
AUSTRALIAN JOURNAL OF ADMINISTRATIVE LAW

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ARTICLES

ENFORCEMENT OF ADMINISTRATIVE DETERMINATIONS

Enid Campbell and Matthew Groves

Administrative agencies are not invested with the power to make determinations that are binding or to enforce those determinations against an unwilling party. This article examines the nature of and reasons for the restrictions upon the enforcement of administrative determinations. It explains the different types of orders or determinations that administrative agencies may make and the means by which these might be enforced. The article examines the constitutional constraints that influence the means by which an administrative determination may be enforced at the federal level and the extent to which these constitutional considerations restrict the enforcement of the determinations of novel non-judicial bodies that are supported by federal legislation. The article also examines power of the federal Parliament to make laws with respect to the service and execution of process of the process and judgement of the courts of the States and considers the extent to which that power might enable the Commonwealth to make laws for the interstate enforcement of administrative determinations.

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COHABITATION RULE IN SOCIAL SECURITY LAW: THE MORE THINGS CHANGE THE MORE THEY STAY THE SAME

Lyndal Sleep, Kieran Tranter and John Stannard

This article examines recent Administrative Appeals Tribunal decisions to gather a snapshot of how Centrelink Customer Service Officers investigate and decide cohabitation decisions under the Social Security Act 1991 (Cth). It argues that as the Act requires all aspects of clients' relationships be investigated, clients are subject to a regime of surveillance which causes specific, identifiable harms. While the rule has been gender neutral in its application since 1994, the Administrative Appeals Tribunal decisions reveal that the clients most affected by the rule are women with children. In this the current cohabitation rule continues the legacy of its predecessors. What is new is the intensity of the surveillance.

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SUPERANNUATION COMPLAINTS TRIBUNAL AND THE PUBLIC/PRIVATE
DISTINCTION IN AUSTRALIAN ADMINISTRATIVE LAW

Greg Weeks

This article considers the Superannuation Complaints Tribunal (SCT) and the capacity of its decisions to be reviewed. While the constitutional position of the SCT is settled after the decision of the High Court in *Attorney-General (Cth) v Breckler* (1999) 197 CLR 83, its categorisation as a private body remains open to question. This being the case, the susceptibility of decisions of the SCT to review is compared with the equitable standards upon which trustee decisions are reviewable. Challenges to decisions of the SCT may not be possible under the Administrative Decisions (Judicial Review) Act 1977 (Cth) but the quasi-private character of the SCT – a private body with a public function – presents scope for courts to hold that the SCT owes an equitable duty to those within its jurisdiction. 147

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