

- multi-lingual fact sheets in 24 languages for ethnic community organisations;
- a new illustrated brochure about the Commonwealth Ombudsman, particularly targeted to students, youths and people of Non-English speaking backgrounds; and
- a new Defence Force Ombudsman brochure.

ADMINISTRATIVE LAW WATCH

An AAT for Western Australia? - Commission on Government - Discussion paper on Administrative Appeals Tribunal

The WA Commission on Government (the Commission) is inquiring into the possible functions and terms of reference for an administrative appeals tribunal in Western Australia. The Commission was set up by the Western Australian Government to inquire into 24 Specified Matters which are set out in the First Schedule of the *Commission on Government Act 1994* (WA). The Commission's primary focus is on matters relevant to the prevention of corrupt, illegal or improper conduct of public officials, including Ministers and Members of Parliament. It may also inquire into other related matters.

Specified Matter 5 requires the Commission to inquire into:

The functions and terms of reference of an administrative appeals tribunal and its relationship to the respective roles of the judiciary and the executive.

In March 1996 the Commission published a Discussion Paper as part of its inquiry into whether an administrative appeals body should be established in Western Australia. The Discussion Paper notes that in 1992 the *WA Royal Commission into the Commercial Activities of Government* (WA Royal Commission) acknowledged that Western Australians had 'inconsistent and restricted rights of appeal against administrative decisions.'

Much has been said over the last 20 years or so about the fundamental requirements for

an accountable administrative system. The Discussion Paper notes comments on this issue that have been made by such bodies as the Commonwealth Administrative Review Committee (the Kerr Committee, 1971), the Administrative Review Council and the Access to Justice Advisory Committee (which was established in 1994 by the federal Attorney-General to review Australia's justice system and recommend reforms to enhance access to justice). The ability to obtain reasons for decisions and independent merits review are included in these fundamental requirements.

The Discussion Paper briefly outlines systems for handling administrative appeals that have been developed in the United Kingdom, the United States of America, some Canadian provinces and New Zealand as well as at federal and State level in Australia. It notes that the administrative appeals system in Western Australia 'is characterised by a proliferation of tribunals which have been criticised for having no scheme or pattern, no common objectives or principles and no uniformity of procedures' and that the number of tribunals is increasing.

Among the many issues raised for consideration in the Discussion Paper are the criteria that should be applied to determine what decisions should be the subject of administrative appeal, when decision-makers should be required to provide reasons for decisions, whether internal review should be available and a prerequisite to external review, whether there should be a right of appeal against administrative decisions to an independent external appeals body and whether a general administrative appeals body should replace the

current system of specialist tribunals. There are also many issues raised about the procedures of an administrative appeals body, the membership of such a body and what accountability measures should apply to such a body.

The segment of the Discussion Paper concerning administrative review concludes with the following passage:

A comprehensive and coherent administrative appeals system could improve the effectiveness, efficiency and accountability of government. Whilst an Administrative Appeals Tribunal may be costly, the benefits of transparency and openness, together with a higher standard of government administration could be achieved through such a system of administrative appeals.

The WA Commission on Government invites submissions on the issues raised in the Discussion Paper. Although no date is specified in the Discussion Paper the Council understands that the Commission would like submissions to be made by early June 1996. The Commission can be contacted on ☎(09) 222 0522.

Report of Review of ATSIK's processes for decision-making and reconsideration of decisions

The Aboriginal and Torres Strait Islander Commission (ATSIK) engaged an Attorney-General's legal practice consultancy to conduct a review to evaluate the principles, procedures and resources involved in providing effective internal reconsideration of decisions by ATSIK and its Regional Councils. The outcome of the review is contained in a Report, titled *Improving decision-making and review*, released in March 1996.

The Report makes a number of recommendations to ATSIK regarding the processes for decision-making and the principles, procedures and resources involved in providing effective internal consideration of primary decisions made by ATSIK and the Regional Councils that directly affect ATSIK's clients.

The main matters considered by the review team were:

- the efficiency, effectiveness and fairness of the current processes for
- making decisions (particularly about funding) affecting clients; and
- reviewing those decisions;
- whether the principles of administrative law are being applied appropriately by decision-makers and those reviewing decision;
- whether the ways in which information about the guidelines and procedures for decision-making and review as provided to ATSIK's management and staff, Regional Councils and clients are appropriate;
- the number and kinds of complaints that are made about funding decisions;
- the ways in which unique features of ATSIK and the Regional Councils require special consideration; and
- other issues that require attention and objectives that should be aimed for (including training, development and education needs).

The review team's Report contains 65 recommendations covering matters such as disclosure of pecuniary and prescribed non-pecuniary interests by Commissioners and Regional Councillors, clarification of de-funding principles and procedures, the need for clear reasons for funding decisions, openness of meetings, notification of review rights, the establishment of a complaints and review unit within ATSIK and determination of the types of decisions subject to internal review. Some of the recommendations concerned the need for training for ATSIK officers about giving reasons for decisions and advising clients of review rights and processes. Others focussed on a strategy for continuous improvement in client service and skills development for ATSIK staff. The Report also contains recommendations for improving the funding applications processes.

Administrative Appeals Tribunal - 20th Anniversary Conference - July 1996

The Commonwealth Administrative Appeals Tribunal (AAT), established under the *Administrative Appeals Tribunal Act 1975* commenced operation on 1 July 1976. To mark its 20th anniversary, the AAT together with the Australian Institute of Administrative Law (AIAL) and the Law Faculty of the Australian National University are jointly organising a conference to be held at the National Convention Centre in Canberra on 1 & 2 July 1996.

The Conference, titled *The AAT — Twenty Years Forward: passing a milestone in Commonwealth administrative review* will be formally opened by Sir Gerard Brennan, AC KBE, Chief Justice of Australia. Sir Gerard Brennan was also the first President of the AAT holding that office between 1976 - 1979. Many past and present AAT members will speak at the Conference, as well as some members of the specialist merits review tribunals and members of the Administrative Review Council.

Sessions will include an examination of some significant AAT decisions and their impact; discussion of the best features of the AAT's first 20 years that should be preserved (as well as those features that should least be preserved); commentary on the Administrative Review Council's Report No. 39 *Better Decisions: review of Commonwealth Merits Review Tribunals*; examination of how the AAT relates to other elements of Commonwealth administrative law and Commonwealth administration and the foundation for future administrative law development. Professor Martin Partington, Director of the University of Bristol Centre for the Study of Administrative Justice and Member of the UK Council on Tribunals will provide a comparative international perspective of the AAT comparing it to administrative tribunals in the UK and Europe.

For further details about the conference contact the conference organisers, AIAL Secretariat (Kathy Malcolm), by telephone (06) 251 6060, fax (06) 251 6324 or mail (PO Box 3149 Belconnen, ACT, 2616).

The Inaugural Public Law Weekend — August 1996

On Friday 30 August and Saturday 31 August 1996 the Australian National University's Centre for International and Public Law will host the first Public Law Weekend, which is to become an annual event. The focus of the Public Law Weekend will alternate each year between administrative law and constitutional law, commencing this year with administrative law.

The Inaugural Public Law Weekend, 1996 will open on the Friday with a Special Seminar on *The Kerr Vision of Australian Administrative Law: At the Twenty-Five Year Mark* and be followed by a Commemorative Dinner in honour of Emeritus Professor Dennis Pearce. On the Saturday there will be a General Update Seminar which will provide a comprehensive review of significant developments in administrative law.

For further details about the 1996 Public Law Weekend please contact the Administrator of the Centre for International and Public Law by telephone (06) 249 0454, fax (06) 249 0150 or mail (Centre for International and Public Law, ANU Canberra, ACT 0200).

New premises for ACT AAT

The Australian Capital Territory (ACT) established its own Administrative Appeals Tribunal (AAT) after attaining self-government. The ACT Government entered into an arrangement with the Commonwealth AAT whereby the ACT AAT was physically located in the Commonwealth AAT's Canberra premises and the Commonwealth AAT provided registry and support services for the ACT AAT.

Construction is almost complete on a new building for the ACT Magistrates Court. It is due for completion in June 1996 with a view to it being operational from 1 July 1996. The ACT AAT will be relocating to the new Magistrates Court building and registry services and support will then be provided by the Tribunals Branch of the Magistrates Court.

As of July
if it is located in the new building
that is intended to have in future
services
will be the Tribs Section of the new
ph 06 2434611
2174277