 5
	Note— A child also has the other human rights set out in this Act.	6
29	Right to fair hearing	7
(1)	Every individual is equal before the courts and tribunals.	8
(2)	An individual charged with a criminal offence, or a party to a civil proceeding, has the right to a fair and public hearing by a competent, independent and impartial court or tribunal.	9 10 11
(3)	Despite subsection (2), a court or tribunal may exclude members of media organisations, other individuals or the general public from all or part of a hearing if the court or tribunal considers it is in the public interest or the interests of justice.	12 13 14
(4)	Each judgment in a criminal or civil proceeding must be made public unless the interests of a child or victim requires that the judgment not be made public.	15 16
30	Rights in criminal proceedings	17
(1)	An individual charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.	18 19
(2)	An individual charged with a criminal offence is entitled without discrimination to the following minimum guarantees, in full equality—	20 21
(a)	to be informed promptly and in detail of the nature and reason for the charge in a language or, if necessary, a type of communication the individual speaks or understands,	22 23 24
(b)	to have adequate time and facilities to prepare the individual's defence and to communicate with a lawyer or adviser chosen by the individual,	25 26
(c)	to be tried without unreasonable delay,	27
(d)	to be tried as an individual, and to defend themselves personally or through legal assistance chosen by the individual,	28 29
(e)	to be informed, if the individual does not have legal assistance, about the right to legal assistance chosen by the individual,	30 31
(f)	to have legal assistance provided to the individual, if the interests of justice require that the assistance be provided, and to have the legal assistance provided without payment if the individual cannot afford to pay for the assistance,	32 33 34 35
(g)	to examine, or have examined, witnesses against the individual,	36
(h)	to obtain the attendance and examination of witnesses on the individual's behalf under the same conditions as witnesses for the prosecution,	37 38
(i)	to have the free assistance of an interpreter if the individual—	39
(i)	cannot understand or speak English, or	40
(ii)	is deaf or has a hearing impairment,	41
(j)	to have the free assistance of specialised communication tools and technology, and assistants, if the individual is living with a disability and requires assistance,	42 43 44
(k)	not to be compelled to testify against themselves or to confess guilt.	45

(3)	An individual convicted of a criminal offence has the right to have the conviction and any sentence imposed in relation to the conviction reviewed by a higher court in accordance with law.	1 2 3
31	Rights of victims of crime	4
(1)	A victim of a criminal offence has the right to—	5
(a)	be acknowledged as a participant with interest, but not a party, in criminal proceedings, and	6 7
(b)	be treated with courtesy, compassion, cultural sensitivity and respect for the victim’s rights and dignity, and	8 9
(c)	be protected from unnecessary trauma, intimidation and distress at every stage of the justice and legal process, including when giving evidence in criminal proceedings.	10 11 12
(2)	Victims’ rights are equal to every other right under this Act.	13
	Note— A victim has other rights set out in the <i>Victims Rights and Victims of Crime Commissioner Act 2025</i> and <i>Victims Rights and Support Act 2013</i> .	14 15
32	Right to dignified treatment	16
(1)	A child has the right to have access to supports and safeguards to prevent and protect against violence, abuse, neglect and exploitation, based on respect for the child’s dignity, autonomy and self-determination, and delivered in conditions that enable self-reliance.	17 18 19 20
(2)	An adult who, because of age, ill health, disability, social isolation, dependence on others or other disadvantage, is at risk of abuse must—	21 22
(a)	be treated with respect for the adult’s dignity, autonomy and right to self-determination, and	23 24
(b)	have access to support, assistance or other measures designed to safeguard the adult from violence, abuse, neglect and exploitation.	25 26
33	Right not to be tried or punished more than once	27
	An individual must not be tried or punished more than once for an offence in relation to which the individual has already been finally convicted or acquitted in accordance with law.	28 29 30
34	Prohibition of retrospective criminal laws	31
(1)	An individual must not be found guilty of a criminal offence because of conduct that was not a criminal offence when the conduct was engaged in.	32 33
(2)	A penalty must not be imposed on an individual for a criminal offence that is greater than the penalty that applied to the offence when the offence was committed.	34 35
(3)	If a penalty for an offence is reduced after an individual committed the offence but before the individual is sentenced for the offence, the individual is eligible for the reduced penalty.	36 37 38
(4)	Nothing in this section affects the trial or punishment of any individual for an act or omission which was a criminal offence under international law when the act or omission was done or omitted to be done.	39 40 41
35	Right to compensation for wrongful conviction	42
(1)	This section applies if—	43
(a)	an individual is convicted of a criminal offence, and	44

(b)	the individual suffers punishment because of the conviction, and	1
(c)	the conviction is reversed, or the individual is pardoned, on the ground that a new or newly discovered fact shows conclusively there has been a miscarriage of justice, and	2 3 4
(d)	the individual is not responsible, wholly or in part, for the fact not having been discovered or disclosed before the conviction.	5 6
(2)	The individual has the right to be compensated according to law.	7
36	Prohibition of slavery and freedom from forced work	8
(1)	An individual must not be held in slavery or servitude.	9
(2)	Subject to subsection (3), an individual must not be made to perform forced or compulsory labour.	10 11
(3)	For subsection (2), forced or compulsory labour does not include—	12
(a)	work or service required because of an emergency or calamity threatening the life or wellbeing of the community, or	13 14
(b)	work or service that forms part of normal civil obligations.	15
37	Right to culture	16
(1)	All individuals with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other individuals of that background, to enjoy their culture, to declare and practise their religion and to use their language.	17 18 19 20
(2)	All individuals have the right—	21
(a)	to take part in cultural life, and	22
(b)	to enjoy the benefits of scientific progress and the application of scientific progress, and	23 24
(c)	if an individual is the author of any scientific, literary or artistic production—to benefit from the protection of any moral and material interests resulting from that production.	25 26 27
38	Right to education	28
(1)	Every child has the right to have access to early childhood education and primary and secondary education without discrimination.	29 30
(2)	Every individual has the right to have access to vocational and higher education or other further education and training without discrimination.	31 32
39	Right to health	33
(1)	Every individual has the right to access physical and mental health services, goods and facilities without discrimination.	34 35
(2)	Every individual has the right to emergency medical treatment that is immediately necessary.	36 37
40	Right to adequate standard of living and housing	38
(1)	Every individual has the right to an adequate standard of living, including adequate food, water, clothing and housing.	39 40
(2)	Immediately realisable aspects of this right include the following—	41
(a)	every individual is entitled to enjoy this right without discrimination,	42

(b)	no individual may be unlawfully or arbitrarily evicted from the individual's home,	1
		2
(c)	no individual may have an essential utility service to the individual's home unlawfully or arbitrarily withdrawn,	3
		4
(d)	every individual is entitled to have access to the minimum essential amount of clean water that is sufficient and safe for personal and domestic uses, including to prevent disease.	5
		6
		7
41	Right to work and other work-related rights	8
(1)	Every individual has the right to work, including the right to choose a trade, occupation or profession freely.	9
		10
(2)	Every individual has the right to the enjoyment of just and favourable conditions of work.	11
		12
(3)	Every individual has the right to strike.	13
42	Right to social security	14
	Every individual has the right to have access to social security.	15
43	Right to property	16
(1)	Every individual has the right to own property alone and in association with other individuals.	17
		18
(2)	No individual may be arbitrarily deprived of the individual's property.	19
44	Right to a healthy environment	20
(1)	Every individual has the right to an environment that does not produce adverse health consequences in the following respects—	21
		22
(a)	every individual has the right not to be subject to unlawful pollution of air, water and soil, and	23
		24
(b)	every individual has the right to access safe and uncontaminated water, and nutritionally safe food.	25
		26
(2)	No unjustified retrogressive measures should be taken in relation to this right.	27
(3)	No individual should be subject to discrimination regarding the realisation of this right.	28
		29

Part 3 Application of human rights

Division 1 Interpretation of laws

45 Interpretation

- (1) A statutory provision must be interpreted, so far as is reasonably possible, in a way that is compatible with human rights.
- (2) If a provision cannot be interpreted in a way that is compatible with human rights, the provision must, to the extent possible that is consistent with the provision's purpose, be interpreted in a way that is the most compatible with human rights.
- (3) International human rights law and the judgments of domestic, foreign and international courts and tribunals, and treaty monitoring bodies relevant to a human right must be considered in interpreting a statutory provision.
Note— For the meaning of *international human rights law*, see Schedule 3. For a non-exhaustive list of the sources of international human rights, see Schedule 1.
- (4) This section does not affect the validity of—
 - (a) an Act or provision of an Act that is not compatible with human rights, or
 - (b) a legislative instrument or a provision of a legislative instrument that is not compatible with human rights and is expressly empowered by the Act under which it is made to not be compatible with human rights.

46 Intervention by Attorney General

- (1) The Attorney General may intervene in, and may be joined as a party to, any proceeding before a court in which—
 - (a) a question of law arises that relates to the application of this Act, or
 - (b) a question arises in relation to the interpretation of a statutory provision in accordance with this Act.
- (2) If the Attorney General intervenes in a proceeding under this section, the Attorney General may be taken to be a party to the proceeding for the purpose of any appeal from an order made in that proceeding.

47 Intervention by Commission

- (1) The Commission may intervene in, and may be joined as a party to, any proceeding before a court in which—
 - (a) a question of law arises that relates to the application of this Act, or
 - (b) a question arises in relation to the interpretation of a statutory provision in accordance with this Act.
- (2) If the Commission intervenes in a proceeding under this section, the Commission may be taken to be a party to the proceeding for the purpose of any appeal from an order made in that proceeding.

48 Notice to Attorney General and Commission

- (1) A party to a proceeding must give notice in the prescribed form to the Attorney General and the Commission if a question of law arises that relates to the application of this Act or a question arises in relation to the interpretation of a statutory provision in accordance with this Act.
- (2) For subsection (1), a notice is not required to be given to—
 - (a) if the State is a party to the relevant proceeding—the Attorney General, or

- (b) if the Commission is a party to the relevant proceeding—the Commission.

Division 2 Public authorities

49 Obligations on public authorities

- (1) It is unlawful for a public authority—
 - (a) to act or make a decision in a way that is not compatible with human rights, or
 - (b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.
- (2) Subsection (1) does not apply to a public authority if the authority could not reasonably have acted differently or made a different decision because of a statutory provision, a federal law, a law of another State or Territory or otherwise under law.
- (3) This section does not apply to an act or decision of a private nature.
- (4) For subsection (1)(b), giving proper consideration to a human right in making a decision includes, but is not limited to the following—
 - (a) identifying the human rights that may be affected by the decision, and
 - (b) considering whether the decision would be compatible with human rights, and
 - (c) ensuring the participation of—
 - (i) First Nations peoples in decisions that directly or disproportionately affect First Nations peoples,
 - (ii) children in decisions that directly or disproportionately affect children,
 - (iii) people with disability in decisions that directly or disproportionately affect people with disability,
 - (iv) women and girls in decisions that directly or disproportionately affect women and girls,
 - (v) older people in decisions that directly or disproportionately affect older people,
 - (vi) LGBTIQ+ people in decisions that directly or disproportionately affect LGBTIQ+ people,
 - (vii) victim survivors in decisions that directly or disproportionately affect victims, and
 - (d) where relevant, realising access to justice principles.
- (5) To avoid doubt—
 - (a) an act or decision of a public authority is not invalid merely because, by doing the act or making the decision, the authority contravenes subsection (1), and
 - (b) an individual does not commit an offence against this Act or another Act merely because the individual acts or makes a decision in contravention of subsection (1).

50 Legal proceedings

- (1) This section applies if—
 - (a) an individual claims, or 2 or more individuals claim, that—
 - (i) a public authority has acted, or proposes to act, in a way that contravenes section 49, and
 - (ii) the individual is, or one or more of the individuals are, or would be, a victim of the contravention, or
 - (b) a representative applicant claims that—

(i)	a public authority has acted, or proposes to act, in a way that contravenes section 49, and	1 2
(ii)	one or more individuals on whose behalf the application is made is, or would be, a victim of the contravention.	3 4
(2)	The individual or representative applicant may—	5
(a)	lodge a written complaint with the Human Rights Commission against the public authority, or	6 7
(b)	bring proceedings against the public authority under this Act in the original jurisdiction of the Tribunal, or	8 9
(c)	bring proceedings against the public authority under this Act in the Court, or	10
(d)	rely on the human rights under this Act in other legal proceedings, but only if the individual has standing in those other proceedings.	11 12
(3)	The Tribunal or the Court may, in a proceeding under subsection (2)(b) or (c), grant the relief the Tribunal or Court considers appropriate.	13 14
(4)	A proceeding under subsection (2)(b) or (c) must be started not later than 12 months after the day, or last day, the act complained of occurs, unless the Tribunal or Court orders otherwise.	15 16 17
(5)	A party to a proceeding in the Tribunal under subsection (2)(b) may appeal against any decision reached by the Tribunal in the proceeding to the Court constituted of a single Judge.	18 19 20
(6)	However, the Judge may, if the Judge thinks fit, refer the appeal for hearing and determination by the Court of Appeal.	21 22
(7)	On an appeal, the Supreme Court may, if the Court considers it in the interests of justice, re-hear any witnesses or receive fresh evidence.	23 24
(8)	This section does not affect—	25
(a)	a right an individual has, otherwise than because of this Act, to seek relief in relation to an act or decision of a public authority, or	26 27
(b)	a right an individual has to damages.	28
51	Costs	29
(1)	This section applies to proceedings, including an appeal, in the Tribunal or Supreme Court that relate to an application made by an individual or representative applicant (the applicant) to bring proceedings against a public authority under this Act.	30 31 32
(2)	Subject to subsection (4), if the applicant is successful in proceedings on one or more grounds, the Tribunal or Court must order each respondent against whom the applicant is successful to pay the applicant's costs.	33 34 35
(3)	The Tribunal or Court may order that the costs to be paid by the respondent be assessed on an indemnity basis or otherwise.	36 37
(4)	If the Tribunal or Court is satisfied the applicant's unreasonable act or omission caused the applicant to incur costs, the Tribunal or Court is not required to order the respondent to pay the costs incurred as a result of the act or omission.	38 39 40
(5)	The applicant must not be ordered by the Tribunal or Court to pay costs incurred by another party to the proceedings.	41 42

Part 4	Parliamentary Joint Committee on Human Rights	1
52	Parliamentary Joint Committee on Human Rights	2
	As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Human Rights, must be appointed according to the practice of the Parliament.	3 4 5 6
53	Membership of Committee	7
(1)	The Committee consists of 8 members.	8
(2)	The Committee must include—	9
(a)	4 members of the Legislative Assembly appointed by the Legislative Assembly, and	10 11
(b)	4 members of the Legislative Council appointed by the Legislative Council.	12
(3)	A Minister is not eligible for appointment to the Committee.	13
(4)	The Committee must appoint one of its Legislative Assembly members to be the Presiding Member of the Committee, but if the members are at any time unable to come to a decision on who will be the Presiding Member, or on who will preside at a meeting of the Committee in the absence of the Presiding Member, the matter is referred by force of this subsection to the Legislative Assembly and that House will determine the matter.	14 15 16 17 18 19
(5)	A member ceases to hold office—	20
(a)	when the Legislative Assembly expires by effluxion of time or is dissolved, or	21
(b)	if the member becomes the holder of an office specified in subsection (3), or	22
(c)	if the member ceases to be a member of the House of Parliament by which the member was appointed, or	23 24
(d)	if the member resigns the member's office as provided by subsection (6) or (7).	25
(6)	A member appointed by the Legislative Council may resign the member's office in writing signed by the member and delivered to the President of the Council.	26 27
(7)	A member appointed by the Legislative Assembly may resign the member's office in writing signed by the member and delivered to the Speaker of the Assembly.	28 29
(8)	Either House of Parliament may appoint one of the House's members to fill a vacancy among the members of the Committee appointed by that House.	30 31
54	Powers and proceedings of Committee	32
	All matters relating to the powers and proceedings of the Committee must be determined by resolution of both Houses of Parliament.	33 34
55	Functions of Committee	35
	The Committee has the following functions—	36
(a)	to examine Bills for Acts and statutory rules that come before either House of Parliament for compatibility with human rights and to report to both Houses of Parliament on that issue,	37 38 39
(b)	to examine Acts for compatibility with human rights and to report to both Houses of Parliament on that issue,	40 41

- (c) to inquire into any matter relating to human rights which is referred to the Committee by the Attorney General and to report to both Houses of Parliament on that matter, 1
2
3
- (d) at the Committee’s discretion, and on the Committee’s own motion, to inquire into any matter relating to human rights and to report to both Houses of Parliament on that matter. 4
5
6

Part 5 Statements of compatibility

56 Statements of compatibility in relation to Bills

- (1) A member of Parliament who proposes to introduce a Bill for an Act into a House of Parliament must prepare a statement of compatibility for the Bill.
- (2) A member of Parliament who introduces a Bill for an Act into a House of Parliament, or another member acting on the member's behalf, must ensure the statement of compatibility prepared under subsection (1) is presented to the House.
- (3) A statement of compatibility must include an assessment of whether the Bill is compatible with human rights.
- (4) If the Bill purports to limit any human rights, the statement of compatibility must specifically address the factors set out in section 12.
- (5) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal or on the Commission.
- (6) A failure to comply with this section in relation to a Bill that becomes an Act does not affect the validity, operation or enforcement of the Act or any other provision of a law of the State.

57 Statements of compatibility in relation to statutory rules

- (1) A Minister recommending the making of a statutory rule must prepare a statement of compatibility for the statutory rule.
- (2) A statement of compatibility must include an assessment of whether the statutory rule is compatible with human rights.
- (3) If the statutory rule purports to limit any human rights, the statement of compatibility must specifically address the factors set out in section 12.
- (4) A statement of compatibility prepared under subsection (1) is not binding on any court or tribunal or on the Commission.
- (5) A failure to comply with this section in relation to a statutory rule does not affect the validity, operation or enforcement of the instrument or any other provision of a law of the State.

Part 6	New South Wales Human Rights Commission	1
Division 1	Functions of Commission and Commissioner under Act	2
58	New South Wales Human Rights Commission	3
(1)	The New South Wales Human Rights Commission is established.	4
(2)	The Commission is a body corporate.	5
59	New South Wales Human Rights Commissioner	6
(1)	There must be a New South Wales Human Rights Commissioner.	7
(2)	The Commissioner may—	8
(a)	be appointed for a term of five years and	9
(b)	if otherwise eligible—be reappointed.	10
(3)	The Commissioner is not a Public Service employee.	11
(4)	The terms and conditions of the Commissioner’s appointment will be fixed by the Governor on the recommendation of the Attorney General.	12 13
(5)	A Public Service employee may be appointed to act temporarily as the Commissioner.	14 15
60	Staff	16
(1)	The Commissioner has the staff necessary for the administration of this Act.	17
(2)	The Commissioner’s staff are Public Service employees.	18
61	Objects	19
	The Commission has the following objects under this Act—	20
(a)	to efficiently handle human rights complaints under this part,	21
(b)	to provide meaningful remedies for contraventions of this Act at the lowest practicable cost,	22 23
(c)	to provide education on the rights of individuals under this Act, including to students.	24 25
62	Functions	26
	The Commission has the following functions under this Act—	27
(a)	to deal with human rights complaints under this part and to deliver efficiencies in dealing with the complaints,	28 29
(b)	to provide meaningful remedies for contraventions of this Act at the lowest practicable cost,	30 31
(c)	if asked by the Attorney General—to review the effect of Acts, statutory instruments and the common law on human rights and give the Attorney General a written report about the outcome of the review,	32 33 34
(d)	to review public entities’ policies, programs, procedures, practices and services in relation to their compatibility with human rights,	35 36
(e)	at the Commission’s discretion, and on the Commission’s own motion, to investigate any situation where the Commission suspects that a public authority may not be meeting the public authority’s obligations under section 49,	37 38 39 40

(f)	to promote an understanding and acceptance, and the public discussion, of human rights and this Act in the State,	1 2
(g)	to make information about human rights available to the community,	3
(h)	to provide education about human rights and this Act, including providing education to young persons about human rights,	4 5
(i)	to keep a list of private entities that, under section 8(1)(d), are public authorities,	6 7
(j)	to assist the Attorney General in reviews of this Act under Part 7,	8
(k)	to advise the Attorney General about matters relevant to the operation of this Act,	9 10
(l)	another function conferred on the Commission under this Act or another Act.	11
63	Powers	12
	The Commissioner has power to do all things necessary or convenient to be done for the exercise of the Commission's functions under this Act.	13 14
Division 2	Human rights complaints	15
Subdivision 1	Preliminary	16
64	Meaning of "human rights complaint"	17
	A <i>human rights complaint</i> is a complaint about—	18
(a)	an alleged contravention of section 49 by a public authority in relation to an act or decision of the public authority, or	19 20
(b)	alleged systemic issues with contraventions of section 49 by a public authority in relation to acts or decisions of the public authority.	21 22
Subdivision 2	Making and referring human rights complaints	23
65	Who may make human rights complaints to Commissioner	24
(1)	The following individuals may make a human rights complaint to the Commissioner—	25 26
(a)	an individual the subject of a public authority's alleged contravention of section 49,	27 28
(b)	an agent of the individual,	29
(c)	an individual authorised in writing by the Commissioner to make a complaint for the individual.	30 31
(2)	For subsection (1)(c), the Commissioner may authorise an individual to make a human rights complaint for an individual if satisfied the individual cannot make the complaint.	32 33 34
(3)	Two or more individuals may jointly make a human rights complaint.	35
(4)	A complaint may be made by an individual on behalf of a class of persons with the written authority of the persons in the class.	36 37
66	Requirements for making human rights complaints to Commissioner	38
(1)	An individual may make a human rights complaint to the Commissioner only if—	39

- (a) the Commissioner is satisfied the individual has made a complaint to the public authority about the alleged contravention the subject of the complaint, and
 - (b) at least 45 business days have elapsed since the complaint mentioned in paragraph (a) was made, and
 - (c) the individual has not received a response to the complaint or has received a response the individual considers to be an inadequate response.
- (2) However, the Commissioner may accept a complaint made before the period mentioned in subsection (1)(b) has elapsed if the Commissioner considers it appropriate because of exceptional circumstances.

67 Referral entity may deal with or refer human rights complaints

- (1) This section applies if—
- (a) the Ombudsman (a *referral entity*) receives a complaint under the *Ombudsman Act 1974* and the Ombudsman considers the complaint may also be a human rights complaint, or
 - (b) the Independent Commission Against Corruption (also a *referral entity*) receives a complaint about corruption under the *Independent Commission Against Corruption Act 1988* and the Commissioner under that Act considers the complaint may also be a human rights complaint, or
 - (c) the President of the Anti-Discrimination Board (also a *referral entity*) receives a complaint under the *Anti-Discrimination Act 1977* and the President considers the complaint may also be a human rights complaint.
- (2) The referral entity receiving the complaint may—
- (a) deal with the complaint under the Act under which the complaint was made, or
 - (b) with the consent of the individual who could make the human rights complaint under section 65, refer the complaint to the Commissioner.
- Note—** The Commissioner and a referral entity may enter into an arrangement about referring complaints under an Act or dealing with complaints that are not referred.

68 Form of human rights complaints

- (1) A human rights complaint made or referred to the Commissioner must—
- (a) be in writing, and
 - (b) state the complainant's name and address for service, and
 - (c) include enough details to indicate the alleged contravention to which the complaint relates.
- (2) If the Commissioner is satisfied the complainant needs help to put the complaint in writing, the Commissioner must give reasonable help to the complainant to put the complaint in writing.

Subdivision 3 Dealing with human rights complaints

69 Preliminary inquiries

The Commissioner may make preliminary inquiries about a human rights complaint made or referred to the Commissioner to decide how to deal with the complaint under this division.

70	Commissioner must refuse to deal with particular complaints	1
	The Commissioner must refuse to deal with a human rights complaint if the Commissioner considers the complaint is frivolous, trivial, vexatious, misconceived or lacking in substance.	2 3 4
71	Commissioner may refuse to deal or to continue to deal, or defer dealing, with complaints	5 6
(1)	The Commissioner may refuse to deal or to continue to deal with a human rights complaint if—	7 8
(a)	the Commissioner considers there is a more appropriate course of action available under another law to deal with the subject of the complaint, or	9 10
(b)	the Commissioner considers the subject of the complaint has been appropriately dealt with by another entity, or	11 12
(c)	the Commissioner considers the requirements under section 66 for making the complaint have not been met, or	13 14
(d)	the complaint was not made or referred to the Commissioner within 1 year after the alleged contravention to which the complaint relates occurred.	15 16
(2)	The Commissioner may refuse to continue to deal with a human rights complaint if—	17
(a)	the complainant does not comply with a reasonable request made by the Commissioner in dealing with the complaint, or	18 19
(b)	the Commissioner is satisfied on reasonable grounds the complainant, without a reasonable excuse, has not cooperated in the Commissioner's dealing with the complaint, or	20 21 22
(c)	the Commissioner cannot make contact with the complainant.	23
(3)	The Commissioner may defer dealing with a complaint if—	24
(a)	the complainant has complained to the public authority as required under section 66 but the Commissioner considers the public authority has not yet had an adequate opportunity to deal with the complaint, or	25 26 27
(b)	the Commissioner considers it is necessary to ensure the complaint is dealt with appropriately under another law.	28 29
(4)	In this section—	30
	law includes—	31
(a)	the <i>National Disability Insurance Scheme Act 2013</i> of the Commonwealth or another law of the Commonwealth, and	32 33
(b)	a law of another State.	34
72	Notice about refusing to deal, or deferring dealing, with complaints	35
(1)	If the Commissioner refuses to deal, or to continue to deal, with a human rights complaint or defers dealing with a complaint, the Commissioner must give the complainant and respondent notice of the refusal or deferral and the reasons for the refusal or deferral.	36 37 38 39
(2)	However, the Commissioner need not give the notice to the respondent if the Commissioner considers it is not appropriate in the circumstances.	40 41
73	When complaints lapse	42
(1)	If the Commissioner refuses to deal, or to continue to deal, with a human rights complaint—	43 44
(a)	the complaint lapses, and	45

(b)	the complainant must not make a further complaint relating to the alleged contravention the subject of the complaint.	1 2
(2)	Subsection (1)(b) does not apply to a human rights complaint the Commissioner refuses to deal with under section 70.	3 4
74	Commissioner may refer human rights complaints to other entities	5
(1)	If the subject of a human rights complaint could be the subject of a complaint under the <i>Ombudsman Act 1974</i> , the Commissioner may refer the human rights complaint to the Ombudsman.	6 7 8
(2)	If the subject of a human rights complaint could be the subject of a complaint under the <i>Anti-Discrimination Act 1977</i> , the Commissioner may refer the human rights complaint to the President of the Anti-Discrimination Board.	9 10 11
(3)	If the subject of a human rights complaint could be the subject of a complaint about corruption made under the <i>Independent Commission Against Corruption Act 1988</i> , the Commissioner may refer the human rights complaint to the Independent Commission Against Corruption.	12 13 14 15
(4)	If the subject of a human rights complaint could be the subject of an NDIS complaint, the Commissioner may refer the human rights complaint to the NDIS Quality and Safeguards Commission.	16 17 18
(5)	However, the Commissioner may only refer a human rights complaint under this section—	19 20
(a)	with the consent of the complainant, and	21
(b)	if the Commissioner considers the complaint would be more appropriately dealt with by the entity to whom it is referred.	22 23
(6)	If the Commissioner refers a human rights complaint to an entity under this section, the Commissioner—	24 25
(a)	may, with the consent of the complainant, give the entity information about the complaint obtained by the Commissioner under this part, and	26 27
(b)	must give the complainant a notice stating the complaint has been referred to the entity.	28 29
(7)	In this section—	30
	NDIS complaint means a complaint mentioned in the <i>National Disability Insurance Scheme Act 2013</i> of the Commonwealth, section 181G.	31 32
75	Commissioner may enter into arrangements with other entities	33
(1)	The Commissioner and a referral entity may enter into an arrangement about—	34
(a)	the human rights complaints the Commissioner should refer to the entity because they would be more appropriately dealt with by the entity, or	35 36
(b)	the complaints made under a referral Act the referral entity should refer to the Commissioner because they—	37 38
(i)	relate to decisions or other actions for which the Commission has jurisdiction, and	39 40
(ii)	would be more appropriately dealt with by the Commission under this part, or	41 42
(c)	how to deal with a complaint or other matter under a referral Act that could also form the basis of a human rights complaint, or	43 44
(d)	cooperating in the performance of the Commissioner's and the entity's functions to ensure the effective operation of this part and a referral Act.	45 46

(2)	The Commissioner and the NDIS Quality and Safeguards Commission may enter into an arrangement about—	1 2
(a)	the human rights complaints the Commissioner should refer to the NDIS Quality and Safeguards Commission because the complaints would be more appropriately dealt with by the NDIS Quality and Safeguards Commission, or	3 4 5
(b)	cooperating in the performance of the Commissioner's and the NDIS Quality and Safeguards Commission's functions to ensure the effective operation of this part and the <i>National Disability Insurance Scheme Act 2013</i> of the Commonwealth.	6 7 8 9
(3)	If an arrangement provides for a referral as mentioned in subsection (1)(a) or (b) or (2)(a), the arrangement must also provide for how the referral is made.	10 11
(4)	The Commissioner and an entity with whom an arrangement has been entered into under this section may perform the Commissioner's and entity's functions in accordance with the arrangement.	12 13 14
76	Acceptance of human rights complaints by Commissioner	15
(1)	If the Commissioner decides to accept a human rights complaint for resolution by the Commission, the Commissioner must give the complainant and respondent notice of the Commissioner's acceptance.	16 17 18
(2)	The notice must state—	19
(a)	the role of the Commission in trying to resolve the complaint, and	20
(b)	the powers the Commissioner may exercise in trying to resolve the complaint.	21
(3)	The notice given to the respondent must also state—	22
(a)	the substance of the complaint, and	23
(b)	that the respondent will be given an opportunity to make submissions in writing in response to the complaint, and	24 25
(c)	that the respondent must advise the Commissioner of the respondent's address for service, and	26 27
(d)	that the Commissioner may seek information or documents from the respondent in relation to the complaint.	28 29
77	Dealing with human rights complaints—generally	30
(1)	If the Commissioner decides to accept a human rights complaint for resolution by the Commission, the Commissioner may take the reasonable action the Commissioner considers appropriate to try to resolve the complaint.	31 32 33
(2)	Without limiting subsection (1), the Commissioner may—	34
(a)	ask the respondent to make submissions to the Commission in writing in response to the complaint, or	35 36
(b)	give the complainant a copy of the respondent's written submissions, or	37
(c)	ask or direct the complainant or respondent to give the Commissioner information relevant to the complaint, or	38 39
(d)	make inquiries of, and discuss the complaint with, the complainant and the respondent, or	40 41
(e)	arrange for the complaint to be conciliated under Subdivision 4.	42
78	Commissioner may ask or direct relevant entities to give information	43
(1)	This section applies in relation to the Commissioner for making preliminary inquiries under section 69 or dealing with a human rights complaint under this division.	44 45

- (2) The Commissioner may, by notice given to a relevant entity for the complaint, ask or direct the entity to give the Commissioner information, including documents, about the complaint within the reasonable period stated in the notice. 1
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- (3) The notice must state the purpose for making the request. 4
- (4) For information in an electronic document, compliance with the request or direction requires the giving of a clear image or written version of the electronic document. 5
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- (5) The entity must comply with a direction unless the entity has a reasonable excuse. 7
- (6) It is a reasonable excuse for an entity to fail to comply with a direction because, for example, complying with the direction would require the entity to disclose information that is the subject of legal professional privilege. 8
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- (7) An individual who refuses or fails to give the Commissioner information in contravention of a notice given under this section is guilty of an offence. 11
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Maximum penalty—113 penalty units. 13
- (8) In this section— 14
relevant entity, for a human rights complaint, means— 15
 - (a) the complainant or respondent for the complaint, or 16
 - (b) another entity the Commissioner considers has information relevant to the complaint in the entity's possession or control. 17
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Subdivision 4 Conciliation of human rights complaints 19

79 Commissioner may conduct conciliation conference 20

If the Commissioner decides to accept a human rights complaint for resolution by the Commission, the Commissioner may conduct a conference (a *conciliation conference*) under this subdivision for the purpose of conciliating the complaint. 21
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80 Purpose of conciliation 24

The purpose of conciliation of a human rights complaint is to promote the resolution of the complaint in a way that is informal, quick and efficient. 25
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81 Attendance at conciliation conference 27

- (1) The Commissioner may direct an individual to take part in a conciliation conference. 28
- (2) The Commissioner may enforce the direction by filing a copy of the direction with a court of competent jurisdiction. 29
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- (3) The direction is then enforceable as if the direction were an order of the court. 31

82 Attendance by complainant 32

- (1) The complainant for a human rights complaint the subject of conciliation may attend the conciliation conference as an individual unless the Commissioner consents to another individual attending the conciliation conference for the complainant. 33
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- (2) The complainant may, with the Commissioner's consent, be accompanied at the conciliation conference by a support person. 36
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- (3) For a person with disability, the Commissioner must allow a support person to attend if the attendance of the support person accords with the complainant's will and preferences. 38
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83 Representation	1
(1) An individual may be represented by another individual (a <i>representative</i>) at a conciliation conference only with the Commissioner's consent.	2 3
(2) The Commissioner may give consent for subsection (1) if satisfied—	4
(a) it is appropriate in the circumstances for the individual to be represented, and	5
(b) the individual's representation by the representative would help the conciliation, and	6 7
(c) the representative has sufficient knowledge of matters relating to the complaint to effectively represent the individual.	8 9
(3) The Commissioner may—	10
(a) give the consent on conditions the Commissioner considers reasonable, and	11
(b) withdraw the consent if the individual or the representative does not comply with the conditions.	12 13
(4) For a person with disability, the Commissioner must allow a support person to attend if the attendance of the support person accords with the complainant's will and preferences.	14 15 16
84 Use of interpreters and other individuals	17
An individual may be helped at a conciliation conference by either or both of the following—	18 19
(a) an interpreter,	20
(b) another individual necessary or desirable to make the conciliation conference accessible to, and inclusive of, the individual, including, for example, an individual with appropriate cultural or social knowledge and experience.	21 22 23
85 Conduct of conciliation conference	24
(1) In conducting a conciliation conference, the Commissioner is not bound by the rules of evidence.	25 26
(2) A conciliation conference must be held in private.	27
86 Confidentiality of conciliation conference	28
Nothing said or done during of a conciliation conference for a human rights complaint is admissible in any criminal, civil or administrative proceeding, unless the complainant and respondent for the complaint agree.	29 30 31
87 Conciliation does not affect other rights	32
An individual's participation in a conciliation conference under this division does not affect a right the individual may have to seek any relief or remedy in relation to a contravention of section 49.	33 34 35
Subdivision 5 Actions for dealing with human rights complaints	36
88 Reports about unresolved human rights complaints	37
(1) This section applies in relation to a human rights complaint accepted by the Commissioner for resolution by the Commission if the Commissioner considers the complaint has not been resolved by conciliation or otherwise.	38 39 40
(2) The Commissioner must prepare a report about the complaint as soon as practicable after the Commission has finished dealing with the complaint.	41 42

(3)	The report must include—	1
(a)	the substance of the complaint, and	2
(b)	the actions taken to try to resolve the complaint.	3
(4)	The report may include details of actions the Commissioner considers the respondent for the complaint should take to ensure the respondent's acts and decisions are compatible with human rights.	4 5 6
(5)	The Commissioner must give a copy of the report to the complainant and respondent.	7
(6)	The report is not admissible in a proceeding in relation to a contravention of this Act, unless the complainant and respondent agree.	8 9
89	Notices about resolved human rights complaints	10
(1)	This section applies in relation to a human rights complaint accepted by the Commissioner for resolution by the Commission if the Commissioner considers the complaint has been resolved.	11 12 13
(2)	The Commissioner must, as soon as practicable after the complaint is resolved, give the complainant and respondent a notice stating—	14 15
(a)	the outcome of the resolution of the complaint, and	16
(b)	that the Commission has finished dealing with the complaint.	17
90	Commissioner may publish information	18
(1)	The Commissioner may publish information about a human rights complaint the Commission has finished dealing with.	19 20
(2)	The publication—	21
(a)	may include the substance of the complaint, and	22
(b)	may draw on information about the complaint contained in a report prepared under Division 3, and	23 24
(c)	must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual.	25 26 27
Division 3	Reporting requirements	28
91	Annual report	29
(1)	As soon as practicable after the end of each financial year, the Commissioner must prepare a report (an <i>annual report</i>) about the operation of this Act during the financial year.	30 31 32
(2)	The report must include the following information for the financial year—	33
(a)	details of any examination of the interaction between this Act and other Acts, statutory instruments and the common law,	34 35
(b)	details of all interventions by the Attorney General or the Commission under section 46 or 47,	36 37
(c)	the number of human rights complaints made or referred to the Commissioner,	38
(d)	the outcome of human rights complaints accepted by the Commissioner for resolution by the Commission, including whether or not the complaints were resolved by conciliation or otherwise,	39 40 41
(e)	the number of human rights complaints resolved by the Commission,	42
(f)	the number of conciliation conferences conducted under this part,	43

(g)	the number of public entities that were asked or directed to take part in a conciliation conference, and the number that failed to comply with a direction to take part,	1 2 3
(h)	the number of human rights complaints received by particular public entities decided by the Commissioner.	4 5
(3)	The report may include other information the Commissioner considers appropriate, including, for example, the names of public entities and details of action, relating to human rights complaints that have not been resolved.	6 7 8
(4)	However, the report must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual.	9 10 11
(5)	The Commissioner must give the report to the Attorney General as soon as practicable after the report is prepared.	12 13
92	Other reports	14
(1)	The Commissioner may prepare a report about a matter relevant to the performance of the Commission's or the Commissioner's functions under this Act.	15 16
(2)	The Commissioner must, if asked by the Attorney General, prepare a report about a matter mentioned in subsection (1).	17 18
(3)	The Commissioner must give a report prepared under subsection (2) to the Attorney General as soon as practicable after the report is prepared.	19 20
(4)	A report prepared under this section must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual.	21 22 23
93	Report containing adverse comment	24
(1)	This section applies if the Commissioner proposes to make an adverse comment about an individual in a report prepared under section 88 or this division.	25 26
(2)	Before preparing the report, the Commissioner must give the individual an opportunity to make submissions to the Commissioner about the proposed adverse comment.	27 28 29
(3)	If the individual makes submissions and the Commissioner still proposes to make the adverse comment, the Commissioner must ensure the individual's response is fairly stated in the report.	30 31 32
(4)	For this section, an adverse comment does not include a statement that a public authority did not participate in resolving a human rights complaint.	33 34
94	Attorney General to table reports	35
	The Attorney General must table a copy of each annual report, and each report given to the Attorney General under section 92, in the Legislative Assembly within 6 sitting days after receiving the report.	36 37 38

Part 7 Review

95	Reporting requirements for certain public entities	2
(1)	This section applies to a public authority that must prepare an annual report.	3
(2)	The entity must include in each annual report—	4
(a)	details of any actions taken during the reporting period to further the objects of this Act, and	5 6
(b)	details of any human rights complaints received by the entity, including—	7
(i)	the number of complaints received, and	8
(ii)	the outcome of the complaints, and	9
(iii)	any other information prescribed by the regulations relating to the complaints, and	10 11
(c)	details of any review of policies, programs, procedures, practices or services undertaken in relation to their compatibility with human rights.	12 13
96	Information requests for reports	14
(1)	The Commissioner may, by notice given to a public authority, ask the entity to give the Commissioner information in the entity's possession or control, other than personal information that is not publicly available, that the Commissioner reasonably requires to prepare an annual report or a report under section 92.	15 16 17 18
(2)	The notice must state—	19
(a)	why the request has been made, and	20
(b)	the period within which the information must be given.	21
(3)	If the Commissioner asks a public authority for information under this section, the entity must comply with the request unless the entity has a reasonable excuse. Maximum penalty—45 penalty units.	22 23 24
(4)	The Commissioner may use information obtained under this section only for the purpose for which it was requested.	25 26
97	Giving of information protected	27
(1)	This section applies if an individual, acting honestly, gives information under this Act to the Commissioner or another entity in relation to a human rights complaint.	28 29
(2)	The individual is not liable, civilly, criminally or under an administrative process, for giving the information.	30 31
(3)	Also, merely because the individual gives the information, the individual must not be held to have—	32 33
(a)	breached any code of professional etiquette or ethics, or	34
(b)	departed from accepted standards of professional conduct.	35
98	Anonymity	36
(1)	If, at any time while the Commissioner is dealing with a human rights complaint, the Commissioner considers that the preservation of anonymity of an individual who is, or has been, involved in the complaint is necessary to protect the work security, privacy or any human right of the individual, the Commissioner may give a direction prohibiting the disclosure of information that identifies, or is likely to lead to the identification of, the individual.	37 38 39 40 41 42

(2)	An individual must comply with a direction unless the individual has a reasonable excuse.	1
	Maximum penalty—90 penalty units.	2
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(3)	In this section, a reference to involvement in a complaint includes—	4
(a)	making a complaint under this Act and continuing with the complaint, and	5
(b)	being a respondent to a complaint, and	6
(c)	giving information to an individual who is performing a function under this Act.	7
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Part 8 Miscellaneous

99 Review of Act

- (1) The Attorney General must review this Act to determine whether—
 - (a) the policy objectives of the Act remain valid, and
 - (b) the terms of the Act remain appropriate for achieving the objectives.
- (2) The review must be conducted—
 - (a) as soon as practicable after the period of 2 years after the commencement of this Act, and
 - (b) by a person who, in the Attorney General's opinion, is independent and appropriately qualified to conduct the review.
- (3) Without limiting subsection (1), the review must include consideration of the following—
 - (a) how this Act could be amended to strengthen the rights of First Nations peoples in New South Wales to self-determination and free, prior and informed consent, consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* adopted by the General Assembly of the United Nations as General Assembly Resolution 61/295 on 13 September 2007,
 - (b) whether additional human rights should be included as human rights under this Act, including rights under the—
 - (i) *International Covenant on Economic, Social and Cultural Rights* adopted by the General Assembly of the United Nations as General Assembly Resolution 2200A (XXI) on 16 December 1966, and
 - (ii) *Convention on the Rights of the Child* done at New York on 20 November 1989 ([1991] ATS 4), as amended and in force for Australia from time to time, and
 - (iii) *Convention on the Rights of Persons with Disabilities* done at New York on 13 December 2006 ([2008] ATS 12), as amended and in force for Australia from time to time, and
 - (iv) *Convention on the Elimination of all Forms of Discrimination against Women* done at New York on 18 December 1979 ([1983] ATS 9), as amended and in force for Australia from time to time,
 - (c) whether further or different provision should be included in this Act about proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public entities made unlawful because of this Act.
- (4) The conduct of the review must include public consultation about the matters referred to in subsection (3).
- (5) A report on the outcome of the review must be tabled in each House of Parliament within 14 sitting days after the report is given to the Attorney General.

100 Approved forms

The Secretary of the Department in which this Act is administered may approve forms for use under this Act.

101 Regulations

The Governor may make regulations about the following—

- (a) matters that under this Act are required or permitted to be prescribed,

- (b) matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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Schedule 1 Sources of international human rights law

the <i>Convention on the Prevention and Punishment of the Crime of Genocide</i> done at Paris on 9 December 1948 ([1951] ATS 2), as amended and in force for Australia from time to time, and	1 2 3
the <i>Convention relating to the Status of Refugees</i> done at Geneva on 28 July 1951 ([1954] ATS 5), as amended by the <i>Protocol Relating to the Status of Refugees</i> done at New York 23 on 31 January 1967 ([1973] ATS 37), and as otherwise amended and in force for Australia from time to time, and	4 5 6 7
the <i>International Convention on the Elimination of all Forms of Racial Discrimination</i> done at New York on 7 March 1966 ([1975] ATS 40), as amended and in force for Australia from time to time, and	8 9 10
the <i>International Covenant on Economic, Social and Cultural Rights</i> done at New York on 16 December 1966 ([1976] ATS 5), as amended and in force for Australia from time to time, and	11 12
the <i>International Covenant on Civil and Political Rights</i> done at New York on 16 December 1966 ([1980] ATS 23), as amended and in force for Australia from time to time, and	13 14
the <i>Convention on the Elimination of all Forms of Discrimination against Women</i> done at New York on 18 December 1979 ([1983] ATS 9), as amended and in force for Australia from time to time, and	15 16 17
the <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> done at New York on 10 December 1984 ([1989] ATS 21), as amended and in force for Australia from time to time, and	18 19 20
the <i>Convention on the Rights of the Child</i> done at New York on 20 November 1989 ([1991] ATS 4), as amended and in force for Australia from time to time, and	21 22
the <i>Convention on the Rights of Persons with Disabilities</i> done at New York on 13 December 2006 ([2008] ATS 12), as amended and in force for Australia from time to time, and	23 24
the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> adopted by the General Assembly of the United Nations as General Assembly Resolution 61/295 on 13 September 2007, and	25 26 27
the <i>United Nations Principles for Older Persons</i> adopted by the General Assembly of the United Nations as General Assembly Resolution 46/91 on 16 December 1991, and	28 29
<i>The human right to a clean, healthy and sustainable environment</i> adopted by the General Assembly of the United Nations as General Assembly Resolution 76/300 on 28 July 2022.	30 31

Schedule 2 Savings, transitional and other provisions

1

Part 1 General

2

1 Regulations

3

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
 - (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after that commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after that commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before that commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before the provision's publication on the NSW legislation website does not—
 - (a) affect the rights of an individual existing before the publication in a way prejudicial to the individual, or
 - (b) impose liabilities on an individual for anything done or omitted to be done before the publication.
- (6) In this section—
individual does not include the State or an authority of the State.

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Schedule 3 Dictionary

annual report	—see section 91(1).	1
child	means an individual under 18 years of age.	2
Commission	means the New South Wales Human Rights Commission.	3
Commissioner	means the New South Wales Human Rights Commissioner.	4
Committee	means the Parliamentary Joint Committee on Human Rights.	5
compatible with human rights	—see section 7.	6
conciliation conference	—see section 79.	7
Court	means the Supreme Court of New South Wales.	8
exercise	a function, includes perform a duty.	9
First Nations peoples	means persons who—	10
(a)	are of Aboriginal or Torres Strait Islander descent, or	11
(b)	identify as Aboriginal persons or Torres Strait Islanders, or	12
(c)	are accepted as Aboriginal persons by an Aboriginal community or as Torres Strait Islanders by a Torres Strait Islander community.	13
function	includes a power, authority and duty.	14
guardian	has the same meaning as in the <i>Family Law Act 1975</i> of the Commonwealth.	15
human rights	means the rights and freedoms stated in Part 2, Division 2.	16
human rights complaint	—see section 64.	17
international human rights law	includes the obligations and principles expressed in the sources of international human rights law set out in Schedule 1.	18
LGBTIQA+ people	means lesbian, gay, bisexual, transgender, intersex, queer and asexual people, or people otherwise diverse in gender, sexual orientation or innate variations of sex characteristics.	19
public authority	—see section 8.	20
referral entity	—see section 67(1).	21
servitude	has the same meaning as in the <i>Modern Slavery Act 2018</i> .	22
slavery	has the same meaning as in the <i>Modern Slavery Act 2018</i> .	23
statutory provision	means an Act or statutory instrument or a provision of an Act or statutory instrument.	24
torture	—	25
(a)	means an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of a public official or another person acting in an official capacity—	26
(i)	for the purposes of obtaining from the person or a third person information or a confession, or	27
(ii)	for the purposes of punishing the person for an act the person or a third person has committed or is suspected of having committed, or	28
(iii)	for the purposes of intimidating or coercing the person or a third person, or	29
(iv)	for any reason based on discrimination of any kind, but	30

(b)	does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.	1
		2
<i>Tribunal</i>	means the Civil and Administrative Tribunal.	3
<i>victim</i>	—	4
(a)	has the same meaning as victim of crime in the <i>Victims Rights and Support Act 2013</i> , and	5
(b)	includes survivor.	6