

Rights Removal Bill*: Key Concerns



Removing the duty to apply laws to respect human rights ("Section 3 duty")

*We think this is a more suitable name for the Government's new "bill of rights" Bill.

Section 3 of our Human Rights Act is a key legal duty. It means that Government and the public bodies making decisions about our lives must apply other laws and policies in a way that upholds our rights so far as possible. When this doesn't happen, individuals can seek justice in the courts. Whilst courts can never overrule an Act of Parliament, where possible they can apply other laws compatibly with human rights. This is a key form of accountability that makes us all stronger in a healthy democracy.

The Rights Removal Bill will repeal section 3 of our Human Rights Act meaning that the duty to interpret laws to support people's human rights will be removed (see paragraph 2 of Schedule 5 Bill of Rights Bill).

THE PUBLIC & INDEPENDENT REVIEW SAID...

In the public consultation, 79% said there should be no change to section 3.

The Independent Review said: "There is no substantive case for its repeal or amendment [of section 3] ...any damaging perceptions as to the operation of section 3 are best dispelled by increased data as to its usage."

THE GOVERNMENT SAYS ...

— “
The balance between our domestic institutions is right, by repealing section 3 to ensure that UK courts can no longer alter legislation contrary to its ordinary meaning and the overall purpose of the law.
” —

BIHR SAYS ...

This a deliberate misrepresentation of how our Human Rights Act currently works in order to seize power for government.

The courts have a crucial role in ensuring other laws are applied in a way which respects everyone's human rights. This is fundamental to ensuring our Human Rights Act is a living document.

Imagine a world where the courts are not able to interpret legislation from 30 years ago compatibly with how we live now and with our human rights as the lens through which to do that. This is the world of the new Rights Removal Bill.

Any move to reduce the compatibility under section 3 will inevitably lead to legislation which is NOT compatible.

A response from BIHR's Human Rights Act Reform Survey

The British Institute of Human Rights

bihr.org.uk



[Click here to visit our Rights Removal Bill Hub for more information.](#)

Rights Removal Bill: Key Concerns

Removing the duty to apply laws to respect human rights ("Section 3 duty")



Section 3 is there to make sure other laws uphold human rights and vice versa, any changes to this can't be good. It ensures safeguarding and protection, so there is no need to amend it in any way.

A response from BIHR's Human Rights Act Reform Survey



[Read our blog about why the Human Rights Act and section 3 matters to social workers.](#)

Section 3 is integral to making sure human rights protections are real for people every day. Section 3 is used by public officials to make rights-respecting decisions when they navigate and apply other laws, such as mental health law or child protection laws. This improves our interactions with public bodies and reduces the need for legal challenge. Removing section 3 removes this duty and will have serious consequences for human rights culture within public bodies, affecting all of us every day.



[Read about the importance of Section 3 in Kirsten's Story, a parent who secures her son's release from a mental health unit.](#)

It seems that laws that have previously been applied in a way that respects our human rights by courts and public bodies using section 3, will no longer be applied in that way. The only exception being if Ministers decide to 'save' a human rights compatible court interpretation of a law. This means lots of laws which could be human rights respecting, and have been applied in a human rights respecting way by public bodies, suddenly will not be.

This not only restricts our human rights and means more human rights breaches, but also puts public bodies and their staff in an incredibly difficult and confusing position.



[Read our blog on why the Human Rights Act and Section 3 matter to children with special educational needs and disabilities.](#)

From our work we know that public body staff want to respect human rights in their decision-making. We also know that clarity is crucial for public bodies, knowing what laws to apply and how to interpret them for the situation before them. The Bill jeopardises both of these.

Repealing section 3 does nothing to improve rights protections for people and everything to increase the power of the state and reduce their accountability in how they treat people interacting with state services.

The Government's new Rights Removal Bill jeopardises the ability of public body staff to make human rights-respecting decisions, every day. Laws will suddenly have to be interpreted in different and unknown ways, creating chaos. It will leave people who rely on services like health, education, housing in a hugely uncertain position, with less control over their lives, removing the ability to practically challenge decisions that put their rights at risk. This takes us backwards.