

AUSTRALIAN CAPITAL TERRITORY

*Administrative Appeals Tribunal Act 1989*

**CODE OF PRACTICE FOR NOTIFICATION OF  
REVIEWABLE DECISIONS AND RIGHTS OF REVIEW**

NO. 148 of 1994

I, Terence Connolly, Attorney General, acting under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*, determine this Code of Practice for the purpose of facilitating the operation of subsection 25A (1) of that Act.

**Citation**

1. This Code of Practice may be cited as the Code of Practice for Notification of Reviewable Decisions and Rights of Review.

**Interpretation**

2. (1) In this Code of Practice-

"**affected person**" means any person or corporation whose interests are affected by a reviewable decision;

"**reviewable decision**" means-

(a) a decision that is reviewable by the Tribunal; or

(b) a decision that is reviewable by-

(i) a person whose decision is reviewable by the Tribunal;  
or

(ii) a person whose decision on review, because of subparagraph (i), is a reviewable decision;

"**the Act**" means the *Administrative Appeals Tribunal Act 1989*.

(2) A person to whom this Code of Practice applies, because of subsection 25A(3) of the Act, is referred to in this Code as "you".

**Who should be notified of decisions and rights of review?**

3. (1) You should notify a person of a reviewable decision that-

(a) is made on an application by the person;

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2.

- (b) grants or refuses the person a right, entitlement or benefit;
- (c) varies a right, entitlement or benefit in a manner particular to the person;
- (d) imposes an obligation, requirement or disability on the person; or
- (e) makes a valuation or declaration which relates to the person.

(2) Subclause (1) does not, by implication, limit the range of persons who, as persons whose interests are affected by a reviewable decision, are to be notified.

(3) Subclause (1) does not apply to a reviewable decision which is made on the basis of a return lodged pursuant to a tax law within the meaning of section 3 of the *Taxation (Administration) Act 1987*-

- (a) unless you disagree with the amount of tax, duty or licence fee that is stated in the return as being payable; or
- (b) where no such amount is stated - unless you disagree with information relevant to the calculation of the tax, duty or licence fee payable contained in the return.

(4) A reference to a tax, duty or licence fee in subclause (3) is a reference to a tax, duty or licence fee within the meaning of section 4 of the *Taxation (Administration) Act 1987*.

(5) When you make a reviewable decision in circumstances where-

- (a) some or all of the affected persons are not readily identifiable;
- (b) the number of affected persons is large; or
- (c) the cost of giving notice to the affected persons individually would be substantial;

you should give public notice of the decision and of the rights of review in respect of the decision.

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(6) This procedure does not preclude individual notice being given in particular instances.

### **Contents of notices**

4. (1) Every notice of rights of review should, in simple and brief terms, inform the person to whom it is given of the following information-

- (a) a succinct explanation for the decision;
- (b) any statutory right of the person to ask for reasons for the decision (if a form of reasons has not already been given);
- (c) the name, location, postal and document exchange addresses and the telephone and facsimile numbers of the review authority;
- (d) whether the review authority is independent of the agency which made the decision and whether the authority has the power to overturn the decision;
- (e) how applications for review are to be made and any time limits applying to applications;
- (f) whether or not fees are payable for applications for review and, if so, the amount of the fees and when they are payable;
- (g) whether a waiver of fee payment may be applied for and, if so, the basis of the application;
- (h) any time limits within which the review authority must review the decision; and
- (i) any right that the person has to obtain access to documents about the decision under the *Freedom of Information Act 1989* or any other Act or administrative arrangement, and the basic procedures for exercising that right.

(2) Subclause (1) does not, by implication, limit the information that may be given, and you should consider for inclusion, where appropriate, information concerning-

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- (a) the availability of legal, financial and other forms of advice and assistance;
- (b) whether or not there are provisions permitting costs to be awarded against parties to the proceedings; and
- (c) procedures of the review authority about which the persons to whom notices are directed should particularly be aware, such as whether attendance is required at hearings and the availability of interpreter services.

### **Staging of notifications**

5. Where prior review is a prerequisite to a review by the Administrative Appeals Tribunal-

- (a) notices of rights of review should normally be provided according to the stages of the review process through which the person has progressed;
- (b) notification of the immediate level of review should be given and brief notification of the subsequent level or levels of review should also be given; and
- (c) notices should indicate whether or not a particular level of review is a statutory prerequisite to further review.

### **Plain English**

6. When you are preparing a notice of decision and of rights of review, it should be given in plain English. Everyday language should be used, wherever possible, for ease of understanding. The notice must be clear, and expressed as simply as the subject matter permits.

### **Translations**

7. (1) Where a standard form of notice about rights of review is given, it should include a brief notice in multi-language form stating how non-English-speaking persons may have the notice interpreted in their first language.

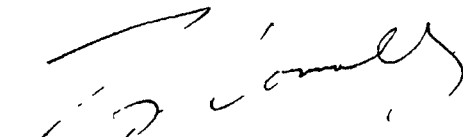
5.

(2) Where a notice is given to a person who is known to have difficulty in reading English, you should also include, wherever practicable, advice in an appropriate language stating how that person may have the notice interpreted in his or her first language.

### **Contact officers**

8. Where there is a contact officer, the notice should give the name and telephone number of that officer as a person who is available to discuss the decision.

Dated: 28 October 1994



Attorney General