



FACT SHEET:

Property rights

Section 24 of the *Human Rights Act 2019*

Section 24 of the *Human Rights Act 2019* says that:

1. All persons have the right to own property alone or in association with others.
2. A person must not be arbitrarily deprived of the person's property.

The Human Rights Act protects people from having their property unlawfully removed.

This right is based on Article 17 of the Universal Declaration of Human Rights.

Scope of the right

This right protects the right of all people to own property alone or with others. It provides that a person must not be arbitrarily deprived of their property. This right does not include a right to compensation if a person is deprived of their property.

Like all rights in the Act, property rights can be limited where it is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

When this right could be relevant

Section 24 could be relevant to laws, policies, acts or decisions that:

- provide for acquisition, seizure or forfeiture of a person's property under civil or criminal law;
- confer on a public authority a right of access to private property;
- limit or terminate property rights;
- restrict the use of private property (for example, under planning laws);
- restrict or regulate established patterns of access (especially for commercial or business purposes) to public property;
- implement government control over its own property (for example, resumption of land);
- impound or suspend registration of a motor vehicle.

Example

No examples exist yet in Queensland, but this right has been tested interstate.

PLANNING DECISIONS IN ACCORDANCE WITH THE LAW **(*Swancom Pty Ltd v Yarra CC [2009] VCAT 923*)**

Swancom (operators of an hotel) applied for an existing planning permit to be changed. They wanted to extend trading hours in the hotel beer garden from 11:30pm until 3am, and to increase patron numbers from 750 to 1300.

The Victorian Civil and Administrative Tribunal heard the case. VCAT held that the application to extend hours and patron numbers should fail. The Tribunal held that while refusing the application might arguably interfere with Swancom's broader property rights, section 20 of the Charter only provides that a person must not be deprived of property 'other than in accordance with law'. The Tribunal was of the opinion that the imposition of reasonable restrictions on the use or development of the land under the regulatory framework is in accordance with the law, and therefore is not unlawful or arbitrary.

This factsheet is not intended to be a substitute for legal advice.

