



USE OF HUMAN RIGHTS ARGUMENTS IN COURT CASES JUMPS 5%

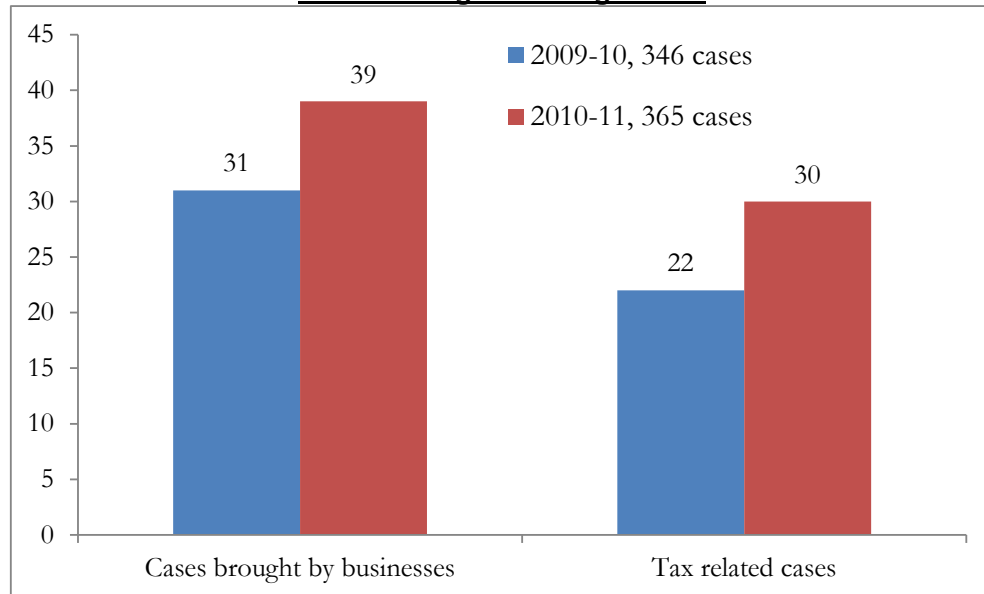
Increase driven by rise in business and tax cases

London, UK, April 9 2012 – The number of reported UK court cases making use of Human Rights arguments jumped 5% from 346 cases in 2010 to 365 in the last year (to 2nd October 2011),* fed by more business and tax related cases, according to Sweet & Maxwell, the leading legal information provider.

Sweet & Maxwell, a Thomson Reuters company, points out that since the Human Rights Act was enacted, there has been an explosion in different areas where human rights arguments are used, such as by businesses and in tax cases:

- Reported cases where businesses used human rights arguments jumped 26% to 39, up from 31.
- Reported cases where human rights arguments were used in tax disputes against HMRC rose by 36% in the last year, to 30 from 22 in the previous year.

Number of reported cases making use of Human Rights Act arguments



Jump in business cases

Sweet & Maxwell explains that the use of human rights arguments by businesses has doubled since 2009, when there was a high profile case in which two hedge funds used arguments based on the Human Rights Act to oppose the nationalisation of Northern Rock.**



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"When the Human Rights Act was introduced few practitioners saw it as a powerful tool for use in commercial disputes. Yet this may be the next phase of development of human rights law in the UK," comments Tom Hickman, author of "Human Rights: Judicial Protection in the UK" (published by Sweet & Maxwell).

"Many businesses now make arguments based on the Human Rights Act, particularly in disputes with local authorities and other public bodies, but also in private disputes with other businesses. Often these arguments are based on an interference with a company's property, be it its money, its land or something more intangible like its intellectual property."

"Businesses also often invoke article 6, entitling them to a fair trial, held within a reasonable timeframe by an independent court. Legal arguments citing article 6 are often made by businesses who think that the regulator for their sector has acted in an arbitrary way."

"In one recent case, the courts enforced a foreign judgment in favour of a foreign company even though the proceedings abroad had subsequently been reversed, because the UK courts held that the proceedings abroad had breached the company's right to a fair trial under Article 6."

Examples of how businesses have used the Human Rights Act:

- A business disputing a local planning decision, which it claimed violated its human rights
- A retail business fighting a compulsory purchase order, using arguments based on the Human Rights Act
- An alternative power company arguing that the relevant regulator had been wrong to refuse it accreditation for its plants, using the arguments based on the Human Rights Act

Taxpayers using human rights arguments

As part of efforts to reduce the government deficit, HMRC has been undertaking more compliance and tax investigations to increase its tax take in an effort to reduce the deficit. This has resulted in more disputes with taxpayers, which are often acrimonious.

"Taxpayers normally don't rely solely on human rights arguments in a dispute with HMRC but they might use them to back up their main argument," says Tom Hickman.

"More disputes between taxpayers and HMRC may mean that more taxpayers are looking for novel arguments to protect their wealth from being taken from them by the state."

Sweet & Maxwell has an archive of over 375,000 law reports and transcripts online via its Westlaw UK & Lawtel services.

* Statistics on Human Rights Act cases based on research using Sweet & Maxwell's online services, Lawtel and Westlaw.

** In 2009, the hedge funds RAB Special Situations and SRM Global Master Fund launched a High Court claim, arguing 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.

*** "Human Rights: Judicial Protection in the United Kingdom", 2008



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Notes to Editors:

Sweet & Maxwell, through its highly acclaimed online services Lawtel and Westlaw UK and its print and other digital publications, is now the leading provider of information and solutions to the legal and professional markets in the UK and Ireland.

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