# VARIOUS PLACES AT WHICH PROCESSES MAY BE JR’ED UNDER STATUTE

## Where there is a two-step legislative framework – at what point is there a “decision” that can be JRed? (*ABT v Bond*)

Reviewable: Final and determinative

Reviewable because expressly provided for in the legislative framework (otherwise, not)

Not reviewable: only antecedent, not final or determinative

## Where there is prior advice given, and then subsequent advise is contrary to it (*AWTA v FCT*)

NOTE: not applicable unless in formal assessment, or advice B is only in draft form (*Pegasus*; *Barkworth*).

Reviewable: deprives previously conferred benefit given in Advice A.

## Where there is a vote required by the decision-maker (eg in bankruptcy) (*Hutchins*)

Not reviewable: does not determine anything.

## Investigating or detecting a crime (*Salerno*)

Reviewable: in practical sense, final determination of complaint (even if DPP can refuse to prosecute (*Schokker*)

Reviewable: although preliminary, has direct and immediate impact on person’s right to quiet possession and enjoyment of land.

## Inquiry conducted by a committee (*Edelsten*):

Reviewable: final, substantive, immediate career consequences for the person involved (*Kelson v Forward*)

Not reviewable: even though required by statute, it is not sufficiently substantive in nature to be reviewable

Not reviewable: determines nothing

## Investigation and resolution of a discrimination complaint

Not reviewable: mere conclusions in the process of coming to a decision (*Val Stalleim*).

HOWEVER: contrary authority: reviewable because substantive, and provided for in the legislation (*Cwth v HREOC*)

Not reviewable: determines nothing, doesn’t determine anything (*Harris v Bryce*)

## Land Management Tribunals

Reviewable: required by statute as part of the framework (*Noosa Shire Council*)

Not clear, no cases – probably not decision. May be conduct.

Not reviewable: not substantive in nature (*Redland Shire Council*)

# “CONDUCT ENGAGED IN”

Not reviewable as “conduct” – need to go under “decision” provisions (*NSWALC v ATSIC*)

Not reviewable if substantive (*Bond*)

Not reviewable if about jurisdiction (*Abey*)

Not conduct: too early (*Houghton*)