

LEGISLATIVE RESEARCH SERVICE  
DEPARTMENT OF THE PARLIAMENTARY LIBRARY

ADMINISTRATIVE DECISIONS  
(JUDICIAL REVIEW) AMENDMENT BILL 1986

Date introduced: 22 October 1986  
House: House of Representatives  
Presented by: Hon. Lionel Bowen, M.P.,  
Attorney-General

DIGEST OF BILL

**Purpose**

To strengthen the Federal Court's power to refuse to review a decision of a tribunal and to improve the administration of the Administrative Decisions (Judicial Review) Act 1977 (the Principal Act).

**Background**

The Principal Act provides for the review of decisions of an administrative nature made under an Act. The Federal Court is given power to review decisions for a number of reasons including a breach of natural justice, an error of law, failure to follow procedure, fraud, failure to make a decision and that there is no evidence to justify the decision. The Court has power to set aside a decision, refer the matter to the original decision maker for further consideration, declare the rights of the parties or to direct that the parties take certain action.

Following a review of the operation of the Principal Act by the Administrative Review Council, contained in its report to the Attorney-General titled **Review of the Administrative Decisions (Judicial Review) Act 1977 - Stage One**, one of the problems in the operation of the Principal Act that has been recognised since its introduction is its use to delay proceeding before other bodies. Delay may be sought by a party to proceedings for a number of reasons such as a need for more time to prepare the case, a desire to maintain the status quo for as long as possible or to provide time for lobbying that may improve chances of success. For example, in a recent inquiry by the Australian Broadcasting Tribunal 16 matters were decided by

the Court during the hearing. As the relevant decision had the potential to alter the future conduct of the case considerable delays in the hearing were experienced.

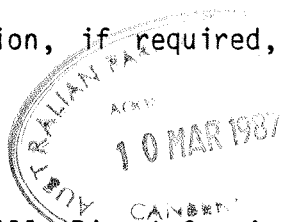
### Main Provisions

Clause 2 will insert new paragraphs into section 10 of the Principal Act. The new provisions will require the Court to refuse to hear applications that may be review under another law unless satisfied that it is in the public interest to grant the application. As well, the Court is to refuse an application that relates to a hearing in progress if satisfied that adequate review will be available at the end of the hearing and that the hearing of the application will interfere with the orderly conduct of the hearing.

A new section 10A will be inserted into the Principal Act by clause 3 to make it clear that the Courts power to refuse relief includes the power to stay proceedings.

These amendments will apply to applications lodged after the commencement of this Bill (clause 4).

For further information, if required, contact the Law and Government Group.



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4 March 1987

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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