
R E G U L A R R E P O R T S

Administrative Review Council

LETTERS OF ADVICE

The Council has sent several letters of advice to the Attorney-General recently. Amongst them have been the following:

- . a letter of advice concerning the Extradition Bill 1987 and, in particular, the proposed exclusion of decisions made under the Bill from review under the AD(JR) Act;
- . a letter of advice concerning the proposed fee for reconsideration of certain decisions under the Migration Act;
- . a letter of advice concerning review issues under the Child Support Bill 1987.

REPORTS

The Council's Report No. 29, Constitution of the Administrative Appeals Tribunal, was tabled in the House of Representatives on Wednesday 9 December 1987. Copies are available for purchase from the Australian Government Publishing Service.

The Council's 1986-87 Annual Report was tabled in the Parliament on 20 October 1987. It too is available for purchase from AGPS.

BROCHURE ON ADMINISTRATIVE REVIEW

On 5 November 1987 the Council hosted a launch by the Attorney-General of the Council's brochure on the Commonwealth administrative review system. The brochure provides a handy guide to the administrative review system. It explains what each of the review bodies does, how they are different and how they can be approached. A copy of the speech made by the Chairman of the Council, Dr Cheryl Saunders, at the launch of the brochure appears in an edited form in the 'Focus' section of this edition of Admin Review.

CURRENT WORK PROGRAM - DEVELOPMENTS

Access to administrative review. The Council's committee is giving further consideration to the proposed Department of Social Security review officer survey. In the meantime, the committee is considering a preliminary draft report on the legal and financial assistance aspects of the access to administrative review project.

Review of the AD(JR) Act, Stage 2. Substantial progress has been made on this project. The Council's committee has recently considered sections of a draft report.

Industry, technology and commerce (research and development legislation). A draft report on review of decisions under research and development legislation in the Industry, Technology and Commerce portfolio is nearing completion. It is expected that the draft report will be circulated publicly for comment early in 1988.

Community services and health. Preliminary work on review issues in the Community Services and Health portfolio is under way.

Administrative Appeals Tribunal

NEW JURISDICTION

Since the last issue of Admin Review new jurisdiction has been conferred on the AAT under the following legislation:

National Health Amendment Act (No.2) 1987
Petroleum Excise (Prices) Act 1987
Sea Installations Act 1987
Student Assistance Amendment Act 1987
Occupational Superannuation Standards Act 1987
Air Pollution (Amendment) Ordinance 1987 (A.C.T.)
Children's Services (Amendment) Ordinance (No. 2) 1987
(A.C.T.)

KEY DECISIONS

Assets test - application of financial hardship provision under Veterans' Entitlements Act

Fuller and Repatriation Commission (3 November 1987) concerned an application for review of a determination of a delegate of the Commission that the applicant did not qualify for the application of the hardship provisions as contained in section 53 of the Veterans' Entitlements Act 1986. Section 53(1) provides that the value of a person's property is to be disregarded for the purpose of calculating the rate of pension payable to the person if the property cannot be sold or realised or used as security for borrowing (or if it would be unreasonable to expect the property to be sold or realised or used as security for borrowing), and if the Commission is satisfied that the person would suffer severe financial hardship if the property were taken into account for the purposes of the assets test.

The property concerned was a farming property in a 7 to 8 inch rainfall area north of Yunta in South Australia. There was no dispute between the parties as to the application of section 53(1) to the applicant.

The issue in dispute was whether the applicant could reasonably be expected to derive income from the property and what amount, if any, was to be taken into account in calculating the applicant's rate of pension pursuant to section 53(3) of the Act.