

Section 7-14 : Legal Rights

Section 7

Everyone has the right to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Sections 7 to 14 set out rights that protect us in our dealings with the justice system. They ensure that individuals who are involved in legal proceedings are treated fairly, especially those charged with a criminal offence.

Section 7 guarantees the life, liberty and personal security of all Canadians. It also demands that governments respect the basic principles of justice whenever it intrudes on those rights. *Section 7* often comes into play in criminal matters because an accused person clearly faces the risk that, if convicted, his or her liberty will be lost.

As an example of the effect of *Section 7*, the Supreme Court of Canada has ruled that individuals may not be sent to prison unless there is some proof that they did something wrong. To imprison a person who has acted reasonably would offend the principles of fundamental justice.

Section 8

Everyone has the right to be secure against unreasonable search or seizure.

The purpose of *Section 8*, according to the Supreme Court of Canada, is to protect a reasonable expectation of privacy. This means that those who act on behalf of a government, such as police officers, must carry out their duties in a fair and reasonable way. They cannot enter private property or take things from others unless they can show that they have a good reason. In most cases, they are allowed to enter private property to look for evidence or to seize things only if they have been given a search warrant by a judge. On the other hand, government inspectors may enter business premises without a warrant to check whether government regulations are being observed.

Section 9

Everyone has the right not to be arbitrarily detained or imprisoned.

This section says that government officials cannot take individuals into custody or hold them there without a good reason. A police officer, for example, must have reasonable grounds for detaining a person. However, courts have stated that laws allowing officers to stop drivers for breath tests are reasonable and do not violate the Charter.

Section 10

Everyone has the right on arrest or detention

1. **to be informed promptly of the reasons therefor;**

2. **to retain and instruct counsel without delay and to be informed of that right; and**
3. **to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.**

The rights in section 10 apply when a person is arrested or detained. They ensure that people under arrest have a chance to challenge the lawfulness of their arrest. The police must tell them immediately the reasons for their arrest. These people also have the right to talk to a lawyer to get legal advice about their situation, and the police must tell them what legal aid services are available in their area. Persons under arrest also have the right to ask a judge to decide whether their arrest was legal and, if it was not, to order their release.

Section 11

Any person charged with an offence has the right

1. **to be informed without unreasonable delay of the specific offence;**
2. **to be tried within a reasonable time;**
3. **not to be compelled to be a witness in proceedings against that person in respect of the offence;**
4. **to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;**
5. **not to be denied reasonable bail without just cause;**
6. **except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;**
7. **not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;**
8. **if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and**
9. **if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.**

Section 11 sets out several important rules that protect anyone charged with an offence under federal or provincial law.

Persons accused of a crime must be told promptly what offence they are charged with (s. 11(a)); their trials must take place within a reasonable time (s. 11(b)); and they cannot be forced to testify at their own trials (s. 11(c)).

Anyone accused of breaking the law is presumed to be innocent until proven guilty. This means that the prosecution must prove beyond a reasonable doubt that the person committed the offence, before he or she can be found guilty. The trial must also be conducted fairly before a court which is unbiased and independent of political or any other influence (s. 11(d)). A fair trial ensures that the rights of the accused are properly protected.

An accused person is entitled to reasonable bail (s. 11(e)) and, for very serious charges, has the right to trial by jury (s. 11(f)).

A court cannot convict a person of a crime unless the law in force at the time of the offence specifically stated that the actions in question were illegal (s. 11(g)).

If a person is tried for an offence and found not guilty, he or she cannot be tried on the same charge again. Moreover, if the person is found guilty and punished for the offence, he or she cannot be tried or punished for it again (s. 11(h)).

In a situation where a person commits an offence and, before he or she is sentenced, a new law alters the fine or term of imprisonment that applies, that person must be sentenced under whichever law is the more lenient (s. 11(i)).

Section 12

Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

Section 12 means that governments cannot treat individuals or punish them in an excessively harsh manner. For instance, the Supreme Court of Canada held that a law creating a minimum sentence of seven years' imprisonment for the crime of importing narcotics into Canada, regardless of the quantity involved, imposed cruel and unusual punishment.

Section 13

A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

This section states that witnesses who give evidence in court cannot have their testimony used against them in other proceedings. In other words, if the testimony of a witness shows that he or she has committed a crime, that evidence cannot be used by the prosecution to prove that the witness committed an offence. The exception is where a witness commits the crime of "perjury" which is the offence of lying to the court. In that case, the testimony of the witness may be used to show that he or she lied in court.

Section 14

A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Persons who are deaf or do not understand or speak the language being spoken in court have the right to be assisted by an interpreter. This right applies regardless of which language is involved.