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AD(JR) Act - Discussion Paper

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The Council recently requested its AD(JR) Act Committee to prepare a Discussion Paper on the general question whether there is a need for amendments to deal with alleged deficiencies in the operation of that Act in certain areas of Commonwealth administration.

The Council is engaged on a major project reviewing the operation of the AD(JR) Act, but, in view of a desire by the Government to examine claims that the Act is being used for purposes it was not designed to serve, the Council proposes to provide interim advice on the issues raised in the Discussion Paper.

The Council's action follows the expression of concern by a number of government agencies that the Act is being used primarily in order to delay and frustrate Commonwealth administration in such areas as:

- . broadcasting
- . trade practices
- . migration
- . committal proceedings
- . prosecution decisions
- . extradition proceedings.

The paper summarises the alleged deficiencies which have so far been brought to the Council's attention, discusses whether there is a need for reform, and, assuming there is such a need, canvasses several options for reforming the Act. Among the options considered are the following:

- . introducing a leave requirement before an application for review will be considered by the Federal Court;
- . extending the Federal Court's power to refuse an application for review;

- . inserting a presumption in the AD(JR) Act that relief should not be granted with respect to an interlocutory decision unless a final decision, once taken, could not be reversed at all, or could only be reversed with substantial detriment to the applicant; and
- . exclusion of particular classes of decision from AD(JR) Act review.

The Council is most interested in obtaining views on whether reform is needed and, if so, on the merits of the various options proposed in the paper together with any other suggestions for reform. Copies of the Discussion Paper, entitled 'Some Aspects of the Operation of the Administrative Decisions (Judicial Review) Act 1977', have been circulated to a wide range of government agencies and other organisations which may be concerned with the issues raised, and may be obtained from the Secretariat (Mr Brian Newman (062) 434670). Submissions are requested by 21 February 1986.

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R E G U L A R   R E P O R T S

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Administrative Review Council

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CURRENT WORK PROGRAM

Access. A revised draft of the report on Stage One of the Access project, Notification of Review Rights, is currently being prepared for submission to the Access Committee.

During December 1985 a process of rapid consultation was conducted to determine the issues which might be considered in Stage Two of the project. Discussions were held with a range of personnel and organisations involved in the social security and student assistance areas and the Isolated Patients Travel and Accommodation Assistance Scheme. Some appeal hearings in these jurisdictions were also observed. As a result, several important issues were