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Passage of Administrative Review Tribunal Bills

The Law Council welcomes the passage of legislation yesterday to establish the Administrative Review Tribunal (ART), in place of the Administrative Appeals Tribunal (AAT).

“We strongly support the fundamental role of merits review in the Australian administrative law framework and consider that the Bills will constitute historic and highly significant reforms to this system,” Law Council of Australia President, Mr Greg McIntyre SC said.

“In the years leading up to these reforms, the Law Council contributed to various significant inquiries about the operation of the AAT, where we raised concerns about key aspects of the system, including appointments processes, caseload management, procedural differences in the Migration and Refugee Division, and accessibility of merits review.

“We commend the Government for taking on the formidable challenge of seeking to address the concerns of the Law Council and the broader community through the introduction and passage of these Bills and the formation of the ART.

“Since the Government’s announcement of its intention to abolish and replace the AAT in December 2022, we have been pleased to engage with the Attorney-General’s Department, the Administrative Review Expert Advisory Group, the House of Representatives Standing Committee on Social Policy and Legal Affairs, and the Senate Legal and Constitutional Affairs Committee as the reform process has progressed.

“The new Tribunal, once established, is likely to promote greater integrity, accessibility, consistency, flexibility, and transparency in Australia’s administrative law framework.

“We support many key elements of the new Tribunal, including a simple membership structure, a focus on transparent and merit-based appointments for members, the reinstatement of the Administrative Review Council, the strengthened role of the President, and the abolition of the Immigration Assessment Authority.

“The Law Council is pleased that several amendments have been made to the Bills as they have progressed through the Parliament that are consistent with recommendations made in our submission to improve the accountability and transparency of the Tribunal.

“These amendments include a review of the enabling legislation in the first five years, requiring the Minister to establish assessment panels when appointing members, and requiring the Minister or relevant Commonwealth entity to publicly respond, within a specified period, to systemic issues they are advised of by the Tribunal.

“While we look forward to the commencement of the Administrative Review Tribunal, we note there remain outstanding areas requiring further scrutiny and improvement.

“For instance, the Majority Report of the Senate Legal and Constitutional Affairs Committee recommended that the Government refer amendments in the Bills regarding the operation of the Tribunal for migration and asylum matters to the Administrative Review Council.

“It is critically important that the Tribunal works fairly for every applicant, especially those who are vulnerable, and that the Tribunal can work more effectively and efficiently going forward.”

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.