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Courts to hear cases on rights abuses: Govt

By Cathy Alexander
Assembly Reporter

Anyone who thinks their human rights have been violated will be able to take public bodies to the ACT Supreme Court under a Government plan.

Authorities who could find themselves on "human rights trial" include the police, public employees, health services, government ministers, and bodies like Actew.

And the Government is inviting private companies to opt into the scheme and risk ending up in the dock.

The Government says the changes are about keeping the ACT at the "cutting edge" of human rights.

The ACT has had a Human Rights Act since 2004 but the Government wants to beef it up with a Bill of amendments, which is scheduled to be debated in the Assembly on Thursday.

Attorney-General Simon Corbell was not concerned the changes could encourage frivolous cases or waste court time. Nor did he think a large number of cases would be brought.

"We don't believe there will be a flood of litigation," he said.

Under the amendments, it would be illegal for a public authority to breach a human right. If a person claims a breach, they can take it to the Supreme Court as a direct right of action. They can also rely on their human rights in other legal proceedings.

A person taking action over their human rights cannot seek compensation, but they can seek to have a decision overturned, or a declaration that a public authority was in the wrong.

The amendments are aimed at public authorities - all entities that perform a public function -

but community groups and private businesses can opt in.

Mr Corbell said this was an innovative idea and he was not aware of it being available elsewhere in the world.

"I will be encouraging private sector entities ... to opt in. We don't know how the private sector will respond to that."

The original Human Rights Act was about making sure laws complied with human rights. Now it was time to take it one step further and "put an additional discipline on Government agencies".

"This is all about continuing to build a human rights culture," he said.

The direct right of action begins next January.

Mr Corbell said Victoria had incorporated a direct right of action in its human-rights laws, and it had not led to excessive or frivolous cases before the courts.

Greens MLA Deb Foskey said the beefed-up Human Rights Act might be a "wake-up call" to some ACT agencies, who would now have to do more than simply issue statements of compatibility with the act.

She looked forward to seeing if the direct right of action gave the Human Rights Act more clout.

According to the new Bill before the Assembly, "public authorities" which must observe human rights include ministers, police (when they are enforcing territory law), public employees, and entities which do functions of a "public nature", including prisons; suppliers of gas, electricity and water; emergency services; health services; public transport; and public housing.

The Human Rights Act sets out the rights Canberrans are entitled to claim. The act is based largely on United Nations declarations and covenants.