

The Department's collection of a fee without statutory authority, and the proposed retrospectivity of the legislation prepared to authorise it, was addressed by the Council in a letter of advice provided to the Attorney-General on 19 November 1987. The Council suggested that the steps the Department had already taken to collect the fee could be illegal. It wrote again in February 1988, when it learned that the Department was still collecting the fee despite the omission in the Parliament of the provisions in the Bill relating to the fee.

On 7 April 1989 the Minister for Immigration, Local Government and Ethnic Affairs announced that as part of the resolution he had reached with the Ombudsman the Government would advertise an offer to refund, on application, fees collected from 12 December 1988 (the date of receipt of advice from the Attorney-General) to 7 March 1989 (when the review scheme was terminated). The offer is open until 30 June 1989. In addition, the Minister agreed that an amount of \$250 000 would be made available for a program to investigate access by members of the ethnic community to government services. The Government also agreed that it would no longer pursue costs it incurred before the withdrawal of a Federal Court application in early 1988 concerning the fee.

#### Child Support Scheme

The Ombudsman is investigating a number of matters concerning the Child Support Scheme:

- . delays in the payment cycle prescribed by section 76 of the Child Support Act are causing hardship. In some cases, the delay between payment in by non-custodial parents and payment out to the custodial parents is two months and there is no provision in the law for accelerated payment;
- . delays in effecting adjustments to child support required by indexation clauses in court orders;
- . confusion within the Child Support Agency over interpretation of court orders and the quantum of liability;
- . misleading advice to non-custodial parents regarding liability;
- . inappropriate recording of statutory penalties for late payment and the proper exercise of the power to remit the penalties; and
- . the operation of the secrecy provision in section 16 of the Child Support Act which the Child Support Agency is interpreting as preventing it from advising some non-custodial parents of the basis upon which the agency has jurisdiction over their child maintenance liabilities.

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#### Administrative law seminar: publication of papers

The Council has been advised by RAIPA that the long-awaited collection of papers from the 1987 conference, 'Administrative law: retrospect and prospect', will be published in the next

edition of the Canberra Journal of Public Administration. Despite the passage of time since the conference, the papers demonstrate the contrasting attitudes to review of administrative action, and provide a wide and relevant coverage of the field.

#### Legal Aid applications: NSW means test

The Legal Aid Commission of NSW recently amended its policy so that the means test will apply to applications received on or after 1 September 1988 in civil, family and administrative law, with regard to:

- . veterans affairs matters, including appearances by lay advocates before the Veterans Review Board, and appeals to the Administrative Appeals Tribunal and the Federal Court;
- . involuntary patients for hearings before the Mental Health Review Tribunal under section 19 of the Protected Estates Act; and
- . family law duty solicitors in all cases except where the applicant is in custody.

#### Higher Education Funding Act

This Act was passed by Parliament in December 1988 and assented to on 6 January 1989. It provides for AAT review of the following decisions:

- . a decision of the Commissioner of Taxation refusing to issue a tax file number to a student on application, cancelling a student's tax file number or issuing a notice to an institution that a student does not have a tax file number;
- . a decision by an institution not to correct a notice issued to a student setting out details relating to the amounts paid or owed by the student;
- . a decision by the Secretary not to remit a semester debt; and
- . a decision of the Commissioner not to defer or cancel an assessment.

#### Australian Artists Creative Fellowships Scheme

Under this scheme, which is to be established on an administrative basis, an artist may be granted a fellowship worth \$40 000 to \$50 000 per year for between 3 and 5 years. An advisory panel is to determine those applicants who are eligible and to make recommendations to the Australia Council on the grant or discontinuance of fellowships in particular cases. Draft guidelines, prepared by the Australia Council, raise the questions whether:

- . artists should have a right to reconsideration of a Council decision on discontinuance of a fellowship, on grant decisions or, alternatively, a right to reconsideration of the advisory panel's recommendations;