

# ADMINISTRATIVE LAW BILL.

## NOTES ON CLAUSES.

*Clause 1* is the usual citation and commencement provision.

*Clause 2* is an interpretation provision.

The following comments on the definitions contained in the clause are made for the assistance of Honorable Members—

“ *Decision* ” has two aspects. First, a decision is one which operates in law to determine a question affecting the rights of a person, or a decision to grant or deny a privilege or licence or to terminate, suspend or alter a privilege or licence. Secondly, the definition includes a refusal or failure to perform a duty or to exercise a power to make such a decision.

“ *Person affected* ” means a person whose interest (being an interest greater than the interest of other members of the public) is or will be affected, directly or indirectly, to a substantial degree by a decision, or failure to make a decision, by a Tribunal. This applies whether or not the person is a party to proceedings.

“ *Tribunal* ” means a person or body of persons required by law to observe one or more of the rules of natural justice. There are two exceptions from the definition—

(a) a Court of law ;

(b) a tribunal constituted by or presided over by a Supreme Court Judge.

*Clause 3* enables a person affected by a decision of a tribunal to make an application in the Supreme Court for an order calling on the tribunal, and any person interested in maintaining the decision, to show cause why the decision should not be reviewed.

*Clauses 4 and 5* deal with procedural matters relating to applications for review and orders for review. However, it will be noted that under clause 4 (2) the Court or Judge may refuse to grant an application if satisfied that no matter of substantial importance is disclosed, or that such refusal will impose no substantial injustice upon the applicant.

*Clause 6* empowers the Supreme Court or a Judge to impose terms on granting an order for review, to stay proceedings on the decision and to restrain implementation of the decision.

*Clause 7* deals with the powers of the Court on hearing the review proceedings. It may discharge the order, that is it may decide not to disturb the existing position, or it may grant the various remedies set out in the clause.

*Clause 8* makes provision for a person affected by a decision made, or to be made, by a tribunal to obtain a statement of the reasons for the decision.

*Sub-clause (4)* is designed to ensure that an adequate statement of reasons for a decision is furnished within a reasonable time, and gives to the Court appropriate powers to deal with failure by a tribunal to comply with the earlier sub-clauses.

*Sub-clause (5)*, however, excepts from these provisions cases where the furnishing of reasons for a decision would be against public policy or against the interests of a person primarily concerned with the decision.

*Clause 9* supplements the provisions of clause 10 by giving to the Court power to suspend or postpone the operation of a decision, or to restrain the implementation of it, for a period after the furnishing of reasons under clause 8 (1).

*Clause 10* is a procedural provision. It makes any statement by a tribunal or inferior court of its reasons for a decision part of the decision.

*Clause 11* provides that a person affected by the decision of a tribunal or inferior court shall have sufficient standing to maintain proceedings by prerogative writ, or to seek a declaration of invalidity or an injunction, in relation to the decision. The clause preserves any other right to relief and the discretion of a Court to refuse such relief.

*Clause 12* is designed to overcome the effect of certain statutory provisions declaring decisions of tribunals or inferior courts to be “ final and conclusive ” or “ final and without appeal ”. The clause provides that notwithstanding any such provision the Supreme Court shall in relation to the decision of a tribunal or inferior court (as defined in clause 2) have jurisdiction to grant relief under a prerogative writ, by declaration of invalidity or injunction, or by order under the provisions contained in the Bill.