of administrative review which forms the basis for academic comment and government policy consideration. The ARC's letters of advice have a direct input into the formulation of legislation, regulations and government policy and assist in ensuring the existence of appropriate administrative review provisions from the outset of any new initiative. The mere existence of the ARC provides a readily accessed source of advice, and also a reminder to the government and bureaucracy that administrative review is an important matter that must be taken into consideration. In addition, the ARC serves as a place of meeting and exchange of ideas for practitioners in all areas of administrative review and has an important role in co-ordinating the exchange of information between bodies such as the Ombudsman, the Administrative Appeals Tribunal and practitioners."

The Committee recommended that the proposed Queensland ARC be given functions similar to those set out for the Commonwealth ARC under the *Administrative Appeals Tribunal Act 1975,* in particular in relation to the new administrative law procedures in Queensland. The Queensland ARC would consist of a number of statutory members including the Ombudsman (the Parliamentary Commissioner for Administrative Investigations), the President of the Law Reform Commission and the head of the Queensland AAT (if such a body is established), and other members including consumer representatives or persons with "extensive experience at a high level in industry, commerce, public administration, industrial relations or the service of a government or extensive knowledge of administrative law or public administration." It would report to the Attorney-General, its annual reports would be tabled in Parliament, and its annual reports would be monitored by a relevant parliamentary committee.

Assisted and substituted decisions – Queensland Law Reform Commission paper

The Queensland Law Reform Commission, in its discussion paper dated July 1992 entitled *Assisted and substituted decisions: decision-making for people who need assistance because of mental or intellectual disability,* considered with a view to reform the rules in that State relating to substituted decision-making for adults with a mental or intellectual disability who may lack the capacity to make legally valid decisions. Among the topics for discussion was the need for an appeals mechanism in this area. The Commission, having recommended the establishment of an independent tribunal to hear applications for assisted or substituted decision-making, stated that an appeals mechanism was essential because:

"A determination about assisted or substituted decision-making for a person with a mental or intellectual disability involves sensitive issues. It may impact significantly on the rights and welfare of the person for whom the order is sought. It may also have a substantial effect on the interests of that person's relatives and other members of his or her support network."

The Commission noted that an appeal process would:

- provide for the people concerned an avenue of possible remedy where they are not satisfied with the outcome of a hearing;
- aid in ensuring, from a public perspective, the accountability of the adjudicating body; and
- provide a method of establishing guidelines about the legislation and about the way in which the adjudicating body should reach its decisions.

The Commission took the view that the role of the adjudicating body would be to apply the general legislative provisions to the circumstances of a particular individual, that is, to make administrative decisions. It noted that EARC was considering the possible introduction of an AAT in Queensland, which would provide a cheaper, less formal and more flexible forum than the Supreme Court for reviewing a determination about assisted or substituted decision-making. The Commission recommended that this AAT, if established, should be given power to review decisions of the adjudicating body.

In the absence of an AAT in Queensland, the Commission took the tentative view that appeals from decisions of the Supreme Court on the grounds set out in the *Judicial Review Act 1991* (Qld), rather than by way of full merits review.

AAT medical practice direction

A new practice direction on "Procedures relating to medical evidence in the hearing of applications before the Tribunal" was issued by the President of the AAT on 7 August 1992. It replaced the practice direction on that subject issued on 18 June 1992, which has been revoked. The slight change to the earlier direction involved removal of a possible ambiguity regarding the granting of adjournments. The substance of the new direction, intended to be followed in all Divisions of the Tribunal but the Taxation Division, reads as follows:

> **"Callover procedures**
>
> Prior to a callover, or other procedure to list for hearing, both parties will be expected to hold discussions with a view to reaching agreement upon a suitable day or days of a week for their respective doctors, if it is intended to call oral medical evidence. Where the total anticipated evidence is capable of being heard within 5 hours, it is expected that agreement will be reached on only one day being allowed for the hearing. Where necessary, preference should be given to the ability of a treating specialist to attend. It is not appropriate that the hearing of a case be spread over two days for the sole reason that the medical practitioners do not wish to be present on the one day.
>
> The Tribunal will endeavour to find a hearing day, or days, preferred by the parties after such a discussion, provided that this does not unduly prolong the length of the case. It is expected that only in rare circumstances will medical cases be allotted 3 or more days for a hearing.
>
> Where a case has been listed for hearing, it is expected that, as a general rule and except on demonstration of special circumstances not capable of being foreseen at the time of listing, no adjournment will be granted by the presiding member on the grounds of non-availability of any particular doctor or doctors on that day or days.
>
> **Medical Reports**
>
> Subject to compliance with the time limits contained in section 66 of the *Commonwealth Employees Rehabilitation and Compensation Act 1988*, and in this Tribunal's General Practice Direction dated 11 May 1992, the lodging and serving of a medical report will make it material to be taken into account, whether or not the author of the report gives oral evidence."

Foreign language hearings

In August 1992 the Social Security Appeals Tribunal in Melbourne, which has 5 members who are fluent in Italian and 5 members who are fluent in Greek, conducted hearings in both Italian and Greek. These foreign language hearings are being given a trial run in recognition of the difficulties faced by persons with non-English-speaking backgrounds. Approximately half the SSAT's hearings in Melbourne involve medical issues and half of these require interpreters. The foreign language hearings, as well as meeting applicant's needs, deliver savings in time and interpreter costs.

Immigration – assessment of qualifications and experience

The Immigration Review Tribunal recently considered its role in reviewing decisions involving the assessment of overseas qualifications and experience, in the context of concessional family visa applications, in the case *Re Lumapas* (15 June 1992).

Ms Lumapas was a Filipino nurse who requested a review of the decision rejecting her application on an assessment of points under the Migration Regulations. Under those regulations, the "relevant Australian authority" for such assessments in relation to registered nurses was the National Office of Overseas Skills Recognition (NOOSR) within the Department of Education, Employment and Training, and possibly also, under a purported delegation of that authority by NOOSR, the Australian Nursing Assessment Council (ANAC).

Under the Department's Procedures Advice Manual, which had been adopted by NOOSR and ANAC, to be eligible for assessment by ANAC an overseas trained nurse must have qualified in a country with a similar health care delivery system to Australia's, with Canada, New Zealand, The Republic of Ireland, South Africa, the