

**AUSTRALIAN ANTARCTIC TERRITORY WEAPONS AMENDMENT
(ADMINISTRATIVE REVIEW TRIBUNAL) ORDINANCE 2024**
**CHRISTMAS ISLAND MOTOR VEHICLE (THIRD PARTY INSURANCE)
LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL)
ORDINANCE 2024**
**COCOS (KEELING) ISLANDS MOTOR VEHICLE (THIRD PARTY INSURANCE)
LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL)
ORDINANCE 2024**
**HEARD ISLAND AND MCDONALD ISLANDS LEGISLATION AMENDMENT
(ADMINISTRATIVE REVIEW TRIBUNAL) ORDINANCE 2024**
**JERVIS BAY TERRITORY AMENDMENT (ADMINISTRATIVE REVIEW
TRIBUNAL AND OTHER MATTERS) ORDINANCE 2024**

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 Act 2024* (the Act) establishes the Administrative Review Tribunal (Tribunal), as a fit-for-purpose federal administrative review body which will replace the Administrative Appeals Tribunal (AAT). The Act received Royal Assent on 3 June 2024 and has been proclaimed to commence on 14 October 2024.

The purpose of the *Australian Antarctic Territory Weapons Amendment (Administrative Review Tribunal) Ordinance 2024*, *Christmas Island Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*, *Cocos (Keeling) Islands Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*, *Heard Island and McDonald Islands Legislation Amendment (Administrative Review Tribunal) Ordinance 2024* and *Jervis Bay Territory Legislation Amendment (Administrative Review Tribunal and Other Matters) Ordinance 2024* (together, the Amending Ordinances) is to make necessary consequential amendments to total of 8 ordinances as a result of the abolition of the AAT and the establishment of the new Tribunal. The amendments facilitate the smooth transition from the AAT to the new Tribunal and ensure clarity for users.

In particular, the Amending Ordinances update terminology within the ordinances, such as repealing outdated references to the Administrative Appeals Tribunal, the AAT and the Administrative Appeals Tribunal Act 1975 and replacing them with references to the Administrative Review Tribunal, the ART and the Administrative Review Tribunal Act 2024. The Amending Ordinances also update other outdated legislative references.

The Amending Ordinances are legislative instruments for the purposes of the *Legislation Act 2003*.

The Amending Ordinances amend ordinances in the Climate Change, Energy, the Environment and Water and the Infrastructure, Transport, Regional Development, Communications and Art portfolios.

The Amending Ordinances are made pursuant to, and operate under various empowering legislation administered by the 5 different Islands or Territories, as follows:

- Section 11 of the Australian Antarctic Territory Act 1954 authorises the making of the *Australian Antarctic Territory Weapons Amendment (Administrative Review Tribunal) Ordinance 2024*.
- Section 9 of the *Christmas Island Act 1958* authorises the making of the *Christmas Island Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.
- Section 12 of the *Cocos (Keeling) Islands Act 1955* authorises the making of the *Cocos (Keeling) Island Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.
- Section 10 of the *Heard Island and McDonald Islands Act 1953* authorises the making of the *Heard Island and McDonald Islands Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.
- Section 4F of the *Jervis Bay Territory Acceptance Act 1915* authorises the making of the *Jervis Bay Territory Legislation Amendment (Administrative Review Tribunal and Other Matters) Ordinance 2024*.

Details of the Amending Ordinances are set out in the **Attachment A**.

CONSULTATION

Before the instrument was made, the Attorney-General considered the general obligation to consult required by section 17 of the Legislation Act 2003.

The Attorney-General's Department consulted with the Department of Climate Change, Energy, the Environment and Water, and the Department of Infrastructure, Transport, Regional Development, Communications and Arts, on the Amending Ordinances in August – September 2024. The Departments confirm that consultation requirements have been satisfied and that the relevant agencies were supportive of the proposed amendments to ordinances in their portfolio.

IMPACT ANALYSIS

The Office of Impact Analysis advised that a Regulatory Impact Statement is not required as the Amending Ordinances are unlikely to have more than a minor regulatory impact, as 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

The Amending Ordinances are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The Amending Ordinances support the Administrative Review Tribunal legislative package, by making consequential amendments to 8 Ordinances across 5 Islands or Territories and 2 Portfolios.

The Statements of Compatibility with Human Rights in the Explanatory Memorandum for the ART Act, the Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024 (Consequential Act 1), and the Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024 (Consequential Act 2) (together, the ART legislative package) outline the human rights impacts of Australia's framework for administrative review.

The Amending Ordinances will enable the efficient and effective operation of the administrative review framework. The Amending Ordinances ensure that legal frameworks reflect the terminology, concepts, structure and policy settings in the ART Act or are otherwise consistent with the ART Act. This will ensure that existing laws continue to apply as intended.

The Amending Ordinances support human rights by making simple terminology changes, such as updating outdated references to the Administrative Appeals Tribunal, the AAT and the *Administrative Appeals Tribunal Act 1975* and replacing them with references to the Administrative Review Tribunal, ART and the *Administrative Review Tribunal Act 2024* (respectively). These amendments will ensure that decisions may be reviewable by the Tribunal (where they were previously reviewable by the AAT). This maintains the ability of persons to seek independent, external review of government decisions.

Human rights implications

The Amending Ordinances only make minor consequential amendments to Ordinances to align with the ART Act, hence, the Amendment Ordinances do not engage any of the applicable rights or freedom.

Conclusion

The Amending Ordinances are compatible with human rights as they do not raise any human rights issues.

**AUSTRALIAN ANTARCTIC TERRITORY WEAPONS AMENDMENT
(ADMINISTRATIVE REVIEW TRIBUNAL) ORDINANCE 2024**

OUTLINE

This Ordinance contains consequential amendments to the *Weapons Ordinance 2001* in the Australian Antarctic Territory.

Section 1 – Name

This section will provide that the title of the Ordinance is the *Australian Antarctic Territory Weapons Amendment (Administrative Review Tribunal) Ordinance 2024*.

Section 2 – Commencement

This section will provide for the commencement of the whole of this Ordinance. The table provides that the whole of this ordinance will commence on the later of either the day after this Ordinance is registered, or the day that the ART Act commences. The ART Act is proclaimed to commence on 14 October 2024.

Section 3 – Authority

This section will provide that this Ordinance is made under section 11 of the *Australian Antarctic Territory Act 1954*.

Section 4 – Schedules

This section provides that each instrument specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this Ordinance has affected according to its terms.

SCHEDULE 1 – AMENDMENTS

Item 1: Section 23

Terminology changes

This item will make a simple terminology change to update an outdated reference to the AAT and replace it with a reference to the Tribunal. This amendment will ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provision will continue to operate in substantively the same way in relation to the new Tribunal.

**CHRISTMAS ISLAND MOTOR VEHICLE (THIRD PARTY INSURANCE)
LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL)
ORDINANCE 2024**

OUTLINE

This Ordinance contains consequential amendments to the *Motor Vehicle (Third Party Insurance) Legislation Ordinance 2001* in the Christmas Island.

Section 1 – Name

This section will provide that the title of the Ordinance is the *Christmas Island Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.

Section 2 – Commencement

This section will provide for the commencement of the whole of this Ordinance. The table provides that the whole of this ordinance will commence on the later of either the day after this Ordinance is registered, or the day that the ART Act commences. The ART Act is proclaimed to commence on 14 October 2024.

Section 3 – Authority

This section will provide that this Ordinance is made under section 9 of the *Christmas Island Act 1958*.

Section 4 – Schedules

This section will provide that each instrument specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this Ordinance has affected according to its terms.

SCHEDULE 1 – AMENDMENTS

Item 1 and 2: Item 5 of Schedule 1 (Subsections 3AA(5) and 3AB(4))

Terminology changes

These item will make simple terminology changes to update outdated references to the Administrative Appeals Tribunal and the *Administrative Appeals Tribunal Act 1975* and replace them with references to the Administrative Review Tribunal and the *Administrative Review Tribunal Act 2024* (respectively). These amendments will ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provisions will continue to operate in substantively the same way in relation to the new Tribunal.

**COCOS (KEELING) ISLANDS MOTOR VEHICLE (THIRD PARTY INSURANCE)
LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL)
ORDINANCE 2024**

OUTLINE

This Ordinance contains consequential amendments to the Motor Vehicle (Third Party Insurance) Legislation Ordinance 2001 in the Coco (Keeling) Island.

Section 1 – Name

This section will provide that the title of the Ordinance is the *Cocos (Keeling) Islands Motor Vehicle (Third Party Insurance) Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.

Section 2 – Commencement

This section will provide for the commencement of the whole of this Ordinance. The table provides that the whole of this ordinance will commence on the later of either the day after this Ordinance is registered, or the day that the ART Act commences. The ART Act is proclaimed to commence on 14 October 2024.

Section 3 – Authority

This section will provide that this Ordinance is made under section 12 of the *Cocos (Keeling) Islands Act 1955*.

Section 4 – Schedules

This section will provide that each instrument specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this Ordinance has affected according to its terms.

SCHEDULE 1 – AMENDMENTS

Item 1 and 2: Item 5 of Schedule 1 (Subsections 3AA(5) and 3AB(4))

Terminology changes

These item will make simple terminology changes to update an outdated reference to the Administrative Appeals Tribunal and the *Administrative Appeals Tribunal Act 1975* and replace them with references to the Administrative Review Tribunal and the *Administrative Review Tribunal Act 2024* (respectively). These amendments will ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provisions will continue to operate in substantively the same way in relation to the new Tribunal.

HEARD ISLAND AND MCDONALD ISLANDS LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL) ORDINANCE 2024

OUTLINE

This Ordinance contains consequential amendments to the following ordinances in the Heard Island and McDonald Islands:

- *Environment Protection and Management Ordinance 1987*
- *Weapons Ordinance 2001*

Section 1 – Name

This section will provide that the title of the Ordinance is the *Heard Island and McDonald Islands Legislation Amendment (Administrative Review Tribunal) Ordinance 2024*.

Section 2 – Commencement

This section will provide for the commencement of the whole of this Ordinance. The table provides that the whole of this ordinance will commence on the later of either the day after this Ordinance is registered, or the day that the ART Act commences. The ART Act is proclaimed to commence on 14 October 2024.

Section 3 – Authority

This section will provide that this Ordinance is made under section 10 of the *Heard Island and McDonald Islands Act 1953*.

Section 4 – Schedules

This section will provide that each instrument specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this Ordinance has affected according to its terms.

SCHEDULE 1 – AMENDMENTS

General terminology changes

A number of items in this Ordinance will make simple terminology changes, such as updating outdated references to the Administrative Appeals Tribunal, the AAT and the *Administrative Appeals Tribunal Act 1975* and replacing them with references to the Administrative Review Tribunal, ART and the *Administrative Review Tribunal Act 2024* (respectively). These amendments will ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provisions will continue to operate in substantively the same way in relation to the new Tribunal.

Environment Protection and Management Ordinance 1987

Item 1, 2 and 3: Sections 17(6), 23(1) and 23(3)

Terminology changes

This item will amend terminology. See explanation of general terminology changes above.

Weapons Ordinance 2001 (Federal Register of Legislation No.F2007B00566)

Item 4: Section 21

Terminology changes

This item will amend terminology. See explanation of general terminology changes above.

JERVIS BAY TERRITORY LEGISLATION AMENDMENT (ADMINISTRATIVE REVIEW TRIBUNAL AND OTHER MATTERS) ORDINANCES 2024

OUTLINE

This Ordinance contains consequential amendments to the following ordinances in the Jervis Bay Territory:

- *Jervis Bay Territory Emergency Management Ordinance 2015*
- *Jervis Bay Territory Marine Safety Ordinance 2016*
- *Leases Ordinance 1992*

Section 1 – Name

This section will provide that the title of the Ordinance is the *Jervis Bay Territory Legislation Amendment (Administrative Review Tribunal and Other Matters) Ordinance 2024*.

Section 2 – Commencement

This section will provide for the commencement of the whole of this Ordinance. The table provides that the whole of this ordinance will commence on the later of either the day after this Ordinance is registered, or the day that the ART Act commences. The ART Act is proclaimed to commence on 14 October 2024.

Section 3 – Authority

This section will provide that this Ordinance is made under section 4F of the *Jervis Bay Territory Acceptance Act 1915*.

Section 4 – Schedules

This section will provide that each instrument specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this Ordinance has affected according to its terms.

SCHEDULE 1 – AMENDMENTS

General terminology changes

A number of items in this Ordinance will make simple terminology changes, such as updating outdated references to the Administrative Appeals Tribunal, the AAT and the *Administrative Appeals Tribunal Act 1975* and replacing them with references to the Administrative Review Tribunal, ART and the *Administrative Review Tribunal Act 2024* (respectively). These amendments will ensure that the Tribunal has jurisdiction to review decisions that are reviewable by the AAT, and that the relevant provisions will continue to operate in substantively the same way in relation to the new Tribunal.

Jervis Bay Territory Emergency Management Ordinance 2015

Item 1: Subsection 23(5)

Terminology changes

This item will amend terminology. See explanation of general terminology changes above.

Jervis Bay Territory Marine Safety Ordinance 2016

Item 2: Subsection 111(6)

Terminology changes

This item will amend terminology. See explanation of general terminology changes above.

Leases Ordinance 1992

Item 3, 4 and 5: Section 15 (Heading), Section 15 and Subsection 16(3)

Terminology changes

These items will amend terminology. See explanation of general terminology changes above.

Item 6: Subsection 23AA(2)(note 1)

Updating legislative references

This item will repeal and substitute Note 1 to subsection 23AA(2), replacing the reference to the Federal Circuit Court of Australia and section 10AA of the *Federal Circuit Court of Australia Act 1999* (FCC Act) with a reference to the Federal Circuit and Family Court of

Australia (Division 2) and the equivalent provision in the *Federal Circuit and Family Court of Australia Act 2021* (FCFCOA Act).

Consistent with section 10AA of the FCC Act, section 133 of the FCFCOA Act provides that the FCFCOA (Division 2) has original jurisdiction to hear and determine a Commonwealth tenancy dispute between the parties to a lease, licence, or other arrangements. The FCC Act was repealed by the *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021* on 1 September 2021. This amendment is technical in nature and will ensure the note remains accurate.

Item 7 and 8: Section 23A (Heading) and Section 23A

These items will amend terminology. See explanation of general terminology changes above.