

- . the penalty regime is intended to improve the standard of entry documentation: fraud or attempted fraud are dealt with under other provisions of the Customs Act and action under one set of provisions excludes action under the other;
- . in the 6 months to 30 June 1990, whole or partial remission was granted in 91% of those cases for which remission was sought.

A D M I N I S T R A T I V E L A W W A T C H

Role of Secretaries and external review bodies

In the Public Service Commission's Occasional Paper entitled 'The Role of Secretaries of Departments in the APS', released in March 1990, the Secretary to the Department of Prime Minister and Cabinet, Mr Mike Codd, included an exhortation to heads of departments to co-operate with external review bodies. Mr Codd said that:

'Interaction with bodies such as the courts, the Administrative Appeals Tribunal (AAT) and the Ombudsman will depend to a considerable extent on the nature of the department's activities and will relate primarily to program administration, though policy issues can arise in some AAT or Ombudsman cases.

'So far as the courts are concerned, although secretaries would rarely be involved in the actual processes of litigation, they do need to be aware of the potentially far reaching effect that individual cases can have on the administration of the department's programs and sometimes those of other departments. In such cases, secretaries must take personal responsibility and involve the Minister as appropriate. Similar considerations can apply in the AAT.

'The more frequent contact is likely to be with the Ombudsman whose concern is with defects in administration. Where the Ombudsman is proposing to report in a way which reflects adversely on a department, there is an obligation that the secretary concerned be provided with an opportunity to comment on the draft report. At this stage, the secretary should take a personal interest and, if necessary, discuss the issues with the Ombudsman.

'Just as in the case of the Auditor-General, there is potentially much to be gained from a fully cooperative and positive approach to the activities of the Ombudsman, and the secretary has a responsibility to set such a tone.'

Legitimate expectation and government policy

On 7 June 1990 the High Court handed down a judgment in the case of Haoucher v Minister for Immigration and Ethnic Affairs