



## Chapter 3

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## Chapter 3: Workload and performance

### Workload

This section of the annual report provides key statistical information on the number of applications lodged and finalised in 2004–05 and the number of applications current at the end of the reporting period. In addition to information on the Tribunal's overall workload, this section contains information relating to its major jurisdictions: workers' compensation, social security, taxation and veterans' affairs. Information relating to the previous two reporting periods is provided for the purposes of comparison.

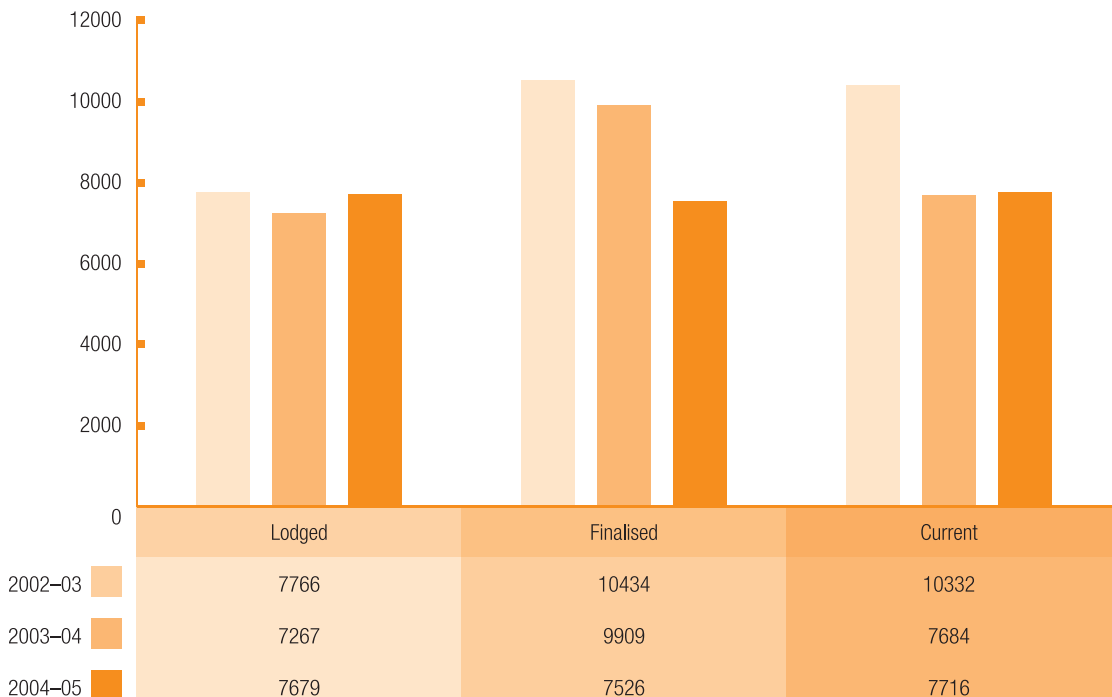
The total number of applications lodged with the Tribunal in the 2004–05 year was 6 per cent greater than the number lodged in the previous reporting period. The primary reason for this increase was

a rise in the number of applications for review of taxation decisions lodged with the Tribunal.

While there was an increase in the number of applications lodged in the 2004–05 year, the number of applications finalised was 24 per cent lower than in 2003–04. This can largely be attributed to a smaller number of applications being finalised in the Taxation Appeals Division (Taxation Division). In 2002–03 and 2003–04 a large number of applications relating to taxation schemes that had been lodged prior to 1 July 2003 were settled. It was correctly anticipated that the number of taxation scheme applications finalised in this way would decrease over time.

The number of applications current at 30 June 2005 is marginally higher than the number of applications current at the end of the previous reporting period. The increase in the number of applications lodged and the decrease in applications finalised in the Taxation Division have contributed significantly to this result.

**Chart 3.1 Applications lodged, finalised and current**



## Applications lodged

### Lodgements by major jurisdiction

The number of applications lodged in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.2.

During the reporting year, applications relating to taxation and workers' compensation entitlements were the most common types of matters lodged with the Tribunal, comprising 28 per cent and 23 per cent of all applications lodged in the Tribunal, respectively. This was followed by social security applications which comprised 19 per cent of total lodgements.

Since 2003–04, there has been a 56 per cent increase in the number of applications lodged in the Taxation Division. There was also a 14 per cent increase in the number of applications lodged in the Small Taxation Claims Tribunal. In the Taxation Division, 54 per cent of lodgements were

applications for review of decisions relating to taxation schemes or employee benefit arrangements.

The number of applications relating to veterans' affairs increased slightly by 8 per cent, reversing a downward trend in that jurisdiction over the past few years.

Table 3.1 in Appendix 3 provides more details on the applications lodged in the reporting year for all jurisdictions. Chart 3.2 in Appendix 3 provides details in relation to the number of applications lodged in each registry.

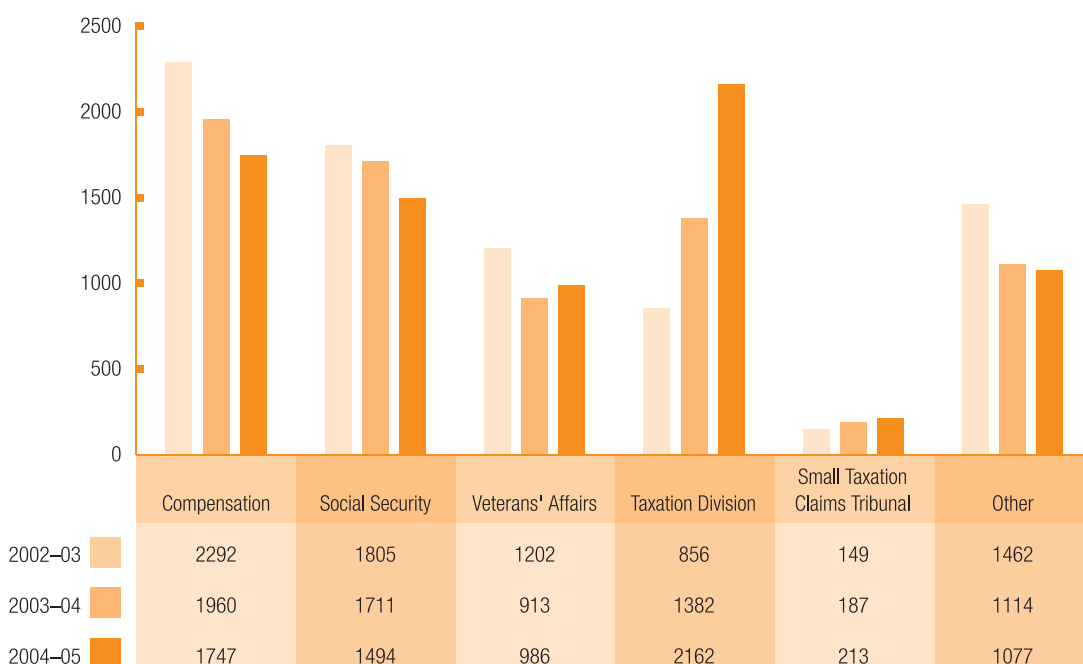
## Applications finalised

### Matters finalised by major jurisdiction

The number of applications finalised in the Tribunal's major jurisdictions in each of the past three years is shown in Chart 3.3.

The number of applications finalised in the Small Taxation Claims Tribunal increased by 38 per cent during 2004–05.

**Chart 3.2 Applications lodged in major jurisdictions**



The number of applications finalised in the other major jurisdictions declined in comparison to the previous year but remained relatively high in comparison to 2001–02.

Finalisations in the veterans' affairs and social security jurisdictions decreased by 15 per cent and 17 per cent respectively during the reporting year. There was a small decrease of 4 per cent in finalisations of workers' compensation applications.

The finalisation of matters in the Taxation Division declined by 50 per cent, which can be attributed to a decrease in the number of applications finalised relating to taxation schemes and employee benefit arrangements. This follows the remarkably high rate of finalisations recorded in this division during 2002–03 and 2003–04.

Table 3.1 in Appendix 3 provides more details on the applications finalised in the reporting year for all jurisdictions. Chart 3.3 in Appendix 3 provides information in relation to the number of applications

finalised in each registry. Table 3.5 in Appendix 3 provides further statistical information about the outcomes of matters finalised in the reporting year.

### Current applications

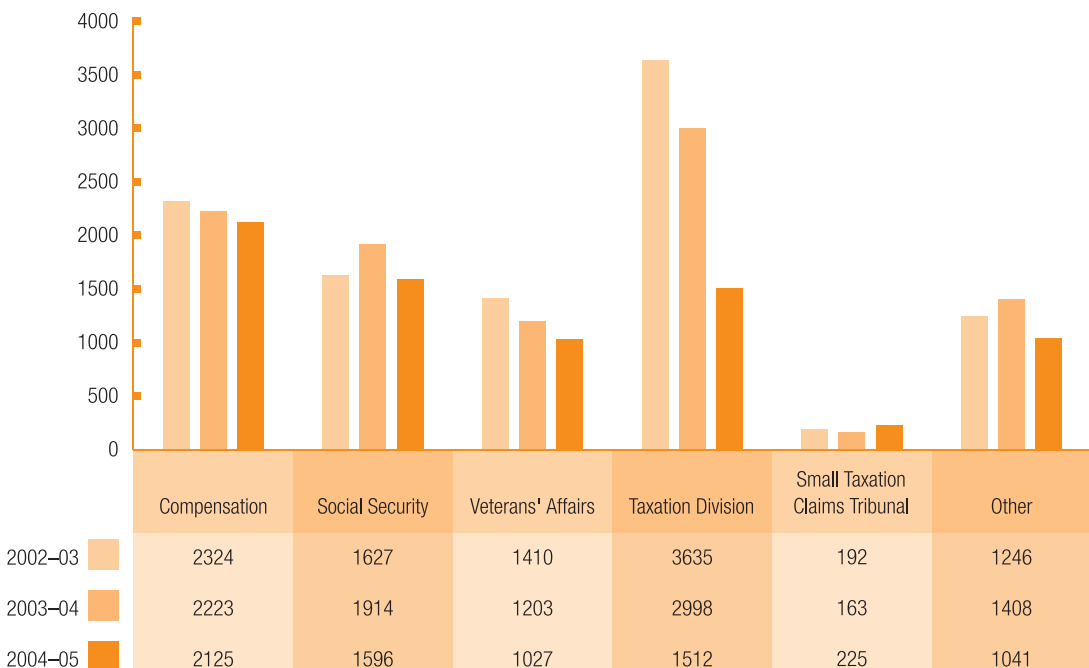
#### Current applications by major jurisdiction

The number of applications current in the Tribunal's major jurisdictions at the end of the current and the previous two reporting periods is shown in Chart 3.4.

The number of applications current at 30 June 2005 was lower than at the end of the previous reporting period in all of the major jurisdictions other than the Taxation Division. The Taxation Division experienced an increase in current lodgements of 19 per cent, largely due to a continuing influx of new applications relating to taxation schemes and employee benefit arrangements.

Additional information about the number of current taxation scheme matters and their management is outlined in Chapter 4.

**Chart 3.3 Applications finalised in major jurisdictions**



Compared to the previous reporting period, the number of current applications relating to veterans' affairs decreased by 5 per cent. The number of current applications at 30 June 2005 in the social security jurisdiction decreased by 13 per cent, and in the workers' compensation jurisdiction by 21 per cent, compared to 2003–04.

Table 3.6 and Chart 3.7 in Appendix 3 provide further information about current applications and their progress through the review process and the number of applications current in each registry.

## Our performance

### Outcome and outputs structure

As outlined in the Tribunal's 2004–05 Portfolio Agency Budget Statements, the Tribunal has one outcome:

*To provide aggrieved persons and agencies with timely, fair and independent merits review of administrative decisions over which the Tribunal has jurisdiction.*

In accordance with the Portfolio Agency Budget Statements, there is one output group relating to this outcome:

*Output group 1.1—Completed review of decisions*

*Output 1.1.1—Applications finalised without a hearing*

*Output 1.1.2—Applications finalised with a hearing.*

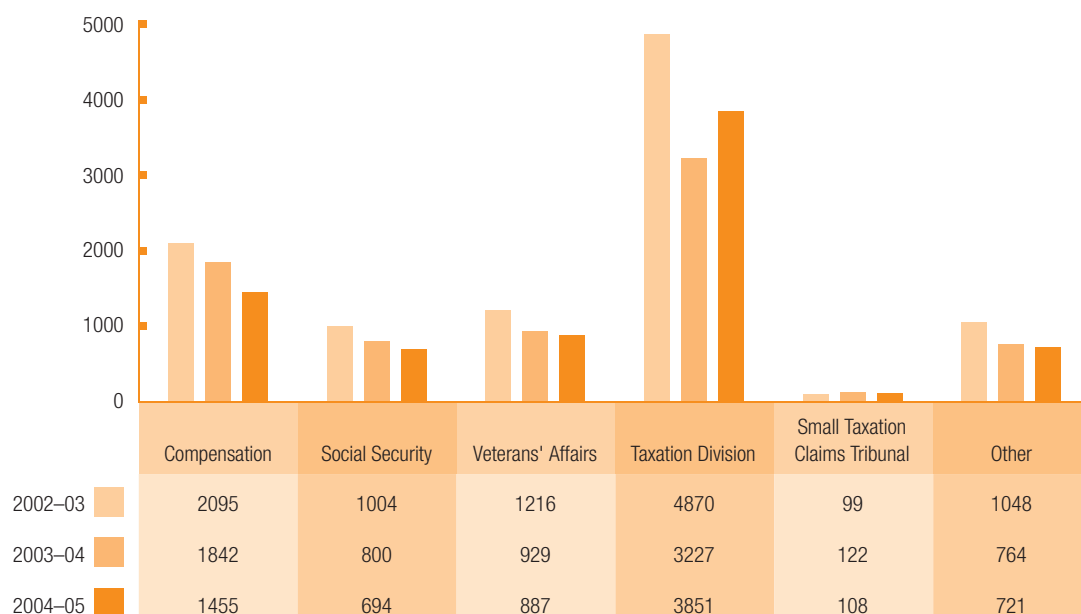
### Total resourcing for outcome

Table 3.1 shows how the 2004–05 budget appropriations for the Tribunal translate to total resourcing for the Tribunal's outcome, including administered expenses, revenue from government (appropriation), revenue from other sources, and the total price of the outputs.

### Performance standards

Table 3.2 shows the performance standards that the Tribunal has established to assess the level of achievement of its planned outcome during 2004–05. The table sets out the indicators and measurements used to assess the efficiency of the outputs in

**Chart 3.4 Applications current in major jurisdictions**



contributing to the outcome. Information shown is both quantitative and qualitative. The Tribunal's performance results against these standards are shown in the next section.

## Performance results

### Notification of review rights

The Tribunal provides advice and information on request to agencies and other decision-makers in relation to the notification of rights to merits review of administrative decisions. This includes informing agencies of the *Code of Practice for Notification of Reviewable Decisions and Rights of Review* determined under section 27B of the AAT Act and providing advice on the form and content of notices of rights of review. The Tribunal also contacts agencies where it identifies issues concerning notices of rights of review.

### Review processes are efficient and fair

The Tribunal is committed to providing a high-quality merits review process which is efficient and fair. This is reflected in the Organisational Plan 2004–05 and is embodied, in particular, in the goal relating to our users. The Tribunal's performance in relation to this goal is discussed in Chapter 4. Information on complaints made to the Tribunal and complaints handling by the Tribunal is provided later in this chapter.

### Price, quality and quantity of applications finalised

Table 3.3 sets out the Tribunal's performance against the effectiveness indicators and measures related to applications finalised, including the cost per finalised application.

**Table 3.1 Total resources for Outcome 1 (\$'000)**

	Budget 2004–05	Actual expenses 2004–05	Variation	Budget 2005–06
<i>Departmental appropriations</i>				
Output group 1.1—Completed reviews of decisions				
Output 1.1.1— Applications finalised without a hearing	12,074	12,021	(53)	12,270
Output 1.1.2— Applications finalised with a hearing	16,088	16,141	53	16,350
<b>Total revenue from government (appropriations) contributing to the price of departmental outputs</b>	28,162	28,162	-	28,620
<i>Revenue from other sources</i>				
Output 1.1.1— Applications finalised without a hearing	382	461	79	465
Output 1.1.2— Applications finalised with a hearing	509	620	111	620
<i>Revenue from other sources</i>	891	1,081	190	1,085
<b>Total price of departmental outputs (Total revenue from government and other sources)</b>	29,053	29,243	190	29,705
<b>Total estimated resourcing for Outcome 1 (Total price of outputs and administered expenses)</b>	29,489	29,639	153	30,556

**Table 3.2 Performance standards, 2004–05**

<b>Effectiveness—Overall achievement of the outcome</b>	
<i>Effectiveness indicators</i>	<i>Measures</i>
Those affected by administrative decisions within the Tribunal's jurisdiction are advised of their rights of review.	All decision makers are provided with relevant material so they can advise people of their review rights.
Review processes are efficient and fair.	Parties to the review process are satisfied that the Tribunal's practices and procedures are efficient and fair, and complaints are dealt with efficiently and fairly.
Applications to the Tribunal are resolved in a timely manner.	Time standards are complied with.
<b>Performance information for departmental outputs</b>	
<i>Output description</i>	<i>Performance measure</i>
Output group 1.1—Completed reviews of decisions	
Output 1.1.1—Applications finalised without a hearing	Price: \$2,387 per completed application <sup>a</sup>
	Quality: 85% of matters have first conference within 13 weeks
	Quantity: 5,218 finalisations
Output 1.1.2—Applications finalised with a hearing	Price: \$11,244 per completed application <sup>a</sup>
	Quality: 85% of matters to hearing within 40 weeks
	Quantity: 1,476 finalisations <sup>a</sup>

<sup>a</sup> Projection for 2004–05; see Table 3.3 for actual figures.

**Table 3.3 Performance results, 2004–05**

<b>Output group 1.1—Completed reviews of decisions</b>	
<i>Output description</i>	<i>Performance result</i>
<b>Output 1.1.1</b> —Applications finalised without a hearing	Price: \$2,166
	Quality: 86% of matters had first conference within 13 weeks <sup>a</sup>
	Quantity: 5,841 or 78%
<b>Output 1.1.2</b> —Applications finalised with a hearing	Price: \$10,082
	Quality: 48% of matters to hearing within 40 weeks <sup>a</sup>
	Quantity: 1,685 or 22%

<sup>a</sup> These figures do not include applications dealt with in the Small Taxation Claims Tribunal, which are subject to shorter time standards for these events.

The number of applications finalised by the Tribunal during the year, both with and without a hearing, was above the projections for the 2004–05 Budget. As a result, the price per completed application was less than anticipated. Further information relating to the percentage of applications finalised without a hearing in the major jurisdictions is set out in Table 3.4 in Appendix 3.

The Tribunal exceeded the target of holding a first conference within 13 weeks of lodgement in 85 per cent of applications. The Tribunal continued to experience difficulties, however, in meeting the target of holding a hearing within 40 weeks of lodgement in 85 per cent of applications. Comparative information relating to the Tribunal's performance against these targets in previous years is provided below in Table 3.6.

#### Timeliness of review

As a means of monitoring its performance, the Tribunal has set time standards for the finalisation of applications generally and in relation to steps in the review process, from receipt of an application to the delivery of a decision. The following is an outline of the Tribunal's performance against these time standards for the year ending 30 June 2005.

The Tribunal aims to finalise most applications within 12 months of lodgement. It has set percentage targets for the finalisation of applications within this timeframe for the major jurisdictions. Information on compliance with these

targets in the reporting period and in previous years is set out in Table 3.4.

Overall, 66 per cent of applications finalised in the reporting period were finalised within 12 months of lodgement. This result continued to be affected by the finalisation of a number of long-standing applications relating to taxation schemes.

Approximately 28 per cent of applications finalised in the Taxation Division were applications relating to taxation schemes lodged prior to 1 July 2002 and deferred pending the outcome of test cases in the Federal Court and the High Court. This contributed significantly to the low percentage of applications in the Taxation Division that were finalised within 12 months of lodgement.

Excluding finalisations in the Taxation Division from the overall figures, there has been a small improvement in the percentage of applications finalised within 12 months of lodgement during this reporting period. In relation to the other major jurisdictions, the Tribunal met its target in the social security jurisdiction but not in the compensation or veterans' affairs jurisdictions. However, there was a slight improvement in overall timeliness in both the compensation and veterans' affairs jurisdictions.

The Tribunal aims to finalise applications dealt with in the Small Taxation Claims Tribunal within 12 weeks or 84 days of lodgement. Table 3.5 shows performance against this time standard.

**Table 3.4 Percentage of applications finalised within 12 months**

Jurisdiction	Target %	2002–03 %	2003–04 %	2004–05 %
All matters	-	48	54	66
All matters (excluding Taxation Division)	-	71	72	74
Compensation	75	64	62	64
Social security	90	87	90	91
Taxation Division	75	7	13	35
Veterans' affairs	80	56	56	59

Note: These figures do not include applications dealt with in the Small Taxation Claims Tribunal.



**Table 3.5 Percentage of Small Taxation Claims Tribunal applications finalised within 84 days**

	2002–03 %	2003–04 %	2004–05 %
Small Taxation Claims Tribunal	37	49	37

The table shows that the percentage of Small Taxation Claims Tribunal applications finalised within 84 days has declined since the previous year but remains on a par with 2002–03.

As has been noted above, the Tribunal has set time standards for intermediate steps in the review process. These include time standards relating to the time between:

- the dispatch by the Tribunal of a notice under section 29 of the AAT Act to a decision maker that an application has been received and receipt of the statement of reasons and documents required under section 37 of the AAT Act
- the receipt of an application and the holding of a first conference

- the receipt of an application and the holding of a hearing
- the last day of hearing and delivery of a decision by the Tribunal.

The first of the steps is within the control of decision makers. Responsibility for the timeliness of the second and third steps is shared between the Tribunal and the parties. The fourth step is within the control of the Tribunal.

Table 3.6 shows performance against these intermediate time standards in relation to all applications other than applications dealt with in the Small Taxation Claims Tribunal, which are subject to different time standards.

While there was a slight improvement in the period between a hearing and the delivery of decision, there was a decline in meeting the time standard in relation to receipt of application to the first day of hearing.

The President and the Registrar monitor the Tribunal's performance against time standards on a regular basis. Detailed workload and performance statistics were distributed to all members and senior staff on a quarterly basis.

**Table 3.6 Intermediate timeliness statistics for applications other than Small Taxation Claims Tribunal applications**

Step	Time standard (days)	2002–03 %	2003–04 %	2004–05 %
Dispatch of section 29 notice to receipt of section 37 documents	35	80	80	77
Receipt of application to first conference	91	87	87	86
Receipt of application to first day of hearing	280	51	54	48
Last day of hearing to delivery of decision <sup>a</sup>	60	62	57	62 <sup>b</sup>

a These figures may include applications in which further material or submissions were to be provided by one or more of the parties following the last day of a hearing. Decisions in these applications may have been delivered within 60 days of receiving that further material or submissions.

b Where multiple applications have been heard together, they have been treated as one application for the purpose of compiling this figure for 2004–05.

A number of initiatives were undertaken during the reporting year aimed at improving the timeliness of review. These included:

- maintenance of a national system to address regular non-compliance
- introduction of a new Listing and Adjournment Practice Direction
- development of draft guidelines for the workers' compensation jurisdiction.

Further information about these initiatives is contained in Chapter 4.

## External scrutiny

The Tribunal's decisions are subject to external scrutiny by the Federal Court and the Federal Magistrates Court through the filing and determination of appeals lodged pursuant to section 44 of the AAT Act. Applications may also be filed and determined under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or the *Judiciary Act 1903* (Judiciary Act). More generally, the Tribunal's operations are subject to external scrutiny by way of complaints to the Commonwealth Ombudsman, requests under the *Freedom of Information Act 1982*, inquiries undertaken by parliamentary committees and audits undertaken by the Australian National Audit Office. This section provides a summary of activity in relation to these forms of scrutiny during the reporting period.

### Appeals to the Federal Court under section 44 of the AAT Act and applications under the ADJR Act and the Judiciary Act

A party may appeal to the Federal Court, on a question of law, from decisions of the Tribunal in relation to an application for review pursuant to section 44 of the AAT Act. Pursuant to section 44AA of the AAT Act, the Federal Court may transfer an appeal under section 44 to the Federal Magistrates Court. A party may also seek judicial review of certain Tribunal decisions under the ADJR Act, under the Constitution or under the Judiciary Act. Applications may be made to the

Federal Court, the Federal Magistrates Court or the High Court.

During the reporting year, 127 appeals were lodged with the Federal Court under section 44 of the AAT Act. There were 11 applications made under the ADJR Act or Judiciary Act, 6 of which related to interlocutory decisions made by the Tribunal during the course of particular applications for review. Table 3.10 in Appendix 3 provides information as to the number of appeals or applications lodged in relation to decisions in each of the Tribunal's major jurisdictions.

During the reporting year, decisions were given in 152 appeals lodged under section 44 of the AAT Act and in 9 applications for judicial review of decisions under the ADJR Act or Judiciary Act. Table 3.11 in Appendix 3 provides further information on the number of appeals determined.

The Tribunal's decision was set aside in only 52 cases, which constitutes less than 1 per cent of the total number of applications finalised by the Tribunal during the reporting year. Table 3.12 in Appendix 3 provides more detailed information relating to the outcomes of appeals.

During the reporting year there were no judicial decisions or decisions made by administrative review tribunals that had or may have a significant impact on the operations of the Tribunal.

### Freedom of information

Five requests for access to documents under the *Freedom of Information Act 1982* were received during the reporting period. All requests were finalised during the reporting period within 30 days of receipt, with each request being granted in full. No request to amend records was received and no requests were carried over from previous years.

The statement required to be published in this report under section 8 of the Freedom of Information Act is in Appendix 7.

## Ombudsman

During the reporting year, 11 complaints against the Tribunal were received by the Ombudsman, which is in line with the previous year. During the year, 12 complaints were finalised by the Ombudsman, covering 12 types of issues, with 5 resulting in an investigation by the Ombudsman. None of the investigations resulted in a finding of administrative deficiency against the Tribunal.

The Tribunal and the Ombudsman have in place administrative arrangements to facilitate referral of matters between the two bodies, where each might have jurisdiction.

### Reports by Auditor-General or parliamentary committees

There were no reports relating to the operations of the Tribunal issued by the Auditor-General (other than the report on financial statements) or by a parliamentary committee during the reporting period.

## Performance in relation to the Service Charter and complaints

The Tribunal's Service Charter sets out the rights and responsibilities of the Tribunal and its users. It is written in clear, simple language and is intended to be accessible to all users of the Tribunal. A copy of the charter can be viewed on the Tribunal's website ([www.aat.gov.au](http://www.aat.gov.au)).

Details on how to make a complaint, together with information on the Tribunal's complaint-handling procedures, are contained in the charter. This information can also be viewed on the Tribunal's website. Complaints may be made verbally or in writing.

The Tribunal's complaints-handling procedures require complaints to be dealt with in a timely manner and to properly address the issues involved. During the reporting year, the Tribunal implemented a new system for responding to complaints with a view to improving the coordination and timeliness of responses.

Privacy and confidentiality considerations are respected. Where appropriate, a complaint will result in an apology or a change to practice and procedure.

During 2004–05 the Tribunal received written and verbal complaints from 22 individuals. Two of those complaints related to two separate issues. The issues raised in the complaints covered:

procedural issues	4
conduct of conferences	0
conduct of members of the Tribunal	7
complaints about Tribunal decisions	3
complaints about timeliness of Tribunal decisions	4
complaints about Tribunal decisions displayed on Internet	6

As outlined in the Tribunal's Client Service Charter, the Tribunal will normally respond to a written complaint within 20 working days. However in more complex matters, it may be necessary to consult with other parties before a substantive response can be provided. In these instances the Tribunal advised the complainant of progress in handling the complaint. Complaints submitted in a language other than English will receive a response within 30 working days.

In all cases the Tribunal provided at least an initial response within the 20 day period. The average number of days from complaint to final response was 21 working days. This occurred because of the extra time taken to investigate some complaints.

The Tribunal does not measure whether a complainant believes that their complaint was resolved, but if further letters are taken as an indicator of dissatisfaction, then the dissatisfaction rate was 29 per cent.

## Warrants, controlled operations and proceeds of crime workload

### Warrants

During the course of the reporting period, 32 members of the Tribunal were nominated members for the purposes of issuing warrants under the *Telecommunications (Interception) Act 1979*, the *Australian Federal Police Act 1979*, the *Customs Act 1901* and the *Surveillance Devices Act 2004*. When the *Surveillance Devices Act 2004* came into force on 15 December 2004, existing nominations for members for the purposes of issuing warrants under the *Australian Federal Police Act 1979* and the *Customs Act 1901* were taken to be nominations under the *Surveillance Devices Act 2004*.

In 2004–05, AAT members considered applications under these Acts on 1755 separate occasions.

The Tribunal is flexible in relation to the performance of its warrants function. A nominated member is available whenever required. In the reporting period, applications were made out-of-hours on 40 occasions. 'Out-of-hours' means on the weekend, on a public holiday, or during the week before 9 am or after 5 pm.

During the reporting period, the Tribunal did not receive any applications to issue warrants pursuant to the *Education Services for Overseas Students Act 2000* or the *Migration Act 1958*.

### Controlled operations

During the course of the reporting period, 26 members of the Tribunal were nominated members for the purposes of reviewing certificates that authorise controlled operations under the *Crimes Act 1914*. Consistent with previous years, AAT members dealt with only a small number of applications for the review of certificates relating to controlled operations during the financial year.

### Proceeds of crime examinations

During the course of the reporting year, 26 members of the Tribunal were available as approved examiners for the purposes of conducting compulsory examinations under the *Proceeds of Crime Act 2002*.

In the 2004–05 financial year, the AAT conducted 133 proceeds of crime examination sessions. This represents an increase of 27% over the 105 examination sessions undertaken in 2002–03.

The examination sessions conducted in 2004–05 were distributed amongst the registries as shown in Table 3.9.

**Table 3.9** Number of proceeds of crime examination sessions in each registry

ACT	NSW	Qld/NT	SA	Tas	Vic	WA	Total
3	51	50	0	0	26	3	133