

CLAUSE NOTES

Justice Miscellaneous (Administrative Review Tribunal) Bill 2024

PART 1 – PRELIMINARY

Clause 1 **Short title**

Specifies the name of the proposed Act.

Clause 2 **Commencement**

Provides that the Act commences on the day on which the *Administrative Review Tribunal Act 2024* of the Commonwealth (the Commonwealth Act) commences, even if the Commonwealth Act commences before this Act receives Royal Assent.

A transitional provision in clause 20 of schedule 16 of the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (Cth) allows this to occur.

PART 2 – AGRICULTURAL AND VETERINARY CHEMICALS (TASMANIA) ACT 1994 AMENDED

Clause 3 **Principal Act**

Provides that the Principal Act being amended in Part 2 is the *Agricultural and Veterinary Chemicals (Tasmania) Act 1994*.

Clause 4 **Section 3 amended (Interpretation)**

Amends the definition of *Commonwealth administrative laws* in section 3 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 5 **Section 16 amended (Application of Commonwealth administrative laws in relation to applicable provisions)**

Amends section 16(2) of the Principal Act to remove the reference to section 28 of the *Administrative Appeals Tribunal Act 1975* as the relevant authority for the process of applying to the Tribunal for a statement of reasons for a decision and replace it with Division 3 of Part 10 of the *Administrative Review Tribunal Act 2024*.

Clause 6 **Section 18A amended (Construction of references to Part 7 of Commonwealth ART Act)**

Amends section 18A of the Principal Act, which specifies the manner in which the Commonwealth Act applies to section 16 of the Act. The

amendment replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

The heading of section 18A has been changed to refer to Part 7 of the Commonwealth Act.

PART 3 – COMPETITION POLICY REFORM (TASMANIA) ACT 1996 AMENDED

Clause 7 Principal Act

Provides that the Principal Act that is being amended by Part 3 is the *Competition Policy Reform (Tasmania) Act 1996*.

Clause 8 Section 29 amended (Definition)

Amends the definition of *Commonwealth administrative laws* in section 29 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for Division 5 of the Principal Act.

Clause 9 Section 33A amended (Construction of references to Part 7 of Commonwealth ART Act)

Amends section 33A of the Principal Act, which specifies the manner in which the Commonwealth Act applies to sections 30 and 31 of the Principal Act. The amendment replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

The heading of section 33A has been changed to refer to Part 7 of the Commonwealth Act.

PART 4 – CORPORATIONS (TASMANIA) ACT 1990 AMENDED

Clause 10 Principal Act

Provides that the Principal Act that is being amended by Part 4 is the *Corporations (Tasmania) Act 1990*.

Clause 11 Section 3 amended (Definitions)

Amends the definition of *Commonwealth administrative laws* in section 3 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the

Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 12 Section 36A amended (Construction of references to Part 7 of Commonwealth ART Act)

Amends section 36A of the Principal Act, which specifies the manner in which the Commonwealth Act applies to sections 35 and 36 of the Principal Act. The amendment replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

The heading of section 36A has been changed to refer to Part 7 of the Commonwealth Act.

PART 5 – FEDERAL COURTS (STATE JURISDICTION) ACT 1999 AMENDED

Clause 13 Principal Act

Provides that the Principal Act that is being amended by Part 5 is the *Federal Courts (State Jurisdiction) Act 1999*.

Clause 14 Section 3 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 3 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* with the *Administrative Review Tribunal Act 2024* as an Act which forms part of Commonwealth administrative laws.

PART 6 – GENE TECHNOLOGY (TASMANIA) ACT 2012 AMENDED

Clause 15 Principal Act

Provides that the Principal Act that is being amended by Part 6 is the *Gene Technology (Tasmania) Act 2012*.

Clause 16 Section 4 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 4 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 17 Section 15 amended (Application of Commonwealth administrative laws to applied provisions)

Amends section 15(5) of the Principal Act, which specifies the manner in which the Commonwealth Act applies to section 15. The amendment to section 15(5) replaces the reference to Part IVA of the *Administrative*

Appeals Tribunal Act 1975 with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

PART 7 – HUMAN EMBRYONIC RESEARCH REGULATION ACT 2003 AMENDED

Clause 18 Principal Act

Provides that the Principal Act that is being amended by Part 7 is the *Human Embryonic Research Regulation Act 2003*.

Clause 19 Section 4 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 4 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 20 Section 15 amended (Application of Commonwealth administrative laws to applied provisions)

Amends section 15(5) of the Principal Act which specifies the manner in which the Commonwealth Act applies to section 15. The amendment to section 15(5) replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

PART 8 – LEGAL PROFESSION (BOARD OF LEGAL EDUCATION) RULES 2021 AMENDED

Clause 21 Principal Rules

Provides that the Principal Rules that are being amended by Part 8 are the *Legal Profession (Board of Legal Education) Rules 2021*.

Clause 22 Schedule 1 amended (Areas of Academic Knowledge)

Amends clause 8(2)(g) of Schedule 1 of the Principal Rules to replace the reference to the Administrative Appeals Tribunal with the Administrative Review Tribunal as a topic that may be covered in respect of administrative law for admission to the legal profession in Tasmania.

PART 9 – MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL NATIONAL LAW APPLICATION) ACT 2013 AMENDED

Clause 23 Principal Act

Provides that the Principal Act that is being amended by Part 9 is the *Marine Safety (Domestic Commercial Vessel National Law Application) Act 2013*.

Clause 24 Section 4 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 4 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 25 Section 13 amended (Application of Commonwealth administrative laws to applied provisions)

Amends section 13(5) of the Principal Act, which specifies the manner in which the Commonwealth Act applies to section 13. The amendment to section 13(5) replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

PART 10 – NEW TAX SYSTEM PRICE EXPLOITATION CODE (TASMANIA) ACT 1999 AMENDED

Clause 26 Principal Act

Provides that the Principal Act that is being amended by Part 10 is the *New Tax System Price Exploitation Code (Tasmania) Act 1999*.

Clause 27 Section 26 amended (Interpretation, Division 4)

Amends the definition of *Commonwealth administrative laws* in section 26 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the purposes of Division 4 (Administrative Law) of the Principal Act.

Clause 28 Section 31 amended (Construction of references to Part 7 of Commonwealth ART Act)

Amends section 31 of the Principal Act, which specifies the manner in which the Commonwealth Act applies to sections 27 and 28 of the Act. The amendment replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

The heading of section 31 has been changed to refer to Part 7 of the Commonwealth Act.

PART 11 – TERRORISM (PREVENTATIVE DETENTION) ACT 2005 AMENDED

Clause 29 Principal Act

Provides that the Principal Act that is being amended by Part 11 is the *Terrorism (Preventative Detention) Act 2005*.

Clause 30 Section 51 amended (Annual report)

Amends section 51(2)(f) of the Principal Act to omit the phrase “or that the Administrative Appeals Tribunal has declared to be void” from the requirement to report the number of preventative detention orders and prohibited contact orders found not to have been validly made or declared void. This amendment reflects the policy intent of the Commonwealth Act, which removes the Tribunal’s power to declare preventative detention orders and prohibited contact orders void, meaning that only a court can make this decision.

PART 12 – THERAPEUTIC GOODS ACT 2001 AMENDED

Clause 31 Principal Act

Provides that the Principal Act that is being amended by Part 12 is the *Therapeutic Goods Act 2001*.

Clause 32 Section 3 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 3 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* with the *Administrative Review Tribunal Act 2024* as legislation which forms part of Commonwealth administrative laws for the Principal Act.

PART 13 – WATER EFFICIENCY LABELLING AND STANDARDS ACT 2013 AMENDED

Clause 33 Principal Act

Provides that the Principal Act that is being amended by Part 13 is the *Water Efficiency Labelling and Standards Act 2013*.

Clause 34 Section 4 amended (Interpretation)

Amends the definition of *Commonwealth administrative laws* in section 4 of the Principal Act to replace the reference to the *Administrative Appeals Tribunal Act 1975* of the Commonwealth (excluding Part IVA) with the *Administrative Review Tribunal Act 2024* of the Commonwealth (excluding Part 7) as legislation which forms part of Commonwealth administrative laws for the Principal Act.

Clause 35 Section 15 amended (Application of Commonwealth administrative laws to applied provisions)

Amends section 15(5) of the Principal Act, which specifies the manner in which the Commonwealth Act applies to section 15. The amendment to section 15(5) replaces the reference to Part IVA of the *Administrative Appeals Tribunal Act 1975* with Part 7 of the *Administrative Review Tribunal Act 2024* as the Part that governs appeals and references of questions of law to the Federal Court. This amendment has no effect on the application of the law of the Commonwealth.

PART 14 – REPEAL OF ACT

Clause 36 Repeal of Act

Provides that this amending Act is automatically repealed on the first anniversary of this Act receiving Royal Assent. The provisions that are amended by this Act in the listed Principal Acts remain in force.