

**ADMINISTRATIVE REVIEW TRIBUNAL (CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS NO. 1) AMENDMENT RULES 2025**

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

in compliance with section 15J of the *Legislation Act 2003*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Rules 2024* (Transitional Rules) complements the transitional provisions in Schedule 16 to the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (Consequential and Transitional Act) to ensure a smooth transition from the former Administrative Appeals Tribunal to the Administrative Review Tribunal (ART). The ART commenced operations on 14 October 2024.

The *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Amendment Rules 2025* (Amendment Rules) amend the Transitional Rules to repeal section 13.

Section 13 of the Transitional Rules has the effect of temporarily modifying the period within which a person in immigration detention must make an application to the ART for a reviewable migration decision or reviewable protection decision, under paragraph 347(3)(a) of the *Migration Act 1958* (Migration Act). It provides that the reference in paragraph 347(3)(a) of the Migration Act to 7 days applies as if it were a reference to 7 working days.

The *Administrative Review Tribunal (Miscellaneous Measures) Act 2025* (Miscellaneous Measures Act) amends paragraph 347(3)(a) of the Migration Act to extend the period in which applications of this kind must be made to 14 days after the day the applicant is notified of a decision. The Amendment Rules repeal section 13 of the Transitional Rules because section 13 is redundant following the commencement of the Miscellaneous Measures Act.

CONSULTATION

The Attorney-General's Department consulted the Administrative Review Tribunal and the Department of Home Affairs in February 2025.

As the instrument is technical in nature, more expansive consultation was not required.

IMPACT ANALYSIS

The Office of Impact Analysis advised that a Regulatory Impact Statement is not required as the instrument is unlikely to have more than a minor regulatory impact, as the changes will not affect businesses, individuals or community organisations (OBPR22-03440).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Overview of the Legislative Instrument

The *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Amendment Rules 2025* (Amendment Rules) repeal section 13 of the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Rules 2024* (Transitional Rules). Section 13 provides transitional arrangements relating to the timeframe in which a person in immigration detention must apply to the Administrative Review Tribunal for review of a reviewable migration decision or reviewable protection decision, under section 347(3)(a) of the *Migration Act 1958*. Following the commencement of the *Administrative Review Tribunal (Miscellaneous Measures) Act 2025* – which updates the timeframe for applications of this kind – section 13 is redundant.

Human Rights Implications

The Amendment Rules repeal a redundant provision of the Transitional Rules and do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Rules are compatible with human rights as they do not raise any human rights issues.

NOTES ON SECTIONS

Clause 1 - Name

1. This section provides that the title of the Amendment Rules is the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Amendment Rules 2025*.

Clause 2 – Commencement

2. This section provides for the Amendment Rules to commence at the same time as Schedule 2 to the *Administrative Review Tribunal (Miscellaneous Measures) Act 2025*. However, if Schedule 2 of that Act does not commence, the provisions in this instrument do not commence at all.

Clause 3 – Authority

3. This section provides that the Amendment Rules are made and given authority under *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024*.

Clause 4 – Schedules

4. This section clarifies the interaction of amendments to instruments within the Schedules to the Rules. Where an instrument is amended in a Schedule in this instrument, that amendment (including any repeal) have effect as is contained in the Schedule. Any other item in a Schedule has effect according to its terms.

SCHEDULE 1 – AMENDMENTS

Administrative Review Tribunal (Consequential and Transitional Provisions No.1) Rules 2024

Item 1 – Section 13

This item repeals section 13 of the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Rules 2024* (Transitional Rules).

Sections 347 and 347A of the *Migration Act 1958* (Migration Act), as inserted by item 136 of Schedule 2 to the *Administrative Review Tribunal (Consequential and Transitional Provisions No.1) Act 2024* (Consequential and Transitional Act), enable an application to be made to the Administrative Review Tribunal (ART) for review of a reviewable migration decision or a reviewable protection decision. From the commencement of the Consequential and Transitional Act, paragraph 347(3)(a) provided that, if the applicant is in immigration detention on the day the applicant is notified of the decision, the application must be made within 7 days after the day the applicant is notified of the decision.

Section 13 of the Transitional Rules temporarily modifies the timeframe within which an application of this kind must be made. It provides that paragraph 347(3)(a) of the Migration Act, as inserted by item 136 of Schedule 2 to the Consequential and Transitional Act, applies as if the reference in that paragraph to 7 days were a reference to 7 *working* days.

The *Administrative Review Tribunal (Miscellaneous Measures) Act 2025* (Miscellaneous Measures Act) amends paragraph 347(3)(a) of the Migration Act to replace the reference to 7 days with a reference to 14 days. This means that, following the commencement of the Miscellaneous Measures Act:

- paragraph 347(3)(a) of the Migration Act no longer contains a reference to 7 days, and
- the timeframe for making an application of this kind is 14 days after the day the applicant is notified of the decision.

This item repeals section 13 of the Transitional Rules, as it is redundant following the commencement of the Miscellaneous Measures Act.