

USE OF HUMAN RIGHTS ACT BY BUSINESSES JUMPS 63%

Issued by Mattison Public Relations on behalf of Sweet & Maxwell
JANUARY XX 2011

10 YEARS SINCE ACT WAS IMPLEMENTED TAX CASES SURGE 38%

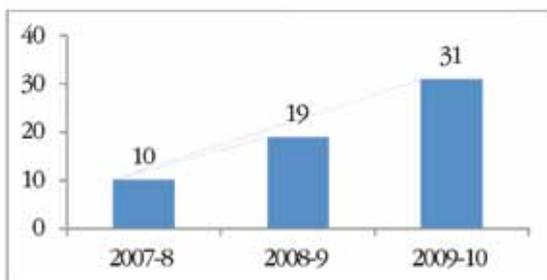


REUTERS/Jason Lee

The number of businesses using the Human Rights Act to assert their commercial interests in legal disputes is rising rapidly, according to research by Sweet & Maxwell, the leading legal information provider.

The number of reported court cases in which businesses used the Human Rights Act as part of their legal case jumped 63% from 19 to 31 last year,* and now represents 9% of all reported human rights cases. The number of businesses using the Human Rights Act is now three times as high as during 2007-8 (see chart).

Number of reported cases where businesses made use of human rights arguments



This year's annual research from Sweet & Maxwell marks the tenth anniversary of the implementation of the Human Rights Act on October 2nd 2000. In that 10 year period there have been 5,107 reported human rights cases.

Sweet & Maxwell, a Thomson Reuters company, points out that a larger number of human rights cases are settled or abandoned before reaching a full court hearing.

Sweet & Maxwell says that the use of human rights arguments by businesses was first brought into the public eye by the high profile High Court claims launched by hedge funds RAB Special Situations and SRM Global Master Fund. They argued that the nationalisation of Northern Rock had deprived them of their property (the value of Northern Rock shares they owned) in breach of the Human Rights Act.

Examples of business use of the Human Rights Act last year include:

- Challenging an important decision by the business's regulator. In these cases the business used human rights arguments to try to reverse a decision by their regulator decision that might be harmful to their profitability, or tried to win financial compensation for it.
- Using privacy arguments based on the Human Rights Act to help them prevent the media from running stories that could potentially damage their corporate reputation.
- Trying to overturn a damaging arbitration decision. Arbitration is normally seen as a less adversarial way to resolve commercial disputes. Here the business claimed that arbitration proceedings deprived them of their right to a fair and public hearing under the Human Rights Act and should be overturned.
- Asking the court for more time to prepare their case when involved in litigation. In these cases the business argued that their access under the Human Rights Act would be hampered unless deadlines in the litigation process were extended because they did not have enough time under the original deadline.

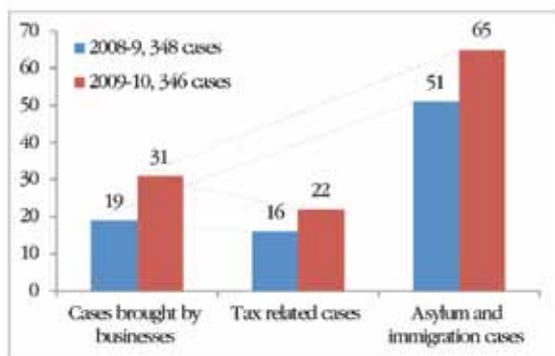
* October 2 2009 to October 1 2010



Stephen Grosz, Head of Public Law and Human Rights at Bindman & Partners and co-author of a Sweet & Maxwell publication on Human Rights,** comments: "In the decade since it was implemented, the Human Rights Act has been used in a much broader range of cases than most people would have predicted."

"The rapidly growing and significant number of businesses using human rights arguments was not anticipated when the Act was passed."

Number of reported cases making use of human rights Act arguments



HUMAN RIGHTS ARGUMENTS INCREASINGLY USED AGAINST THE TAXMAN

The research by Sweet & Maxwell found that reported cases in which human rights arguments were used in tax cases involving HM Revenue and Customs was up 38% from 16 to 22, making up 6% of all reported cases.

HMRC has been pursuing a new litigation strategy against businesses which means that HMRC is now far less likely to accept a compromise agreement to settle a tax claim.

With the stakes raised, businesses are reaching out for any tool that might allow them to defeat an adverse tax assessment from HMRC.

LOCAL AUTHORITIES STRUGGLING TO EVICT TENANTS USING HUMAN RIGHTS ARGUMENTS

There is a trend for tenants of council housing to use human rights arguments to fight the council's attempts to evict them. Local authorities often find it difficult to evict even 'problem' tenants who are a nuisance to their neighbours or fail to pay their rent because of Article 8 of the Human Rights Act, which grants everyone "the right to respect for... his home."

Stephen Grosz explains that the Supreme Court

has now accepted rulings by the European Court of Human Rights in Strasbourg that tenants can rely on their human rights in defending against possession proceedings by their landlords.

Stephen comments:

"The Strasbourg Court has made clear that tenants defending eviction notices may rely on human rights arguments, and it seems that more council tenants are now relying on the Human Rights Act."

This is likely to be an area of growing controversy as the Government is planning to reform the rules on social housing and end the use of 'life-long tenancies'. Councils seeking to evict tenants whose incomes have increased since they were allocated their council property may face challenges on human rights grounds.

SURGE IN ASYLUM SEEKERS FEEDS INCREASE IN IMMIGRATION CASES

According to Sweet & Maxwell's research there has been a sharp rise in reported immigration and asylum cases in which the Human Rights Act was argued, up 27% to 65 from 51 the year before.

Lawyers say that the rise may be fed by a surge in the number of asylum seekers applying to enter the UK between Q1 2008 and Q2 2009, when each quarter saw a year-on-year increase in applications before subsiding.***

Many immigrants seeking leave to remain in the UK or fighting deportation orders rely on Human Rights Act arguments, such as the fear of persecution should they be sent to their country of origin.

TENTH ANNIVERSARY

Stephen Grosz adds:

"Since the legislation was passed, there have been a substantial number of legal disputes in which Human Rights Act arguments are made.

But initial fears that it would be a "Rogues' Charter" – which would open the floodgates to waves of spurious challenges – have proved to be exaggerated."

"The Human Rights Act has been very important in helping a large number of individuals protect their interests in a way that would not have been possible prior to the legislation."

PRESS ENQUIRIES:

Nick Mattison or

Louis Auty

Mattison Public Relations

Tel: **020 7645 3636**

** "Human Rights: Judicial Protection in the United Kingdom", 2008
 *** Home Office (<http://rds.homeoffice.gov.uk/rds/pdfs10/immig310.pdf>)