

Attachment A

Further information on changes made by the Administrative Review Tribunal (Miscellaneous Measures) Bill 2024

Category 1 – Terminology changes

Amendments to these 14 Acts make simple terminology changes, such as repealing outdated references to the Administrative Appeals Tribunal, the AAT and the *Administrative Appeals Tribunal Act 1975*, and replacing them with references to the Administrative Review Tribunal, the ART and the *Administrative Review Tribunal Act 2024*, including in Bills or Acts that are before the Parliament or have been introduced or passed the Parliament since the introduction of the ART legislative package. These amendments ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provisions continue to operate in substantively the same way in relation to the new Tribunal.

Acts
1. <i>Financial Accountability Regime Act 2023</i> , ss94-95
2. <i>Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023</i> , s25
3. <i>Payment Times Reporting Act 2020</i> , s54AA
4. <i>Tax Agents Services Act 2009</i> , 70-30(5)
5. <i>Digital ID Act 2024</i> , s140
6. <i>Defence Act 1903</i> , s115L
7. <i>Primary Industries Levies and Charges Collection Act 2024</i> , ss48-49
8. <i>Primary Industries Levies and Charges Disbursement Act 2024</i> , ss84-85
9. <i>New Vehicle Standards Efficiency Act 2024</i> , ss69, 85, 89
10. <i>Help to Buy Act 2024</i> , s43
11. <i>Competition and Consumer Act 2010</i> , ss56BH, 56BHA
12. <i>Australian Naval Nuclear Power Safety Bill 2023</i> , ss38, 144
13. <i>National Disability Insurance Scheme Act 2013</i> , s32L
14. <i>Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024</i> , s44

Category 2 – Harmonisation

The amendments to these Acts:

- remove modifications to the ART Act timeframes to apply for review of deemed decisions, so that the standard timeframe to make an application applies (no less than 28 days, commencing the day after a decision is deemed to have been made)
- ensure provisions that refer to actions that can be taken, consequences that flow, or decisions that take effect once a Tribunal review is completed properly reflect the new guidance and appeals panel process in the ART Act, and
- ensure that, when a proceeding is before the guidance and appeals panel, an original decision-maker may only vary or substitute the decision under review in accordance with section 31 of the ART Act.

Some of these Acts also have minor technical or terminology changes in addition to harmonisation amendments.

Removing timeframes to apply for review of deemed decisions		
Acts	Current provision (example) <i>As amended by the Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024.</i>	New provision* <i>As amended by Miscellaneous Measures Bill</i>

<ol style="list-style-type: none"> 1. <i>Banking Act 1959</i> 2. <i>Financial Institutions Supervisory Levies Collection Act 1998</i> 3. <i>Financial Sector (Collection of Data) Act 2001</i> 4. <i>Insurance Acquisitions and Takeovers Act 1991</i> 5. <i>Insurance Act 1973</i> 6. <i>Life Insurance Act 1995</i> 7. <i>Petroleum Excise (Prices) Act 1987</i> 8. <i>Private Health Insurance (Prudential Supervision) Act 2015</i> 9. <i>Retirement Savings Accounts Act 1997</i> 10. <i>Small Superannuation Accounts Act 1995</i> 11. <i>Superannuation (Self Managed Superannuation Funds) Taxation Act 1987</i> 12. <i>Superannuation Industry (Supervision) Act 1993</i> 13. <i>Great Barrier Reef Marine Park Act 1975</i> 14. <i>Industry Research and Development Act 1986</i> 	<p><i>Banking Act 1959*</i></p> <p>51C Review of decisions</p> <p>(1) Applications may be made to the Administrative Review Tribunal for review of decisions of APRA that have been confirmed or varied under subsection 51B(3).</p> <p>(2) If a decision is taken, because of the operation of subsection 51B(4), to be confirmed, then (despite section 18 of the Administrative Review Tribunal Act 2024) an application for review of the decision must be made within the period:</p> <p style="padding-left: 40px;">(a) beginning on the day on which the decision is taken to be confirmed; and</p> <p style="padding-left: 40px;">(b) ending 28 days after the day on which the decision is taken to be confirmed.</p>	<p><i>Banking Act 1959*</i></p> <p>51C Review of decisions</p> <p>(1) Applications may be made to the Administrative Review Tribunal for review of decisions of APRA that have been confirmed or varied under subsection 51B(3).</p> <p>[former (2) repealed by item 14, Schedule 2]</p> <p><i>Administrative Review Tribunal Rules 2024</i></p> <p>6 When to apply—decisions taken to be made because timeframe expires</p> <p><i>Purpose of this section</i></p> <p>(1) This section is made for the purposes of subsection 18(1) of the Act.</p> <p><i>When this section applies</i></p> <p>(2) This section applies in relation to an application for review of a decision (the decision under review) that is taken to be made by section 16 of the Act or a provision of another Act or legislative instrument.</p> <p><i>General rule—period ends 28 days after decision is taken to be made</i></p> <p>(3) The period starts on the day the decision under review is taken to be made and ends on the day that is 28 days after the day the decision under review is taken to be made.</p>
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		<p><i>Exception—if decision is subsequently made</i></p> <p>(4) Despite subsection (3), if:</p> <p>(a) the decision under review is a decision not to do a thing; and</p> <p>(b) after the decision under review is taken to be made, the decision-maker makes or purports to make a decision (the subsequent decision) to do or not do the thing; and</p> <p>(c) the applicant is given notice of the subsequent decision in writing;</p> <p>the period starts on the day the decision under review is taken to be made and ends at the end of the period that applies or would apply in relation to the subsequent decision under section 5.</p> <p><i>Note: A person may apply to the Tribunal to extend the period during which the person may apply for review of a decision (see section 19 of the Act).</i></p>
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Ensure provisions account for the GAP		
Acts	Current provision (example) <i>As amended by the Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024.</i>	New provision <i>As amended by Miscellaneous Measures Bill</i>
1. <i>Bankruptcy Act 1966</i>	<i>Bankruptcy Act 1966</i> 149N Decision on review (1) On a review of a decision, if the Inspector - General is satisfied that: ... the Inspector - General must cancel the objection. ... (2) The cancellation does not take effect until: (a) the end of the period within which an application may be made to the Administrative Review Tribunal for the review of the decision of the Inspector - General; or (b) if such an application is made--the decision of the Tribunal is given	<i>Bankruptcy Act 1966*</i> 149N Decision on review (1) On a review of a decision, if the Inspector - General is satisfied that: ... the Inspector - General must cancel the objection. ... (2) The cancellation does not take effect until: (a) the end of the period within which an application may be made to the Administrative Review Tribunal for the review of the decision of the Inspector - General; or (b) if such an application is made--the decision of the Tribunal becomes final. [amended by item 2, Schedule 2] (2A) For the purposes of paragraph (2)(b), a decision of the Tribunal becomes final: (a) if no application to refer the decision of the Tribunal to the guidance and appeals panel is made within the period for making the application—at the end of that period; or
2. <i>Australian Charities and Not-for-profits Commission Act 2012</i>		
3. <i>Public Health (Tobacco and Other Products) Act 2023</i>		

		<p>(b) if an application is made to refer the decision of the Tribunal to the guidance and appeals panel within the period for making the application—when:</p> <ul style="list-style-type: none">(i) the application is refused; or(ii) the decision of the Tribunal on the guidance and appeals panel application is given. <p>(2B) For the purposes of subsection (2A), the period for making an application to refer a decision of the Tribunal to the guidance and appeals panel includes any extension of that period under section 125 of the <i>Administrative Review Tribunal Act 2024</i>. [inserted by item 3, Schedule 2]</p>
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Restrict variation and substitution of decisions before the GAP		
Acts	Current provision (example) As amended by the <i>Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024</i> .	New provision As amended by Miscellaneous Measures Bill
<ol style="list-style-type: none"> 1. <i>Aged Care Act 1997</i> 2. <i>Aged Care (Transitional Provisions) Act 1997</i> 3. <i>Health Insurance Act 1973</i> 4. <i>Higher Education Funding Act 1988</i> 5. <i>Higher Education Support Act 2003</i> 6. <i>Military Rehabilitation and Compensation Act 2004</i> 7. <i>Safety, Rehabilitation and Compensation (Defence related Claims) Act 1988</i> 8. <i>Veterans' Entitlements Act 1986</i> 9. <i>Australian Apprenticeship Support Loans Act 2014</i> 10. <i>Fair Entitlements Guarantee Act 2012</i> 11. <i>Safety, Rehabilitation and Compensation Act 1988</i> 12. <i>Seafarers Rehabilitation and Compensation Act 1992</i> 13. <i>Student Assistance Act 1973</i> 14. <i>VET Student Loans Act 2016</i> 	<p><i>Fair Entitlements Guarantee Act 2012*</i></p> <p>37 Review on the Secretary's own initiative</p> <p>(1) If the Secretary is satisfied that there is sufficient reason, the Secretary may review:</p> <p style="padding-left: 40px;">(a) a decision whether a person is eligible for an advance; or</p> <p style="padding-left: 40px;">(b) a decision on the amount of an advance a person is eligible for.</p> <p>(2) The Secretary may review a decision under subsection (1) even if an application has been made to the Administrative Review Tribunal for a review of the decision (as affirmed or varied under Subdivision B or substituted under that Subdivision for an earlier decision).</p> <p>...</p> <p>(4) After reviewing the decision under subsection (1), the Secretary may make a decision (the review decision):</p> <p style="padding-left: 40px;">(a) affirming the decision that was reviewed ; or</p> <p style="padding-left: 40px;">(b) varying the decision that was reviewed ; or</p>	<p><i>Fair Entitlements Guarantee Act 2012*</i></p> <p>37 Review on the Secretary's own initiative</p> <p>(1) If the Secretary is satisfied that there is sufficient reason, the Secretary may review:</p> <p style="padding-left: 40px;">(a) a decision whether a person is eligible for an advance; or</p> <p style="padding-left: 40px;">(b) a decision on the amount of an advance a person is eligible for.</p> <p>(2) The Secretary may review a decision under subsection (1) even if an application has been made to the Administrative Review Tribunal for a review of the decision (as affirmed or varied under Subdivision B or substituted under that Subdivision for an earlier decision).</p> <p>(2A) However, section 31 (decision cannot be altered outside Tribunal process) of the</p>

	<p>(c) setting aside the decision that was reviewed and substituting a new decision.</p>	<p><i>Administrative Review Tribunal Act 2024</i> applies to the decision if:</p> <p>(a) the application is referred to the guidance and appeals panel under section 122 of that Act; or</p> <p>(b) a guidance and appeals panel application is taken to be made because the Administrative Review Tribunal's decision on the review is referred to the guidance and appeals panel under section 128 of that Act. [inserted by item 92, Schedule 2]</p> <p>...</p> <p>(4) After reviewing the decision under subsection (1), the Secretary may, subject to subsection (2A), make a decision (the review decision): [inserted by item 93, Schedule 2]</p> <p>(a) affirming the decision that was reviewed ; or</p> <p>(b) varying the decision that was reviewed ; or</p> <p>(c) setting aside the decision that was reviewed and substituting a new decision.</p>
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Category 3 - Technical changes

These changes are technical amendments to support the efficient conduct of Tribunal review and ensure the legislation operates as intended.

Act	Amendment
Schedule 2, Part 1 – Attorney-General	
<i>Crimes Act 1914</i>	<p>3UJC Assessment officers</p> <p>(1) An assessment officer is:</p> <p>(a) a person:</p> <p>(i) who is a Judge of the Federal Court of Australia, or a Judge of the Supreme Court of a State or Territory; and</p> <p>(ii) in relation to whom a consent under subsection 3UJD(1), and a declaration under subsection 3UJD(2), are in force; or</p> <p>(b) a nominated ART member.</p> <p>(2) A function or power conferred on a Judge by this Division is conferred on the Judge in a personal capacity and not as a court or a member of a court.</p> <p>(3) A Judge has, in relation to the performance or exercise of a function or power conferred on an assessment officer by this Division, the same protection and immunity as if the Judge were performing that function, or exercising that power, as, or as a member of, a court (being the court of which the Judge is a member).</p> <p>Note: A member of the Administrative Review Tribunal has the same protection and immunity as a Justice of the High Court (see subsection 293(1) of the Administrative Review Tribunal Act 2024). [note repealed by item 4]</p> <p>(4) A nominated ART member has, in relation to the performance or exercise of a function or power conferred on an assessment officer by this Division, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court. [inserted by item 5]</p>

	<p>3ZZAD Eligible issuing officers</p> <p>(1) An eligible issuing officer is:</p> <p>(a) a person:</p> <p>(i) who is a Judge of the Federal Court of Australia, or a Judge of the Supreme Court of a State or Territory; and</p> <p>(ii) in relation to whom a consent under subsection 3UJD(1), and a declaration under subsection 3UJD(2), are in force; or</p> <p>(b) a nominated ART member.</p> <p>(2) A function or power conferred on a Judge by this Division is conferred on the Judge in a personal capacity and not as a court or a member of a court.</p> <p>(3) A Judge has, in relation to the performance or exercise of a function or power conferred on an assessment officer by this Division, the same protection and immunity as if the Judge were performing that function, or exercising that power, as, or as a member of, a court (being the court of which the Judge is a member).</p> <p><i>Note: A member of the Administrative Review Tribunal has the same protection and immunity as a Justice of the High Court (see subsection 293(1) of the Administrative Review Tribunal Act 2024).</i> [note repealed by item 6]</p> <p>(4) A nominated ART member has, in relation to the performance or exercise of a function or power conferred on an assessment officer by this Division, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court. [inserted by item 7]</p>
<i>Freedom of Information Act 1982</i>	<p>61A Modification of the Administrative Review Tribunal Act 2024</p> <p>(1) The Administrative Review Tribunal Act 2024 applies to proceedings under this Part as if a reference to the decision-maker in the following provisions of that Act were a reference to the agency or Minister who made the IC reviewable decision:</p> <p>...</p>

	<p>(ba) section 24 (decision-maker must give Tribunal additional statement if Tribunal requires—general rule);</p> <p>(bb) section 25 (decision-maker must give Tribunal additional documents within 28 days—general rule);</p> <p>(bc) section 26 (decision-maker must give Tribunal additional documents on request—general rule);</p> <p>(bd) section 27 (decision-maker must give copies of reasons and documents to other parties—general rule);[inserted by item 8]</p> <p>...</p> <p>(h) subsection _56(2) (parties and their representatives to assist Tribunal); [correction in item 10]</p>
Schedule 2, Part 2 Treasury	
<i>Australian Charities and Not for profits Commission Act 2012</i>	<p>165-10 Special rules for objection decisions or extension of time refusal decisions</p> <p>(1) Sections 17 (who can apply) and 18 (when to apply—general rule) of the ART Act do not apply in relation to:</p> <p>(a) an objection decision; or</p> <p>(b) an extension of time refusal decision.</p> <p>(2) The President of the ART may allow a longer period to make an application to refer a decision of the ART on the review of an objection decision or an extension of time refusal decision to the guidance and appeals panel under section 125 (when to apply to refer Tribunal decision) of the ART Act only if the period for making the application has not expired request for a longer period is made before the period for making the application has expired. [inserted by item 11]</p>
<i>Corporations Act 2001</i>	1297 Time when Board’s decision comes into effect

	<p>(1) Subject to subsection (2) and to sections 32, 127 and 178 of the <i>Administrative Review Tribunal Act 2024</i>, an order made by the Board cancelling or suspending the registration of a person as an auditor comes into effect: [inserted by item 16]</p> <p>(a) at the end of the day on which there is given to the person a paragraph 1296(1)(a) notice of the decision pursuant to which the order is made; or</p> <p>(b) at the end of such longer period (not exceeding 90 days) as the Board determines.</p> <p>1299K Time when ASIC’s decision comes into effect</p> <p>A decision by ASIC to cancel or suspend a company’s registration as an authorised audit company comes into effect at the end of the day on which the company is given notice of the decision under paragraph 1299J(1)(a). This subsection has effect subject to subsection (2) and to sections 32, 127 and 178 of the <i>Administrative Review Tribunal Act 2024</i>. [inserted by item 17]</p>
<i>Taxation Administration Act 1953</i>	<p>14ZZB Special rules for reviewable objection decisions and extension of time refusal decisions</p> <p>(1) Section 268 (requesting reasons for reviewable decision from decision-maker) of the ART Act does not apply in relation to a reviewable objection decision that has been taken to have been made under subsection 14ZYA(3) or 14ZYP(2) of this Act.</p> <p>(2) Sections 17 (who can apply) and 18 (when to apply—general rule) of the ART Act do not apply in relation to:</p> <p>(a) a reviewable objection decision; or</p> <p>(b) an extension of time refusal decision.</p> <p>(3) The President of the ART may allow a longer period to make an application to refer a decision of the ART on the review of a reviewable objection decision or an extension of time refusal decision to the guidance and appeals panel under section 125 (when to apply to refer Tribunal decision) of the ART Act only if the period for making the application has not expired request for a longer period is made before the period for making the application has expired. [inserted by item 40].</p>

	<p>(4) If the President of the ART decides to allow a longer period under section 125 of the ART Act (as modified by subsection (4) of this section), the President of the ART must notify the Commissioner as soon as practicable after making the decision.</p> <p>(5) Section 32 (reviewable decision continues to operate unless Tribunal orders otherwise) of the ART Act does not apply in relation to: (a) a reviewable objection decision; or (b) an extension of time refusal decision.</p> <p>(6) However, despite subsection (5), section 32 (reviewable decision continues to operate unless Tribunal orders otherwise) of the ART Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision, subject to the modifications set out in section 14ZZH of this Act.</p> <p>(7) Section 127 (Tribunal decision continues to operate unless Tribunal orders otherwise) of the ART Act does not apply in relation to a reviewable objection decision or an extension of time refusal decision. (8) Section 178 (operation and implementation of Tribunal's decision) of the ART Act does not apply in relation to a reviewable objection decision.</p> <p>(7A) However, despite subsection (7), section 127 (Tribunal decision continues to operate unless Tribunal orders otherwise) of the ART Act applies in relation to a reviewable objection decision that relates to a small business taxation assessment decision, subject to the modifications set out in section 14ZZH of this Act. [inserted by item 41]</p>
Schedule 2, Part 6, Social Services	
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	<p>138A Remitting decisions for reconsideration</p> <p>Section 85 (ART may remit decision to decision maker for reconsideration) of the ART Act does not apply in relation to a proceeding for ART child care provider review unless the proceeding is in relation to a guidance and appeals panel application.</p> <p>[Repealed by item 65]</p>
Schedule 2, Part 7 – Veterans' Affairs	
<i>Military Rehabilitation and Compensation Act 2004</i>	<p>357 Costs of proceedings before the Tribunal</p> <p>...</p>

	<p>(8) For the purposes of section 115 of the Administrative Review Tribunal Act 2024, the Commonwealth is taken to be a party to a proceeding before the Tribunal. [inserted by item 77]</p>
<i>Veterans' Entitlements Act 1986</i>	<p>106 Special assistance</p> <p>(1) Subject to subsection (2), the Commission may, in such circumstances, and subject to such conditions (if any), as are prescribed in a legislative instrument made by the Commission for the purposes of this subsection, in its discretion, grant to a veteran, or to a dependant of a veteran or deceased veteran, assistance or benefits of such a kind, and of such an amount or value, as it deems fit in all the circumstances of the case.</p> <p>...</p> <p>(3) A legislative instrument made by the Commission for the purposes of subsection (1) may modify the operation of section 18 of the <i>Administrative Review Tribunal Act 2024</i> (when to apply—general rule) as it applies in relation to an application made under the instrument. [inserted by item 84]</p> <p>177 Effective dates of certain determinations relating to payment of pension or seniors health card</p> <p>(1) This section is in addition to, and not in substitution for, any of the provisions of section 107 section 108 of the <i>Administrative Review Tribunal Act 2024</i> in its application to proceedings for a review by the Administrative Review Tribunal of a reviewable decision [corrected by item 85].</p>
Schedule 2, Part 11 – Social Services	
<i>Student Assistance Act 1973</i>	<p>304 Application for review</p> <p><i>People affected may apply for review</i></p> <p>(1) A person affected by a decision to which this Division applies may apply to the Secretary for review of the decision.</p> <p>Period within which application for internal review to be sought</p> <p>(2) An application under subsection (1) for the review of a decision must be made within:</p> <p>(a) 3 months; or</p>

	<p>(b) such longer period as the Secretary, in special circumstances, allows;</p> <p>after the making of the decision. [repealed by item 106]</p> <p><i>Application taken to have been made</i></p> <p>(5) If:</p> <p>(a) a person who may apply to the Secretary for review of a decision under subsection (1) has not so applied; and</p> <p>(b) the person applies to the AAT for review of the decision;</p> <p>the person is, if the application to the AAT is made within any applicable time limit under subsection (2); [repealed by item 107] taken to apply to the Secretary for review of the decision under subsection (1) on the day on which the person applies to the AAT.</p> <p>312 No time Time limit for application for AAT first review</p> <p>(1) An application for AAT first review must be made within:</p> <p>(a) 3 months; or</p> <p>(b) such longer period as the AAT, in special circumstances, allows;</p> <p>after the original decision was affirmed, varied or set aside by the Secretary or an authorised review officer.</p> <p>(2) This section applies despite paragraph 29(1)(d) and subsections 29(7) to (10) of the AAT Act.</p> <p>Section 18 of the ART Act (which deals with when applications for review may be made) does not apply to applications for ART review. [repealed and substituted by item 112]</p>
Schedule 2, Part 12 Home Affairs	

[see Attachment B for amendments relating to making an application for review]	
<i>Migration Act 1958</i>	<p>140GB Minister to approve nominations</p> <p>...</p> <p>(4A) If the regulations provide for notification by the Minister of the decision to take action under section 140M, then the following provisions of the ART Act do not apply to the decision:</p> <p>(a) section 267 (decision-maker must have regard to rules when giving notice of decision);</p> <p>(b) section 268 (requesting reasons for a reviewable decision from decision-maker) [inserted by item 113]</p> <p>348A Parties to a proceeding for review</p> <p>(1) The Minister is taken to be a non-participating party to a proceeding for review of a reviewable migration decision or a reviewable protection decision for the purposes of the ART Act, other than in relation to a guidance and appeals panel proceeding [inserted by item 120].</p>
Schedule 3. Part 3 – Veterans’ Affairs	
<i>Veterans’ Entitlements Act 1986</i>	<p>176 Application of Administrative Review Tribunal Act</p> <p>(1) The <i>Administrative Review Tribunal Act 2024</i> applies to an application for review of a reviewable decision by the Board under Division 3 of Part IX of this Act as if references in the following provisions of that Act to the decision-maker for the decision the subject of the application were instead references to the Commission:</p> <p>...</p> <p>[repealed by item 16]</p>