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**An Administrative Appeals
Tribunal for New South Wales**

by
Honor Figgis

Briefing Paper No 14/96

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ISSN 1325-5142

ISBN 0 7310 5955 7

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June 1996

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EXECUTIVE SUMMARY

- An Administrative Appeals Tribunal reviews decisions made by government bodies on their merits. A person who is adversely affected by a decision may apply to the AAT to review the decision and determine whether it was the correct or preferable decision in the circumstances (p 3).
- The existing system of appeals to challenge government decisions is complex and somewhat arbitrary, having developed in an ad hoc fashion. Some rights of appeal are provided by statute, while other administrative decisions are not subject to appeal. There is a wide range of tribunals reviewing decisions with varying powers, aims, constitutions and procedures. Judicial review of government decisions by the courts is only available on narrow grounds and is not a widely accessible method of obtaining review of decisions (pp 5-8) .
- The ability of Parliament to check exercises of administrative powers has declined as the amount of administrative activity and the amount of business handled by Parliament has increased. It is not practical for Parliament to provide a thorough review of every decision which dissatisfies a person (pp 8-9).
- An AAT provides a relatively fast, inexpensive and flexible review of the merits of particular decisions. It also encourages improved primary decision making, as administrators who are conscious that their decisions may be reviewed will take better care to make decisions that will stand up to scrutiny. It would be more efficient to combine the jurisdictions of many existing specialised tribunals in one general tribunal, saving duplication of infrastructure, staff, accommodation and so on (pp 19-23).
- On the other hand, an AAT is independent of the departments whose decisions it is reviewing and so is not responsible to the Ministers who administer the powers under which decisions are made. If an AAT departs from government policy in making a decision, control over decision making has been transferred from the Minister, the democratic representative, to an unelected body. An AAT may also increase the costs of administration (pp 23-27).
- A further administrative law reform which could accompany the introduction of an AAT is to streamline and clarify the grounds on which the courts can review administrative actions (pp 28-30).

1. INTRODUCTION

During this century the power of governments to affect the lives of individuals has greatly expanded. The many statutes in force in New South Wales authorise a wide range of persons and government bodies, including Ministers, departments, statutory authorities, boards, commissions and committees to make decisions and exercise discretions that can have a profound influence on people.

It is inevitable that some of the enormous number of decisions and determinations made by administrators are incorrect or inadequate. As a result it has become common for the legislature to provide avenues of appeal against decisions. An appeal against a decision by a government body is only available if a statute provides a right of appeal - there is no general right of appeal against administrative actions at common law.

The kinds of appeal available vary widely in New South Wales. Some decisions are not subject to appeal at all; some decisions can be reviewed internally within a department; some internal review decisions can then be appealed to an external tribunal as a second tier of review; some decisions can be appealed directly to an external tribunal. There is a wide range of tribunals, commissions, boards, and panels which review administrative decisions.¹ These tribunals are specialised in that they review decisions made in a narrow field (for example, residential tenancies or parole applications). These tribunals differ widely in their powers, their procedures, the extent to which they can review decisions - each has evolved in its own field.

A different type of tribunal proposed for New South Wales is an administrative appeals tribunal (AAT).² An AAT is a generalist tribunal. It differs from specialised tribunals in that it has a wide jurisdiction to hear appeals from decisions in a range of different fields. An AAT hears appeals on the merits of administrative decisions. Its function is to hear all the relevant evidence and the case presented by each party, to make findings of fact, apply the relevant law, and then to make the decision that is correct or preferable in the circumstances. An AAT "stands in the shoes" of the original decision maker - it makes its decisions as if it were the original decision maker and may only exercise the powers and discretions that were available to the original decision maker.

An AAT forms part of the executive government, not the judicial arm of government; it is not independent from the executive in the same way that the courts are. However, an AAT operates as if it were independent of the executive, so that a person applying for review can be confident that the tribunal has made an impartial decision, not one dictated by the same

¹ See Appendix A for a partial list of New South Wales review bodies.

² AATs have been established federally, in Victoria and in the Australian Capital Territory. Both the Australian Labor Party and the Coalition have proposed setting up an administrative appeals tribunal in New South Wales: See Sydney Morning Herald 25 July 1992, 23 May 1995.

department that made the original decision which is being appealed. The federal AAT has been described as having a “quasi-judicial independence”.³

2. GLOSSARY OF TERMS

Before proceeding it is useful to discuss a few key terms.

“**Appeal**” is a wide term indicating a right to have some aspect of a decision reviewed but not necessarily entitling the aggrieved person to full merits review. Some appeals are only on a question of law, or may only be made by written submissions, or are restricted to material of which the original decision maker was aware.⁴

“**Merits Review**” is the process by which an administrative decision is reviewed as to its merits; that is, the facts, law and policy aspects of the original decision are all reconsidered afresh and a new decision affirming, varying or setting aside the original decision is made.⁵ The issue is not the validity or legality of a decision but whether the decision was the correct or appropriate one. Full merits review usually involves a hearing of each party’s case and the presentation of the best evidence obtainable by each party. The review tribunal as a rule has the capacity to substitute its decision for the original decision.

“**Judicial Review**” refers to a challenge in the Supreme Court to the validity of an administrative act or decision. Judicial review is concerned with the process of how a decision was reached rather than the merits of a decision. A court entertaining an application for judicial review cannot substitute its decision for the decision under review. It can set aside the decision under review and direct a further exercise of the relevant power, but the power must be exercised by the relevant decision maker.⁶

“**Natural justice**” is interchangeable with the term “procedural fairness”(see page 8).

³ Maher L, “The Australian Experiment in Merits Review Tribunals” in Mendelsohn O and Maher L (eds), *Courts, Tribunals and New Approaches to Justice*, La Trobe University Press, 1994 p 79.

⁴ Electoral and Administrative Review Commission *Report on Review of Appeals from Administrative Decisions* Queensland August 1993 p xiii.

⁵ Administrative Review Council, *Better Decisions: Review of Commonwealth Merits Review Tribunals* Report to the Minister for Justice No. 39 AGPS 1995 para 2.2.

⁶ Brennan G, “The Purpose and Scope of Judicial Review” in Taggart M, *Judicial Power of Administrative Action in the 1980s: Problems and Prospects* (Papers presented at a conference held by the Legal Research Foundation Inc at the University of Auckland 20-21 February 1986) Oxford University Press, Auckland 1986 pp 29-30.

3. BACKGROUND

The proposal to establish an AAT in New South Wales has arisen in response to the complex and cumbersome, and sometimes arbitrary or inadequate, avenues of obtaining review of a government decision. It is argued that any person adversely affected by an official action should be able to question the action simply, cheaply, and quickly, using procedures which are fair, impartial and wherever possible, open.⁷ Currently in New South Wales there are three avenues to challenge a government decision. These are:

- (a) *statutory appeals*: appeal to a review body under a right provided by statute;
- (b) *judicial review*: challenge the legality of a decision in the courts; and
- (c) *parliamentary review*: application to Parliament to review a decision.

(a) Statutory appeals

A statute which provides for a decision to be made may also provide a right of appeal from the decision. The appeal may be to a tribunal or court, or other body (such as a commission or review panel or to the relevant Minister). There may be more than one tier of appeal (for example, an appeal from a decision to a review panel, and a further appeal to a tribunal).

The nature and scope of the appeal depend on the statute. Some statutes provide for appeal only on very limited grounds - for example, a person may only have the right to appeal a decision on a point of law, not on the ground that the decision maker has made a mistake in its findings of facts. An appeal may be broader in scope, providing for a rehearing on the merits of the decision using the material before the decision maker. Another type of appeal is the *de novo* hearing, where all the evidence before the original decision maker is heard and the parties can provide new evidence to the review tribunal.

Statutory appeals are often appeals on the merits of the decision. That is, the tribunal looks at the original decision to determine whether it was the best or the correct decision in the circumstances. In this respect tribunals differ from courts, whose task is to determine whether the decision was one that the decision maker could lawfully make in the circumstances, not whether it was a good or correct decision. Tribunals therefore tend to provide a more successful avenue of appeal than review by the courts. Tribunals are also characterised by a preference for informality in hearing complaints, non-bureaucratic structures, minimised use of professionals, displacement of legal norms by common sense, flexibility, ad hoc justice in the individual case and easy access for the public.⁸ As tribunals are considered to provide faster, less formal and less expensive resolution of appeals than courts can, they have been considered a more appropriate forum than the courts in which

⁷ New South Wales Law Reform Commission, *Report on the Right of Appeal from Decisions of Administrative Tribunals and Officers*, February 1973 p 10.

⁸ Allars M, *Introduction to Australian Administrative Law*, Butterworths 1990 para 7.9.

to challenge official action.⁹

The proliferation of specialised tribunals and review bodies has been criticised as creating a complex system of varying kinds of review procedures. In 1973 the New South Wales Law Reform Commission stated:

We are unable to determine the criteria by reference to which existing rights of appeal from official actions have been granted or withheld or those which have governed the nature of the appeal or the choice of the appellate body. Relevant factors may have included the philosophy of the Government when the legislation was enacted, the representations that were made to that Government by interested parties, and the prevailing attitude of the Department within which the legislation was to be administered. It seems clear, however, that the granting or withholding of a right of appeal has usually been an ad hoc decision.

Since that report tribunals have been created and removed, but there has been no systematic review or streamlining of tribunals. The body most resembling a generalist tribunal is the Commercial Tribunal, established in 1984, which hears appeals from decisions relating to a number of licences, permits and authorisations, and some claims for compensation or relief from burdensome contractual obligations and some disciplinary matters.¹⁰

(b) Judicial review

The Administrative Division of the Supreme Court of New South Wales has an inherent power to review government decisions to determine their **legality**. Judicial review by the Supreme Court does not involve any reconsideration of the **merits** of the official action. Unlike statutory appeals, which are only available where they are established by legislation, the Supreme Court has an inherent supervisory jurisdiction to review most administrative actions. Some administrative actions are considered not to be *justiciable*; that is there are certain areas of government (for example, decisions as to whether to prosecute actions) which it is not appropriate for the courts to control. Appeals lie from a decision of a single judge of a Supreme Court to the Full Court. From the Full Court an appeal lies by special leave to the High Court.

⁹ New South Wales Law Reform Commission, *Report of the Law Reform Commission on the Right of Appeal from Decisions of Administrative Tribunals and Officers* LRC 16, February 1973 para 52.

¹⁰ The Commercial Tribunal has jurisdiction conferred on it by the *Building Services Corporation Act 1989*, *Consumer Credit Administration Act 1995*, *Conveyancers Licensing Act 1995*; *Credit Act 1984*, *Credit (Finance Brokers) Act 1984*, *Credit (Home Finance Contracts) Act 1984*, *Fair Trading Act 1987*, *Motor Dealers Act 1974*, *Pawnbrokers and Secondhand Dealers Act 1996*, *Registration of Interests in Goods Act 1986*, *Retail Leases Act 1994*, *Trade Measurement Act 1989*, *Trade Measurement Administration Act 1989*, and *Travel Agents Act 1986*.

The grounds for judicial review of administrative action are narrow and in some cases their scope is uncertain. Review of administrative action is only available in the Supreme Court. The judicial review process is expensive, lengthy, cumbersome, and difficult to use for most individuals. For example, in 1977 a high school leaver who claimed that she had been wrongfully denied unemployment benefit was obliged ultimately to have the matter heard in the High Court.¹¹

There are four grounds on which an administrative action can be overturned by the courts:

- (i) ultra vires (beyond power);
- (ii) jurisdictional error;
- (iii) error of law on the face of the record; and
- (iv) denial of procedural fairness.

These grounds for review are based on the principle that in making decisions an administrator must act fairly and within the power and jurisdiction conferred on him or her.¹²

- (i) ***ultra vires*** (beyond power) - an administrative action which is beyond the statutory power of the decision maker is invalid. An *ultra vires* decision includes decisions which are not authorised by the relevant statute, and which are an improper use of a power conferred by statute (such as where the administrator abuses the power or acts for a wrong purpose, or misdirects him or herself as to the relevant law, or takes into account irrelevant considerations, or fails to take into account relevant considerations, or acts so unreasonably that no reasonable person could so have acted, or acts on the basis of no evidence.)¹³
- (ii) ***jurisdictional error*** - a decision by an inferior court or tribunal that exceeds the court or tribunal's jurisdiction is invalid. A tribunal may commit a jurisdictional error by attempting to exercise a jurisdiction that has not been conferred upon it, or by failing to exercise jurisdiction which it properly has.
- (iii) ***error of law on the face of the record*** - a decision that shows an error in the record of an inferior court or tribunal may be invalid, regardless of whether the error can be classified as jurisdictional or non-jurisdictional. The "record" includes the reasons for decision and all those documents which are kept by the tribunal for a permanent memorial and testimony of their proceedings.¹⁴

¹¹ *Green v Daniels* (1977) 13 ALR 1.

¹² Allars M, *Introduction to Australian Administrative Law*, Butterworths, 1990 para 5.1.

¹³ Allars M, *Introduction to Australian Administrative Law* Butterworths 1990 para 5.10.

¹⁴ *R v Northumberland Compensation Appeal Tribunal; Ex parte Shaw* [1952] 1 KB 338 at 352.

- (iv) **procedural fairness** - a decision made in breach of any of the three principles of procedural fairness is reviewable. These principles are designed to ensure that fair procedures are followed by administrators making decisions. The three principles are:
- (a) the *hearing rule* (that both parties should have the opportunity to present their case to the decision maker);
 - (b) the *bias rule* (that the decision maker should not have an interest in the outcome of the decision); and
 - (c) the *no evidence* rule (that a decision should be based on logically probative evidence).¹⁵

The traditional remedies available from the courts were the prerogative writs. These were writs issued by the courts to the authority under review requiring that a particular action be done or refrained from. The three most important writs¹⁶ were *prohibition* (preventing an inferior court or tribunal from proceeding to exceed its jurisdiction), *certiorari* (quashing a decision or determination), and *mandamus* (an order to secure the performance of a public legal duty imposed upon a public official or body by statute, delegated legislation, common law, prerogative, charter or custom).¹⁷

The Supreme Court Act 1970 (NSW)¹⁸ simplified the procedure for obtaining relief. Rather than issuing writs, the Supreme Court may now make an order of judgment granting absolutely or on terms all such remedies as any party may appear to be entitled to. The Supreme Court may also grant the equitable remedies of injunction and declaration.

The New South Wales Supreme Court has an Administrative Division which exercises both the inherent supervisory jurisdiction of the Supreme Court to review administrative actions and its statutory appellate jurisdiction to hear appeals from certain decisions.

(c) Parliamentary review

An individual adversely affected by an administrative action can bring the matter to the attention of his or her Member of Parliament, requesting the Member to raise the question with the relevant Minister and, if necessary, in Parliament. This method of obtaining redress

¹⁵ Allars M, *Introduction to Australian Administrative Law* Butterworths 1990 para 6.1.

¹⁶ There are three other prerogative writs: *quo warranto* (to challenge the entitlement of a public office holder to that office), *procedendo* (an order to a body which has been prohibited from hearing a matter to start hearing it again); and *habeas corpus* (to challenge the legality of a person's detention). *Quo warranto* has been abolished in New South Wales (*Supreme Court Act 1970* s 12); *habeas corpus* is rarely used and it seems that *procedendo* has never been used in Australia.

¹⁷ Allars M, *Introduction to Australian Administrative Law*, Butterworths 1990, para 6.114.

¹⁸ Sections 63, 65 of the *Supreme Court Act 1970*; *Supreme Court Rules* Part 40 Rule 1.

was traditionally relied upon as one of the individual's safeguards against arbitrary or unlawful administrative action.¹⁹

The limitations of parliamentary review have become clear as governments attempt to cope with the increasing demand for fast, impartial and consistent avenues of review:

Parliamentary review of administrative action is based on the doctrine of responsible government in which the executive is accountable through its Ministers to Parliament. Although this procedure is cheap and often speedy, its effectiveness depends upon the willingness of the Member of Parliament to pursue the matter with diligence. The avenue is not available as of right, does not provide satisfactory opportunity to be heard and often depends upon the administrator conceding error. The large amount of parliamentary business generally precludes thorough parliamentary review.²⁰

The New South Wales Law Reform Commission commented:

The business of modern governments is vast and complex. A minister in charge of one or more departments and answerable for the actions of a number of public authorities cannot be expected to control personally all things done on his behalf. In this State, eighteen Ministers administer some hundreds of Acts of Parliament and many more pieces of subordinate legislation. We think it unrealistic to suggest that because, in some circumstances, a Minister may suffer loss of office for the misdeeds or neglects of his subordinates that those misdeeds or neglects become known to him and are corrected.²¹

¹⁹ The traditional Westminster position was set out in the White Paper by the Parliamentary Commissioner for Administration (UK, Cmnd 2767, October 1965): "In Britain, Parliament is the place for ventilating the grievances of the citizen by history, tradition and past and present practice. It is one of the functions of the elected Member of Parliament to try to secure that his constituents do not suffer injustice at the hand of the Government. The procedures of Parliamentary Questions, Adjournment Debates and Debates on Supply have developed for this purpose under the British pattern of Parliamentary Government; and Members are continually taking up constituents' complaints in correspondence with Ministers, and bringing citizens' grievances, great or small, to Parliaments, where Ministers individually and Her Majesty's Government collectively are accountable".

²⁰ Sharpe J, *The Administrative Appeals Tribunal and Policy Review*, Law Book Co Ltd 1986 p 8.

²¹ New South Wales Law Reform Commission, *Report of the Law Reform Commission on the Right of Appeal from Decisions of Administrative Tribunals and Officers* LRC 16, February 1973 para. 14.

4. ADMINISTRATIVE LAW REFORMS

Commonwealth

In the 1970s the complexity and uncertainty of review of administrative action led to recommendations for a substantial reform of administrative law at Commonwealth level.²² The package of reform legislation, known as the “New Administrative Law”, consists of:

- the Administrative Appeals Tribunal to hear appeals on the merits of a wide range of government decisions;²³
- the Administrative Review Council to coordinate and supervise the federal system of administrative review and make recommendations to the Minister as to the classes of administrative decision which are and should be the subject of review by a court, tribunal or other body;²⁴
- a codification of the grounds for judicial review of administrative action, simplifying and clarifying the bases on which the legality of decisions can be challenged;²⁵
- the office of Ombudsman to investigate complaints and make recommendations,²⁶ and
- access to information held by government on various matters.²⁷

The rationale for the creation of the federal AAT has been summarised as follows. The traditional Westminster doctrine of responsible government:

... fails to take account of the fundamental elements of contemporary public administration including, for example, the all pervading influence of administrative discretion, the propensity for departments and agencies to control or manipulate ministers, the complete eclipse of Parliamentary question time as a meaningful device

²² Commonwealth Administrative Review Committee *Report* PP No. 144 of 1977 (“Kerr Committee”); Committee on Administrative Discretions *Final Report* PP no 53 of 1973 (“Bland Committee”); Committee of Review of Prerogative Writ Procedure *Report* PP No 56 of 1973 (“Ellicott Committee”).

²³ *Administrative Appeals Tribunal Act* 1975.

²⁴ *Administrative Appeals Tribunal Act* 1975.

²⁵ *Administrative Decisions (Judicial Review) Act* 1977.

²⁶ *Ombudsman Act* 1976.

²⁷ *Freedom of Information Act* 1982.

to bring ministers, departments and agencies to account, the role of secrecy in decision-making, the fondness of some decision makers for the implementation of policy through inaccessible internal guidelines and policy documents, and the propensity for departments and agencies to avoid formal review structures designed to monitor or regulate resort to formal delegated legislation.

The creation of the Commonwealth AAT in 1975 was a clear acknowledgment that ...existing mechanisms for checking abuse of discretionary power were incomplete, that judicial review of administrative action provided very limited individual redress, and that therefore administrative decision-making required a formalised, external, accessible and inexpensive system of merits review if it was to operate fairly and to be properly accountable.²⁸

Administrative review was entrusted to a tribunal rather than to a court because of the commonwealth constitutional prohibition on exercising non-judicial power. It is considered that the function of reviewing administrative decisions on their merits and substituting the review body's decision for that of the original decision maker is the exercise of the administrative power of the government, not the judicial power.

At state level there is no similar constitutional prohibition on courts exercising administrative powers. However, a concern to ensure that the courts are visibly separate from the executive government also exists at State level and it has been considered that for courts to stand in the shoes of administrators would breach the principle of separation of powers. There are, however, instances where the courts have the jurisdiction to review decisions on their merits.²⁹

New South Wales

1973 The New South Wales Law Reform Commission recommends that a Public Administration Tribunal be constituted and that more rights of appeal should be granted.³⁰

1974 Office of Ombudsman established to investigate complaints about the conduct of public authorities.³¹

²⁸ Maher L, "The Australian Experiment in Merits Review Tribunals" in Mendelsohn O and Maher L (eds), *Courts, Tribunals and New Approaches to Justice* La Trobe University Press 1994 pp 77-78.

²⁹ For example, *Farm Produce Act* 1983 s 19.

³⁰ New South Wales Law Reform Commission, *Report of the Law Reform Commission on the Right of Appeal from Decisions of Administrative Tribunals and Officers* LRC 16, February 1973

³¹ *Ombudsman Act* 1974

1988 The New South Wales Tax Task Force recommends a Taxation Appeals Administrative Tribunal³².

Independent Commission Against Corruption established to investigate complaints of corrupt conduct of public officials.³³

1989 The Attorney-General's department recommends the establishment of an Administrative Appeals Tribunal to review administrative decisions on their merits.³⁴

Freedom of information legislation enacted to increase public access to government information.³⁵

Other States and Territories

Victoria and the ACT

Victoria and the ACT have followed the Commonwealth government in enacting a comprehensive package of administrative reform. They each have an Administrative Appeals Tribunal - the Victorian AAT was established in 1984 and the ACT AAT in 1989.³⁶ They each have legislation simplifying the procedure for judicial review and providing for the decision maker to furnish a statement of reasons on request;³⁷ each has freedom of information legislation³⁸ and an Ombudsman.³⁹

³² New South Wales Tax Task Force *Review of the State Tax System* August 1988 p 194.

³³ *Independent Commission Against corruption Act* 1988.

³⁴ Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General's Department December 1989 p 18.

³⁵ *Freedom of Information Act* 1989.

³⁶ *Administrative Appeals Tribunal Act* 1984 (Vic); *Administrative Appeals Tribunal Act* 1989 (ACT).

³⁷ *Administrative Law Act* 1978 (Vic); *Administrative Decisions (Judicial Review) Ordinance* 1989 (ACT).

³⁸ *Freedom of Information Act* 1982 (Vic); *Freedom of Information Act* 1989 (ACT).

³⁹ *Ombudsman Act* 1973 (Vic); *Ombudsman Act* 1989 (ACT).

Queensland

Queensland has freedom of information legislation⁴⁰ and a Parliamentary Commissioner⁴¹ (a similar role to the Ombudsman). There is a *Judicial Review Act* 1991 codifying the grounds for judicial review along the lines of the Commonwealth *Administrative Decisions (Judicial Review) Act* 1977. The Queensland Act is wider than the Commonwealth Act in that it also applies to decisions made by public employees under non-statutory Government-funded schemes and programs.

The Fitzgerald Report recommended the establishment in Queensland of a system for review of the merits of administrative actions by an independent external review body with the power to make binding determinations, rather than recommendations.⁴² In 1993 the Electoral and Administrative Review Commission reported its findings on its review of appeals from administrative decisions. The Commission found that there were 131 different administrative review bodies in Queensland and recommended the establishment of a new independent merits review body (Queensland Independent Commission for Administrative Review (QICAR)) to provide a merits review system applicable to a broad range of administrative decisions.⁴³ The recommendation has not been implemented.

South Australia

South Australia has freedom of information legislation⁴⁴ and an Ombudsman.⁴⁵

In 1984 the South Australian Law Reform Commission recommended that a general administrative appeal tribunal be established in South Australia similar to the Commonwealth Administrative Appeals Tribunal, to take over the jurisdiction of some existing appellate bodies and to hear appeals from the exercise of discretions.⁴⁶

⁴⁰ *Freedom of Information Act* 1992 (Qld).

⁴¹ *Parliamentary Commissioner Act* 1974 (Qld).

⁴² Fitzgerald GE, Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Enquiry pursuant to Orders in Council* Queensland Government Printer 1989 p 129.

⁴³ Electoral and Administrative Review Commission, *Report on Review of Appeals from Administrative Decisions* August 1993.

⁴⁴ *Freedom of Information Act* 1991 (SA).

⁴⁵ *Ombudsman Act* 1972 (SA).

⁴⁶ Law Reform Committee of South Australia, *Eighty Second Report to Attorney General Relating to Administrative Appeals* 1984 pp 15-40.

Western Australia

Western Australia has freedom of information legislation⁴⁷ and a Parliamentary Commissioner⁴⁸ (a similar role to an Ombudsman).

In 1982 the Western Australian Law Reform Commission recommended that an administrative appeals system be established. Rather than a general AAT, the Commission recommended that the existing specialised tribunals be retained and that administrative divisions be established in the Local Court and the Supreme Court.⁴⁹ The “WA Inc” Royal Commission Report in 1992 criticised the recommendation on the grounds that the principle of separation of powers would be compromised if the courts entertained merits appeals from decisions. The “WA Inc” report recommended the establishment of an AAT separate from the judiciary.⁵⁰ The recommendation has not been implemented.

Northern Territory

The Northern Territory has an Ombudsman.⁵¹

5. GENERAL FEATURES OF AATS

It is probable that an AAT in New South Wales would be modelled on the Commonwealth and Victorian AATs, which are similar in structure. A brief description of some of the features of these AATs follows, indicating some issues relevant to establishing an AAT in New South Wales.

Constitution

The Commonwealth and Victorian AATs are constituted by a President, Deputy Presidents, senior members and other members. The non-presidential members may be lawyers but are frequently non-lawyers selected for their expertise and standing in various fields. For example, non-lawyer members may be accountants, engineers, academics, medical practitioners, or senior defence force officers.

The President of the federal AAT must be a judge of the Federal Court. The President of the Victorian AAT must be a judge of the County Court. It has been suggested that a New

⁴⁷ *Freedom of Information Act 1992 (WA)*.

⁴⁸ *Parliamentary Commissioner Act 1971 (WA)*.

⁴⁹ Western Australia Law Reform Commission, *Report on Review of Administrative Decisions: Part 1 - Appeals* Project No 26 (1982) pp 28-34.

⁵⁰ Kennedy, GA, Wilson RD and Brinsden PF, *Report of the Royal Commission into Certain Commercial Activities of the Government Part II*, Government Printer WA, 1992, para 3.5.2.

⁵¹ *Ombudsman (Northern Territory) Act 1981 (NT)*.

South Wales AAT should be linked to the District Court and that District Court judges would preside in appropriate cases.⁵²

Powers of an AAT

In reviewing the merits of a decision the Victorian and federal AATs have the power to:

- (a) affirm the original decision;
- (b) vary the original decision;
- (c) set it aside and either
 - (i) make a decision in substitution for the original decision; or
 - (ii) remit the matter for reconsideration in accordance with any directions or recommendations of the Tribunal; or
- (d) dismiss the application for review (for example if it is frivolous or vexatious).⁵³

The AATs are empowered to review decisions on their merits to reach the “correct or preferable” decision.⁵⁴ However, the kind of review conducted by the AAT can be limited by the statute that confers the appeal jurisdiction on the AAT. The operation of the Victorian AAT has been complicated by a tendency to override its provisions in statutes conferring jurisdiction on it:

Most Acts which confer jurisdiction on the Tribunal exclude or modify the applicability of some provisions of the *Administrative Appeals Tribunal Act* 1984. There are many areas of inconsistency between the provisions of Acts conferring jurisdiction on the Tribunal and the provisions of the *Administrative Appeals Tribunal Act* 1984. Areas of inconsistency include the persons who may apply to the Tribunal, the time within which an application must be made, the mode of making an application to the Tribunal and the powers of the Tribunal when reviewing a decision.⁵⁵

Review of policy

One of the most intensely debated issues for AATs is the extent to which they are, or should be able to, refuse to apply government and departmental policies. Many government bodies develop guidelines and policies as to what decision will be made or how a discretion will be exercised in particular circumstances, to ensure consistency in decision-making and to

⁵² NSW Labor’s Law Reform Policy 1995 p 13.

⁵³ Section 25 *Administrative Appeals Act* 1984 (Vic)

⁵⁴ *Drake v Minister for Immigration and Ethnic Affairs* (1979) 2 ALD 60 at 68; *Re Zylberberg and Commissioner of Business Franchises* (1986) 1 VAR 211 at 220.

⁵⁵ Kyrou E, “Victoria’s AAT reviewed” (1986) 60 *Law Institute Journal* 447 p 448.

implement the aims of the government. Should an AAT be bound to apply these policies in the same way that the original decision-maker was, or should it make its own determination as to the correct or preferable decision regardless of government policy?

It is said that it is necessary to:

...establish the appropriate balance between independence and responsiveness to the broad issues of government policy. An adjudicative tribunal should not be subject to direction by government, or by other vested interests, in the making of individual decisions. There will be common agreement that decisions in individual cases should not be dictated by the particular political circumstances or ambitions of the government of the day. Nor should the arbitrary intervention of government policy dictate the decision to be made in a particular case, whether it be an appeal against a decision of a minister or a decision on the proper treatment of a mental patient...However, many of the tribunals cannot stand aside entirely from government policy. Those which are concerned with decision-making as part of the machinery of executive government must have regard to the policy of the government of the day when exercising discretionary powers, including the making of value judgments within the proper scope of the interpretation of legislation requiring the making of those judgments. Those which have been established as part of the machinery of implementation of broader social and economic policies must remain sensitive to those underlying policies or they will lose their reason for being.⁵⁶

The federal AAT must take existing government policy into account in determining the correct or preferable decision in a particular case, but it must not blindly apply policy without consideration of the merits of the case⁵⁷. The AAT may review existing government policy and refuse to apply it if to do so would not lead to the “correct and preferable decision” in the circumstances. However, in the interests of consistency and respect for the policy of elected representatives, the AAT would not depart from government policy (particularly policy formed at a Ministerial rather than a departmental level) without “cogent reasons”.

A statute conferring a right to appeal to the AAT may expressly provide that the AAT must decide in accordance with policy statements or directives issued by the relevant department. This is one way to control an AAT’s ability to depart from government policy.

The Victorian government in establishing the AAT restricted the ability of the Victorian AAT to refuse to apply government policy. Where certain conditions are satisfied, the

⁵⁶ Curtis L, “Agenda for Reform: Lessons from the States and Territories” in Creyke R (ed), *Administrative Tribunals: Taking Stock* Centre for International and Public Law, Canberra, 1992 pp 41-42.

⁵⁷ *Drake v Minister for Immigration and Ethnic Affairs* (1979) 2 ALD 60 at 69-70; *Re Drake and Minister for Immigration and Ethnic Affairs (No 2)* (1979) 2 ALD 634 at 642.

Victorian AAT has a duty to apply a Minister's statement of policy to the extent that the policy is within power.⁵⁸ The conditions are:

- (a) the relevant Minister certifies that at the time of making the decision there existed a statement of policy applying to such decisions;
- (b) the AAT is satisfied that at the time of making the decision
 - (i) the applicant was aware of the statement of policy, or could reasonably have been expected to be aware of it; or
 - (ii) the statement of policy had been published in the Government Gazette; and
- (c) the primary decision maker states in the statement of reasons for the decision that he or she relied on that statement of policy when making the decision.

Procedure

AATs are generally adversarial and court-like in nature, with witnesses swearing oaths, giving evidence from the stand and subjected to cross-examination. Legal representation is permitted and is common. The legislation requires the AATs to act with as little formality and technicality and with as much expedition as a proper consideration of the matters before the tribunal allows. The federal and Victorian AATs are not bound by the rules of evidence (though they may choose to apply them) and they may inform themselves on any matter in such manner as they consider appropriate.

Divisions

The federal AAT has three divisions: general, veterans' affairs, and taxation. In the general division are heard appeals from decisions in areas such as freedom of information applications, commonwealth employees' compensation and social security.

The Victorian AAT has three divisions: general, taxation and planning. In the general division are heard appeals from decisions in areas such as freedom of information, criminal injuries compensation, adoption and state employees' retirement benefits.⁵⁹

Reasons for decisions

At common law government decision-makers are not obliged to provide reasons for decisions. As part of the administrative appeal process, the legislation enacting the federal and Victorian AATs also provides that a person who is adversely affected by a decision which is reviewable by the AAT may require the decision-maker to provide a written

⁵⁸ *Administrative Appeals Tribunal Act 1984 (Vic)* s 25(3).

⁵⁹ See Appendix B for the jurisdiction of the Victorian AAT.

statement of the reasons for the decision. This provision is essential to enable individuals to understand the case they need to present in order to pursue an appeal at an AAT.

The AATs themselves must give reasons for their decisions either orally or in writing.

Reference of questions of law

The federal AAT may refer a question of law arising in a proceeding to the Federal Court for determination. The Victorian AAT may refer questions of law to the Full Court of the Supreme Court for decision.

Appeals from the AAT

Appeals lie on questions of law from the federal AAT to the Federal Court, and from the Victorian AAT to the Victorian Supreme Court.

6. JURISDICTION FOR A NEW SOUTH WALES AAT

What kinds of decisions would it be appropriate for the AAT to review? Which jurisdictions of existing tribunals should be transferred to an AAT, and which are more appropriately heard by a specialised tribunal?

It has been suggested that the primary criterion of whether a decision is suitable for review on the merits is that rights or interests of persons are specifically affected to a significant extent by an exercise of the power.⁶⁰ There are some decisions which it is argued should not be subject to review by an AAT:⁶¹

- decisions involving sensitive political issues which are likely to be scrutinised by Parliament;
- decisions of a preliminary nature;
- decisions which would have a substantial effect on persons other than the individual parties (for example, if a decision refusing a place under a quota system was overturned on review and the applicant was granted a place, another decision would have to be made as to who would lose their place);
- decisions where no appropriate remedy can be given by the AAT (such as a decision

⁶⁰ O'Brien D, "Tribunals and Public Policy: What Decisions Are Suitable for Review" (1989) No.58 *Canberra Bulletin of Public Administration* 86 p 93; Administrative Review Council, *Eighth Annual Report 1983-84* para 39.

⁶¹ O'Brien *ibid* pp 91-92. These suggestions were made about the federal AAT, not in consideration of a State AAT.

taken in an emergency to destroy property);

- decisions involving a discretion to impose a penal sanction, or of a law enforcement nature;
- decisions that concern solely scientific or technical issues (such as whether a particular drug should be administered to a particular patient); or
- decisions where a right of appeal would too seriously impede the purpose of a statute.⁶²

A recent proposal for a New South Wales AAT has stated that most of the smaller boards and tribunals will be amalgamated into a central tribunal, including a special tax division replacing the existing appeal boards for each of the major state taxes (payroll, tobacco, petrol, stamp duty, and land tax).⁶³ Some highly specialised tribunals will retain their independent existence, such as the Equal Opportunity Tribunal, the Government and Related Employees Tribunal, the Police Tribunal and the Victims Compensation Tribunal.⁶⁴ As an AAT is generally set up to adjudicate between a government authority and an individual, it is unlikely that an AAT would be given jurisdiction to review decisions adjudicating on a private matter between two individuals (for example, decisions of the Residential Tenancies Tribunal).

Suggested jurisdiction for a New South Wales AAT includes:

- hearing cases of misuse of public information under proposed privacy and data protection legislation,⁶⁵
- hearing appeals against decisions denying access to information under freedom of

⁶² New South Wales Law Reform Commission, *Report of the Law Reform Commission on the Right of Appeal from Decisions of Administrative Tribunals and Officers* LRC 16, February 1973 para 56.

⁶³ Hon J Shaw QC MLC, Shadow Attorney-General and Shadow Minister for Industrial Relations, "Appeals Against Government Decisions To Be Opened Up", *Media Release* 5/2/95.

⁶⁴ *Ibid.*

⁶⁵ Hon J Shaw QC MLC, Attorney General and Minister for Industrial Relations, "NSW Leads the Way in Providing Vital Privacy Protection" *Media Release* 26/3/96. It is proposed that the AAT would be able to grant remedies including compensation up to \$40 000.

information legislation⁶⁶ (currently heard by the District Court); and

- hearing appeals against decisions refusing applications for public housing.⁶⁷

For a list of the jurisdiction of the Victorian AAT see Appendix B.

7. ARGUMENTS FOR AN AAT

(1) Increased accountability of decision makers

An adjudicative merits review tribunal independent of the original decision-maker is a safeguard against arbitrary or dishonest decision-making by public authorities, and ensures that statutes are administered consistently and in accordance with their terms. It also increases public confidence in the honesty and correctness of the administrative system. Each person adversely affected by a decision has a forum that is much more accessible than the courts to present a case and receive a fair hearing, and has the satisfaction of “a day in court”.

An AAT usually has more time and better resources than the original decision-maker when it reviews the decision. Administrators often make decisions on documentary evidence with constraints on the time and resources for detailed consideration, while an AAT takes a more rigorous approach to finding facts and reaching a conclusion. A hearing before an AAT is an opportunity for each party to test the other’s evidence and arguments.

It has also been emphasised that there is a special need for an effective system of administrative review in times of cost-cutting by government, when loss of resources for administrators may lessen the quality of primary decisions.⁶⁸

Specialised tribunals have been accused of lack of consistency and coherence in decision, and procedural injustice or incompetence.⁶⁹ “The limited jurisdiction of tribunals tends to

⁶⁶ Hon J Shaw QC MLC, Shadow Attorney-General and Shadow Minister for Industrial Relations, “Appeals Against Government Decisions To Be Opened Up”, *Media Release* 5/2/95.

⁶⁷ *Ibid.*

⁶⁸ Rosemary Balmford “The Life of the Administrative Appeals Tribunal” in Robin Creyke (ed) *Administrative Tribunals: Taking Stock* Centre for Public and International Law, Canberra, 1992 p 80.

⁶⁹ Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General’s Department December 1989 p 18.

engender 'staleness' which also affects the quality of decision-making."⁷⁰ The high status of an AAT, confirmed by the use of judges as members, would lead to good quality appointments as members. The competence and independence of an AAT would also encourage Parliament to provide for appeals to an AAT which it otherwise may have considered more appropriate to hearing by the courts.

(2) Improved decision-making by public officials

When decision-makers know that their decisions are open to scrutiny by appeal bodies, they have a much greater awareness of the standards of conduct necessary for their decisions to stand up under review. Independent and open review of departmental conduct, it is argued, has led to better record and file keeping, better internal training and supervision, and increased concentration on the fairness and correctness both of the procedure and the substantive merits of the decision.⁷¹

Review by an appellate tribunal also gives the decision-maker guidance in the interpretation and application of the relevant statute. Many statutory provisions are never considered by the courts and so administrators are left to apply them as they see fit. As appeals to an AAT would be much more common than appeals to a court, many more provisions would be considered by the AAT, which can give an authoritative interpretation of a statute, and can formulate general principles to assist primary decision-makers.⁷² Better decisions by primary decision makers lead to less dissatisfaction with decisions and fewer applications for review.

⁷⁰ Ibid p 18.

⁷¹ For example, the former Secretary to the Department of Social Security affirmed the beneficial effect of the federal AAT on departmental decision-making:

Once it became known that our files were to be open to scrutiny by the Ombudsman or by the AAT or other review bodies there was an urgent need to improve the standard of reasons for decision - in terms of saying precisely why a decision was taken - and in clarity and succinctness. There have also been improvements in manuals, guidelines and instructions ... A further point is that legislative provisions and policies have been clarified as a result of court decisions and in some instances AAT decision ... Another by-product of the administrative law reforms has been the greater attention paid to training of staff who are in direct contact with public or who have delegations to take decisions ... Departments also have improved their own internal review mechanisms ... In short, I believe that the relatively small number of cases being reviewed by the external scrutiny bodies is at least partly the result of a substantial improvement in decision-making and client services over the period since the administrative law reforms were introduced. (Volker D, "The Effect of Administrative Law Reforms" (1989) No.58 *Canberra Bulletin of Public Administration* pp 112-115).

⁷² Administrative Review Council *Fifteenth Annual Report 1990-91* AGPS Canberra 1991 p 21; Balmford R, "The Life of the Administrative Appeals Tribunal" in Creyke R (ed) *Administrative Tribunals: Taking Stock*, Centre for Public and International Law, Canberra, 1992 pp 53-54.

Open review also discourages the secretiveness those government departments are sometimes known for and promotes a more open attitude towards public participation in decision-making.⁷³

(3) Review policy

Tribunals which stand in the shoes of the original decision maker usually apply the relevant government policies in making their decisions. Depending on its statutory powers, an AAT may be able to critically examine the operation of government policy and depart from policy in particular cases. The ability to refuse to apply a policy where to do so would work an injustice to the person affected by the decision provides another safeguard for individuals.

By examining policies, the decisions of an AAT can assist government bodies to develop policies and legislation. "In the case of external merits review tribunals like the AAT, which in essence form part of the executive branch of government, there are sound institutional reasons why they should foster liaison with primary decision-makers. In the case of the AAT such liaison can, for example, have the important normative role of refining the use of policies or guidelines developed to assist discretionary decision-making and to promote their consistent application."⁷⁴ Government agencies may have a greater resistance to criticism by an external review body than by internal review, but it is argued that the very independence of an AAT makes its criticisms more valuable.⁷⁵

(4) Efficiency gains

It would be more efficient to have one central tribunal hearing appeals from a wide range of areas, rather than a disparate range of tribunals, boards, commissions, panels, each with their own infrastructure, accommodation, staff, and procedure. It would eliminate duplication of functions and prevent the proliferation of tribunals.⁷⁶ An AAT would vest administrative control over the resources required for adjudication of legal matters in one Department and allow a more efficient use of those resources. The existing infrastructure

⁷³ Maher L, "The Australian Experiment in Merits Review Tribunals" in Mendelsohn O and Maher L (eds), *Courts, Tribunals and New Approaches to Justice*, La Trobe University Press 1994; O'Brien D, "The Impact of Administrative Review on Commonwealth Public Administration" in Harris M and Wayne V (eds), *Australian Studies in Law: Administrative Law*, Federation Press 1991.

⁷⁴ Maher L, *ibid* p 87.

⁷⁵ Administrative Review Council *Better Decisions: Review of Commonwealth Merits Review Tribunals* Report No.39 AGPS 1995 para 6.7-6.11.

⁷⁶ Aronson M, "An Administrative Appeals Tribunal for New South Wales: Expensive Legalism or Overdue Reform?" (1993) 52 *Australian Journal of Public Administration* 208; O'Brien D., "The Impact of Administrative Review on Commonwealth Public Administration" in Harris M and Wayne V (eds), *Australian Studies in Law: Administrative Law*, Federation Press 1991.

of the Attorney General's Department, the courts and the tribunals could be integrated.⁷⁷

Rationalising the system of review would also simplify procedure for practitioners who would only need to familiarise themselves with the procedure and rules of a single tribunal rather than a range of tribunals that have evolved without reference to the practices of other tribunals.

(5) Relieve pressure on Courts

The availability of review on the merits of decisions would reduce the demand for judicial review of decisions and would relieve the Supreme Court of some of its case load, freeing it for hearing other cases.

(6) Relieve pressure on Parliament

A system of appeals to an AAT reduce the pressure placed on members of parliament and ministers to review individual cases and decisions. "A tribunal of independence and competence provides great benefits: it releases the political system from the burden of reviewing administration case by case and allows the political system to concentrate on the making of laws and broad policies. Such a tribunal provides a manifest benefit to the community by giving an assurance of integrity and legality in administrative justice."⁷⁸

(7) Consistency of procedure and decision-making

Streamlining the various avenues of appeal would ensure greater consistency in the quality and procedure of the appeal process. A generalist tribunal replacing various specialised tribunals would standardise principles and procedures and promote consistency in the administration of statutes.⁷⁹

(8) Increased independence of review

One benefit of a general AAT is said to be that is not tied to a particular department or government authority, but has dealings with a wide range of government bodies. A general tribunal would probably be funded by the Attorney-General's department, whereas a specialised tribunal is often funded by the same department that made the decision under review, and the tribunal's staff may be employees of that department. There is therefore a

⁷⁷ Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General's Department December 1989 p 21.

⁷⁸ Sir Gerard Brennan in the Foreword to Creyke R (ed), *Administrative Tribunals: Taking Stock*, Centre for International and Public Law, Canberra 1992.

⁷⁹ Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General's Department December 1989 p 21.

danger that a specialised tribunal can be “captured” by the department that it deals with constantly - that is the tribunal comes to identify with the department in a manner which could, or could appear to, affect the findings and determinations of the tribunal.⁸⁰

(9) Continuing focus on merits review

A general review tribunal allows appeals to be heard from a wide range of administrative decisions affecting individuals, while a system of specialised tribunals limits the areas for which appeals can be made available. The existence of an AAT may encourage the creation of appeal rights, as it provides an established avenue of appeal for drafters of legislation to incorporate in new legislation. An AAT provides a continuing focus on administrative review for legislators.

8. ARGUMENTS AGAINST AN AAT

(1) Interference with responsible government

One of the chief criticisms of an AAT is that it is not responsible to the departments whose decisions it is reviewing; it is not “linked into the chain of responsibility from Minister to government to Parliament”.⁸¹ An AAT is not concerned with the on-going administration of legislation and may not be sympathetic to the wider pressures that departments take into account in developing policy. It has been argued that an AAT should take into account not just the interests of the parties before the tribunal but the public interest in the efficient and effective administration of legislation. It is also argued that an AAT should be restricted in its ability to depart from government policy (particularly high-level or Ministerial policy), which is developed to provide fairness in the distribution of limited resources. It is not easy for an AAT to balance its role in the administrative arm of government (and so have regard to limited resources and the need for overall fairness and consistency in allocation of benefits to the public) and its adjudicative role of striving for justice in the individual case before it.⁸²

For example, the former federal Minister for Finance criticised the federal AAT for taking de facto control over the spending of public money by overturning administrative decisions (for example, as to entitlement to social security benefits):

⁸⁰ Disney J, “The Way Ahead for Tribunals?” in Creyke R, *Administrative Tribunals: Taking Stock*, Centre for Public and International Law, Canberra 1992 pp 122-123; Ison T, *The Administrative Appeals Tribunal of Australia*, Law Reform Commission of Canada 1989 p 46; Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General's Department December 1989 p 21.

⁸¹ *Re Drake and Minister for Immigration and Ethnic Affairs* (No.2) (1979) 2 ALD 634 at 644.

⁸² Sharpe J, *The Administrative Appeals Tribunal and Policy Review* Law Book Company Limited 1986 pp 157-158.

The presumption underlying most quasi-legal opinion about appeal and review processes is that extra tiers of review necessarily produce a better outcome. I believe that presumption can be challenged on purely logical grounds. But more importantly, in any liberal democracy, ultimate power over spending public money must reside with those who have the ultimate responsibility for procuring it - in the hands of the elected government.⁸³

While some criticise tribunals for being too independent of the executive, others argue that the independence of tribunals can be misleading. For example, in an address to the Bar Association the Chief Justice of New South Wales said:

“It is an extraordinary feature of the way in which public business in this country has been conducted for generations that politicians of all political colours have been extremely anxious to establish decision-making tribunals and bodies which have some superficial resemblance to the judiciary and which are represented to the public as “independent tribunals”. Very few people seem to have noticed that the only independence which some of these tribunals enjoy is the freedom to do whatever the government of the day wants them to do, and that they operate in practice as a method of distancing potentially unpopular decision-making from those who should take the responsibility for it.”⁸⁴

(2) Cost

It has been argued that an AAT is not only expensive to establish and maintain in itself, but it also increases the costs of administration of other government functions:

Where provision is made for appeals against administrative decisions by government departments or agencies, equity is provided for some (those who feel aggrieved by decision) but at a considerable cost to taxpayers who must pay for much more complex and cumbersome administrative procedures than would otherwise be the case ... While each of these review processes, viewed in isolation, serves a worthwhile purpose in protecting some persons from poor or inappropriate decision-making, the need to take account of the possible requirements of all these review processes makes decision-making time-consuming and cumbersome. This is not to mention the costs of actually undertaking the review processes themselves.⁸⁵

⁸³ Walsh P, “Equities and Inequities in Administrative Law” (1989) No. 58 *Canberra Bulletin of Public Administration* p 32.

⁸⁴ Gleeson M, Address to the Bar Association, *Bar News* Summer 1989 p 26.

⁸⁵ Walsh P, “Equities and Inequities in Administrative Law” (1989) No. 58 *Canberra Bulletin of Public Administration* p 30. See also Griffiths J, “The Price of Administrative Justice” (1989) No. 58 *Canberra Bulletin of Public Administration* p 34.

Some commentators have suggested that the costs of setting up and maintaining a general AAT would outweigh savings gained from consolidating existing specialised and disparate tribunals. The costs of an AAT are also likely to increase as it attracts further jurisdictions, as the existence of an AAT is an incentive for legislators to provide for a right of appeal to it.⁸⁶ It is also argued that the use of tribunals diverts funds from the courts to duplicate court-like systems and infrastructure.

It has been suggested that a better use of resources would be to put more emphasis on better primary decision-making. If administrators made decisions using adjudicative rather than bureaucratic techniques there would be less need for a review system.⁸⁷ This would also address the problem that an appeal system favours those who have the resources and energy to challenge a decision over those who acquiesce to a decision and put up with unsatisfactory decision-making.⁸⁸

(3) Usurping jurisdiction of the courts

In the area of merits review of administrative decisions, there is no competition between the courts and administrative tribunals, as the courts will only review the legality of a decision, not its merits. There are, however, areas where there is a question as to whether the courts or a tribunal should be given jurisdiction to adjudicate a dispute.

(i) Overlapping jurisdiction

There are situations where an administrative decision could be challenged either on its merits before an AAT or as to its legality before the courts. (For example, a decision that ignored an important piece of evidence may not be the correct or preferable decision; it may also be illegal as an improper exercise of the decision making power, for failing to take into account a relevant consideration.) The trend towards providing review on the merits of decisions by tribunals minimises the role of the courts in supervising administration, as individual applicants will generally choose to appeal a decision to an AAT, which provides a faster and less expensive result than the courts. It is also often easier to establish that a decision was not the correct or preferable one than to establish one of the grounds for judicial review of decisions.

It is argued that emphasising merits review extends the power of the executive arm of government and removing the traditional safeguard of individual rights provided by the courts. It is considered that as part of the executive rather than the judicial arm of government, a tribunal is more vulnerable to influence from the executive than a court is.

⁸⁶ Aronson M, "An Administrative Appeals Tribunal for New South Wales: Expensive Legalism or Overdue Reform?" (1993) 52 *Australian Journal of Public Administration* 208 p 210.

⁸⁷ Ison T *The Administrative Appeals Tribunal of Australia*, Law Reform Commission of Canada 1989 p 28.

⁸⁸ *Ibid* p 20.

(ii) *Usurping jurisdiction of the courts*

Some tribunals have been given jurisdiction to determine justiciable disputes (disputes that could be determined by the courts). For example, the Residential Tenancies Tribunal was established as an alternative to the courts. It is argued that where tribunals are given jurisdiction to adjudicate in matters which could have been decided by the courts, the vast majority of people are condemned to “second-class justice”. Tribunals, with a concern for administrative efficiency, have fewer safeguards for individual rights than the courts (for example, tribunals are not bound to follow the rules of evidence in hearing applications, and tribunal members do not have the same assurance of long-term tenure that judges do). It is said that there is a danger that only traditional commercial rights (contract, torts, property) will continue to receive the first-class protection that is provided by the courts.

It is said that the proliferation of adjudicative tribunals operating outside the court system has fragmented responsibility for the determination of legal rights and obligations. To resolve this complexity more emphasis should be given to making the courts more efficient and accessible to individual applicants, and preventing the “tribunalisation” of justice.⁸⁹ The Attorney-General’s Department expressed the same concern in its recommendation that an AAT be established:

The advantage we see is in the potential of an AAT to draw together and absorb a large range of disparate legislation under which reviewable decisions are made. It could be used to rationalise the system of administrative review and would thus play an important role in stemming the further proliferation of tribunals. Care would have to be taken, however, to ensure that the AAT did not usurp the role of the courts in determining justiciable issues as opposed to administrative/policy ones.⁹⁰

The question of usurping the role of the courts would be relevant to an AAT if the jurisdiction of the existing tribunals determining justiciable issues was transferred to it.

(4) “Judicialisation” of an AAT

AATs have been criticised as becoming too formal and court-like in their procedures. The involvement of judges as members of AATs and the high status accorded to AAT decisions leads to a level of formality that loses a tribunal the advantages of quick, inexpensive, flexible and informal decision-making.⁹¹ The availability of appeal to the courts on questions of law leads to long and technical statements of reasons by the AAT, written for review by the superior court rather than for easy comprehension by the parties.

⁸⁹ Hon JRA Dowd, *Discussion Paper on Civil Procedure* NSW Attorney-General’s Department December 1989 p 19.

⁹⁰ *Ibid* p 20.

⁹¹ Allars M, *Introduction to Australian Administrative Law*, Butterworths, 1990 para 7.9.

(5) Lack of expert knowledge

A generalist AAT with members drawn from a range of professions will not have the same familiarity with a particular jurisdiction as a specialised tribunal for that jurisdiction.

“... [A] general tribunal could not have the experience and expertise in particular fields which, it is generally accepted, should be a characteristic of tribunals. Appeals would thus lie from an expert tribunal to a comparatively inexpert body, and we see little advantage in this. If, to meet this objection, it was proposed that the general administrative appeal tribunal should sit in several divisions corresponding to the main subjects within the jurisdiction of tribunals, the general effect would in practice, we think, differ little from the existing arrangements, and the essence of the proposal, a unified appellate body, would largely be lost.”⁹²

A specialised tribunal with a few members hearing cases on a particular subject matter may produce more consistent results than decisions being made by one of a number of members in a general division of a tribunal.⁹³

9. FURTHER ADMINISTRATIVE LAW REFORM

It has been argued that an AAT is most effective as one element in a package of reform of administrative law such as has been enacted in the federal and Victorian systems.⁹⁴ There have been proposals for similar reforms in New South Wales.

Judicial Review

There have been proposals for an Administrative Review Act to clarify and streamline the grounds for judicial review of administrative action.⁹⁵

As indicated above, the grounds for judicial review have been developed case by case by the

⁹² Committee on Tribunals and Enquiries, *Report 1957 Cmnd 218* (“Franks Report”)(UK) para 121-123.

⁹³ Ison T, *The Administrative Appeals Tribunal of Australia*, Law Reform Commission of Canada 1989 p 46.

⁹⁴ Aronson M, “An Administrative Appeals Tribunal for New South Wales: Expensive Legalism or Overdue Reform?” (1993) *52 Australian Journal of Public Administration* 208 p 209.

⁹⁵ The ALP (NSW) Law Reform Policy (1995) states at p 13 that:

Labor would enact a statute to provide a comprehensive means of administrative review applying to NSW government decision-making, including FOI and privacy related matters. This would give NSW citizens rights in relation to the State bureaucracy which they currently have in the federal field.

courts, initially in the United Kingdom and then in Australia, and the common law is complex and often uncertain. The New South Wales Law Reform Commission stated that: “the law relating to judicial review is complex, technical and lacking in consistency”. Following law reform recommendations⁹⁶ the federal government enacted legislation codifying the grounds of review and providing for a simple remedy to replace the prerogative writs. The *Administrative Decisions (Judicial Review) Act 1977* s 5 provides that a person may apply for an order of review of certain decisions to which the Act applies on the following grounds:

- (a) a breach of the rules of natural justice occurred in connection with the making of the decision;
- (b) procedures required by law to be observed in making the decision were not observed;
- (c) the person who purported to make the decision did not have jurisdiction to make the decision;
- (d) the decision was not authorised by the enactment under which it was purported to be made;
- (e) the making of the decision was an improper exercise of the power to make the decision;
- (f) the decision involved an error of law (whether or not the error appears on the record);
- (g) the decision was induced or affected by fraud;
- (h) there was no evidence or other material to justify the making of the decision;
- (i) the decision was otherwise contrary to law.

An “improper exercise of power” in (e) includes matters such as taking an irrelevant consideration into account, or failing to take a relevant consideration into account; exercising a power in bad faith or for a purpose other than the purpose for which it was conferred; exercising a discretion without regard to the merits of the particular case; and an exercise of power that is so unreasonable that no reasonable person could so have exercised the power.⁹⁷

The Queensland *Judicial Review Act 1991* provides a similar scheme of review for persons aggrieved by a decision to which the Act applies.

The Victorian *Administrative Law Act 1978* takes a different approach to reform. Rather than codifying grounds for review, the Act provides that any person affected by a decision

⁹⁶ Commonwealth Administrative Review Committee *Report* PP No. 144 of 1977 (“Kerr Committee”); Committee on Administrative Discretions *Final Report* PP no 53 of 1973 (“Bland Committee”); Committee of Review of Prerogative Writ Procedure *Report* PP No 56 of 1973 (“Ellicott Committee”).

⁹⁷ Section 5(2).

of a tribunal may apply to the Supreme Court for an order calling on the tribunal to show cause why the decision should not be reviewed.

The common law procedures remain available in respect of decisions that are outside the jurisdiction of the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1977* (Cth), *Administrative Law Act 1978* (Vic) and the *Judicial Review Act 1991* (Qld).

Mandatory reasons for decisions

Under the legislation establishing AATs in the Commonwealth, ACT and Victoria a person who is affected by a decision to which the legislation applies can require the decision-maker to provide a statement of reasons for decision. The legislation streamlining judicial review of administrative action also provides for a statement of reasons by the decision-maker if the decision is one to which the legislation applies. An Administrative Review Act in New South Wales would most likely provide that a decision maker must provide a statement of reasons on request.

The New South Wales Law Reform Commission recommended against providing a right for persons affected by a decision to obtain a statement of reasons for the decision:

We do not recommend that public authorities should be obliged to give reasons for official actions, even when requested to do so. A requirement that reasons be given where practicable is sound and productive of good effects. In cases involving licences needed for livelihood purposes, the absence of reasons can give rise to hardship or feelings of hardship. But to impose a general requirement to this effect must so add to work loads and so interfere with the efficiency of public authorities that the disadvantages of adopting such a course of action must outweigh the advantages.⁹⁸

Administrative Review Council

Some commentators have called for an AAT in New South Wales to be accompanied by a body similar to the federal Administrative Review Council. The council's functions could include monitoring administrative action and the successes and failures of the law reform, co-ordinating community education about the availability of administrative review and selecting decisions which would be appropriate for merits review by an AAT.⁹⁹

⁹⁸ New South Wales Law Reform Commission, *Report of the Law Reform Commission on the Right of Appeal from Decisions of Administrative Tribunals and Officers* LRC 16, February 1973 para 176.

⁹⁹ Jones M, "Human Rights Concerns in the process of administrative law reform in NSW", *Law Society Journal* February 1996 p 67; Aronson M, "An Administrative Appeals Tribunal for New South Wales: Expensive Legalism or Overdue Reform?" (1993) 52 *Australian Journal of Public Administration* 208 p 209.

CONCLUSION

An AAT provides a centralised forum for individuals aggrieved by administrative decisions to obtain a thorough reconsideration of the decision. Establishing an AAT in New South Wales would not necessarily mean increasing the number of decisions for which merits review is available; an AAT could simply be used to consolidate the jurisdictions of some of the many existing tribunals. The increases and/or savings in costs which would result from establishing an AAT, which kinds of decisions are appropriate to be reviewed by a generalist AAT, whether there should be an expansion of review rights, what kinds or remedies would be available and what relationship an AAT would have with the executive arm of government are among the issues which require consideration?

APPENDIX A

Partial list of tribunals and review bodies in New South Wales.

- Appeal Panel for apprentices (*Industrial and Commercial Training Act 1989*)
- Australian Financial Institutions Appeals Tribunal (*Financial Institutions (NSW) Code*)
- Board of Review for certain stamp duty disputes (*Stamp Duties Act 1920*)
- Boxing Appeals Tribunal (*Boxing and Wrestling Control Act 1986*)
- Building and Construction Industry Long Service Payments Committee (*Building and Construction Industry Long Service Leave Payments Act 1986*)
- Business Franchise Licence Fees (Petroleum Products) Appeals Tribunal (*Business Franchise Licences (Petroleum Products) Act 1987*)
- Business Franchise Licence Fees (Tobacco) Appeals Tribunal (*Business Franchise Licences (Tobacco) Act 1987*)
- Chiropractors and Osteopaths Tribunal (*Chiropractors and Osteopaths Act 1991*)
- Commercial Tribunal of New South Wales (*Commercial Tribunal Act 1984*)
- Community Services Appeals Tribunal (*Community Services (Complaints, Appeals and Monitoring) Act 1993*)
- Community Welfare Appeals Tribunal (*Community Welfare Act 1987*)
- Compensation Court (*Compensation Court Act 1984*)
- Consumer Claims Tribunals (*Consumer Claims Tribunals Act 1987*)
- Contract of Carriage Tribunal (*Industrial Relations Act 1991*)
- Credit Union Appeals Tribunal (*Credit Union Act 1969*)
- Disputes Committees (*Motor Dealers Act 1974*)
- Dust Diseases Tribunal (*Dust Diseases Tribunal Act 1989*)
- Equal Opportunity Tribunal (*Anti-Discrimination Act 1977*)
- Gaming Tribunal (*Gaming and Betting Act 1912*)
- Government Pricing Tribunal (*Government Pricing Tribunal Act 1992*)
- Government and Related Employees Appeal Tribunal (*Government and Related Employees Appeal Tribunal Act 1980*)
- Guardianship Board (*Guardianship Act 1987*)
- Harness Racing Appeals Tribunal (*Harness Racing Authority Act 1977*)
- Independent Commission Against Corruption (*Independent Commission Against Corruption Act 1988*)
- Independent Pricing and Regulatory Tribunal (*Independent Pricing and Regulatory Tribunal Act 1992*)

- Land and Environment Court (*Land and Environment Court Act 1979*)
- Legal Aid Review Committees (*Legal Aid Commission Act 1979*)
- Legal Services Tribunal (*Legal Profession Act 1987*)
- Licensing Court (*Liquor Act 1982*)
- Local Government Remuneration Tribunal (*Local Government Act 1993*)
- Local Government Pecuniary Interest Tribunal (*Local Government Act 1993*)
- Marine Appeals Tribunal (*Commercial Vessels Act 1979*)
- Medical Tribunal (*Medical Practice Act 1992*)
- Mental Health Review Tribunal (*Mental Health Act 1990*)
- Motor Vehicle Repair Disputes Committee (*Motor Vehicle Repairs Act 1980*)
- New South Wales Crime Commission (*New South Wales Crime Commission Act 1985*)
- Nurses Tribunal (*Nurses Act 1991*)
- Parliamentary Remuneration Tribunal (*Parliamentary Remuneration Act 1989*)
- Police Tribunal of New South Wales (*Police Service Act*)
- Psychosurgery Review Board (*Mental Health Act 1990*)
- Racing Appeals Tribunal (*Racing Appeals Tribunal Act 1983*)
- Residential Tenancies Tribunal (*Residential Tenancies Act 1987*)
- Review Panels (e.g. *Gas Act 1986*, *Passenger Transport Act 1990*)
- Schools Appeals Tribunal (*Education Reform Act 1990*)
- Share Management Fisheries Appeal Panel (*Fisheries Management Act 1994*)
- Statutory and Other Offices Remuneration Tribunal (*Statutory and Other Offices Remuneration Act 1975*)
- Transport Appeal Boards (*Transport Appeal Boards Act 1980*)
- Veterinary Surgeons Disciplinary Tribunal (*Veterinary Surgeons Act 1986*)
- Victims Compensation Tribunal (*Victims Compensation Act 1987*)
- Wardens' Court (*Mining Act 1992*)

APPENDIX B

List of jurisdiction of the Victorian Administrative Appeals Tribunal (taken from Kyrou E, *Victorian Administrative Law*, Law Book Company).

DECISIONS SUBJECT TO REVIEW

[1601]

The following list is a brief summary of the particular classes of decisions that are subject to review by the AAT. The list is current to the date of the latest Release to this service.

The list is arranged alphabetically by the principal enactments under which the AAT has jurisdiction. The following information is included: the provision(s) which vest(s) jurisdiction in the AAT (*italics*); the number and year of the enactment(s) which introduced or amended the provision(s) (*italics and in brackets*); the provision(s) under which a reviewable decision may be made; and a brief description of the reviewable decision(s).

Accident Compensation Act 1985

[1602]

Ss 99AA, 129(4), 129G, 129J, 129K (No 67, 1992)

Ss 99, 99A, 99B, 129, Part 4 Division 6A A decision of the Victorian WorkCover Authority or a self-insurer under ss 99, 99A or 99B; disputes as to contribution between the Authority and self-insurers; assessments under Part 4, Division 6A.

Administrative Appeals Tribunal Act 1984

[1603]

Ss 29(5) and (8), 30(4), 41(3) and 43(2) (No 10155, 1984)

Ss 29, 30, 41 and 43 Refusal by decision maker to provide reasons, or adequate reasons, for decision; certification by Attorney-General that disclosure of information, or of matter contained in a document, or the answering of a question, would be contrary to the public interest.

Adoption Act 1984

[1604]

S 129A(1) (No 10155, 1984)

Various sections Decisions of the Director-General of Community Services or a principal officer of an approved agency: refusing to approve a person as a fit and proper person to adopt a child, deferring the making of a decision to refuse or approve such a person, or revoking the approval of a person to adopt a child; decisions of the Director-General: refusing to approve an organisation as an agency, revoking or suspending for a specified period the approval of an agency, or refusing to renew an approval of an agency.

[1604/1] **Agricultural and Veterinary Chemicals (Control of Use) Act 1992***S 64 (No 46, 1992)*

Various sections

Decisions of the registrar, the chief administrator or an authorised officer to refuse to register a preparation, or to refuse to grant a licence or certificate or to cancel the registration of a preparation other than at the request of the wholesale dealer; or to cancel a licence or certificate other than at the request of the holder; or to attach a condition of registration or of a licence or certificate; or to vary a condition of registration or of a licence or certificate; or to refuse to approve a change under s 17; or to require testing to be carried out; or to issue or amend a land use restriction notice. [Note that the decisions to refuse or to cancel the registration of a preparation and to attach or vary a condition of registration are not reviewable if the decision merely implements a decision of the clearance authority and the registrar notifies the applicant or wholesale dealer of that fact.]

[1604/2] **Animal Preparations Act 1987***S 15 (No 12, 1987)*

Various sections

Decisions of the Chief Administrator of the Department of Agriculture and Rural Affairs refusing to register, or to renew the registration of, an animal preparation; or cancelling the registration of an animal preparation.

[1604/3] **Architects Act 1991***Ss 42, 43 (No 13, 1991)*

Various

Refusal of an application for registration or approval; failure to grant application for registration or approval within the prescribed time; determination made at an inquiry; determination cancelling or suspending registration under s 36 or approval under s 37; determination refusing to revoke suspension of registration or approval; failure to grant a request to revoke a suspension within the prescribed time; determination by the Architects Registration Board not to institute an inquiry into an architect's fitness to practise or professional conduct.

Barley Marketing Act 1993		[1604/4]
<i>S 69 (No 7, 1993)</i>		
S 31	Decision by the Australian Barley Board under s 31 requiring a person to give the Board information.	
Bayside Project (Amendment) Act 1989		[1604/5]
<i>S 4(3) (No 85, 1989)</i>		
Various	Jurisdiction to cancel enforcement orders made on 19 July 1989 on applications numbered PB 9/1007, PB 9/1813 and PB 9/1494.	
Biological Control Act 1986		[1605]
<i>S 54 (No 57, 1986)</i>		
Ss 17, 18, 24, 26, 27, 28, 29, 31 and 51	Various decisions for the purposes of ss 17, 18, 24, 26, 27, 28, 29, 31 and 51.	
Building Control Act 1981		[1606]
<i>S 21C (No 48, 1991)</i>		
Ss 21A and 21B	A Council's refusal to allow the construction of a building; or a Council's request that the person pay money or give security under ss 21A or 21B.	
Business Franchise (Petroleum Products) Act 1979		[1607]
<i>S 17 (No 8597, 1974), read together with s 1(2) (No 9272, 1979) (No 10155, 1984)</i>		
Various sections	Any decision of the Commissioner of Business Franchises on an objection.	
Business Franchise (Tobacco) Act 1974		[1608]
<i>S 17 (No 10155, 1984)</i>		
Various sections	Any decision of the Commissioner of Business Franchises on an objection under ss 16 and 16A.	
Catchment and Land Protection Act 1994		[1608A]
<i>S 48 (No 52, 1994)</i>		
Various sections	Decisions to serve a land use condition or land management notice or include a specified provision in the condition or notice; refusing or failing to grant a request to revoke a land use condition or land management notice within 14 days of the request (other than a land management notice that deals only with the control of noxious weed or pest animals or both).	

[1608/1] **Children and Young Persons Act 1989***S 122 (No 56, 1989)*

Various

Decision contained in a case plan prepared in respect of a child under s 120 or any other decision made by the Director-General concerning the child, including a decision not to make a decision; decision relating to the recording of information in the central register referred to in s 65(1)(b)—provided the applicant exhausts all available avenues of review under s 121.

[1608/1A] **Community Services Act 1970***S 13F (No 56, 1989)*

Ss 13A, 13C

Decisions made under a child care agreement or long-term child care agreement relating to the care of a child or young person, provided the applicant has exhausted all available avenues for the review of the decision under s 13E.

[1608/2] **Conservation Forests and Lands Act 1987***S 76 (No 41, 1987; No 90, 1989)*

S 76

Decisions of the Minister refusing to vary or terminate an agreement or varying or terminating an agreement.

[1609] **Constitution Act Amendment Act 1958***Ss 267J(4) and 267L(1) (No 75, 1988)*

Ss 267I and 267K

Decisions of the Electoral Commissioner relating to sample how-to-vote cards and format how-to-vote cards.

[1609/1] **Country Fire Authority Act 1958***Ss 20B(2) and 87(7) (No 50, 1989)*

Ss 20B(1), 87

Decision of the Country Fire Authority to impose a charge for attending in response to a false alarm; determination of the Authority under s 87 in respect of expenses for uninsured properties.

[1610] **Criminal Injuries Compensation Act 1983***S 26 (No 10155, 1984)*

Ss 8, 25(1), 27(1) and 28(3)

The following decisions of the Crimes Compensation Tribunal: a refusal to make an award; amount of award; refusal to vary award; variation to amount of award; ordering offender to refund compensation; ordering applicant to refund compensation.

Dairy Industry Act 1992 <i>S 33 (No 88, 1992)</i> Ss 31, 32	Decision of the Victorian Dairy Industry Authority to refuse to issue; or issue or renew subject to conditions; or refuse to renew; or refuse to transfer; or cancel; or suspend; or amend, vary or delete a condition or insert a new condition in a dairy industry licence.	[1610/1]
Dangerous Goods Act 1985 <i>Ss 10A, 22, 23 and 25 (No 10189, 1985; No 48, 1989)</i> Part III	Review by a person whose interests are directly affected, of an administrative decision made by the Director-General, or by a delegate of the Director-General under the Act, except for decisions under Part III; refusal to issue or renew a licence; insertion of a non-prescribed condition, limitation or restriction in a licence; amendment, suspension or revocation of a licence.	[1611]
Education Act 1958 <i>S 65(7) (No 27, 1989)</i> S 65	Decision of an authorised officer not to endorse a school as suitable to accept students from overseas or to cancel or suspend an endorsement under s 65.	[1612]
Emergency Management Act 1986 <i>S 24 (No 30, 1986)</i> S 24	Determinations made under s 24(5).	[1613]
Emergency Services Superannuation Act 1986 <i>S 23(6) (No 94, 1986)</i> Various sections	All decisions of the Emergency Services Superannuation Board which have been confirmed or varied by the Board under s 23(4); decisions re applications for extension of time within which to request the Board to reconsider a decision.	[1614]
Energy Consumption Levy Act 1982 <i>S 28 (No 10155, 1984)</i> Various sections	Any decision of the Commissioner of Business Franchises on an objection under s 27.	[1615]

[1616]

Environment Protection Act 1970

*S 32 and Part IV generally (No 9, 1987; No 20, 1988);
s 50X (No 53, 1992)*

Part IV and the provisions referred to therein and 50X

All decisions of the Environment Protection Authority or a delegate agency with respect to works approvals, licences, fees, abatement notices and notices of variation under s 28B, pollution abatement notices and notices of variation under s 31A, noise control notices and notices of variation under s 47 and permits; decisions under s 67B relating to financial assurances. If the Authority is of the opinion that an estimate in which a levy payment is based is too low, the Authority may apply to the AAT.

[1616/1]

Equipment (Public Safety) Act 1994

Ss 17, 25 (No 21, 1994)

Ss 13(1)(g), 22, 23

Seizure of prescribed equipment; issue of an improvement notice or prohibition notice.

[The next page is 415.]

Extractive Industries Act 1966

[1617]

Ss 9(3), 17(5) and 41A (No 9, 1987)

Ss 9(1) and 17

Suspension or revocation of a lease or licence; determinations of the Minister not to renew a lease or licence, to impose an additional condition or covenant on the lease or licence or to amend, vary or revoke a condition or covenant.

Farm Produce Wholesale Act 1990

[1618]

S 20 (No 63, 1990)

Decisions under Part 3—Licensing

A decision to refuse to grant or renew a licence; decision to refuse to approve the transfer of a licence; decision to cancel or suspend a licence; decision to impose a condition on the reinstatement of a suspended licence.

Financial Institutions Duty Act 1982

[1619]

S 61 (No 10155, 1984)

Various sections

Any decision of the Comptroller of Stamps on an objection under s 60.

Flora and Fauna Guarantee Act 1988

[1619/1]

Ss 34(3), 41 (No 47, 1988)

Ss 26, 27, 31, 33, 36, 38, 40

A decision to make an interim conservation order if the order has not been confirmed; any requirement or prohibition placed on the applicant by a confirmed interim conservation order; a decision of the Director-General of Conservation Forests and Lands under a confirmed interim conservation order which affects the applicant; a decision of the Minister to suspend the applicant's licence, permit or other authority under s 38.

Freedom of Information Act 1982

[1620]

Ss 50(2), 51, 53 and 61 (No 10155, 1984), s 25A(9) (No 58, 1993)

Various sections

Refusal to grant access or deferring the provision of access to a document; decision as to amount of charge for access to a document; refusal to specify a document in a Part 2 Statement; decision that a document is not exempt under s 33 (application by person whose privacy is affected); decision that a document is not exempt under s 34(1) (application by person who made submissions); refusal to amend personal record; maladministration of the Act.

- [1621] **Friendly Societies Act 1986**
S 130 (No 119, 1986)
Various sections
Decisions of the Registrar of Friendly Societies which have been reviewed by him pursuant to s 130.
- [1622] **Gift Duty Act 1971**
S 36 (No 10155, 1984)
Various sections
Any decision of the Commissioner of Probate Duties on an objection under s 35. In so far as the decision relates to the value of land, the appeal must be heard by the Land Valuation Division.
- [1623] **Guardianship and Administration Board Act 1986**
S 67 (No 58, 1986)
Various sections
All decisions of the Guardianship and Administration Board.
- [1624] **Health Act 1958**
S 125 (No 48, 1988)
Ss 124 and 125
Decision of the Chief General Manager under ss 124 and 125.
- [1624/1] **Health Services Act 1988**
S 110 (No 49, 1988)
Various sections in Part IV
A decision of the Minister or the Chief General Manager Department of Health under Part IV to approve or refuse to approve an application; to impose conditions on the approval of supported residential service; to suspend admissions to a supported residential service; to revoke the registration of a health service establishment; to appoint an administrator of a supported residential service; or to determine the amount payable to the Chief General Manager by way of costs incurred under s 103(9).
- [1625] **Historic Buildings Act 1981**
S 29 (No 9, 1987); s 37 (No 45, 1991)
Ss 26, 29, 31 and 36
Matters referred to the Tribunal by the Minister under ss 29 and 31; an order under s 36(1) for carrying out of repairs.
- [1625/1] **Hospitals Superannuation Act 1988**
S 52(2) (No 21, 1988)
Various sections
All decisions of the Hospitals Superannuation Board.
- [1625/2] **House Contracts Guarantee Act 1987**
S 16(7) (No 44, 1987)
S 16
Decisions of the appeals committee on an appeal made to it under s 16.

Industrial and Provident Societies Act 1958

[1625/3]

S 47E(5) (No 120, 1986)

S 47E(4)

Minister's decision to confirm or vary a decision of the Register under the section.

Infertility (Medical Procedures) Act 1984

[1626]

S 31 (No 10163, 1984)

Various sections

All decisions of the Minister under the Act.

Land Acquisition and Compensation Act 1986

[1626/1]

Section 80 (No 121, 1986; No 91, 1994)

Various sections

The Land Valuation Division of the AAT may determine the following: the amount of compensation payable by an Authority, and to whom it is payable, upon the acquisition of an interest in the land by the Authority; the amount of compensation payable for any pecuniary loss suffered or expense incurred as a consequence of the Authority's failure to acquire an interest in the land after service of a notice of intention to acquire any interest in the land; the apportionment of rent between the parts of land subject to a lease acquired and the residue; that a loan be made to enable a claimant to purchase a residence and the terms and conditions of the loan; the amount of rent to be paid in respect of land temporarily occupied; the amount of any pecuniary loss suffered or expense incurred as a consequence of the land's temporary occupation.

Land Tax Act 1958

[1627]

S 25 (No 10155, 1984; No 91, 1994)

Various sections

Any decision of the Commissioner of Land Tax on an objection under s 24A. In so far as the decision relates to the amount at which the unimproved value of any land has been assessed, the Land Valuation Division of the AAT must hear the appeal.

Litter Act 1987

[1628]

S 8G, (No 82, 1991)

S 8C

Any provision of a litter abatement notice that the applicant believes is oppressive, unjust or unreasonable.

- [1628/1] **Local Government Act 1989**
Ss 48(2), para 7 of Sch 5, 185 (No 11, 1989); 183 (No 91, 1994)
 S 46, Sch 5, 161, 163
 Decisions of a municipal electoral tribunal; decision of a returning officer approving, provisionally approving or refusing to approve a form or sample of a how-to-vote card; decision by a Council to classify or to not classify land as land of a particular type or class for differential rating purposes; imposition of a special rate or special charge.
- [1629] **Lotteries Gaming and Betting Act 1966**
Ss 7A and 10D (No 34, 1986; No 88, 1987)
 Part 1 and s 10C
 Decisions of the Raffles and Bingo Permits Board under Part 1 and s 10C of the Act.
- [1629/1] **Marine Act 1988**
S 85 (No 52, 1988)
 S 85
 Decision by the Marine Board to cancel or suspend any certificate or licence issued under the Act.
- [1629/2] **Martial Arts Control Act 1986**
S 13 (No 72, 1986)
 Ss 4, 5, 6, 7, 8
 Decision of the Minister or a delegate of the Minister refusing to issue or renew a licence or permit; or determining a condition to which a particular licence, permit or registration is subject; or varying or revoking that condition or any other condition to which the licence, permit or registration is subject; or suspending a licence or cancelling a licence or permit; or disqualifying a person from obtaining a further licence or permit; or refusing to register a person or refusing to renew a registration; or suspending or cancelling a registration.
- [1629/3] **Meat Industry Act 1993**
S 24 (No 40, 1993)
 Various sections
 A decision of the Victorian Meat Authority to refuse an application for the grant or renewal of a licence; or to impose a condition or restriction when granting or renewing a licence; or to vary a licence; or to suspend a licence; or to cancel a licence; or to refuse to approve an alteration or addition to a part of a building used for a meat processing facility under Division 1 of Part 5.

Medical Practice Act 1994*Section 60 (No 23, 1994)*

[1629/4]

Various sections

Decisions to refuse an application for registration or renewal of registration; to impose conditions, limitations or restrictions on a person's registration; to suspend the registration of a person (if the Board has not instituted an investigation within a reasonable time after suspending that registration); a finding or determination made at a formal hearing.

Mental Health Act 1986*Ss 79, 120 (No 59, 1986)*

[1630]

Various sections

Decisions of the Chief General Manager of the Department of Health refusing to issue, refusing to renew, refusing to amend, cancelling or amending a licence; determinations of the Mental Health Review Board.

Metropolitan Fire Brigades Act 1958*Ss 32D(2) and 66(7) (No 50, 1989)*

[1630/1]

Ss 32D(1) and 66

Decision of the Metropolitan Fire Brigades Board to impose a charge for attending in response to a false alarm; determination of the Board under s 66 in respect of expenses for uninsured properties.

Mineral Resources Development Act 1990*Ss 26, 44, 73(4), 94, 95, 110 (No 92, 1990); 88 (No 91, 1994)*

[1631]

Ss 26, 44, 73, 85, 94, 95, 110

Minister's decision under s 26(6); refusal to consent or consent subject to conditions under s 44(1), (2), (3); decision to specify a condition with which the licensee must comply in doing work; decision of the registrar about correcting any error or omission in the register; disputed claims for compensation; decision by the chief administrator not to grant a mine manager's certificate or to make a mine manager's certificate subject to a condition other than a prescribed condition; decisions of a panel under s 95; decision by the Minister to serve a notice under s 110(1).

Motor Car Traders Act 1986*Ss 32 and 79 (No 104, 1986)*

[1632]

Ss 13, 24, 31, 33 and 77

Decisions of the Motor Car Traders Licensing Authority under ss 13 (granting or refusing licences), 24 (re-

newal of licences), 31 (disciplinary measures) and 33 (death or disability of licensee); refusal by the Guarantee Fund Claims Committee to admit a claim against the Motor Car Traders' Guarantee Fund.

- [1632/1] **Nurses Act 1993**
Section 58 (No 111, 1993)
 Various sections

Decisions to refuse an application for registration or renewal of registration; to impose conditions, limitations or restrictions on a person's registration; to suspend the registration of a person (if the Board has not instituted an investigation within a reasonable time after suspending that registration); a finding or determination made at a formal hearing.

- [1633] **Occupational Health and Safety Act 1985**
S 10 (No 10190, 1985); r 28 (SR No 108, 1994)
 S 10, SR 28

Decision to disclose any information to which s 10 applies; decision of the Minister to refuse to grant a certificate of competency or to give a notice of equivalent competency (as the case may be); to wholly or partially suspend or cancel a certificate of competency; to recommend to another statutory authority that a certificate of competency be wholly or partially suspended or cancelled; to refuse to replace a certificate of competency; to refuse to authorise a person as a certificate assessor; or to suspend or cancel a person's authorisation as a certificate assessor.

- [1634] **Pay-roll Tax Act 1971**
S 33 (No 10155, 1984)
 Various sections

Any decision of the Commissioner of Pay-roll Tax on an objection under s 32.

- [1635] **Planning and Environment Act 1987**
Ss 39(1), 60(6), 77, 78, 79, 80, 81, 82, 82A, 82B, 87, 89, 93, 97P, 97Q, 114, 120, 121, 123, 149A and 184 (No 45, 1987; No 128, 1993)
 Various sections

Actions in respect of a failure to comply with Division 1, 2 or 3 of Part 3 or Part 8, refusal to grant a permit; requirement to give notice under s 52(1)(d); requirement for more information under s 54; failure to grant permit within prescribed time; conditions in a permit; decision refusing to extend the time within which any development or use is to be started or any development completed or failure

to extend such time within one month after the request for extension is made; objectors and other affected persons may appeal against the granting of a permit; certain disputes relating to the operation of certain conditions in a permit; applications to AAT to cancel or amend a permit; certain decisions relating to permits under the *Liquor Control Act 1987*; applications to AAT to stop development on land; applications to AAT for enforcement orders; applications to AAT for interim enforcement orders; applications to AAT for cancellation of an enforcement order or interim enforcement order; applications to AAT for consent under s 123; decisions and matters referred to in s 149A; applications to AAT for amendment of agreements under Division 2 of Part 9 of the Act; application for a permit to remove or vary a restriction referred to in s 60(4) made on or after 25 June 1991 and for which the responsible authority had made a decision before the commencement of s 15 of the *Planning and Environment (Amendment) Act 1993*; applications for leave to appeal under s 82B; decisions to refuse to issue a certificate of compliance or failure to issue the certificate within the prescribed time; application to cancel or amend a certificate of compliance.

Planning Appeals Act 1980

[1635/1]

Section 14 (No 9, 1987)

Various sections

Applications for a declaration concerning any matter which may be referred to the AAT for determination by the Planning Division.

Prevention of Cruelty to Animals Act 1986

[1636]

S 33 (No 46, 1986)

Various sections

The following decisions of the Chief General Manager of the Department of Agriculture and Rural Affairs: refusal to issue or renew a scientific establishment licence or a breeding establishment licence; cancellation or suspension of such a licence.

Private Agents Act 1966

[1636/1]

S 42A (No 37, 1990)

Ss 19G and 19K

Decisions of the registrar of private agents relating to licences.

[1637]

Probate Duty Act 1962*S 19A (No 10155, 1984; No 91, 1994)*

Various sections

Any decision of the Commissioner of Probate Duties on an objection under s 19. In so far as the decision relates to the value of land, the Land Valuation Division of the AAT must hear the appeal.

[1638]

Professional Boxing Control Act 1985*S 16 (No 10183, 1985)*

Various sections

The following decisions of the Minister or his delegates; refusing to issue or renew a licence; determining a condition of a licence or varying or revoking a condition; suspending a licence or cancelling a licence; disqualifying a person from obtaining a further licence; refusing to register a person as a professional boxer or to renew a registration; cancelling or suspending the registration of a registered boxer. Promoters' licences and permits are exempted.

[1639]

Registration of Births, Deaths and Marriages Act 1959*S 52 (No 10244, 1985)*

Ss 35(7), 48(1), 49(3), 50(3)

Decisions of the Registrar of Births, Deaths, Marriages and Names under ss 35(7), 48(1), 49(3) and 50(3) of the Act.

[1640]

Second-hand Dealers and Pawn Brokers Act 1989*S 16 (No 54, 1989)*

Part 2

Review of a decision of the relevant Council with respect to any decision under Part 2 relating to licensing.

[1641]

Soil Conservation and Land Utilization Act 1958*Ss 14(4), 17(3)(b), 23(4)(d), 35(3) (No 9, 1987)*

Ss 14(3), 17(3), 23(4)(c), 35(1)

Decisions of the Soil Conservation Authority imposing a condition or giving a direction under s 14(3)(d) or (e); determinations under s 17(3) and 23(4)(c); decisions of the Authority to carry out works under s 35.

[1642]

Stamps Act 1958*S 33B (No 10155, 1984; No 91, 1994); s 75C (No 65, 1987)*

Various sections

Any decision of the Comptroller of Stamps on an objection under s 33A (in so far as the decision relates to the value of land, the Land Valuation Division of the AAT must hear the appeal); deter-

mination of the Comptroller of Stamps that the application of the proceeds of sale of property under s 75E would reduce the value of the interest of the holder of an interest in a corporation or subsidiary.

State Casual Employees Superannuation Act 1989

[1642/1]

S 37(2) (No 20, 1989)

S 37(1)

All decisions of the State Casual Employees Superannuation Board pursuant to s 37(1).

State Employees Retirement Benefits Act 1979

[1643]

S 67(6) (No 10155, 1984)

Various sections

All decisions of the State Employees Retirement Benefits Board which have been confirmed or varied by the Board under s 67(4); decisions re applications for extension of time within which to request the Board to reconsider a decision.

State Superannuation Act 1988

[1643/1]

S 85(2) (No 50, 1988)

Various sections

All decisions of the State Superannuation Board.

Subdivision Act 1988

[1644]

Ss 17(3), 36, 39 and 40 (No 53, 1988); s 44(3F) (No 48, 1991)

Various sections

Application to AAT for amendment of agreements under s 17(2)(c) of the Act; applications for leave to acquire or remove an easement compulsorily; any dispute arising under the Act, but not a dispute under s 35 or referred to in s 38 or in ss 149A, 114 or 173 of the *Planning and Environment Act 1987* or a dispute relating to orders of a Court; refusal or failure of a Council to certify or re-certify a plan, or approve an engineering plan or issue a statement of compliance; refusal by a referral authority to consent to the certification or amendment of a plan or to approve an engineering plan; decision of a Council or referral authority to require alterations to a plan; failure by a person to comply with s 23(1); amendment of a permit so as to include requirements made by a referral authority.

[1644/1] **Superannuation (Portability) Act 1989***S 10 (No 14, 1989)*

S 10

Decisions of the Government Actuary under s 10.

[1645] **Tertiary Education Act 1993***Ss 6(7), 10(9), 11(11), (No 18, 1993)*

SS 6, 10, 11

Decision of the Minister not to endorse a course of study or to cancel or suspend the endorsement of a course of study under s 6; decision of the Minister not to grant an approval or to revoke an approval under s 10; decision not to grant accreditation or authorisation or to revoke an accreditation or authorisation under s 11.

[1645A] **Therapeutic Goods (Victoria) Act 1994***Ss 70, 71 (No 79, 1994)*

Ss 8 and 12, Pt 3, Pt 4, and Pt 5

The decision of the Secretary or a delegate of the Secretary to: grant an approval to a person to supply specified therapeutic goods; authorise an approved medical practitioner to supply specified therapeutic goods or a class of such goods to a class or classes of recipients; consent to the supply of therapeutic goods which do not conform with the applicable standard; not to list the goods; imposition of conditions on the registration or listing of therapeutic goods; imposing, varying or removing existing conditions on registered or listed therapeutic goods; to cancel the registration or listing of goods; to require information; to vary the Register if the entry contains information that is incomplete or incorrect; to grant a licence to manufacture therapeutic goods; to grant a licence to manufacture therapeutic goods subject to conditions; to impose new conditions on a licence to manufacture therapeutic goods or vary or remove existing conditions; to revoke or suspend a licence to manufacture therapeutic goods. Decisions of the Chief General Manager: to require further information concerning an application for a licence to supply therapeutic goods by wholesale; to grant a licence to supply by wholesale therapeutic goods of the class specified; to renew a licence to supply by wholesale therapeutic goods; to grant

a licence to supply by wholesale therapeutic goods subject to conditions; to impose new conditions on a licence to supply by wholesale therapeutic goods or vary or remove existing conditions; to revoke or suspend a licence to supply by wholesale therapeutic goods.

Transport Act 1983

[1645/1]

Ss 143C, 146C, 153(2), 157(4), 173A, 174AB (No 120, 1993; No 60, 1994)

Various sections

Decisions by the licensing authority to refuse to grant an application for a commercial passenger vehicle licence other than an application in respect of a vehicle which is to operate as a public commercial passenger vehicle; decisions by the licensing authority to suspend or cancel a licence under s 143A(11) or suspend a licence under s 147A(3) or cancel a licence under ss 144(1B), 146(1) or 147A(3) or to alter the conditions attached to the licence or alter the route or area in respect of which it was granted under s 146(1) or 146B; decisions of the licensing authority to cancel a licence under s 153(1); decisions of the licensing authority under s 157 to suspend or revoke a licence or permit; decisions of the licensing authority to refuse to grant an application for a tow truck licence, or a decision to suspend or cancel the tow truck licence under ss 174(4), 175(1A) or 181, or to alter or cancel any of the conditions attached to the licence under s 174A(1).

Transport Accident Act 1986

[1646]

Ss 70(3) and 77 (No 111, 1986)

Various sections

Deemed decisions of the Transport Accident Commission to reject a claim for compensation under s 70(3); all other decisions (as defined in s 3(1)) of the Commission.

Transport Superannuation Act 1988

[1646/1]

S 45(2) (No 33, 1988)

Various sections

All decisions of the Transport Superannuation Board.

Travel Agents Act 1986

[1647]

Ss 22 and 46(3) (No 52, 1986)

Ss 10, 11, 21, 23 and 46(2)

Decisions of the Travel Agents Licensing Authority under ss 10, 11, 21 and 23; decisions of the compensation scheme trustees under s 46(2).

[1647/A]

Valuation of Land Act 1989*S 13C(4) (No 55, 1989); s 14(2) (No 7762, No 91, 1994); s 40 (No 9225, No 91, 1994)*

Ss 13C, 38 and 39

Decisions of the Valuers' Qualification Board in respect of a registered valuer under s 13C; any decision of the Commissioner of Land Tax or rating authority on an objection under ss 38 or 39.

[1647/1]

Victoria State Emergency Service Act 1987*S 24(3) (No 50, 1989); SR 12 (SR No 17, 1995)*

S 24 SR 10, 11(3)

Any decision of the Director of the Service under s 24 in respect of compensation; any decision of the Director in relation to penalties that may be imposed after a hearing of a complaint under the regulations, and reasons for the decision of the Director to reprimand the member, reduce the classification of the member, suspend the member's membership for a specified period of up to 2 years, or cancel the member's membership under the regulations.

[1647/2]

Vocational Education and Training Act 1990*Ss 81, 85 (No 45, 1990)*

Ss 81, 85

A decision of the State Training Board not to register a person or body or to suspend or cancel a registration under s 81; a decision of the State Training Board not to endorse a course of study or to cancel or suspend the endorsement of a course of study under s 85.

[1648]

Water Act 1989*Ss 4, 19, 30, 51, 64, 83, 149, 156, 157(4), 188(4), 193, 209, 215(5), 218(9), 218(13), 226(11), 230(5), 231(10), 235(6), 243(2), 266(4), 271(3) (No 80, 1989); s 266(6) (No 80, 1989; No 91, 1994)*

Various sections

Decision of the Governor-in-Council to make an Order under ss 4(1) or 4(4); all causes of action (other than any claim for damages for personal injury) under ss 15(1), 16, 17(1) and 157(1) or at common law in respect of the escape of water from a private dam; decision by an Authority under s 30(7) and s 30(12); decision by a consultative committee under s 30(10); the amount of compensation payable under s 51; decisions of the Minister outlined in ss 64 and 83; decision of an Authority not to uphold an objection to a notice to remove a tree; decision of an Authority as to the number, type and position of crossings to be constructed over a waterway and the amount of compensation to be paid;

decision of an Authority to make a declaration under s 188(1)(b); decision of an Authority to close access under s 193; decision of an Authority to demolish or modify works or structures; decision of the Minister to make or not make modifications to a scheme, decision of an Authority or public statutory body to make a requirement under s 218(8); decision of an Authority or public statutory body to refuse consent to an interference with or obstruction of the flow of water in a drainage course; decision by an Authority to refuse to approve a transfer under s 226; determination of an Authority under s 230(2)(d) or (e) or of a decision of an Authority under s 230(3)(a) or (b) to revise the register; decision of an Authority to require any modifications to a proposal, or to refuse to approve a proposal; decision of an appointed body under s 235(1); decision of an Authority or the MMBW as to the amount of its costs of investigations; decision of an Authority as an objection under s 266(1); the calculation or application of a valuation equalisation factor; the fixing of different fees imposed under a tariff under s 259(5) that are based on valuation; and decision of an Authority under s 271(1).

Water Industry Act 1994

[1649]

Ss 30, 63, 65, 67, 73, 74, 84, 86 (No 121, 1994) and s 19 of Water Act No 80 of 1989

Ss 30, 63, 65, 67, 73, 74, 84, 86

The following decisions of the licensee: Decision on an objection by an owner to the requirement to pay money under s 27, 28 or 29; to consent, refuse consent or consent subject to terms and conditions to the alteration or removal of any works connected to the licensee's works, or to discharge into the licensee's works; to serve a notice requiring the owner to connect the property to the licensee's works or to remove any existing connection between that property and the licensee's works; not to uphold an objection to a notice to remove a tree; to serve a notice requiring an owner to discontinue an activity carried out on the land or to remove any thing from the land; due to the introduction of water onto land, to construct the number or type of bridges, or other crossings, in the chosen positions, or the

amount of compensation payable. The AAT may determine a licensee's liability for, and quantum of, damages, in relation to loss suffered due to the flow of water from the licensee's works onto any land. The Land Valuation division of the AAT may also fix the amount of rent payable by the licensee to the owner while the licensee is in possession; the amount of pecuniary loss suffered or expense incurred as a consequence of the performance of the licensee's functions.

[1650]

Wildlife Act 1975

S 26 (No 70, 1990); s 22A (No 90, 1989)

Ss 22, 22A

A decision of the Director-General to refuse to issue or renew a licence under s 22; a decision not to issue a game licence

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APPENDIX C

Number of applications received annually by the Victorian Administrative Appeals Tribunal
1994 - 1996

NUMBER OF APPLICATIONS RECEIVED ANNUALLY

YEAR	PLANNING DIVISION	GENERAL DIVISION	LAND VALUATION BOARD OF REVIEW	TAXATION DIVISION
1994	2114	2367	467	8
1995	1720	2421	130	10
1996	658	1129	42	0

(As at the 31st May)

List of Research Service Publications



To identify and fulfil the information needs of Members of Parliament and the Parliamentary Institution.

[Library Mission Statement]

(A) BACKGROUND PAPER

TITLE	NUMBER
<i>Comparisons of 1991 Census Characteristics: State Electoral Districts</i> by Jan Newby	1995/1
<i>Electing the New South Wales Legislative Council 1978 to 1995: Past Results and Future Prospects</i> by Antony Green	1995/2
<i>Euthanasia</i> by Gareth Griffith and Marie Swain	1995/3
<i>NSW Elections 1995</i> by Antony Green	1995/4
<i>1995 NSW Legislative Assembly Election: Estimated Two-Candidate Preferred Results by Polling Place</i> by Antony Green	1995/5
<i>Censorship: A Review of Contemporary Issues</i> by Gareth Griffith	1996/1
<i>NSW Legislative Council Elections 1995</i> by Antony Green	1996/2

(B) OCCASIONAL PAPER

	NUMBER
<i>The Legislative Assembly of New South Wales: 1941 to 1991</i> by David Clune	No 1 / February 1993
<i>Defamation of Public Officials and Public Figures: Special Rules and Free Speech in the United States and Australia</i> by Vicki Mullen	No 2 / August 1995
<i>Gregory Wayne Kable: A Criminal and Constitutional Hard Case</i> by Gareth Griffith	No 3 / May 1996

(C) BILLS DIGEST

TITLE	NUMBER
<i>National Environment Protection Council (New South Wales) Bill 1995</i> by Stewart Smith	001/95
<i>State Owned Corporations Amendment Bill 1995</i> by Vicki Mullen	002/95
<i>Crimes Amendment (Mandatory Life Sentences) Bill 1995</i> by Gareth Griffith	003/95
<i>Classification (Publications, Films and Computer Games) Enforcement Bill 1995</i> by Gareth Griffith	004/95
<i>Waste Minimisation and Management Bill 1995</i> by Stewart Smith	005/95
<i>Energy Services Corporations Bill 1995</i> by Vicki Mullen and	
<i>Sustainable Energy Development Bill 1995</i> by Stewart Smith	006/95

(D) BRIEFING PAPER

TITLE	NUMBER
<i>Maritime Services in NSW: Issues for Reform</i> by Vicki Mullen	001/95
<i>Water Resources and Water Strategies</i> by John Wilkinson	002/95
<i>Fixed Term Parliaments, with a commentary on the Constitution (Fixed Term Parliaments) Amendment Bill 1992</i> by Gareth Griffith	003/95
<i>Water Quality in NSW - An Overview</i> by Stewart Smith	004/95
<i>Enterprise Bargaining in New South Wales: An Overview</i> by Vicki Mullen	005/95
<i>International Treaties</i> by Marie Swain	006/95
<i>Victim Impact Statements</i> by Gareth Griffith	007/95
<i>Recycling in NSW</i> by Stewart Smith	008/95
<i>The Independence of the Judiciary: commentary on the proposal to amend the NSW Constitution</i> by Vicki Mullen and Gareth Griffith	009/95
<i>Coal Production in New South Wales</i> by John Wilkinson	010/95
<i>The Greenhouse Effect: Ramifications for New South Wales</i> by Stewart Smith	011/95
<i>Urban Consolidation and Dual Occupancy Development</i> by Marie Swain	012/95
<i>Selecting a Presiding Officer: methods of election and the concept of independence</i> by Gareth Griffith	013/95
<i>The Individual's Right to Privacy: Protection of Personal Information in New South Wales</i> by Vicki Mullen	014/95
<i>Regional Development in New South Wales</i> by John Wilkinson	015/95
<i>Update on the Hilmer Report</i> by Jan Newby	016/95
<i>Sydney, Transport and Ecologically Sustainable Development</i> by Stewart Smith	017/95
<i>Domestic Violence: An Overview of the Legislative Changes in NSW</i> by Gareth Griffith	018/95
<i>Women in Parliament</i> by Marie Swain	019/95
<i>Commentary on the Electricity Legislation Amendment Bill 1995</i> by Vicki Mullen and Stewart Smith	020/95
<i>Sydney City Council: Moving Boundaries and a Changing Franchise</i> by Gareth Griffith	021/95
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<i>Government Debt and New South Wales: Past Development and Present Realities</i> by John Wilkinson	023/95
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<i>Industrial Regulation in NSW: The Difficult Dichotomy of Judicial and Arbitral Power</i> by Vicki Mullen	025/95
<i>Coastal Protection</i> by Stewart Smith	026/95
<i>Prostitution in New South Wales: Law Reform Issues</i> by Vicki Mullen	027/95
<i>Native Vegetation Protection in New South Wales</i> by Stewart Smith	028/95
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<i>An Administrative Appeals Tribunal for New South Wales</i> by Honor Figgis	14/96
<i>Privacy and Data Protection Law Reform: Some Relevant Issues</i> by Gareth Griffith	15/96