

Devolution of act of grace powers to agencies

Previous issues of Admin Review (17:63) have referred to arrangements for a limited trial devolution of the Minister of Finance's act of grace powers to agencies. The Minister has now signed the necessary instrument delegating his powers under the Audit Act. The powers are to be exercised in accordance with working arrangements which agencies will be expected to observe. These include a requirement that draft recommendations by the Ombudsman are to be referred to the Department of Finance for comment before being forwarded to the agency concerned. The trial period is to be for two years.

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New Social Security appeals system

The Social Security (Review of Decisions) Act 1988 came into force on 1 November. As reported in Admin Review (18:89), the Act gives effect to the Council's Report No.21 by providing a legislative base and determinative powers to the Social Security Appeals Tribunal. The Act also formally establishes the position of Department of Social Security review officers.

Veterans' Entitlements Act Monitoring Committee recommendations

The Veterans' Affairs Legislation Amendment Bill 1988 has been agreed to by the Senate (13 December 1988). The Bill gives effect to certain recommendations of the Veterans' Entitlements Act Monitoring Committee by providing for:

- the introduction of an extreme disablement adjustment;
- a reduction, to 70% of the general rate, in the degree of incapacity required for entitlement for the intermediate or special rate pension;
- an amendment to the 'application day' provisions to enable a veteran to qualify where he or she meets all the criteria at a date between the date of lodgment of the claim or application and the date of the decision of the Commission or any review body.

Privacy legislation

The Privacy Act 1988 came into operation on 1 January 1989. The Act establishes a Privacy Commissioner and provides privacy protection for individuals in relation to records of personal information held by Commonwealth agencies and in relation to tax file numbers information.

The Act imposes new obligations on Commonwealth agencies when collecting and handling records of personal information. The legislation requires agencies to comply with statutory rules (the Information Privacy Principles) for the collection, storage, access to, correction of, use and disclosure of records of personal information. The principles dealing with access and correction of agencies' records are subject to other

Commonwealth laws relating to access and amendment of documents, such as the Freedom of Information Act 1982.

The Privacy Commissioner has extensive powers to investigate complaints. For instance, the Commissioner can enter premises occupied by an agency and inspect any documents that are relevant to his functions under the Act, and he is empowered to conduct audits of personal information records held by agencies to determine whether agencies are abiding by the IPPs. The Annual Report of the Commissioner is required to be tabled in Parliament.

Where a breach of the IPPs is found, the Commissioner can make a determination that the agency pay compensation and/or costs to the complainant. Such a determination is binding on the agency. The agency may, with the leave of the Attorney-General, seek a review of the determination by the Administrative Appeals Tribunal. The Privacy Commissioner also has specific functions in relation to tax file numbers (TFNs). The Commissioner will investigate allegations of misuse of TFNs by agencies and can make determinations that agencies pay compensation and/or costs to a complainant.

#### Migration and Criminal Deportation statements

On 8 December 1988 the Minister for Immigration, Local Government and Ethnic Affairs Senator Ray informed Parliament of the Government's response to the 'Report of the Committee to Advise on Australia's Immigration Policies'. Senator Ray announced the introduction of a new two-tiered system of review for immigration decisions, consisting of a statutory and independent review by an internal unit of the Department and of a restructured Immigration Review Panel at the second tier. The new IRPs will reconsider cases on the merits and will have determinative powers, with the Secretary of the Department designated as the primary decision maker in most cases.

However, the Minister will retain responsibility for decisions regarding criminal deportations. In this regard Senator Ray made a further statement regarding a series of cases in which since early 1987 the Minister had decided not to accept recommendations of the Administrative Appeals Tribunal. In reference to the general issue of AAT review in criminal deportation cases the Minister stated:

'I can appreciate that the [AAT]'s consideration might not always have embraced the same issues as those which the Government and the Parliament have in mind. The Tribunal might also not place the same emphasis on issues as the Government does...I would hope that, consistent with Government policy, the Tribunal gives weight to the need to protect Australian society from non-citizen residents convicted of serious or multiple offences. Conversely, the Government considers that it could give a reduced weighting to the views of the offender and that person's family and to the adverse consequences for them of deportation.'