

FOI Act, ie

- a general right of access to documents held by the State government and its agencies and by local government, subject only to the restrictions necessary to protect essential public and private rights
- the opportunity for individuals to be able to correct information held by government that is incomplete, incorrect, out of date or misleading
- require agencies to publish information concerning their structure and function.

In addition

- exemption of bodies from the operation of the Act is only to be made by statute so that exemption will attract parliamentary scrutiny
- FOI access by an individual to his or her personal information is to be free, and
- there is to be internal and external review of decisions to refuse or restrict access.

The 1991 Administrative Law Forum 1989 – 1990

This forum, with the theme 'fair and open decision making' was held in Canberra between 29 and 30 April. It was organised by the Royal Australian Institute of Public Administration and the Australian Institute of Administrative Law. The conference was opened by the Commonwealth Attorney-General, the Honourable Michael Duffy and heard from a variety of administrators, legal practitioners, academics and members of Courts and Tribunals. The main addresses were made on the following subjects

- administrative law: the state of play
- lessons and insights from other common law countries
- the cost of it all
- who is in charge?
- can review bodies lead to better decision making?
- the role of advisory bodies
- future directions for Australian administrative law.

A number of interesting workshops were held on the following topics

- freedom of information
- administrative law and commercial litigation
- rule making by Commonwealth Agencies
- whistle blowing

- administrative law advocacy
- ACT administrative law
- the Parliamentary review of the Office of the Commonwealth Ombudsman

The papers from the conference are to be published in the Canberra Bulletin of Public Administration shortly.

Senate Committee on Regulations and Ordinances - Annual Report

The Senate Standing Committee on Regulations and Ordinances recently published its Annual Report for the year 1989-90. The Committee scrutinises delegated legislation to ensure

- a) that it is in accordance with its statute
- b) that it does not trespass unduly on personal rights and liberties
- c) that it does not unduly make the rights and liberties of citizens dependant upon administrative decisions which are not subject to review on their merits by a judicial or other independent tribunal, and
- d) that it does not contain matter more appropriate for parliamentary enactment.

In the year under review the Committee considered 1258 instruments and received 47 undertakings from Ministers and others to amend legislation or to take other action to meet the concerns of the committee.

Each instrument considered during the year is listed in the report as are all instruments made under Acts which are currently subject to disallowance by either House of Parliament. The report lists examples of instruments falling within its terms of reference and notes instances of instruments which

- fail to effect legislative intent
- have uncertain expression or effect
- make legislative instruments not subject to tabling and disallowance
- have inappropriate levels of delegation and limits on powers of officials
- have inadequate explanatory material
- infringe on human rights.

Social Security Appeals Tribunal Annual Report 1989-1990

The Annual Report of the Social Security Appeals Tribunal (SSAT), which acts as the first tier of external review of social security matters, notes that:

- 7291 Applications were finalised during the year to 30 June 1990. This reduced the number of applications on hand from 1869 to 1227.
- 25% of the finalised applications resulted in decisions of the Department of Social Security being set aside and nearly 42% affirmed the Departments decision.
- The average time required to finalise an application was reduced by over 1 month to 12 weeks.
- 971 SSAT decisions were the subject of applications to the AAT. 631 were finalised during the year to 30 June 1990 by the AAT, with the SSAT decision standing in 73% of cases.
- The Tribunal now has a membership of nearly 220 and an annual expenditure of approximately \$3,900,000.
- Tribunal members noted a number of anomalies in the terms of the *Social Security Act 1947* or injustices arising from its operation. These are noted at pages 25-27 of the Report.

SSAT National Secretariat : new premises

The National Secretariat and the Victorian Office of the SSAT recently moved to new premises. The premises which are located at the 14th Floor, 624 Bourke Street were opened by Senator Richardson, Minister for Social Security on 23 November 1990.

The new telephone number for the National Secretariat is (03)600 1021 and the fax number is (03)600 1024. There has been no change in the postal address.

Administrative Appeals Tribunal Annual Report 1989 – 1990

The first Annual Report of the AAT which has been responsible for its own administration since 1 January 1990, has been tabled in Parliament.

The report notes that:

- the Tribunal membership stands at 90, of whom 15 are Judges.
- The Tribunal now has jurisdiction under more than 230 enactments.
- In the year to 30 June 1990 the Tribunal received 4198 new applications and finalised 22,271 cases.
- The Tribunal has reduced the backlog of cases, particularly those in the taxation division, from over 55,000 in 1988 to 5219 at 30 June 1990.

Veterans' Review Board Annual Report 1989-1990

The Veterans' Review Board (VRB) Annual Report notes that:

- 7712 applications were finalised in the year to 30 June 1990, reducing the number of outstanding applications from 9527 to 8716.
- On average, applications were heard within 10 weeks of lodgment.
- Approximately half of the decisions concerning assessment of pension increased the rate of pension, approximately one quarter of entitlement decisions granted a pension.
- 998 applications for review of VRB decisions were made to the AAT. Of the 177 AAT applications which proceeded to a decision during the year ended 30 June 1990, 107 varied or set aside the VRB decision.

Immigration Review Tribunal: Criteria to be applied in Close Family Visitor Visa application

In *Re Saulog* (Immigration Review Tribunal - 9 November 1990) the IRT considered an application by a Filipino citizen for an entry visa to Australia to visit his family. It used the case as an opportunity to discuss what the law requires to prove *bona fides* in immigration cases.

The Tribunal concluded that in the absence of special legislative provisions the person who sought the visa had a 'common sense burden' to place all of the relevant facts before the decision-maker. The decision-maker had then to consider whether the facts supported the application on the basis that the facts are more likely than not to