

DRAFT SECOND READING SPEECH

HON GUY BARNETT MP

Justice Miscellaneous (Administrative Review Tribunal) Bill 2024

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Honourable Speaker, I move that the Bill now be read a second time.

In May this year, the Australian Parliament passed legislation to replace the Administrative Appeals Tribunal with the Administrative Review Tribunal. The legislation that governs the tribunal is also changing, with the Commonwealth *Administrative Appeals Tribunal Act* of 1975 being repealed and the Commonwealth *Administrative Review Tribunal Act* of 2024 replacing it.

The new Commonwealth legislation has not yet commenced, however the Australian Government has indicated that this will occur as soon as possible before the end of 2024.

Transitional provisions within the Commonwealth legislative scheme mean that as soon as the Administrative Review Tribunal is up and running, Tasmanians will be able to access it.

The jurisdiction of the Administrative Review Tribunal is nearly identical to that of the previous Administrative Appeals Tribunal, but some changes have been made to the practices and procedures that apply. For example, the new Commonwealth legislation implements recommendations from three recent reviews and inquiries, including changing the appointment process of members to the Tribunal, making improvements to

procedural fairness, and requiring the publication of certain decisions.

There are twelve pieces of Tasmanian legislation that currently refer to the Administrative Appeals Tribunal, or the Administrative Appeals Tribunal Act. The purpose of this Bill is to ensure that all references to the federal Tribunal, and references to the laws that govern it, are up to date in Tasmanian law.

Honourable Speaker, Parts 2 through to 13 of the Bill make the necessary consequential amendments to the following pieces of Tasmanian legislation:

- the *Agricultural and Veterinary Chemicals (Tasmania) Act 1994*
- the *Competition Policy Reform (Tasmania) Act 1996*
- the *Corporations (Tasmania) Act 1990*
- the *Federal Courts (State Jurisdiction) Act 1999*
- the *Gene Technology (Tasmania) Act 2012*
- the *Human Embryonic Research Regulation Act 2003*
- the *Legal Profession (Board of Legal Education) Rules 2021*
- the *Marine Safety (Domestic Commercial Vessel National Law Application) Act 2013*
- the *New Tax System Price Exploitation Code (Tasmania) Act 1999*
- the *Terrorism (Preventative Detention) Act 2005*

- the *Therapeutic Goods Act 2001*, and
- the *Water Efficiency Labelling and Standards Act 2013*.

The majority of the Bill's provisions simply substitute relevant terms to reflect the new Administrative Appeals Tribunal and its governing legislation.

The only amendment that materially impacts on the operation of Tasmanian legislation is contained within clause 30 of the Bill. That clause amends section 51 of the *Terrorism (Preventative Detention) Act 2005* to remove the requirement for the annual report, prepared under that Act by the Attorney-General and Minister for Justice, to include the number of preventative detention orders and prohibited contact orders that the Tribunal has declared to be void.

This reflects that the new Administrative Review Tribunal will no longer have the power to declare such orders void. Given the serious nature of these orders, it is appropriate for these decisions to only be made by a court through judicial review, and not by a tribunal through administrative review.

Clause 2 of the Bill provides for the Bill's provisions to commence on the day on which the Commonwealth's Administrative Review Tribunal Act commences, even if the Commonwealth Act commences before this Bill receives Royal Assent.

This means that as soon as the new Administrative Review Tribunal commences operations, the relevant Tasmanian legislation will be up to date. In the unlikely event that this Bill has not received Royal Assent by the time the new Tribunal

commences, this clause ensures that the technical changes to Tasmanian legislation will apply retrospectively.

Honourable Speaker, the changes that the Bill makes are minor and consequential in nature, and they do not affect the policy that underlies any of the Tasmanian legislation that is proposed to be amended.

I commend the Bill to the House.