

Review tribunal rejected

The Senate has rejected the Federal Government's proposals to reform the federal merits review system. The Opposition and Australian Democrats combined to vote down the legislation that would have replaced four existing merits review tribunals with a new Administrative Review Tribunal.

The proposed reform stemmed from a 1995 report of the Administrative Review Council, which recommended that a single tribunal be formed to replace a number of existing federal merits review tribunals.

The Administrative Review Tribunal Bill 2000 sought to implement that recommendation by establishing the Administrative Review Tribunal to replace the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal. Both that Bill and its companion, the

Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000, were passed by the House of Representatives at the end of last year but did not survive in the Senate.

Attorney-General Daryl Williams had argued for the reform, indicating it would improve the quality of Commonwealth administrative decision-making. He told the House of Representatives that the new tribunal would be independent, flexible, accessible and user-friendly and would provide review that was fair, just, economical and efficient.

"To have several tribunals performing a similar review function, but with separate membership, staff, premises, information technology and corporate services systems, is wasteful of resources," Mr Williams said. "It also limits the range of work available to the members of the various tribunals."

The legislation proposed six divisions for the Administrative Review Tribunal, reflecting the main jurisdictions of the existing tribunals.

While the Opposition did not oppose the concept of bringing together the separate administrative review bodies in Australia, it was opposed to the model being proposed by the Government. Shadow Attorney-General Robert McClelland highlighted various concerns including the independence of the tribunal, the appointment and qualifications of tribunal members, and procedural issues such as appeals.



Shadow Attorney-General Robert McClelland (left) and Attorney-General Daryl Williams debated the proposed reform of the federal merits review system.

"Administrative review is a vitally important matter to Australians," said Mr McClelland. "I think it is fair to say that in tampering with the system—indeed, restructuring it fundamentally—the Government is seeking to restructure the system of administrative review that is regarded as one of the best in the world because it provides genuine merits review."

A particular concern of the Opposition was that each division of the new tribunal was to be funded by the portfolio agency whose decisions were under review. Mr McClelland argued that this would have

compromised not only the actual, but also the perceived independence of the tribunal. In this regard, he noted that the portfolio Minister would have been responsible for recommending the appointments of executive members and tribunal members to the particular division reviewing his or her department's decision making.

The Federal Government will now need to consider its position on reform of the merits review system.

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- The text of Bills and the explanatory memoranda which explain them are available on the Internet at: www.aph.gov.au/parlinfo/billsnet/bills.htm
- The debates on the legislation can be found on the Internet at: www.aph.gov.au/hansard

Upcoming legislation

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