Tribunals Amalgamation Act 2015

No. 60, 2015

An Act to amalgamate certain administrative review tribunals, and for other purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

Contents

1 Short title 1
2 Commencement 1
3 Schedules 6
4 Review of operation of amendments 6

Schedule 1—Amendment of the Administrative Appeals Tribunal Act 1975 7

Administrative Appeals Tribunal Act 1975 7

Schedule 2—Migration amendments 63

Part 1—Main amendments 63

Migration Act 1958 63

Part 2—Multiple amendments 87

Division 1—References to MRT-reviewable decisions 87

Migration Act 1958 87

Division 2—References to officers of the Tribunal 88

Migration Act 1958 88

Division 3—References to RRT-reviewable decisions 89

Migration Act 1958 89

Part 3—Contingent amendments 91

Division 1—Interaction with the Migration Amendment (Protection and Other Measures) Act 2015 91

Migration Act 1958 91

Migration Amendment (Protection and Other Measures) Act 2015 92

Division 2—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 93

Administrative Appeals Tribunal Act 1975 93

Migration Act 1958 93

Division 3—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014: multiple amendments 98

Migration Act 1958 98

Division 4—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014: transitional provisions 99
Division 5—Interaction with the Migration Amendment (Character and General Visa Cancellation) Act 2014 100
Migration Act 1958 100
Division 6—Interaction with the Migration Amendment (Regaining Control Over Australia's Protection Obligations) Act 2015 101
Migration Amendment (Regaining Control Over Australia's Protection Obligations) Act 2015 101
Schedule 3—Social security amendments 102
Social Security Act 1991 102
Social Security (Administration) Act 1999 103
Schedule 4—Child support amendments 121
Child Support (Assessment) Act 1989 121
Child Support (Registration and Collection) Act 1988 125
Schedule 5—Family assistance amendments 147
A New Tax System (Family Assistance) Act 1999 147
A New Tax System (Family Assistance) (Administration) Act 1999 147
Schedule 6—Paid parental leave amendments 168
Paid Parental Leave Act 2010 168
Schedule 7—Student assistance amendments 183
Part 1—Main amendments 183
Student Assistance Act 1973 183
Part 2—Contingent amendments 194
Student Assistance Act 1973 194
Schedule 8—Other consequential amendments 195
Part 1—Consequential amendments 195
Administrative Decisions (Judicial Review) Act 1977 195
Archives Act 1983 195

Australian Charities and Not-for-profits Commission Act 2012 197
Australian Citizenship (Transitionals and Consequentials) Act 2007 197
Australian Grape and Wine Authority Act 2013 197
Civil Dispute Resolution Act 2011 198
Commonwealth Electoral Act 1918 198
Court Security Act 2013 198
Crimes Act 1914 198
Criminal Code Act 1995 199
Defence Act 1903 199
Federal Proceedings (Costs) Act 1981 199
Financial Institutions Supervisory Levies Collection Act 1998 199
Freedom of Information Act 1982 199
Industry Research and Development Act 1986 200
Inspector-General of Intelligence and Security Act 1986 201
Inspector of Transport Security Act 2006 201
Insurance Acquisitions and Takeovers Act 1991 201
Judges' Pensions Act 1968 201
Lands Acquisition Act 1989 201
Military Rehabilitation and Compensation Act 2004 202
Public Interest Disclosure Act 2013 202
Safety, Rehabilitation and Compensation Act 1988 202
Seafarers Rehabilitation and Compensation Act 1992 202
Superannuation (Self Managed Superannuation Funds) Taxation Act 1987 203
Surveillance Devices Act 2004 203
Taxation Administration Act 1953 203
Telecommunications (Interception and Access) Act 1979 204
Trans-Tasman Mutual Recognition Act 1997 204
Part 2—Contingent amendments 205
Biosecurity Act 2015 205
Freedom of Information Act 1982 205
Schedule 9—Transitional and saving provisions 206

Part 1—Preliminary 206
Part 2—Tribunal members and certain officers 208
Part 3—Review of decisions 217
Part 4—Matters specific to particular Acts 222
Part 5—Continuation of directions 228
Part 6—Other transitional matters 231

Tribunals Amalgamation Act 2015

No. 60, 2015

An Act to amalgamate certain administrative review tribunals, and for other purposes

[*Assented to 26 May 2015*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tribunals Amalgamation Act 2015*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	26 May 2015
2. Schedule 1	1 July 2015.	1 July 2015
3. Schedule 2, Parts 1 and 2	1 July 2015.	1 July 2015
4. Schedule 2, items 136 to 142	The later of: (a) the start of 1 July 2015; and (b) immediately after the commencement of Schedule 4 to the *Migration Amendment (Protection and Other Measures) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2015 (paragraph (a) applies)
5. Schedule 2, item 143	The later of: (a) immediately after the start of 1 July 2015; and (b) immediately after the commencement of Schedule 4 to the *Migration Amendment (Protection and Other Measures) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2015 (paragraph (a) applies)
6. Schedule 2, items 144 and 145	Immediately before the start of 1 July 2015. However, the provisions do not commence at all if Schedule 4 to the *Migration Amendment (Protection and Other Measures) Act 2015* commences before 1 July 2015.	Never commenced
7. Schedule 2,	The later of:	1 July 2015

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
items 146 to 154	(a) immediately after the start of 1 July 2015; and (b) immediately after the commencement of Schedule 4 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	(paragraph (a) applies)
8. Schedule 2, items 155 to 171	1 July 2015. However, the provisions do not commence at all if Schedule 7 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* commences before 1 July 2015.	Never commenced
9. Schedule 2, items 172 to 184	The later of: (a) the start of 1 July 2015; and (b) immediately after the commencement of Schedule 4 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2015 (paragraph (a) applies)
10. Schedule 2, item 185	Immediately after the commencement of Schedule 4 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*. However, the provisions do not commence at all if: (a) that Schedule commences before 1 July 2015; or (b) that Schedule does not commence.	Never commenced
11. Schedule 2, item 186	The later of:	1 July 2015

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
	(a) the start of 1 July 2015; and (b) immediately after the commencement of Schedule 4 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	(paragraph (a) applies)
12. Schedule 2, item 187	1 July 2015. However, the provisions do not commence at all if Schedule 4 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* does not commence before 1 July 2015.	1 July 2015
13. Schedule 2, item 188	1 July 2015. However, the provisions do not commence at all if Schedule 7 to the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* commences before 1 July 2015.	Never commenced
14. Schedule 2, Part 3, Division 5	1 July 2015.	1 July 2015
15. Schedule 2, Part 3, Division 6	The later of: (a) the start of 1 July 2015; and (b) immediately after the commencement of Schedule 1 to the *Migration Amendment (Regaining Control Over Australia's Protection Obligations) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
16. Schedules 3 to 6	1 July 2015.	1 July 2015
17. Schedule 7,	1 July 2015.	1 July 2015

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
Part 1		
18. Schedule 7, Part 2	The later of: (a) immediately after the commencement of the provisions covered by table item 17; and (b) immediately after the commencement of item 94 of Schedule 2 to the *Social Services and Other Legislation Amendment (Student Measures) Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
19. Schedule 8, Part 1	1 July 2015.	1 July 2015
20. Schedule 8, item 54	The later of: (a) the start of 1 July 2015; and (b) immediately after the commencement of section 77 of the *Biosecurity Act 2015*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
21. Schedule 8, items 55 and 56	At the same time as the provisions covered by table item 19. However, if Schedule 1 to the *Freedom of Information Amendment (New Arrangements) Act 2015* commences before that time, the provisions do not commence at all.	
22. Schedule 9	1 July 2015.	1 July 2015

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Review of operation of amendments

(1) The Minister must cause a review of the operation of the amendments made by this Act to be undertaken as soon as practicable after the end of the period of 3 years after the commencement of Schedule 1.

(2) The review must consider:

(a) the effect of the amendments made by this Act; and

(b) any other related matter that the Minister specifies.

(3) The person who undertakes the review must give the Minister a written report of the review within 6 months after the end of the 3-year period.

(4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of receiving it.

Schedule 1—Amendment of the Administrative Appeals Tribunal Act 1975

Administrative Appeals Tribunal Act 1975

1 Section 2A

Repeal the section, substitute:

2A Tribunal's objective

In carrying out its functions, the Tribunal must pursue the objective of providing a mechanism of review that:

(a) is accessible; and

(b) is fair, just, economical, informal and quick; and

(c) is proportionate to the importance and complexity of the matter; and

(d) promotes public trust and confidence in the decision-making of the Tribunal.

2 Subsection 3(1)

Insert:

agency party means a party who is:

(a) the Secretary of a Department; or

(b) the Chief Executive Medicare; or

(c) the Chief Executive Centrelink; or

(d) the Child Support Registrar.

3 Subsection 3(1)

Insert:

authorised officer means an officer of the Tribunal who has been authorised by the President under section 59B for the purposes of the provision in which the expression occurs.

Chief Executive Centrelink has the same meaning as in the *Human Services (Centrelink) Act 1997*.

Chief Executive Medicare has the same meaning as in the *Human Services (Medicare) Act 1973*.

child support first review means a proceeding that is or would be a proceeding in the Social Services and Child Support Division on application for AAT first review within the meaning of the *Child Support (Registration and Collection) Act 1988*.

4 Subsection 3(1) (definition of *Conference Registrar*)

Repeal the definition.

5 Subsection 3(1) (definition of *Deputy President*)

Repeal the definition, substitute:

Deputy President means a member appointed as a Deputy President of the Tribunal.

6 Subsection 3(1)

Repeal the following definitions:

(a) definition of ***Deputy Registrar***;

(b) definition of ***District Registrar***.

7 Subsection 3(1)

Insert:

engage in conduct has the same meaning as in the *Criminal Code*.

immigration advisory service means a body that provides services in relation to the seeking by non-citizens (within the meaning of the *Migration Act 1958*) of permission to enter or remain in Australia.

8 Subsection 3(1) (definition of *member*)

Repeal the definition, substitute:

member means:

(a) the President; or

(b) a Deputy President; or

(c) a senior member; or

(d) any other member (of any level referred to in subsection 6(3)).

9 Subsection 3(1) (definition of *officer of the Tribunal*)

Repeal the definition, substitute:

officer of the Tribunal means:

(a) the Registrar; or

(b) a person appointed as an officer of the Tribunal under section 24PA.

9A Subsection 3(1)

Insert:

person who made the decision has a meaning affected by:

(a) if a review of the decision is or would be an AAT first review within the meaning of the *A New Tax System (Family Assistance) (Administration) Act 1999*—section 111B of that Act; and

(b) if a review of the decision is or would be an AAT first review within the meaning of the *Paid Parental Leave Act 2010*—section 224A of that Act; and

(c) if a review of the decision is or would be an AAT first review within the meaning of the *Social Security (Administration) Act 1999*—section 142A of that Act; and

(d) if a review of the decision is or would be an AAT first review within the meaning of the *Student Assistance Act 1973*—section 311A of that Act.

10 Subsection 3(1) (definition of *presidential member*)

Repeal the definition, substitute:

presidential member means the President or a Deputy President.

11 Subsection 3(1) (paragraph (c) of the definition of *proceeding*)

Repeal the paragraph, substitute:

(c) an application to the Tribunal for review of a taxing of costs; and

12 Subsection 3(1)

Insert:

second review: a review by the Tribunal of a decision is or would be a ***second review*** if another enactment:

(a) authorises an application to be made for review of the decision; and

(b) designates the review as an ***AAT second review***.

13 Subsection 3(1) (definition of *senior member*)

Repeal the definition, substitute:

senior member means a senior member of the Tribunal (of either level referred to in subsection 6(3)).

14 Subsection 3(1) (definition of *Small Taxation Claims Tribunal*)

Repeal the definition.

15 Section 5

Omit ", which shall consist of a President, the other presidential members, the senior members, and the other members, appointed in accordance with this Act".

16 Before section 6

Insert:

5A Membership

The Tribunal consists of the following members:

(a) the President;

(b) Deputy Presidents;

(c) senior members;

(d) other members.

17 Subsections 6(2) and (3)

Repeal the subsections, substitute:

(2) A Judge who is to be appointed as a member of the Tribunal is to be appointed as the President or a Deputy President.

(3) A person (other than a Judge) who is to be appointed as a member of the Tribunal is to be appointed as:

(a) a Deputy President; or
(b) a senior member (level 1); or
(c) a senior member (level 2); or
(d) a member (level 1); or
(e) a member (level 2); or
(f) a member (level 3).

18 Section 7

Repeal the section, substitute:

7 Qualifications for appointment

President

(1) A person must not be appointed as the President unless the person is a Judge of the Federal Court of Australia.

Deputy President

(2) A person must not be appointed as a Deputy President unless the person:
(a) is a Judge of the Federal Court of Australia or the Family Court of Australia; or
(b) is enrolled as a legal practitioner (however described) of the High Court or the Supreme Court of a State or Territory and has been so enrolled for at least 5 years; or
(c) in the opinion of the Governor-General, has special knowledge or skills relevant to the duties of a Deputy President.

Senior members and other members

(3) A person must not be appointed as a senior member or other member unless the person:
(a) is enrolled as a legal practitioner (however described) of the High Court or the Supreme Court of a State or Territory and has been so enrolled for at least 5 years; or
(b) in the opinion of the Governor-General, has special knowledge or skills relevant to the duties of a senior member or member.

20 Subsection 8(4)

Omit "presidential".

21 Subsection 8(7)

Omit "prescribed", substitute "determined by the Minister in writing".

22 Subsections 10(1) to (4)

Repeal the subsections, substitute:

Acting President

(1) The Minister may, by written instrument, appoint a Judge of the Federal Court of Australia to act as the President:
  (a) during a vacancy in the office of President (whether or not an appointment has previously been made to the office); or
  (b) during any period, or during all periods, when the President:
    (i) is absent from duty or from Australia; or
    (ii) is, for any reason, unable to perform the duties of office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

Acting member (other than President)

(2) The Minister may, by written instrument, appoint a person to act as a member (other than the President) during any period, or during all periods, when:
  (a) a full-time member is absent from duty or from Australia; or
  (b) a part-time member is unavailable to perform the duties of office.

Qualification for acting appointment

(3) A person must not be appointed to act in an office under subsection (1) or (2) unless the person meets the requirements in section 7 for appointment to the office.

23 Subsection 10(5)

Omit "or (3)".

24 Subsections 10(7) to (11)

Repeal the subsections, substitute:

Terms and conditions of acting appointment

(7) Subject to this Part, a person (other than a Judge) appointed to act in an office under subsection (2) is to act on such terms and conditions as the Minister determines in writing.

25 Section 10A

Repeal the section, substitute:

10A Delegation

(1) The Minister may, by signed instrument, delegate to the President any or all of the Minister's powers or functions under this Act.

(2) The President may, by signed instrument, delegate to a member any or all of the President's powers or functions under this Act or another enactment.

(3) The Registrar may, by signed instrument, delegate to an officer of the Tribunal or a member of the staff of the Tribunal any or all of the Registrar's powers or functions under this Act or another enactment.

(4) In exercising powers or performing functions under a delegation, the delegate must comply with any directions of the delegator.

26 Sections 11 to 14

Repeal the sections, substitute:

11 Outside employment

(1) A full-time member must not engage in paid employment outside the duties of his or her office without the President's approval.

(2) A part-time member must not engage in any paid employment that, in the President's opinion, conflicts or may conflict with the proper performance of his or her duties.

(3) This section does not apply in relation to the holding by a member of an office or appointment in the Defence Force.

12 Leave of absence

(1) A full-time member has the recreation leave entitlements that are determined by the Remuneration Tribunal.

(2) The President may grant a full-time member leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

(3) The President may grant leave of absence to a part-time member on the terms and conditions that the President determines.

13 Termination of appointment (not Judges)

(1) The Governor-General may terminate the appointment of a member if an address praying for the termination, on one of the following grounds, is presented to the Governor-General by each House of the Parliament in the same session:

(a) proved misbehaviour;

(b) the member is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Governor-General may terminate the appointment of a member if:

(a) the member:

(i) becomes bankrupt; or

(ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debts; or

(iii) compounds with one or more of his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or

(b) the member is a full-time member and is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or

(c) the member is a part-time member and is unavailable, except on leave of absence, to perform the duties of his or her office for more than 3 months; or

(d) the member contravenes section 11 (outside employment); or

(e) the member fails, without reasonable excuse, to comply with section 14 (disclosure of interests).

(3) The Governor-General may terminate the appointment of a member assigned to the Migration and Refugee Division if the member has a direct or indirect pecuniary interest in an immigration advisory service.

(4) The appointment of a member may not be terminated other than in accordance with this section.

(5) This section does not apply in relation to a member who is a Judge.

14 Disclosure of interests by members

(1) If a member who is, or is to be, a member of the Tribunal as constituted for the purposes of a proceeding before the Tribunal has a conflict of interest in relation to the proceeding, the member:

(a) must disclose the matters giving rise to that conflict:

(i) to the parties; and

(ii) to the President (or, if the member is the President, the Minister); and

(b) must not take part in the proceeding or exercise any powers in relation to the proceeding unless the parties and the President (or, if the member is the President, the Minister) consent.

(2) For the purposes of this section, a member has a conflict of interest in relation to a proceeding before the Tribunal if the member has any interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions in relation to the proceeding.

(3) If the President becomes aware that a member who is, or is to be, a member of the Tribunal as constituted for the purposes of a proceeding before the Tribunal has a conflict of interest in relation to the proceeding, the President:

(a) may, if the President considers it appropriate, direct the member not to take part in the proceeding; and

(b) if the President does not give such a direction—must ensure that the member discloses the matters giving rise to the conflict to the parties.

27 Parts III and IIIAA

Repeal the Parts, substitute:

Part III—Organisation of the Tribunal

Division 1—Divisions of the Tribunal

Subdivision A—Divisions of the Tribunal

17A Divisions of the Tribunal

The Tribunal is to exercise powers conferred on it in the following Divisions:

(aa) Freedom of Information Division;

(a) General Division;

(b) Migration and Refugee Division;

(c) National Disability Insurance Scheme Division;

(d) Security Division;

(e) Social Services and Child Support Division;

(f) Taxation and Commercial Division;

(g) any other prescribed Division.

17B Allocation of business to Divisions

(1) The Tribunal's powers in relation to a proceeding before the Tribunal are to be exercised:

(a) in the Division prescribed for such a proceeding; or

(b) if no Division is prescribed for a proceeding—in the Division that the President directs.

(2) Despite subsection (1), the following powers of the Tribunal may be exercised by the Tribunal only in the Security Division:

(a) the powers of review in respect of applications referred to in section 54 of the *Australian Security Intelligence Organisation Act 1979*;

(b) the power under the *Archives Act 1983* to review a decision of the Archives in respect of access to a record of the Australian Security Intelligence Organisation.

Subdivision B—Assignment of members to Divisions

17C Assignment of members to Divisions

(1) The Minister must assign a non-presidential member to one or more Divisions of the Tribunal.

(2) Before the Minister does so, the Minister must consult the President in relation to the proposed assignment.

(3) An assignment may only be varied with the consent of the member concerned.

(4) A non-presidential member may exercise, or participate in the exercise of, powers of the Tribunal only in a Division to which the member is assigned.

(5) If the assignment is made in writing, the assignment is not a legislative instrument.

17CA Assignment to Freedom of Information Division

The Minister must not assign a member to the Freedom of Information Division unless the Minister is satisfied that the member:

(a) has training, knowledge or experience relating to the *Freedom of Information Act 1982*; or

(b) has other relevant knowledge or experience that will assist the member in considering matters relating to the operation of that Act.

17D Assignment to Migration and Refugee Division

Before assigning a member to the Migration and Refugee Division, the Minister must consult the Minister administering the *Migration Act 1958* in relation to the proposed assignment.

17E Assignment to National Disability Insurance Scheme Division

(1) Before assigning a member to the National Disability Insurance Scheme Division, the Minister must consult the Minister administering the *National Disability Insurance Scheme Act 2013* in relation to the proposed assignment.

(2) The Minister must not assign a member to the National Disability Insurance Scheme Division unless the Minister is satisfied that the member:

(a) has training, knowledge or experience relating to disability; or

(b) has other relevant knowledge or experience that will assist the member in considering matters relating to the National Disability Insurance Scheme.

17F Assignment to Security Division

The Minister must not assign a member to the Security Division if the member is or has been:

(a) the Director-General of Security; or

(b) an ASIO employee or ASIO affiliate.

Note: See also subsections 19E(3) and 19F(3).

17G Assignment to Social Services and Child Support Division

Before assigning a member to the Social Services and Child Support Division, the Minister must consult the Minister administering the *Social Security (Administration) Act 1999* in relation to the proposed assignment.

17H Assignment to Taxation and Commercial Division

Before assigning a member to the Taxation and Commercial Division, the Minister must consult the Treasurer in relation to the proposed assignment.

17J Validity

Sections 17A to 17H do not affect the validity of any exercise of powers by the Tribunal.

Subdivision C—Division heads and Deputy Division heads

17K Division heads

Assignment of Division heads

(1) The Minister may assign a Deputy President to be the head of one or more Divisions of the Tribunal.

(2) Before the Minister does so, the Minister must consult:
  (a) the President; and
  (b) any Minister required by sections 17D to 17H to be consulted in relation to the assignment of a member to the Division.

(3) The Minister must not assign a person to be the head of a Division if the person could not be assigned to that Division because of section 17CA, subsection 17E(2) or section 17F.

(4) If the assignment is made in writing, the assignment is not a legislative instrument.

(5) An assignment under subsection (1):
  (a) must be for the duration, or the remaining duration, of the person's appointment as a Deputy President; and
  (b) may be varied, with the person's consent; and
  (c) cannot be revoked.

Function of Division heads

(6) The head of a Division has the function of assisting the President in the performance of the President's functions by directing the business of the Tribunal in the Division.

Acting Division heads

(7) The Minister may, by written instrument, assign a Deputy President or senior member to act as the head of a Division during any period, or during all periods, when the head of the Division is absent from duty or from Australia. Such an assignment is taken to be an appointment to act for the purposes of the *Acts Interpretation Act 1901*.

17L Deputy Division heads

Assignment of deputy Division heads

(1) The Minister may assign a Deputy President or a senior member to be the deputy head of one or more Divisions of the Tribunal.

(2) Before the Minister does so, the Minister must consult:
  (a) the President; and
  (b) any Minister required by sections 17D to 17H to be consulted in relation to the assignment of a member to the Division.

(3) The Minister must not assign a person to be the deputy head of a Division if the person could not be assigned to that Division because of section 17CA, subsection 17E(2) or section 17F.

(4) If the assignment is made in writing, the assignment is not a legislative instrument.

(5) An assignment under subsection (1):
  (a) must be for the duration, or the remaining duration, of the person's appointment as a Deputy President or senior member; and
  (b) may be varied, with the person's consent; and
  (c) cannot be revoked.

Function of deputy Division heads

(6) The deputy head of a Division has the function of assisting the head of the Division in the performance of the head of the Division's functions.

Acting deputy Division heads

(7) The Minister may, by written instrument, assign a member to act as the deputy head of a Division during any period, or during all periods, when the deputy head of the Division is absent from duty or from Australia. Such an assignment is taken to be an appointment to act for the purposes of the *Acts Interpretation Act 1901*.

Division 2—Arrangement of business of Tribunal

18A Arrangement of business

Subject to this Act and the regulations, the President is responsible for ensuring:

(a) the expeditious and efficient discharge of the business of the Tribunal; and

(b) that the Tribunal pursues the objective in section 2A.

18B President's directions—arrangement of business

(1) The President may give written directions in relation to any or all of the following:

(a) the operations of the Tribunal;

(b) the procedure of the Tribunal;

(c) the conduct of reviews by the Tribunal;

(d) the arrangement of the business of the Tribunal;

(e) the places at which the Tribunal may sit.

(1A) Before the President does so, the President must consult the head of any Division to which the direction would apply.

(2) A failure by the Tribunal to comply with a direction does not invalidate anything done by the Tribunal.

(3) If the Tribunal deals with a proceeding in a way that complies with the directions given under this section, the Tribunal is not required to take any other action in dealing with the proceeding.

(4) Without limiting subsection (1), directions may deal with matters relating to the provision of documents under sections 37 and 38AA, including any or all of the following matters:

(a) documents that are or are not required to be lodged under paragraph 37(1)(b) and subsection 38AA(1);

(b) documents that are or are not required to be lodged under subsection 37(1AAB) for the purposes of second reviews;

(c) lodgement of documents for the purposes of subsection 37(1AB);

(d) lodgement of additional copies of documents;

(e) documents that are to be given to other parties under subsection 37(1AE).

18C Sittings of Tribunal

Sittings of the Tribunal are to be held from time to time as required, in such places in Australia or an external Territory as are convenient.

Division 3—Constitution of Tribunal

Subdivision A—General

19A President's directions—constitution

(1) The President may give written directions in relation to:
   (a) the members who are to constitute the Tribunal for the purposes of a proceeding; and
   (b) if there is more than one such member—the member who is to preside.

(2) Paragraph (1)(b) does not apply to a proceeding in the Security Division.

19B Constitution

(1) The Tribunal as constituted for the purposes of a proceeding:
   (a) must not have more than 3 members, unless another provision of this Act or another enactment provides otherwise in relation to the proceeding; and
   (b) must not have more than one member who is a Judge.

(2) At any time before the hearing of a proceeding commences, the powers of the Tribunal in relation to the proceeding may be exercised by the President or an authorised member.

(3) Subsection (2) does not apply in relation to the following powers:
   (a) the power under section 34J (circumstances in which hearing may be dispensed with);
   (b) the power under section 43 (Tribunal's decision on review);
   (c) the power under section 59 (advisory opinions);

(d) a power that a provision of this Act (except this section) or another enactment requires or permits to be exercised by:

(i) one or more persons specified by the provision; or

(ii) the Tribunal constituted in a way specified by the provision.

Note: Examples of powers covered by subparagraph (3)(d)(i) are the powers under sections 19A, 33 and 43AA. Examples of powers covered by subparagraph (3)(d)(ii) are the powers under section 19C.

(4) This section does not apply in relation to a proceeding in the Security Division (see Subdivision B).

19C Constitution for review of taxing of costs

(1) The Tribunal as constituted for the purposes of an application for review of a taxing of costs in another proceeding must be constituted by:

(a) the member who constituted the Tribunal for the purposes of the other proceeding; or

(b) if the Tribunal was constituted by more than one member for the purposes of the other proceeding—the member who presided for those purposes.

(2) However, the Tribunal is to be constituted as directed by the President if the member referred to in subsection (1):

(a) has stopped being a member; or

(b) is for any reason unavailable; or

(c) has been directed by the President not to take part in the review.

(3) The President must not give directions that would result in none of the members who constituted the Tribunal for the purposes of the other proceeding constituting the Tribunal for the purposes of the review, unless the President is satisfied that it is in the interests of justice to do so.

19D Reconstitution

Before hearing commences

(1) At any time before the hearing of a proceeding commences, the President may revoke a direction under subsection 19A(1) in relation to the proceeding and give another such direction.

After hearing commences

(2) At any time after the hearing of a proceeding commences and before the Tribunal determines the proceeding, the President may revoke a direction under subsection 19A(1) in relation to the proceeding and give another such direction, if:

(a) the member, or one of the members, who constitutes the Tribunal for the purposes of the proceeding:

(i) stops being a member; or

(ii) is for any reason unavailable; or

(iii) is directed by the President not to take part in the proceeding; or

(b) the President considers that doing so is in the interests of achieving the expeditious and efficient conduct of the proceeding.

(3) Subsection (2) does not apply in relation to a proceeding in the Security Division.

(4) The reconstituted Tribunal must continue the proceeding. For this purpose, it may have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence taken in the proceeding).

President's directions

(5) The President must not give a direction referred to in subparagraph (2)(a)(iii) unless the President:

(a) is satisfied that it is the interests of justice to do so; and

(b) has consulted the member concerned.

(6) The President must not, for the purposes of subsection (2), revoke a direction under subsection 19A(1) in relation to a proceeding and give another such direction unless the President:

(a) is satisfied that it is in the interests of justice to do so; and
(b) has consulted each member who as a result ceases to be a member of the Tribunal as constituted for the purposes of the proceeding.

(7) In giving directions for the purposes of this section, the President must have regard to the Tribunal's objective in section 2A.

Subdivision B—Security Division

19E Constitution of Security Division

Scope

(1) This section applies to a proceeding in the Security Division other than a proceeding to which section 19F applies, but has effect subject to subsection 65(2) of the *Australian Security Intelligence Organisation Act 1979*.

Constitution of Security Division

(2) The Security Division is to be constituted by a presidential member and 2 other members.

(3) The presidential member must not participate in the proceeding if the presidential member is or has been:
(a) the Director-General of Security; or
(b) an ASIO employee or ASIO affiliate.

Presiding member

(4) The presidential member is to preside at a hearing of the proceeding.

Reconstitution

(5) At any time after the hearing of a proceeding commences and before the Tribunal determines the proceeding, the President may revoke a direction under subsection 19A(1) in relation to the proceeding and give another such direction, in accordance with this section, if a member constituting the Tribunal for the purposes of the proceeding is for any reason unavailable.

(6) The reconstituted Tribunal must continue the proceeding. For this purpose, it may have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence taken in the proceeding).

19F Constitution of Security Division for proceedings to review certain Archives decisions

Scope

(1) This section applies to a proceeding in the Security Division in relation to a review of a decision of the Archives under the *Archives Act 1983* relating to a record of the Australian Security Intelligence Organisation.

Constitution of Security Division

(2) The Security Division is to be constituted by:
  (a) 3 presidential members; or
  (b) a presidential member alone.

(3) A presidential member must not participate in the proceeding if the presidential member is or has been:
  (a) the Director-General of Security; or
  (b) an ASIO employee or ASIO affiliate.

Presiding member

(4) If the Tribunal is constituted by 3 presidential members, the person who is to preside at a hearing of the proceeding is:
  (a) if the President is one of the members—the President; or
  (b) if the President is not one of the members but one or more Judges is—the most senior (or only) Judge; or
  (c) if paragraphs (a) and (b) do not apply—the Deputy President whom the President directs to preside.

Reconstitution

(5) At any time after the hearing of a proceeding commences and before the Tribunal determines the proceeding, the President may revoke a direction under paragraph 19A(1)(a) in relation to the proceeding and give another such direction, in accordance with this

section, if a member constituting the Tribunal for the purposes of the proceeding ceases to be available.

(6) The reconstituted Tribunal must continue the proceeding. For this purpose, it may have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence taken in the proceeding).

28 Section 24A

Repeal the section, substitute:

24A Management of administrative affairs of Tribunal

(1) The President is responsible for managing the administrative affairs of the Tribunal.

(2) However, the President is not responsible under subsection (1) for matters relating to the Tribunal under:

(a) the *Public Governance, Performance and Accountability Act 2013*; or

(b) the *Public Service Act 1999*.

(3) The Registrar is not subject to direction by the President in relation to the Registrar's performance of functions, or exercise of powers, under the Acts referred to in subsection (2).

(4) However, the Registrar must consult with the President in relation to the Registrar's performance of those functions or exercise of those powers.

29 Paragraph 24BA(a)

Repeal the paragraph, substitute:

(a) the following group of persons is a listed entity:

(i) the Registrar;

(ii) the staff of the Tribunal referred to in subsection 24N(1); and

31 Subsections 24D(4) and 24E(4)

Repeal the subsections.

32 Subsection 24F(4)

Omit "the President", substitute "the Minister".

33 Subsection 24G(2)

Omit "President, with the approval of the Minister,", substitute "Minister".

34 Section 24K

Repeal the section, substitute:

24K Termination of appointment

(1) The Governor-General may terminate the appointment of the Registrar:
  (a) for misbehaviour; or
  (b) if the Registrar is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Governor-General may terminate the appointment of the Registrar if:
  (a) the Registrar:
    (i) becomes bankrupt; or
    (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debts; or
    (iii) compounds with one or more of his or her creditors; or
    (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
  (b) the Registrar is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  (c) the Registrar engages in paid employment outside the duties of his or her office without the President's consent under section 24J; or
  (d) the Registrar fails, without reasonable excuse, to comply with section 24L (disclosure of interests).

(3) The appointment of the Registrar may not be terminated other than in accordance with this section.

35 Section 24M

Omit "President", substitute "Minister".

36 Sections 24N and 24P

Repeal the sections, substitute:

24N Staff

(1) The staff of the Tribunal must be persons engaged under the *Public Service Act 1999*.

(2) For the purposes of the *Public Service Act 1999*:

(a) the following persons together constitute a Statutory Agency:

(i) the Registrar;

(ii) the staff of the Tribunal referred to in subsection (1); and

(b) the Registrar is the head of that Statutory Agency.

24P Functions of Registrar and staff

The Registrar and members of the staff of the Tribunal have the functions and powers conferred on them:

(a) by this Act and any other enactment; and

(b) by the President.

24PA Officers of the Tribunal

The Registrar may, by writing, appoint a person to be an officer of the Tribunal if:

(a) the person is:

(i) a member of the staff of the Tribunal referred to in subsection 24N(1); or

(ii) an APS employee made available to the Tribunal; or

(iii) an officer of the Supreme Court of Norfolk Island; and

(b) the Registrar is satisfied that the person has appropriate qualifications and experience.

37 Subsection 24R(1)

After "administrative affairs", insert ", including the operation of the Divisions,".

38 Section 24V

Repeal the section.

39 Before Division 1 of Part IV

Insert:

Division 1A—Scope of operation of this Part

24Z Scope of operation of this Part

(1) Except for the provisions specified in subsection (2), this Part does not apply in relation to a proceeding in the Migration and Refugee Division.

Note 1: For the conduct of proceedings in the Migration and Refugee Division, see Parts 5 and 7 of the *Migration Act 1958*.

Note 2: Enactments that authorise the making of applications for review to the Tribunal can add to, exclude or modify the operation of this Part.

(2) The following provisions of this Part apply in relation to a proceeding in the Migration and Refugee Division:

(a) section 25;

(b) section 42.

40 Subsection 25(4)

Repeal the section.

40A Subsection 25(6)

After "29,", insert "29AB, 29AC,".

41 Paragraph 25(8)(c)

Repeal the paragraph, substitute:

(c) paragraph 19B(1)(a); and

42 After subsection 26(1)

Insert:

(1A) Paragraph (1)(b) does not apply in relation to a proceeding that is a child support first review.

43 Subsection 28(1AAA)

Repeal the subsection, substitute:

Exceptions

(1AAA) Subsection (1) does not apply in relation to:

(a) a decision that is reviewable in the Security Division; or

(b) a decision that is a decision on AAT first review within the meaning of any of the following:

(i) the *A New Tax System (Family Assistance) (Administration) Act 1999*;

(ii) the *Child Support (Registration and Collection) Act 1988*;

(iii) the *Social Security (Administration) Act 1999*;

(iv) the *Student Assistance Act 1973*;

(v) the *Paid Parental Leave Act 2010*.

44 Subsection 28(1AC)

Repeal the subsection, substitute:

(1AC) On application by an applicant who has received a notice under subsection (1AA), the Tribunal must decide whether the applicant was or was not entitled to be given the statement concerned.

45 Subsection 28(5)

Repeal the subsection, substitute:

Inadequate statement of reasons

(5) An applicant who has been given a statement under subsection (1) may apply to the Tribunal for a declaration that the statement does not contain one or more of the following:

(a) adequate particulars of findings on material questions of fact;

(b) an adequate reference to the evidence or other material on which those findings were based;

(c) adequate particulars of the reasons for the decision.

(6) If the Tribunal makes the declaration, the person to whom the request for the statement was made must, as soon as practicable and no later than 28 days after the day the declaration was made, give the applicant an additional statement containing further and better particulars in relation to the matters specified in the declaration.

46 Paragraphs 29(1)(a), (b) and (c)

Repeal the paragraphs, substitute:

(a) must be made:

(i) in writing; or

(ii) if the decision is reviewable in the Social Services and Child Support Division—in writing or by making an oral application in person at, or by telephone to, a Registry of the Tribunal; and

Note: For oral applications, see also section 29AA.

(b) must be accompanied by any prescribed fee; and

(c) unless paragraph (ca) or (cb) applies or the application was oral—must contain a statement of the reasons for the application; and

47 Subsection 29(1B)

Repeal the subsection.

48 Subsection 29(9)

Repeal the subsection, substitute:

(9) Before the Tribunal determines an application for an extension of time, the Tribunal or an officer of the Tribunal may:

(a) give notice of the application to any persons the Tribunal or officer considers to be affected by the application; or

(b) require the applicant to give notice to those persons.

49 Subsection 29(10)

Omit ", as prescribed,".

50 Subsection 29(11)

Repeal the subsection.

51 After section 29

Insert:

29AA Oral applications

(1) If a person makes an oral application as referred to in subparagraph 29(1)(a)(ii), the person receiving the application must:

(a) make a written record of the details of the application; and

(b) note on the record the day on which the application is made.

(2) If a person makes a written record of an oral application in accordance with subsection (1), this Part has effect as if the written record were an application in writing made on the day on which the oral application was made.

29AB Insufficient statement of reasons for application

If the Tribunal considers that an applicant's statement under paragraph 29(1)(c) does not clearly identify the respects in which the applicant believes that the decision is not the correct or preferable decision, the Tribunal may, by notice given to the applicant, request the applicant to amend the statement appropriately, within the period specified in the notice.

29AC Notice of application

(1) If an application is made to the Tribunal for a review of a decision, the Registrar must give the following persons written notice of receipt of the application:

(a) the applicant;

(b) the person who made the decision.

(2) The Tribunal or an officer of the Tribunal may, if satisfied that another person's interests may be affected by the decision:

(a) give the other person written notice of the application and of the person's right to apply to be made a party to the proceeding under subsection 30(1A); or

(b) require the applicant to give the other person such a notice.

52 Section 29B (heading)

Repeal the heading, substitute:

29B Notice of application—review of security assessment

53 Subsections 30(1AA), 30A(1AA) and 31(2)

Omit "Security Appeals Division", substitute "Security Division".

54 Section 32

Repeal the section, substitute:

32 Representation before Tribunal

Parties

(1) At the hearing of a proceeding before the Tribunal, the following parties may appear in person or be represented by another person:
  (a) a party to a proceeding in a Division other than the Social Services and Child Support Division;
  (b) the agency party to a proceeding in the Social Services and Child Support Division.

(2) At the hearing of a proceeding before the Tribunal in the Social Services and Child Support Division, a party to the proceeding (other than the agency party) may appear in person or, with the Tribunal's permission, may be represented by another person.

(3) In deciding whether to grant permission for the purposes of subsection (2), the Tribunal must have regard to:
  (a) the Tribunal's objective in section 2A; and
  (b) the wishes of the parties and the need to protect their privacy.

Persons required to appear

(4) A person who is required to appear in a proceeding before the Tribunal may, with the permission of the Tribunal, be represented by another person.

55 After subsection 33(1AA)

Insert:

Parties etc. must assist Tribunal

(1AB) A party to a proceeding before the Tribunal, and any person representing such a party, must use his or her best endeavours to assist the Tribunal to fulfil the objective in section 2A.

56 Paragraph 33(2)(a)

Omit "Conference Registrar", substitute "officer".

57 At the end of subsection 33(2A)

Add:

; or (d) limit the number of witnesses who may be called to give evidence (either generally or on a specified matter); or

(e) require witnesses to give evidence at the same time; or

(f) limit the time for giving evidence or making oral submissions; or

(g) limit the length of written submissions.

58 Subsections 33(3) to (7)

Repeal the subsections.

59 At the end of Division 2 of Part IV

Add:

33A Participation by telephone etc.

(1) The Tribunal for the purposes of a hearing, or the person conducting a directions hearing or alternative dispute resolution process, may allow or require a person to participate by telephone or by means of other electronic communications equipment.

(2) Subsection (1) does not apply to a proceeding in the Security Division to which section 39A applies.

60 Section 34

Repeal the section, substitute:

34 Scope of Division

This Division does not apply to:

(a) a proceeding in the Security Division to which section 39A applies; or

(b) a proceeding in the Social Services and Child Support Division.

61 Sections 34A to 34C

Repeal the sections, substitute:

34A Referral for alternative dispute resolution process

(1) If an application is made to the Tribunal, the President may direct that the proceeding, or any part of it or matter arising out of the proceeding, be referred to an alternative dispute resolution process.

(2) The President may give written directions in relation to persons who are to conduct an alternative dispute resolution process. Any such person must be:

(a) a member; or

(b) an officer of the Tribunal; or

(c) a person engaged under section 34H.

(3) The parties to a proceeding referred to an alternative dispute resolution process must act in good faith in relation to the conduct of the alternative dispute resolution process.

62 At the end of section 34D

Add:

Variation or revocation of decision

(4) The Tribunal may vary or revoke so much of a decision as it made in accordance with subsection (2) or (3) if:

(a) the parties, or their representatives, reach agreement on the variation or revocation; and

(b) the terms of the agreement are reduced to writing, signed by or on behalf of the parties and lodged with the Tribunal; and

(c) the variation or revocation appears appropriate to the Tribunal; and

(d) in the case of a variation—the Tribunal is satisfied that it would have been within the powers of the Tribunal to have made the decision as varied.

63 Section 34G

Repeal the section.

66 Section 35

Repeal the section, substitute:

35 Public hearings and orders for private hearings, non-publication and non-disclosure

Public hearing

(1) Subject to this section, the hearing of a proceeding before the Tribunal must be in public.

Private hearing

(2) The Tribunal may, by order:
  (a) direct that a hearing or part of a hearing is to take place in private; and
  (b) give directions in relation to the persons who may be present.

Orders for non-publication or non-disclosure

(3) The Tribunal may, by order, give directions prohibiting or restricting the publication or other disclosure of:
  (a) information tending to reveal the identity of:
    (i) a party to or witness in a proceeding before the Tribunal; or
    (ii) any person related to or otherwise associated with any party to or witness in a proceeding before the Tribunal; or
  (b) information otherwise concerning a person referred to in paragraph (a).

(4) The Tribunal may, by order, give directions prohibiting or restricting the publication or other disclosure, including to another party or parties, of information that:
  (a) relates to a proceeding; and
  (b) is any of the following:

(i) information that comprises evidence or information about evidence;

(ii) information lodged with or otherwise given to the Tribunal.

(5) In considering whether to give directions under subsection (2), (3) or (4), the Tribunal is to take as the basis of its consideration the principle that it is desirable:

(a) that hearings of proceedings before the Tribunal should be held in public; and

(b) that evidence given before the Tribunal and the contents of documents received in evidence by the Tribunal should be made available to the public and to all the parties; and

(c) that the contents of documents lodged with the Tribunal should be made available to all the parties.

However (and without being required to seek the views of the parties), the Tribunal is to pay due regard to any reasons in favour of giving such a direction, including, for the purposes of subsection (3) or (4), the confidential nature (if applicable) of the information.

Not applicable to Security Division review of security assessment

(6) This section does not apply in relation to a proceeding in the Security Division to which section 39A applies.

Note: See section 35AA.

67 Section 35AA

Repeal the section, substitute:

35AA Orders for non-publication and non-disclosure—certain Security Division proceedings

(1) This section applies in relation to a proceeding in the Security Division to which section 39A applies.

(2) The Tribunal may, by order, give directions prohibiting or restricting the publication or other disclosure of:

(a) information tending to reveal the identity of:

(i) a party to or witness in the proceeding; or

(ii) any person related to or otherwise associated with any party to or witness in the proceeding; or

(b) information otherwise concerning a person referred to in paragraph (a); or

(c) information that relates to the proceeding and is any of the following:

(i) information that comprises evidence or information about evidence;

(ii) information lodged with or otherwise given to the Tribunal; or

(d) the whole or any part of its findings on the review.

68 Section 35A

Repeal the section.

69 Subsections 36(1AA), 36A(1AA), 36B(1AA), 36C(1AA) and 36D(1AA)

Omit "Security Appeals Division", substitute "Security Division".

70 Subsection 36D(3)

Omit "presidential".

71 Subsection 36D(5)

Omit "the Registrar, a District Registrar, a Conference Registrar or a Deputy Registrar", substitute "an officer of the Tribunal".

72 Subsection 36D(5)

Omit "as Registrar, District Registrar, Conference Registrar or Deputy Registrar", substitute "an officer of the Tribunal".

73 Subsection 37(1AAA)

Omit "Security Appeals Division", substitute "Security Division".

74 Subsections 37(1) to (1AB)

Repeal the subsections, substitute:

Decision-maker must lodge material documents

(1) Subject to this section, a person who has made a decision that is the subject of an application for review (other than second review) by the Tribunal must, within 28 days after receiving notice of the application (or within such further period as the Tribunal allows), lodge with the Tribunal a copy of:

(a) a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision; and

(b) subject to any directions given under section 18B, every other document that is in the person's possession or under the person's control and is relevant to the review of the decision by the Tribunal.

(1AAB) Subject to this section, if the Tribunal has made a decision that is the subject of an application for second review:

(a) the person who made the decision that was reviewed by the Tribunal; or

(b) for an application referred to in paragraph 96A(a) or (c) of the *Child Support (Registration and Collection) Act 1988*—the Registrar within the meaning of that Act;

must, within 28 days after receiving notice of the application (or within such further period as the Tribunal allows), lodge with the Tribunal a copy of any document of a kind referred to in paragraph (1)(b) that is required to be lodged by a direction given under section 18B.

(1AA) The Tribunal may direct a person who is required to lodge a copy of a statement or document under subsection (1) or (1AAB) to lodge a specified number of additional copies with the Tribunal, within the specified period. The person must comply with the direction.

Document setting out reasons for decision may be lodged instead of statement

(1AB) The Tribunal may direct a person who is required to lodge a copy of a statement under paragraph (1)(a) to lodge instead of that statement a copy of a document setting out the reasons for the

relevant decision, within the specified period. The person must comply with the direction.

75 Subsection 37(1AC)

Omit "2 copies", substitute "a copy".

76 Subsection 37(1AE)

Repeal the subsection, substitute:

Statement of reasons and relevant documents to be given to other parties

(1AE) A person who is required under subsection (1), (1AAB) or (1AB) to lodge a copy of a statement or document with the Tribunal within a particular period must, unless the Tribunal directs otherwise, also give a copy of the statement or document to each other party to the proceeding, within the same period.

77 Paragraph 37(1AF)(a)

Omit "to lodge 2 copies of a document or a part", substitute "or subsection (1AAB) to lodge a copy".

78 Subparagraph 37(1AF)(b)(i)

Repeal the subparagraph, substitute:

(i) applies to the Tribunal for a direction under subsection 35(3) or (4) in relation to the document and lodges with the Tribunal, together with the application for the direction, a copy of the document; and

79 Subsection 37(1AF)

Omit "paragraph (1)(b) in relation to the document or part of", substitute "paragraph (1)(b) or subsection (1AAB) in relation to".

80 Subsection 37(1AG)

Omit "in relation to any document or part of", substitute "or subsection (1AAB) in relation to".

81 Subsection 37(1A)

After "subsection (1)", insert "or (1AAB)".

82 Subsection 37(1A)

Omit "the copies", substitute "the copy".

83 Subsection 37(1A)

Omit ", as prescribed,".

84 Subsection 37(1A)

Omit "those copies", substitute "the copy".

85 Subsection 37(1B)

After "subsection (1)", insert "or (1AAB)".

86 Subsection 37(1C)

Omit ", as prescribed,".

87 Section 38

Repeal the section, substitute:

38 Power of Tribunal to obtain additional statements

(1) The Tribunal may order a person who has lodged a statement with the Tribunal in accordance with paragraph 37(1)(a) to lodge an additional statement with the Tribunal, within the time specified in the order, containing further and better particulars in relation to any one or more of the following:

(a) particulars of findings on material questions of fact;

(b) reference to the evidence or other material on which those findings were based;

(c) particulars of the reasons for the decision.

(2) Subsection (1) does not apply to a proceeding in the Security Division to which section 39A applies.

38AA Ongoing requirement for lodging material documents with Tribunal

(1) If:

(a) subsection 37(1) or (1AAB) applies to a person in relation to an application for review of a decision; and

(b) at any time after the end of the applicable period under the subsection and before the Tribunal determines the review:

(i) the person obtains possession of a document; and

(ii) the document is relevant to the review; and

(iii) a copy of the document has not been lodged with the Tribunal in accordance with the subsection;

the person must, subject to any directions given under section 18B, lodge a copy of the document with the Tribunal as soon as practicable after obtaining possession.

(2) Subsections 37(1AA), (1AE), (1AF) and (1AG) apply in relation to the requirement in subsection (1) of this section as if:

(a) that requirement were the requirement referred to in those subsections; and

(b) the references in subsections 37(1AE) and (1AF) to lodging or giving within a period were references to lodging or giving as soon as practicable.

88 Section 39 (heading)

Repeal the heading, substitute:

39 Submissions—Divisions other than Security Division and Social Services and Child Support Division

89 Subsection 39(2)

Repeal the subsection, substitute:

(2) This section does not apply to:

(a) a proceeding in the Security Division to which section 39A applies; or

(b) a proceeding in the Social Services and Child Support Division (see section 39AA).

(3) This section does not limit subsection 25(4A) (Tribunal may determine scope of review).

90 After section 39

Insert:

39AA Submissions—Social Services and Child Support Division

Parties other than agency parties

(1) A party (other than the agency party) to a proceeding before the Tribunal in the Social Services and Child Support Division may make oral or written submissions to the Tribunal, or both oral and written submissions.

Agency parties

(2) The agency party to a proceeding before the Tribunal in the Social Services and Child Support Division may make written submissions to the Tribunal.

(3) The agency party may, by writing, request the Tribunal for permission to make:

(a) oral submissions to the Tribunal; or

(b) both oral and written submissions to the Tribunal.

The request must explain how such submissions would assist the Tribunal.

(4) The Tribunal may, by writing, grant the request if, in the opinion of the Tribunal, such submissions would assist the Tribunal.

(5) The Tribunal may order the agency party to a proceeding in the Social Services and Child Support Division to make:

(a) oral submissions to the Tribunal; or

(b) written submissions to the Tribunal; or

(c) both oral and written submissions to the Tribunal;

if, in the opinion of the Tribunal, such submissions would assist the Tribunal.

91 Section 39A (heading)

Repeal the heading, substitute:

39A Procedure in Security Division review of security assessment

92 Subsection 39A(4)

Omit "The presidential member who is to preside, or is presiding, at", substitute "A member who is to participate, or who is participating, in".

93 Subsection 39A(17)

Omit "presidential member presiding", substitute "presiding member".

94 Section 39B (heading)

Repeal the heading, substitute:

39B Certain documents and information not to be disclosed in Security Division review of security assessment

95 Subsection 39B(1)

Omit "Security Appeals Division", substitute "Security Division".

96 Paragraph 39B(5)(b)

Omit "presidential member presiding", substitute "presiding member".

97 Subsection 39B(5)

Omit "presidential member may", substitute "presiding member may".

98 Subsection 39B(6) (heading)

Repeal the heading, substitute:

What presiding member must consider in deciding whether to authorise disclosure of information etc.

99 Paragraphs 39B(6)(a) and (b)

Omit "presidential member", substitute "presiding member".

100 Subsections 40(1A) to (1E)

Repeal the subsections.

101 Paragraphs 40(2)(b) and (c)

Repeal the paragraphs, substitute:

(b) may administer an oath or affirmation to a person so appearing before the Tribunal.

102 Subsections 40(3) to (6)

Repeal the subsections, substitute:

Power to take evidence

(3) The power (the ***evidence power***) of the Tribunal under paragraph (1)(a) to take evidence on oath or affirmation in a particular proceeding may be exercised on behalf of the Tribunal by:

(a) the presiding member in relation to the review; or

(b) another person (whether or not a member) authorised in writing by that member.

(4) The evidence power may be exercised:

(a) inside or outside Australia; and

(b) subject to any limitations or requirements specified by the Tribunal.

(5) If a person other than the presiding member has the evidence power:

(a) the person has, for the purpose of taking the evidence, the powers of the Tribunal and the presiding member under subsections (1) and (2); and

(b) this Act applies in relation to the person, for the purpose of taking the evidence in the exercise of those powers, as if the person were the Tribunal or the presiding member.

103 After section 40

Insert:

40A Power to summon person to give evidence or produce documents

(1) For the purposes of a proceeding before the Tribunal, the President, an authorised member or an officer of the Tribunal may summon a person to do either or both of the following, on the day, and at the time and place, specified in the summons:

(a) appear before the Tribunal to give evidence;

(b) produce any document or other thing specified in the summons.

Note: This section does not apply in relation to proceedings in the Social Services and Child Support Division, as a result of provisions in the enactments that authorise applications for reviews that will be heard in that Division.

(2) The President or an authorised member may refuse a request to summon a person.

(3) A person may, before the day specified in the summons, comply with a summons to produce a document or thing by producing the document or thing at the Registry from which the summons was issued. If the person does so, the person is not required to attend the hearing of the proceeding unless:

(a) the summons or another summons requires the person to appear before the Tribunal; or

(b) the Tribunal directs the person to attend the hearing.

40B Inspection of documents produced under summons

(1) Any of the following persons may give a party to a proceeding leave to inspect a document or other thing produced under a summons in relation to the proceeding:

(a) the President;

(b) an authorised member;

(c) an authorised officer.

Note: This section does not apply in relation to proceedings in the Social Services and Child Support Division, as a result of provisions in the enactments that authorise applications for reviews that will be heard in that Division.

(2) However, an authorised officer must not make a decision about giving leave, and must instead arrange for the President or an authorised member of the Tribunal to make the decision, if:

(a) the officer considers that it is not appropriate for the officer to make the decision; or

(b) a party to the proceeding applies to the officer to have the decision made by a member of the Tribunal.

(3) If an authorised officer decided whether to give a party to a proceeding leave to inspect a document produced under a summons:

(a) a party to the proceeding may apply to the Tribunal, within 7 days or an extended time allowed by the Tribunal, to reconsider the decision; and

(b) the Tribunal may reconsider the decision on such an application or its own initiative; and

(c) the Tribunal may make such order as it thinks fit in relation to the giving of leave to inspect the document.

104 Subsection 41(2)

Omit ", as prescribed,".

105 At the end of subsection 41(2)

Add:

Note: This section does not apply in relation to proceedings in the Social Services and Child Support Division, as a result of provisions in the enactments that authorise applications for reviews that will be heard in that Division.

106 Subsection 41(3)

Omit ", as prescribed,".

107 Section 42

Repeal the section, substitute:

42 Resolving disagreements

(1) If the Tribunal is constituted for the purposes of a proceeding by 3 members, a disagreement between the members is to be settled according to the opinion of the majority of the members.

(2) If the Tribunal is constituted for the purposes of a proceeding by 2 members, a disagreement between the members is to be settled according to the opinion of the presiding member.

108 After subsection 42A(1)

Insert:

(1AAA) For the purposes of subsection (1), the consent of the agency party to a proceeding in the Social Services and Child Support Division is not required.

109 After subsection 42A(1A)

Insert:

(1AA) If a proceeding is in the Social Services and Child Support Division and is not a child support first review, the person may

notify the Tribunal orally of the withdrawal or discontinuance. The person who receives the notification must make a written record of the day of receipt.

110 Subsection 42A(1B)

Omit "so given", substitute "given in accordance with subsection (1A) or (1AA)".

111 Subsections 42A(3) to (4)

Repeal the subsections, substitute:

Dismissal if decision is not reviewable

(4) The Tribunal may dismiss an application without proceeding to review the decision if the Tribunal is satisfied that the decision is not reviewable by the Tribunal.

112 Subsection 42A(6)

Repeal the subsection.

113 Subsection 42A(7)

Omit "conference, mediation", substitute "alternative dispute resolution process".

114 Subsection 42A(8)

Omit "the person who made the application may, within 28 days after receiving notification that the application has been dismissed", substitute "a party to the proceeding may, within the period referred to in subsection (8A)".

115 After subsection 42A(8)

Insert:

(8A) For the purposes of subsection (8), the period is:

(a) 28 days after the person receives notification that the application has been dismissed; or

(b) if the person requests an extension—such longer period as the Tribunal, in special circumstances, allows.

116 Section 42B

Repeal the section, substitute:

42B Power of Tribunal if a proceeding is frivolous, vexatious etc.

(1) The Tribunal may dismiss an application for the review of a decision, at any stage of the proceeding, if the Tribunal is satisfied that the application:

(a) is frivolous, vexatious, misconceived or lacking in substance; or

(b) has no reasonable prospect of success; or

(c) is otherwise an abuse of the process of the Tribunal.

(2) If the Tribunal dismisses an application under subsection (1), it may, on application by a party to the proceeding, give a written direction that the person who made the application must not, without leave of the Tribunal, make a subsequent application to the Tribunal of a kind or kinds specified in the direction.

(3) The direction has effect despite any other provision of this Act or any other Act.

117 At the end of section 42C

Add:

Limitation for administrative assessments of child support

(4) The Tribunal must not act in accordance with subsection (2) or (3) to give effect to an agreement in relation to a departure from administrative assessment of child support in accordance with Part 6A of the *Child Support (Assessment) Act 1989*, unless it is satisfied that it is just and equitable and otherwise proper to do so, having regard to the matters set out in subsections 117(4) and (5) of that Act.

Variation or revocation of decisions other than on child support first reviews

(5) The Tribunal may vary or revoke so much of a decision as it made in accordance with subsection (2) or (3) if:

(a) the parties, or their representatives, reach agreement on the variation or revocation; and

(b) the terms of the agreement are reduced to writing, signed by or on behalf of the parties and lodged with the Tribunal; and

(c) the variation or revocation appears appropriate to the Tribunal; and

(d) in the case of a variation—the Tribunal is satisfied that it would have been within the powers of the Tribunal to have made the decision as varied.

(6) Subsection (5) does not apply to a decision made on child support first review.

118 Subsection 42D(1)

After "review of a decision", insert "other than a proceeding in the Social Services and Child Support Division".

119 After subsection 43(5)

Insert:

Tribunal must notify parties of further review rights

(5AA) When the Tribunal gives a party to a proceeding a copy of its decision, the Tribunal must also give the party a written notice that includes a statement setting out the following, as applicable:

(a) the party's right to apply for second review of the decision;

(b) the party's right to appeal to a court on a question of law.

(5AB) Subsection (5AA) does not apply in relation to the agency party to a proceeding in the Social Services and Child Support Division.

(5AC) A failure to comply with subsection (5AA) in relation to a decision of the Tribunal does not affect the validity of the decision.

120 Subsection 43(4)

Omit ", a District Registrar or a Deputy Registrar".

121 Section 43AAA (heading)

Repeal the heading, substitute:

43AAA Findings of Tribunal in Security Division review of security assessment

122 Subsection 43AAA(1)

Omit "review conducted by the Security Appeals Division", substitute "review in the Security Division".

123 Section 43A

Repeal the section.

124 After section 43B

Insert:

43C Part does not apply in relation to certain migration decisions

This Part does not apply to an application in relation to, or a proceeding for the review of, any of the following within the meaning of the *Migration Act 1958*:

(a) a privative clause decision;

(b) a purported privative clause decision;

(c) an AAT Act migration decision.

125 At the end of subsection 44(1)

Add:

Note 1: This Part does not apply to certain migration proceedings (see section 43C).

Note 2: A party to a child support first review may in some instances appeal instead to the Federal Circuit Court (see section 44AAA).

126 After subsection 44(1)

Insert:

(1A) Subsection (1) does not apply in relation to a proceeding in the Social Services and Child Support Division, other than a proceeding:

(a) that is a child support first review; or

(b) for review of an AAT reviewable employer decision within the meaning of the *Paid Parental Leave Act 2010*.

127 At the end of subsection 44(2)

Add:

Note: This Part does not apply to applications in relation to certain migration decisions (see section 43C).

128 Subparagraph 44(3)(b)(i)

Omit "a presidential member", substitute "a Deputy President who is not a Judge".

129 After section 44

Insert:

44AAA Appeals to Federal Circuit Court from decisions of the Tribunal in relation to child support first reviews

(1) If the Tribunal as constituted for the purposes of a proceeding that is a child support first review does not consist of or include a presidential member, a party to the proceeding may appeal to the Federal Circuit Court of Australia, on a question of law, from any decision of the Tribunal in that proceeding.

(2) The following provisions of this Part apply in relation to any such appeal as if the appeal were an appeal under subsection 44(1) and a reference in those provisions to the Federal Court of Australia were a reference to the Federal Circuit Court of Australia:

(a) subsections 44(2A) to (10) (other than paragraphs 44(3)(a) to (c));

(b) section 44A (other than subsection (2A));

(c) paragraphs 46(1)(a) and (b).

(3) Paragraph 44(2A)(b) applies in relation to any such appeal as if the reference in that paragraph to rules of court made under the *Federal Court of Australia Act 1976* were a reference to rules of court made under the *Federal Circuit Court of Australia Act 1999*.

(4) Subsection (1) does not affect the operation of subsection 44(1) in relation to a proceeding that is a child support first review.

130 Subsections 45(1) and (2)

Repeal the subsections, substitute:

(1) The Tribunal may, with the agreement of the President, refer a question of law arising in a proceeding before the Tribunal to the Federal Court of Australia for decision. The Tribunal may do so on its own initiative or at the request of a party to the proceeding.

Note: This Part does not apply to certain migration proceedings (see section 43C).

(2) The Federal Court of Australia has jurisdiction to hear and determine a question of law referred to it under this section.

(2A) If, after consulting the President, the Chief Justice of the Court considers it appropriate, that jurisdiction is to be exercised by the Court constituted as a Full Court.

131 Paragraph 46(1)(a)

After "appeal or reference relates", insert "and are relevant to the appeal or reference".

132 Section 59A

Repeal the section, substitute:

59A Authorised members

(1) The President may, in writing, authorise a member to be an authorised member for the purposes of one or more specified provisions of this Act or any other enactment.

(2) The authorisation may be general or limited to specified decisions or proceedings.

59B Authorised officers

(1) The President may, in writing, authorise an officer of the Tribunal to be an authorised officer for the purposes of one or more specified provisions of this Act or any other enactment.

(2) The authorisation may be general or limited to specified decisions or proceedings.

133 Section 60 (heading)

Repeal the heading, substitute:

60 Protection of members, alternative dispute resolution practitioners, officers of the Tribunal, barristers and witnesses

134 Subsections 60(1B) and (1C)

Repeal the subsections, substitute:

Officers of the Tribunal

(1B) An officer of the Tribunal has, in the performance of his or her duties as an officer of the Tribunal under subsections 29(9) and 29AC(2), paragraph 33(2)(a) and sections 40, 40A, 40B and 69A, the same protection and immunity as a Justice of the High Court.

135 Section 61

Repeal the section, substitute:

61 Failure to comply with summons

(1) A person commits an offence if:

(a) the person is given, in accordance with any applicable regulations or directions, a summons referred to in section 40A; and

(b) the person fails to comply with the summons.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(2) Subsection (1) does not apply if complying with the summons might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

136 Subsection 62(1)

Omit "is guilty of", substitute "commits".

137 Subsection 62(1) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

138 Subsection 62(2)

Repeal the subsection.

139 Subsection 62(3)

Omit "is guilty of", substitute "commits".

140 Subsection 62(3) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

141 Subsections 62(4) to (6)

Repeal the subsections, substitute:

(4) Subsection (3) does not apply if answering the question might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

142 Section 62A

Omit "is guilty of", substitute "commits".

143 Section 62A (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

144 Sections 63 to 65

Repeal the sections, substitute:

62C Breach of non-disclosure order

A person commits an offence if:

(a) the person engages in conduct; and

(b) the conduct contravenes an order under subsection 35(3) or (4) or 35AA(2).

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

63 Contempt of Tribunal

(1) A person commits an offence if:
  (a) the person engages in conduct; and
  (b) the conduct obstructs or hinders the Tribunal or a member in the performance of the functions of the Tribunal.

  Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(2) A person commits an offence if:
  (a) the person engages in conduct; and
  (b) the conduct would, if the Tribunal were a court of record, constitute a contempt of that court.

  Penalty: Imprisonment for 12 months or 60 penalty units, or both.

64 Registries

The Minister may establish such registries of the Tribunal as the Minister thinks fit.

145 Subsections 66(1) and (2)

Repeal the subsections, substitute:

Protected documents and information

(1) An entrusted person must not be required to produce a protected document, or disclose protected information, to a court except so far as necessary for the purposes of carrying into effect the provisions of this Act or another enactment conferring powers on the Tribunal.

(2) An entrusted person must not be required to produce a protected document, or disclose protected information, to a parliament if:
  (a) the document or information relates to a Part 7-reviewable decision within the meaning of the *Migration Act 1958*; and
  (b) the production or disclosure is not necessary for the purposes of carrying into effect the provisions of this Act or another enactment conferring powers on the Tribunal.

146 Subsection 66(4)

Insert:

entrusted person means any of the following:

(a) a person who is or has been a member of the Tribunal;

(b) a person who is or has been an officer of the Tribunal;

(c) a person who is or has been a member of the staff of the Tribunal;

(d) a person who is or has been engaged by the Tribunal to provide services to the Tribunal during a proceeding before the Tribunal.

parliament means:

(a) a House of the Parliament of the Commonwealth, of a State or of a Territory; or

(b) a committee of a House or the Houses of the Parliament of the Commonwealth, of a State or of a Territory.

protected: a document or information is ***protected*** if it concerns a person and was obtained by an entrusted person in the course of the entrusted person's duties.

147 After section 66A

Insert:

66B Publication of Tribunal decisions

(1) The Tribunal may, by any means it considers appropriate, publish its decisions and the reasons for them.

(2) Subsection (1) does not authorise the Tribunal to publish information the disclosure of which is prohibited or restricted by or under this Act or any other enactment conferring jurisdiction on the Tribunal.

148 Section 67

Repeal the section, substitute:

67 Fees for compliance with summons

(1) A person who, under a prescribed provision of this Act or another enactment, is required to give evidence, or produce a document or give information, for the purposes of a proceeding before the Tribunal is to be paid, in accordance with the regulations, any fee

or allowance prescribed by the regulations in relation to compliance with the requirement.

(2) Without limiting the matters that may be dealt with by regulations made for the purposes of subsection (1), the regulations may:

(a) prescribe circumstances in which a fee or allowance is not payable; or

(b) provide that a fee or allowance is to be paid:

(i) if the requirement was made of the person at the request of a party to the proceeding—by the party; or

(ii) by the Commonwealth.

149 Sections 68 and 68AA

Repeal the sections, substitute:

68 Giving documents

(1) A document or thing that is required or permitted by this Act or another enactment to be lodged with or given to the Tribunal must be lodged or given:

(a) in the manner prescribed by regulations made under this Act or the other enactment; or

(b) if those regulations do not prescribe a manner—in accordance with any direction under section 18B.

(2) A document that is required or permitted by this Act or another enactment to be given to a person for the purposes of a proceeding before the Tribunal must be given to the person:

(a) in the manner prescribed by regulations made under this Act or the other enactment; or

(b) if those regulations do not prescribe a manner—in accordance with any direction under section 18B.

(3) Subsections (1) and (2) do not apply to the extent to which this Act or another enactment specifies how a document or thing is to be lodged with or given to the Tribunal, or given to a person, for the purposes of a proceeding before the Tribunal.

68AA President's directions

If the President gives a direction that, under this Act, is to be a written direction, a failure to give the direction in writing does not invalidate anything done in accordance with or otherwise in relation to or as a consequence of the direction.

150 Section 68A

Before "If", insert "(1)".

151 At the end of section 68A

Add:

(2) Subsection (1) does not apply in relation to a proceeding in the Migration and Refugee Division.

152 At the end of section 69

Add:

(3) This section does not apply if the powers of the Tribunal in relation to the application, proceeding or matter concerned are or would be exercisable in the Migration and Refugee Division or the Social Services and Child Support Division.

153 Section 69A

Repeal the section, substitute:

69A Procedure for taxing costs

(1) If:

(a) the Tribunal has, under this Act or another enactment, ordered a party to a proceeding to pay reasonable costs incurred by another party; and

(b) the parties cannot agree on the amount of those costs;

the Tribunal or an officer of the Tribunal may tax the costs.

(2) If an officer of the Tribunal has taxed the costs in accordance with subsection (1), either party may apply to the Tribunal for review of the taxed amount.

(3) If a party does so, the Tribunal must review the taxed amount and may:

(a) affirm the amount; or

(b) set aside the amount and substitute another amount; or

(c) set aside the amount and remit the matter to the officer of the Tribunal to be taxed in accordance with the directions of the Tribunal.

(4) An amount that a party to a proceeding is required to pay to another party under an order made by the Tribunal is recoverable by the other party as a debt due to the other party by the first-mentioned party.

154 Section 69B (heading)

Repeal the heading, substitute:

69B Costs in Security Division review of security assessment

155 After section 69B

Insert:

69BA Termination of certain applications

(1) Sections 42A and 42B, except subsection 42A(4), apply in relation to an application described in paragraph (b), (c), (d), (e), (f) or (h) of the definition of ***proceeding*** in subsection 3(1) in the same way as those sections apply in relation to an application for a review of a decision.

(2) Subsection 42A(1) applies under subsection (1) of this section as if it did not include the words "without proceeding to review the decision or, if the Tribunal has commenced to review the decision, without completing the review".

(3) Subsections 42A(1B) and (5) and paragraph 42A(2)(a) apply under subsection (1) of this section as if they did not include the words "without proceeding to review the decision".

(4) Subsection 42A(2) applies under subsection (1) of this section as if it did not include the words "(not being the person who made the decision)".

156 Section 69C

Before "The", insert "(1)".

157 At the end of section 69C

Add:

(2) Subsection (1) does not apply to an application for review of a decision that is reviewable in the Migration and Refugee Division.

Schedule 2—Migration amendments

Part 1—Main amendments

Migration Act 1958

1 Subsection 5(1)

Insert:

AAT Act migration decision: see section 474A.

2 Subsection 5(1) (at the end of the definition of *migration decision*)

Add:

; or (d) an AAT Act migration decision.

3 Subsection 5(1) (definition of *Migration Review Tribunal*)

Repeal the definition.

4 Subsection 5(1)

Insert:

Part 5-reviewable decision: see section 338.

5 Subsection 5(1)

Insert:

Part 7-reviewable decision: see section 411.

6 Subsection 5(1) (definition of *Refugee Review Tribunal*)

Repeal the definition.

7 Subsection 5(1) (definition of *RRT-reviewable decision*)

Repeal the definition.

8 Subsection 5(1)

Insert:

Tribunal means the Administrative Appeals Tribunal.

9 Paragraphs 5(9A)(a) to (d)

Repeal the paragraphs, substitute:

(a) subsection 368(2) (written decisions about Part 5-reviewable decisions);

(b) subsection 368D(1) (oral decisions about Part 5-reviewable decisions);

(c) subsection 430(2) (written decisions about Part 7-reviewable decisions);

(d) subsection 430D(1) (oral decisions about Part 7-reviewable decisions).

10 Paragraphs 5(9B)(a) and (b)

Repeal the paragraphs, substitute:

(a) a decision of the Tribunal to remit a Part 5-reviewable decision under paragraph 349(2)(c);

(b) a decision of the Tribunal to remit a Part 7-reviewable decision under paragraph 415(2)(c);

11 Subsection 5(9B) (note)

Repeal the note.

12 Paragraph 91G(2)(a)

Omit "the Migration Review Tribunal, the Refugee Review Tribunal,".

13 Section 99

Omit "or a person or Tribunal", substitute ", a person or the Tribunal".

14 Section 103

Omit "a tribunal", substitute "the Tribunal".

15 Subsection 114(1)

Omit ", the Administrative Appeals Tribunal, the Migration Review Tribunal or the Refugee Review Tribunal", substitute "or the Administrative Appeals Tribunal".

16 Paragraph 178(2)(b)

Omit ", 391, 417 or 454", substitute "or 417".

17 Subsection 261AKD(2) (paragraph (c) of the definition of *permitted provision*)

Omit "or tribunal", substitute ", the Tribunal or another tribunal,".

18 Subsection 271(4) (definition of *migration proceedings*)

Repeal the definition, substitute:

migration proceedings means:

(a) proceedings in a court (including criminal proceedings):

(i) under this Act, or in relation to an offence against this Act or a contravention of a civil penalty provision; or

(ii) in relation to a deportation order; or

(b) proceedings in the Tribunal for the review of a decision under this Act, including a decision to make a deportation order.

Note: For ***offence against this Act***, see subsection 5(1).

19 Section 275 (paragraph (a) of the definition of *review authority*)

Omit "Migration Review Tribunal", substitute "the Tribunal in reviewing a Part 5-reviewable decision".

20 Section 275 (paragraph (b) of the definition of *review authority*)

Omit "Refugee Review Tribunal", substitute "the Tribunal in reviewing a Part 7-reviewable decision".

21 Paragraph 276(2A)(a)

Omit "391, 417, 454", substitute "417".

22 Subsection 277(4)

Omit "391, 417, 454", substitute "417".

23 Paragraph 282(4)(e)

Omit "391, 417, 454", substitute "417".

24 Paragraph 336E(2)(f)

Omit "or tribunal", substitute ", the Tribunal or another tribunal,".

25 Part 5 (heading)

Repeal the heading, substitute:

Part 5—Review of Part 5-reviewable decisions

26 Before section 337

Insert:

336M Simplified outline of this Part

This Part provides for the review of Part 5-reviewable decisions by the Administrative Appeals Tribunal in its Migration and Refugee Division.

Part 5-reviewable decisions relate to the grant or cancellation of visas in some circumstances. They do not include decisions relating to protection visas or temporary safe haven visas, or decisions in relation to which the Minister has given a conclusive certificate.

Part 7-reviewable decisions (which generally relate to protection visas) are reviewable in accordance with Part 7 by the Administrative Appeals Tribunal in its Migration and Refugee Division.

Some other decisions under this Act may be reviewed by the Administrative Appeals Tribunal in its General Division, including the following:

(a) some decisions to cancel business visas;
(b) some decisions relating to migration agents;
(c) some decisions relating to deportation, protection visas and the refusal or cancellation of visas on character grounds.

336N Scope of this Part

(1) This Part applies in relation to the review by the Tribunal of Part 5-reviewable decisions (see section 338).

(2) The Tribunal's powers in relation to Part 5-reviewable decisions may be exercised by the Tribunal only in its Migration and Refugee Division.

27 Section 337

Repeal the following definitions:

(a) definition of ***Deputy Principal Member***;

(b) definition of ***MRT-reviewable decision***.

28 Section 337

Insert:

officer of the Tribunal has the meaning given by the *Administrative Appeals Tribunal Act 1975*.

Part 5-reviewable decision: see section 338.

29 Section 337

Repeal the following definitions:

(a) definition of ***presiding member***;

(b) definition of ***Principal Member***;

(c) definition of ***Senior Member***;

(d) definition of ***Tribunal***.

30 At the end of section 337

Add:

Note: "Tribunal" means the Administrative Appeals Tribunal. See the definition in subsection 5(1).

31 Division 2 of Part 5 (heading)

Repeal the heading, substitute:

Division 2—Part 5-reviewable decisions

32 Section 338 (heading)

Repeal the heading, substitute:

338 Definition of *Part 5-reviewable decision*

33 At the end of section 339

Add:

Note: If the Minister issues a conclusive certificate in relation to a decision, the decision is not a ***Part 5-reviewable decision*** (see subsections 338(1) and 348(2)).

34 Division 3 of Part 5 (heading)

Repeal the heading, substitute:

Division 3—Part 5-reviewable decisions: Tribunal review

35 Section 347 (heading)

Repeal the heading, substitute:

347 Application for review of Part 5-reviewable decisions

36 Section 348 (heading)

Repeal the heading, substitute:

348 Tribunal to review Part 5-reviewable decisions

37 Section 349 (heading)

Repeal the heading, substitute:

349 Tribunal powers on review of Part 5-reviewable decisions

38 Section 352 (heading)

Repeal the heading, substitute:

352 Tribunal to notify Secretary of application for review of Part 5-reviewable decisions

39 Subsection 352(1)

Omit "Migration Review Tribunal", substitute "Tribunal".

40 Subsection 352(3)

Omit "an MRT-reviewable decision covered by subsection 338(4)", substitute "a decision covered by subsection 338(4) (certain bridging visa decisions)".

41 Division 4 of Part 5 (heading)

Repeal the heading, substitute:

Division 4—Part 5-reviewable decisions: Tribunal powers

42 Subsection 353(1)

Repeal the subsection.

43 Subsection 353(2)

Omit "(2)".

44 Subsection 353(2)

Omit "decision", substitute "Part 5-reviewable decision".

45 Sections 353A, 354, 355, 355A, 356 and 357

Repeal the sections.

46 Division 5 of Part 5 (heading)

Repeal the heading, substitute:

Division 5—Part 5-reviewable decisions: conduct of review

47 At the end of subsection 361(4)

Add "(certain bridging visa decisions)".

48 Section 362 (heading)

Repeal the heading, substitute:

362 Certain bridging visa decisions—request to call witnesses

49 Paragraph 363(1)(c)

Omit "sections 377 and 378", substitute "section 378".

50 Subsection 363(2)

Omit "reviewable decisions", substitute "Part 5-reviewable decisions".

51 Subsection 363(3)

Omit "presiding member in relation to a review may", substitute "Tribunal may, for the purposes of a review".

52 Paragraph 363(3)(b)

Omit "such documents as are", substitute "the documents or things".

53 Subsection 363(4)

Omit "presiding member shall not", substitute "Tribunal must not".

54 Subsection 363(5)

Repeal the subsection.

55 Section 364

Repeal the section, substitute:

364 Tribunal's power to take evidence

(1) The power (the ***evidence power***) of the Tribunal under paragraph 363(1)(a) to take evidence on oath or affirmation in a particular review may be exercised on behalf of the Tribunal by:
  (a) a member conducting the review; or
  (b) another person (whether or not a member) authorised in writing by that member.

(2) The evidence power may be exercised:
  (a) inside or outside Australia; and
  (b) subject to any limitations or requirements specified by the Tribunal.

(3) If a person other than a member conducting the review has the evidence power:
  (a) the person has, for the purpose of taking the evidence, the powers of the Tribunal under subsection 363(1) and paragraphs 363(3)(c) and (d); and

(b) this Part applies in relation to the person, for the purpose of taking the evidence in the exercise of those powers, as if the person were the Tribunal; and

(c) the person must cause a record of any evidence taken to be made and sent to the member who authorised the person to exercise the evidence power; and

(d) for the purposes of section 360, if that member receives the record of evidence, the Tribunal is taken to have given the applicant an opportunity to appear before it to give evidence.

56 Section 367 (heading)

Repeal the heading, substitute:

367 Certain bridging visa decisions—to be made within prescribed period

57 Subsection 367(1)

Omit "an MRT-reviewable decision covered by subsection 338(4)", substitute "a decision covered by subsection 338(4) (certain bridging visa decisions)".

58 Division 6 of Part 5 (heading)

Repeal the heading, substitute:

Division 6—Part 5-reviewable decisions: Tribunal decisions

59 Section 369

Repeal the section.

60 Division 7 of Part 5

Repeal the Division, substitute:

Division 7—Part 5-reviewable decisions: offences

370 Failure to comply with summons

(1) A person commits an offence if:

(a) the person is given a summons under section 363; and

(b) the person fails to comply with the summons.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(2) Subsection (1) does not apply if complying with the summons might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

371 Refusal to be sworn or to answer questions

Oath or affirmation

(1) A person commits an offence if:
(a) the person appears as a witness before the Tribunal for the purposes of a proceeding under this Part; and
(b) the person has been required under section 363 either to take an oath or to make an affirmation; and
(c) the person fails to comply with the requirement.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

Questions

(2) A person commits an offence if:
(a) the person appears as a witness before the Tribunal for the purposes of a proceeding under this Part; and
(b) the Tribunal has required the person to answer a question for the purposes of the proceeding; and
(c) the person fails to answer the question.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if answering the question might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the Criminal Code).

61 Division 8 of Part 5 (heading)

Repeal the heading, substitute:

Division 8—Part 5-reviewable decisions: miscellaneous

62 Sections 373, 374, 377 and 379

Repeal the sections.

63 Division 8A of Part 5 (heading)

Repeal the heading, substitute:

Division 8A—Part 5-reviewable decisions: giving and receiving documents

64 Section 379E

Repeal the section.

65 Subsection 379F(1)

Omit "(1)".

66 Paragraph 379F(1)(b)

Omit "section 353A", substitute "section 18B of the *Administrative Appeals Tribunal Act 1975*".

67 Subsection 379F(2)

Repeal the subsection.

68 Division 9 of Part 5

Repeal the Division.

69 Part 6

Repeal the Part.

70 Part 7 (heading)

Repeal the heading, substitute:

Part 7—Review of Part 7-reviewable decisions

71 Before section 410

Insert:

408 Simplified outline of this Part

This Part provides for the review of Part 7-reviewable decisions by the Administrative Appeals Tribunal in its Migration and Refugee Division.

Part 7-reviewable decisions relate to the grant or cancellation of protection visas in some circumstances. They do not include decisions in relation to which the Minister has given a conclusive certificate.

Part 5-reviewable decisions (which relate to the grant or cancellation of visas other than protection visas in some circumstances) are reviewable in accordance with Part 5 by the Administrative Appeals Tribunal in its Migration and Refugee Division.

Some other decisions under this Act may be reviewed by the Administrative Appeals Tribunal in its General Division, including the following:

(a) some decisions to cancel business visas;
(b) some decisions relating to migration agents;
(c) some decisions relating to deportation, protection visas and the refusal or cancellation of visas on character grounds.

409 Scope of this Part

(1) This Part applies in relation to the review by the Tribunal of Part 7-reviewable decisions (see section 411).

(2) The Tribunal's powers in relation to Part 7-reviewable decisions may be exercised by the Tribunal only in its Migration and Refugee Division.

72 Section 410 (definition of *Deputy Principal Member*)

Repeal the definition.

73 Section 410

Insert:

officer of the Tribunal has the meaning given by the *Administrative Appeals Tribunal Act 1975*.

Part 7-reviewable decision: see section 411.

74 Section 410

Repeal the following definitions:

(a) definition of ***Principal Member***;

(b) definition of ***Tribunal***.

75 At the end of section 410

Add:

Note: "Tribunal" means the Administrative Appeals Tribunal. See the definition in subsection 5(1).

76 Division 2 of Part 7 (heading)

Repeal the heading, substitute:

Division 2—Part 7-reviewable decisions

77 Section 411 (heading)

Repeal the heading, substitute:

411 Definition of *Part 7-reviewable decision*

78 Section 412 (heading)

Repeal the heading, substitute:

412 Application for review of Part 7-reviewable decisions

79 Section 413

Repeal the section.

80 Section 414 (heading)

Repeal the heading, substitute:

414 Tribunal to review Part 7-reviewable decisions

81 Section 415 (heading)

Repeal the heading, substitute:

415 Tribunal powers on review of Part 7-reviewable decisions

82 Section 416

Repeal the section, substitute:

416 Multiple review applications—consideration of information

Scope

(1) This section applies if:

(a) a non-citizen has made an application (the ***earlier application***) to a review body for review of a decision under this Part; and

(b) the earlier application has been determined by a review body; and

(c) the non-citizen makes a further application, to the Tribunal, for review of a Part 7-reviewable decision.

Review body not required to consider earlier information

(2) The Tribunal, in considering the further application:

(a) is not required to consider any information considered in the earlier application; and

(b) may have regard to, and take to be correct, any decision that a review body has made about or because of that information.

(3) In this section:

review body means:

(a) the former Refugee Review Tribunal; or

(b) the Tribunal.

Note: The Refugee Review Tribunal was abolished from 1 July 2015, and its functions transferred to the Migration and Refugee Division of the Administrative Appeals Tribunal ("the Tribunal").

83 Section 418 (heading)

Repeal the heading, substitute:

418 Tribunal to notify Secretary of application for review of Part 7-reviewable decisions

84 Subsection 418(1)

Omit "Refugee Review Tribunal", substitute "Tribunal".

85 Section 419

Repeal the section.

86 Division 3 of Part 7 (heading)

Repeal the heading, substitute:

Division 3—Part 7-reviewable decisions: Tribunal powers

87 Subsection 420(1)

Repeal the subsection.

88 Subsection 420(2)

Omit "(2)".

89 Subsection 420(2)

Omit "decision", substitute "Part 7-reviewable decision".

90 Sections 420A, 421, 422 and 422A

Repeal the sections.

91 Division 4 of Part 7 (heading)

Repeal the heading, substitute:

Division 4—Part 7-reviewable decisions: conduct of review

92 Section 423 (heading)

Repeal the heading, substitute:

423 Documents to be given to the Tribunal

93 Section 426 (heading)

Repeal the heading, substitute:

426 Applicant may request Tribunal to call witnesses

94 Section 427 (heading)

Repeal the heading, substitute:

427 Powers of the Tribunal etc.

95 Paragraph 427(3)(b)

Omit "such documents as are", substitute "the documents or things".

96 Subsection 427(5)

Repeal the subsection.

97 Section 428

Repeal the section, substitute:

428 Tribunal's power to take evidence

(1) The power (the ***evidence power*)** of the Tribunal under paragraph 427(1)(a) to take evidence on oath or affirmation in a particular review may be exercised on behalf of the Tribunal by:
  (a) a member conducting the review; or
  (b) another person (whether or not a member) authorised in writing by that member.

(2) The evidence power may be exercised:
  (a) inside or outside Australia; and
  (b) subject to any limitations or requirements specified by the Tribunal.

(3) If a person other than a member conducting the review has the evidence power:
  (a) the person has, for the purpose of taking the evidence, the powers of the Tribunal under subsection 427(1) and paragraphs 427(3)(c) and (d); and

(b) this Part applies in relation to the person, for the purpose of taking the evidence in the exercise of those powers, as if the person were the Tribunal; and

(c) the person must cause a record of any evidence taken to be made and sent to the member who authorised the person to exercise the evidence power; and

(d) for the purposes of section 425, if that member receives the record of evidence, the Tribunal is taken to have given the applicant an opportunity to appear before it to give evidence.

98 Division 5 of Part 7 (heading)

Repeal the heading, substitute:

Division 5—Part 7-reviewable decisions: Tribunal decisions

99 Section 430 (heading)

Repeal the heading, substitute:

430 Tribunal's decision and written statement

100 Section 431

Repeal the section, substitute:

431 Identifying information not to be published

The Tribunal must not publish a statement made under subsection 430(1) which may identify an applicant or any relative or other dependant of an applicant.

Note: Section 66B of the *Administrative Appeals Tribunal Act 1975* allows the Tribunal to publish decisions and the reasons for them. However, section 66B does not authorise the publication of information if its disclosure would be prohibited or restricted by another enactment (such as this) conferring jurisdiction on the Tribunal.

101 Division 6 of Part 7

Repeal the Division, substitute:

Division 6—Part 7-reviewable decisions: offences

432 Failure to comply with summons

(1) A person commits an offence if:
  (a) the Tribunal gives a summons to the person under section 427; and
  (b) the person fails to comply with the summons.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(2) Subsection (1) does not apply if complying with the summons might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

433 Refusal to be sworn or to answer questions

Oath or affirmation

(1) A person commits an offence if:
  (a) the person appears as a witness before the Tribunal for the purposes of a proceeding under this Part; and
  (b) the person has been required under section 427 either to take an oath or to make an affirmation; and
  (c) the person fails to comply with the requirement.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

Questions

(2) A person commits an offence if:
  (a) the person appears as a witness before the Tribunal for the purposes of a proceeding under this Part; and
  (b) the Tribunal has required the person to answer a question for the purposes of the proceeding; and
  (c) the person fails to answer the question.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if answering the question might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the Criminal Code).

102 Division 7 of Part 7 (heading)

Repeal the heading, substitute:

Division 7—Part 7-reviewable decisions: miscellaneous

103 Sections 435 and 436

Repeal the sections.

104 Section 438 (heading)

Repeal the heading, substitute:

438 Tribunal's discretion in relation to disclosure of certain information etc.

105 Section 439

Repeal the section.

106 Section 440 (heading)

Repeal the heading, substitute:

440 Tribunal may restrict publication or disclosure of certain matters

107 Section 441

Repeal the section.

108 Division 7A of Part 7 (heading)

Repeal the heading, substitute:

Division 7A—Review of Part 7-reviewable decisions: giving and receiving documents

109 Section 441E

Repeal the section.

110 Subsection 441F(1)

Omit "(1)".

111 Paragraph 441F(1)(b)

Omit "section 420A", substitute "section 18B of the *Administrative Appeals Tribunal Act 1975*".

112 Subsection 441F(2)

Repeal the subsection.

113 Divisions 8, 9 and 10 of Part 7

Repeal the Divisions.

114 Part 7A

Repeal the Part.

115 Subsection 474(4) (table items 17 to 22)

Repeal the items.

116 Subsection 474(4) (table item 23)

Omit "Offences", substitute "Part-5 reviewable decisions: offences".

117 Subsection 474(4) (table items 24 to 27)

Repeal the items.

118 Subsection 474(4) (table item 28)

Omit "Offences", substitute "Part-7 reviewable decisions: offences".

119 Subsection 474(4) (table items 29 and 30)

Repeal the items.

120 Paragraph 474(7)(a)

Omit ", 391, 417 or 454", substitute "or 417".

121 Paragraphs 474(7)(b) and (c)

Repeal the paragraphs.

122 Before section 475

Insert:

474A Definition of *AAT Act migration decision*

For the purposes of this Act, a decision under a provision of the *Administrative Appeals Tribunal Act 1975* set out in the following table is an ***AAT Act migration decision***, to the extent that the decision is made in relation to any of the following:

(a) a review of a particular Part-5 reviewable decision or Part-7 reviewable decision;

(b) a function of the Tribunal in relation to the exercise of its jurisdiction to review Part 5-reviewable decisions or Part 7-reviewable decisions;

(c) a Tribunal member in the Migration and Refugee Division of the Tribunal.

AAT Act migration decisions

Item	Provision of the Administrative Appeals Tribunal Act 1975	Subject matter of provision
1	section 6	Appointment of members of the Tribunal
2	section 8	Term of appointment
3	section 9	Remuneration and allowances
4	section 10	Acting appointments
5	section 10A	Delegation
6	section 11	Outside employment
7	section 12	Leave of absence
8	section 13	Termination of appointment (not Judges)
9	section 14	Disclosure of interests by members
10	section 17K	Division heads
11	section 17L	Deputy Division heads
12	section 18A	Arrangement of business
13	section 18B	President's directions—arrangement of business
14	section 19A	President's directions—constitution

AAT Act migration decisions		
Item	**Provision of the Administrative Appeals Tribunal Act 1975**	**Subject matter of provision**
15	section 19D	Reconstitution
16	section 24C	Appointment of Registrar
17	section 24N	Staff
18	section 24P	Functions of Registrar and staff
19	section 24PA	Officers of the Tribunal
20	section 42	Resolving disagreements
21	section 64	Registries

Note: An AAT Act migration decision is a ***migration decision*** (see paragraph (d) of the definition of ***migration decision*** in subsection 5(1)).

123 Subsection 476A(1) (note)

Repeal the note, substitute:

Note: An appeal in relation to any of the following migration decisions cannot be made to the Federal Court under section 44 of the *Administrative Appeals Tribunal Act 1975*:

(a) a privative clause decision;

(b) a purported privative clause decision;

(c) an AAT Act migration decision.

In addition, reference of a question of law arising in relation to a review of any of the proceedings mentioned in paragraph (a), (b) or (c) cannot be made by the Tribunal to the Federal Court under section 45 of the *Administrative Appeals Tribunal Act 1975*.

The only migration decisions in relation to which an appeal under section 44 of that Act, or a referral under section 45 of that Act, can be made to the Federal Court are non-privative clause decisions.

124 Subsection 477(3) (paragraphs (b) and (c) of the definition of *date of the migration decision*)

Repeal the paragraphs, substitute:

(b) in the case of a migration decision made by the Administrative Appeals Tribunal in the exercise of its powers under Part 5—the day the decision is taken to have been made under subsection 368(2) or 368D(1); or

(c) in the case of a migration decision made by the Administrative Appeals Tribunal in the exercise of its powers under Part 7—the day the decision is taken to have been made under subsection 430(2) or 430D(1); or

125 Section 483

Repeal the section.

126 Subsection 486D(5) (definition of *tribunal decision*)

Omit "a Tribunal", substitute "the Tribunal".

127 Subsections 500(5) and (5A)

Repeal the subsections.

128 Paragraphs 500(6)(a) and (b)

Repeal the paragraphs, substitute:

(a) the Tribunal (for example, an order under section 41 (stay orders) of the *Administrative Appeals Tribunal Act 1975*); or

129 Subsections 500(6D) and (6E)

Repeal the subsections, substitute:

(6D) If an application is made to the Tribunal for a review of a decision under section 501 that relates to a person in the migration zone:

(a) the Registrar of the Tribunal must notify the Minister that the application has been made; and

(b) paragraph 29AC(1)(b) and section 37 of the *Administrative Appeals Tribunal Act 1975* do not apply to the decision or the application.

130 Paragraph 500(6F)(c)

Omit "2 copies of every document, or part of a document,", substitute "a copy of every document".

131 After subsection 500(6F)

Insert:

(6FA) The Tribunal may direct the Minister to lodge a specified number of additional copies of a document to which paragraph (6F)(c)

applies within the period mentioned in that paragraph. The Minister must comply with the direction.

132 Paragraph 500(6K)(d)

Omit "2 copies", substitute "a copy, or the number of copies specified in the notice,".

Part 2—Multiple amendments

Division 1—References to MRT-reviewable decisions

Migration Act 1958

133 Amendments of listed provisions

Further amendments—MRT-reviewable decisions

Item	Provision	Omit	Substitute
1	Subsections 338(1), (2), (3) and (3A)	an ***MRT-reviewable decision***	a ***Part 5-reviewable decision***
2	Subsection 338(4)	***MRT-reviewable decisions***	***Part 5-reviewable decisions***
3	Subsections 338(5), (6), (7), (7A), (8) and (9)	an ***MRT-reviewable decision***	a ***Part 5-reviewable decision***
4	Subsection 347(1)	an MRT-reviewable decision	a Part 5-reviewable decision
5	Subparagraphs 347(1)(b)(i), (ii) and (iii)	MRT-reviewable decision	Part 5-reviewable decision
6	Paragraphs 347(2)(a), (b), (c) and (d)	MRT-reviewable decision	Part 5-reviewable decision
7	Subsection 347(3)	MRT-reviewable decision	Part 5-reviewable decision
8	Subsection 347(3A)	primary decision	Part 5-reviewable decision
9	Subsection 347(4)	MRT-reviewable decision	Part-5 reviewable decision
10	Subsection 347(5)	MRT-reviewable decisions	Part 5-reviewable decisions
11	Subsection 348(1)	an MRT-reviewable decision	a Part 5-reviewable decision
12	Subsection 349(1)	an MRT-reviewable decision	a Part 5-reviewable decision
13	Subsection 379F(1)	an MRT-reviewable decision	a Part 5-reviewable decision

Further amendments—MRT-reviewable decisions			
Item	**Provision**	**Omit**	**Substitute**
14	Paragraphs 379G(1)(a) and (1A)(a)	an MRT-reviewable decision	a Part 5-reviewable decision

Division 2—References to officers of the Tribunal

Migration Act 1958

134 Amendments of listed provisions

Further amendments—officers of the Tribunal			
Item	**Provision**	**Omit**	**Substitute**
1	Subsection 379AA(2)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal	member or an officer of the Tribunal
2	Paragraph 379A(1A)(b)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal	member or an officer of the Tribunal
3	Subsections 379A(2) and (3)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal	member or an officer of the Tribunal
4	Subsection 379A(4)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal,	member or an officer of the Tribunal
5	Subparagraph 379A(4)(c)(iii)	member, Registrar, Deputy Registrar or other officer	member or officer
6	Subsection 379A(5)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal,	member or an officer of the Tribunal
7	Paragraph 379A(5)(e)	member, Registrar, Deputy Registrar or other officer	member or officer
8	Subsection 379B(2)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal	member or an officer of the Tribunal
9	Subsections 379B(3) and (4)	member, the Registrar, a Deputy Registrar or another officer of the Tribunal,	member or an officer of the Tribunal

Further amendments—officers of the Tribunal			
Item	**Provision**	**Omit**	**Substitute**
10	Paragraph 379F(1)(a)	the Registrar, a Deputy Registrar or another officer of the Tribunal	an officer of the Tribunal
11	Subsection 441AA(2)	member, the Registrar or an officer of the Tribunal	member or an officer of the Tribunal
12	Paragraph 441A(1A)(b)	member, the Registrar or an officer of the Tribunal	member or an officer of the Tribunal
13	Subsections 441A(2) and (3)	member, the Registrar or an officer of the Tribunal	member or an officer of the Tribunal
14	Subsection 441A(4)	member, the Registrar or an officer of the Tribunal,	member or an officer of the Tribunal
15	Subparagraph 441A(4)(c)(iii)	member, Registrar or other officer	member or officer
16	Subsection 441A(5)	member, the Registrar or an officer of the Tribunal,	member or an officer of the Tribunal
17	Paragraph 441A(5)(e)	member, Registrar or other officer	member or officer
18	Subsection 441B(2)	member, the Registrar or an officer of the Tribunal	member or an officer of the Tribunal
19	Subsections 441B(3) and (4)	member, the Registrar or an officer of the Tribunal,	member or an officer of the Tribunal
20	Paragraph 441F(1)(a)	the Registrar or an officer of the Tribunal	an officer of the Tribunal

Division 3—References to RRT-reviewable decisions

Migration Act 1958

135 Amendments of listed provisions

Further amendments—RRT-reviewable decisions			
Item	**Provision**	**Omit**	**Substitute**
1	Paragraph 338(1)(b)	an RRT-reviewable decision	a Part 7-reviewable decision
2	Subsections 411(1) and (2)	RRT-reviewable decisions	***Part 7-reviewable decisions***
3	Subsection 412(1)	an RRT-reviewable decision	a Part 7-reviewable decision
4	Subsection 412(4)	RRT-reviewable decisions	Part 7-reviewable decisions
5	Subsection 414(1)	an RRT-reviewable decision	a Part 7-reviewable decision
6	Subsection 415(1)	an RRT-reviewable decision	a Part 7-reviewable decision
7	Subsection 427(2)	RRT-reviewable decisions	Part 7-reviewable decisions
8	Subsection 441F(1)	an RRT-reviewable decision	a Part 7-reviewable decision
9	Paragraphs 441G(1)(a) and (1A)(a)	an RRT-reviewable decision	a Part 7-reviewable decision

Part 3—Contingent amendments

Division 1—Interaction with the Migration Amendment (Protection and Other Measures) Act 2015

Migration Act 1958

136 Section 337 (definition of *decision on a review*)

Omit "an MRT-reviewable decision", substitute "a Part 5-reviewable decision".

137 Section 337 (paragraphs (a) to (d) of the definition of *decision on a review*)

Omit "MRT-reviewable decision", substitute "Part 5-reviewable decision".

138 Subsection 353B(1)

Repeal the subsection, substitute:

(1) The President of the Tribunal, or the head of the Migration and Refugee Division of the Tribunal, may, in writing, direct that a decision (the ***guidance decision***) of the Tribunal, or of the former Migration Review Tribunal, specified in the direction is to be complied with by the Tribunal in reaching a decision on a review of a Part 5-reviewable decision of a kind specified in the direction.

139 Section 410 (definition of *decision on a review*)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

140 Section 410 (paragraphs (a) to (d) of the definition of *decision on a review*)

Omit "RRT-reviewable decision", substitute "Part 7-reviewable decision".

141 Subsection 420B(1)

Repeal the subsection, substitute:

(1) The President of the Tribunal, or the head of the Migration and Refugee Division of the Tribunal, may, in writing, direct that a decision (the ***guidance decision***) of the Tribunal, or of the former Refugee Review Tribunal, specified in the direction is to be complied with by the Tribunal in reaching a decision on a review of a Part 7-reviewable decision of a kind specified in the direction.

142 Section 430D (heading)

Repeal the heading, substitute:

430D Tribunal's decision given orally

143 Subsection 477(3) (paragraphs (b) and (c) of the definition of *date of the migration decision*)

Repeal the paragraphs, substitute:

(b) in the case of a migration decision made by the Administrative Appeals Tribunal in the exercise of its powers under Part 5—the day the decision is taken to have been made under subsection 362C(3), 368(2) or 368D(1); or

(c) in the case of a migration decision made by the Administrative Appeals Tribunal in the exercise of its powers under Part 7—the day the decision is taken to have been made under subsection 426B(3), 430(2) or 430D(1); or

Migration Amendment (Protection and Other Measures) Act 2015

144 Item 7 of Schedule 4 (heading)

Repeal the heading, substitute:

7 After section 353

145 Item 22 of Schedule 4 (heading)

Repeal the heading, substitute:

7 After section 420

Division 2—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014

Administrative Appeals Tribunal Act 1975

146 Subparagraph 24N(2)(a)(ii)

Omit "and".

147 At the end of paragraph 24N(2)(a)

Add:

(iii) the Senior Reviewer and the other Reviewers of the Immigration Assessment Authority; and

Migration Act 1958

148 Section 99

After "Tribunal", insert ", or the Immigration Assessment Authority,".

149 Section 103

After "the Minister,", insert "the Immigration Assessment Authority,".

150 Subsection 261AKD(2) (paragraph (c) of the definition of *permitted provision*)

After "tribunal,", insert ", or the Immigration Assessment Authority,".

151 Subsection 271(4) (at the end of the definition of *migration proceedings*)

Add:

; or (c) proceedings in the Immigration Assessment Authority for the review of a fast-track reviewable decision.

152 Paragraph 336E(2)(f)

After "tribunal,", insert "or the Immigration Assessment Authority,".

153 At the end of section 336M

Add:

> Fast track reviewable decisions are reviewable by the Immigration Assessment Authority under Part 7AA of this Act. These are decisions to refuse protection visas to some applicants, including unauthorised maritime arrivals who entered Australia on or after 13 August 2012.

154 At the end of section 408

Add:

> Fast track reviewable decisions are reviewable by the Immigration Assessment Authority under Part 7AA of this Act. These are decisions to refuse protection visas to some applicants, including unauthorised maritime arrivals who entered Australia on or after 13 August 2012.

155 Section 414A (heading)

Repeal the heading, substitute:

414A Period within which Tribunal must review Part 7-reviewable decisions

156 Subsection 414A(1)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

157 Subsection 414A(1)

Omit "Refugee Review Tribunal" (wherever occurring), substitute "Tribunal".

158 Subsection 414A(2)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

159 Section 440A (heading)

Repeal the heading, substitute:

440A Reports about review of Part 7-reviewable decisions

160 Subsection 440A(1) (heading)

Repeal the heading, substitute:

Tribunal President must give periodic reports to Minister

161 Subsection 440A(1)

Omit "Principal Member", substitute "President of the Tribunal".

162 Subsection 440A(2) (heading)

Repeal the heading, substitute:

Tribunal President must give additional reports to Minister as required

163 Subsection 440A(2)

Omit "Principal Member" (first occurring), substitute "President of the Tribunal".

164 Subsection 440A(2)

Omit "Principal Member" (last occurring), substitute "President".

165 Subsection 440A(3)

Omit "Principal Member" (wherever occurring), substitute "President".

166 Subsection 440A(5)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

167 Subparagraphs 440A(5)(a)(ii) and (b)(i) and (ii)

Omit "Refugee Review Tribunal", substitute "Tribunal".

168 Subsection 440A(6) (note)

Omit "Refugee Review Tribunal's", substitute "Tribunal's".

169 Paragraphs 440A(7)(a) and (c)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

170 Subsections 440A(8) and (9)

Omit "Principal Member", substitute "President of the Tribunal".

171 Subsection 440A(10) (definition of *decision period*)

Omit "an RRT-reviewable decision", substitute "a Part 7-reviewable decision".

172 Section 473BA

Omit "not reviewable by any other Tribunal", substitute "not otherwise reviewable".

173 Section 473BA

Omit:

> The Immigration Assessment Authority consists of the Principal Member of the Refugee Review Tribunal, the Senior Reviewer and other Reviewers. The Principal Member is responsible for the overall administration and operation of the Immigration Assessment Authority. The Reviewers are appointed by the Minister.

substitute:

> The Immigration Assessment Authority consists of the President of the Administrative Appeals Tribunal, the head of the Migration and Refugee Division of the Tribunal, the Senior Reviewer and other Reviewers. The President and that Division head are responsible for the overall administration and operation of the Immigration Assessment Authority. The Senior Reviewer is appointed by the President or that Division head. The Senior Reviewers and other Reviewers are engaged under the *Public Service Act 1999*.

174 Section 473BB

Insert:

Division head means the head of the Migration and Refugee Division of the Tribunal.

President means the President of the Tribunal.

175 At the end of section 473BB

Add:

Note: "Tribunal" means the Administrative Appeals Tribunal. See the definition in subsection 5(1).

176 Section 473BB (definition of *Principal Member*)

Repeal the definition.

177 Subsection 473FC(1)

Omit "The Principal Member may, in writing, direct that a decision (the ***guidance decision***) of the Refugee Review Tribunal or the Immigration Assessment Authority", substitute "The President may, in writing, direct that a decision (the ***guidance decision*****)** of the Tribunal, the Immigration Assessment Authority or the former Refugee Review Tribunal".

178 Subsection 473JA(1)

Omit "Refugee Review Tribunal", substitute "Migration and Refugee Division of the Tribunal".

179 Paragraph 473JA(2)(a)

Repeal the paragraph, substitute:

(a) the President;

(aa) the Division head;

180 Subsection 473JA(3)

Omit "Principal Member,", substitute "President, the Division head,".

181 Subsection 473JB(1)

Repeal the subsection, substitute:

(1) The President and the Division head are responsible for the overall operation and administration of the Immigration Assessment Authority and, for that purpose, either of them may issue directions or determine policies.

(1A) If a power or function is conferred on the President under this Part, the power may be exercised, or the function performed, by either the President or the Division head.

Example: The Division head may exercise the President's power to make a direction under section 473FC (Guidance decisions).

182 Subsection 473JB(2)

Omit "Principal Member", substitute "President or the Division head".

183 Subsection 473JE(2)

Omit "Principal Member must make available officers of the Refugee Review Tribunal", substitute "Registrar must make available officers of the Tribunal (within the meaning of the *Administrative Appeals Tribunal Act 1975*)".

184 Section 473JF (heading)

Repeal the heading, substitute:

473JF Delegation

185 Subsection 486D(5) (paragraph (a) of the definition of *tribunal decision*)

Omit "a Tribunal", substitute "the Tribunal".

Division 3—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014: multiple amendments

Migration Act 1958

186 Amendments of listed provisions

Further amendments—Principal Member of the Refugee Review Tribunal			
Item	**Provision**	**Omit**	**Substitute**
1	Subsection 473EC(1)	Principal Member	President
2	Subsection 473FB(1)	Principal Member	President

Further amendments—Principal Member of the Refugee Review Tribunal			
Item	**Provision**	**Omit**	**Substitute**
3	Subsection 473GD(1)	Principal Member (wherever occurring)	President
4	Paragraph 473GD(2)(b)	Principal Member	President
5	Subsection 473GD(3)	Principal Member	President
6	Subsection 473GD(4)	given by the Principal Member under subsection (1)	given under subsection (1)
7	Subsections 473JB(1) and (2)	Principal Member	President
8	Subsections 473JC(1) and (2)	Principal Member	President
9	Section 473JD	Principal Member	President
10	Subsection 473JF(1)	Principal Member	President
11	Subsections 473JF(1)	Principal Member's	President's
12	Subsection 473JF(2)	Principal Member	President

Division 4—Interaction with the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014: transitional provisions

187 Transitional—performance of functions of Immigration Assessment Authority

(1) On and after the commencement of this item, the Immigration Assessment Authority (established by section 473JA of the *Migration Act 1958*) continues in existence within the Migration and Refugee Division of the Administrative Appeals Tribunal.

(2) The Immigration Assessment Authority continues in existence as constituted under section 473JA of the *Migration Act 1958* as amended by Division 2 of this Part.

(3) For the purpose of the performance of the functions of the Immigration Assessment Authority on or after the commencement of this item, anything done by or on behalf of the Immigration Assessment Authority by the Principal Member of the Refugee Review Tribunal before that

commencement is taken to have been done by or on behalf of the President of the Administrative Appeals Tribunal.

Note: Further matters of a transitional nature (including saving or application provisions) relating to the amendments made by this Act in relation to the Immigration Assessment Authority may be prescribed by regulations made under Schedule 9 to this Act.

188 Transitional—report under section 440A of the *Migration Act 1958*

(1) Section 440A of the *Migration Act 1958*, as in force immediately before 1 July 2015, applies in relation to the final reporting period as if the references in the section to the Principal Member of the former Refugee Review Tribunal were references to the President of the Administrative Appeals Tribunal.

(2) In subitem (1):

final reporting period means the period starting on 1 March 2015 and ending on 30 June 2015.

Note: Further matters of a transitional nature (including saving or application provisions) relating to the amendments made by this Act in relation to the Immigration Assessment Authority may be prescribed by regulations made under Schedule 9 to this Act.

Division 5—Interaction with the Migration Amendment (Character and General Visa Cancellation) Act 2014

Migration Act 1958

189 Subsection 133A(1)

Omit "the Migration Review Tribunal, the Refugee Review Tribunal, the Administrative Appeals Tribunal", substitute "the Administrative Appeals Tribunal or the former Migration Review Tribunal or former Refugee Review Tribunal,".

190 Paragraph 133A(5)(c)

Omit "the Migration Review Tribunal, the Refugee Review Tribunal, the Administrative Appeals Tribunal", substitute "the Administrative Appeals Tribunal or the former Migration Review Tribunal or former Refugee Review Tribunal,".

191 Subsection 133C(1)

Omit "the Migration Review Tribunal, the Refugee Review Tribunal, the Administrative Appeals Tribunal", substitute "the Administrative Appeals Tribunal or the former Migration Review Tribunal or former Refugee Review Tribunal,".

192 Paragraph 133C(5)(c)

Omit "the Migration Review Tribunal, the Refugee Review Tribunal, the Administrative Appeals Tribunal", substitute "the Administrative Appeals Tribunal or the former Migration Review Tribunal or former Refugee Review Tribunal,".

Division 6—Interaction with the Migration Amendment (Regaining Control Over Australia's Protection Obligations) Act 2015

Migration Amendment (Regaining Control Over Australia's Protection Obligations) Act 2015

193 Item 21 of Schedule 1 (heading)

Repeal the heading, substitute:

21 Transitional—review of protection visa decisions

194 Subitem 21(2) of Schedule 1

Omit "an RRT-reviewable decision", substitute "reviewable under Part 7 of that Act".

Schedule 3—Social security amendments

Social Security Act 1991

1 Section 22

Repeal the section.

2 Subsection 23(1) (definition of *AAT*)

Repeal the definition, substitute:

AAT means the Administrative Appeals Tribunal.

3 Subsection 23(1) (definition of *AAT Act*)

Repeal the definition, substitute:

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

4 Subsection 23(1)

Insert:

AAT first review has the same meaning as in the Administration Act.

AAT second review has the same meaning as in the Administration Act.

4A Subsection 23(1) (paragraphs (a) and (b) of the definition of *Secretary*)

Omit "Division 4 of Part 4", substitute "Subdivision D of Division 2 of Part 4A".

5 Subsection 23(1) (definition of *SSAT*)

Repeal the definition.

6 Subsections 27(2) and (4)

Omit ", the SSAT" (wherever occurring).

7 Paragraph 1184L(2)(a)

Omit "is made, under section 142 of the Administration Act, to the Social Security Appeals Tribunal for a review", substitute "referred to in section 142 of the Administration Act is made for AAT first review".

8 Paragraph 1223AB(a)

Omit "to the Administrative Appeals Tribunal for", substitute "for AAT second".

9 Paragraph 1223AB(b)

Repeal the paragraph, substitute:

(b) the AAT makes an order under subsection 41(2) of the AAT Act; and

10 Section 1223AB (note)

Repeal the note.

Social Security (Administration) Act 1999

11 Paragraph 8(f)

Omit "and the Social Security Appeals Tribunal".

12 Section 9

Repeal the section.

13 Subsection 10(1)

Repeal the subsection.

14 Paragraph 124E(2)(d)

Omit "Part 4", substitute "Parts 4 and 4A".

15 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Internal review of decisions

16 Paragraph 126(2)(b)

Repeal the paragraph, substitute:

(b) even if an application has been made to the AAT for review of the decision.

17 Section 128 (heading)

Repeal the heading, substitute:

128 Notice to AAT Registrar

18 Subsection 128(1)

Repeal the subsection.

19 Subsection 128(2)

Repeal the subsection, substitute:

If the Secretary makes a review decision under section 126 to vary or substitute a decision after a person has applied to the AAT for a review in relation to the decision, the Secretary must give written notice of the Secretary's review decision to the Registrar of the AAT.

20 Subsection 135(3)

Omit "182", substitute "181".

21 Paragraphs 137(1)(f) and (3)(f)

Omit ", the Social Security Appeals Tribunal or the Administrative Appeals Tribunal", substitute "or the AAT".

22 Paragraph 138(1)(a)

Omit ", apply to the Social Security Appeals Tribunal", substitute "and the AAT Act, apply to the AAT".

23 Subparagraph 138(1)(b)(iii)

Omit "based; and", substitute "based.".

24 Paragraph 138(1)(c)

Repeal the paragraph.

25 Subsection 138(3)

Repeal the subsection, substitute:

(3) Paragraph (1)(a) does not apply in relation to a decision that is not reviewable by the AAT (see section 144).

26 Division 3 of Part 4 (heading)

Repeal the heading, substitute:

Part 4A—Review by the AAT

27 Subdivision A of Division 3 of Part 4

Repeal the Subdivision.

28 Subdivision B of Division 3 of Part 4 (heading)

Repeal the heading, substitute:

Division 1—Preliminary

29 Before section 140

Insert:

139 Simplified outline of this Part

If a person is dissatisfied with a decision of an officer under the social security law, the person may apply to the AAT for a review (an "AAT first review") of the decision.

If a person is dissatisfied with a decision of the AAT on AAT first review, the person may apply to the AAT for further review (an "AAT second review").

The rules relating to AAT review of decisions are mainly in the AAT Act, but the operation of that Act is modified in some ways by this Part for the purposes of those reviews.

The AAT Act allows a person to appeal to a court from a decision of the AAT on AAT second review.

Division 2—AAT first review

Subdivision A—Preliminary

30 Subsection 140(1)

Repeal the subsection, substitute:

(1) This Division applies to the review by the AAT of a decision of an officer under the social security law, including an employment pathway plan decision and a section 525B decision.

Note: A review for which an application may be made in accordance with this Division is an ***AAT first review*** (see section 142).

31 Section 141

Repeal the section, substitute:

140A Definitions of *employment pathway plan decision* and *section 525B decision*

In this Act:

employment pathway plan decision means any of the following:

(a) a decision under section 501A of the 1991 Act, to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force;

(b) a decision under section 544B of the 1991 Act, to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force;

(c) a decision under section 606 of the 1991 Act, to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force;

(d) a decision under section 731M of the 1991 Act, to the extent to which it relates to the terms of a Special Benefit Employment Pathway Plan that is in force.

section 525B decision means a decision under section 525B of the 1991 Act (as previously in force), to the extent to which it related to the terms of a Job Search Activity Agreement that was previously in force.

32 Before section 142

Insert:

Subdivision B—AAT first review: applications

33 Section 142 (heading)

Repeal the heading, substitute:

142 Reviewable decisions

34 Subsections 142(1) and (2)

Repeal the subsections, substitute:

(1) Subject to section 144, application may be made to the AAT for review (***AAT first review***) of:

(a) a decision of the Secretary, the Chief Executive Centrelink or an authorised review officer made under section 126 or 135; or

(b) a decision under this Act made personally by the Secretary or the Chief Executive Centrelink.

35 Subsection 142(5)

Repeal the subsection.

35A After section 142

Insert:

142A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to:

(a) the Secretary; and

(b) if the decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*) as a delegate of the Secretary or the Employment Secretary—the Chief Executive Centrelink.

36 Section 143

Repeal the section, substitute:

143 Application requirement—employment pathway plan decisions

The AAT may only carry out an AAT first review of an employment pathway plan decision if the application for AAT first review is expressed to be for that decision.

37 Section 144

Omit "SSAT", substitute "AAT".

38 Paragraph 145(1)(c)

Omit "to the SSAT under subsection 142(1) or (2) for review", substitute "for AAT first review".

39 Subparagraph 145(4)(b)(i)

Before "review", insert "AAT first".

40 Subparagraph 145(4)(b)(ii)

Repeal the subparagraph, substitute:

(ii) if the AAT makes a decision on AAT first review of the adverse decision—at the end of the period of 13 weeks beginning on the day the AAT's decision is made, or on an earlier day specified by the Secretary; or

41 After subsection 145(5)

Insert:

(5A) If a declaration under subsection (1) is in force in relation to a decision for which an application for AAT first review has been made, the President of the AAT must take reasonable steps to ensure the decision is reviewed as quickly as possible.

42 After section 146

Insert:

Subdivision C—AAT first review: relationship with AAT Act

147 Application and modification of AAT Act

For the purposes of AAT first review under this Division, a provision of the AAT Act listed in an item of the following table is disapplied or modified as set out in that item, in relation to the decision or matter under this Act set out in that item.

Application and modification of AAT Act

Item	Decision or matter	Provision of AAT Act	Application or modification of provision of AAT Act
1	A decision to which this Division applies	Paragraph 29(1)(d) (time limit for lodging review application)	The paragraph does not apply
2	A decision to which this Division applies	Subsections 35(1) and (2) (public and private hearings)	The subsections do not apply
3	A decision to which this Division applies	Section 40A (power to summon person to give evidence or produce documents)	The section does not apply
4	A decision to which this Division applies	Subsection 41(2) (operation and implementation of decision subject to review)	The subsection does not apply
5	A decision to which this Division applies, other than an employment pathway plan decision or a section 525B decision	Subsection 43(1) (AAT's decision on review)	The subsection does not apply in relation to a power or discretion conferred by the social security law on the Secretary under the following provisions: (a) a provision dealing with the form and place of lodgement of a claim; (b) a provision dealing with the manner of payment of a social security payment;

Application and modification of AAT Act			
Item	**Decision or matter**	**Provision of AAT Act**	**Application or modification of provision of AAT Act**
			(c) section 1061ZZGC of the 1991 Act; (d) section 1233 of the 1991 Act; (e) a provision dealing with the giving of a notice requiring information; (f) section 1100 of the 1991 Act; (g) section 131 or 145 of this Act; (h) a provision dealing with the imposition of requirements before the grant of a social security payment; (i) a provision dealing with the deduction of amounts from payments of a social security payment for tax purposes
6	An employment pathway plan decision or a section 525B decision	Subsection 43(1) (AAT's decision on review)	The subsection has effect as if the following were omitted: (a) the words "may exercise all the powers and discretions that are conferred by any relevant enactment on the person who made the decision and"; (b) paragraph (b); (c) subparagraph (c)(i)
7	A decision to which this Division applies	Subsections 43(2) and (2A) (AAT must give reasons for its decision)	The subsections do not apply
8	Date of effect of decision on AAT first review, other than an AAT decision in	Subsection 43(6) (AAT's decision taken to be decision of decision-maker)	The subsection has effect as if the decision under review had taken effect on the day a person applied for AAT first review of the decision, if:

Application and modification of AAT Act			
Item	**Decision or matter**	**Provision of AAT Act**	**Application or modification of provision of AAT Act**
	relation to an employment pathway plan decision		(a) the person is given written notice of the decision under the social security law; and (b) the person applies for AAT first review more than 13 weeks after the notice was given; and (c) on AAT first review, the AAT varies the decision or sets the decision aside and substitutes a new decision; and (d) the effect of the AAT's decision is: (i) to grant the person's claim for a social security payment or a concession card; or (ii) to direct the making of a payment of a social security payment to the person or the issue of a concession card to the person, as the case may be; or (iii) to increase the rate of the person's social security payment

Subdivision D—AAT first review: other matters

148 Procedure on receipt of application for AAT first review

(1) The AAT may, in relation to an application for AAT first review, request the Secretary to lodge with the AAT the statement and other documents referred to in subsection 37(1) of the AAT Act before the end of the period that otherwise applies under that subsection.

(2) If the AAT does so, the Secretary must take reasonable steps to comply with the request.

(3) Nothing in this section prevents the operation of subsection 37(1A) of the AAT Act.

43 Sections 149 to 156

Repeal the sections.

44 Division 4 of Part 4 (heading)

Repeal the heading.

45 Subdivisions A, B and BA of Division 4 of Part 4

Repeal the Subdivisions.

46 Subdivision BB of Division 4 of Part 4 (heading)

Repeal the heading.

47 Section 164

Repeal the section.

48 Subsection 165(1)

Repeal the subsection, substitute:

(1) The AAT may ask the Secretary to provide the AAT with any information or document in the Secretary's possession that is relevant to an AAT first review of a decision.

49 Sections 165A to 165C

Repeal the sections, substitute:

165A Power to obtain information or documents

(1) If the AAT reasonably believes that a person has information or a document that is relevant to an AAT first review, the AAT may, by written notice given to a person, require the person:

(a) to give to the AAT, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the AAT, within the period and in the manner specified in the notice, any such documents.

(2) A person commits an offence if:

(a) the AAT gives the person a notice under subsection (1); and

(b) the person fails to comply with the notice.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if complying with the notice might tend to incriminate the person.

Note: See item 3 of the table in section 147.

50 Subsection 166(1)

Repeal the subsection, substitute:

(1) The AAT may ask the Secretary to exercise the Secretary's powers under section 192 if the AAT is satisfied that a person has information, or has custody or control of a document, that is relevant to an AAT first review of a decision.

51 Subdivision BC of Division 4 of Part 4

Repeal the Subdivision.

52 Subdivision C of Division 4 of Part 4 (heading)

Repeal the heading.

53 Section 167

Repeal the section.

54 Subsection 168(1)

Omit "a review", substitute "an AAT first review".

55 Subsection 168(2)

Repeal the subsection, substitute:

(2) The AAT may give directions, in writing or otherwise, as to the persons who may be present at the hearing.

56 Subsection 168(3)

Omit "Principal Member", substitute "AAT".

57 At the end of section 168

Add:

Note: See item 2 of the table in section 147.

58 Subdivision D of Division 4 of Part 4 (heading)

Repeal the heading.

59 Sections 170 to 175

Repeal the sections.

60 Subsection 176(1)

Omit "a review", substitute "an AAT first review".

61 Subsection 176(2)

Omit "SSAT", substitute "AAT".

62 Subsection 176(3)

Omit "a review", substitute "the review".

63 Subsections 176(3) and (4)

Omit "SSAT" (wherever occurring), substitute "AAT".

64 After section 176

Insert:

177 Assessment of rate of social security payment

If, on AAT first review, the AAT sets aside a decision (other than an employment pathway plan decision) and substitutes for it a decision that a person is entitled to a social security payment, the AAT must:

(a) assess the rate at which the social security payment is to be paid to the person; or

(b) ask one of the following persons to assess the rate at which the social security payment is to be paid:

(i) for a decision in relation to a pension bonus or pension bonus bereavement payment—the Secretary;

(ii) for other decisions—the Secretary or the Chief Executive Centrelink, as the case requires.

178 Notification of decisions and reasons for AAT first review

(1) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act to affirm the decision under review, the AAT must, within 14 days of making its decision:

(a) give a written notice to the parties that sets out the decision; and

(b) either:

(i) give reasons for the decision orally to the parties and explain that they may request a written statement of reasons; or

(ii) give the parties a written statement of reasons for the decision.

(2) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act that is other than to affirm the decision under review, the AAT must, within 14 days of making its decision:

(a) give a written notice to the parties that sets out the decision; and

(b) give the parties a written statement of reasons for the decision.

(3) A failure to comply with subsection (1) or (2) does not affect the validity of the decision.

(4) A party to whom oral reasons are given may, within 14 days after the oral reasons are given, request a written statement of reasons for the decision. If the party does so, the AAT must give the party the statement requested within 14 days after receiving the request.

65 Subdivisions E, F and G of Division 4 of Part 4

Repeal the Subdivisions.

66 Division 5 of Part 4

Repeal the Division, substitute:

Division 3—AAT second review

Subdivision A—AAT second review: applications

179 Application for AAT second review

(1) Application may be made to the AAT for review (***AAT second review***) of a decision of the AAT on AAT first review made under subsection 43(1) of the AAT Act.

(2) For the purposes of subsection (1), the decision of the AAT on AAT first review is taken to be:

(a) if an AAT first review affirms a decision—that decision as affirmed; or

(b) if an AAT first review varies a decision—that decision as varied; or

(c) if an AAT first review sets a decision aside and substitutes a new decision—the new decision; or

(d) if an AAT first review sets a decision aside and sends the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the AAT—the directions or recommendations of the AAT.

Subdivision B—AAT second review: relationship with AAT Act

180 Application and modification of AAT Act

For the purposes of AAT second review under this Division, a provision of the AAT Act listed in an item of the following table is disapplied or modified as set out in that item.

Application and modification of AAT Act

Item	Provision of AAT Act	Modification of provision of AAT Act
1	Paragraph 29AC(1)(b) (notice of application)	The paragraph has effect as if the reference to the person who made the decision were a reference to each party to the relevant AAT first review, other than the applicant for AAT second review.
2	Paragraph 30(1)(b)	The paragraph has effect as if the reference

Application and modification of AAT Act		
Item	**Provision of AAT Act**	**Modification of provision of AAT Act**
	(parties to proceeding)	to the person who made the decision were a reference to each party to the relevant AAT first review, other than the applicant for AAT second review.
3	Section 41 (operation and implementation of decision subject to review)	The section has effect as if references to the decision to which the relevant proceeding relates were references to: (a) if, on AAT first review, the AAT affirmed the decision (the ***original decision***) the subject of that review—the original decision; and (b) otherwise—both the original decision and whichever of the following is applicable in relation to the AAT first review: (i) the original decision as varied by the AAT; (ii) the decision substituted by the AAT; (iii) the decision made as a result of reconsideration by the Secretary in accordance with any directions or recommendations of the AAT
4	Subsection 41(4) (submissions on stay of decision)	The subsection has effect as if the references to the person who made the decision were references to each party to the relevant AAT first review
5	Subsection 42A(2) (dismissal of review application for failure to appear)	The subsection has effect as if the reference to the person who made the decision were a reference to the Secretary.

Division 4—Matters relating to AAT first review and AAT second review

181 Settlement of proceedings before the AAT

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the AAT that relate to the recovery of a debt.

(2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision the subject of the proceedings is taken to have been dismissed.

182 Variation or substitution of decision before AAT review determined

(1) If an officer varies or substitutes a decision after an application has been made to the AAT for AAT first review of the decision, the application is taken to be an application for review of the decision as varied or substituted.

(2) If an officer varies or substitutes a decision after an application has been made for AAT second review in relation to the decision:

(a) the AAT is taken, on AAT first review, to have varied or substituted the decision under review in the way the officer did; and

(b) the application is taken to be an application for AAT second review of the decision as varied or substituted.

(3) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

183 Secretary or AAT may treat event as having occurred

(1) If:

(a) on AAT first review of a decision, the AAT sets the decision aside; and

(b) the Secretary or the AAT, as the case may be, is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary or the AAT may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of the social security law.

(2) If:

(a) on AAT second review of a decision, the AAT sets the decision aside; and

(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of the social security law.

67 Sections 253 and 254

Repeal the sections.

68 Subclause 1(1) of Schedule 1

Insert:

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

AAT first review has the meaning given by section 142.

AAT second review has the meaning given by section 179.

employment pathway plan decision: see section 140A.

69 Subclause 1(1) of Schedule 1 (definition of *Principal Member*)

Repeal the definition (including the note).

70 Subclause 1(1) of Schedule 1

Insert:

section 525B decision: see section 140A.

71 Subclause 1(1) of Schedule 1 (definition of *SSAT*)

Repeal the definition (including the note).

72 Schedules 3 and 4

Repeal the Schedules.

Schedule 4—Child support amendments

Child Support (Assessment) Act 1989

1 Subsection 5(1)

Insert:

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

2 Paragraph 33(4)(b)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

3 Subparagraph 34(2)(b)(ii)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

4 Paragraph 44(6)(b)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

5 Subsection 54L(1)

Omit "subsections (2) and (3)", substitute "subsection (2)".

6 Subsections 54L(2) and (3)

Repeal the subsections, substitute:

(2) If:

(a) the AAT reviews a decision on application referred to in section 111 or 128 of the Family Assistance Administration Act; and

(b) the review involves (wholly or partly) a review of a determination that:

(i) was made under a provision of Subdivision D of Division 1 of Part 3 of the Family Assistance Act; or

(ii) has effect, under section 35T of that Act, as if it were a determination made under such a provision; and

(c) the decision on review has the effect of varying or substituting the determination;

section 54K of this Act applies as if the determination as varied or substituted were the family assistance care determination referred to in that section.

7 Paragraphs 63AB(2)(b), 63AD(5)(b), 63AE(3)(b), 64AB(3)(b), 64AH(3)(b) and 66C(2)(b)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

8 Subsection 70(1)

Repeal the subsection, substitute:

(1) The production of a notice of administrative assessment, or of a document signed by the Registrar that appears to be a copy of a notice of administrative assessment, is prima facie evidence:

(a) of the proper making of the administrative assessment; and

(b) except in proceedings to which subsection (1A) applies—that all the particulars of the notice of administrative assessment are correct.

(1A) For the purposes of paragraph (1)(b), this subsection applies to any of the following proceedings relating to the administrative assessment:

(a) an AAT first review or AAT second review for the purposes of the Registration and Collection Act;

(b) an appeal under Part IVA of the AAT Act in relation to such a review.

9 Section 72

Repeal the section, substitute:

72 Validity of assessments

Except in an AAT first review or AAT second review within the meaning of the Registration and Collection Act, or an appeal under Part IVA of the AAT Act in relation to such a review, the validity of an assessment is not affected because any of the provisions of this Act have not been complied with.

10 Paragraph 75(3)(c)

Repeal the paragraph, substitute:

(c) proceedings against or in relation to the administrative assessment are pending in the AAT or in a court having jurisdiction under this Act, the Registration and Collection Act or the AAT Act.

11 Paragraph 75(4)(f)

Repeal the paragraph, substitute:

(f) giving effect to a decision or order of the AAT or of a court having jurisdiction under this Act, the Registration and Collection Act or the AAT Act.

12 Subparagraph 76(3)(a)(ii)

Omit "subject to that Act), to apply to the SSAT", substitute "subject to that Act and the AAT Act), to apply to the AAT".

13 Paragraph 76(3)(b)

Repeal the paragraph.

14 Paragraphs 80G(4)(b) and 96(2)(b)

Omit "subject to that Act), to apply to the SSAT", substitute "subject to that Act and the AAT Act), to apply to the AAT".

15 Section 98E

Repeal the section, substitute:

98E Registrar may refuse to make determination because issues too complex

If the Registrar is satisfied, after considering the application, that the issues raised by the application are too complex to be dealt with under this Part, the Registrar may refuse to make the determination without taking any further action under this Part.

16 Paragraph 98JA(2)(b)

Repeal the paragraph, substitute:

(b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the

objection), the party may apply, subject to the Registration and Collection Act and the AAT Act, to the AAT for review of the later decision.

17 Section 98R

Repeal the section, substitute:

98R Registrar may refuse to make determination because issues too complex

If the Registrar is satisfied, after considering the information before him or her and the representations (if any), that the issues involved are too complex to be dealt with under this Part, the Registrar may decide not to make the determination without taking any further action under this Part.

18 Paragraph 98RA(2)(b)

Repeal the paragraph, substitute:

(b) that if the party is aggrieved by a later decision on an objection to the original decision (no matter who lodges the objection), the party may apply, subject to the Registration and Collection Act and the AAT Act, to the AAT for review of the later decision.

19 Paragraphs 116(1)(a), (aa) and (ab)

Repeal the paragraphs.

20 Paragraph 139(2A)(e)

Repeal the paragraph, substitute:

(e) in any other case—at the time when a decision that the applicant was not entitled to administrative assessment of child support becomes final, being a decision of the AAT or a court under the AAT Act or on appeal from such a decision of a court.

21 Paragraph 139(2B)(b)

Repeal the paragraph, substitute:

(b) to the AAT for an AAT first review within the meaning of the Registration and Collection Act;

22 Subsection 139(2B) (note)

Omit "SSAT become final, see subsection 110W(1)", substitute "AAT become final, see section 110W".

23 Paragraph 146B(5)(c)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

24 Subsection 146C(4)

Repeal the subsection, substitute:

(4) The liable parent and the carer entitled to child support are not entitled:

(a) to make an application to the AAT for AAT first review within the meaning of the Registration and Collection Act; or

(b) to make an application to a court under section 116;

in respect of the making of, or refusal to make, a determination under Part 6A in accordance with subsection (2) or (3).

25 Paragraphs 146E(6)(b) and 151C(5)(b)

Omit "subject to that Act, apply to the SSAT", substitute "subject to that Act and the AAT Act, apply to the AAT".

Child Support (Registration and Collection) Act 1988

26 Subsection 4(1)

Insert:

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

AAT first review has the meaning given by section 89.

AAT second review has the meaning given by section 96A.

27 Subsection 4(1) (paragraph (a) of the definition of *final*)

Repeal the paragraph, substitute:

(a) in relation to a decision of the AAT—has the meaning given by subsections 110W(1) and (1A); and

28 Subsection 4(1)

Repeal the following definitions:

(a) definition of ***SSAT***;

(b) definition of ***SSAT member***;

(c) definition of ***SSAT Principal Member***.

29 Subsection 7(3)

Omit ", the SSAT" (wherever occurring).

30 Paragraph 16(2AA)(a)

Omit "the SSAT from communicating the reasons for a decision of the SSAT under Part VIIA", substitute "the AAT from communicating the reasons for a decision of the AAT".

31 Paragraph 16(2AA)(b)

Repeal the paragraph, substitute:

(b) the Secretary from communicating the reasons for a decision of the AAT to a person authorised by the Secretary; or

(c) the Human Services Secretary from communicating the reasons for a decision of the AAT to a person authorised by the Human Services Secretary.

32 Subsection 16(2AB)

Omit "Secretary, or a person authorised by the Secretary or the Human Services Secretary, or a person authorised by the Human Services Secretary, from publishing in written or electronic form the reasons for a decision of the SSAT under Part VIIA", substitute "AAT from publishing in written or electronic form the reasons for a decision of the AAT on AAT first review or AAT second review".

33 Subsection 16(2AC)

Omit "the SSAT under Part VIIA", substitute "the AAT".

34 Subsection 16(3A)

Omit "an SSAT member", substitute "a member of the AAT".

35 Paragraphs 42C(4)(b), 54(4)(b), 68(3)(b) and 71E(3)(b)

Omit "this Act, apply to the SSAT", substitute "this Act and the AAT Act, apply to the AAT".

36 Section 79B (heading)

Repeal the heading, substitute:

79B Suspension determination—pending AAT and court reviews

37 Paragraph 79B(1)(a)

Omit "(whether under Part VII, VIIA or VIII)", substitute "(whether under this Act or the AAT Act)".

38 Paragraph 79B(1)(b)

Repeal the paragraph, substitute:

(b) a proceeding has been brought by the payer under Part IVA of the AAT Act (appeal to court on a question of law) in relation to the payee's entitlement to administrative assessment of child support for the child and the proceeding is pending.

39 Subparagraph 79B(3)(b)(i)

Omit "SSAT", substitute "AAT".

40 Section 79D

Repeal the section, substitute:

79D Simplified outline of this Part

Certain persons can object under this Part to certain decisions of the Registrar under the Assessment Act and this Act.

If a person objects to a decision, the Registrar is required to reconsider the decision under this Part.

If a person is dissatisfied with the reconsideration, he or she can apply to the AAT for review of the decision (an "AAT first review").

41 Section 79E

Omit "SSAT under Part VIIA", substitute "AAT".

42 Paragraph 83(4)(b)

Omit "subject to this Act, to the SSAT", substitute "subject to this Act and the AAT Act, to the AAT".

43 Paragraph 87(3)(b)

Repeal the paragraph, substitute:

(b) a statement to the effect that if the person is aggrieved by the decision on the objection, the person may, subject to this Act and the AAT Act, apply to the AAT for review of the decision.

44 Paragraph 87AA(4)(b)

Omit "this Act, to the SSAT", substitute "this Act and the AAT Act, to the AAT".

45 Part VIIA (heading)

Repeal the heading, substitute:

Part VIIA—Review by Administrative Appeals Tribunal

46 Section 87A

Repeal the section, substitute:

87A Simplified outline of this Part

Certain decisions made by the Registrar on reconsideration under Part VII are reviewable by the AAT. A person may apply to the AAT for review of such a decision (an "AAT first review").

The person may apply to the AAT for a further review (an "AAT second review") if the person is dissatisfied with any of the following decisions of the AAT:

(a) a decision to refuse an extension of time for a person to make an application for AAT first review;

(b) a decision on AAT first review of a care percentage decision;

(c) a decision in relation to the date of effect of a decision on AAT first review of a care percentage decision.

The rules relating to reviews by the AAT are mainly in the AAT Act, but the operation of that Act is modified in some ways by this Part.

The AAT Act allows a person to appeal to a court on a question of law from a decision of the AAT.

47 Section 88

Repeal the section.

48 Division 2 of Part VIIA (heading)

Repeal the heading, substitute:

Division 2—Application for AAT first review

49 Subdivision A of Division 2 of Part VIIA (heading)

Repeal the heading.

50 Section 89 (heading)

Repeal the heading, substitute:

89 Application for AAT first review

51 Subsection 89(1)

Omit "(1) A person may apply to the SSAT for review", substitute "An application may be made to the AAT for review (***AAT first review***)".

52 Subsection 89(2)

Repeal the subsection.

53 Subdivision B of Division 2 of Part VIIA (heading)

Repeal the heading.

54 Sections 90 and 91

Repeal the sections, substitute:

90 Time limit on application for AAT first review

(1) Paragraph 29(1)(d) of the AAT Act does not apply in relation to an application for AAT first review of a care percentage decision.

Note: Paragraph 29(1)(d) of the AAT Act generally requires an application for review of a decision to be made within a 28 day period of the person being given a copy of the decision.

(2) Despite paragraph 29(1)(d) of the AAT Act, if a person is a resident of a reciprocating jurisdiction, an application for AAT first review of a decision (other than a care percentage decision) must be made within the period of 90 days starting on:

(a) if the decision is set out in item 1 or 2 of the table in section 89—the day the relevant notice under subsection 83(3) or 87(2) is served on the person; or

(b) otherwise—the day the relevant notice under subsection 87AA(3), 110Y(4) or 110Z(4) is given to the person.

91 Application for extension of time to apply for AAT first review

(1) If the period for applying for AAT first review has ended, a person may make an application for AAT first review that includes a written application (the ***extension application***) requesting the AAT to consider the application for AAT first review despite the ending of the period.

(2) The extension application must state the reasons for the person's failure to apply for the review within the period.

(3) Subsections 29(7) to (10) of the AAT Act do not apply in relation to extensions of time for the making of applications for AAT first review.

55 Section 92 (heading)

Repeal the heading, substitute:

92 Consideration of application for extension of time to apply for AAT first review

56 Subsection 92(1)

Omit "If a person applies to the SSAT under section 91 in relation to an application for review, the SSAT Principal Member must", substitute "If a person makes an extension application under section 91 in relation to an application for AAT first review, the AAT must".

57 Paragraph 92(1)(b)

Omit "SSAT", substitute "AAT".

58 Paragraph 92(1)(c)

Omit "application for review under this Part", substitute "application for AAT first review".

59 Subsections 92(1A) and (3)

Omit "SSAT Principal Member", substitute "AAT".

60 Subsection 92(4)

Repeal the subsection, substitute:

(4) If the AAT refuses the extension application, the notice under subsection (3) must include, or be accompanied by, a statement to the effect that the person may, subject to this Act and the AAT Act, apply to the AAT for review of the decision.

Note: See paragraph 96A(a). The review is an AAT second review.

61 Subsections 92(6) to (8)

Repeal the subsections, substitute:

(6) If an extension application under section 91 is granted, the applicant is, for the purposes of this Act and the AAT Act, taken to have validly made the application for AAT first review in which the extension application was included.

62 Section 93

Repeal the section, substitute:

93 Certain procedures suspended for AAT first review until extension application granted

(1) Section 29AC of the AAT Act does not apply in relation to an application for AAT first review for which an extension application has been made under section 91, unless the AAT or a court decides the extension application is to be granted.

(2) If the AAT requests the Registrar to lodge with the AAT, in relation to the application for AAT first review, the statement or other documents referred to in subsection 37(1) of the AAT Act, the Registrar must do so within 28 days after receiving the request.

63 Subdivisions C, D and E of Division 2 of Part VIIA

Repeal the Subdivisions.

64 Divisions 3 to 6 of Part VIIA

Repeal the Divisions, substitute:

Division 3—Other matters relating to AAT first review

95A Operation and implementation of decision under AAT first review

Subsection 41(2) of the AAT Act does not apply in relation to an application for AAT first review.

95B Variation of original decision after application is made for AAT first review

(1) If the Registrar varies or substitutes a decision after an application has been made for AAT first review of the decision, the application is taken to be an application for AAT first review of the decision as varied or substituted.

(2) The Registrar must give written notice of the variation or substitution to the Registrar of the AAT.

(3) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

95C Procedure on receipt of application for AAT first review

(1) The AAT may, in relation to an application for AAT first review, request the Registrar to lodge with the AAT the statement and other documents referred to in subsection 37(1) of the AAT Act before the end of the period that otherwise applies under that subsection.

(2) If the AAT does so, the Registrar must take reasonable steps to comply with the request.

(3) Nothing in this section prevents the operation of subsection 37(1A) of the AAT Act.

95D Parties to AAT first review

The parties to an AAT first review of a decision include, in addition to the parties referred to in subsection 30(1) of the AAT Act, any other person who, under section 89 of this Act, is a person who may apply for review of the decision.

95E Powers of AAT for purposes of AAT first review

Despite subsection 43(1) of the AAT Act, the AAT must not, for the purposes of an AAT first review, exercise a power or discretion conferred on the Registrar by a prescribed provision of this Act or the Assessment Act.

95F AAT summons power for AAT first review

Section 40A of the AAT Act does not apply in relation to an AAT first review.

95G Provision of further information by Registrar for AAT first review

(1) The AAT may request the Registrar to provide the AAT with information or a document that the Registrar has and that is relevant to an AAT first review.

(2) The Registrar must comply with the request as soon as practicable and no later than 14 days after the request is made.

(3) If the request specifies a number of copies of a requested document, the Registrar must provide the AAT with that number of copies of the document.

95H Power to obtain information for AAT first review

(1) If the AAT reasonably believes that a person has information or a document that is relevant to an AAT first review, the AAT may, by written notice given to the person, require the person:

(a) to give to the AAT, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the AAT, within the period and in the manner specified in the notice, any such documents; or

(c) to attend before the AAT, at the time and place specified in the notice, and answer questions.

(2) A person commits an offence if:

(a) the AAT gives the person a notice under subsection (1); and

(b) the person fails to comply with the notice.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if complying with the notice might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

95J AAT may require Registrar to obtain information for AAT first review

(1) If the AAT is satisfied that a person has information, or custody or control of a document, that is relevant to an AAT first review, the AAT may, for the purposes of the review, request the Registrar to exercise the Registrar's powers under section 161 of the Assessment Act or section 120 of this Act.

Note: A person who fails to comply with a notice given by the Registrar under section 161 of the Assessment Act or section 120 of this Act commits an offence under that section.

(2) The Registrar must comply with the request as soon as practicable and no later than 7 days after the request is made.

95K Hearing of AAT first review in private

(1) The hearing of an AAT first review must be in private.

(2) The AAT may give directions, in writing or otherwise, as to the persons who may be present at any hearing of an AAT first review.

(3) In giving directions, the AAT must have regard to the wishes of the parties and the need to protect their privacy.

(4) Subsections 35(1) and (2) of the AAT Act do not apply in relation to the hearing of an AAT first review.

95L Non-disclosure orders in relation to AAT first review

(1) If the Registrar applies to the AAT for a direction under subsection 35(3) or (4) of the AAT Act (order for non-publication or non-disclosure) in relation to an application for AAT first review, the Registrar is not required to give a copy of the Registrar's application to any party to the application for AAT first review.

(2) Subsection (1) applies despite subparagraph 37(1AF)(b)(ii) of the AAT Act.

95M Decision on AAT first review of care percentage decision

If:

(a) the AAT has reviewed a decision on application referred to in section 111 or 128 of the Family Assistance Administration Act; and

(b) that review involved (wholly or partly) a review of a determination to which a care percentage decision relates;

the AAT must not, on AAT first review of the care percentage decision, vary or substitute the decision in a way that would have the effect of varying or substituting the determination referred to in paragraph (b).

95N Date of effect of AAT first review decision relating to care percentage decision

(1) If:

(a) on AAT first review, the AAT varies or substitutes a decision on an objection to a care percentage decision; and

(b) the application for AAT first review was made more than 28 days, or, if the applicant is a resident of a reciprocating jurisdiction, 90 days, after notice of the decision was given;

then, despite subsection 43(6) of the AAT Act, the decision as varied or substituted by the AAT has or is taken to have had effect on and from the day the application for AAT first review was made.

(2) If the AAT is satisfied that there are special circumstances that prevented the application for AAT first review being made within the period referred to in paragraph (1)(b), the AAT may determine that subsection (1) applies as if:

(a) for an applicant who is a resident of a reciprocating jurisdiction—the reference to 90 days in that paragraph were a reference to such longer period as the AAT determines to be appropriate; or

(b) otherwise—the reference to 28 days in that paragraph were a reference to such longer period as the AAT determines to be appropriate.

(3) The AAT must give written notice of a decision to make, or not to make, a determination under subsection (2) in relation to a person, to each person affected by the decision.

Note: The AAT's decision about the determination is reviewable (see paragraph 96A(c)). The review is an AAT second review.

95P Notification of decisions and reasons for AAT first review

(1) Within 14 days after making a decision under subsection 43(1) of the AAT Act on an AAT first review, the AAT must:

(a) give a written notice to the parties that sets out the decision; and

(b) either:

(i) give reasons for the decision orally to the parties and explain that they may request a written statement of reasons; or

(ii) give the parties a written statement of reasons for the decision.

(2) A failure to comply with subsection (1) does not affect the validity of the decision.

(3) A party to whom oral reasons are given may, within 14 days after the oral reasons are given, request a written statement of reasons for the decision. If the party does so, the AAT must give the party the statement requested within 14 days after receiving the request.

(4) Subsections 43(2) and (2A) of the AAT Act do not apply in relation to an AAT first review. However, any written statement of reasons given must comply with subsection 43(2B) of that Act.

95Q Directions in relation to AAT first reviews

(1) The President of the AAT may, by legislative instrument, give directions in relation to the conduct of AAT first reviews or any other matter referred to in section 18B of the AAT Act so far as it relates to AAT first reviews.

(2) A direction must not be inconsistent with a provision of this Act or the Assessment Act.

(3) This section does not limit the President's powers to give directions under the AAT Act in relation to AAT first reviews.

Division 4—Application for AAT second review

96A Application for AAT second review

An application may be made to the AAT for review (***AAT second review***) of the following decisions of the AAT:

(a) a decision under section 92 to refuse an extension application;

(b) a decision under subsection 43(1) of the AAT Act on AAT first review of a care percentage decision;

(c) a decision under subsection 95N(2) to make, or not to make, a determination.

96B Notice of application for AAT second review

Extension application

(1) The AAT Act applies in relation to an application referred to in paragraph 96A(a) as if the reference in paragraph 29AC(1)(b) of the AAT Act to the person who made the decision were a reference to the Registrar within the meaning of this Act.

Care percentage decision

(2) The AAT Act applies in relation to an application referred to in paragraph 96A(b) or (c) as if the reference in paragraph 29AC(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the relevant AAT first review, other than the applicant for AAT second review.

Division 5—Other matters relating to AAT second review

97A Parties to AAT second review

Extension application

(1) The AAT Act applies in relation to an application referred to in paragraph 96A(a) as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to the Registrar within the meaning of this Act.

Care percentage decision

(2) The AAT Act applies in relation to an application referred to in paragraph 96A(b) or (c) as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the relevant AAT first review, other than the applicant for AAT second review.

97B Operation and implementation of decisions subject to AAT second review

(1) The AAT Act applies in relation to an application for AAT second review of a decision referred to in paragraph 96A(b) as if the

reference in subsection 41(2) of the AAT Act to the decision to which the relevant proceeding relates were a reference to:

(a) if, on AAT first review, the AAT affirmed the original decision—the original decision; and

(b) otherwise—both the original decision and whichever of the following is applicable in relation to the AAT first review:

(i) the original decision as varied by the AAT;

(ii) the decision substituted by the AAT;

(iii) the decision made as a result of reconsideration by the Registrar (within the meaning of this Act) in accordance with any directions or recommendations of the AAT.

(2) For the purposes of subsection (1), the original decision is the decision that was the subject of the AAT first review.

(3) The AAT Act applies in relation to an application for AAT second review of a decision referred to in paragraph 96A(b) as if references in subsections 41(4) and (5) of the AAT Act to the person who made the decision to which the relevant proceeding relates were references to each party to the relevant AAT first review.

97C Variation of original decision after application is made for AAT second review

(1) If the Registrar varies or substitutes a decision after an application referred to in paragraph 96A(b) has been made for AAT second review in relation to the decision:

(a) the AAT is taken, on AAT first review, to have varied or substituted the decision in the way the Registrar did; and

(b) the application is taken to be an application for AAT second review of the decision as varied or substituted.

(2) The Registrar must give written notice of the variation or substitution to the Registrar of the AAT.

(3) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

97D Failure of party to appear at AAT second review

The AAT Act applies in relation to an application for AAT second review as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Registrar within the meaning of this Act.

97E Decision on AAT second review of care percentage decision

If:

(a) the AAT has reviewed a decision on application referred to in section 128 of the Family Assistance Administration Act; and

(b) that review involved (wholly or partly) a review of a determination to which a care percentage decision relates;

then, despite subsection 43(1) of the AAT Act, the AAT must not, on AAT second review of the care percentage decision, vary or substitute the decision in a way that would have the effect of varying or substituting the determination referred to in paragraph (b).

Division 6—Matters relating to both AAT first review and AAT second review

98A Evidence of children in AAT first reviews and AAT second reviews

A child aged under 18 is not to give oral testimony for the purposes of an AAT first review or AAT second review of a decision that relates to the child if:

(a) he or she is the child of a party; or

(b) a party is a non-parent carer of the child.

98B Orders restricting disclosure of information relating to AAT first reviews and AAT second reviews

(1) To avoid doubt, an order made under subsection 35(3) or (4) of the AAT Act in relation to an AAT first review or AAT second review may only prohibit or restrict the publication or other disclosure of information that has been disclosed for the purposes of that review.

(2) An order made under subsection 35(3) or (4) of the AAT Act in relation to an AAT first review or AAT second review does not apply in relation to information the person knew before it was disclosed to the person for the purposes of the review.

Note: It is an offence to contravene an order under subsection 35(3) or (4) of the AAT Act (see section 62C of that Act). A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

98C Orders restricting secondary disclosure of information relating to AAT first reviews and AAT second reviews

(1) This section applies if an order (the ***primary order***) made under subsection 35(3) or (4) of the AAT Act in relation to an AAT first review or AAT second review prohibits a person from disclosing information specified in the order, except to any of the following (an ***authorised recipient***):

(a) a specified person;

(b) a member of a specified class.

(2) The AAT may, by order, give directions prohibiting or restricting an authorised recipient from disclosing the information specified in the primary order.

(3) A person commits an offence if:

(a) an order is made under subsection (2) in relation to the person; and

(b) the person fails to comply with the order.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(4) Subsection (3) does not apply in relation to information the person knew before it was disclosed to the person in accordance with the primary order.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

98D Parties to court proceedings in relation to AAT first review or AAT second review

If a party to an AAT first review or AAT second review appeals under Part IVA of the AAT Act to a court on a question of law

from a decision of the Tribunal in relation to the review, the parties to the proceeding in the court are the parties to the review.

65 Section 103ZB

Repeal the section, substitute:

> Jurisdiction under this Act is conferred on certain federal and State courts.
>
> However, appeals on questions of law from decisions of the AAT are dealt with under the AAT Act.

66 Division 3 of Part VIII

Repeal the Division.

67 Section 110N

Repeal the section, substitute:

110N Simplified outline

> The reconsideration of a decision of the Registrar, the AAT or a court does not affect the operation of the decision or prevent the taking of any action to implement the decision.
>
> Once a decision becomes final, the Registrar must implement the decision.
>
> A person might commit an offence if the person publishes an account of a proceeding, or a list of proceedings, in the AAT for AAT first review or AAT second review, or in a court in relation to such a review, that identifies persons involved in the proceedings.
>
> The date of effect of reviews of decisions made under the Family Assistance Administration Act that apply for child support purposes is dealt with in Division 6.

68 Subsection 110P(2)

Repeal the subsection, substitute:

(2) This Division is subject to the following provisions (which authorise the making of stay orders):

(a) section 111C of this Act;

(b) section 41 of the AAT Act;

(c) section 44A of the AAT Act, including that section as it applies because of paragraph 44AAA(2)(b) of the AAT Act.

69 Paragraphs 110Q(b) and (c)

Repeal the paragraphs, substitute:

(b) an application to the AAT for AAT first review of that objection or AAT second review of a decision on that AAT first review;

(c) an appeal to a court from such a review under Part IVA of the AAT Act;

70 Section 110V

Omit "SSAT", substitute "AAT".

71 Subsection 110W(1)

Repeal the subsection, substitute:

AAT decisions for which there is no further AAT review

(1) For the purposes of the Assessment Act and this Act, if:

(a) a decision is a decision of the AAT on AAT first review or AAT second review; and

(b) for a decision on AAT first review—no application may be made for AAT second review of the decision; and

(c) an appeal may be made to a court in relation to the decision under the AAT Act; and

(d) an appeal is not made within the period for doing so;

the decision becomes ***final*** at the end of that period.

AAT decisions for which AAT second review is available

(1A) For the purposes of the Assessment Act and this Act, if:

(a) a decision is a decision of the AAT on AAT first review; and

(b) an application may be made for AAT second review of the decision; and

(c) an application is not made within the period for doing so;

the decision becomes ***final*** at the end of that period.

72 Subparagraph 110W(4)(b)(ii)

Omit "SSAT under Part VIIA of this Act", substitute "AAT".

73 Subparagraph 110W(4)(b)(iii)

Omit "Subdivision B of Division 3 of Part VIII of this Act", substitute "Part IVA of the AAT Act".

74 Paragraph 110X(1)(a)

Omit "proceedings, or of any part of any proceedings, under Part VIIA or Division 3 of Part VIII", substitute "designated review proceedings".

75 Subparagraph 110X(3)(a)(ii)

Omit "SSAT", substitute "AAT".

76 Paragraph 110X(3)(a)

Omit "proceedings under Part VIIA or Division 3 of Part VIII", substitute "designated review proceedings".

77 Paragraph 110X(4)(e)

Repeal the paragraph, substitute:

(e) the publication by the AAT of lists of designated review proceedings, identified by reference to the names of the parties, that are to be dealt with by the AAT; or

78 Subsection 110X(7)

Insert:

designated review proceedings means proceedings:

(a) in the AAT for AAT first review or AAT second review; or

(b) in a court under Part IVA of the AAT Act in relation to such a review.

79 Division 5 of Part VIIIA

Repeal the Division.

80 Paragraph 110Y(5)(b)

Omit "subject to this Act, to the SSAT", substitute "subject to this Act and the AAT Act, to the AAT".

81 Section 110Z (heading)

Repeal the heading, substitute:

110Z Date of effect of AAT first reviews under the Family Assistance Administration Act that apply for child support purposes

82 Paragraph 110Z(1)(a)

Repeal the paragraph, substitute:

(a) a person makes an application for AAT first review (within the meaning of the Family Assistance Administration Act) of a decision (the ***original decision***); and

83 Paragraph 110Z(5)(b)

Omit "this Act, to the SSAT", substitute "this Act and the AAT Act, to the AAT".

84 Section 111A

Repeal the section, substitute:

111A Simplified outline of this Part

A court exercising jurisdiction under this Act has broad powers.

A court may make an order staying or otherwise affecting the operation of the Assessment Act or this Act. Such an order may be made under this Act except in relation to decisions subject to AAT second review, for which the AAT Act makes provision.

A court must send the Registrar a copy of an order it makes under this Act.

The Registrar may intervene in proceedings.

There are specific provisions relating to a proceeding brought by a payee of a registered maintenance liability under section 113A.

A court order might cease to be in effect because a terminating event happens.

85 Paragraph 111C(1)(c)

Repeal the paragraph, substitute:

(c) before the AAT for an AAT first review; or

86 Subparagraph 111C(5)(b)(ii)

Omit "SSAT", substitute "AAT".

87 Subsection 116(1A)

Omit "proceedings under Part VII or VIIA, or under Subdivision B of Division 3 of Part VIII,", substitute "proceedings under Part VII, in the AAT for an AAT first review or AAT second review or in a court under Part IVA of the AAT Act in relation to such a review,".

88 Subsection 116(1B)

Omit "proceedings under Part VII or VIIA, or under Subdivision B of Division 3 of Part VIII,", substitute "proceedings under Part VII, in the AAT for an AAT first review or AAT second review or in a court under Part IVA of the AAT Act in relation to such a review,".

Schedule 5—Family assistance amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 35U(1)

Omit "subsections (2) and (3)", substitute "subsection (2)".

2 Subsections 35U(2) and (3)

Repeal the subsections, substitute:

(2) If:

(a) the AAT has reviewed a decision on application referred to in section 89 or paragraph 96A(b) of the *Child Support (Registration and Collection) Act 1988*; and

(b) the review involves (wholly or partly) a review of a determination that:

(i) was made under a provision of Subdivision B of Division 4 of Part 5 of the *Child Support (Assessment) Act 1989*; or

(ii) has effect, under section 54K of that Act, as if it were a determination made under such a provision; and

(c) the decision on review has the effect of varying or substituting the determination;

section 35T of this Act applies as if the determination as varied or substituted were the child support care determination referred to in that section.

A New Tax System (Family Assistance) (Administration) Act 1999

3 Subsection 3(1)

Insert:

AAT first review has the meaning given by section 111.

AAT second review has the meaning given by section 128.

AAT single review has the meaning given by section 138.

4 Subsection 3(1)

Repeal the following definitions:

(a) definition of ***Principal Member***;

(b) definition of ***SSAT***;

(c) definition of ***SSAT member***.

5 Paragraph 73(a)

Omit "under section 142 for review", substitute "for AAT second review".

6 Subsection 105(2)

Repeal the subsection, substitute:

Secretary may review decision even if application has been made to the AAT

(2) The Secretary may review the original decision even if an application has been made to the AAT for review in relation to the decision.

7 Subsection 106(6)

Repeal the subsection, substitute:

(6) If the Secretary makes a review decision under section 105 to vary or substitute a decision after a person has applied to the AAT for a review in relation to the decision, the Secretary must give written notice of the Secretary's review decision to the Registrar of the AAT.

8 Subsection 109A(4)

Omit "SSAT" (wherever occurring), substitute "AAT".

9 Subsection 109D(6) (paragraph (c) of the definition of *excepted decision*)

Omit "a decision of a kind mentioned in subsection 144(1)", substitute "of a kind mentioned in subsection 138(4)".

10 Section 109DA

Omit "subsection 144(1)", substitute "subsection 138(4)".

11 Paragraph 109H(1)(a)

Omit "subject to this Part, apply to the SSAT", substitute "subject to this Part and the AAT Act, apply to the AAT".

12 Subparagraph 109H(1)(b)(iii)

Omit "based; and", substitute "based.".

13 Paragraph 109H(1)(c)

Repeal the paragraph.

14 Division 2 of Part 5 (heading)

Repeal the heading, substitute:

Division 2—Review by Administrative Appeals Tribunal

15 Section 110

Repeal the section, substitute:

Subdivision A—Simplified outline of this Division

110 Simplified outline of this Division

If a person is dissatisfied with a decision of a decision reviewer under Division 1, the person may apply to the AAT for review of the decision (an "AAT first review") (certain decisions are excepted).

If a person is dissatisfied with a decision of the AAT on AAT first review, the person may apply to the AAT for further review (an "AAT second review").

Certain decisions may only be reviewed once by the AAT (an "AAT single review").

The rules relating to reviews by the AAT are mainly in the AAT Act, but the operation of that Act is modified in some ways by this Division.

The AAT Act allows a person to appeal to a court on a question of law from a decision of the AAT on AAT second review or AAT single review.

Subdivision B—Application for AAT first review

16 Section 111 (heading)

Repeal the heading, substitute:

111 Application for AAT first review

17 Subsection 111(1)

Omit "a person affected by the decision may apply to the Social Security Appeals Tribunal for review", substitute "application may be made to the AAT for review (***AAT first review***)".

18 Subsection 111(1) (note)

Omit "under this section".

19 Subsection 111(1A)

Omit "a person whose interests are affected by the decision may apply to the SSAT for review", substitute "application may be made to the AAT for review (also ***AAT first review***)".

20 Paragraph 111(2)(c)

Omit "112", substitute "113".

21 Paragraph 111(2)(e)

Omit "section 146", substitute "section 137 or 141".

22 Sections 111A to 118

Repeal the sections, substitute:

111A Time limit for application for AAT first review

13 week time limit for decisions other than excepted decisions

(1) Subject to subsection (2), an application for AAT first review of a decision, other than a decision excepted under subsection (5), must

be made no later than 13 weeks after the person is notified of the decision.

(2) The AAT may, if it determines that there are special circumstances that prevented the person from making an application for AAT first review of a decision of the kind referred to in subsection (1) within the 13 weeks mentioned in subsection (1), permit a person to make the application after the end of that period and within such further period as the AAT determines to be appropriate.

(3) Subsections (1) and (2) apply despite paragraph 29(1)(d) and subsections 29(7) to (10) of the AAT Act.

No time limit for excepted decisions

(4) Paragraph 29(1)(d) of the AAT Act does not apply in relation to an application for AAT first review of a decision that is excepted under subsection (5).

Excepted decisions

(5) A decision is excepted under this subsection if the decision:
  (a) relates to the payment to a person of family tax benefit by instalment; or
  (b) relates to the raising of a debt under Division 2 of Part 4.

Subdivision C—Other matters relating to AAT first review

21A Before section 112

Insert:

111B Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to the Secretary.

112 Operation and implementation of decision under AAT first review

Subsection 41(2) of the AAT Act does not apply in relation to an application for AAT first review.

113 Secretary may continue certain matters pending outcome of application for AAT first review

(1) If:

(a) an adverse family assistance decision referred to in paragraph (a) or (b) of the definition of ***adverse family assistance decision*** in subsection (5) is made; and

(b) the adverse decision depends on the exercise of a discretion, or the holding of an opinion, by a person; and

(c) a person makes an application for AAT first review of the adverse decision;

the Secretary may declare that entitlement to the family assistance is to continue, pending the determination of the review, as if the adverse decision had not been made.

(2) If:

(a) an adverse family assistance decision referred to in paragraph (c), (d) or (e) of the definition of ***adverse family assistance decision*** in subsection (5) is made; and

(b) the adverse decision depends on the exercise of a discretion, or the holding of an opinion, by a person; and

(c) a person makes an application for AAT first review of the adverse decision;

the Secretary may declare:

(d) in the case of an adverse family assistance decision referred to in paragraph (c) of the definition in subsection (5)—that the conditional eligibility to which the decision relates is to continue as if the adverse decision had not been made; and

(e) in the case of an adverse family assistance decision referred to in paragraph (d) of the definition in subsection (5)—that the limit or percentage to which the decision relates is to continue as if the adverse decision had not been made; and

(f) in the case of an adverse family assistance decision referred to in paragraph (e) of the definition in subsection (5)—that the eligibility for the special grandparent rate to which the decision relates is to continue as if the adverse decision had not been made.

(3) While the declaration is in force in relation to the adverse decision, this Act (other than this Part) applies as if the adverse decision had not been made.

(4) The declaration:

(a) starts to have effect on the day it is made or on the earlier day (if any) specified in the declaration; and

(b) stops having effect if:

(i) the AAT dismisses the application for AAT first review of the adverse decision; or

(ii) the AAT determines the AAT first review of the adverse decision; or

(iii) the Secretary revokes the declaration.

(5) In this section:

adverse family assistance decision, in relation to a person, means any decision having the effect that:

(a) the person ceases to be entitled to family assistance; or

(b) the person's entitlement to family assistance is reduced; or

(c) the person ceases to be conditionally eligible for child care benefit by fee reduction; or

(d) the weekly limit of hours, the CCB % or the schooling % applicable to the person is reduced; or

(e) the person ceases to be eligible for the special grandparent rate for a child.

114 Arrangements for AAT first review if section 113 declaration in force

If a declaration under section 113 is in force in relation to a decision for which an application for AAT first review has been made, the President of the AAT must take reasonable steps to ensure that the decision is reviewed as quickly as possible.

115 Variation of original decision after application is made for AAT first review

(1) If an officer varies or substitutes a decision after an application has been made for AAT first review of the decision, the application is

taken to be an application for AAT first review of the decision as varied or substituted.

(2) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

116 Procedure on receipt of application for AAT first review

(1) The AAT may, in relation to an application for AAT first review, request the Secretary to lodge with the AAT the statement and other documents referred to in subsection 37(1) of the AAT Act before the end of the period that otherwise applies under that subsection.

(2) If the AAT does so, the Secretary must take reasonable steps to comply with the request.

(3) Nothing in this section prevents the operation of subsection 37(1A) of the AAT Act.

116A Parties to AAT first review

The parties to an AAT first review of a care percentage decision include, in addition to the parties referred to in subsection 30(1) of the AAT Act, each person who is a responsible person (within the meaning of the *Child Support (Assessment) Act 1989*) for the child to whom the decision relates.

117 AAT summons power for AAT first reviews

Section 40A of the AAT Act does not apply in relation to an AAT first review.

118 Provision of further information by Secretary for AAT first reviews

(1) The AAT may request the Secretary to provide the AAT with information or a document that the Secretary has and that is relevant to an AAT first review.

(2) The Secretary must comply with the request as soon as practicable and no later than 14 days after the request is made.

119 Power to obtain information for AAT first reviews

(1) If the AAT reasonably believes that a person has information or a document that is relevant to an AAT first review, the AAT may, by written notice given to the person, require the person:

(a) to give to the AAT, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the AAT, within the period and in the manner specified in the notice, any such documents.

(2) A person commits an offence if:

(a) the AAT gives the person a notice under subsection (1); and

(b) the person fails to comply with the notice.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if complying with the notice might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

120 AAT may require Secretary to obtain information for AAT first review

(1) If the AAT is satisfied that a person has information, or custody or control of a document, that is relevant to an AAT first review, the AAT may, for the purposes of the review, request the Secretary to exercise the Secretary's powers under section 154.

(2) The Secretary must comply with the request as soon as practicable and no later than 7 days after the request is made.

121 Hearing of AAT first review in private

(1) The hearing of an AAT first review must be in private.

(2) The AAT may give directions, in writing or otherwise, as to the persons who may be present at any hearing of an AAT first review.

(3) In giving directions, the AAT must have regard to the wishes of the parties and the need to protect their privacy.

(4) Subsections 35(1) and (2) of the AAT Act do not apply in relation to the hearing of an AAT first review.

122 Costs of AAT first review

(1) Subject to subsection (4), a party to an AAT first review must bear any expenses incurred by the party in connection with the review.

(2) The AAT may determine that the Commonwealth is to pay the reasonable costs that are:
  (a) incurred by a party for travel and accommodation in connection with an AAT first review; and
  (b) specified in the determination.

(3) If the AAT arranges for the provision of a medical service in relation to a party to an AAT first review, the AAT may determine that the Commonwealth is to pay the costs of the provision of the service.

(4) If the AAT makes a determination under subsection (2) or (3), the costs to which the determination relates are payable by the Commonwealth.

123 Decision on AAT first review of care percentage decision

If:
  (a) the AAT has reviewed a decision on application referred to in section 89 or paragraph 96A(b) of the *Child Support (Registration and Collection) Act 1988*; and
  (b) that review involved (wholly or partly) a review of a determination to which a care percentage decision relates;

then, despite subsection 43(1) of the AAT Act, the AAT must not, on AAT first review of the care percentage decision, vary or substitute the decision in a way that would have the effect of varying or substituting the determination referred to in paragraph (b).

124 Certain other decisions on AAT first review

(1) If, on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act and substitutes for it a decision that a person is entitled to have a payment made under this Act, the AAT must:

(a) assess the amount of the payment; or

(b) ask the Secretary to assess the amount of the payment.

(2) If, on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act and substitutes for it a decision that a person is conditionally eligible for child care benefit by fee reduction, the AAT must:

(a) ask the Secretary to determine the weekly limit of hours, CCB % and schooling % applicable to the person; and

(b) if the limit or percentage affects the amount of the entitlement of the person—assess that amount.

(3) If, on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act and substitutes for it a decision that the weekly limit of hours, the CCB % or the schooling % applicable to a person is to be increased, the AAT must:

(a) determine what the limit or percentage is to be; or

(b) ask the Secretary to assess the limit or percentage.

125 Date of effect of certain AAT first review decisions relating to payment of family tax benefit

(1) If:

(a) a person makes an application for AAT first review of a decision (the ***original decision***) relating to the payment to a person of family tax benefit by instalment; and

(b) the application is made more than 13 weeks after the person was given notice of the original decision; and

(c) the AAT makes a decision under subsection 43(1) of the AAT Act to vary or substitute the original decision; and

(d) the decision of the AAT will have the effect of creating or increasing an entitlement to be paid family tax benefit by instalment;

then, despite subsection 43(6) of the AAT Act, the date of effect of the decision of the AAT is:

(e) unless paragraph (f) applies—the date that would give full effect to the decision of the AAT; or

(f) if the date referred to in paragraph (e) is earlier than the first day of the income year before the income year in which the application to the AAT for review was made—that first day.

(2) The AAT may, if satisfied that there are special circumstances that prevented the applicant from making an application within 13 weeks, determine that subsection (1) applies as if the reference to 13 weeks were a reference to such longer period as the AAT determines to be appropriate.

126 Notification of decisions and reasons for AAT first review

(1) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act to affirm the decision under review, the AAT must, within 14 days of making the decision:

(a) give a written notice to the parties that sets out the decision; and

(b) either:

(i) give reasons for the decision orally to the parties and explain that they may request a written statement of reasons; or

(ii) give the parties a written statement of reasons for the decision.

(2) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act that is other than to affirm the decision under review, the AAT must, within 14 days of making the decision:

(a) give a written notice to the parties that sets out the decision; and

(b) give the parties a written statement of reasons for the decision.

(3) A failure to comply with subsection (1) or (2) does not affect the validity of the decision.

(4) A party to whom oral reasons are given may, within 14 days after the oral reasons are given, request a written statement of reasons for the decision. If the party does so, the AAT must give the party the statement requested within 14 days after receiving the request.

(5) Subsections 43(2) and (2A) of the AAT Act do not apply in relation to an AAT first review. However, any written statement of reasons given must comply with subsection 43(2B) of that Act.

127 Secretary or AAT may treat event as having occurred if decision set aside on AAT first review

If:

(a) on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act; and

(b) the Secretary or the AAT, as the case may be, is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary or the AAT may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of the family assistance law.

23 Divisions 3 and 4 of Part 5

Repeal the Divisions, substitute:

Subdivision D—Application for AAT second review

128 Application for AAT second review

(1) Application may be made to the AAT for review (***AAT second review***) of a decision made by the AAT under subsection 43(1) of the AAT Act on AAT first review.

(2) For the purposes of subsection (1), the decision on AAT first review is taken to be:

(a) if the AAT affirmed a decision—the decision as affirmed; and

(b) if the AAT varied a decision—the decision as varied; and

(c) if the AAT set a decision aside and substituted a new decision—the new decision; and

(d) if the AAT set a decision aside and sent the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the AAT—the directions or recommendations of the AAT.

129 Notice of application for AAT second review

The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in paragraph 29AC(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the relevant AAT first review, other than the applicant for AAT second review.

Subdivision E—Other matters relating to AAT second review

130 Parties to AAT second review

The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each party to the relevant AAT first review, other than the applicant for AAT second review.

131 Operation and implementation of decision subject to AAT second review

(1) The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in subsection 41(2) of the AAT Act to the decision to which the relevant proceeding relates were a reference to:

(a) if, on AAT first review, the AAT affirmed the original decision—the original decision; and

(b) otherwise—both the original decision and whichever of the following is applicable in relation to the AAT first review:

(i) the original decision as varied by the AAT;

(ii) the decision substituted by the AAT;

(iii) the decision made as a result of reconsideration by the Secretary in accordance with any directions or recommendations of the AAT.

(2) For the purposes of subsection (1), the original decision is the decision that was the subject of the AAT first review.

(3) The AAT Act applies in relation to an application for AAT second review of a decision as if references in subsections 41(4) and (5) of the AAT Act to the person who made the decision to which the relevant proceeding relates were references to each party to the relevant AAT first review.

132 Variation of original decision after application is made for AAT second review

(1) If an officer varies or substitutes a decision after an application has been made for AAT second review in relation to the decision:

(a) the AAT is taken, on AAT first review, to have varied or substituted the decision under review in the way the officer did; and

(b) the application is taken to be an application for AAT second review of the decision as varied or substituted.

(2) If the person who made the application does not want a review of the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

133 Failure of party to appear at AAT second review

The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Secretary.

134 Decision on AAT second review of care percentage decision

If:

(a) the AAT has reviewed a decision on application referred to in paragraph 96A(b) of the *Child Support (Registration and Collection) Act 1988*; and

(b) that review involved (wholly or partly) a review of a determination to which a care percentage decision relates;

then, despite subsection 43(1) of the AAT Act, the AAT must not, on AAT second review of the care percentage decision, vary or substitute the decision in a way that would have the effect of varying or substituting the determination referred to in paragraph (b).

135 Secretary may treat event as having occurred if decision set aside on AAT second review

If:

(a) on AAT second review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act; and

(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of the family assistance law.

Subdivision F—Matters relating to both AAT first review and AAT second review

136 Notice by Secretary of certain AAT decisions on AAT first review or AAT second review

(1) This section applies if:

(a) the AAT makes a decision on AAT first review or AAT second review in respect of an individual claiming child care benefit by fee reduction for care provided by an approved child care service to a child; and

(b) the decision on review is to vary, or set aside and substitute a new decision for one of the following decisions:

(i) a determination of conditional eligibility;

(ii) a weekly limit of hours, CCB % or schooling % applicable to the individual;

(iii) a determination whether the individual is eligible for the special grandparent rate for the child;

(iv) a determination of rate under subsection 81(2) or (3) of the Family Assistance Act; and

(c) on the day that the AAT decision is made:

(i) the service is still providing care to the child; and

(ii) a determination of conditional eligibility is still in force in respect of the individual with effect that the individual is conditionally eligible.

(2) The Secretary:

(a) must give notice of an AAT decision mentioned in subparagraph (1)(b)(iv) to the service; and

(b) must state in the notice the effect of the decision; and

(c) may give the notice by making it available to the service using an electronic interface.

(3) The Secretary may make the notice of an AAT decision mentioned in paragraph (1)(b) (other than subparagraph (1)(b)(iv)) available to the service, including by making the notice available to the service using an electronic interface.

137 Settlement of proceedings before the AAT

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the AAT if the proceedings are an AAT first review or AAT second review and they relate to the recovery of a debt.

(2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision the subject of the proceedings is taken to have been dismissed.

Subdivision G—AAT single review

138 Applications for AAT single review

Decisions of Secretary or authorised review officer

(1) If:

(a) a decision of the kind mentioned in subsection (4) has been reviewed under section 109A; and

(b) the decision has been affirmed, varied or set aside and substituted by the Secretary or authorised review officer under subsection 109A(2);

applications may be made to the AAT for review (***AAT single review***) of the decision of the Secretary or an authorised review officer.

(2) For the purposes of subsection (1), the decision of the Secretary or authorised review officer is taken to be:

(a) if the Secretary or authorised review officer affirmed a decision—that decision as affirmed; or

(b) if the Secretary or authorised review officer varied a decision—that decision as varied; or

(c) if the Secretary or authorised review officer set aside a decision and substituted a new decision—the new decision.

Decisions made personally by agency heads

(3) Applications may also be made to the AAT for review (also an ***AAT single review***) of a decision of the kind mentioned in subsection (4) made by:

(a) the Secretary personally; or

(b) another agency head personally in the exercise of a delegated power; or

(c) the Chief Executive Centrelink in the exercise of a delegated power; or

(d) the Chief Executive Medicare in the exercise of a delegated power.

Kinds of decisions

(4) For the purposes of subsections (1) and (3), the following are the kinds of decisions:

(a) a decision under section 195 not to approve a child care service for the purposes of the family assistance law or to approve the service from a particular day;

(b) a decision under subsection 199(2) to impose another condition for the continued approval of an approved child care service;

(c) a decision under subsection 200(1) to do one or more of the things mentioned in paragraphs (a) to (h) of that subsection in relation to an approved child care service;

(d) a decision under subsection 200(3) to revoke the suspension of the approval of an approved child care service from a particular day;

(e) a decision under subsection 201A(1) to suspend the approval of an approved child care service from a particular day;

(f) a decision under subsection 201A(3) to revoke the suspension of the approval of an approved child care service from a particular day;

(g) a decision under subsection 202(2) not to cancel an approved child care service's approval;

(h) a decision under subsection 202(3) to cancel an approved child care service's approval;

(i) a decision under subsection 202(4) to cancel an approved child care service's approval, but only if the service made submissions under paragraph 203(1)(e) in relation to the cancellation;

(j) a decision under paragraph 205(3)(a) not to exempt a specified child care service from a specified eligibility rule;

(k) a decision under section 207 to:

(i) refuse to allocate any child care places to an approved child care service; or

(ii) refuse to allocate the number of child care places an approved child care service has applied for under that section;

unless the decision is based on guidelines of the Minister of the kind mentioned in paragraph 206(c);

(l) a decision under section 207A to reduce the number of child care places allocated to an approved child care service;

(m) a decision under subsection 210(1) not to approve an individual as a registered carer for the purposes of the family assistance law;

(n) a decision under subsection 212(1) as to when the approval of an applicant as a registered carer is taken to have come into force;

(o) a decision under subsection 212(3) as to when the approval of an applicant as a registered carer is taken not to have been in force;

(p) a decision under subsection 213(2) to impose another condition for the continued approval of an individual as a registered carer;

(q) a decision under subsection 214(1) to do one or more of the things mentioned in paragraphs (a) to (d) of that subsection in relation to a registered carer;

(r) a decision under subsection 216(3) to cancel a registered carer's approval;

(s) a decision under subsection 219TSQ(1) to suspend an approved child care service's approval;

(t) a decision under subsection 219TSQ(3) to revoke the suspension of the approval of an approved child care service from a particular day;

(u) a decision under subsection 57(1) of the Family Assistance Act.

139 Variation of decision after application is made for AAT single review

(1) If an officer varies or substitutes a decision after an application has been made to the AAT for AAT single review of the decision, the application is taken to be an application for AAT single review of the decision as varied or substituted.

(2) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

140 Secretary may treat event as having occurred if decision to set aside on AAT single review

If:

(a) on AAT single review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act; and

(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of the family assistance law.

141 Settlement of proceedings before the AAT

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the AAT if the proceedings are an AAT single review and they relate to the recovery of a debt.

(2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision the subject of the proceedings is taken to have been dismissed.

24 Paragraphs 152A(a) and 152B(a)

Omit "142", substitute "128".

25 Section 152D (heading)

Repeal the heading, substitute:

152D Date of effect of AAT reviews under the child support law that apply for family assistance purposes

26 Paragraph 152D(1)(a)

Omit "SSAT", substitute "AAT".

27 Paragraph 235(4)(b)

Omit ", the Social Security Appeals Tribunal,".

Schedule 6—Paid parental leave amendments

Paid Parental Leave Act 2010

1 Section 4 (paragraphs relating to Chapter 5)

Repeal the paragraphs, substitute:

> *Chapter 5—Administrative review of decisions*
>
> Chapter 5 is about administrative review of decisions made under this Act.
>
> Part 5-1 allows the Secretary, on his or her own initiative, to conduct an internal review of decisions made under this Act. It also allows a person whose interests are affected by certain types of decisions to seek internal review of those decisions, and an employer to seek internal review of certain types of decisions that affect employers.
>
> Part 5-2 allows a person to apply to the Administrative Appeals Tribunal (AAT) for review of certain decisions made under this Act. This review is called AAT first review.
>
> Part 5-3 allows a person to apply to the AAT for review of certain decisions made by the AAT on AAT first review. This review is called AAT second review.
>
> Part 5-4 has miscellaneous provisions relating to reviews of decisions made under this Act.

2 Section 6

Insert:

AAT first review:

(a) in relation to an AAT reviewable claimant decision: see subsection 216(1); and

(b) in relation to an AAT reviewable employer decision: see subsection 224(1).

AAT reviewable claimant decision: see subsection 215(3).

AAT reviewable employer decision: see subsection 223(2).

AAT second review: see subsection 237(1).

3 Section 6

Repeal the following definitions:

(a) the definition of ***Principal Member***;
(b) the definition of ***SSAT***;
(c) the definition of ***SSAT member***;
(d) the definition of ***SSAT reviewable claimant decision***;
(e) the definition of ***SSAT reviewable employer decision***.

4 Subsection 108(6)

Repeal the subsection, substitute:

Notice of revocation to AAT

(6) If, when the Secretary revokes an employer determination:
(a) an application has been made for AAT first review in relation to the employer determination; and
(b) the AAT has not determined the review;
the Secretary must give written notice of the revocation to the Registrar of the AAT.

5 Section 130A (heading)

Repeal the heading, substitute:

130A Disclosure of information by AAT members—threat to life, health or welfare

6 Section 130A

Omit "SSAT", substitute "AAT".

7 Paragraph 203(3)(b)

Omit "the SSAT or".

8 Subsection 204(1)

Repeal the subsection.

9 Subsection 204(2)

Omit "(2)".

10 Subsection 211(4)

Repeal the subsection, substitute:

(4) A notice under subsection (2) or (3) given to a person in relation to a decision must include a statement to the effect that the person may, subject to this Act and the AAT Act, apply to the AAT for review of the decision.

11 Subsection 211(5) (note)

Omit "SSAT review", substitute "AAT review".

12 Subsection 212(5)

Omit "this Act, apply to the SSAT for review", substitute "this Act and the AAT Act, apply to the AAT for review".

13 Part 5-2 (heading)

Repeal the heading, substitute:

Part 5-2—AAT first review of certain decisions

14 Sections 213 and 214

Repeal the sections, substitute:

213 Guide to this Part

This Part is about the review by the Administrative Appeals Tribunal of decisions that have been internally reviewed under Part 5-1, and of decisions made personally by particular PPL agency representatives (which are not subject to internal review). These reviews are called AAT first reviews.

AAT first review is available for certain claimant decisions (called AAT reviewable claimant decisions). People whose interests are

affected by AAT reviewable claimant decisions may apply for AAT first review of those decisions.

AAT first review is also available for certain employer determination decisions and employer funding amount decisions (called AAT reviewable employer decisions). Employers may apply for AAT first review of AAT reviewable employer decisions.

The rules relating to review by the AAT are mainly in the AAT Act, but this Part modifies the operation of that Act in some ways for the purposes of AAT first reviews.

15 Division 2 of Part 5-2 (heading)

Repeal the heading, substitute:

Division 2—AAT first review of claimant decisions

16 Subsection 215(3)

Omit "***SSAT***", substitute "***AAT***".

17 Sections 216 to 222

Repeal the sections, substitute:

216 AAT first review of claimant decision—application for review

(1) An application may be made to the AAT for review (***AAT first review***) of an AAT reviewable claimant decision.

(2) However, a person cannot make an application referred to in subsection (1) in the person's capacity as an employer.

(3) Nor can a person, in the person's capacity as an employer, apply to be a party to the review proceedings, despite subsection 30(1A) of the AAT Act.

Note: Subsection 30(1A) of the AAT Act allows persons whose interests are affected by a decision to apply to be a party to the review proceedings.

18 Division 3 of Part 5-2 (heading)

Repeal the heading, substitute:

Division 3—AAT first review of employer decisions

19 Subsection 223(2)

Omit "***SSAT***", substitute "***AAT***".

20 Sections 224 to 230

Repeal the sections, substitute:

224 AAT first review of employer decision—application for review

(1) An application may be made by an employer to the AAT for review (***AAT first review***) of an AAT reviewable employer decision that relates to the employer.

(2) However, if the AAT reviewable employer decision is an employer determination decision that relates to the employer and a person, an application referred to in subsection (1) may only be made if the employer believes that:

(a) both:

(i) a condition in paragraph 101(1)(b) or (c) is not satisfied in relation to the employer determination; and

(ii) the employer has not made an election under section 109 that applies to the person; or

(b) a condition in paragraph 101(1)(d) or (e) is not satisfied in relation to the employer determination.

Note 1: The conditions in paragraphs 101(1)(b) to (e) relate to the employment by an employer of someone to whom parental leave pay is payable.

Note 2: Section 109 allows an employer to elect to pay instalments to an employee, a class of employees or all employees of the employer. Subsection 101(2) deals with the application of paragraphs 101(1)(b) and (c) if the employer has made an election under section 109 that applies to the person.

(3) An application referred to in subsection (1):

(a) must be made in writing; and

(b) must be accompanied by a statutory declaration verifying the application; and

(c) if the application is for review of an employer determination decision—must:

(i) specify the condition or conditions that the employer believes are not satisfied; and

(ii) if paragraph (2)(a) applies to the application—state whether the employer believes that an election under section 109 applies to the person.

(4) An application referred to in subsection (1) may only be made within 14 days after the day on which the AAT reviewable employer decision was made.

(5) Paragraph (3)(a) and subsection (4) apply despite:

(a) subparagraph 29(1)(a)(ii) of the AAT Act (which deals with oral applications for review); and

(b) paragraph 29(1)(d) and subsections 29(7) to (10) of the AAT Act (which deal with when applications for review may be made).

Division 4—Other matters relating to AAT first reviews

224A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to:

(a) the Secretary; and

(b) either of the following, if applicable:

(i) if the decision was made by the Chief Executive Centrelink or an APS employee in the Human Services Department—the Chief Executive Centrelink;

(ii) if the decision was made by the Chief Executive Medicare—the Chief Executive Medicare.

225 Operation and implementation of decision under AAT first review

Subsection 41(2) of the AAT Act does not apply in relation to an application for AAT first review.

Note: Under subsection 41(2) of the AAT Act the AAT may make an order staying or otherwise affecting the operation or implementation of the decision on review.

226 Variation of original decision after application is made for AAT first review

(1) If an officer varies or substitutes a decision after an application has been made for AAT first review of the decision, the application is taken to be an application for AAT first review of the decision as varied or substituted.

(2) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

227 Procedure on receipt of application for AAT first review

(1) The AAT may, in relation to an application for AAT first review, request the Secretary to lodge with the AAT the statement and other documents referred to in subsection 37(1) of the AAT Act before the end of the period that otherwise applies under that subsection.

(2) If the AAT does so, the Secretary must take reasonable steps to comply with the request.

(3) Nothing in this section prevents the operation of subsection 37(1A) of the AAT Act (which allows the AAT to shorten the deadline for lodging documents).

228 AAT summons power for AAT first review

Section 40A of the AAT Act does not apply in relation to an AAT first review.

Note: Section 40A of the AAT Act deals with the AAT's power to summon a person to give evidence or produce documents.

229 Secretary to provide further information for AAT first review

(1) The AAT may, in relation to an AAT first review, request the Secretary to provide the AAT with information or a document the Secretary has and that is relevant to the review of a decision.

(2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, not later than 14 days after the request is made.

230 AAT's power to obtain information for AAT first review

(1) If the AAT reasonably believes that a person has information or a document that is relevant to an AAT first review, the AAT may, by written notice given to the person, require the person:

(a) to give to the AAT, within the period and in the manner specified in the notice, any such information; or

(b) to produce to the AAT, within the period and in the manner specified in the notice, any such documents; or

(c) to attend before the AAT, at the time and place specified in the notice, and answer questions.

(2) A person commits an offence if:

(a) the AAT gives the person a notice under subsection (1); and

(b) the person fails to comply with the notice.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

(3) Subsection (2) does not apply if complying with the notice might tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

231 AAT may require Secretary to obtain information for AAT first review

(1) If the AAT is satisfied that a person has information, or custody or control of a document, that is relevant to an AAT first review, the AAT may, for the purposes of the review, request the Secretary to exercise the Secretary's powers under section 117 (which deals with the Secretary's general power to obtain information).

(2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, within 7 days after the request is made.

232 Hearing of AAT first review in private

(1) The hearing of an AAT first review must be in private.

(2) The AAT may give directions, in writing or otherwise, as to the persons who may be present at any hearing of an AAT first review.

(3) In giving directions, the AAT must have regard to the wishes of the parties and the need to protect their privacy.

(4) Subsections 35(1) and (2) of the AAT Act do not apply in relation to the hearing of an AAT first review.

Note: Subsections 35(1) and (2) of the AAT Act deal with when hearings of proceedings in the AAT are in public or private.

233 Costs of AAT first review

(1) Subject to subsection (4), a party to an AAT first review must bear any expenses incurred by the party in relation to the review.

(2) The AAT may determine that the Commonwealth is to pay the reasonable costs that are:

(a) incurred by a party for travel and accommodation in relation to an AAT first review; and

(b) specified in the determination.

(3) If the AAT arranges for the provision of a medical service in relation to a party to an AAT first review, the AAT may determine that the Commonwealth is to pay the costs of the provision of the service.

(4) If the AAT makes a determination under subsection (2) or (3), the costs to which the determination relates are payable by the Commonwealth.

234 When AAT decision on AAT first review comes into force

Claimant decision

(1) A decision of the AAT on AAT first review:

(a) to vary an AAT reviewable claimant decision; or

(b) to set aside an AAT reviewable claimant decision and substitute a new decision;

comes into force on the day that would give full effect to the decision of the AAT.

Employer decision

(2) A decision of the AAT on AAT first review:

(a) to vary an AAT reviewable employer decision; or

(b) to set aside an AAT reviewable employer decision and substitute a new decision;

comes into force immediately on the giving of the decision.

AAT Act

(3) Subsections (1) and (2) apply despite subsection 43(6) of the AAT Act (which deals with when AAT decisions take effect).

235 Notification of decisions and reasons for AAT first review

(1) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act to affirm the decision under review, the AAT must, within 14 days of making its decision:

(a) give a written notice to the parties that sets out the decision; and

(b) either:

(i) give reasons for the decision orally to the parties and explain that they may request a written statement of reasons; or

(ii) give the parties a written statement of reasons for the decision.

(2) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act that is other than to affirm the decision under review, the AAT must, within 14 days of making its decision:

(a) give a written notice to the parties that sets out the decision; and

(b) give the parties a written statement of reasons for the decision.

(3) A failure to comply with subsection (1) or (2) does not affect the validity of the decision.

(4) A party to whom oral reasons are given may, within 14 days after the oral reasons are given, request a written statement of reasons for the decision. If the party does so, the AAT must give the party the statement requested within 14 days after receiving the request.

(5) Subsections 43(2) and (2A) of the AAT Act do not apply in relation to an AAT first review. However, any written statement of reasons given must comply with subsection 43(2B) of that Act.

Note: Subsections 43(2), (2A) and (2B) of the AAT Act are about the AAT giving reasons for its decisions.

21 Parts 5-3 and 5-4

Repeal the Parts, substitute:

Part 5-3—AAT second review of claimant decisions

Division 1—Guide to this Part

236 Guide to this Part

This Part is about review by the Administrative Appeals Tribunal of a decision made by the Tribunal on AAT first review of a claimant decision. These reviews are called AAT second reviews.

AAT second review is only available in relation to claimant decisions—it is not available in relation to employer decisions.

The rules relating to review by the AAT are mainly in the AAT Act, but this Part modifies the operation of that Act in some ways for the purposes of AAT second reviews.

The AAT Act allows a person to appeal to a court on a question of law from a decision of the AAT on AAT second review.

Division 2—Applications for AAT second review

237 Applications for AAT second review

(1) An application may be made to the AAT for review (***AAT second review***) of a decision of the AAT under subsection 43(1) of the AAT Act on AAT first review in relation to a claimant decision.

(2) For the purposes of subsection (1), the decision of the AAT on AAT first review is taken to be:

(a) if the AAT affirmed a claimant decision—that decision as affirmed; and

(b) if the AAT varied a claimant decision—that decision as varied; and

(c) if the AAT set a claimant decision aside and substituted a new decision—the new decision; and

(d) if the AAT set a claimant decision aside and sent the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the AAT—the directions or recommendations of the AAT.

(3) An application referred to in subsection (1) may not be made by a person in the person's capacity as an employer.

Division 3—Matters relating to AAT second review

238 Application of this Division

This Division applies if an application referred to in section 237 for AAT second review is made.

239 Notice of application for AAT second review

The AAT Act applies to the application as if the reference in paragraph 29AC(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the AAT first review (other than the party who made the application for AAT second review).

240 Parties to an AAT second review

The AAT Act applies to the application as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the AAT first review (other than the person who made the application for AAT second review).

241 Operation and implementation of the AAT decision on AAT second review

(1) The AAT Act applies to the application as if the reference in subsection 41(2) of the AAT Act to the decision to which the relevant proceeding relates were a reference to:

(a) if, on AAT first review, the AAT affirmed the original decision—the original decision; and

(b) otherwise—both the original decision and whichever of the following is applicable in relation to the AAT first review:

(i) the original decision as varied by the AAT;

(ii) the decision substituted by the AAT;

(iii) the decision made as a result of reconsideration by the Secretary in accordance with any directions or recommendations of the AAT.

(2) For the purposes of subsection (1), the original decision is the decision that was the subject of the AAT first review.

(3) The AAT Act applies to the application as if references in subsections 41(4) and (5) of the AAT Act to the person who made the decision to which the relevant proceeding relates were references to each party to the relevant AAT first review.

242 Variation of original decision after application is made for AAT second review

(1) If an officer varies or substitutes a decision after an application has been made for AAT second review in relation to the decision:

(a) the AAT is taken, on AAT first review, to have varied or substituted the decision under review in the way the officer did; and

(b) the application is taken to be an application for AAT second review of the decision as varied or substituted.

(2) If the person who made the application does not want a review of the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

243 Failure of party to appear

The AAT Act applies to the application as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Secretary.

Part 5-4—Other matters relating to review

22 Part 5-5 (heading)

Repeal the heading.

23 Subsection 272(1)

Omit ", the SSAT or the AAT (the ***review body***) is reviewing a decision under this Chapter", substitute "or the AAT (the ***review body***) is reviewing a decision for the purposes of this Chapter".

24 Subsection 273(1)

Omit ", the SSAT" (wherever occurring).

25 Sections 273A, 273B and 273C

Repeal the sections, substitute:

273A Settlement of proceedings before the AAT

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the AAT if the proceedings are an AAT first review or AAT second review and they relate to the recovery of a debt.

(2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for

review of the decision the subject of the proceedings is taken to have been dismissed.

Schedule 7—Student assistance amendments

Part 1—Main amendments

Student Assistance Act 1973

1 Subsection 3(1)

Insert:

AAT means the Administrative Appeals Tribunal.

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

AAT first review has the meaning given by section 311.

AAT second review has the meaning given by section 320.

2 Subsection 3(1) (definition of *Principal Member*)

Repeal the definition.

3 Paragraph 5C(e)

Omit "and the Social Security Appeals Tribunal".

4 Subsection 303(2)

Omit "section 326A", substitute "section 327".

5 Subsection 303(3)

Repeal the subsection, substitute:

Applications to AAT

(3) The Secretary may review a decision even if an application has been made to the AAT for a review in relation to the decision.

6 Subsections 303(5) and (6)

Repeal the subsections, substitute:

Notice to AAT Registrar

(6) If the Secretary makes a decision under subsection (4) after a person has applied to the AAT for a review in relation to the decision, the Secretary must give written notice of the Secretary's decision to the Registrar of the AAT.

7 Subsection 304(5)

Repeal the subsection, substitute:

Application taken to have been made

(5) If:

(a) a person who may apply to the Secretary for review of a decision under subsection (1) has not so applied; and

(b) the person applies to the AAT for review of the decision;

the person is, if the application to the AAT is made within any applicable time limit under subsection (2), 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.

8 Paragraph 308(1)(a)

Omit "subject to this Act, apply to the Social Security Appeals Tribunal", substitute "subject to this Act and the AAT Act, apply to the AAT".

9 Subparagraph 308(1)(b)(iii)

Omit "based; and", substitute "based.".

10 Paragraph 308(1)(c)

Repeal the paragraph.

11 Divisions 2, 3 and 4 of Part 9

Repeal the Divisions, substitute:

Division 2—Review by Administrative Appeals Tribunal

Subdivision A—Preliminary

309 Simplified outline of this Division

If a person is dissatisfied with a decision made on internal review under Division 1, the person may apply to the AAT for review of the decision (an "AAT first review") (certain decisions are excepted).

If a person is dissatisfied with a decision of the AAT on AAT first review, the person may apply to the AAT for further review (an "AAT second review").

The rules relating to reviews by the AAT are mainly in the AAT Act, but the operation of that Act is modified in some ways by this Division.

The AAT Act allows a person to appeal to a court on a question of law from a decision of the AAT on AAT second review.

310 Application of Division

(1) Unless otherwise stated, this Division applies to:
  (a) all decisions of an officer under this Act relating to the Student Financial Supplement Scheme; or
  (b) all decisions of an officer under this Act relating to the recovery of amounts paid under a current or former special educational assistance scheme.

Note: For ***officer*** see subsection 3(1).

(2) However, despite any other provision of this Division, the AAT cannot review a decision:
  (a) under section 305 or 314 (continuation of payment pending review of adverse decision); or
  (b) under section 343 or 345 (notice requiring information from any person).

Subdivision B—AAT first review

311 Application for AAT first review

(1) Subject to subsection 310(2), if:

(a) a decision has been reviewed by the Secretary or an authorised review officer under section 306; and

(b) the decision has been affirmed, varied or set aside;

application may be made to the AAT for review (***AAT first review***) of that decision.

(2) For the purposes of subsection (1), the decision made by the Secretary or authorised review officer is taken to be:

(a) if the Secretary or authorised review officer affirms a decision—the decision as affirmed; and

(b) if the Secretary or authorised review officer varies a decision—the decision as varied; and

(c) if the Secretary or authorised review officer sets a decision aside and substitutes a new decision—the new decision.

311A Person who made the decision

For the purposes of AAT first review of a decision, a reference in the AAT Act to the person who made the decision is taken to be a reference to the Secretary.

312 Time limit for application for AAT first review

(1) An application for AAT first review must be made within:

(a) 3 months; or

(b) such longer period as the AAT, in special circumstances, allows;

after the original decision was affirmed, varied or set aside by the Secretary or an authorised review officer.

(2) This section applies despite paragraph 29(1)(d) and subsections 29(7) to (10) of the AAT Act.

313 Operation and implementation of decision under AAT first review

Subsection 41(2) of the AAT Act does not apply in relation to an application for AAT first review.

314 Secretary may continue payment pending outcome of application for AAT first review

Secretary may declare payment to continue

(1) If:

(a) a decision to which this Division applies is an adverse decision; and

(b) the adverse decision depends on:

(i) the exercise of a discretion by a person; or

(ii) the holding of an opinion by a person; and

(c) a person makes an application for AAT first review of the adverse decision;

the Secretary may declare that payment of financial supplement to which the decision relates is to continue, pending the determination of the AAT first review, as if the adverse decision had not been made.

Written declaration

(2) A declaration under subsection (1) is to be in writing.

Act applies as if decision not made

(3) While a declaration under subsection (1) is in force in relation to the adverse decision, this Act (other than this Part) applies as if the adverse decision had not been made.

Start and cessation of declaration

(4) A declaration under subsection (1) in relation to an adverse decision:

(a) starts to have effect on the day on which the declaration is made or on the earlier day (if any) stated in the declaration; and

(b) stops having effect if:

(i) the AAT dismisses the application for AAT first review of the adverse decision; or

(ii) the AAT determines the AAT first review of the adverse decision; or

(iii) the Secretary revokes the declaration.

Holding of an opinion

(5) A reference in subsection (1) to a person's ***holding of an opinion*** is a reference to the person's holding that opinion whether or not this Act expressly requires the opinion to be held before making the decision concerned.

Adverse decision

(6) In this section:

adverse decision means a decision under section 12R or 12T to stop the payment of financial supplement to a person.

315 Variation of original decision after application is made for AAT first review

(1) If an officer varies or substitutes a decision after an application has been made for AAT first review of the decision, the application is taken to be an application for AAT first review of the decision as varied or substituted.

(2) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

316 Powers of AAT for purposes of AAT first review

Despite subsection 43(1) of the AAT Act, the AAT must not, for the purposes of an AAT first review, exercise a power or discretion conferred by any of the following provisions of this Act:

(a) a provision dealing with the form and place of lodgement of a claim;

(b) a provision dealing with the manner of payment of financial supplement;
(c) subsection 42(3) (notice requiring payment to the Commonwealth);
(d) sections 343 to 345 (notice requiring information from any person);
(e) section 305 or 314 (continuation of payment pending review of adverse decision).

317 Certain decisions on AAT first review

If, on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act and substitutes for it a decision that the person is entitled to financial supplement, the AAT must:

(a) assess the rate at which financial supplement is to be paid to the person; or
(b) ask the Secretary to assess the rate at which financial supplement is to be paid to the person.

318 Notification of decisions and reasons for AAT first review

(1) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act to affirm the decision under review, the AAT must, within 14 days of making the decision:
  (a) give a written notice to the parties that sets out the decision; and
  (b) either:
    (i) give reasons for the decision orally to the parties and explain that they may request a written statement of reasons; or
    (ii) give the parties a written statement of reasons for the decision.

(2) If, on AAT first review of a decision, the AAT makes a decision under subsection 43(1) of the AAT Act that is other than to affirm the decision under review, the AAT must, within 14 days of making the decision:

(a) give a written notice to the parties that sets out the decision; and

(b) give the parties a written statement of reasons for the decision.

(3) A failure to comply with subsection (1) or (2) does not affect the validity of the decision.

(4) A party to whom oral reasons are given may, within 14 days after the oral reasons are given, request a written statement of reasons for the decision. If the party does so, the AAT must give the party the statement requested within 14 days after receiving the request.

(5) Subsections 43(2) and (2A) of the AAT Act do not apply in relation to an AAT first review. However, any written statement of reasons given must comply with subsection 43(2B) of that Act.

319 Secretary or AAT may treat event as having occurred if decision set aside on AAT first review

If:

(a) on AAT first review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act; and

(b) the Secretary or the AAT, as the case may be, is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary or the AAT may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of this Division.

Subdivision C—AAT second review

320 Application for AAT second review

(1) Application may be made to the AAT for review (***AAT second review***) of a decision made by the AAT under subsection 43(1) of the AAT Act on AAT first review.

(2) For the purposes of subsection (1), the decision on AAT first review is taken to be:

(a) if the AAT affirms a decision—the decision as affirmed; and

(b) if the AAT varies a decision—the decision as varied; and

(c) if the AAT sets a decision aside and substitutes a new decision—the new decision; and

(d) if the AAT sets a decision aside and sends the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the AAT—the directions or recommendations of the AAT.

321 Notice of application for AAT second review

The AAT Act applies in relation to an application under section 320 for AAT second review of a decision as if the reference in paragraph 29AC(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the relevant AAT first review, other than the applicant for AAT second review.

322 Parties to AAT second review

The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each person who was a party to the relevant AAT first review, other than the applicant for AAT second review.

323 Operation and implementation of decision subject to AAT second review

(1) The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in subsection 41(2) of the AAT Act to the decision to which the relevant proceeding relates were a reference to:

(a) if, on AAT first review, the AAT affirmed the original decision—the original decision; and

(b) otherwise—both the original decision and whichever of the following is applicable in relation to the AAT first review:

(i) the original decision as varied by the AAT;

(ii) the decision substituted by the AAT;

(iii) the decision made as a result of reconsideration by the Secretary in accordance with any directions or recommendations of the AAT.

(2) For the purposes of subsection (1), the original decision is the decision that was the subject of the AAT first review.

(3) The AAT Act applies in relation to an application for AAT second review of a decision as if references in subsections 41(4) and (5) of the AAT Act to the person who made the decision to which the relevant proceeding relates were references to each party to the relevant AAT first review.

324 Variation of original decision after application is made for AAT second review

(1) If an officer varies or substitutes a decision after an application has been made for AAT second review in relation to the decision:
  (a) the AAT is taken, on AAT first review, to have varied or substituted the decision under review in the way the officer did; and
  (b) the application is taken to be an application for AAT second review of the decision as varied or substituted.

(2) If the person who made the application does not want the AAT to review the decision as varied or substituted, the person may notify the AAT under subsection 42A(1A) or (1AA) of the AAT Act that the application is discontinued or withdrawn.

325 Failure of party to appear at AAT second review

The AAT Act applies in relation to an application for AAT second review of a decision as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Secretary.

326 Secretary may treat event as having occurred if decision set aside on AAT second review

If:
  (a) on AAT second review of a decision, the AAT sets the decision aside under subsection 43(1) of the AAT Act; and
  (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Secretary may, if satisfied that it is reasonable to do so, treat the event as having occurred for the purposes of this Division.

Subdivision D—Matters relating to both AAT first review and AAT second review

327 Settlement of proceedings before the AAT

(1) The Secretary may agree, in writing, with other parties to settle proceedings before the AAT if the proceedings are an AAT first review or AAT second review and they relate to the recovery of a debt.

(2) If the proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision that was the subject of the proceedings is taken to have been dismissed.

12 Sections 335 and 336

Repeal the sections.

Part 2—Contingent amendments

Student Assistance Act 1973

13 Subsection 310(2)

Repeal the subsection, substitute:

(2) However, despite any other provision of this Division, the AAT cannot review a decision:

(a) by the Commissioner under subsection 11D(1) or 11F(1) to notify the Secretary of an incorrect or cancelled tax file number given in relation to an ABSTUDY student start-up loan; or

(b) that is a reviewable decision under section 308A (decision by Commissioner about deferring or amending assessment relating to ABSTUDY student start-up loans); or

(c) under section 308D or 308F (decision following reconsideration of a decision that is a reviewable decision under section 308A); or

(d) under section 305 or 314 (continuation of payment pending review of adverse decision); or

(e) under section 343 or 345 (notice requiring information from any person).

Schedule 8—Other consequential amendments

Part 1—Consequential amendments

Administrative Decisions (Judicial Review) Act 1977

1 Paragraph (y) of Schedule 1

Omit "Security Appeals Division", substitute "Security Division".

Archives Act 1983

2 Section 46

Repeal the section, substitute:

46 Constitution of Tribunal for proceedings about certain exempt records

Scope

(1) This section applies to a proceeding before the Tribunal in relation to review of a decision refusing to grant access, in accordance with an application under section 40, to a record that:

(a) is claimed to be an exempt record for the reason that it contains information or matter of a kind referred to in paragraph 33(1)(a) or (b); and

(b) is not a record of the Australian Security Intelligence Organisation.

Note: Section 19F of the *Administrative Appeals Tribunal Act 1975* contains the requirements for constitution of the Tribunal in proceedings about a record of the Australian Security Intelligence Organisation.

Constitution of Tribunal

(2) The Tribunal is to be constituted by:

(a) 3 presidential members of the Tribunal; or

(b) a presidential member of the Tribunal alone.

Presiding member

(3) If the Tribunal is constituted by 3 presidential members, the person who is to preside at a hearing of the proceeding is:

(a) if the President of the Tribunal is one of the members—the President; or

(b) if the President of the Tribunal is not one of the members but one or more Judges is—the most senior (or only) Judge; or

(c) if paragraphs (a) and (b) do not apply—the Deputy President of the Tribunal whom the President of the Tribunal directs to preside.

3 Section 48

Repeal the section, substitute:

48 Modification of section 42 of the *Administrative Appeals Tribunal Act 1975*

In its application to a proceeding referred to in section 46 of this Act, section 42 of the *Administrative Appeals Tribunal Act 1975* applies as if subsection (1) of that section were omitted and the following subsection substituted:

"(1) If:

(a) the Tribunal is constituted for the purposes of a proceeding by 3 presidential members in accordance with section 46 of the *Archives Act 1983*; and

(b) the members disagree about a question of law arising in the proceeding;

the disagreement is to be settled:

(c) if only one presidential member is a Judge—according to the opinion of that member; or

(d) if 2 presidential members are Judges—according to the opinion of the majority of the members.".

4 Subsection 52(1)

Omit "subsection 35(2)" (wherever occurring), substitute "subsection 35(2), (3) or (4)".

5 Subsection 53(1)

Omit "Section 37 of the *Administrative Appeals Tribunal Act 1975* does", substitute "Sections 37 and 38AA of the *Administrative Appeals Tribunal Act 1975* do".

Australian Charities and Not-for-profits Commission Act 2012

6 Section 165-15 (paragraph 29(1)(b) of the *Administrative Appeals Tribunal Act 1975*)

Repeal the paragraph, substitute:

(b) must be accompanied by any prescribed fee; and

7 Paragraph 165-25(1)(a)

Omit "such numbers of copies as is prescribed of statements or other documents were instead a requirement to lodge with the Tribunal such numbers of copies as is prescribed of", substitute "a copy of".

8 Subparagraphs 165-25(1)(b)(ii) and (iii)

Omit "prescribed number of copies", substitute "specified number of copies".

Australian Citizenship (Transitionals and Consequentials) Act 2007

9 Item 15 of Schedule 3

Repeal the item.

Australian Grape and Wine Authority Act 2013

10 Subsection 8(2F) (subsection 29(1A) of the *Administrative Appeals Tribunal Act 1975*)

Omit "(1A)", substitute "(1AA)".

11 Subsection 8(2F) (subsection 29(1B) of the *Administrative Appeals Tribunal Act 1975*)

Omit "(1B)", substitute "(1AB)".

12 Subsection 40Y(2) (subsection 29(1A) of the *Administrative Appeals Tribunal Act 1975*)

Omit "(1A)", substitute "(1AA)".

13 Subsection 40Y(2) (subsection 29(1B) of the *Administrative Appeals Tribunal Act 1975*)

Omit "(1B)", substitute "(1AB)".

Civil Dispute Resolution Act 2011

14 Subparagraphs 15(c)(iv), (v) and (vi)

Repeal the subparagraphs.

Commonwealth Electoral Act 1918

15 Subsection 141(6A)

Repeal the subsection, substitute:

(6A) Paragraph 19B(1)(b) of the *Administrative Appeals Tribunal Act 1975* does not apply in relation to a review referred to in subsection (5) of this section.

Court Security Act 2013

16 Section 51 (table item 7)

Omit "A District Registrar appointed under subsection 24N(2) of the *Administrative Appeals Tribunal Act 1975*", substitute "An officer of the Tribunal (within the meaning of the *Administrative Appeals Tribunal Act 1975*)".

Crimes Act 1914

17 Paragraphs 15GG(1)(b), (c) and (d)

Repeal the paragraphs, substitute:

(b) senior member (of any level);

(c) member (of any level).

Criminal Code Act 1995

18 Subsection 105.51(6) of the *Criminal Code*

Omit "Security Appeals Division", substitute "Security Division".

Defence Act 1903

19 Subsection 110XC(5)

Omit "fees, and allowances for expenses,", substitute "fees or allowances".

Federal Proceedings (Costs) Act 1981

20 Subsection 10A(1)

Omit "section 23", substitute "paragraph 19D(2)(a)".

Financial Institutions Supervisory Levies Collection Act 1998

21 Paragraph 27(9)(b)

Omit "paragraph 35(2)(b) or (c)", substitute "subsection 35(3) or (4)".

Freedom of Information Act 1982

22 Subsections 58B(3) and (4)

Repeal the subsections, substitute:

(3) Despite paragraph 19A(1)(b) of the *Administrative Appeals Tribunal Act 1975*, if the Tribunal is constituted by 3 presidential members, the person who is to preside at a hearing of the proceeding is:

(a) if the President of the Tribunal is one of the members—the President; or

(b) if the President of the Tribunal is not one of the members but one or more Judges is—the most senior (or only) Judge; or

(c) if paragraphs (a) and (b) do not apply—the Deputy President of the Tribunal whom the President of the Tribunal directs to preside.

23 Section 58D

Repeal the section, substitute:

58D Modification of section 42 of the *Administrative Appeals Tribunal Act 1975*

Despite section 42 of the *Administrative Appeals Tribunal Act 1975*, if:

(a) the Tribunal is constituted for the purposes of a proceeding referred to in subsection 58B(1); and

(b) the members disagree about a question of law arising in the proceeding;

the disagreement is to be settled:

(c) if only one presidential member is a Judge—according to the opinion of that member; or

(d) if 2 presidential members are Judges—according to the opinion of the majority of the members; or

(e) if 3 presidential members are Deputy Presidents—according to the opinion of the majority of the members.

24 Subsection 58E(1)

After "section 37", insert "or 38AA".

25 Subsection 63(1)

Omit "subsection 35(2)" (wherever occurring), substitute "subsection 35(2), (3) or (4)".

26 Subsection 64(1)

Omit "Section 37 of the *Administrative Appeals Tribunal Act 1975* does", substitute "Sections 37 and 38AA of the *Administrative Appeals Tribunal Act 1975* do".

Industry Research and Development Act 1986

27 Subparagraph 30E(4)(b)(ii)

Omit "paragraph 35(2)(aa), (b) or (c)", substitute "subsection 35(3) or (4)".

Inspector-General of Intelligence and Security Act 1986

28 Subparagraph 8(1)(c)(ii)

Omit "Security Appeals Division", substitute "Security Division".

29 Paragraph 9AA(c)

Omit "Security Appeals Division", substitute "Security Division".

Inspector of Transport Security Act 2006

30 Paragraph 79(1)(c)

After "senior member", insert "(of any level)".

Insurance Acquisitions and Takeovers Act 1991

31 Paragraph 67(7)(b)

Omit "paragraph 35(2)(b) or", substitute "subsection 35(3) or (4) of the *Administrative Appeals Tribunal Act 1975*.".

32 Paragraph 67(7)(c)

Repeal the paragraph.

Judges' Pensions Act 1968

33 Paragraph 20(2)(b)

Omit "the Registrar of the Tribunal,".

Lands Acquisition Act 1989

34 At the end of paragraph 28(3)(a)

Add "and".

35 Paragraph 28(3)(b)

Repeal the paragraph.

Military Rehabilitation and Compensation Act 2004

36 Section 355 (table item 1)

Omit "Section 20A", substitute "Section 18C".

37 Subsection 357(7)

Omit ", a District Registrar or a Deputy Registrar", substitute "or an officer".

Public Interest Disclosure Act 2013

38 Section 8 (paragraph (i) of the definition of *designated publication restriction*)

Omit "section 35AA", substitute "subsection 35AA(2)".

Safety, Rehabilitation and Compensation Act 1988

39 Subsection 65(3)

Repeal the subsection, substitute:

(3) Section 18C of the Act has effect as if the reference to places in Australia or an external Territory were a reference to any place, whether within or outside Australia.

40 Subsection 67(13)

Omit ", a District Registrar or a Deputy Registrar", substitute "or an officer".

Seafarers Rehabilitation and Compensation Act 1992

41 Subsection 89(2)

Repeal the subsection, substitute:

(2) Section 18C of the AAT Act has effect as if the reference to places in Australia or an external Territory were a reference to any place, whether within or outside Australia.

42 Subsection 92(6)

Omit ", a District Registrar or a Deputy Registrar", substitute "or an officer".

Superannuation (Self Managed Superannuation Funds) Taxation Act 1987

43 Paragraph 16(9)(b)

Omit "paragraph 35(2)(b) or (c)", substitute "subsection 35(3) or (4)".

Surveillance Devices Act 2004

44 Paragraphs 13(1)(b), (c) and (d)

Repeal the paragraphs, substitute:

(b) senior member (of any level);

(c) member (of any level).

Taxation Administration Act 1953

45 Subsection 2(1) (definition of *Small Taxation Claims Tribunal*)

Repeal the definition.

46 Subsection 2(1) (definition of *Tribunal*)

Omit "or, in appropriate circumstances, the Small Taxation Claims Tribunal".

47 Section 14ZZC (paragraph 29(1)(b) of the *Administrative Appeals Tribunal Act 1975*)

Repeal the paragraph.

48 Section 14ZZE

Repeal the section, substitute:

14ZZE Hearings before Tribunal to be held in private if applicant so requests

Despite section 35 of the AAT Act, the hearing of a proceeding before the Tribunal for:

(a) a review of a reviewable objection decision; or

(b) a review of an extension of time refusal decision; or

(c) an AAT extension application;

is to be in private if the party who made the application requests that it be in private.

49 Paragraph 14ZZF(1)(a)

Omit "such numbers of copies as is prescribed of statements or other documents were instead a requirement to lodge with the Tribunal such numbers of copies as is prescribed", substitute "a copy".

50 Subparagraphs 14ZZF(1)(b)(ii) and (iii)

Omit "the prescribed number of copies", substitute "a copy".

Telecommunications (Interception and Access) Act 1979

51 Paragraphs 6DA(1)(b), (c) and (d)

Repeal the paragraphs, substitute:

(b) senior member (of any level);

(c) member (of any level).

52 Subparagraph 6DB(1)(b)(i)

Omit ", full-time senior member, part-time senior member or member", substitute ", senior member (of any level) or member (of any level)".

Trans-Tasman Mutual Recognition Act 1997

53 Subsection 35(3)

Omit "subsection 20B(1)", substitute "paragraph 19A(1)(a)".

Part 2—Contingent amendments

Biosecurity Act 2015

54 Subsection 77(2)

Omit "subsection 29(11)", substitute "subsection 29AC(1)".

Freedom of Information Act 1982

55 Subsection 61A(1) (table item 1)

Omit "subsection 29(11)", substitute "subsection 29AC(1)".

56 Subsection 61A(3)

Omit "section 38", substitute "section 38 or 38AA".

Schedule 9—Transitional and saving provisions

Part 1—Preliminary

1 Definitions

In this Schedule:

AAT means the Administrative Appeals Tribunal.

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

affected law:

(a) means an Act that this Act amends; and

(b) includes an instrument made under such an Act.

commencement day means 1 July 2015.

Deputy Principal MRT member means the Deputy Principal Member within the meaning of section 337 of the *Migration Act 1958* as in force immediately before the commencement day.

Deputy Principal RRT member means the Deputy Principal Member within the meaning of section 410 of the *Migration Act 1958* as in force immediately before the commencement day.

Deputy Principal SSAT member means a Deputy Principal Member within the meaning of Schedule 3 to the *Social Security (Administration) Act 1999*.

discontinued Tribunal means the MRT, RRT or SSAT.

existing MRT member means a person who was, immediately before the commencement day, any of the following:

(a) a Deputy Principal MRT member;

(b) a senior MRT member;

(c) an MRT member.

existing RRT member means a person who was, immediately before the commencement day, any of the following:

(a) a Deputy Principal RRT member;

(b) a senior RRT member;

(c) an RRT member.

existing SSAT member means a person who was, immediately before the commencement day, any of the following:

(a) a Deputy Principal SSAT member;
(b) a senior SSAT member;
(c) an SSAT member.

MRT means the Migration Review Tribunal established by section 394 of the *Migration Act 1958* as in force immediately before the commencement day.

MRT member means a member referred to in paragraph 395(c) of the *Migration Act 1958* as in force immediately before the commencement day.

officer, in relation to the SSAT, means a person who performs functions or exercises powers of the SSAT or performs duties for the SSAT.

President of the AAT means the President within the meaning of the AAT Act.

proceeding includes any of the following:

(a) an application or purported application made to a discontinued Tribunal under an Act;
(b) a matter referred to a discontinued Tribunal for inquiry or review under an Act;
(c) an incidental application to a discontinued Tribunal made in the course of, or in connection with, an application or proposed application, or matter, referred to in paragraph (a) or (b).

For this purpose, a reference to a proceeding that is before a tribunal includes a reference to an application made or matter referred to the tribunal.

RRT means the Refugee Review Tribunal established by section 457 of the *Migration Act 1958* as in force immediately before the commencement day.

RRT member means an other member referred to in paragraph 458(1)(c) of the *Migration Act 1958* as in force immediately before the commencement day.

senior MRT member means a Senior Member within the meaning of section 337 of the *Migration Act 1958* as in force immediately before the commencement day.

senior RRT member means a Senior Member within the meaning of Division 9 of Part 7 of the *Migration Act 1958* as in force immediately before the commencement day.

senior SSAT member means a Senior Member within the meaning of Schedule 3 to the *Social Security (Administration) Act 1999* as in force immediately before the commencement day.

SSAT means the Social Security Appeals Tribunal as continued in existence by section 139 of the *Social Security (Administration) Act 1999* as in force immediately before the commencement day.

SSAT member means a member referred to in paragraph 1(c) of Schedule 3 to the *Social Security (Administration) Act 1999* as in force immediately before the commencement day.

2 Continuing the AAT

To avoid doubt, the amendment of section 5 of the AAT Act made by this Act does not affect the continued existence of the AAT.

Part 2—Tribunal members and certain officers

3 Transitional—members of the AAT (Judges)

(1) This item applies to a Judge who was, immediately before the commencement day:

(a) a presidential member of the AAT; or

(b) the Acting President of the AAT.

(2) Despite the amendments of the AAT Act made by this Act, for the purposes of the operation of the AAT Act on and after the commencement day, the Judge is taken to hold office as:

(a) if the Judge was the President of the AAT—the President of the AAT; or

(b) if the Judge was the Acting President of the AAT—the Acting President of the AAT; or

(c) otherwise—a Deputy President of the AAT.

(3) From the commencement day the Judge holds office, as the President or a Deputy President, for the balance of the Judge's term of appointment that remained immediately before the commencement day.

(4) If the Judge held office immediately before the commencement day as the Acting President of the AAT, the Judge is taken to continue, on and after that day, to hold office as the Acting President for the balance of the Judge's term of appointment that remained immediately before the commencement day.

(5) To avoid doubt, this item does not affect the Judge's:

(a) tenure as a Judge; or

(b) rank, title, status, precedence, remuneration, allowances or other right or privileges as the holder of the Judge's office as a Judge.

4 Transitional—members of the AAT (other than Judges)

(1) This item applies to a person, other than a Judge, who was, immediately before the commencement day:

(a) a Deputy President of the AAT; or

(b) a senior member of the AAT; or

(c) a member of the AAT; or

(d) a person acting as a member mentioned in paragraph (a), (b) or (c).

Kind of member

(2) Despite the amendments of the AAT Act made by this Act, for the purposes of the operation of the AAT Act on and after the commencement day, the person is taken to hold office as such a member for the balance (the ***remaining balance***) of the person's term of appointment that remained immediately before the commencement day.

(3) Without limiting subitem (2):

(a) if the person held office immediately before the commencement day as a full-time member, the person continues, on and after that day, to hold office as a full-time member; and

(b) if the person held office immediately before the commencement day as a part-time member, the person continues, on and after that day, to hold office as a part-time member; and

(c) if the person held office immediately before the commencement day as an acting member, the person continues, on and after that day, to hold office as an acting member.

Terms and conditions

(4) The person holds office on and after the commencement day:

(a) on the terms and conditions that were applicable to the person immediately before that day; and
(b) for the remaining balance of the person's term of appointment.

Note: See item 7 for individuals who are members of multiple tribunals.

(5) Despite subitem (4), the Minister may, by writing, determine different terms and conditions (other than terms and conditions covered by a determination referred to in subitem (6)) that are to apply to the person for any part of the remaining balance of the person's term of appointment.

Remuneration Tribunal determinations

(6) A determination in operation under the *Remuneration Tribunal Act 1973* immediately before the commencement day in relation to a member mentioned in subitem (1):
(a) continues in operation until another determination comes into operation in substitution for it; and
(b) before then, may be varied in accordance with that Act.

(7) For the purposes of making determinations under the *Remuneration Tribunal Act 1973* on or after the commencement day in relation to a member mentioned in subitem (1), that Act applies for the remaining balance of the member's term of appointment as if the member continued to hold the office the member held immediately before that day.

5 Transitional—members of the MRT, RRT and SSAT

(1) This item applies to a person who was, immediately before the commencement day:
(a) a tribunal member mentioned in an item in column 1 of the table in subitem (2); or
(b) a person acting as such a member.

Kind of member

(2) For the purposes of the operation of the AAT Act on and after the commencement day, the person is taken to hold office as a member of the AAT as mentioned in column 2 for that item in the following table,

for the balance (the ***remaining balance***) of the person's term of appointment that remained immediately before that day.

Existing tribunal members

Item	Column 1 Tribunal member before the commencement day	Column 2 AAT member on and after the commencement day
1	Deputy Principal MRT member	senior member
2	senior MRT member	senior member
3	MRT member	member
4	Deputy Principal RRT member	senior member
5	senior RRT member	senior member
6	RRT member	member
7	Deputy Principal SSAT member	senior member
8	senior SSAT member	senior member
9	SSAT member	member

Note: See item 7 for individuals who are members of multiple tribunals.

(3) Without limiting subitem (2):

(a) if the person held office immediately before the commencement day as a full-time member, the person continues, on and after that day, to hold office as a full-time member; and

(b) if the person held office immediately before the commencement day as a part-time member, the person continues, on and after that day, to hold office as a part-time member; and

(c) if the person held office immediately before the commencement day as an acting member, the person continues, on and after that day, to hold office as an acting member.

Terms and conditions

(4) The person holds office on and after the commencement day:

(a) on the terms and conditions that were applicable to the person immediately before that day; and

(b) for the remaining balance of the person's term of appointment.

(5) Despite subitem (4), the Minister may, by writing, determine different terms and conditions (other than terms and conditions covered by a determination referred to in subitem (6)) that are to apply to the person for any part of the remaining balance of the person's term of appointment.

Remuneration Tribunal determinations

(6) A determination in operation under the *Remuneration Tribunal Act 1973* immediately before the commencement day in relation to a member mentioned in an item in column 1 of the table in subitem (2) (a ***continuing member***):

(a) continues in operation until another determination comes into operation in substitution for it; and

(b) before then, may be varied in accordance with that Act.

(7) For the purposes of making determinations under the *Remuneration Tribunal Act 1973* on or after the commencement day in relation to a continuing member, that Act applies for the remaining balance of the member's term of appointment as if the member continued to hold the office the member held immediately before that day.

6 Transitional—powers of transitioned members

For the purposes of the operation of the AAT Act and any other Act on and after the commencement day:

(a) a person who is taken, under item 3, to be the President of the AAT has the powers and functions of the President of the AAT; and

(b) a person who is taken, under item 3 or 4, to be a Deputy President of the AAT has the powers and functions of a Deputy President of the AAT; and

(c) a person who is taken, under item 4 or 5, to be a senior member of the AAT has the powers and functions of a senior member of the AAT; and

(d) a person who is taken, under item 4 or 5, to be a member of the AAT has the powers and functions of a member of the AAT.

7 Transitional—members of multiple tribunals

(1) This item applies if, immediately before the commencement day, a person was:

(a) both:

(i) a member of the AAT; and

(ii) a member mentioned in one or more items in column 1 of the table in subitem 5(2); or

(b) a member mentioned in 2 or more items in column 1 of the table in subitem 5(2).

(2) This Schedule has effect, in relation to the person, as if:

(a) the office the person will hold, the terms and conditions of the person's appointment and the remuneration the person will be paid correspond to the office for which the person is paid the highest remuneration; and

(b) the term of the person's appointment will be the term with the largest balance that remained immediately before the commencement day.

8 Transitional—assignment of AAT members to new AAT Divisions

(1) A person who was, immediately before the commencement day, a senior member of the AAT, or a member of the AAT, assigned to a Division mentioned in an item in column 1 of the following table is taken, on and after that day, to have been assigned under section 17C of the AAT Act to the Division mentioned in column 2 for that item.

Assignment of existing AAT members

Item	Column 1 Division before the commencement day	Column 2 Division on and after the commencement day
1	General Administrative Division	General Division
2	National Disability Insurance Scheme Division	National Disability Insurance Scheme Division
3	Security Appeals Division	Security Division
4	Taxation Appeals Division	Taxation and Commercial Division

Assignment of existing AAT members		
Item	**Column 1** **Division before the commencement day**	**Column 2** **Division on and after the commencement day**
5	Veterans' Appeals Division	Veterans' Appeals Division

(2) Sections 17E, 17F and 17H of the AAT Act do not apply in relation to the assignment of a person under subitem (1).

(3) To avoid doubt, a person may be assigned to one or more Divisions under subitem (1).

9 Transitional—assignment of existing MRT, RRT and SSAT members to AAT Divisions

(1) A person who was, immediately before the commencement day, a member mentioned in an item in column 1 of the following table is taken, on and after that day, to have been assigned under section 17C of the AAT Act to the Division mentioned in column 2 for that item.

Existing tribunal members		
Item	**Column 1** **Tribunal member before the commencement day**	**Column 2** **Division on and after the commencement day**
1	existing MRT member	Migration and Refugee Division
2	existing RRT member	Migration and Refugee Division
3	existing SSAT member	Social Services and Child Support Division

(2) Sections 17D and 17G of the AAT Act do not apply in relation to the assignment of a person under subitem (1).

(3) To avoid doubt, a person may be assigned to one or more Divisions under subitem (1).

10 Saving of authorisation of members of the AAT

If an authorisation of a member of the AAT was, immediately before the commencement day, in force under section 59A of the AAT Act for the purposes of a provision mentioned in an item in column 1 of the following table, that authorisation is taken, on and after that day, to have been made for the purposes of the provision of the AAT Act, as amended by this Act, mentioned in column 2 for that item.

Assignment of existing authorised members

Item	Column 1 Provision of old AAT Act	Column 2 Provision of amended AAT Act
1	subsection 21(1A)	subsection 19B(2)
2	subsection 40(1C)	subsection 40A(2)
3	subsection 40(1D)	subsection 40B(1)

11 Transitional—outside employment for current members

If, immediately before the commencement day:

(a) a person was a member of the AAT, the MRT, the RRT or the SSAT; and

(b) the person was engaging in employment outside the duties of the person's office with:

(i) in relation to a member of the AAT, the MRT or the RRT—the consent of the Minister; or

(ii) in relation to a member of the SSAT—the approval of the Principal Member of the SSAT;

then, for the purposes of section 11 of the AAT Act as amended by this Act, the outside employment is taken, on and after the commencement day, to have been approved by the Minister under that section.

12 Savings—removal from office provisions

(1) Despite the amendments of section 13 of the AAT Act made by this Act, that section as in force immediately before the commencement day continues to apply in relation to the suspension or removal from office of a member of the AAT who was appointed before the commencement day, as if those amendments had not been made.

(2) Despite the repeal of Part 6 of the *Migration Act 1958* by this Act, section 403 of that Act as in force immediately before the

commencement day continues to apply in relation to the removal from office of an existing MRT member, as if:

(a) that section had not been repealed; and

(b) that section applied to the person in the person's capacity as a member of the AAT.

(3) Despite the repeal of Division 9 of Part 7 of the *Migration Act 1958* by this Act, section 468 of that Act continues to apply in relation to the removal from office of an existing RRT member, as if:

(a) that section had not been repealed; and

(b) that section applied to the person in the person's capacity as a member of the AAT.

(4) Despite the repeal of Schedule 3 of the *Social Security (Administration) Act 1999* by this Act, clause 17 of Schedule 3 to that Act as in force immediately before the commencement day continues to apply in relation to the suspension or removal from office of an existing SSAT member, as if:

(a) that clause had not been repealed; and

(b) that clause applied to the person in the person's capacity as a member of the AAT.

13 Transitional—appointment etc. of Registrar

(1) This item applies to a person who was, immediately before the commencement day, the Registrar of the AAT.

(2) For the purposes of the operation of the AAT Act on and after the commencement day, the person is taken to have been appointed as the Registrar under section 24C of that Act as amended by this Act.

(3) The person holds office on and after the commencement day:

(a) on the terms and conditions that were applicable to the person immediately before that day; and

(b) for the balance of the person's term of appointment that remained immediately before that day.

(3A) Despite subitem (3), the Minister may, by writing, determine different terms and conditions (other than terms and conditions covered by a determination referred to in subitem (3B)) that are to apply to the person for any part of the remaining balance of the person's term of appointment.

(3B) A determination in operation under the *Remuneration Tribunal Act 1973* immediately before the commencement day in relation to the person:

(a) continues in operation until another determination comes into operation in substitution for it; and

(b) before then, may be varied in accordance with that Act.

(4) Despite the amendments of section 24K of the AAT Act made by this Act, that section continues to apply in relation to the termination of the appointment of a Registrar who was appointed before the commencement day as if those amendments had not been made.

14 Transitional—District Registrars, Conference Registrars and Deputy Registrars

A person who was, immediately before the commencement day, a District Registrar, Conference Registrar or Deputy Registrar under the AAT Act is taken, on and after that day, to have been appointed as an officer of the Tribunal under section 24PA of the AAT Act as amended by this Act.

15 Transitional—authorised Conference Registrars

A person who was, immediately before the commencement day, an authorised Conference Registrar for the purposes of paragraph 33(2)(a) of the AAT Act is taken, on and after that day, to be an authorised officer for the purposes of that paragraph as amended by this Act.

Part 3—Review of decisions

15AA General provision—application of amendments from commencement day

(1) Except as otherwise provided by this Schedule, the amendments made by this Act apply on and after the commencement day:

(a) including in relation to proceedings commenced before the commencement day; and

(b) including in relation to decisions made before the commencement day.

(2) However, and despite anything else in this Schedule, an amendment or insertion of an offence by this Act does not apply in relation to conduct engaged in before the commencement day.

15AB General provision—continuation in AAT of proceedings before discontinued Tribunals

(1) This item applies to a proceeding that was before a discontinued Tribunal immediately before the commencement day.

(2) From the start of the commencement day, the proceeding:

(a) is taken to be a proceeding (a ***continued proceeding***) before the AAT; and

(b) if the proceeding was before the MRT or RRT—is taken to be a proceeding in the Migration and Refugee Division; and

(c) if the proceeding was before the SSAT:

(i) is taken to be a proceeding in the Social Services and Child Support Division; and

(ii) except to the extent it is not a proceeding for review of a decision—is taken to be a proceeding on application for AAT first review within the meaning of the Act that authorised the application for review.

(3) Anything done by the discontinued Tribunal or a member or officer of the discontinued Tribunal for the purposes of the proceeding is taken, for the purposes of the continued proceeding and the operation of an affected law on and after the commencement day:

(a) to have been done, at the time it was done by the discontinued Tribunal or member or officer, by the AAT or a member or officer of the AAT for the purposes of the continued proceeding; and

(b) to have effect accordingly under an affected law.

(4) Anything done by the applicant, another party to the proceeding or any other person for the purposes of the proceeding is taken, for the purposes of the continued proceeding and the operation of an affected law on and after the commencement day:

(a) to have been done, at the time it was done by the applicant, other party or person, by the applicant, other party or person for the purposes of the continued proceeding; and

(b) to have effect accordingly under an affected law.

(5) Without limiting subitem (3) or (4), if, immediately before the commencement day:

(a) a discontinued Tribunal or a member or officer of a discontinued Tribunal had not yet met a requirement that was imposed on the Tribunal, member or officer by an affected law in relation to the proceeding; or

(b) a discontinued Tribunal or a member or officer of a discontinued Tribunal had not yet responded to a request or invitation under an affected law to do something in relation to the proceeding;

then, except to the extent to which no such requirement, request or invitation is imposed or authorised by an affected law as amended by this Act, the AAT or a member or officer of the AAT must meet the requirement, or may respond to the request or invitation, for the purposes of the continued proceeding as if the requirement, request or invitation had been imposed or authorised by a provision of an affected law as amended by this Act.

(6) Without limiting subitem (3) or (4), if, immediately before the commencement day:

(a) a person had not yet met a requirement that was imposed on the person by an affected law in relation to the proceeding; or

(b) a person had not yet responded to a request or invitation issued under an affected law to do something in relation to the proceeding;

then, except to the extent to which no such requirement, request or invitation is imposed or authorised by an affected law as amended by this Act, the person must meet the requirement, or may respond to the request or invitation, for the purposes of the continued proceeding as if the requirement, request or invitation had been imposed or authorised by a provision of an affected law as amended by this Act.

(7) Without limiting subitem (3) or (4), if, before the commencement day, a discontinued Tribunal or a member or officer of a discontinued Tribunal had met a requirement imposed by an affected law to give a notice or document to a person, then, from the start of the commencement day, the requirement is taken to have been met, at the time it was met by the discontinued Tribunal or member or officer, by (as applicable under the affected law as amended by this Act) the AAT or a member or officer of the AAT.

(8) Without limiting subitem (3) or (4), if, before the commencement day, a person had received or was taken to have received a notice or document

from a discontinued Tribunal or a member or officer of a discontinued Tribunal, then, from the start of the commencement day, the person is taken to have received the document, at the time it was received or taken to have been received, from (as applicable under the affected law as amended by this Act) the AAT or a member or officer of the AAT.

(9) This item does not apply to the extent to which another item of this Schedule (other than item 15AC) has a different effect.

15AC General provision—operation of affected law in relation to things done etc. before commencement day

(1) For the purposes of the operation of an affected law on or after the commencement day:

(a) a reference to a decision that is or would be reviewable by the AAT includes a reference to a decision made before the commencement day that was or would have been reviewable by a discontinued Tribunal; and

(b) a reference to a decision made or other thing done by or in relation to the AAT includes a reference to a decision made or other thing done before the commencement day by or in relation to a discontinued Tribunal.

(2) For the purposes of subitem (1), it does not matter whether the AAT is expressly referred to, or referred to by that exact expression.

(3) Without limiting subitem (1), if, immediately before the commencement day, a person was entitled under an Act to make an application to the AAT or a discontinued Tribunal for review of a decision made before the commencement day, the person may make an application for review of the decision to the AAT on or after the commencement day in accordance with the Act as amended by this Act.

(4) To avoid doubt, neither paragraph (1)(a) nor subitem (3) of itself authorises an application to be made to the AAT for review of a decision. In particular, it does not authorise an application to be made in circumstances referred to in item 15AD.

(5) Subitem (1) does not apply to the extent to which item 15AB applies.

15AD Duplicate applications for review

(1) A person may not make an application to the AAT for review of a decision on or after the commencement day if the person made an application or a purported application to a discontinued Tribunal for review of the decision before the commencement day.

(2) A person may not make an application to the AAT for review of a decision on or after the commencement day if:

(a) the time for the person to apply to a discontinued Tribunal for review of the decision had expired before the commencement day without such an application having been made; and

(b) there is no enactment that permits the AAT to extend the time for making the application.

(3) Subitems (1) and (2) do not prevent a person from making an application to the AAT for second review of a decision made by the AAT in a proceeding referred to in paragraph 15AB(2)(c).

15AE Notices referring to discontinued Tribunal

(1) This item applies to a notice given to a person before, on or after the commencement day if:

(a) the notice includes a statement to the effect that the person is entitled to apply for review of a decision to a discontinued Tribunal; and

(b) the last day for the person to make such an application is on or after the commencement day, or there is no time limit for the person to make such an application.

(2) On and after the commencement day, the notice is taken to meet any requirement in an affected law to give a person a notice that includes a statement to the effect that the person is entitled to apply for review of the decision to the AAT.

15AF Continuation of Immigration Assessment Authority

Although this Act has the effect that the Immigration Assessment Authority is established from the start of the commencement day within the AAT rather than the RRT, this does not affect:

(a) the continued existence of the Authority on and after the commencement day; or

(b) a review that was being conducted by the Authority immediately before the commencement day; or

(c) the ongoing effect on and after the commencement day of anything else done by or in relation to the Authority, its Principal Member or a reviewer before the commencement day.

15AG Remission of discontinued Tribunal decisions

A decision of a discontinued Tribunal that a court decides on or after the commencement day to remit for reconsideration is to be remitted to the AAT.

Part 4—Matters specific to particular Acts

15BA Relationship between this Part and Part 3

An item in this Part that has the same effect as an item in Part 3 in relation to a particular matter does not limit the operation of the item in Part 3 in relation to any other matter.

15BB Continued protection of confidential information of discontinued Tribunals

(1) If, immediately before the commencement day, any of the following provisions applied to a person:

(a) section 377 of the *Migration Act 1958*;

(b) section 439 of the *Migration Act 1958*;

(c) clause 19 of Schedule 3 to the *Social Security (Administration) Act 1999*;

the provision as in force immediately before the commencement day continues to apply to the person on and after the commencement day, in relation to information or documents obtained before that day, despite the repeal of the provision by this Act.

(2) For the purposes of the continued operation of clause 19 of Schedule 3 to the *Social Security (Administration) Act 1999*, clause 19A also continues to apply.

15BC Changes to AAT Divisions

A proceeding that was before the AAT immediately before the commencement day in a Division referred to in column 1 of the table is taken, from the start of the commencement day, to be a proceeding before the AAT in the Division referred to in column 2 of the table.

AAT Divisions

Item	Column 1 A proceeding that was in this Division:	Column 2 Is taken to be in this Division:
1	General Administrative Division	General Division
2	Security Appeals Division	Security Division
3	Taxation Appeals Division (including that Division when known as the Small Taxation Claims Division)	Taxation and Commercial Division

15BD Small Taxation Claims Tribunal

If, immediately before the commencement day, an order was in force under subsection 24AD(1) of the AAT Act in relation to an application for review of a relevant taxation decision, then, despite the amendments made by this Act, paragraphs 24AD(2)(b) and (c) and subsection 24AD(3) of the AAT Act as in force immediately before the commencement day continue to apply on and after the commencement day in relation to the application for review.

15BE Continuation of provisions regarding presiding members

If, immediately before the commencement day, a person was presiding in relation to a proceeding before the AAT because of any of the following provisions of the AAT Act:

(a) paragraph 21AB(9)(a), (b) or (c);

(b) paragraph 22(1)(a), (aa) or (b);

(c) subparagraph 22(1)(c)(i);

then the provision continues to apply in relation to the proceeding on and after the commencement day despite the amendments made by this Act.

15BF Limit on new AAT Act powers in relation to agreements

The following provisions of the AAT Act as amended by this Act do not apply in relation to a decision made by the AAT before the commencement day:

(a) subsection 34D(4);

(b) subsection 42C(5).

15BG Notices and summonses under amended provisions of AAT Act

(1) If, before the commencement day, a notice was given under subsection 29(11) of the AAT Act, then, from the start of the commencement day, the notice is taken to have been given, at the time it was given, under section 29AC of the AAT Act as amended by this Act.

(2) If, immediately before the commencement day, in relation to an order made by the AAT under section 38 of the AAT Act, the period for lodging an additional statement has not ended and the person has not yet lodged the additional statement, then:

(a) the order continues in effect on and after the commencement day despite the amendments made by this Act; and

(b) from the start of the commencement day, the order is taken to have been given, at the time it was given, under section 38 of the AAT Act as amended by this Act.

(3) If, immediately before the commencement day, in relation to a summons issued under subsection 40(1A) of the AAT Act:

(a) the period for complying with the summons had not ended and the person had not yet complied; or

(b) the occasion for complying with the summons had not arisen;

then:

(c) the summons continues in effect on and after the commencement day despite the amendments made by this Act; and

(d) from the start of the commencement day, the summons is taken to have been given, at the time it was given, under section 40A of the AAT Act as amended by this Act.

15BI Ongoing requirement for lodging material documents with AAT

(1) Section 38AA of the AAT Act applies in relation to documents a person obtains possession of on or after the commencement day.

(2) Section 38AA of the AAT Act also applies in relation to documents a person obtained before the commencement day, if, immediately before the commencement day:

(a) a requirement to give the documents to the SSAT was imposed on the person by an affected law in relation to a proceeding before the AAT; and

(b) the person had not yet met the requirement; and

(c) item 15AB of this Schedule has the effect that the person must meet the requirement in relation to the proceeding as continued before the AAT by that item.

15BJ Application for reinstatement

The amendments of the AAT Act made by item 114 of Schedule 1 to this Act apply in relation to the dismissal of an application whether the dismissal occurred before, on or after the commencement day.

15BK Changes to penalties in the AAT Act

The following provisions of the AAT Act as in force before the commencement day continue to apply in relation to conduct engaged in before that day, despite the amendments made by this Act:

(a) section 61;

(b) section 62;

(c) section 62A;

(d) section 62B;

(e) section 63.

15BL Section 67 of the AAT Act

Regulations made before the commencement day for the purposes of section 67 of the AAT Act continue in force on and after the commencement day in relation to a summons issued before that day, despite the amendment by this Act of section 67 of that Act.

15BM Character of privative clause and other decisions under the *Migration Act 1958*

If a decision made before the commencement day was, when made:

(a) a privative clause decision; or

(b) a purported privative clause decision; or

(c) a non-privative clause decision;

within the meaning of the *Migration Act 1958* at that time, the decision continues to be such a decision on and after the commencement day despite the amendments made by this Act. The *Migration Act 1958* applies in relation to the decision accordingly.

15BN Sections 351 and 417 of the *Migration Act 1958*

The Minister referred to in section 351 or 417 of the *Migration Act 1958* may exercise a power conferred by that section on or after the commencement day in relation to a decision made by a discontinued Tribunal before the commencement day.

15BO Sections 477, 477A and 486A of the *Migration Act 1958*

If, immediately before the commencement day, a particular date was, for a migration decision, the ***date of the migration decision*** for the purposes of section 477, 477A or 486A of the *Migration Act 1958*, that particular date continues to be the ***date of the migration decision*** for the purposes of the section on and after the commencement day, despite the amendment by this Act of the definition of ***date of the migration decision*** in subsection 477(3) of the *Migration Act 1958*.

15BP Section 486D of the *Migration Act 1958*

For the purposes of the operation of section 486D of the *Migration Act 1958* on and after the commencement day, and despite the amendment by this Act of the definition of ***tribunal decision*** in subsection 486D(5) of the *Migration Act 1958*, a reference to a tribunal decision includes a reference to a decision made before the commencement day by:

(a) the MRT; or

(b) the RRT; or

(c) the Immigration Assessment Authority as established within the RRT.

15BQ Continuation of payment declarations

(1) If, immediately before the commencement day, a declaration under section 112 of the *A New Tax System (Family Assistance) (Administration) Act 1999* was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:

(a) under section 113 of that Act as amended by this Act; and

(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.

(2) If, immediately before the commencement day, a declaration under section 145 of the *Social Security (Administration) Act 1999* was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:

(a) under section 145 of that Act as amended by this Act; and

(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.

(3) If, immediately before the commencement day, a declaration under section 314 of the *Student Assistance Act 1973* was in effect in connection with a person's application for review of a decision, the declaration continues in effect on and after the commencement day, as if the declaration had been made:

(a) under section 314 of that Act as amended by this Act; and

(b) in connection with the application as continued in the AAT by item 15AB of this Schedule.

15BR Review by AAT of SSAT decisions

(1) If, on or after the commencement day, a person makes an application to the AAT for review of a decision made by the SSAT before the commencement day:

(a) the application is taken to be an application for:

(i) AAT second review within the meaning of the Act that (together with this Act) authorised the making of the application; and

(ii) second review within the meaning of the AAT Act; and

(b) the amendments of those Acts made by this Act apply in relation to the application.

(2) If, immediately before the commencement day, a proceeding is before the AAT for review of a decision made by the SSAT, then, from the start of the commencement day:

(a) the proceeding is taken to be a proceeding for:

(i) AAT second review within the meaning of the Act that (together with this Act) authorised the making of the application for review; and

(ii) second review within the meaning of the AAT Act; and

(b) the amendments of those Acts made by this Act apply in relation to the proceeding.

15BS Subsection 109D(6) of the *A New Tax System (Family Assistance) (Administration) Act 1999*

A decision that, immediately before the commencement day, was an excepted decision within the meaning of subsection 109D(6) of the *A New Tax System (Family Assistance) (Administration) Act 1999* continues to be an excepted decision on and after the commencement day, despite the amendments made by this Act.

15BT Saving provision for regulations under section 103T of the *Child Support (Registration and Collection) Act 1988*

Despite the repeal of section 103T of the *Child Support (Registration and Collection) Act 1988* by this Act, a provision referred to in a regulation in force immediately before the commencement day for the purposes of that section is taken, on and after the commencement day and until the regulation referring to the provision is amended or repealed, to be a prescribed provision for the purposes of section 95E of that Act.

Part 5—Continuation of directions

15CA Continuation of AAT directions

(1) A direction given by the President of the AAT under section 20 or 34C of the AAT Act that was in effect immediately before the commencement day continues in effect on and after the commencement

day for the purposes of any proceeding before the AAT, other than a proceeding in the Migration and Refugee Division or the Social Services and Child Support Division, as if it had been given by the President:

(a) under section 18B of the AAT Act as amended by this Act; or

(b) to the extent to which a direction made under section 34C relates to the person who is to conduct an alternative dispute resolution process—under subsection 34A(2) of the AAT Act as amended by this Act.

(2) A direction given by the President of the AAT under any of the following provisions that was in effect immediately before the commencement day continues in effect on and after the commencement day, as if it had been given under section 19A of the AAT Act as amended by this Act:

(a) section 20B;

(b) subsection 21AA(6);

(c) subsection 21AB(6);

(d) subsection 21AB(9);

(e) subsection 21AB(10);

(f) subsection 21A(3);

(g) subsection 21A(9);

(h) section 22;

(i) section 23;

(j) section 23A.

(3) A direction given by the President of the AAT under section 23F of the AAT Act that was in effect immediately before the commencement day continues in effect on and after the commencement day, as if it had been given under section 19C of the AAT Act as amended by this Act.

(4) Any other direction or order given by the AAT or the President of the AAT that was in effect immediately before the commencement day for the purposes of a proceeding before the AAT continues in effect on and after the commencement day for the purposes of that proceeding, as if it had been given by the AAT or the President under a provision of the AAT Act as amended by this Act that authorises the making of such a direction or order.

15CB Continuation of Principal Member directions constituting a discontinued Tribunal

(1) This item applies in relation to a direction that:

(a) was given before the commencement day by the Principal Member of a discontinued Tribunal and did either or both of the following for the purposes of a proceeding:

(i) constituted the discontinued Tribunal;

(ii) specified the presiding member of the discontinued Tribunal; and

(b) was in effect immediately before the commencement day.

(2) Despite the amendments made by this Act, the direction continues in effect on and after the commencement day for the purposes of the proceeding as continued before the AAT by item 15AB of this Schedule, as if:

(a) the direction had been given by the President of the AAT under section 19A of the AAT Act as amended by this Act; and

(b) references to the discontinued Tribunal were references to the Migration and Refugee Division or the Social Services and Child Support Division (as appropriate) of the AAT.

15CC Continuation of discontinued Tribunal practice directions

(1) This item applies in relation to a direction that:

(a) was given before the commencement day by the Principal Member of a discontinued Tribunal under an Act in relation to proceedings before the Tribunal; and

(b) was a direction of general application; and

(c) was in effect immediately before the commencement day; and

(d) is not covered by item 15CB of this Schedule.

(2) Despite the amendments made by this Act, the direction continues in effect on and after the commencement day for the purposes of the proceeding as continued before the AAT by item 15AB of this Schedule, as if:

(a) the direction had been given by the President of the AAT under section 18B of the AAT Act as amended by this Act; and

(b) references to the discontinued Tribunal were references to the Migration and Refugee Division or the Social Services and Child Support Division (as appropriate) of the AAT.

15CD Continuation of other discontinued Tribunal directions or orders

(1) This item applies in relation to a direction or order that:

(a) was given by a discontinued Tribunal or the Principal Member of a discontinued Tribunal; and

(b) was in effect immediately before the commencement day for the purposes of a proceeding before the discontinued Tribunal; and

(c) is not covered by item 15CB or 15CC of this Schedule.

(2) The direction or order continues in effect on and after the commencement day for the purposes of the proceeding as continued by item 15AB of this Schedule, as if it had been given by the AAT or the President of the AAT under a provision of an affected law as amended by this Act that authorises the giving of such a direction or order.

Part 6—Other transitional matters

15DA References in instruments to discontinued Tribunal

(1) If an instrument in effect immediately before the commencement day contains a reference to a discontinued Tribunal, the instrument has effect on and after the commencement day as if the reference were a reference to the AAT.

(2) If an instrument in effect immediately before the commencement day contains a reference to the Principal Member of a discontinued Tribunal, the instrument has effect on and after the commencement day as if the reference were a reference to the President of the AAT.

(3) Subitems (1) and (2) do not, by implication, prevent the instrument from being varied or terminated on or after the commencement day.

(4) Without limitation, subitems (1) and (2) include a reference to an instrument that is a direction made by the Minister under section 499 of the *Migration Act 1958*.

(5) In this item:

instrument does not include:

(a) an Act; or

(b) regulations made under this Act or the AAT Act; or

(c) a contract of employment; or

(d) an enterprise agreement.

15DB Transfer of records and documents

Any records or documents that were in the possession of a discontinued Tribunal immediately before the commencement day are, from the start of the commencement day, taken to have been transferred to the AAT.

Note: The records and documents are Commonwealth records for the purposes of the *Archives Act 1983*.

15DC Registries

(1) Any place that is a registry of a discontinued Tribunal immediately before the commencement day is, from the start of the commencement day, taken to be a registry of the AAT established under section 64 of the AAT Act as amended by this Act.

(2) Subitem (1) does not, by implication, prevent the Minister from varying the registries of the AAT on or after the commencement day.

15DD Additional material for next AAT reports

(1) The statements and reports given for the AAT under section 42 or 46 of the *Public Governance, Performance and Accountability Act 2013* for the reporting period ending immediately before the commencement day must include the statements and reports that those sections would have required for the MRT and RRT for that reporting period, had the MRT and RRT not ceased to exist.

Note: Information about the SSAT for the period will be included in the statements and reports given by the Secretary of the Department of Social Services.

(2) A report given by the President of the AAT under section 24R of the AAT Act for the year ending immediately before the commencement

day must include information about the discontinued Tribunals for that year.

15DE Existing and new modifications of AAT Act

(1) A provision of an enactment that:

(a) immediately before the commencement day, has the effect of adding to, excluding or modifying the operation of a provision of the AAT Act; and

(b) is not amended by this Act;

continues to have that effect in relation to the AAT Act as amended by this Act, despite the amendments made by this Act.

(2) If:

(a) a provision of an Act appears to have the effect of adding to, excluding or modifying the operation of a provision of the AAT Act; and

(b) the Act in which the provision occurs is amended by a Schedule to this Act;

then, to avoid doubt, the provision has the effect referred to in paragraph (a).

15DF Section 7 of the *Acts Interpretation Act 1901*

Section 7 of the *Acts Interpretation Act 1901* applies in relation to the amendments and repeals made by this Act to the extent to which this Schedule or regulations made under it do not deal with a matter arising in relation to those amendments or repeals.

16 Regulations may deal with transitional and other matters

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed by the regulations; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:

(a) the amendments or repeals made by this Act; or

(b) the enactment of this Act.

(3) Regulations made before 1 July 2017 may provide that this Act or any other Act or instrument has effect with any modifications prescribed by the regulations.

(4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made before 1 July 2017 may be expressed to take effect from a day before the regulations are registered under that Act (but not before the commencement day).

(5) However, if:

(a) a person engaged in conduct before the regulations were registered; and

(b) but for the retrospective effect of the regulations, the conduct would not have contravened a provision of this Act, or another Act or instrument;

then a court must not convict the person of an offence, or impose a pecuniary penalty, in relation to the conduct on the grounds that it contravened a provision of this Act or another Act or instrument.

(6) This Schedule does not limit the regulations that may be made under this item.

[*Minister's second reading speech made in—*
Senate on 3 December 2014
House of Representatives on 13 May 2015]

(268/14)