

## ADMINISTRATIVE APPEALS TRIBUNAL ACT

The *Statute Law (Miscellaneous Amendments) Act (No. 1)* 1982 was passed on 7 May 1982, and made several changes to the *AAT Act* 1975. (These changes came into effect on 4 June 1982.) Amongst the changes (many of which deal with technical and machinery issues) are:

- Amendments to s.28 now give a person, who demands a statement of reasons *before* appealing to the AAT, some remedy where

the decision-maker furnishes an inadequate statement of reasons. The person can now ask the AAT to review the adequacy of the statement of reasons: new s.28 (5).

- The convening, by the AAT, of a preliminary conference no longer depends on the consent of the parties: new s.34 (1).
- The AAT now has a discretion to give its reasons for its decision orally, rather than in writing: new s.43 (2). However, a party may request (within 28 days of being served with a decision) written reasons; and the AAT must provide those written reasons

within a further 28 days: new s.43 (2A) and (2B).

(However, note that the time limit for appeal to the Federal Court is 28 days from the day when the decision (*not* the reasons for that decision) is 'furnished to the person' who wishes to appeal to the Federal Court: *AAT Act*, s.44 (2A). Therefore, if the AAT does not deliver written reasons at the time of its decision, a party may have to lodge an appeal to the Federal Court *before* seeing written reasons in order to preserve her or his right of appeal.)

## Statistics

The following tables are based on information supplied by the Department of Social Security.

	March 1982	April 1982	May 1982	June 1982
Applications lodged	64	131	76	107
Decided by AAT	5	13	8	6
Withdrawn	6	15	20	20
Conceded	10	10	18	37
No jurisdiction	1	2	0	1
Awaiting decision at end of month	602	694	724	767
Medical appeals	41	95	51	*
Other appeals (or unknown)	16	32	17	*
ACT	0	0	1	*
NSW	15	9	32	*
NT	0	0	0	*
Qld	32	15	7	*
SA	7	2	4	*
Tas.	2	3	0	*
Vic.	5	100	28	*
WA	3	2	4	*

\* not yet available

### Comment

• The basic pattern revealed by these statistics is one of dramatic growth: in the six months to December 1981, 387 applications for review were lodged with the AAT; but in the last six months (to June 1982) 471 applications were lodged. The suggestion, made by the Administrative Review Council last year, that the rate of appeals would slow down, has not been supported by events.

• Another feature which emerges strongly is the heavy accumulation of undecided cases: at the end of June 1981, 246 cases were awaiting decision; at the end of December 1981 this backlog had grown to 504; and, by the end of June 1982, it had reached 767.

It is clear that, so far, the AAT has not developed procedures to enable it to keep

pace with social security appeals. For example, in the same six months when 471 applications were lodged, the AAT decided 45 cases. Only the 66 withdrawals by (appellants) and 94 concessions (by the DSS) prevented an even larger backlog of cases.

There are many possible explanations for this, including a shortage of Tribunal resources and the limited capacity of the Department of Social Security to perform its side of the procedures. Whatever the explanation, the consequences for social security appellants are disturbing: they face long and increasing delays in getting a decision from the AAT and, for most of them, this means long periods of uncertainty, anxiety and financial deprivation. (There are some, of course, for whom delays are an advantage—particularly those who are resisting the Department's attempts to recover 'overpayments'.)

• The final feature which calls for comment is the remarkable fluctuations in appeals from various States: in the six months to February 1982 (the first period for which we have this break-down), Queensland accounted for 37% of all appeals, Victoria for 23% and NSW for only 8%; but, in the next three months (to May 1982), Queensland appeals dropped to 19% of all appeals, Victorian appeals rose to 49% (largely accounted for by the 100 Victorian appeals in April—a remarkable figure) and NSW also rose to 21%.

There are several possible explanations for these fluctuations: it could be that State-based SSATs are working at different rates, or in differently-timed spurts; it could be that the different SSATs are varying in the stringency or generosity of their decisions; or it could be that levels of awareness (amongst social security claimants or amongst their advisers) fluctuate from one State to another or from one period to another. The *Reporter* would welcome any contribution towards finding a sensible solution to this puzzle.

### INVALID PENSION PHONE-IN

(to collect information on problems experienced by invalid pensioners in their dealings with the Department of Social Security.)

- 18 and 19 September 1982.

- 9 a.m. — 9 p.m.

(02) 698 9200 699 7181  
699 7182 699 7183

Sponsored by ACOSS, Combined Pensioners' Association, Redfern Legal Centre and other groups.

### INVALID PENSION SEMINAR

(to focus on ways of supporting disabled people, and their difficulties in the income security and rehabilitation areas.)

- 22 October 1982, 10.30 a.m. to 1.30 p.m.

• Room 100, Western grounds, University of NSW, Anzac Pde., Kensington.

- Admission free.

- Access for disabled.