

Administrative Review Tribunal Rules 2024 (Cth)

Submission to the Attorney-General's
Department, Australian Government

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal people of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Attorney-General's Department on the Exposure Draft of the Administrative Review Tribunal Rules 2024 (Cth) ('Rules').
2. Our submission addresses the:
 - a. commencement of these Rules;
 - b. application timeframes that prescribe by when an individual must apply to the ART for administrative review of a government decision; and
 - c. ART application fees.

Commencement

3. These Rules will commence on 14 October 2024, along with the Administrative Review Tribunal (ART) itself.²
4. The ALA would welcome more information from the Attorney-General's Department about what public education will accompany the commencement of the ART, so that members of the public are aware of their rights to administrative review of government decision-making.
5. The ALA recommends that all resources designed for public education about the ART are available online, accessible, and available in plain English plus a range of other languages.
6. **The ALA would welcome ongoing dialogue with the Attorney-General's Department about the experiences of ALA members and their clients through the ART, once it has been operational for a period of time; about what resources can best assist the legal profession (including Practice Directions); and about any amendments which may be needed to these Rules in the medium- to long-term to ensure that the objects of the ART are being fulfilled.**

² Exposure Draft of the Administrative Review Tribunal Rules 2024 (Cth) s 2.

Application timeframes

7. The ALA notes that, pursuant to the *Administrative Review Tribunal Act 2024* (Cth) ('ART Act'),³ these Rules will prescribe by when an individual must apply to the ART for administrative review of a government decision.
8. As per the Exposure Draft of the Rules,⁴ individuals must apply to the ART for administrative review by 28 days after written notice of a government decision is provided.
9. This contrasts to the status quo, however, whereby some applicants have 60 days to lodge their application for administrative review.
10. ALA members report that it can take a number of weeks after written notice of a government decision is provided for an individual to access further legal advice, medical guidance or any other information needed to inform that individual's decision to apply for administrative review – and then additional time for that individual (or their legal representative) to make the actual application for administrative review.
11. While we note that, as proposed in the Exposure Draft of the Rules,⁵ the ART will have broad discretion to grant extensions of time for making applications, ALA members submit that applicants to the ART should have at least 60 days as the standard timeframe for applying for administrative review. This will eliminate the need for the vast majority of applicants to apply for extensions, which would also honour the objects of the ART including fairness and ensuring "little formality".⁶
12. **As such, based on the experiences of ALA members and their clients, the ALA supports any timeframe for applying for administrative review through the ART that is proposed to be 28 days (or less) in these Rules being increased to 60 days.**

³ *Administrative Review Tribunal Act 2024* (Cth) s 18(1).

⁴ Exposure Draft of the *Administrative Review Tribunal Rules 2024* (Cth) s 5(3).

⁵ *Ibid* s 5(4).

⁶ See: *Administrative Review Tribunal Act 2024* (Cth) s 9(a) and (b).

Application fees

13. **The ALA supports maintaining fee exemptions for individuals applying for the review of a decision made under the Commonwealth legislation listed in Exposure Draft of the Rules.**⁷
14. This includes decisions made under the *Aged Care Act 1997* (Cth), the *Freedom of Information Act 1982* (Cth), the *Military Rehabilitation and Compensation Act 2004* (Cth), the *National Disability Insurance Scheme Act 2013* (Cth), and the *Safety, Rehabilitation and Compensation Act 1988* (Cth).
15. It is essential that application fees for applying for review through the ART do not serve as a barrier to accessing administrative review of government decision-making. This would be contrary to the objectives of the ART.⁸
16. **As such, the ALA would support the Attorney-General and the Attorney-General's Department re-considering whether any matters that come before the ART should attract applications fees – especially where those matters involve vulnerable applicants.**

Conclusion

17. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Attorney-General's Department on the Administrative Review Tribunal Rules 2024.
18. The ALA is available to provide further assistance to the Attorney-General's Department on the issues raised in this submission.



Michelle James

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⁷ Exposure Draft of the Administrative Review Tribunal Rules 2024 (Cth) s 29.

⁸ See: *Administrative Review Tribunal Act 2024* (Cth) s 9(b) and (c).