Primary Decisions

- In line with Tribunal changes, procedures will be streamlined to ensure greater productivity
- Greater priority will be given to processing straightforward applications, so that applicants in genuine need and those without substantial claims are dealt with quickly.
- Where a protection visa application is made, access to work rights will be limited to those people who have been in Australia for less than 14 days in the past 12 months.

This Media Release was issued on the same day as that by the Attorney-General announcing that the Government proposed to amalgamate the 5 major merits review tribunals. That announcement is outlined in a note at the beginning of this edition of *Admin Review*. The full text of the Attorney-General's Press Release appears in TRIBUNAL WATCH (below).

Introduction of Privative Clause For Certain Migration Act Decisions

On 25 March 1997, the Minister issued a further Media Release concerning a proposed privative clause to be introduced to limit refugee and immigration litigation. The text of that Media Release follows:

"Government to limit Refugee and Immigration Litigation

The Minister for Immigration and Multicultural Affairs, Philip Ruddock has announced plans to limit the growing cost and incidence of litigation of refugee and immigration decisions.

"There has been significant growth in cases going to the courts in recent years and this has added to delays and has cost the taxpayer millions of dollars, " Mr Ruddock said.

"Immigration and refugee applicants have access to a thorough merits assessment of their case. If they are unhappy with the outcome, they can seek independent merits review before a Tribunal, so they have every chance to put their case."

"However, in addition they can also access the Federal and High Courts, giving them up to three levels of judicial review."

There are currently 623 active litigation cases in the Immigration portfolio, of which 422 relate to on-shore refugee decisions.

A substantial proportion of these cases will be withdrawn prior to hearing. Of those cases that do go onto substantive hearings, the Government currently wins 89%.

"Many people are using litigation to delay their departure even though they have no legitimate claim to remain in Australia," Mr Ruddock said.

"To address this issue, the Government will introduce a 'privative clause' for many decisions under the Migration Act, to effectively limit the volume and cost of litigation."

A privative clause is a provision within an Act of Parliament, the practical effect of which will be to limit judicial review to whether the decision maker made a decision that was within their jurisdiction and power to make. This does not affect access to merits review.

The Government has received advice from several leading Queens Counsel that this is likely to be the most effective way of addressing this problem.

The change, foreshadowed last week, follows the Coalition commitment to undertake a review of immigration decision-making and is in line with the Government's determination to simplify the decision-making system.

The 1995-96 Budget shows that litigation cost the Department of Immigration and Multicultural Affairs $7.4 million dollars. This does not include legal aid nor the cost of running the Courts."

Effect of Treaties in Administrative Decision Making – Government Response to the *Teoh* Case

On 25 February 1997 the Minister for Foreign Affairs, the Hon. Alexander Downer MP, and the Attorney-General and Minister for Justice,