

Form 12 – Application for a constitutional or other writ

Note: see rule 25.01.1.

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

JAN MAREK KANT
Plaintiff

and

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
Defendant

APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT

The plaintiff applies for the relief set out in Part I below on the grounds set out in Part II below.

Part I: Form of orders sought

1. The Plaintiff seeks a writ or an injunction requiring the Defendant do all things necessary to have the Plaintiff's complaint UR/CAT/24/AUS/13 resolved, without delay, in accordance with Article 22 of *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.
2. The Plaintiff seeks a writ or an injunction requiring the Defendant do all things necessary to have the Plaintiff's complaint UR/CCPR/24/AUS/22 resolved, without delay, in accordance with the Optional Protocol to *International Covenant on Civil and Political Rights*.
3. The Plaintiff claims interlocutory relief in form of orders allowing this application and supporting affidavits be served on the Defendant by sending a sealed copy of the documents by email to ohchr-InfoDesk@un.org or by prepaid post to:

Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10, Switzerland

Part II: Grounds of application

4. The Defendant is submitted to jurisdiction of the Court by 3(a) of A/RES/48/141.
5. The Defendant has a duty to bring individual complaints to resolution in accordance with Article 22 of *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the Optional Protocol to *International Covenant on Civil and Political Rights*.
6. The Defendant is in breach of his duty to deal with individual complaints made by the Plaintiff in accordance with relevant treaty provisions.
7. Effecting personal service of this application and supporting affidavits on the Defendant is not reasonably practicable.

Part III: **Remittal**

8. This application should be remitted, for joinder of claims, to the Federal Court.

Part IV: **Factual background**

9. In March of 2024, the Plaintiff produced to the *Office of the United Nations High Commissioner for Human Rights* an individual communication for submission to the *Committee against Torture* in accordance with the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* adopted 10 Dec 1984 by General Assembly resolution 39/46. Also in March of 2024, the Plaintiff produced to the *Office of the United Nations High Commissioner for Human Rights* an individual communication for submission to the *Human Rights Committee* in accordance with the *Optional Protocol to the International Covenant on Civil and Political Rights* adopted 17 Dec 1966 by General Assembly resolution 2200A (XXI). The Defendant acknowledged receipt of these complaints in March 2024 but has otherwise failed to bring them to resolution in compliance with relevant treaty provisions.

Part V: **Argument in brief**

10. The Defendant failed to properly discharge his duties under treaties to which Australia is a State Party.
11. The Defendant failed to properly discharge his duties under *Privacy Act 1988*.
12. *A/RES/48/141* by necessary implication invests the Courts with power to command the performance of any duty by the Defendant. By writ of *mandamus* or by injunction, the Court may compel the proper discharge of duties by the Defendant.
13. By prerogative writ issued without precedent, in accordance with s. 33 *Judiciary Act 1903* and s. 75 of the Constitution, the Courts may compel the proper discharge of duties under treaty by the Defendant.
14. The Courts may by injunction compel the proper discharge of duties under treaties by the Defendant.
15. The Courts may by injunction compel the proper discharge of duties under *Privacy Act 1988* by the Defendant.
16. The Plaintiff intends to join to this application claims to remedy under 25(1) & 25A(2) *Privacy Act 1988* when the matter is remitted to the Federal Court. By effect of 12B(2) *Privacy Act 1988* and Articles 2.3 & 14.1 of *International Covenant on Civil and Political Rights*, the Plaintiff may claim such remedy without a finding of guilt in relation to offences against Part IIIA *Privacy Act 1988* or a *civil penalty order* made against the Defendant. *Privacy Act 1988* also has the effect it would have if its operation in relation to the *regulated entities* were expressly confined to conduct engaged in by *regulated entities* in the course of banking; “*credit reporting*” is a practice engaged in by *regulated entities* in the course of banking and Part IIIA *Privacy Act 1988* thus applies generally to conduct of *regulated entities* such as the Defendant.
17. The Plaintiff intends to join to this application claims in the alternative under s. 121 *Regulatory Powers (Standard Provisions) Act 2014* when the matter is remitted to the Federal Court. By effect of 12B(2) & 80W(1) *Privacy Act 1988*, any person may apply to the Federal Court for an injunction requiring things be done as necessary for giving effect to rights recognised in *International Covenant*

on *Civil and Political Rights. Privacy Act 1988* has extra-territorial application.

18. The *International Covenant on Civil and Political Rights* and *First Optional Protocol* thereto are incorporated into Australian law by *Australian Human Rights Commission Act 1986* and *Privacy Act 1988*. The Courts must develop the common law as necessary to implement these treaties.
19. By necessary implication of s. 33A *Judiciary Act 1903*, neither the award in an arbitration nor the process by which it's awarded need be provided for by a *Rule of the High Court* before the process issues and award is ordered. The process sought by the Plaintiff is "*permitted*" by *Rules of Court*; further, the s. 31 *Judiciary Act 1903* requirement that the High Court only direct the issue of process as is *permitted* or prescribed by an Act or *Rules of Court* applies only to process issued for the execution of a judgment in some part of the Commonwealth.
20. The High Court, in the exercise of its original jurisdiction, has power to grant all such remedies whatsoever as the Plaintiff is entitled to in respect of any legal or equitable claim properly brought forward by him. The Plaintiff's claims are properly brought forward in the High Court's original jurisdiction. cl. 29 *Magna Carta 1297* requires the Courts do Justice in this matter.
21. *Privacy Act 1988*, by effect of section 12B of the Act, requires the Courts determine this application.

Part VI: **Costs**

22. Costs should not be ordered against the Plaintiff because this application is a test case in the public interest


Part VII: **Authorities**

23. *Dietrich v The Queen* [1992] HCA 57 at [17 – 20], [45 – 46] & [133 – 134]
24. *R (UNISON) v Lord Chancellor* [2017] UKSC 51 at [74 – 75]
25. *Aldridge v Johnston* [2020] SASFC 31 at [4]

Part VIII: **Constitutional and statutory provisions**

26. Relevant constitutional and statutory provisions appear in the annex.

Dated 21 February 2025

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 Plaintiff

To: The Defendant

TAKE NOTICE: Before taking any step in the proceeding you must, within **14 DAYS** from service of this application enter an appearance and serve a copy on the plaintiff.

The plaintiff is self-represented.

IN THE HIGH COURT OF AUSTRALIA
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Plaintiff

and

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS
Defendant

APPLICATION FOR A CONSTITUTIONAL OR OTHER WRIT - ANNEX

Part VIII – constitutional and statutory provisions

Paragraph 51(xxix.) of the Constitution

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

(xxix.) External affairs:

Paragraph 51(xxxix.) of the Constitution

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

(xxxix.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

Section 61 of the Constitution

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

Section 71 of the Constitution

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

Section 75 of the Constitution

In all matters—

- (i.) Arising under any treaty:
- (ii.) Affecting consuls or other representatives of other countries:
- (iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
- (iv.) Between States, or between residents of different States, or between a State and a resident of another State:
- (v.) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

the High Court shall have original jurisdiction.

Clause 29 of Magna Carta 1297 (Imperial)

NO Freeman shall be taken or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any other wise destroyed; nor will We not pass upon him, nor deal with him, but by lawful judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right.

Section 16 of Judiciary Act 1903

The jurisdiction of the High Court may be exercised by a Justice sitting other than in open court in the cases following:

- (a) Applications relating to the conduct of a cause or matter;
- (b) Applications relating to the custody management or preservation of property, or to the sale of property and the disposition of the purchase money;
- (c) Applications for orders or directions as to any matter which by this Act or by Rules of Court is made subject to the direction of a Justice sitting other than in open court;
- (d) Any other applications which by this or any Act or by Rules of Court are authorized to be made to a Justice sitting other than in open court.

But on the application of either party the Justice may order the application to be adjourned into Court and heard in open Court

Subsection 25A(1) of Judiciary Act 1903

The High Court may give judgment for one party against another in relation to the whole or any part of a proceeding if:

- (a) the first party is prosecuting the proceeding or that part of the proceeding; and
- (b) the Court is satisfied that the other party has no reasonable prospect of successfully defending the proceeding or that part of the proceeding.

Section 31 of Judiciary Act 1903

The High Court in the exercise of its original jurisdiction may make and pronounce all such judgments as are necessary for doing complete justice in any cause or matter pending before it, and may for the execution of any such judgment in any part of the Commonwealth direct the issue of such process, whether in use in the Commonwealth before the commencement of this Act or not, as is permitted or prescribed by this or any Act or by Rules of Court.

Section 32 of Judiciary Act 1903

The High Court in the exercise of its original jurisdiction in any cause or matter pending before it, whether originated in the High Court or removed into it from another Court, shall have power to grant, and shall grant, either absolutely or on such terms and conditions as are just, all such remedies whatsoever as any of the parties thereto are entitled to in respect of any legal or equitable claim properly brought forward by them respectively in the cause or matter; so that as far as possible all matters in controversy between the parties regarding the cause of action, or arising out of or connected with the cause of action, may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters may be avoided.

Subsection 33(1) of Judiciary Act 1903

The High Court may make orders or direct the issue of writs:

- (a) commanding the performance by any court invested with federal jurisdiction, of any duty relating to the exercise of its federal jurisdiction; or
- (b) requiring any court to abstain from the exercise of any federal jurisdiction which it does not possess; or
- (c) commanding the performance of any duty by any person holding office under the Commonwealth; or
- (d) removing from office any person wrongfully claiming to hold any office under the Commonwealth; or
- (e) of mandamus; or
- (f) of habeas corpus.

Subsection 33(2) of Judiciary Act 1903

This section shall not be taken to limit by implication the power of the High Court to make any order or direct the issue of any writ.

Section 33A of Judiciary Act 1903

The High Court may by order direct that an award in an arbitration in respect of any matter over which the High Court has original jurisdiction, or in respect of which original jurisdiction may be conferred upon the High Court, shall be a Rule of the High Court.

Paragraph 38(a) of Judiciary Act 1903

Subject to sections 39B and 44, the jurisdiction of the High Court shall be exclusive of the jurisdiction of the several Courts of the States in the following matters:

- (a) matters arising directly under any treaty;

Subsection 44(2) of Judiciary Act 1903

Where a matter referred to in paragraph 38(a), (b), (c) or (d) is at any time pending in the High Court, the High Court may, upon the application of a party or of the High Court's own motion, remit the matter, or any part of the matter, to the Federal Court of Australia or any court of a State or Territory.

Subsection 44(3) of Judiciary Act 1903

Where the High Court remits a matter, or any part of a matter, under subsection (2) or (2A) to a court:

- (a) that court has jurisdiction in the matter, or in that part of the matter, as the case may be; and
- (b) subject to any directions of the High Court, further proceedings in the matter, or in that part of the matter, as the case may be, shall be as directed by that court.

Subsection 44(4) of Judiciary Act 1903

The High Court may remit a matter, or any part of a matter, under this section without an oral hearing.

Subsection 79(1) of Judiciary Act 1903

The laws of each State or Territory, including the laws relating to procedure, evidence, and the competency of witnesses, shall, except as otherwise provided by the Constitution or the laws of the Commonwealth, be binding on all Courts exercising federal jurisdiction in that State or Territory in all cases to which they are applicable.

Section 3 of The Schedule of Statute of Westminster Adoption Act 1942

It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

“Australia” in subsection 3(1) of Australian Human Rights Commission Act 1986

In this Act, unless the contrary intention appears:

Australia includes the external Territories.

“human rights” in subsection 3(1) of Australian Human Rights Commission Act 1986

In this Act, unless the contrary intention appears:

human rights means the rights and freedoms recognised in the Covenant, declared by the Declarations or recognised or declared by any relevant international instrument.

Subsection 3(4) of Australian Human Rights Commission Act 1986

In the definition of **human rights** in subsection (1):

- (a) the reference to the rights and freedoms recognised in the Covenant shall be read as a reference to the rights and freedoms recognised in the Covenant as it applies to Australia; and
- (b) the reference to the rights and freedoms recognised or declared by any relevant international instrument shall:
 - (i) in the case of an instrument (not being a declaration referred to in subparagraph (ii)) that applies to Australia—be read as a reference to the rights and freedoms recognised or declared by the instrument as it applies to Australia; or
 - (ii) in the case of an instrument being a declaration made by an international organisation that was adopted by Australia—be read as a reference to the rights and freedoms recognised or declared by the declaration as it was adopted by Australia.

Subsection 3(5) of Australian Human Rights Commission Act 1986

A reference in this Act to the making of a declaration by an international organisation shall be read as a reference to the making or adopting of a declaration, proclamation or other statement by such an organisation in any way, whether by the passing of a resolution, the issuing of an instrument or otherwise.

Subsection 3(6) of Australian Human Rights Commission Act 1986

A reference in this Act to the adoption by Australia of an international instrument being a declaration made by an international organisation shall be read as a reference to the casting by Australia of a vote in favour of the making of the declaration by the organisation at the meeting of the organisation at which the declaration was made or to the giving of some other public notification by Australia expressing its support for the declaration.

Introductory words in Schedule 2 of Australian Human Rights Commission Act 1986

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Article 2, paragraph 1 in Schedule 2 of Australian Human Rights Commission Act 1986

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2, paragraph 2 in Schedule 2 of Australian Human Rights Commission Act 1986

Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Article 2, paragraph 3 in Schedule 2 of Australian Human Rights Commission Act 1986

Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 5, paragraph 1 in Schedule 2 of Australian Human Rights Commission Act 1986

Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

Article 5, paragraph 2 in Schedule 2 of Australian Human Rights Commission Act 1986

There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Article 14, paragraph 1 in Schedule 2 of Australian Human Rights Commission Act 1986

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

Article 36 in Schedule 2 of Australian Human Rights Commission Act 1986

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37, paragraph 2 in Schedule 2 of Australian Human Rights Commission Act 1986

After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

Article 38 in Schedule 2 of Australian Human Rights Commission Act 1986

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39, paragraph 2(b) in Schedule 2 of Australian Human Rights Commission Act 1986

The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

- (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 44 in Schedule 2 of Australian Human Rights Commission Act 1986

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 46 in Schedule 2 of Australian Human Rights Commission Act 1986

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant

Subsection 5B(1A) of Privacy Act 1988

This Act, a registered APP code and the registered CR code extend to an act done, or practice engaged in, outside Australia and the external Territories by an organisation, or small business operator, that has an Australian link.

Paragraph 5B(2)(b) of Privacy Act 1988

An organisation or small business operator has an *Australian link* if the organisation or operator is:

- (b) a person whose continued presence in Australia is not subject to a limitation as to time imposed by law; or

Paragraph (g) of “agency” in subsection 6(1) of Privacy Act 1988

In this Act, unless the contrary intention appears:

agency means:

- (g) a federal court; or

“APP entity” in subsection 6(1) of Privacy Act 1988

In this Act, unless the contrary intention appears:

APP entity means an agency or organisation.

Subsection 6(4) of Privacy Act 1988

The definition of *individual* in subsection (1) shall not be taken to imply that references to persons do not include persons other than natural persons.

Subsection 6A(1) of Privacy Act 1988

For the purposes of this Act, an act or practice *breaches* an Australian Privacy Principle if, and only if, it is contrary to, or inconsistent with, that principle.

Also, Subsection 6A(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

For the purposes of this Act, conduct *breaches* a provision of Schedule 1 of the Act if, and only if, it is contrary to, or inconsistent with that provision.

Subsection 6C(1) of Privacy Act 1988

In this Act:

organisation means:

- (a) an individual; or
- (b) a body corporate; or
- (c) a partnership; or
- (d) any other unincorporated association; or
- (e) a trust;

that is not a small business operator, a registered political party, an agency, a State or Territory authority or a prescribed instrumentality of a State or Territory.

Subsection 12B(1) of Privacy Act 1988

Without limiting its effect apart from this section, this Act has effect in relation to the following (the regulated entities) as provided by this section:

- (a) an agency;
- (b) an organisation;
- (c) a small business operator;
- (d) a body politic.

Paragraph 12B(2)(a) of Privacy Act 1988

This Act also has the effect it would have if its operation in relation to regulated entities were expressly confined to an operation to give effect to the following:

- (a) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23), and in particular Articles 17 and 24(1) of the Covenant;

Subsection 12B(3) of Privacy Act 1988

This Act also has the effect it would have if its operation in relation to regulated entities were expressly confined to acts or practices covered by section 5B (which deals with acts and practices outside Australia and the external Territories).

Subsection 12B(4) of Privacy Act 1988

This Act also has the effect it would have if its operation in relation to regulated entities were expressly confined to regulated entities that are corporations.

Paragraph 12B(5A)(a) of Privacy Act 1988

This Act also has the effect it would have if its operation in relation to regulated entities were expressly confined to acts or practices engaged in by regulated entities in the course of:

- (a) banking (other than State banking not extending beyond the limits of the State concerned);

Paragraph 13(1)(a) of Privacy Act 1988

An act or practice of an APP entity is an interference with the privacy of an individual if:

- (b) the act or practice breaches an Australian Privacy Principle in relation to personal information about the individual; or

Also, Subsection 13(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

Conduct engaged in by a federal court is a violation of rights or freedoms recognised in the Covenant if it breaches a provision of Schedule 1 of the Act.

Also, Subsection 13(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

Conduct engaged in by the *Office of the United Nations High Commissioner for Human Rights* is a violation of rights or freedoms recognised in the Covenant if it breaches a provision of Schedule 1 of the Act.

Also, Subsection 13(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

Conduct engaged in by the *United Nations High Commissioner for Human Rights* is a violation of rights or freedoms recognised in the Covenant if it breaches a provision of Schedule 1 of the Act.

Section 15 of Privacy Act 1988

An APP entity must not do an act, or engage in a practice, that breaches an Australian Privacy Principle.

Also, Section 15 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

A federal court must not engage in conduct that breaches a provision of Schedule 1 of the Act.

Also, Section 15 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

The *Office of the United Nations High Commissioner for Human Rights* must not engage in conduct that breaches a provision of Schedule 1 of the Act.

Also, Section 15 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

The *United Nations High Commissioner for Human Rights* must not engage in conduct that breaches a provision of Schedule 1 of the Act.

Subsection 66(1) of Privacy Act 1988

A person contravenes this subsection if:

- (a) the person is required to give information, answer a question or produce a document or record under this Act; and
- (b) the person refuses or fails to do so.

Civil penalty: 60 penalty units.

Also, Subsection 66(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

The *Office of the United Nations High Commissioner for Human Rights* contravenes this subsection if:

- (a) the *Office of the United Nations High Commissioner for Human Rights* is requested by an individual to do something required for giving effect to a right or freedom recognised in the Covenant; and,
- (b) the *Office of the United Nations High Commissioner for Human Rights* refuses or fails to do so.

Civil penalty: 60 penalty units.

Also, Subsection 66(1) of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

The *United Nations High Commissioner for Human Rights* contravenes this subsection if:

- (a) the *United Nations High Commissioner for Human Rights* is requested by an individual to do something required for giving effect to a right or freedom recognised in the Covenant; and,
- (b) the *United Nations High Commissioner for Human Rights* refuses or fails to do so.

Civil penalty: 60 penalty units.

Subsection 66(1A) of Privacy Act 1988

A person commits an offence if:

- (a) the person is a corporation; and
- (b) the person engages in conduct that constitutes a system of conduct or a pattern of behaviour; and
- (c) the system of conduct or pattern of behaviour results in 2 or more contraventions of subsection (1).

Penalty: 300 penalty units.

Also, Subsection 66(1A) of Privacy Act 1988, by effect of 12B(2)(a) & 12B(4) of Privacy Act 1988

The *Office of the United Nations High Commissioner for Human Rights* commits an offence if:

- (a) the *Office of the United Nations High Commissioner for Human Rights* is an entity of a kind mentioned in subsection 12B(1); and
- (b) the *Office of the United Nations High Commissioner for Human Rights* engages in conduct that constitutes a system of conduct or a pattern of behaviour; and
- (c) the system of conduct or pattern of behaviour results in 2 or more contraventions of subsection (1).

Penalty: 300 penalty units.

Also, Subsection 66(1A) of Privacy Act 1988, by effect of 12B(2)(a) & 12B(4) of Privacy Act 1988

The *United Nations High Commissioner for Human Rights* commits an offence if:

- (a) the *United Nations High Commissioner for Human Rights* is an entity of a kind mentioned in subsection 12B(1); and
- (b) the *United Nations High Commissioner for Human Rights* engages in conduct that constitutes a system of conduct or a pattern of behaviour; and
- (c) the system of conduct or pattern of behaviour results in 2 or more contraventions of subsection (1).

Penalty: 300 penalty units.

Subsection 80W(1) of Privacy Act 1988

The provisions of this Act are enforceable under Part 7 of the Regulatory Powers Act.

Paragraph 80W(3)(a) of Privacy Act 1988

For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):

- (a) the Federal Court;

Subsection 98B(1) of Privacy Act 1988

If, apart from this subsection, this Act would impose an obligation on an unincorporated association, the obligation is imposed instead on each member of the association's committee of management but may be discharged by any of the members.

12.1 of Schedule 1 of Privacy Act 1988

If an APP entity holds personal information about an individual, the entity must, on request by the individual, give the individual access to the information.

Also, 12.1 of Schedule 1 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

If it is capable of doing so, a federal court must, on request by an individual, do a thing required for giving effect to a right or freedom recognised in the Covenant.

Also, 12.1 of Schedule 1 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

If it is capable of doing so, the *Office of the United Nations High Commissioner for Human Rights* must, on request by an individual, do a thing required for giving effect to a right or freedom recognised in the Covenant.

Also, 12.1 of Schedule 1 of Privacy Act 1988, by effect of 12B(2)(a) of Privacy Act 1988

If he is capable of doing so, the *United Nations High Commissioner for Human Rights* must, on request by an individual, do a thing required for giving effect to a right or freedom recognised in the Covenant.

Section 5 of Charter of Human Rights and Responsibilities Act 2006 of Victoria

A right or freedom not included in this Charter that arises or is recognised under any other law (including international law, the common law, the Constitution of the Commonwealth and a law of the Commonwealth) must not be taken to be abrogated or limited only because the right or freedom is not included in this Charter or is only partly included.

Paragraph 6(2)(b) of Charter of Human Rights and Responsibilities Act 2006 of Victoria

This Charter applies to—

- (b) courts and tribunals, to the extent that they have functions under Part 2 and Division 3 of Part 3; and

Subsection 32(1) of Charter of Human Rights and Responsibilities Act 2006 of Victoria

So far as it is possible to do so consistently with their purpose, all statutory provisions must be interpreted in a way that is compatible with human rights.

Subsection 32(2) of Charter of Human Rights and Responsibilities Act 2006 of Victoria

International law and the judgments of domestic, foreign and international courts and tribunals relevant to a human right may be considered in interpreting a statutory provision.