

ADMIN LAW WATCH

TRIBUNALS REFORM IN THE UNITED KINGDOM

The Lord Chancellor in the United Kingdom gave the Keynote Address to the Council of Tribunals Spring Conference on 18 May 2000. During this speech he announced a wide-ranging, independent review of tribunals. This initiative was prompted by developments such as the modernisation and reform programs of the Government, recent radical constitutional reforms and the implementation in England and Wales, by the Human Rights Act of 1998, of the European Convention on Human Rights.

The Lord Chancellor considers that the review should ensure that tribunals are seen to be entirely independent of Government, are wholly impartial, are responsive to the needs of society, and provide an effective control on the implementation of Departments' policies and service management. Sir Andrew Legatt, a former Lord Justice of Appeal, has been appointed to conduct the review, and is expected to report to the Lord Chancellor by March 2001.

ALRC REPORT NO 89 : MANAGING JUSTICE - A REVIEW OF THE FEDERAL CIVIL JUSTICE SYSTEM

The above report was presented to the Attorney-General in January 2000. This lengthy and detailed report (743 pages) made a number of recommendations of relevance to the Commonwealth system of administrative review. These included recommendations that:

- Every federal review tribunal should have an effective professional development program, and set performance standards for its members;
- A Council of Tribunals should be established as a national forum for tribunal leadership to develop policies, secure research and promote education on matters of common interest;
- The Senate Scrutiny of Bills Committee and the Senate Standing Committee on Regulations and Ordinances should be directed, when considering new legislation, to have regard to the likely impact of the proposed legislation, ordinance or regulation on the cost, complexity and volume of litigation or administrative review;
- The Administrative Appeals Tribunal should focus development of its case management processes on reducing case duration in all review jurisdictions and on engendering a culture of compliance with directions; and

- The new Administrative Review Tribunal should not operate under a single case management model but should utilise a range of practices and procedures adapted to suit its different review jurisdictions.

OFFICE OF THE PRIVACY COMMISSIONER

The Privacy Amendment (Office of the Privacy Commissioner) Act 2000 received Royal Assent on 29 February 2000. The purpose of the Act is to separate the Privacy Commissioner from the Human Rights and Equal Opportunities Commission and create a statutory Office of the Privacy Commissioner, with a view to further increasing the profile and effectiveness of the Privacy Commissioner.

PRIVATE SECTOR PRIVACY LEGISLATION

The Privacy Amendment (Private Sector) Bill 2000 was introduced into Parliament on 12 April 2000. It was referred by the Attorney-General to the House of Representatives Standing Committee on Legal and Constitutional Affairs for inquiry and report. The Committee's report was tabled in June 2000, and recommended a number of changes, including:

- that otherwise exempt small business be allowed to opt-in to the coverage of the Bill;
- that changes be made to the provisions concerning employee records;
- that the Government encourage all relevant parties to reach an agreed position on the major issues raised in the evidence to the inquiry, such as the harmonisation of privacy principles applicable to the public sector, as a matter of urgency;
- that health information be included in the Bill, in a similar fashion to the ACT *Health Records (Privacy and Access) Act 1997*; and
- that tenancy databases be subject to the provisions of the Bill immediately and not be governed by the small business exemption.

The Government's response to the Report was tabled in Parliament on 7 September 2000. The Government will be moving amendments to the Bill. Changes include:

- that small businesses that handle health information will be required to comply with the legislation from its commencement;
- that small businesses generally will be able to voluntarily opt in to the privacy scheme; and