
Book reviews

Editor: Greg Weeks

JUSTICE IN TRIBUNALS

Justice in Tribunals (4th ed), by J R S Forbes, Federation Press, Sydney, 2014, 385 pages + lxii tables:
ISBN: 9781862879560. Hardcover \$135.00.

Now in its fourth edition (in addition to two editions of its precursor, *Disciplinary Tribunals*), *Justice in Tribunals* is the definitive work regarding the practice of, and sources of potential challenge to, a wide range of tribunals, both statutory and domestic. It is surely significant that it is one of the books that colleagues most frequently seek to borrow from me. Its coverage goes beyond material which is at least broadly familiar to every administrative lawyer to discrimination and sports tribunals and, in an excellent final chapter, Royal Commissions and non-determinative inquiries. What is more, it does so with a level of detail, accessibly presented, that is a testament to the author's great expertise.

This is a book that aims to address the issues of people who appear before tribunals of all sorts. It succeeds overwhelmingly. One can easily understand why it has been cited with approval by courts on both sides of the Tasman, since the author's style is at once academically informed and unashamedly practical. The book is encyclopaedic, both in the sense that it is comprehensive and in the sense that it is designed for readers to mine it for information on isolated subjects, rather than to read it from end to end. In this regard, the frequency with which the author includes cross-references is particularly helpful.

The heart of *Justice in Tribunals* is natural justice, and nine of its 17 chapters are dedicated to considering that subject. The rule against bias occupies one of these but, at 60 pages, it is a lengthy chapter which deals exhaustively with the practical issues that arise with regard to bias in tribunals. For example, where a tribunal has more than one member, how many members must be biased to disqualify the whole tribunal? How is bias proved? Are tribunal members compellable to give evidence regarding the performance of their functions? Are the principles of the rule against bias different in regard to private tribunals? In addition to these issues, the author goes through a number of typical situations which may lead to a finding of bias. This chapter is of immense practical value.

The remaining chapters on natural justice focus on different aspects of the hearing rule. The utility of this material is demonstrated by the fact that both statutory and domestic bodies will generally have an obligation to provide natural justice, even where judicial review's remedies do not reach. Some of the questions addressed include when the right to be heard arises, whether there is a right to an oral hearing, what the standard of proof is and who bears the onus of proof. Separate chapters also consider statutory regimes which require the provision of reasons and what constitutes an adequate statement of reasons, and whether natural justice requires that there be an internal appeal from decisions made by primary tribunals.

The chapter on remedies is extremely thorough and deals extensively with judicial remedies, including judicial review's remedies and damages. It is complemented by Chs 3 and 4, which look at the forms of civil action potentially open to a person who wishes to challenge a decision of a voluntary association. These include breach of trust, breach of contract and damage to reputation, each considered in Ch 3. Restraint of trade is considered separately in Ch 4.

This book, as in previous editions, remains an excellent resource, both for practitioners who appear before, or challenge the decisions of, tribunals and for academics who research tribunals.

Greg Weeks
UNSW Law