

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Program:** 1.4 Justice Services

**Question No. SBE16/067**

**Senator McKim asked the following question at the hearing on 18 October 2016:**

Senator Brandis: Thank you, Senator. That gives me the opportunity to explain it to you. This was the biggest reform of Australian administrative law in 40 years. The consolidation into a single merits review tribunal, under the AAT, of all of the different sectoral merits review tribunals, and it was a major achievement of my department and of Justice Kerr, who oversaw it, to accomplish it, I might say.

...

Senator McKIM: Through you, obviously, Attorney, I wonder if the department could shed any light on what happened to the 31 members of the former MRT and RRT who did not make the transition.

Senator Brandis: I doubt it. I assume they did not want to come over.

Mr Anderson: We would have to take that on notice.

Senator McKIM: I will put it on notice—to the extent that the department is able. I may yet follow-up with the immigration department in a different forum.

...

Senator McKIM: We have already established that there are 31 members of the former tribunals, the MRT and the RRT, who for whatever reason did not survive the transition in professional terms. Would you accept, Attorney, that on the face of it it appears as if you do not have enough members in the Migration and Refugee Division?

Senator Brandis: I don't want to accept that without having a close look at the figures and a look at the case flow, so I will take it on notice. Obviously, it is a useful observation that you make, and you may well be right, but without necessarily accepting it let me look at the figures and, look at the case flow and have a talk to Justice Kerr and the division head.

Senator McKIM: So you will take that on notice, Attorney. Thank you, I appreciate that.

**The answer to the honourable senator's question is as follows:**

Subsection 5(2) of Schedule 9 of the *Tribunals Amalgamation Act 2015* provides for the transition of members of the former MRT and RRT to the AAT for the balance of that member's term of appointment. Members whose terms expired on or before 30 June 2015 did not transition to the AAT.

Appointments to the AAT are made in accordance with the Protocol agreed between the Attorney-General and the President of the AAT, a copy of which is attached.