

**ADMINISTRATIVE JUSTICE OFFICE
UPDATE ON 2006 REFORMS IN OTHER JURISDICTIONS
(As of July, 2006)**

Some of the more significant administrative justice reforms undertaken or initiated in other jurisdictions between January and June, 2006 are summarized below, including:

- The introduction of legislation to create a Public Appointments Commission to oversee, monitor and report on the selection process for federal boards, commissions, agencies and Crown corporations (Canada)
- The enactment of legislation setting out new provisions for members of the Administrative Tribunal of Quebec (Quebec)
- The announcement of standardization of the public appointments process and increased remuneration for board members (Ontario)
- The launch of a new agency designed to provide common administrative support to tribunals (United Kingdom)
- An inquiry into the accessibility of administrative justice (Australia)
- The creation of the Human Rights Council (United Nations)
- The first comprehensive study on administrative justice in the European Union's 25 Member States (European Union)

Earlier AJO updates on reforms in other jurisdictions are available at:

- December, 2005:
http://www.gov.bc.ca/ajo/down/update_on_2005_reforms_in_other_jurisdictions_as_of_dec_2005.pdf
- June, 2005:
http://www.gov.bc.ca/ajo/down/as_of_june_05_update_on_reforms.pdf
- 2004 Reforms:
http://www.gov.bc.ca/ajo/down/2004_update_reforms_other_jurisdictions.pdf

Within Canada:

Federal Government

Federal Accountability Act

The Government of Canada introduced the *Federal Accountability Act* (Bill C-2) and Action Plan in April 2006 to “help strengthen accountability and increase transparency and oversight” in government operations. The Bill aims to improve provisions governing the appointment process for Agents and Officers of Parliament and make the appointments process for federal agencies, commissions and boards more transparent and merit-based. The Bill is now at the Committee Stage in the Senate.

The Bill includes the following initiatives:

- Creating a Public Appointments Commission (as part of the Prime Minister's portfolio) to oversee, monitor and report on the selection process for appointments to boards, commissions, agencies and Crown corporations. The Commission will also set a code of practice to govern the selection process for Governor-in-Council appointments.
- Instituting a uniform approach to appointing Officers and Agents of Parliament
- Combining the functions of the Ethics Commissioner and the Senate Ethics Officer to create a Conflict of Interest and Ethics Commissioner with the power to

administer the proposed *Conflict of Interest Act*, initiate investigations and levy monetary penalties for administrative breaches under the Act.

- Making the Public Sector Integrity Commissioner an Agent of Parliament with an expanded mandate to deal with complaints from public sector employees who feel they have suffered reprisal for alleging government wrongdoing. The Commissioner will screen, investigate and attempt to conciliate complaints.
- Creating a Public Servants Disclosure Protection Tribunal, which will have the power to order remedies and discipline for those complaints referred to it by the Public Sector Integrity Commissioner.

Bill C-2 is available at: http://www.faa-lfi.gc.ca/index_e.asp

IAD Innovation Plan

In October 2005, the Immigration and Refugee Board (IRB), Canada's largest and highest-volume tribunal, struck a Working Group to address mounting concerns about the Immigration Appeal Division's (IAD) growing backlog and increased processing times. In March, 2006, the IRB released its *Report on the Immigration Appeal Division Innovation Initiative*, which is intended to make the IAD a "less formal, more flexible tribunal that is able to deliver administrative justice more simply and quickly, with the same high standard of fairness." The Report identifies the principal factors contributing to backlog and longer processing times and outlines recommendations to address these concerns in the three stages of an IAD appeal (early information-gathering; early resolution; and hearing readiness, hearing and post-hearing matters).

The Immigration Appeal Division Innovation Plan is available at:
http://www.irb-cisr.gc.ca/en/about/tribunals/iad/innovation/plan_e.pdf

Alberta

The new *Administrative Procedures and Jurisdiction Act* (formerly the *Administrative Procedures Act*) came into force on April 3, 2006. The Act adds Part Two to the former Act, which provides for tribunals' jurisdiction to determine constitutional law questions to be set by regulation. The *Designation of Constitutional Decision Makers Regulation*, which came into force in April, 2006, sets out decision makers with the jurisdiction to determine questions of constitutional law. Similarly to British Columbia, the Regulation provides that the Labour Relations Board and Securities Commission, among other decision makers, have jurisdiction over some constitutional law questions.

The *Administrative Procedures and Jurisdiction Act* is available at:
http://www.qp.gov.ab.ca/documents/Acts/A03.cfm?frm_isbn=0779745175

The *Designation of Constitutional Decision Makers Regulation* is available at:
http://www.qp.gov.ab.ca/documents/Regs/2006_069.cfm?frm_isbn=0779744799

The AJO's earlier summary of the Act is available at:
http://www.gov.bc.ca/ajo/down/as_of_june_05_update_on_reforms.pdf

Ontario

In June 2006, the Ontario Government announced the standardization of the public appointments process for its adjudicative and regulator agencies in order "to attract and

retain qualified individuals who reflect the diversity of Ontario.” The new policy standardizes the length of appointment at an initial two-year term, with discretion to reappoint for a subsequent three-year and further five-year terms, to a maximum of ten years. Effective September 1, 2006, appointees’ remuneration will be standardized, based on levels similar to Ontario public service executives.

A press release outlining these changes is available at:

http://ogov.newswire.ca/ontario/GPOE/2006/06/29/c7178.html?lmatch=&lang=_e.html

Quebec

Quebec has amended *An Act Respecting Administrative Justice* with *An Act to amend the Act respecting administrative justice and other legislative provisions* (Bill 103), and has also brought in to force the *Regulation Code of ethics applicable to the members of the Administrative Tribunal of Quebec*.

The amendments to the *Act Respecting Administrative Justice* include:

- Provisions on ethical behaviour for tribunal members
- A provision that tribunal members of the Administrative Tribunal of Quebec are appointed to hold office “during good behaviour”
- Amendments to rules of procedure
- A requirement to offer conciliation in cases dealing with compensation and benefits

The full text of *An Act Respecting Administrative Justice* is available at:

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/J_3/J3_A.html

The full text of the *Regulation Code of ethics applicable to the members of the Administrative Tribunal of Quebec* is available at:

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/J_3/J3R0_1_A.HTM

Outside Canada:

Australia

Administrative Review Council

The Administrative Review Council continues to work on its “*Coercive investigative powers project*” discussed in the AJO’s December 2005 update. Basic information on this project is available at:

http://www.ag.gov.au/agd/WWW/arcHome.nsf/Page/Latest_News_Current_Projects_Coercive_investigative_powers

The Council is also continuing to work on its project relating to the scope of judicial review, submitting its report to the Attorney General on this project in April 2006. The report addresses constitutional and policy considerations relevant to the scope of judicial review and includes a framework of “indicative principles” in relation to the scope of judicial review.

This report is available at:

[http://www.ag.gov.au/agd/WWW/rwpattach.nsf/VAP/\(EAF6E03C496C7A11D2A141976803674B\)~Scope+of+judicial+review+report+No+47.pdf/\\$file/Scope+of+judicial+review+report+No+47.pdf](http://www.ag.gov.au/agd/WWW/rwpattach.nsf/VAP/(EAF6E03C496C7A11D2A141976803674B)~Scope+of+judicial+review+report+No+47.pdf/$file/Scope+of+judicial+review+report+No+47.pdf)

Australian Institute of Judicial Administration Project

The Australian Institute of Judicial Administration (AIJA) completed its research project on “*Inquisitorial Processes in Australian Tribunals*” in May 2006. The final report is available for purchase at: <http://www.aija.org.au/list.htm>

Queensland, Australia

In December, 2005, a Parliamentary Committee on Legal, Constitutional and Administrative Review initiated an inquiry, *Accessibility of Administrative Justice*, to review the effectiveness and accessibility of statutory mechanisms under the *Freedom of Information Act* and *Judicial Review Act* that provide administrative justice. The inquiry is focussing on four considerations: cost of fees, charges and proceedings; effective and efficient access to administrative justice; availability of information on government decisions and actions; and the accessibility of administrative justice to a diversity of people. The Committee published a discussion paper to solicit submissions from the public in December, 2005, which were discussed at an April 2006 conference. A paper setting out the outcomes and recommendations from the conference has also been published, which the Committee is considering in preparing its report to Parliament.

The discussion paper for the inquiry is available at:

<http://www.parliament.qld.gov.au/LCARC/view/committees/documents/lcarc/otherPublications/IPadmjus.pdf>

The April 2006 Conference paper is available at:

<http://www.parliament.qld.gov.au/LCARC/view/committees/documents/lcarc/inquiries/adminJustice/Outcomes%20ABC.pdf>

New Zealand

The Government of New Zealand is continuing to develop guidelines for the operation and administration of tribunals, an initiative undertaken in September, 2004 in response to the New Zealand Law Commission’s report *Delivering Justice for All*. The government will use the new guidelines to assess proposals for a unified structure for administrative tribunals, as recommended by the Law Commission report.

The New Zealand Law Commission’s report *Delivering Justice for All* is available at:

<http://www.lawcom.govt.nz/ProjectReport.aspx?ProjectID=89>

The New Zealand Government’s response to the report is available at:

<http://www.justice.govt.nz/pubs/reports/2004/delivering-justice-for-all/index.html>

United Kingdom

Tribunals Service

The Tribunals Service was officially launched on April 3, 2006. This new executive agency of the Department for Constitutional Affairs (DCA) was designed to provide common administrative support to central government tribunals with 17 individual tribunals currently served.

The focus of the Tribunals Services is to “deliver real benefits to tribunal users” by:

- Ensuring tribunals are independent from those whose decisions are being reviewed
- Helping to provide better information to users and potential users
- Delivering greater consistency in practice and procedure
- Making better use of existing tribunal resources
- Taking the lead in dispute resolution

The Tribunal Service's website is available at: <http://www.tribunals.gov.uk/>

Background on the Tribunals Service is available at:
<http://www.tribunals.gov.uk/background/background.htm>

The framework document describing the “purpose and accountabilities” of the Tribunals Service and the way in which it relates to other organizations is available at:
http://www.tribunals.gov.uk/publications/documents/framework_document.pdf

Council on Tribunals: Feedback from Users Support Workshops

In April, the Council on Tribunals published a report of the feedback from the series of Users Support Workshops, held in 2004 and 2005, to canvass the views of the organisations that support tribunal users on the issues raised in the Government's White Paper *Transforming Public Services: Complaints, Redress and Tribunals*. The report sets out the key messages from the workshop delegates, which include the need for better access to information, clearer explanations of initial decisions and greater accessibility for tribunal users.

The Council on Tribunals' *Feedback from the Council's Users Support Workshops* publication is available at: <http://www.council-on-tribunals.gov.uk/files/usersfeedback.pdf>

Northern Ireland

In March, 2006, Northern Ireland announced it would transfer responsibility for the administration of tribunals that deal with employment disputes and appeals to the Northern Ireland Court Services, as part of the new Courts and Tribunal Service. This decision was part of its larger Review of Public Administration, a comprehensive examination of the arrangements for the administration and delivery of public services, which began in 2002.

The Review of Public Administration website and a link to its final report *Building Better Government for Northern Ireland* is available at: <http://www.rpani.gov.uk/>

A media release on the changes is available at: <http://www.nio.gov.uk/media-detail.htm?newsID=12900>

The Northern Ireland Court Services website is: <http://www.courtsni.gov.uk/en-GB/default.htm>

United Nations

The United Nations replaced the Commission on Human Rights with the new Human Rights Council in April, 2006. The new framework for the Human Rights Council includes “universal periodic reviews” of the human rights situations in all Member States, a procedure for suspending membership of Council members if they commit “gross and systematic” violations of human rights, and a more simplified process to convene special sessions to respond promptly to human rights crises. The first Council session took place from June 19 to 30, 2006.

The United Nations Human Rights Council website is available at: <http://www.ohchr.org/english/bodies/hrcouncil/>

The Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union

In 2005, the Board of the Association decided to take part in the first comprehensive research study on administrative justice in the 25 European Union Member States. Representatives of the 25 member courts filled out a detailed questionnaire on the “typology and inventory” of court review to compare the methods of regulation and administrative bodies in the distinct jurisdictions. In December, 2005, the representatives held a seminar to discuss their answers and exchange ideas, giving the researchers a chance to present an initial summary of the answers. The seminar work will be used as the basis for a major review colloquium to be held in Paris in 2007.

The Association’s most current newsletter with information on the seminar and a comparative view of the answers from the questionnaire is available at: http://www.juradmin.eu/en/newsletter/pdf/Hr_15-En.pdf

The Association published the questionnaire sent to the member courts in its 14th newsletter, available at: http://www.juradmin.eu/en/newsletter/pdf/Hr_14-En.pdf