

ADMINISTRATIVE LAW WATCH

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Review of the Social Security Review and Appeals System

On 20 December 1996 the Minister for Social Security, Senator the Hon Jocelyn Newman, announced the establishment of an independent review of the Social Security Review and Appeals system. The review is being conducted by Dame Margaret Guilfoyle.

The Minister said that "the review was being set up to look at existing appeal mechanisms to ensure an efficient system which was appropriate and accessible to the people who need to use it. The Government is committed to the appeal and review mechanism and wants to improve it."

Dame Margaret Guilfoyle has had a distinguished career in community affairs and as a Senator for Victoria from 1971 to 1987. During her time in Federal Parliament Dame Margaret held several Ministerial appointments including Minister for Finance and Minister for Social Security. Since leaving Parliament Dame Margaret has been involved with the Australian Children's Television Foundation, the Deakin University Council, the Institute of Family Studies and assisted with the Burdekin Inquiry into mental health. Dame Margaret has professional qualifications that include both law and accountancy.

The Terms of Reference for the review state

"The elements currently present in the system have existed since 1988. Some – for example the Social Security Appeals Tribunal (SSAT) – have been a part of the system for very much longer.

The Government is concerned to ensure that the Social Security Review and Appeals system:

- is accessible to those who need access to the system;
- operates in an efficient and cost effective manner;
- consists of an appropriate number of levels of appeal; and
- results in decisions that appropriately reflect the intention and operation of government policy.

...

The Terms of Reference for the review are:

In terms of ensuring that the Social Security and Appeals system meets the aims outlined above, the review will report on the following matters:

1. The number of levels of review within the Social Security portfolio;
2. The operation of internal review;
3. The impact of the appeals and review decisions on the quality and efficiency of decision making by DSS staff;
4. The operation of the SSAT's review processes, including the number of members required to hear an appeal, the requirement to use paper records, basis of proof for evidence rendered and the issue of representation for appellants;
5. Whether the Department (or the agency) should appear at the SSAT;
6. The SSAT's membership arrangements;
7. The SSAT's powers of review; and
8. Whether there should be a right of appeal to the Administrative Appeals Tribunal (AAT) or whether appeal to the AAT should be by leave."

The review expects to finalise its report to the Minister before the end of June 1997.

Changes to Refugee and Immigration Decision Making and Review Systems

In a Focus Article in this edition of *Admin Review*, the Minister for Immigration and

Multicultural Affairs, the Hon. Philip Ruddock MP, discusses a number of changes to decision making within his portfolio. The text of the Minister's Media Release (MPS 28/97) dated 20 March 1997 detailing these changes is set out below

"Sweeping changes to Refugee and Immigration Decision Making

Significant changes will be made to refugee and immigration decision making and review systems to improve efficiency, credibility and accountability, the Minister for Immigration and Multicultural Affairs, Philip Ruddock announced today.

"The major change will be to collapse the current three portfolio review bodies into two review tribunals," Mr Ruddock said.

The change follows the Coalition commitment to undertake a review of immigration decision-making, with particular attention being paid to the membership, role and performance of the Immigration Review Tribunal (IRT) and the Refugee Review Tribunal (RRT).

Currently protection visa (refugee) applications are processed in a two-tier decision making structure. A primary decision on an application is made by the Department of Immigration and Multicultural Affairs. If unsuccessful, an applicant can seek review before the RRT.

Most immigration applications have a three tier merits assessment process, with a primary decision by the Department, a departmental review by the Migration Internal Review Office (MIRO) and an independent review by the IRT.

"The changes will bring all migration processing into line so that there is a two-tier merits assessment of applications," Mr Ruddock said.

"This will mean merging MIRO with the independent IRT, while the RRT will remain a separate body dealing exclusively with review of refugee applications."

"A number of other legislative measures will be introduced to make my portfolio Tribunals more flexible and to improve their performance, while reducing the scope for abuse."