

# AUSTRALIAN JOURNAL OF ADMINISTRATIVE LAW

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## DISCLOSURE OF ADVERSE INFORMATION TO APPLICANTS UNDER THE MIGRATION ACT 1958

**Dr Caron Beaton-Wells**

This article examines in detail the procedures under the *Migration Act 1958* (Cth) that were intended to codify the common law obligation to provide persons affected by an administrative decision with notice of and an opportunity to comment on adverse material. These procedures, found in ss 57, 359A and 424A of the Act, have been the subject of considerable litigation. Indeed, the continuing uncertainty surrounding several aspects of their operation raises the question as to whether or not, contrary to its original intention, the government has only succeeded in complicating unnecessarily a relatively simple concept of common law fairness .....61

## JUDICIAL REVIEW OUTCOMES – AN EMPIRICAL STUDY

**Robin Creyke and John McMillan**

This article presents the results from an empirical study undertaken by the authors. The main purpose of the study was to find out what happens after a decision is made by a court in a judicial review action to set aside an agency decision. The authors traced the subsequent administrative history of close to 300 cases, by a survey conducted of the legal representatives of the applicants and agencies. The study revealed that in a surprisingly high proportion of cases the ultimate decision of the agency was favourable to the applicant. The article also contains many examples of how individual judicial review cases cause a subsequent change to legislation or agency practice.....82

## PRIVATISATION AND CORPORATISATION: WHAT NOW FOR THE COMMONWEALTH OMBUDSMAN?

**Anita Stuhmcke**

In 2003 the Commonwealth Ombudsman celebrated its 25th year of operation. During this 25-year period a “new” political, legal and economic environment has evolved, rendering it timely to review and assess the continuing relevance of this office and administrative law more generally. This article examines the introduction and development of the Commonwealth Ombudsman and discusses the impact of a changed framework of government upon its operation – in particular the impact of the privatisation and corporatisation of government services upon the jurisdiction and role of this office. The article concludes that the administrative law institution of the Commonwealth Ombudsman retains its relevance in the new framework of government and that the primary challenge facing the Ombudsman rests in the pre-1976 conception of the office itself, rather than in the more recent policies of corporatisation and privatisation. .... 101

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