



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

# ANNUAL REPORT 2011-12

MIGRATION REVIEW TRIBUNAL  
REFUGEE REVIEW TRIBUNAL

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS





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## Migration Review Tribunal and Refugee Review Tribunal Annual Report 2011–12

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### Contact officer for this report

For all enquiries contact the Executive Officer, Migration Review Tribunal and Refugee Review Tribunal, GPO Box 1333, Sydney NSW 2001; or by telephoning (02) 9276 5060 or faxing (02) 9276 5099.

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The Translating and Interpreting Service (TIS) is a service provided by the Commonwealth Government to provide telephone interpreting services for non-English speakers. TIS can be contacted by telephone on 131 450 from anywhere in Australia 24 hours a day, seven days a week.

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50 760 799 564



**Australian Government**

**Migration Review Tribunal • Refugee Review Tribunal**

28 September 2012

The Hon Chris Bowen MP  
Minister for Immigration and Citizenship  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I have pleasure in presenting to you this annual report on the operations of the Migration Review Tribunal and the Refugee Review Tribunal (the tribunals) for the year ending 30 June 2012.

The report has been prepared in accordance with the *Requirements for annual reports for departments, executive agencies and FMA Act bodies*, as approved by the Joint Committee of Public Accounts and Audit under sections 63(2) and 70(2) of the *Public Service Act 1999* and published by the Department of the Prime Minister and Cabinet on 28 June 2012.

The report includes the tribunals' audited financial statements as required by section 57 of the *Financial Management and Accountability Act 1997*.

As required by the Commonwealth Fraud Control Guidelines I certify that I am satisfied that for the 2011–12 financial year the tribunals had appropriate fraud control mechanisms that meet the tribunals' needs and took all reasonable measures to minimise, investigate and recover incidences of fraud.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kay Ransome', written over a horizontal line.

Kay Ransome  
Principal Member

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# THE TRIBUNALS AT A GLANCE

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) are established under the *Migration Act 1958* (the Migration Act). The tribunals' jurisdictions, powers and procedures are set out in the Migration Act and in the Migration Regulations 1994 (the Migration Regulations).

Unless otherwise indicated, all information is as at 30 June 2012 for the 2011–12 financial year.

**Principal Member** Mr Denis O'Brien

**Registrar** Mr Colin Plowman

|   | MRT    | RRT   | MRT and RRT |
|---|--------|-------|-------------|
| Established   | 1999   | 1993  |             |
| Cases lodged  | 14,088 | 3,205 | 17,293      |
| Cases on-hand at 1 July 2011                                  | 10,786 | 1,100 | 11,886      |
| Cases decided   | 8,011  | 2,804 | 10,815      |
| Cases on-hand at 30 June 2012                                 | 16,863 | 1,501 | 18,364      |
| % of primary decisions set aside                              | 36%    | 27%   | 34%         |
| % of primary decisions affirmed                               | 39%    | 68%   | 46%         |
| % of cases withdrawn or otherwise resolved                    | 25%    | 5%    | 20%         |
| Average time taken to decide a case (weeks)                   | 60     | 21    |             |
| % of decided cases where applicant represented                | 65%    | 61%   | 64%         |
| Hearings arranged   | 6,663  | 4,182 | 10,845      |
| % of decided cases where hearing held                         | 50%    | 76%   | 57%         |
| % of held hearings where interpreter was required             | 58%    | 83%   | 68%         |
| Languages and dialects of interpreters                        |        |       | 84          |
| % of decisions taken to judicial review                       | 3.2 %  | 23.5% |             |
| Decisions set aside on judicial review as % of decisions made | 0.2%   | 0.8%  |             |

|         | MRT and RRT    |
|---------|----------------|
| Members | 112*           |
| Staff   | 303            |
| Cost    | \$53.3 million |

\* Includes members working with the Independent Protection Assessment Office (IPAO).

## Statistics

All statistics used in this report are of 'cases'. Multiple applications for review are counted as a single case where the legislation provides that the applications for review can be combined, usually where members of a family unit have applied for the grant of visas at the same time.

# PRINCIPAL MEMBER'S REPORT

## PART 01

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# PRINCIPAL MEMBER'S REPORT

I am pleased to provide this report on the tribunals' operations for the 2011–12 financial year.

Consistent with the trend in recent years, the tribunals' caseload and output continued to increase in 2011–12. The tribunals made 10,815 decisions in 2011–12, 18% more than the previous year. While decision making increased, it could not match the unabated increase in applications. Combined lodgements were up by 30% in 2011–12 and the active caseload increased by 55% to 18,364 cases at 30 June 2012. Due to the increase in applications and the unavailability of some experienced members, the proportion of RRT cases decided within 90 days dropped to 32% in 2011–12, down from 71% in 2010–11.

Despite the caseload pressures, the quality of our decision making remains high, demonstrated by the low number of judicial review applications and remittals. Very few tribunal decisions made in 2011–12 were the subject of a judicial review application. Tribunal decisions (made in 2011–12 or earlier) were set aside by a court in only 8% of the matters finalised by the courts in 2011–12. The low number of complaints is also an indicator of quality decision making, with only 18 complaints received in 2011–12, equating to less than two complaints per 1,000 cases decided.



A number of strategies were implemented in 2011–12 to improve efficiency and reduce the number of unconstituted cases. These strategies included allocating batches of like cases to members, prioritising the constitution of all older MRT cases and making bulk allocations of RRT cases to members. There was also a stronger focus on member performance, with higher annual decision targets and enhanced reporting on the timeliness of case processing.

There were several new developments in 2011–12 with the commencement of new complementary protection arrangements and the introduction of a single processing system for irregular maritime arrivals. Since 24 March 2012 merits review of protection visa decisions by the RRT has included assessment of a new complementary protection criterion.

A comprehensive manual was developed and training sessions held to prepare members and staff for the introduction of the new arrangements. At 30 June 2012, three cases had been remitted to the department on complementary protection grounds.

In November, the Minister for Immigration and Citizenship (the Minister) announced a single system for processing the claims of people seeking asylum in Australia regardless of their mode of arrival. In preparation for the transfer of this caseload to the RRT, Professor the Hon Michael Lavarch, AO was commissioned to investigate possible ways to reduce the tribunals' on-hand caseload (the Lavarch Review). The Minister agreed to implement the recommendations proposed in the *Report on the increased workload of the MRT and RRT*. From 24 March irregular maritime arrivals could request the RRT review denied protection visa applications. At 30 June 2012, the RRT had received 55 applications from irregular maritime arrivals. This caseload is expected to increase significantly in 2012–13. The tribunals have undertaken extensive caseload, staffing, accommodation and infrastructure planning to prepare for the new caseload and have been assisted by the transfer of staff and resources from the Independent Protection Assessment Office (IPAO) from July 2012.

In June 2012, the Governor-General appointed me as Principal Member,

along with three new senior members, 14 full-time members and 18 part-time members for terms of three and five years. The new members are based in Sydney, Melbourne, Brisbane, Adelaide and Perth. The increase in membership is expected to significantly enhance the tribunals' operating capacity.

The tribunals continued a community liaison program in 2011–12 as part of a commitment to being open and accessible, and building productive working relationships with stakeholders. Monthly community liaison updates were circulated and meetings held across the country in November 2011 and April 2012. Matters raised by stakeholders at these meetings included arrangements for the new irregular maritime arrival caseload, the complementary protection regime, case processing times and interpreting standards. A new Stakeholder Engagement Plan has been developed for 2012–14 to outline the tribunals' approach to engaging with clients and stakeholders, and strategies to support communication and services.

A number of public information sessions were held in 2011–12, involving MRT sessions in Melbourne, Sydney and Brisbane during Law Week in May 2012, and RRT sessions in Adelaide, Melbourne and Sydney during Refugee Week in June 2012. The events were a success, with staged hearings and presentations from staff and members providing visitors with an insight into decision making and operations.

The tribunals' total operating expenditure for 2011–12 was \$53.3 million, with a deficit of \$3.7 million. Salaries, accommodation and interpreters are the tribunals' greatest expenses.

The tribunals received increased appropriations of \$13.9 million over four years in the 2011–12 Budget, which was offset by increases in application fees from 1 July 2011. The 2012–13 Budget also provided an increased appropriation of \$8.5 million for 2012–13. The funding will assist the tribunals manage the new irregular maritime arrival caseload, providing for both operating and capital expenditure. A review of the tribunals' resourcing is expected to be considered in the lead up to the 2013-14 Budget.

The tribunals' key priorities for 2012–13 include moving towards the nationalisation of operations and greater specialisation in members' caseloads, managing the increasing number of applications, meeting time-standards and implementing a new enterprise agreement. The tribunals' capacity is expected to increase significantly with the new member and senior member appointments, the return of members undertaking work with the IPA and the implementation of recommendations contained in the Lavarch Review.

The tribunals said farewell to Principal Member Mr Denis O'Brien in June 2012. In his five years as the Principal Member, Mr O'Brien emphasised fairness, consistency and quality outcomes in tribunal decision making. Under his leadership there was a substantial drop in judicial review and overturn of tribunal decisions, and an expansion of the tribunals' engagement with external stakeholders. On behalf of members and staff, I would like to acknowledge Mr O'Brien's contribution and leadership over the past five years.

Finally, I would like to acknowledge the hard work of staff and members during 2011–12, and thank them for their support as I commence as the new Principal Member.

# THE ROLE OF THE TRIBUNALS

## PART 02

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# THE ROLE OF THE TRIBUNALS

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) are statutory bodies providing a final, independent merits review of visa and visa-related decisions made by the Minister or by officers of the department, acting as delegates of the Minister.

The tribunals are established under the Migration Act. The tribunals' jurisdictions, powers and procedures are set out in the Migration Act and the Migration Regulations. The tribunals comprise members (appointed by the Governor-General under the Migration Act for fixed terms) and staff (appointed under the Migration Act and employed under the *Public Service Act 1999*).

All members and staff are cross-appointed to both tribunals and the tribunals operate as a single agency for the purposes of the *Financial Management and Accountability Act 1997* (the FMA Act).

The MRT reviews a wide range of decisions in relation to visas other than protection visas.

The RRT reviews decisions in relation to protection visas.

A visa is required by anyone who is not an Australian citizen and who wishes to travel to, and remain in, Australia. The Migration Act and the Migration Regulations set out the criteria for visas. There are specific criteria which relate to the purpose of particular visas, and general criteria relating to matters such as health and character.

A visa is refused if a decision maker is not satisfied that a person meets the criteria for the visa. A visa may be cancelled if, for example, it was obtained by making false statements or if the visa holder has not abided by the conditions of the visa.

In reviewing a decision to refuse to grant, or to cancel, a visa, the tribunals are required to conduct a 'merits review' that is 'independent, fair, just, economical, informal and quick'.

## MERITS REVIEW

Merits review is an administrative reconsideration of a case. A merits review body makes decisions within the same legislative framework as the primary decision maker, and may exercise all the powers and discretions conferred on the primary decision maker.

The principal objective of merits review is to ensure that the correct or preferable decision is reached in the particular case. The decision and reasons of a merits review body should also improve the general quality and consistency of decision making, and enhance openness and accountability of an area of government decision making.

The tribunals reconsider each case in light of the facts before them, the law and government policy. A decision made by a member in one case does not bind members in other cases but it is generally expected that a decision in



a particular case would be consistent with other decisions in like matters.

The tribunals have the power to affirm the primary decision, vary the primary decision, set aside the primary decision and substitute a new decision, or remit (return) a matter to the department for reconsideration with specific directions. For example, a matter may be remitted if a member is satisfied that a visa applicant meets one or more of the criteria for the visa. The department may then need to undertake further processing in relation to other requirements for the visa such as health, security and character.

## MATTERS REVIEWED BY THE MRT

The MRT reviews decisions relating to a wide range of visas. Reviewable decisions include decisions to refuse to grant visas, to cancel visas, to refuse to approve sponsors, and to refuse to approve a nominated position or business activity.

Bridging visas provide temporary lawful status to non-citizens in Australia, for example, while a temporary entrant is awaiting the outcome of an application for permanent residence. Visitor visas are for tourists and persons visiting relatives in Australia. Student visas are granted to persons enrolled at schools, colleges and universities in Australia.

Temporary business visas are for skilled workers to work in businesses in Australia. Business skills visas are for

successful business people who obtain a substantial ownership interest in a new or existing business in Australia and actively participate in that business at a senior management level. Skilled visas are for persons in skilled occupations who have the education, skills and employability to contribute to the Australian economy.

Partner visas are for partners of Australian citizens or permanent residents. Family visas are for children, parents, remaining relatives (persons who have limited family contacts, other than relatives living in Australia), aged dependent relatives (elderly overseas relatives who have been financially supported by a close Australian relative for a reasonable period) and carers (persons who are able and willing to provide assistance needed by a relative in Australia).

## MATTERS REVIEWED BY THE RRT

The RRT reviews decisions to refuse to grant or to cancel protection visas within Australia. The review of these decisions usually involves a consideration of whether or not the applicant is a person to whom Australia has protection obligations. This involves consideration of whether they are a 'refugee' within the meaning of the 1951 United Nations (UN) Convention Relating to the Status of Refugees (the Refugees Convention), as amended by the 1967 UN Protocol Relating to the Status of Refugees (the Protocol).

The Protocol removed the time and geographical limitation in the Refugees Convention's definition of a refugee. The Refugees Convention now extends to all persons who are refugees because of events occurring at any time in any place. Australia became a signatory to the Refugees Convention in 1954 and to the Protocol in 1973.

On 24 March 2012, amendments to the Migration Act and Migration Regulations introducing a complementary protection criterion took effect. The amendments apply to all new protection visa applications made on or after the commencement date, and to all protection visa applications which had not been finally determined before the commencement date, including all undecided applications with the RRT. The effect of the amendments is that where the applicant does not meet the definition of a refugee under the Refugees Convention, a protection visa may be granted if there are substantial grounds for believing that there is a real risk the applicant will suffer significant harm if returned to another country.

### THE REFUGEES CONVENTION

The term 'refugee' is defined in article 1A(2) of the Refugees Convention as amended by the Protocol, as a person who:

**... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it ...**

Other provisions of the Refugees Convention may be relevant to an assessment of the entitlement to a protection visa.

A number of provisions of the Migration Act expressly qualify certain aspects of the Refugees Convention. These provisions focus principally on the concepts of persecution and the nature and seriousness of certain crimes relevant to the determination of whether Australia has protection obligations to an asylum seeker. Many aspects of the Refugees Convention, however, are not specifically defined by the legislation and must be interpreted in accordance with established legal principles.

### THE COMPLEMENTARY PROTECTION CRITERION

The complementary protection criterion requires the Minister to have substantial grounds for believing that, as a necessary and foreseeable consequence of a person being removed from Australia to a receiving country, there is a real risk they will suffer significant harm.

The legislation provides that a person would suffer 'significant harm' if:

- (a) the person will be arbitrarily deprived of his or her life; or
- (b) the death penalty will be carried out on the person; or
- (c) the person will be subjected to torture; or
- (d) the person will be subjected to cruel or inhuman treatment or punishment; or
- (e) the person will be subjected to degrading treatment or punishment.

Some of these concepts are further qualified in the Migration Act.

## APPLYING FOR REVIEW

Whenever a decision is made which is reviewable by the MRT or the RRT, the department is required by law to advise the person or persons involved of their review rights. This includes setting out who can apply for review, where an application for review can be made and the time limit within which the application must be made.

It is important that persons who receive a departmental decision consider the information about review rights carefully. The tribunals do not have discretion to accept an application for review which has been lodged outside the relevant time limit or by a person who is not entitled to apply for review.

Form M1 is the general MRT application form. Form M2 is the MRT application form for persons in immigration detention. Form R1 is the RRT application form. These forms are available on the MRT-RRT website, from the Sydney and Melbourne registries of the tribunals, and the Adelaide, Brisbane and Perth registries of the Administrative Appeals Tribunal (AAT).

A fee is payable for all MRT applications except applications for review of a bridging visa decision and any related decision to require a security that are made by persons in immigration detention.

A fee of \$1,540 applies and a reduced fee of \$770 may be paid in cases of severe financial hardship. There is no fee when applying to the RRT. However, if the RRT affirms the primary decision, a post-decision fee of \$1,540 applies.

## THE CONDUCT OF REVIEWS

The tribunals are usually constituted by a single member. The member is required to conduct an independent review and reach an independent decision.

An applicant may appoint a representative to assist with their case. With very limited exceptions, only a registered migration agent can act as a representative or provide immigration assistance to an applicant before the tribunals. A significant proportion of applicants are not represented, and tribunal procedures and information are designed to assist applicants who are not represented.

The applicant (or their representative) can request a copy of the documents before the tribunal and can at any time provide written submissions and written evidence.

A member must ensure that an applicant has the opportunity to address the issues arising in the review, particularly any information which may be the reason or part of the reason for affirming the decision under review. The tribunals can invite an applicant in writing or at a hearing to comment on or respond to relevant information.

In most cases, the applicant is invited to attend a hearing to give oral evidence and present arguments on the issues arising in the review. The applicant can ask that an interpreter be provided, and can be accompanied by a representative and/or a friend, relative or support person. The applicant can also request that the tribunal take evidence from other persons.

The hearings do not have a strict procedure; however, evidence is usually taken under oath or affirmation. The member

will explain the procedures and ask questions. The applicant may or may not choose to make a statement. Neither the Minister nor the department is represented.

Hearings are usually held in person, but may also be held through video or telephone links. All hearings are audio recorded and the applicant can request a copy of the recording.

MRT hearings are open to the public, unless there is a public interest reason for conducting the hearing in private. All RRT hearings are held in private.

## INFORMATION AVAILABLE TO ASSIST APPLICANTS

The tribunals provide information to applicants about procedures and processes throughout a review, and publish a wide range of information which can assist applicants or those assisting applicants. Information which is available on the tribunals' website at [www.mrt-rrt.gov.au](http://www.mrt-rrt.gov.au) includes:

- Principal Member directions on the conduct of reviews, putting information orally to applicants, managing detention cases, the caseload and constitution policy and complementary protection
- the *Guide to Refugee Law in Australia* and the *Complementary Protection Training Manual*
- guidelines on the assessment of credibility, vulnerable persons, expert opinion evidence, quality decision making, the use of interpreters, gender considerations, referrals of cases for ministerial intervention consideration, attendees at hearings and costs arising from applications for review
- *Précis*, a bulletin produced 11 times per year, which summarises selected tribunal decisions, court judgements, country advice and selected statistics
- country advice information on a number of countries
- forms, brochures and factsheets
- statistics on caseloads and the timeliness of reviews
- a processing times table
- the tribunals' service charter
- a webpage specifically aimed at the needs of representatives
- a daily schedule for MRT and RRT hearings.

Tribunal decisions are available on the Australasian Legal Information Institute (AustLII) website at [www.austlii.edu.au](http://www.austlii.edu.au). The tribunals currently publish at least 40% of decisions made. RRT decisions are edited to remove information which could identify an applicant or relatives of an applicant, as required by the Migration Act.

MRT decisions are published in full, as required by the Migration Act, unless the member has determined that publication of certain information or the applicant's identity would not be in the public interest.

## DECISIONS

The member may in some cases make an oral decision at the end of a hearing. Generally the member either allows time for further documents to be lodged or needs more time to consider the case.

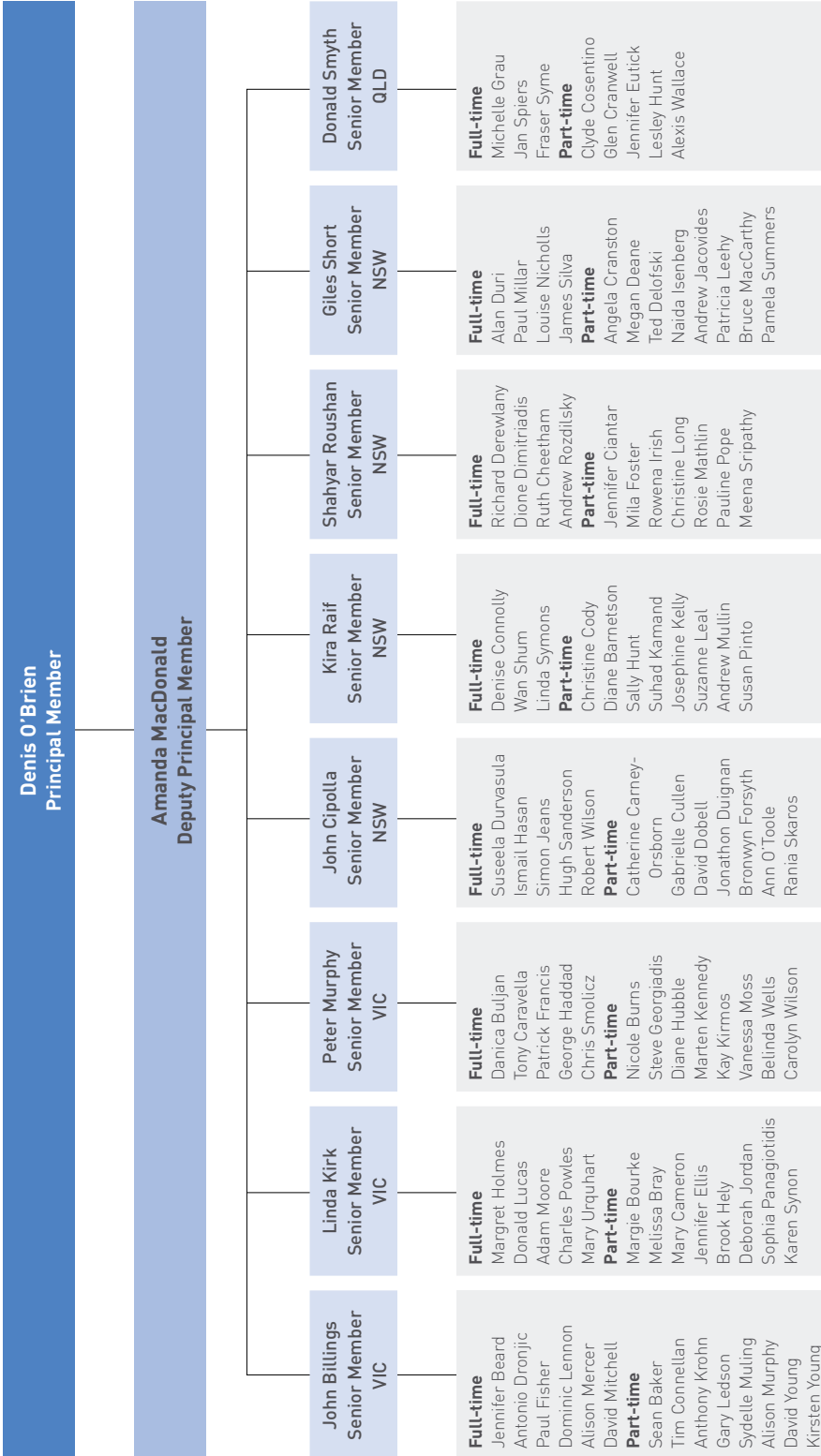
In all cases, a written statement of decision and reasons is prepared and provided to the applicant and the department.

## VISION, PURPOSE AND VALUES

The tribunals provide an independent and final merits review of decisions. The review must be fair, just, economical, informal and quick. We seek to treat all those with whom we deal with courtesy, respect and dignity.

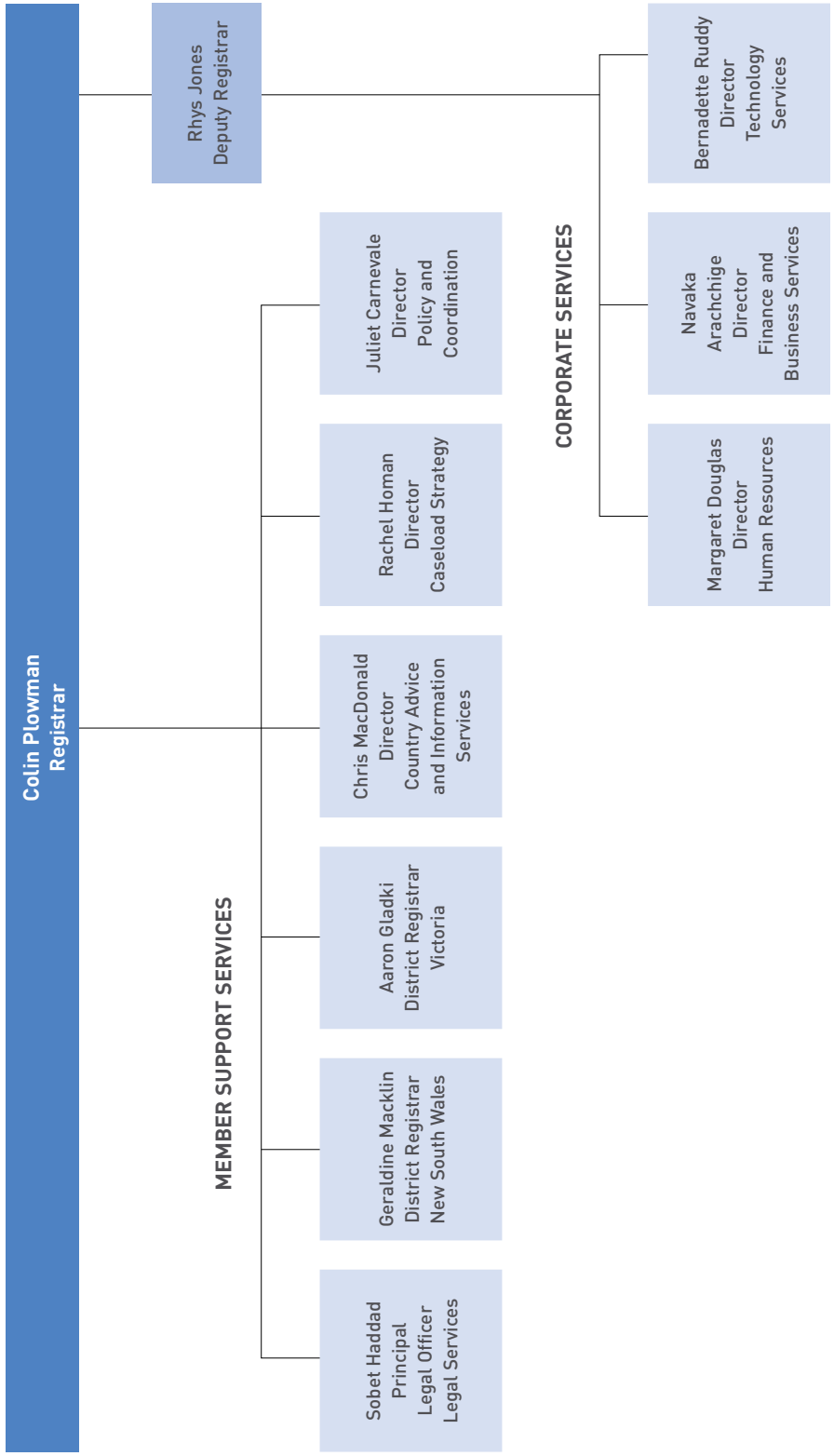
The Tribunals' Plan 2011–13, Member Code of Conduct, service charter and Interpreters' Handbook promote and uphold these values. All of these documents are available on the tribunals' website.

MEMBERSHIP ORGANISATIONAL CHART AS AT 30 JUNE 2012



Note: This chart excludes members with the IPAO.

# STAFF ORGANISATIONAL CHART AS AT 30 JUNE 2012







# PERFORMANCE REPORT

## PART 03

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# PERFORMANCE REPORT

The tribunals contributed to Australia's migration and refugee programs during the year through the provision of quality and timely reviews of decisions, completing 10,815 reviews. The outcomes of review were favourable to applicants in 34% of the cases decided.

## PERFORMANCE FRAMEWORK

The tribunals operate in a high-volume decision making environment where the case law and legislation are complex and technical. In this context, fair and lawful reviews are dependent on a number of factors, including resources, member numbers, skilled staff support services, and the success of strategies to respond to a substantial growth in caseloads.

Both tribunals have identical statutory objectives, set out in sections 353 and 420 of the Migration Act:

**The tribunal shall, in carrying out its functions under this Act, pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.**

The key strategic priorities for the tribunals are to meet its statutory objectives through the delivery of consistent, high quality reviews, and timely and lawful decisions. Each review must be conducted in a way that ensures, as far as practicable, that the applicant understands the issues and has a fair opportunity to comment on or respond

to any matters which might lead to an adverse outcome. The tribunals also aim to meet government and community expectations and to have effective working relationships with stakeholders. These priorities are reflected in the tribunals' plan.

During 2011–12, the tribunals' one outcome in the Portfolio Budget Statements was:

**To provide correct and preferable decisions for visa applicants and sponsors through independent, fair, just, economical, informal and quick merits reviews of migration and refugee decisions.**

The tribunals had one program contributing to this outcome, which was:

**Final independent merits review of decisions concerning refugee status and the refusal or cancellation of migration and refugee visas.**

Table 3.1 summarises the tribunals' performance against the program deliverables and key performance indicators that were set out in the 2011–12 Portfolio Budget Statements.

**TABLE 3.1 – PERFORMANCE INFORMATION AND RESULTS**

| Measure   | Result  |
|---|---|
| <b>DELIVERABLES</b>   |   |
| 8,300 cases   | The tribunals decided 10,815 cases.   |
| <b>KEY PERFORMANCE INDICATORS</b>                               |   |
| Less than 5% of tribunal decisions set aside by judicial review | 0.2% of MRT and 0.8% of RRT decisions made in 2011–12 have been set aside by judicial review.   |
| 70% of cases decided within time standards                      | <p>95% of bridging visa (detention) refusals (MRT) were decided within seven working days.</p> <p>32% of protection visa refusals were decided within 90 calendar days.</p> <p>22% of visa cancellations (MRT) were decided within 150 calendar days.</p> <p>42% of all other MRT visa refusals were decided within 350 days.</p> |
| Less than five complaints per 1,000 cases decided               | The tribunals received less than two complaints per 1,000 cases decided.  |
| 40% of decisions published                                      | The tribunals published 42% of all decisions.   |

A feature of 2011–12 was an escalation in lodgements for both the MRT and the RRT, while some members were unavailable as they undertook work with the Independent Protection Assessment Office (IPAO).

As lodgements exceeded the tribunals' capacity to make decisions, the number of cases on-hand increased by 55% over the year. The tribunals have responded to this challenge with strategies to improve processing efficiency. The strategies in 2011–12 involved allocating groups or batches of like cases to members or groups of members and a stronger focus on member performance, with enhanced reporting on decision targets and the timeliness of case processing.

## FINANCIAL PERFORMANCE

The MRT and the RRT are prescribed as a single agency, the 'Migration Review Tribunal and Refugee Review Tribunal' for the purposes of the FMA Act. The tribunals are funded based on a model which takes into account the number of cases decided and an assessment of fixed and variable costs. The tribunals' base funding in 2011–12 covers an amount to decide 8,300 cases and a marginal price for any case or cases above or below that number. The tribunals decided 10,815 cases and the tribunals' revenue as set out below takes into account an adjustment to appropriation based on the actual number of cases decided.

The tribunals' revenues from ordinary activities totaled \$49.66 million and expenditure totaled \$53.33 million, resulting in a net loss of \$3.665 million and depreciation worth \$1.48 million. The tribunals received approval from the Minister for Finance and Deregulation for an operating loss of \$800,000 for 2011–12. Contributing factors to the

loss being greater than expected were adjustments to leave provisions and additional superannuation charges.

The 2011–12 Budget provided increased appropriations of \$13.9 million over the four years of the forward estimates. The increased appropriations to the tribunals were offset by increases in the MRT and RRT application fees and a new fee structure from 1 July 2011.

The tribunals administer application fees on behalf of the government. Details of administered revenue are set out in the financial statements. The financial statements for 2011–12, which are set out in part 5, have been audited by the Australian National Audit Office (ANAO) and received an unqualified audit opinion.

## OVERVIEW OF CASELOAD

The tribunals received 17,293 lodgements during the year, decided 10,815 cases and had 18,364 cases on-hand at the end of the year.

Statistical tables and charts covering the MRT and RRT caseloads are set out in the following pages.

## LODGEMENTS

Lodgements of applications for review tend to fluctuate between years, according to trends in primary applications and in primary decision making, and changes to visa criteria and jurisdiction.

The MRT has jurisdiction to review a wide range of visa, sponsorship and other decisions relating to migration and temporary entry visas. Only a small proportion of primary decisions made by the department come to the MRT.

In 2011–12, the MRT had very large increases in skill linked refusal, permanent business refusal and student visa refusal lodgements. The proportion of applications in relation to persons living in Australia, particularly overseas students, has increased progressively over the past three years.

The MRT's jurisdiction in relation to visas applied for outside Australia depends on whether there is a requirement for an Australian sponsor or for a close relative to be identified in the application. These cases are mainly in the skilled, visitor, partner and family categories. In 2011–12, approximately 20% of visa refusal applications to the MRT related to persons outside Australia seeking a visa.

The RRT has jurisdiction to review decisions to refuse protection visas. Following an announcement by the Minister that a single protection visa system would commence from 24 March 2012, this includes protection visa refusals for irregular maritime arrivals. Also on 24 March 2012 the criteria for protection visas were amended to provide alternative 'complementary protection' grounds. These amendments applied to all undecided RRT applications, as well as new applications.

All protection visa applicants within Australia have a right to apply for review if their protection visa application is refused. In 2011–12, over 4,400 protection visa applications were refused at the primary level and about 91% of refused applicants applied to the RRT for review. While lodgements to the RRT were made by applicants from over 96 countries, 56% of the RRT's lodgements involved nationals of five countries – the People's Republic of China (China), India, Pakistan, Egypt and Nepal. The largest number of

applications was from nationals of China, with 58% more applications received from nationals of China than from the next largest source country, India.

The RRT received its first application from an irregular maritime arrival on 8 May 2012. Between then and the end of the financial year, 55 applications were lodged from applicants from Afghanistan (28), Iran (19), Pakistan (five) and Iraq (three).

Applicants to both tribunals tend to be located in the larger metropolitan areas. Thirty-six per cent of all applicants resided in New South Wales, mostly in the Sydney region. Approximately 35% of applicants resided in Victoria, 12% in Queensland, 9% in Western Australia, 5% in South Australia, 1% each in the Australian Capital Territory and in the Northern Territory, and less than 1% in Tasmania. Over the past five years, the proportion of lodgements from New South Wales has decreased significantly – from 59% in 2006–07 to 36% in 2011–12. In 2011–12 the proportion of lodgements from Victoria increased to 35%, after remaining relatively stable at 25% since 2006–07.

Cases involving applicants held in immigration detention comprised 3% of the cases before the tribunals, with most applicants within Australia holding a bridging or substantive visa during the course of the review. Initially most irregular maritime arrival applicants were in detention but increasingly more are being released into the community on bridging visas before or shortly after lodging their RRT application.

## STATISTICS

### Caseload overview

|                          | 2011–12 | 2010–11 | 2009–10 |
|--------------------------|---------|---------|---------|
| <b>MRT</b>               |         |         |         |
| On-hand at start of year | 10,786  | 7,048   | 6,295   |
| Lodged                   | 14,088  | 10,315  | 8,333   |
| Decided                  | 8,011   | 6,577   | 7,580   |
| On-hand at end of year   | 16,863  | 10,786  | 7,048   |
| <b>RRT</b>               |         |         |         |
| On-hand at start of year | 1,100   | 738     | 624     |
| Lodged                   | 3,205   | 2,966   | 2,271   |
| Decided                  | 2,804   | 2,604   | 2,157   |
| On-hand at end of year   | 1,501   | 1,100   | 738     |
| <b>TOTAL MRT AND RRT</b> |         |         |         |
| On-hand at start of year | 11,886  | 7,786   | 6,919   |
| Lodged                   | 17,293  | 13,281  | 10,604  |
| Decided                  | 10,815  | 9,181   | 9,737   |
| On-hand at end of year   | 18,364  | 11,886  | 7,786   |

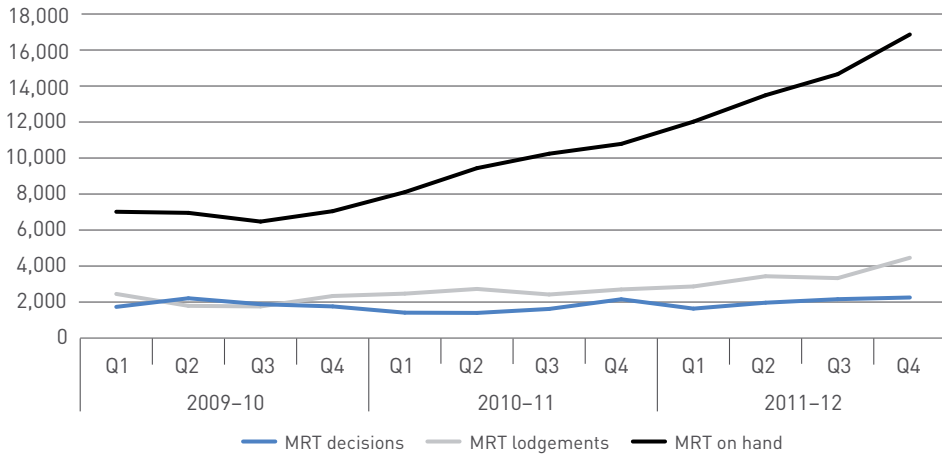
### Lodgements

|                                      | 2011–12 | 2010–11 | 2009–10 | % change<br>2010–11 to<br>2011–12 |
|--------------------------------------|---------|---------|---------|-----------------------------------|
| <b>MRT</b>                           |         |         |         |                                   |
| Visa refusal – Bridging              | 267     | 264     | 139     | +1%                               |
| Visa refusal – Visitor               | 944     | 920     | 690     | +3%                               |
| Visa refusal – Student               | 3,820   | 3,138   | 1,937   | +22%                              |
| Visa refusal –<br>Temporary business | 634     | 621     | 567     | +2%                               |

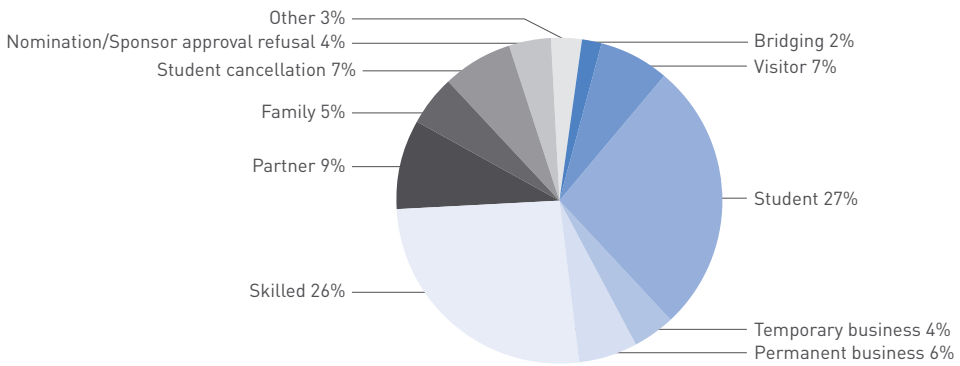
|  | 2011-12       | 2010-11       | 2009-10       | % change<br>2010-11 to<br>2011-12 |
|--|---------------|---------------|---------------|-----------------------------------|
| Visa refusal –<br>Permanent business   | 806           | 661           | 285           | +22%                              |
| Visa refusal – Skilled                 | 3,606         | 635           | 1,182         | +468%                             |
| Visa refusal – Partner                 | 1,345         | 1,348         | 1,157         | 0%                                |
| Visa refusal – Family                  | 727           | 672           | 739           | +8%                               |
| Cancellation – Student                 | 1,043         | 1,107         | 875           | -6%                               |
| Nomination/Sponsor<br>approval refusal | 516           | 513           | 370           | +1%                               |
| Other                                  | 380*          | 436*          | 392*          | -13%                              |
| <b>Total MRT</b>                       | <b>14,088</b> | <b>10,315</b> | <b>8,333</b>  | <b>+37%</b>                       |
| <b>RRT</b>                             |               |               |               |                                   |
| China                                  | 689           | 819           | 751           | -16%                              |
| India                                  | 435           | 221           | 138           | +97%                              |
| Pakistan                               | 312           | 102           | 53            | +206%                             |
| Egypt                                  | 185           | 181           | 52            | +2%                               |
| Nepal                                  | 184           | 107           | 28            | +72%                              |
| Fiji                                   | 130           | 252           | 243           | -48%                              |
| Malaysia                               | 112           | 172           | 201           | -35%                              |
| Iran                                   | 107           | 58            | 27            | +84%                              |
| Indonesia                              | 98            | 146           | 115           | -33%                              |
| Lebanon                                | 94            | 125           | 84            | -25%                              |
| Other                                  | 859           | 783           | 579           | +10%                              |
| <b>Total RRT</b>                       | <b>3,205</b>  | <b>2,966</b>  | <b>2,271</b>  | <b>+8%</b>                        |
| <b>Total MRT and RRT</b>               | <b>17,293</b> | <b>13,281</b> | <b>10,604</b> | <b>+30%</b>                       |

\* In 2011-12, the MRT 'Sponsor approval refusal' and 'other' case categories changed. Nomination approval refusals were removed from the 'other' case category and added in to the 'sponsor approval refusal' category. These changes have been applied to the statistical data for previous years. As a result, data for 2010-11 and 2009-10 in the above tables for these case categories will vary from data set out in previous annual reports.

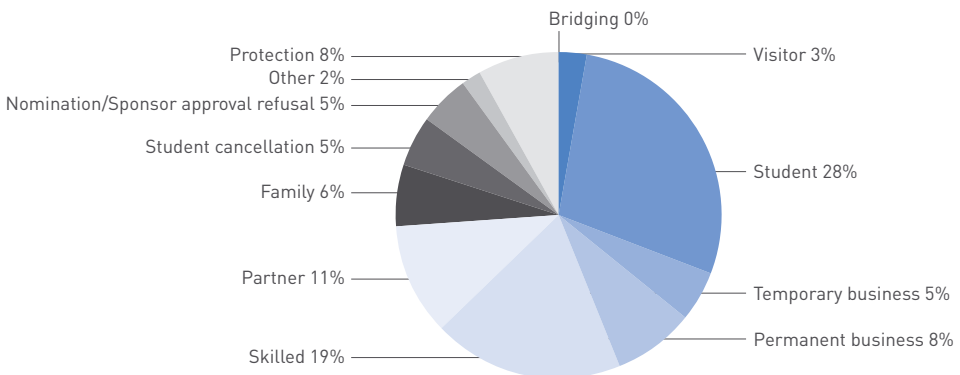
### MRT lodgements, decisions and cases on-hand by quarter



### MRT lodgements by case type

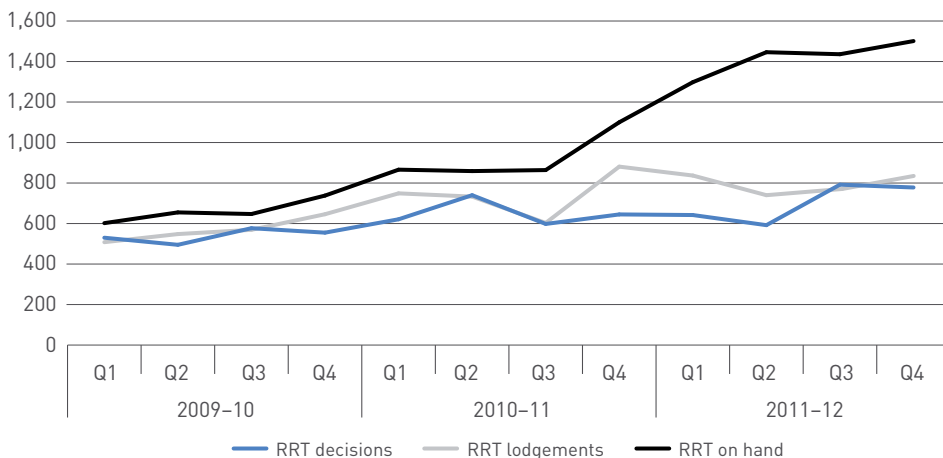


### MRT and RRT cases on-hand

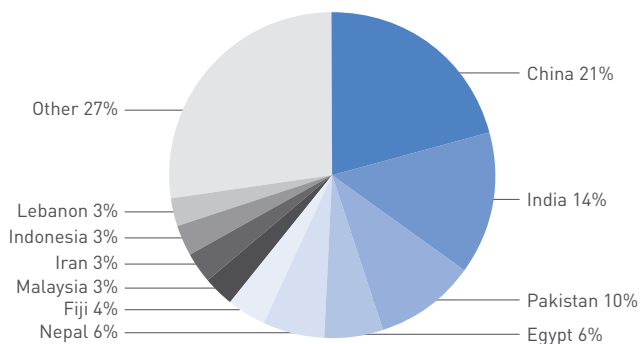




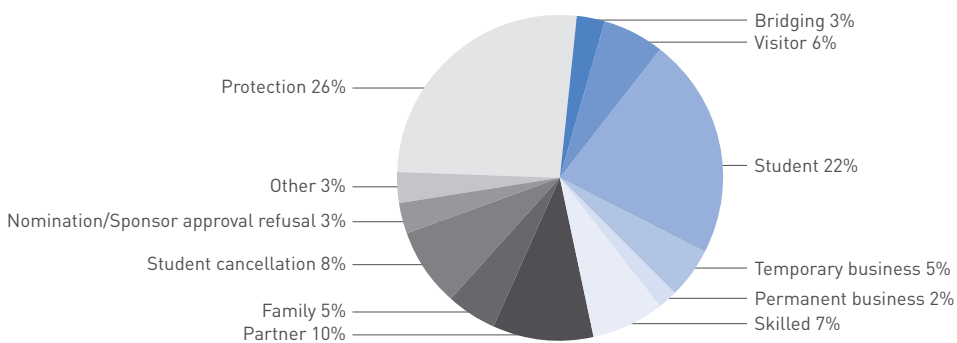
### RRT lodgements, decisions and cases on-hand by quarter



### RRT lodgements by country of reference



### MRT and RRT decisions



## Cases on-hand

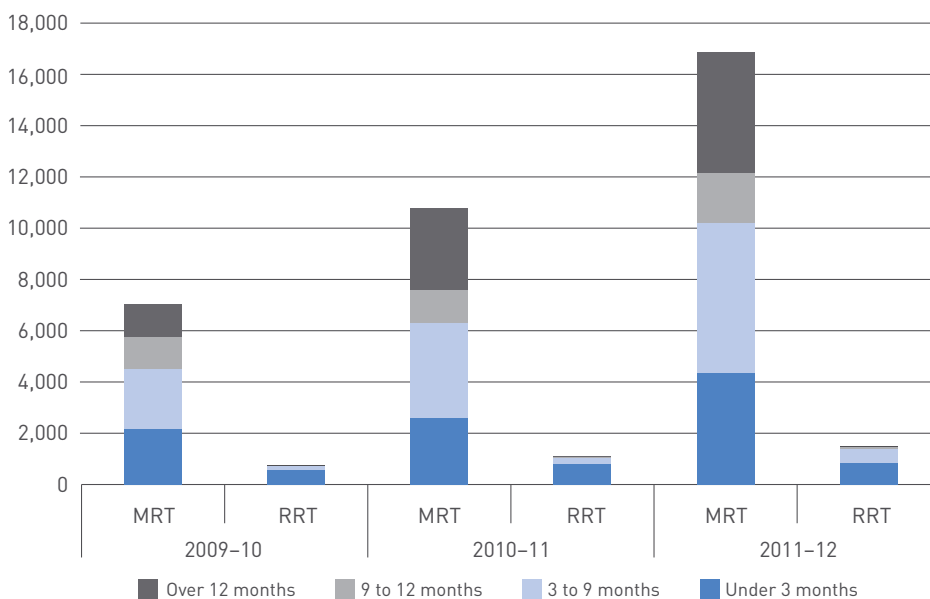
|                                     | 2011-12       | 2010-11       | 2009-10      |
|-------------------------------------|---------------|---------------|--------------|
| <b>MRT</b>                          |               |               |              |
| Visa refusal – Bridging             | 12            | 9             | 12           |
| Visa refusal – Visitor              | 607           | 357           | 189          |
| Visa refusal – Student              | 5,203         | 3,716         | 1,898        |
| Visa refusal – Temporary business   | 989           | 911           | 645          |
| Visa refusal – Permanent business   | 1,415         | 841           | 328          |
| Visa refusal – Skilled              | 3,555         | 711           | 1,034        |
| Visa refusal – Partner              | 1,968         | 1,731         | 1,320        |
| Visa refusal – Family               | 1,003         | 833           | 632          |
| Cancellation – Student              | 811           | 600           | 289          |
| Nomination/Sponsor approval refusal | 917           | 741           | 439          |
| Other                               | 383           | 336           | 262          |
| <b>Total MRT</b>                    | <b>16,863</b> | <b>10,786</b> | <b>7,048</b> |
| <b>RRT</b>                          |               |               |              |
| China                               | 303           | 279           | 219          |
| India                               | 174           | 80            | 39           |
| Pakistan                            | 210           | 59            | 16           |
| Egypt                               | 81            | 112           | 18           |
| Nepal                               | 89            | 56            | 13           |
| Fiji                                | 61            | 64            | 130          |
| Malaysia                            | 36            | 17            | 32           |
| Iran                                | 55            | 19            | 12           |
| Indonesia                           | 17            | 36            | 10           |
| Lebanon                             | 46            | 49            | 19           |
| Other                               | 429           | 329           | 230          |
| <b>Total RRT</b>                    | <b>1,501</b>  | <b>1,100</b>  | <b>738</b>   |
| <b>Total MRT and RRT</b>            | <b>18,364</b> | <b>11,886</b> | <b>7,786</b> |

## Timeliness of reviews

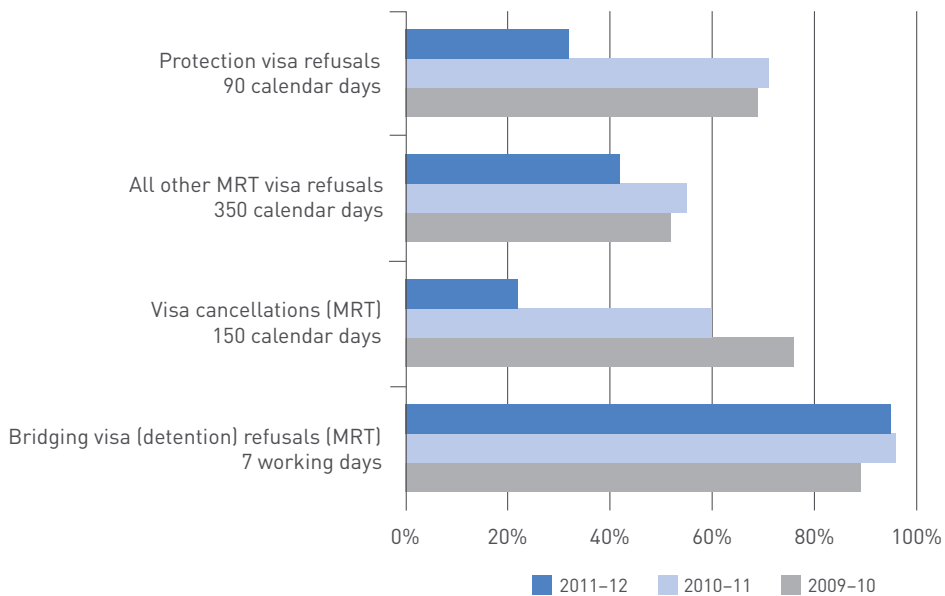
|   | 2011–12 | 2010–11 | 2009–10 |
|---|---------|---------|---------|
| <b>AVERAGE TIME TAKEN (DAYS)*</b>                             |         |         |         |
| Bridging visa (detention) refusals (MRT)                      | 7       | 7       | 7       |
| Visa cancellations (MRT)                                      | 224     | 150     | 123     |
| All other MRT visa refusals                                   | 461     | 337     | 311     |
| Protection visa refusals                                      | 149     | 99      | 99      |
| <b>PERCENTAGE DECIDED WITHIN TIME STANDARDS*</b>              |         |         |         |
| Bridging visa (detention) refusals (MRT) – seven working days | 95%     | 96%     | 89%     |
| Visa cancellations (MRT) – 150 calendar days                  | 22%     | 60%     | 76%     |
| All other MRT visa refusals – 350 calendar days               | 42%     | 55%     | 52%     |
| Protection visa refusals – 90 calendar days                   | 32%     | 71%     | 69%     |

\* Calendar days, other than for bridging (detention) cases which is by working days. Time standards are as set out in the Migration Act and Migration Regulations or in the 2011–12 Portfolio Budget Statements. For MRT cases, time taken is calculated from date of lodgement. For RRT cases, time taken is calculated from the date the department's documents are provided to the RRT. The average time from lodgement of an application for review to receipt of the department's documents was 20 days for MRT cases and seven days for RRT cases.

## Number and age of cases on-hand



## Percentage of cases decided within time standards



## Outcomes of review

|  | 2011-12      | 2010-11      | 2009-10      |
|--|--------------|--------------|--------------|
| <b>MRT</b>                             |              |              |              |
| Primary decision set aside or remitted | 2,912        | 2,728        | 3,429        |
| Primary decision affirmed              | 3,133        | 2,356        | 2,700        |
| Application withdrawn by applicant     | 1,180        | 754          | 796          |
| No jurisdiction to review*             | 786          | 739          | 655          |
| <b>Total</b>                           | <b>8,011</b> | <b>6,577</b> | <b>7,580</b> |
| <b>RRT</b>                             |              |              |              |
| Primary decision set aside or remitted | 750          | 626          | 514          |
| Primary decision affirmed              | 1,899        | 1,815        | 1,540        |
| Application withdrawn by applicant     | 86           | 53           | 21           |
| No jurisdiction to review*             | 69           | 110          | 82           |
| <b>Total</b>                           | <b>2,804</b> | <b>2,604</b> | <b>2,157</b> |

\* No jurisdiction decisions include applications not made within the prescribed time limit, not made in respect of reviewable decisions or not made by a person with standing to apply for review. The tribunals' procedures provide for an applicant to be given an opportunity to comment on any jurisdiction issue before a decision is made. Some cases raise complex questions as to whether a matter is reviewable and whether a person has been properly notified of a decision and of review rights.

## Cases decided and set aside rates

|  | 2011-12      |             | 2010-11      |             | 2009-10      |             |
|--|--------------|-------------|--------------|-------------|--------------|-------------|
|  | Cases        | % set aside | Cases        | % set aside | Cases        | % set aside |
| <b>MRT</b>                             |              |             |              |             |              |             |
| Visa refusal – Bridging                | 264          | 12%         | 267          | 12%         | 151          | 15%         |
| Visa refusal – Visitor                 | 695          | 65%         | 752          | 59%         | 679          | 58%         |
| Visa refusal – Student                 | 2,334        | 31%         | 1,320        | 36%         | 738          | 42%         |
| Visa refusal –<br>Temporary business   | 556          | 26%         | 355          | 25%         | 571          | 30%         |
| Visa refusal –<br>Permanent business   | 233          | 29%         | 148          | 32%         | 278          | 46%         |
| Visa refusal – Skilled                 | 762          | 36%         | 958          | 53%         | 1,895        | 42%         |
| Visa refusal – Partner                 | 1,108        | 55%         | 937          | 62%         | 1,268        | 66%         |
| Visa refusal - Family                  | 557          | 44%         | 471          | 39%         | 546          | 42%         |
| Cancellation – Student                 | 833          | 21%         | 796          | 25%         | 811          | 41%         |
| Nomination/Sponsor<br>approval refusal | 340          | 15%         | 214          | 24%         | 267          | 27%         |
| Other                                  | 329          | 43%         | 359          | 33%         | 375          | 38%         |
| <b>Total MRT</b>                       | <b>8,011</b> | <b>36%</b>  | <b>6,577</b> | <b>41%</b>  | <b>7,580</b> | <b>45%</b>  |
| <b>RRT</b>                             |              |             |              |             |              |             |
| China                                  | 665          | 17%         | 759          | 22%         | 761          | 27%         |
| India                                  | 343          | 6%          | 181          | 7%          | 169          | 6%          |
| Pakistan                               | 161          | 50%         | 59           | 36%         | 52           | 42%         |
| Egypt                                  | 216          | 61%         | 87           | 36%         | 44           | 52%         |
| Nepal                                  | 151          | 9%          | 64           | 16%         | 21           | 33%         |
| Fiji                                   | 133          | 20%         | 318          | 13%         | 127          | 15%         |
| Malaysia                               | 93           | 3%          | 187          | 2%          | 196          | 3%          |
| Iran                                   | 71           | 80%         | 51           | 76%         | 20           | 80%         |
| Indonesia                              | 116          | 3%          | 120          | 4%          | 122          | 7%          |
| Lebanon                                | 99           | 41%         | 95           | 31%         | 80           | 26%         |

|                          | 2011-12       |             | 2010-11      |             | 2009-10      |             |
|--------------------------|---------------|-------------|--------------|-------------|--------------|-------------|
|                          | Cases         | % set aside | Cases        | % set aside | Cases        | % set aside |
| Other                    | 756           | 34%         | 683          | 39%         | 565          | 31%         |
| <b>Total RRT</b>         | <b>2,804</b>  | <b>27%</b>  | <b>2,604</b> | <b>24%</b>  | <b>2,157</b> | <b>24%</b>  |
| <b>Total MRT and RRT</b> | <b>10,815</b> | <b>34%</b>  | <b>9,181</b> | <b>37%</b>  | <b>9,737</b> | <b>40%</b>  |

## CONDUCT OF REVIEWS

The procedures of the MRT and the RRT are inquisitorial rather than adversarial in nature. Proceedings before the tribunals do not take the form of litigation between parties. The review is an inquiry in which the member identifies the issues or criteria in dispute, initiates investigations or inquiries to supplement evidence provided by the applicant and the department and ensures procedural momentum. At the same time, the member must maintain an open and impartial mind.

Applicants appointed a representative to assist or represent them in 65% of MRT cases decided and in 61% of RRT cases decided.

In 2011-12 6,663 hearings were arranged for MRT cases and 4,267 were completed or adjourned. Out of the 4,182 hearings arranged for RRT cases, 2,651 were completed or adjourned.

Cases which do not proceed to hearing include cases where a decision favourable to the applicant is made prior to the hearing date, cases where the applicant does not attend the hearing or which can be decided without a hearing being required, and cases where the applicant withdraws their application before the hearing. Favourable decisions on the papers were made in 5% of MRT cases (including in 16% of skilled visa refusal cases) and in 1% of RRT cases.

Most hearings are held in person. Video links were used in 13% of hearings. The average duration of MRT hearings was 75 minutes and the average duration of RRT hearings was 141 minutes. Two or more hearings were held in 13% of RRT cases and in 3% of MRT cases.

## INTERPRETERS AT HEARINGS

The tribunals aim to identify, implement and promote best practice in interpreting at hearings. High quality interpreting services are fundamental to the work of the tribunals. In 2011-12, the tribunals arranged 10,845 hearings nation-wide. Interpreters were required for 58% of MRT hearings and for 83% of RRT hearings, across approximately 84 languages and dialects.

The tribunals have a national Interpreter Advisory Group (IAG), which has the overall objective of ensuring, as far as possible, that the tribunals maintain access to a high standard of interpreters and that tribunal policies and practices facilitate this. The IAG has a national membership comprising both members and tribunal officers.

All Graduates was the tribunals' contracted interpreting services provider during 2011-12. After an open tender process, ONCALL Interpreters and Translators was selected to provide interpreting services from 1 July 2012.

# TEAM PROFILE

## HEARING COORDINATION UNITS

The tribunals conduct hearings to ensure that applicants are given a reasonable opportunity to present their case before a member. The main function of the hearing coordination units in the Victoria and New South Wales registries is to support members in the conduct of hearings.

The duties of tribunal hearing attendants include greeting and explaining the hearing process to parties prior to the commencement of the hearing; conducting hearing preliminaries such as the swearing-in of parties; operating recording equipment; and making national and international phone calls and videoconference calls to enable remote applicants and witnesses to present evidence while the hearing is in session.

Hearing coordinators and hearing schedulers are responsible for arranging suitably qualified interpreters to attend hearings, booking videoconference facilities, and ensuring that everything runs smoothly on the day of the hearing itself.

Hearings are conducted on the tribunals' premises in Sydney and Melbourne, and in the offices of the AAT in Adelaide, Brisbane and Perth. In 2011–12, the Victoria and New South Wales registries arranged 10,845 hearings in Sydney and Melbourne,

with 6,881 hearings completed. Thirty per cent of cancelled hearings were cancelled because the review applicant failed to appear on the day. In 2011–12, 13% of hearings were conducted by videoconference or telephone because of the location of one or more of the hearing parties.

Since May 2012, arranging and conducting hearings for irregular maritime arrival applicants has proven a challenge for hearings staff. The number of hearings by videoconference will continue to increase as a greater number of cases will involve applicants living in remote detention facilities, or elsewhere in regional and rural Australia.



Melbourne hearing coordinators. From left to right, Mr John Hough, Ms Terrie Hancock, Ms Elizabeth Patrick, Mr Jon Richards, Mr Preston Hall and Mr Rex Hardjadibrata.

## OUTCOMES OF REVIEW

A written statement of decision and reasons is prepared in each case and provided to both the applicant and the department.

The MRT set aside or remitted the primary decision in 36% of cases decided and affirmed the primary decision in 39% of cases decided. The remaining 25% of cases were either withdrawn by the applicant or were cases where the tribunal decided it had no jurisdiction to conduct the review.

The RRT set aside or remitted the primary decision in 27% of cases decided and affirmed the primary decision in 68% of cases decided. The remaining 5% of cases were either withdrawn by the applicant or were cases where the tribunal decided it had no jurisdiction to conduct the review.

Two irregular maritime arrival cases were decided in 2011–12; the primary decision was set aside in both cases.

Three RRT cases were remitted to the department on complementary protection grounds in 2011–12.

The fact that a decision is set aside by the tribunal is not necessarily a reflection on the quality of the primary decision, which may have been correct and reasonable based on the information available at the time of the decision. Departmental officers in general make sound decisions across a very large volume of cases and make favourable decisions in the majority of cases.

Applications for review typically address the issues identified by the primary decision maker by providing submissions and further evidence to the tribunal. By the time of the tribunal's decision, there is often considerable additional information before the tribunal,

and there may be court judgments or legislative changes which affect the outcome of the review.

Applicants were represented in 64% of cases decided. Most commonly, representation was by a registered migration agent. In cases where applicants were represented, the set aside rate was higher than for unrepresented applicants. The difference was most notable for RRT cases where the set aside rate was 37% for represented applicants and 11% for unrepresented applicants. It is worth noting that unrepresented applicants may or may not have sought advice on their prospects of success before applying for review, and only 65% of unrepresented applicants to the RRT attend hearings, compared to almost 83% of applicants who have a representative. For the MRT, there was also an appreciable difference in outcome for unrepresented applicants. The set aside rate was 39% for represented applicants and 31% for unrepresented applicants.

A total of 158 cases (1% of the cases decided) were referred to the department for consideration under the Minister's intervention guidelines. These cases raised humanitarian or compassionate circumstances which members considered should be drawn to the attention of the Minister.

## TIMELINESS

The tribunals aim to resolve cases quickly. Members actively manage their caseloads from the time of allocation until decision. Members are expected to identify quickly the relevant issues in a review and the necessary course of action to enable the review to be conducted as effectively and efficiently as possible. Older cases are monitored by senior members to assist in minimising unnecessary delays.



Some cases cannot be decided within the relevant time standard. These include cases where hearings need to be rescheduled because of illness, the unavailability of an interpreter, cases where the applicant requests further time to comment or respond to information, cases where new information becomes available, and cases where an assessment or information needs to be obtained from another body or agency. For irregular maritime arrival cases, there may be additional difficulties associated with scheduling hearings at remote detention centres or for applicants without a stable residential address.

Increasingly, cases cannot be decided within the relevant time standards due to the limited capacity to deal with growing lodgements. While the tribunals have improved capacity and processing efficiencies, lodgements have overwhelmed these efforts. The government's decision to appoint additional members, the return of members from IPAO work and the implementation of recommendations contained in the Lavarch Review are expected to have an impact in the second half of 2012–13.

As required by section 440A of the Migration Act, the Principal Member reports every four months on the RRT's compliance with the 90 day period for RRT reviews. These reports are provided to the Minister for tabling in parliament. In 2011–12, only 32% of RRT cases were decided within 90 days; the average time to decision was 149 days, and this was a significant deterioration from 71% in 2010–11.

## JUDICIAL REVIEW

For persons wishing to challenge an MRT or RRT decision, two avenues of judicial review are available. One

is to the Federal Magistrates Court for review under section 476 of the Migration Act. The other is to the High Court pursuant to paragraph 75(v) of the Constitution. Decision-making under the Migration Act remains an area where the level of court scrutiny is very intense and where a tribunal decision may be upheld or overturned at successive levels of appeal.

The applicant and the Minister are generally the parties to a judicial review of a tribunal decision. Although joined as a party to proceedings, the tribunals do not take an active role in litigation. As a matter of course, the tribunals enter a submitting appearance, consistent with the principle that an administrative tribunal should not generally be an active party in judicial proceedings challenging its decisions.

In 2011–12 the number of RRT decisions taken to judicial review increased in comparison with previous years. The number of MRT decisions taken to judicial review was consistent with previous years. Table 3.2 sets out judicial review applications and outcomes as at 10 August 2012, in relation to the tribunal decisions made over the last three years.

Of the decisions made by the tribunals in 2011–12, only a small percentage (0.2% of MRT decisions and 0.8% of RRT decisions) have been set aside or quashed by the courts. If a tribunal decision is set aside or quashed, the court order is usually for the matter to be remitted to the tribunal to be reconsidered. In such cases, the tribunal (constituted by a different member) must reconsider the case and make a fresh decision, taking into account the decision of the court and any further evidence or changed circumstances. In 78% of MRT cases and 33% of RRT cases reconsidered in 2011–12 the tribunal made a new decision favourable to the applicant.

**TABLE 3.2 – JUDICIAL REVIEW APPLICATIONS AND OUTCOMES**

|  | MRT     |         |         | RRT     |         |         |
|--|---------|---------|---------|---------|---------|---------|
|  | 2011–12 | 2010–11 | 2009–10 | 2011–12 | 2010–11 | 2009–10 |
| Tribunal decisions   | 8,011   | 6,577   | 7,580   | 2,804   | 2,604   | 2,157   |
| <b>Court applications</b>                                  | 254     | 255     | 248     | 660     | 536     | 527     |
| % of tribunals decisions                                   | 3.2%    | 3.9%    | 3.3%    | 23.5%   | 20.6%   | 24.4%   |
| <b>Applications resolved</b>                               | 109     | 239     | 245     | 233     | 507     | 520     |
| Decision upheld or otherwise resolved                      | 96      | 206     | 166     | 210     | 468     | 476     |
| Set aside by consent or judgement                          | 13      | 33      | 79      | 23      | 39      | 44      |
| Set aside decisions as % of judicial applications resolved | 11.9%   | 13.8%   | 32.2%   | 9.9%    | 7.7%    | 8.5%    |
| Set aside decisions as % of decisions made                 | 0.2%    | 0.5%    | 1.0%    | 0.8%    | 1.5%    | 2.0%    |

Note: The table above shows the number of tribunal decisions made during each financial year that have been the subject of a judicial review application and the judicial review outcome for those cases. The outcome of judicial review applications is reported on completion of all court appeals against a tribunal decision. Previous years' figures are affected if a further court appeal is made in relation to a case previously counted as completed.

Summaries of some notable judicial decisions since 1 July 2011 are set out on the following pages. These decisions had an impact on the tribunals' decision making or procedures, or on the operation of judicial review in relation to tribunal decisions.

As there are restrictions on identifying applicants for protection visas, letter codes or reference numbers are used by the courts in these cases. Unless stated otherwise, references are to the Migration Act and Migration Regulations. The Minister is a party in most cases, and "MIAC" is used to identify the Minister in the abbreviated citations provided.

### MRT – FAILURE TO ADJOURN A REVIEW

Ms Li was refused a skilled – independent overseas student visa by the department because she did not have a positive assessment of her skills in her nominated occupation. Shortly after the MRT hearing, Ms Li received the results of an unsuccessful skills assessment and sought review of that assessment from the assessing authority. She asked that the MRT forbear from making any decision until the assessing authority's review had been finalised. The MRT proceeded to make its decision, finding Ms Li had been provided with enough opportunities to have her skills assessed. On appeal, the Full Federal Court held that the MRT's refusal to adjourn or to properly consider the request for an adjournment denied Ms Li a reasonable opportunity to give evidence and present her case as required by section 360(1) of the Migration Act. The majority of the court held that a failure to properly consider a request for an adjournment or an unreasonable refusal to adjourn may mean that the tribunal has not discharged its core statutory function of reviewing the decision and will amount to a breach of a statutory requirement to act fairly. [*MIAC v Li* [2012] FCAFC 74]

### MRT – APPLICATION FORM

The visa applicant, who was not in immigration detention, lodged application Form M2 (for applicants in detention) with the MRT. Section B, signed by Ms P, appointed her as the applicant's representative and Section C indicated correspondence should be sent to her as the 'authorised recipient'. On the same day, the correct Form M1 (applicants not in detention) was lodged which also identified Ms P as the representative. The completed Section B from Form M2 was attached to Form M1 although Form M1 Section F indicated

that correspondence should be sent 'to another person'. No other person was named. The MRT sent Ms P a hearing invitation. The Full Federal Court held that Form M2 was not an approved form in the case of the appellant and by lodging it he did not comply with section 347(1)(a). Sections 347 and 348 require that an application for review of an MRT-reviewable decision will only be made validly by use of 'the approved form'. The majority of the court held that the MRT committed jurisdictional error by failing to give notice to the applicant of its invitation to a hearing when it only sent the invitation to Ms P, as a person can only be appointed as authorised recipient under section 379G(1) in respect of an application for review that was properly made. [*SZJDS v MIAC* [2012] FCAFC 27]

### MRT – APPROVAL OF ASSESSING AUTHORITY

Mr Singh applied for a skilled graduate visa and in September 2009 obtained a successful skills assessment for his nominated occupation of cook from Trades Recognition Australia (TRA). The MRT found that information provided in his visa application and to TRA about his employment was incorrect and on this basis there was evidence that Mr Singh had given, or caused to be given, information that was false or misleading in a material particular and that Mr Singh did not satisfy Public Interest Criterion 4020 for the purposes of clause 485.224(a) of Schedule 2 to the Migration Regulations.

Before the court, the Minister conceded that TRA had not been validly specified as the relevant assessing authority for the occupation of cook at the time of the MRT decision. The court held that the visa criteria applicable at the time of the MRT's decision did not include criterion 485.214 or criterion 485.221 because no

relevant assessing authority had been lawfully approved or specified for the purposes of those criteria. As a result, the court found the MRT was in error in finding the information provided by Mr Singh was false or misleading in a material particular. [*Singh v MIAC* [2012] FMCA 145]

### **MRT – ‘TIME OF APPLICATION’ CRITERIA**

Mr Patel applied for a skilled graduate visa and gave ‘Family Counsellor’ as his nominated occupation in his application. A requirement is that this be closely related to his Australian educational qualification, which was a Master of Information Systems. He later provided a skills assessment as an Environmental Health Officer and later claimed that he had intended to nominate the occupation of Computing Professional. On appeal, the Federal Court distinguished the judgement of the High Court in *Berenguel v MIAC* [2010] HCA 8, finding that clause 485.214 of Schedule 2 to the Migration Regulations requires an application for a skills assessment to be made at the time of application, and that as such the occupation or assessment could not be modified after the date of application. [*Patel v MIAC* [2011] FCA 1220]

Mr Singh lodged an application for a skilled visa on 17 June 2008, stating on the application that he had not applied for an Australian Federal Police (AFP) check. He then applied for an AFP check on 9 July 2008. The MRT found that Mr Singh did not meet the requirements in clause 485.216 of Schedule 2 to the Migration Regulations, which required that the visa application be accompanied by evidence that the applicant has applied for an AFP check during the 12 months immediately before the day when the application is made. The court held that clause 485.216 requires that the evidence of an application for

an AFP check must accompany the application, and that in Mr Singh’s case it did not. By implication, the judgement distinguishes *Berenguel v MIAC* [2010] HCA 8. [*Singh v MIAC* [2011] FMCA 982]

### **MRT – CANCELLATION OF STUDENT VISA**

Ms Kim’s student visa was cancelled for non-compliance with visa condition 8202, which requires that the holder of the visa has not been certified for not making satisfactory course progress. The court held that the MRT was not required to consider the validity of the certification issued by the education provider for the purposes of condition 8202 and that it is the fact of certification, or the existence of a certification that was the non-compliance for the purposes of condition 8202 and not the underlying facts that led the provider to issue the certification. Further, the court held that the decision by an education provider to issue a certificate is not reviewable by the MRT. [*Kim v MIAC* [2011] FMCA 780]

### **MRT – VALIDITY OF INDEPENDENT EXPERT OPINIONS IN DOMESTIC VIOLENCE MATTERS**

Mr Maman claimed he was subjected to domestic violence by his spouse. A delegate of the Minister refused the visa based on the opinion of an independent expert that Mr Maman had not suffered domestic violence. On review, the MRT requested an opinion from a second independent expert. The second expert also concluded that Mr Maman was not a victim of domestic violence, and referred to claims made in a letter to the department from Mr Maman’s spouse. The Full Federal Court held that the rules of procedural fairness required at least the gist of the letter to be disclosed to Mr Maman by the independent experts before either expert formed an opinion and that the

failure to do so had the consequence that there never was an 'opinion' which was to be taken as 'correct' by either the delegate or the MRT. Relying on the procedurally flawed 'opinion' led to jurisdictional error in the MRT's decision. [*MIAC v Maman* [2012] FCAFC 13]

### **RRT – PUTTING ADVERSE INFORMATION TO AN APPLICANT AT A HEARING**

The visa applicant applied for a protection visa on the basis that he feared persecution in Afghanistan. During the hearing the RRT explained that it wished to discuss information that would be a reason for affirming the decision, as required by section 424AA. It explained that the applicant would be asked to respond and be entitled to seek additional time to comment or respond to that information. The RRT then put to the applicant various inconsistencies which it noted may be relevant to establishing his lack of credibility and invited comment. On appeal, the Federal Court concluded that section 424AA(b) (iii) does not require the RRT to advise an applicant of the right to seek additional time separately and for each piece of information, in circumstances where the RRT makes clear in a general statement that the invitation to seek additional time extends to all information put forward for comment. The judgement also confirmed that the RRT need not adjourn an oral hearing where it decides to adjourn a review to provide additional time for comment on section 424A information. [*SZPJZ v MIAC* [2012] FCA 18]

## **SOCIAL JUSTICE AND EQUITY**

The tribunals' service charter expresses our commitment to providing a professional and courteous service to review applicants and other persons with whom we deal. It sets out general standards for client service covering day-to-day contact with the tribunals, responding to correspondence, arrangements for attending hearings, the use of interpreters and the use of clear language in decisions. The service charter is available in 10 community languages (Arabic, Bengali, Chinese, Hindi, Korean, Nepali, Punjabi, Tamil, Turkish and Vietnamese).

The tribunals have engaged Buchan Consulting to conduct external surveys of review applicants, interpreters and migration agents. The surveys will allow the tribunals to gauge perceptions of its performance across a range of criteria and will assist in future strategic planning. This is expected to be completed by September 2012.

Table 3.3 sets out the tribunals' performance during the year against service standards contained in the service charter.

**TABLE 3.3 – REPORT AGAINST SERVICE STANDARDS**

| Service standard  | Report against standard for 2011–12   | Outcome  |
|---|---|----------|
| 1. Be helpful, prompt and respectful when we deal with you                | All new members and staff attended induction training emphasising the importance of providing quality service to clients.   | Achieved |
| 2. Use language that is clear and easily understood                       | Clear English is used in correspondence and forms. Staff use professional interpreters to communicate with clients from non-English speaking backgrounds. There is a language register listing staff available to speak to applicants in their language, where appropriate.   | Achieved |
| 3. Listen carefully to what you say to us                                 | <p>The tribunals book interpreters for hearings whenever they are requested by applicants and wherever possible accredited interpreters are used in hearings. Interpreters were used in 68% of hearings held (58% MRT and 83% RRT). The tribunals employ staff from diverse backgrounds who speak more than 20 languages. Staff use professional interpreters to communicate with clients from non-English speaking backgrounds in hearings.</p> <p>A review of the tribunals' Stakeholder Engagement Plan was undertaken and a revised version for 2012–14 published in June 2012. It sets out how the tribunals will engage with stakeholders and the engagement activities planned for 2012–14 and beyond. Community liaison meetings were held twice during 2011–12 in Sydney, Melbourne, Brisbane, Perth and Adelaide.</p> <p>The tribunals have a formal complaints, compliments and suggestions process.</p> | Achieved |
| 4. Acknowledge applications for review in writing within two working days | An acknowledgement letter was sent within two working days of lodgement in more than 87% of cases.  | 87%      |
| 5. Include a contact name and telephone number on all our correspondence  | All letters include a contact name and telephone number.  | Achieved |

| Service standard  | Report against standard for 2011–12   | Outcome  |
|---|---|----------|
| 6. Help you to understand our procedures                                    | The tribunals provide applicants with information about tribunal procedures at several stages during the review process. The tribunals' website includes a significant amount of information, including forms and factsheets. Case officers are available in the New South Wales and Victoria registries to explain procedures over the counter or the telephone. The tribunals have an email enquiry address applicants can use to seek general information about procedures.  | Achieved |
| 7. Provide information about where you can get advice and assistance        | The tribunals' website, service charter and application forms provide information about where applicants can get advice and assistance. Factsheet MR2: Immigration Assistance notifies applicants of organisations and individuals who can provide them with immigration assistance. The tribunals' application forms R1, M1 and M2 explain in 28 community languages how applicants may contact the Translating and Interpreting Service (TIS).                                | Achieved |
| 8. Attempt to assist you if you have special needs                          | The tribunals employ a range of strategies to assist applicants with special needs. Our offices are wheelchair accessible and hearing loops are available for use in hearing rooms. Whenever possible, requests for interpreters of a particular gender, dialect, ethnicity or religion are met. Hearings can be held by video. A national enquiry number is available from anywhere in Australia (calls are charged at the cost of a local call, more from mobile telephones). | Achieved |
| 9. Provide written reasons when we make a decision                          | In all cases, a written record of decision and the reasons for decision is provided to the review applicant and to the department.  | Achieved |
| 10. Publish guidelines relating to the priority we give to particular cases | Guidelines relating to the priority to be given to particular cases are published in the annual caseload and constitution policy, which is available on the tribunals' website.   | Achieved |

| Service standard  | Report against standard for 2011–12  | Outcome  |
|---|--|----------|
| 11. Publish the time standards within which we aim to complete reviews              | Time standards are also set out in the caseload and constitution policy.   | Achieved |
| 12. Abide by the Australian Public Service (APS) Values and Code of Conduct (staff) | New staff attend induction training, which includes training on the APS Values and the Code of Conduct. Ongoing staff complete refresher training at regular intervals.  | Achieved |
| 13. Abide by the Member Code of Conduct (members)                                   | All new members attend induction training, which includes the Member Code of Conduct. All members complete annual conflict of interest declaration forms and undergo performance reviews by senior members.  | Achieved |
| 14. Publish information on caseload and tribunal performance                        | Information relating to the tribunals' caseload and performance in the current and previous financial years is published on the tribunals' website (under 'statistics'). Further statistics, including those on the judicial review of tribunal decisions, are available in all tribunal annual reports. | Achieved |

The tribunals are particularly conscious that a high proportion of clients have a language other than English as their first language. Clear language in letters and forms, and the availability of staff to assist applicants are important to ensuring that applicants understand their rights, and our procedures and processes.

The tribunals' website is a significant information resource for applicants and others interested in the work of the tribunals. The publications and forms available on the website are regularly reviewed to ensure that information and advice are up-to-date and readily understood by clients.

The service charter (including translations in 10 community languages) is available on the website, along with the tribunals' plan, the Member Code

of Conduct, the Interpreters' Handbook and Principal Member directions relating to the conduct of reviews. The 'Information for Representatives' webpage is aimed specifically at supporting representatives, bringing together the most often used resources and information. A 'Frequently Asked Questions' page answers representatives' most commonly asked questions.

The tribunals have offices in Sydney and Melbourne which are open between 8.30am and 5.00pm on working days. The tribunals have an arrangement with the AAT for counter services and hearings at AAT offices in Brisbane, Adelaide and Perth. The tribunals also have a national enquiry number (1300 361 969) available from anywhere in Australia (calls are charged at the cost of a local call, more



from mobile telephones). Persons who need the assistance of an interpreter can contact the Translating and Interpreting Service (TIS) on 131 450 for the cost of a local call.

The tribunals' have a Reconciliation Action Plan, which was published in April 2011, and a Workplace Diversity Program. Further information about these strategies and plans is set out in part 4.

## COMPLAINTS

As outlined above, the tribunals' service charter sets out the standards of service that clients can expect. It also sets out how clients can comment on or complain about the services provided by the tribunals. The service charter is available on the 'complaints and compliments' page on the tribunals' website.

A person who is dissatisfied with how the tribunals have dealt with a matter or with the standard of service they have received, and who has not been

able to resolve this by contacting the office or the officer dealing with their case, can forward a written complaint marked 'confidential' to the Complaints Officer. A complaints and compliments button on the homepage of the tribunals' website makes it easier for clients to make a complaint.

Alternatively, a person can make a complaint to the Commonwealth Ombudsman, although, as a general rule, the Ombudsman will not investigate complaints until they have been raised with the relevant agency.

The tribunals will acknowledge receipt of a complaint within five working days. A senior officer will investigate the complaint and aim to provide a written response to the complaint within 20 working days of receipt of the complaint. With the exception of five matters, all complaints dealt with in 2011–12 were responded to within 20 working days.

Table 3.4 sets out the number of complaints finalised over the last three years.

**TABLE 3.4 – COMPLAINTS FINALISED**

|                            | 2011–12 | 2010–11 | 2009–10 |
|----------------------------|---------|---------|---------|
| <b>MRT</b>                 |         |         |         |
| Complaints resolved        | 10      | 13      | 18      |
| Cases decided              | 8,011   | 6,577   | 7,580   |
| Complaints per 1,000 cases | 1.2     | 2       | 2.4     |
| <b>RRT</b>                 |         |         |         |
| Complaints resolved        | 8       | 8       | 4       |
| Cases decided              | 2,804   | 2,604   | 2,157   |
| Complaints per 1,000 cases | 2.8     | 3.1     | 1.9     |

The majority of complaints related to the conduct of the review process. Others were about the timeliness of the review or the decision, and one complaint was in relation to staff conduct. Following investigation, the tribunals formed the view that two of the complaints made during the year related to matters that could have been handled more appropriately.

Two examples of complaints received in 2011–12 are provided below.

**Case 1** – Concerns were raised with the MRT that the applicant was not given adequate time to obtain evidence following a hearing and that the presiding member undertook to provide a further hearing if an unfavourable decision was likely to be made on the material before it. The tribunal wrote to the complainant indicating that the presiding member would offer another opportunity to appear before the tribunal to give evidence and present arguments if a favourable decision could not be made on the material before the tribunal.

**Case 2** – Concerns were raised with the MRT that tribunal staff did not make adequate effort to notify an applicant of their hearing date. The tribunal wrote to the complainant indicating that notification of the hearing was faxed to the applicant’s representative. Confirmation of successful fax transmission was provided to the complainant. It was also noted that the fax number was the same one to which the tribunal successfully had sent correspondence on previous occasions.

Table 3.5 sets out the complaints made to the Commonwealth Ombudsman over the last three years and the outcomes of the complaints resolved.

## MIGRATION AGENTS

More than 64% of applicants were represented in 2011–12. With limited exceptions, a person acting as a representative is required to be a registered migration agent. Registered migration agents are required to conduct themselves in accordance with a code of conduct. The tribunals referred four matters to the Office of the Migration Agents Registration Authority (OMARA) during 2011–12 relating to the conduct of migration agents. OMARA is responsible for the registration of migration agents, monitoring the conduct of registered migration agents, investigating complaints and taking disciplinary action against registered migration agents who breach the code of conduct or behave in an unprofessional or unethical way.

## COMMUNITY AND INTERAGENCY LIAISON

The tribunals established a Stakeholder Engagement Committee in November 2011, to oversee engagement and communication with external stakeholders. The committee’s immediate priority was to develop a new plan for engaging with the tribunals’ range of stakeholders.

**TABLE 3.5 – COMPLAINTS TO THE COMMONWEALTH OMBUDSMAN**

|                                 | 2011–12 | 2010–11 | 2009–10 |
|---------------------------------|---------|---------|---------|
| New complaints                  | 1       | 26      | 19      |
| Complaints resolved             | 1       | 24      | 18      |
| Administrative deficiency found | 0       | 0       | 0       |

The tribunals' Stakeholder Engagement Plan 2012–14 was finalised in June 2012, and outlines the principles for engaging with clients and stakeholders, and strategies to support and improve communication and services.

The tribunals hold twice-yearly community liaison meetings in Melbourne, Sydney, Brisbane, Adelaide and Perth to exchange information with key stakeholders. The meetings are attended by representatives of migration and refugee advocacy groups, legal and migration agent associations, human rights bodies, the department and other government agencies. Fifty-one representatives attended meetings in November 2011, and following the invitation of several new organisations on the recommendation of the committee, there were 75 attendees at the April and May 2012 meetings. At community liaison meetings the tribunals provide an update on legislative and corporate developments, and attendees can raise matters that arise out of their dealings with the tribunals. Monthly email updates are also sent out to community liaison members, which contain information about caseloads and recent developments. Meeting minutes and email updates are published on the tribunals' website.

The tribunals held 'open days' or public information sessions in 2012. MRT information sessions were held in Melbourne, Brisbane and Sydney during Law Week in May 2012, and the RRT held information sessions in Adelaide, Melbourne and Sydney during Refugee Week in June 2012. Information sessions involve staged hearings and presentations from tribunal members and staff on processes and caseloads. This is the first time the tribunals have held MRT information sessions, and the first time information sessions have been held in Brisbane and Adelaide.

There was a strong turnout and positive feedback from those who attended. These events provide an opportunity to enhance access for the wider community and promote a greater understanding of tribunal operations. Information sessions will continue to be held in future years.

Members and senior officers of the tribunals have continued to be active participants in several bodies, including the national and state chapters of the Council of Australasian Tribunals, the Australasian Institute of Judicial Administration (AIJA), the Australian Institute of Administrative Law and the International Association of Refugee Law Judges (IARLJ). In September 2011, the Principal Member, Deputy Principal Member and several members attended the ninth annual IARLJ World Conference in Bled, Slovenia. The conference *Between Border Control, Security Concerns and International Protection: A Judicial Perspective* included a range of international speakers reflecting on issues affecting refugee case processing and decision making.

Members presented on the work of the tribunals at several events in 2011–12. In March 2012, the Principal Member gave a speech to the Law Council of Australia CPD Immigration Law Conference in Sydney about the new complementary protection criterion and the Deputy Principal Member presented on the use of technology in merits review. In April 2012, the Deputy Principal Member presented to the University of New South Wales Forced Migration and Human Rights in International Law unit on refugee status determination. The Deputy Principal Member presented at the Migration Alliance's Annual Conference in June 2012 on effectively representing clients before the MRT. In March 2012, the tribunals started publishing speeches and presentations given by members and staff on its website.



Member Mr Charlie Powles presides over a staged hearing at the Melbourne RRT information session during 2012 Refugee Week.

The tribunals hold regular meetings with the department, the Department of Foreign Affairs and Trade and the AAT. Memoranda of understanding between the tribunals and these organisations reflect the statutory and operational relationships between the agencies.

## MAJOR REVIEWS

In December 2011, the Minister commissioned Professor the Hon Michael Lavarch, AO, to undertake a review of the increased workload of the tribunals. The review examined the increase in lodgements to both tribunals, including anticipated lodgements from irregular maritime arrivals.

The *Report on the increased workload of the MRT and the RRT*, published in June 2012, noted significant increases in case lodgements for the tribunals which have led to a large backlog of cases, particularly in matters before the MRT.

The report noted that the demand for the tribunals' services had increased significantly and that the tribunals' resources primarily and, to a lesser extent, its practices, had not matched the increased demand.

The report made 18 recommendations including:

- Developing joint department-tribunal strategies and using short-term member appointments to reduce the MRT backlog by 50% by 1 July 2014;
- Case management efficiencies through greater member specialisation and trialling hearing-based case allocations;
- Providing national and end-to-end case support to members, instituting flexible working arrangements and stronger senior member leadership;

- Legislative change to amend the procedural code, appoint a second Deputy Principal Member and remit suitable cases to the department for reconsideration; and
- Transferring all IPAO cases to the RRT as soon as possible.

The Minister released the report on 29 June 2012 and supported the recommendations. The tribunals and department are working together on implementation.

## SIGNIFICANT CHANGES IN THE NATURE OF FUNCTIONS OR SERVICES

### COMPLEMENTARY PROTECTION

On 24 March 2012, amendments to the Migration Act and Migration Regulations introducing a complementary protection criterion took effect. The amendments apply to all new protection visa applications made on or after the commencement date, and to all protection visa applications which had not been finally determined before the commencement date, including all undecided applications with the RRT.

The effect of the amendments is that where an applicant does not meet the definition of a refugee under the Refugees Convention, a protection visa may be granted if there are substantial grounds for believing that there is a real risk the applicant will suffer significant harm if returned to another country.

### SINGLE PROTECTION VISA PROCESS

In November 2011, the government announced that a single protection visa process would apply to both boat and air arrivals. The effect of the change from 24 March 2012 is that the Minister has been exercising his discretion to permit irregular maritime arrivals to apply for protection visas. Those who are not permitted to apply for a protection visa, including irregular maritime arrivals who had a primary interview before 24 March 2012, continued to be processed through non-statutory processes.

### DEVELOPMENTS SINCE THE END OF THE YEAR

In June 2012, the Minister announced that from 1 July 2012 the administration of IPAO functions will transfer from the department to the tribunals, and the tribunals will be responsible for administering the finalisation of the IPAO caseload. The transition of functions and staff was effected through machinery-of-government arrangements.

# CASE STUDIES

## MATTERS BEFORE THE TRIBUNALS

The following case studies provide an insight into the range of matters which come before the tribunals.

### MRT TOURIST – GENUINE VISIT – SET ASIDE

The visa applicant was a 75 year old Sri Lankan national who was sponsored by his son in Australia. The visa applicant claimed that he and his spouse had visited their daughter in Canada for two years where they pursued permanent residence, before opting to return to live in Sri Lanka due to its warmer climate. He claimed that they had also lived in the United States for 12 months with another daughter. The visa applicant claimed that he was a retired ex-serviceman who was entitled to receive free medical benefits, and that his wife had an older brother who lived in hostel care in Sri Lanka and required her assistance. He also claimed that he had another son in Sri Lanka who had a wife and three children, one of whom had Down syndrome, and that he and his wife assisted with child minding where necessary. The visa applicant claimed that due to his age, this may be his last opportunity to visit his family in Australia and that he wanted to be present at his grandson's birthday as well as experience a Christmas in Australia. He further claimed that his wife had visited Australia in 1989 and 1995, complying with her visa requirements on both occasions.

The tribunal noted that the visa applicant had family ties in Sri Lanka, and accepted that the visa applicant and his spouse played an important role in relation to their disabled grandson in Sri Lanka. The tribunal also noted that the visa applicant's wife did not overstay either of her previous visas. The tribunal accepted that the review applicant had undertaken to provide the visa applicant with accommodation and financial support during his proposed visit to Australia, and that he had the financial capacity to do so. Accordingly, the tribunal was satisfied that the expressed intention of the visa applicant only to visit Australia was genuine.

### MRT STUDENT CANCELLATION – SET ASIDE

The applicant's student visa was cancelled after the University of Wollongong (UOW) certified him as not achieving satisfactory course progress. In May 2011, the Federal Magistrates Court (FMC), by consent, set the MRT decision affirming the primary decision aside and remitted the matter to the tribunal. The FMC's orders included a note that the "tribunal erred in finding that the fact that the student was not an accepted student at that time did not operate to invalidate the certificate that Wollongong University issued for the purposes of condition 8202(3)."

Whilst the second tribunal entertained doubts as to the status of the note as part of the orders, it found that His Honour's reasons made it clear that the previous tribunal had erred. Accordingly, the tribunal found that it must give effect to the FMC's note, meaning that if the tribunal found that, at the time of certification by UOW, the applicant was not "an accepted student", it must further find that the certificate issued by UOW was invalid. The tribunal found that the applicant was not an accepted student at time of certification because his enrolment had ceased from November 2008, and that the certificate was invalid. As a consequence, the tribunal found that the visa cancellation decision must be set aside. The tribunal noted that there were arguments in favour of the view that the validity of a certification given by an education provider did not require the student to be an accepted student of the provider at the time the certification was given.

### **MRT SKILLED – SUITABLE SKILLS ASSESSMENT – AFFIRMED**

The visa applicant was a national of Iraq who had nominated the occupation of an 'Electrical Supervisor' in his application of 2008. The applicant provided evidence that Trades Recognition Australia (TRA) had assessed his skills for the occupation of 'Electrician (General)'. He claimed that as of 2009, TRA no longer conducted assessments for the occupation of 'Electrical Supervisor', as the Australian Standard Classification of Occupations (ASCO) classification had been superseded by Australian and New Zealand Standard Classification of Occupations (ANZSCO), and the only assessment available was for the occupation of a General Electrician. The applicant claimed that he had contacted the department, who told him that they had no difficulty converting from one occupation to the other, and TRA had also informed him that they could not assess him against the old provisions. The applicant claimed that he was a victim of the changing of the regulations, and he referred to the information contained on the department's website concerning the two occupations. He claimed that he was supported by his employer, and that he had the skills and qualifications of a supervisor. The applicant claimed that at the time of lodgement he was given wrong information by the department as he was advised that he did not have to apply for a skills assessment at that time.

The tribunal accepted that the applicant could no longer obtain a skills assessment against the occupation of 'Electrical Supervisor', noting that it considered it preferable if TRA was able to conduct assessments against ASCO occupations for those applicants who made their migration applications before ANZSCO came into effect. Nevertheless, these difficulties did not allow, in the tribunal's view, for a different application of the relevant legislative requirement, noting that clause 176.212 required an applicant's skills to be assessed against the nominated occupation. The tribunal therefore found that the skills assessment that the

applicant had presented was not for his nominated occupation, but for a different occupation. The tribunal did not accept the applicant's assertion that the two occupations were the same, noting that the ANZSCO specified that the occupation of 'Electrician (General)' only partially matched the occupation of 'Electrical Supervisor'. Further advice received by the tribunal from TRA indicated that there was no partial match because the ANZSCO listing for 'Electrician (General)' did not incorporate supervisor duties, and it considered this advice to be persuasive. The tribunal further noted that if the applicant had applied for his skills assessment at the time when he made the application, as he was required to do by clause 176.212, it would have been unlikely that he would have been affected by any subsequent changes to the legislation or the TRA's assessment procedures. The tribunal affirmed the decision not to grant the applicant a visa.

### **MRT REMAINING RELATIVE – AFFIRMED**

The applicant, who was originally from South Africa, entered Australia in July 2004, and he had also spent a number of periods in Australia prior to this time. In June 2008, he applied for a visa on the basis that he was the remaining relative of his mother. He claimed that his parents had divorced, and that his father had since remarried and had two more children and was now living in Namibia. The applicant claimed that his mother had also remarried, and that the family decided to migrate to Queensland with the applicant and his two biological siblings. The applicant claimed that he had had no relationship with his biological father since he left school, and that due to this estrangement he had no contact with his father's second family. The applicant's biological brother and sister claimed that they also remained estranged from their father. The applicant claimed that Australian law stated that people who went missing for a long time were legally assumed to be dead, and that his father was considered dead by the applicant. The applicant's biological brother claimed that the applicant had ties to Australia, referring to the applicant's relationship with his children, and his mother claimed that the applicant was a hard worker on their farm and that he was popular with his co-workers and people in their community. She further claimed that the applicant was needed on the farm, and she held concerns about him returning to South Africa, especially as a white farmer.

The tribunal found that the applicant's father was a near relative of the applicant, in spite of the fact that the applicant's father and mother were now divorced. It found that while there was a lack of contact between the applicant and his biological father, there was nothing to support a conclusion that his father was no longer living. The tribunal further found that the applicant's mother had remarried and that his stepfather's two children from a previous marriage were the visa applicant's step-brother and step-sister respectively. The tribunal was not satisfied that the applicant met regulation 1.15(1)(c) of the definition of remaining relative. The tribunal accepted that the applicant had not had any contact with his father for many years, and it further noted that the applicant had been in Australia since 2004, with evidence indicating that his mother, brother and sister were all Australian citizens. The tribunal accepted the evidence which indicated that the applicant had engaged in a range of activities in Australia and that he was well regarded and valued by many in his community. Having regard to the applicant's circumstances



and the ministerial guidelines relating to the Minister's discretionary powers, the tribunal considered that this case should be referred to the department to be brought to the Minister's attention.

### **MRT PARTNER – GENUINE RELATIONSHIP – SET ASIDE**

The Australian sponsor was a 56 year old man who was living in Singapore, and whose initial application had been refused as the delegate was not satisfied that the couple were in a genuine and committed relationship to the exclusion of all others. The review applicant claimed that he had met his partner whilst working in Singapore in 2008, and that over the following two weeks a relationship had developed, with the visa applicant staying with him in his apartment. Over the next twelve months, the applicants claimed that they lived together in Singapore. The review applicant claimed that the visa applicant was forced to return to Vietnam due to the expiry of her visa, and that he travelled to Vietnam on a number of occasions to visit her. He claimed that on cessation of his employment in November 2009 he returned to Australia, and the visa applicant was subsequently granted a visitor visa, staying with the review applicant for periods in 2010 and 2011. The review applicant submitted that he had moved to Hanoi in September 2011 to live with the visa applicant, and that they planned to move to Australia. The review applicant provided various supporting documentation, including a number of photos of the applicants together in social situations, evidence of money transfers amounting to approximately \$80,000 to the visa applicant over the previous three years, and copies of letters from friends and the review applicant's children attesting to the genuineness of the relationship.

The tribunal found that the couple had shared their financial resources during the periods that they lived in Singapore, Australia and Vietnam, and it further noted that the review applicant had provided substantial financial support by transferring funds to the visa applicant's account in Vietnam on a monthly basis. The tribunal accepted that the applicants were jointly renting property in Hanoi, and it was satisfied that they had shared a household for a period of more than eighteen months. The tribunal was satisfied that the relationship was accepted by family and friends at both the time of application and the time of decision, noting that the applicants had given consistent evidence at the hearing that both families accepted and supported their relationship. The tribunal also gave weight to the fact that the review applicant had left his job in Australia and moved to Vietnam in order to be with the visa applicant, and that the visa applicant was willing to migrate to Australia and leave her family behind so that the review applicant could be closer to his children. The tribunal therefore found that the visa applicant met the requirements for the grant of a visa.

### **RRT EL SALVADOR – COMPLEMENTARY PROTECTION – SET ASIDE**

The applicant claimed that she left El Salvador as she had been subject to death threats by members of the '18<sup>th</sup> street gang'. She claimed that someone who identified themselves as a member of the gang had phoned her home, demanding that US\$2,000 be handed over within two hours or the applicant would be killed. She claimed that the caller had been able to provide a number of her personal details.

The applicant claimed that the police advised that the threats should be taken seriously, so she moved to the home of relatives for six months until her sister was able to organise for her to come to Australia. She claimed that gang members had continued to enquire with her former neighbours as to her whereabouts. The applicant claimed that she later returned to El Salvador for six weeks as her elderly mother was seriously ill, and that during this time her brother received extortion demands for a sum of US\$1,000, along with threats that if the money was not paid his children would be harmed. She claimed that the police advised that there was nothing further they could do, and that her brother subsequently negotiated to pay the gang a monthly sum, which he was still paying. The applicant claimed that neighbours were often connected to gang members, which meant that they could easily learn if she had returned.

The tribunal accepted that the applicant was a victim of extortion and death threats, noting that gang violence was widespread and had been carried out with virtual impunity for several years. The tribunal accepted the applicant's evidence that gang members would come to know of her return, and that there was a real chance that she could again become exposed to these threats, noting that her brother continued to be a victim. The tribunal noted the applicant's employment in low-paid work in Australia, and that she would not be in a position to meet any extortion demands. As such, the tribunal found that a failure to pay the money could result in a real chance of physical harm to the applicant; however, it found that the harm feared did not relate to any grounds specified in the Refugees Convention, as violent crime perpetrated by street gangs appeared to be undertaken at random. The tribunal then considered whether the applicant met the complementary protection criterion, and it found that the harm the applicant feared satisfied the definition of 'significant harm'. The tribunal noted that it had to determine whether there were substantial grounds for believing that there was a 'real risk' that she would suffer the significant harm, and it was satisfied that there existed a personal and direct risk to the applicant. Whilst the tribunal noted that there were a number of areas where gangs did not appear to be prevalent, it found that relocation was not a reasonable option due to the limited welfare safety net in El Salvador, and the fact that the applicant was a single female with no known family members living outside San Salvador. The tribunal was therefore satisfied that there was a real risk that she would suffer significant harm, and whilst it found that the applicant was not a refugee, the tribunal found that the applicant met the complementary protection criterion for the grant of a visa.

### **RRT CHINA – ANTI-GOVERNMENT – JASMINE MOVEMENT – AFFIRMED**

The applicant claimed he feared returning to China due to his expression of anti-government sentiment. He claimed his views, criticising the inequality of wealth between government officials and the rest of the Chinese populace, were published via a number of forums in China and Australia including newspaper articles, television interviews, weblogs and emails. During 2008 and 2009, the applicant claimed that he expressed his views on the high rates of property prices in China and the benefit these prices generated for an elite few. He claimed that these opinions angered government officials, resulting in local government officials sending mobs to assault his project workers, and his personal assets being frozen.

The applicant travelled to Australia on three occasions during 2009 and 2010 on a temporary business visa, and that after arriving in Australia for the third time, all his bank accounts were frozen by the Chinese Government and his home was seized. He claimed that he was also informed he would be charged and imprisoned if he returned to China for fabricated offences, including insider-trading, because he had expressed his views about social justice and fairness. He claimed that his website had been blocked and a number of his staff placed under house arrest, and that he was a key figure in the Chinese Jasmine Revolution, a brief phenomenon which was characterised by an online call for protests in major cities throughout China.

The tribunal did not accept the applicant's claims that the authorities took steps to monitor, economically injure, or make false charges against him due to his expression of political views in favour of fairness and social issues. In the tribunal's view, the applicant would not have returned to China after his first two visits to Australia had he feared serious harm, and it found that the applicant successfully obtained a passport in 2009, departed China on three occasions, and re-entered twice between 2009 and 2010, without difficulty. Given the applicant's claims regarding his entrepreneurial standing in China, the tribunal expected the applicant would produce more substantial documentation of charges laid against him and the freezing of his assets. The tribunal did accept that the applicant had become involved in social movement activities, including the Chinese Jasmine Movement, and that he had expressed views critical of the Chinese Government whilst in Australia. The tribunal was not, however, satisfied that these activities were undertaken for purposes other than strengthening the applicant's claim to be a refugee. Therefore, the tribunal was not satisfied that the applicant was a person to whom Australia had protection obligations under the Refugees Convention.

### **RRT AFGHANISTAN – WESTERN IDEAS – SET ASIDE**

The applicant claimed that he would be harmed by Islamic fundamentalists for his imputed political opinion and his western ideas, and that the government was unable and unwilling to provide protection. He claimed that his family previously lived in Pakistan as refugees, but had returned to Afghanistan when Pakistan became too dangerous. The applicant claimed that his father owned a shop selling western clothes in Pakistan, and that he had also started a wholesale western clothing business. The applicant claimed that his father had been kidnapped after receiving threatening phone calls from Islamic fundamentalists because of the anti-Islamic nature of his business. Since that time, the applicant claimed that he had not been able to contact his mother and sisters. He claimed that they may have been killed, and that the same thing could happen to him if he returned to Afghanistan. The applicant claimed that he would also come under adverse attention due to the fact that he had spent significant time in Australia.

The tribunal found that the evidence provided in relation to the abduction of the applicant's father was vague and generalised; however, it accepted that this was because of the limited information the applicant had about what happened to his father and the rest of his family. The tribunal noted country information

which indicated that mainly high profile Afghans identified as supporting the presence of western forces in Afghanistan, or as otherwise religiously or politically westernised, had been harmed by the Taliban. It further noted reports of businesses selling western-style goods and services having been attacked in Kabul, and that Afghans with a lower profile were possibly at risk of harm from the Taliban. The tribunal found that there was a real chance that the applicant's father had been identified as a dealer in western clothes and so was seen as a moderate Muslim opposed to the beliefs of the Taliban, and that the applicant would be imputed with similar beliefs. Further, the tribunal found that it was likely the applicant would have to rely on his tertiary qualification obtained in Australia when seeking employment in Kabul, and that doing so may increase the chance of him coming to the attention of the Taliban as a returnee from the West who had become politically and religiously westernised. The tribunal found that while each of these elements alone might not have sufficiently increased the risk that the applicant would be at risk of harm from the Taliban, cumulatively, these elements did increase the risk. Accordingly, the tribunal was satisfied that the applicant was a person to whom Australia had protection obligations under the Refugees Convention.

### RRT EGYPT – COPTIC CHRISTIAN – SET ASIDE

The applicant claimed that he was born into the Coptic Orthodox faith and that since the age of 15 he had been an active member of his church. He claimed that during Christmas and Easter he and other members of the church committee distributed food gifts to the poor, whether they be Christian or Muslim. The applicant claimed that sometimes they left Bibles for those who wanted to accept them, and that the Muslim Brotherhood had denounced such activities as posing a threat to Muslim society, with local sheiks repeatedly warning against accepting gifts from Christians. The applicant claimed that a number of his colleagues had been attacked, and that he had stones thrown at him and had been verbally abused. He claimed that his church had been bombed, resulting in serious injuries being suffered by some parishioners, and that the authorities had not effectively investigated the incident. The applicant claimed that the church had continued receiving threats of further attacks, and that some parishioners had feared for their safety and had cut down on church attendance. The applicant claimed that he was a parishioner of several churches in Australia and that he participated in street outreach programs. The applicant claimed that his commitment had compelled him to preach the gospel, and that he intended to continue doing so no matter what adversity he faced, even though he was aware that preaching the gospel in Egypt was dangerous.

The tribunal accepted that the applicant was committed to preaching about his religious beliefs, and it further accepted that this activity had caused him to have a profile in Egypt, in that he was recognised by local people as a Christian who preached about his religion. The tribunal accepted the supporting evidence provided by the applicant's Egyptian and Australian parish priests in relation to his activities, and it noted the substantial amount of independent information which detailed a climate of hostility to Christians in Egypt, and the general lack of state protection for Christians suffering harm from Salafists and others in the

community. The tribunal found that the applicant had a level of commitment to his religious beliefs which elevated the risk to him in the current climate. It considered that risk was further increased because of activities undertaken by the applicant in Australia which might be considered politically hostile to the regime in Egypt, including a strong public engagement with protest activities against the regime. The tribunal was therefore satisfied that there was a real chance that the applicant would face persecution for reason of his religion and his real or imputed political opinion if he returned to Egypt in the foreseeable future.

### **RRT INDIA – WITNESS TO POLITICALLY-MOTIVATED MURDER – AFFIRMED**

The applicant claimed to fear persecution because he had witnessed the murder of a Congress Party member by members of the political group Akali Dal. The applicant claimed that he had witnessed a man being beaten and then shot by one of four men, and that the men had noted his numberplate. The applicant claimed that he was told that the murder had taken place due to a dispute between members of the Akali Dal and the Congress Party, and that he later found out from a relative, who was a police officer, that the Akali Dal was concerned about his witnessing the murder and would take action against him. He claimed that enquiries had been made at the applicant's home shortly after the incident, and that he and his family became concerned about his safety, forcing him to flee to a third country, where his application for a protection visa was not accepted. The applicant claimed that on return to India, arrangements had been made for the applicant to enter into an arranged marriage, and that he was subsequently included on his wife's student visa to come to Australia. The applicant claimed that once in Australia, his wife had separated from him and returned to India, and that she was now demanding money from his parents. He claimed that he feared returning to India as a result of the threats of blackmail by his wife about him witnessing the murder, and that he feared reprisals from the Akali Dal.

The tribunal noted that no independent information had been located regarding a Congress Party member being killed by members of the Akali Dal in Punjab. The tribunal therefore found that there was insufficient evidence to establish that the applicant feared serious harm on the basis that he had witnessed a political murder. The tribunal further noted that no independent information had been located which indicated that authorities in Punjab would withhold protection from a person who believed that they were under threat from Akali Dal. The tribunal was satisfied that India was willing and able to provide the applicant the reasonably expected levels of state protection afforded to other Indian nationals, and that state protection would not be withheld for a Convention reason. The tribunal considered that the applicant had not suffered serious harm and would not in the reasonably foreseeable future, and accordingly, it was satisfied that the applicant did not have a well-founded fear of persecution within the meaning of the Refugees Convention.



# MANAGEMENT AND ACCOUNTABILITY

## PART 04

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# MANAGEMENT AND ACCOUNTABILITY

The tribunals' policies, practices and structure have been designed with sound corporate governance principles in mind. This part sets out what the tribunals have done to ensure that appropriate management and planning processes are in place.

## SENIOR MANAGEMENT

Mr Denis O'Brien was the Principal Member of the tribunals from 3 September 2007 until 30 June 2012. On 29 June 2012, the Minister announced the appointment of a new Principal Member Ms Kay Ransome from August 2012 for a term of five years. Deputy Principal Member Ms Amanda MacDonald acted as Principal Member until Ms Ransome commenced on 20 August.

Sections 397 and 460 of the Migration Act provide that the Principal Member is 'the executive officer' of the tribunals and is responsible for their overall operation and administration, including 'monitoring the operations' of the tribunals 'to ensure that those operations are as fair, just, economical, informal and quick as practicable'. Sections 353A and 420A provide that the Principal Member may give written directions as to the operation of the tribunals and the conduct of reviews by the tribunals.

Ms Amanda MacDonald is the Deputy Principal Member of the MRT and RRT. The Deputy Principal Member's responsibilities include member professional development and community liaison arrangements.

Senior members of the tribunals provide leadership and guidance to members. The senior members as at 30 June 2012 were Mr John Billings (Vic), Mr John Cipolla (NSW), Ms Linda Kirk (Vic), Mr Peter Murphy (Vic), Ms Kira Raif (NSW), Mr Shahyar Roushan (NSW), Mr Giles Short (NSW) and Mr Don Smyth (Qld). Ms Sue Raymond (SA), Ms Miriam Holmes (Vic) and Ms Louise Nicholls (NSW) were appointed as senior members from 1 July 2012.

Sections 407 and 472 of the Migration Act provide that the Registrar, the Deputy Registrar and other officers of the tribunals have such duties, powers and functions as are provided by the legislation, and such duties and functions as the Principal Member directs. Mr Colin Plowman is the Registrar and Mr Rhys Jones is the Deputy Registrar.

The governance framework for the tribunals includes:

- A Management Board, consisting of the Principal Member, the Deputy Principal Member, the Registrar, the senior members and the Deputy Registrar. The board meets monthly and is supported by governance committees
- A Senior Management Group, comprising the Registrar, the Deputy Registrar and senior managers. The group meets monthly and deals with management and planning issues
- The Registrar is the general manager of the tribunals' operations and also the chief financial officer. He is assisted by the Deputy Registrar





The 2011–12 Management Board. From left to right, standing, Deputy Principal Member Ms Amanda MacDonald, Senior Member Mr John Cipolla, Registrar Mr Colin Plowman, Senior Member Mr Peter Murphy, Senior Member Mr Don Smyth, Senior Member Ms Linda Kirk, and seated, Deputy Registrar Mr Rhys Jones, Senior Member Mr Giles Short, Principal Member Mr Denis O'Brien, Senior Member Ms Kira Raif and Senior Member Mr Shahyar Roushan. Senior Member Mr John Billings was interstate on the day the photograph was taken.

- An Audit and Risk Management Committee (ARMC) oversees the engagement and work program of the tribunals' internal auditors and considers issues relating to risk management.

## CORPORATE AND OPERATIONAL PLANS

The operations of the tribunals are funded through annual appropriations made by the Commonwealth Parliament. Portfolio Budget Statements are prepared bi-annually and set out the proposed appropriations to government outcomes. The statements identify a single outcome for the tribunals:

**To provide correct and preferable decisions for visa applicants and sponsors through independent, fair, just, economical, informal and quick merits reviews of migration and refugee decisions.**

The statements include performance indicators, and a report against them, is set out in part 3.

The Tribunals' Plan 2011-13 states that the tribunals' reputation depends on professional, effective and courteous dealings with applicants and their representatives, and on the quality, integrity, consistency and timeliness of decision-making. The independence of

members in decision-making, the quality of decision-making and the publication of decisions and other information are vital to retaining respect and credibility in relation to tribunal review processes and decisions.

The tribunals strive to maintain a culture that is respectful of people with whom we deal, and to make decisions which achieve the correct or preferable outcome irrespective of representation or language, cultural or other barriers. Maintaining a reputation for delivering consistent, high quality and timely reviews continues to be fundamental to the tribunals' success. The tribunals' plan is available on the tribunals' website.

The tribunals' Operational Plan 2011–12 outlined the key focus areas and activities that the tribunals sought to address. The operational plan reflects the broad strategic priorities in the tribunals' plan as well as operational priorities identified in the section business plans.

The tribunals' caseload and constitution policy is set out annually in a Principal Member direction. This direction sets out operational strategies which take into account current and anticipated caseloads and the priorities to be given to cases.

All tribunal sections have business plans.

## ETHICAL STANDARDS

Members are required to act in accordance with a Member Code of Conduct and staff are required to act in accordance with the APS Values and APS Code of Conduct.

All members sign a performance agreement. The agreement requires that a member will act in accordance with the principles set out in the Member Code of Conduct. The code provides that

members should behave with integrity, propriety and discretion, and should treat applicants, representatives, interpreters and other persons with respect, courtesy and dignity. The member code of conduct is available on the tribunals' website.

All staff participate in a performance agreement system. Performance management assists the tribunals and staff to: support the achievement of organisational goals and objectives; discuss and set performance goals and assess performance against these goals and objectives; engage in regular, participative and structured feedback on performance; recognise employees for their performance and achievement at work; support the ongoing capability development needs of employees; and identify and manage underperformance.

## RISK MANAGEMENT

The tribunals have in place an audit and risk management framework, including the ARMC and comprising an independent chair and senior tribunal representatives. Representatives from the ANAO and from Deloitte Touche Tohmatsu, in their capacity as the provider of internal audit services to the tribunals, assist the ARMC. The role of the ARMC is to consider matters that it deems appropriate and which relate to the financial affairs and risk management issues of the tribunals and matters referred to it by the board.

During the year, the tribunals reviewed and revised the ARMC's terms of reference and charter in line with the ANAO's Public Sector Audit Committees Best Practice Guide. Internal auditors concluded reviews of the payroll, finance, registry cash handling, case management allocation, stakeholder management and information technology security functions as part of a three year Internal Audit Plan.

During the year, the tribunals also developed a risk register as part of the operational plan and updated the financial delegations and Chief Executive Instructions (CEIs).

The tribunals' business continuity plan is supported by memoranda of understanding with the department and with other federal merits review tribunals (the AAT, the Social Security Appeals Tribunal and the Veterans' Review Board) to provide assistance to each other in the event of a disruption to services or facilities.

### FRAUD CONTROL

The tribunals will review its 2010–12 Fraud Control Plan in 2012, in accordance with the Commonwealth Fraud Control Guidelines.

### EXTERNAL SCRUTINY

The tribunals are subject to external scrutiny through the publication of decisions and country advice, judicial review by the courts, annual reports to parliament, appearances before parliamentary committees, complaints to and enquiries by the Commonwealth Ombudsman, and reports and enquiries by the ANAO and other bodies. The tribunals interact with agencies including the ANAO on compliance issues, and closely monitor parliamentary committee reports and other reports across the public sector.

Section 440A of the Migration Act requires the Principal Member to give the Minister a report every four months on the conduct of RRT reviews not completed within 90 days and requires the Minister to table these reports in parliament.

## WHOLE-OF-GOVERNMENT REFORMS

The tribunals undertook a range of activities to implement whole-of-government reforms during the year. Extensive work was undertaken on the Information and Communications Technology Review (the ICT review), which included identifying savings proposals, developing reinvestment proposals, identifying opportunities to reduce energy use and meeting detailed ICT reporting requirements. The tribunals also developed a P3M3™ Capability Improvement Plan.

In relation to whole-of-government procurement arrangements, the tribunals continue to source desktop licensing through the Microsoft Volume Sourcing Agreement, procure desktop and laptop computers through whole-of-government arrangements co-ordinated by the Australian Government Information Management Office and procure printers and multi-function devices through whole-of-government arrangements for major office machines coordinated by the Department of Finance and Deregulation (DoFD).

The tribunals have liaised with the assigned lead agency towards participation in the internet gateway reduction process. The tribunals have joined whole-of-government telecommunications arrangements for mobile carriage and are exploring arrangements for fixed voice and data in 2012–13.

The tribunals are included in a cluster arrangement covering travel, and travel is arranged in accordance with the government's *Use of the Lowest Practical Fare for Official Air Travel* policy. A whole-of-government stationery and office supplies panel arrangement was established on 7 March 2012.

The tribunals are developing business requirements for the transition to this new arrangement.

Consistent with Commonwealth Property Management Guidelines, the tribunals provide detailed data for the Australian Government Property Data Collection and are developing a property management plan.

## FREEDOM OF INFORMATION

Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. The tribunals' IPS information (including an IPS plan) is available from the tribunals' website.

## HUMAN RESOURCES

The tribunals comprise members appointed under the Migration Act and staff appointed under the Migration Act and employed under the *Public Service Act 1999*.

The tribunals recognise that it is through our members and staff that we achieve the tribunals' objectives and the outcomes expected by government. The tribunals seek to create an environment where members and staff are supported and encouraged to be professional and courteous, to deliver quality services, to uphold values and codes of conduct and to contribute to organisational improvements.

The tribunals are committed to providing a workplace that:

- values diversity and the contributions made by people;
- encourages ethical and good workplace behaviour;
- is productive, professional and delivers quality and timely service;
- actively identifies and addresses health and safety issues; and
- supports members and staff to balance work with their family and community responsibilities and lifestyle choices.

The work of the tribunals is recognised as important, challenging and stimulating. Remuneration and conditions are commensurate with responsibilities.

## MEMBERS

Members are appointed by the Governor-General for fixed terms on a full-time or part-time basis. The remuneration of members is determined by the Remuneration Tribunal, and their terms and conditions of employment are determined by the Minister. The Remuneration Tribunal's determinations are available on its website at [www.remtribunal.gov.au](http://www.remtribunal.gov.au).

Persons appointed as members have typically worked in a profession or have extensive experience at senior levels in the private or public sectors. The work is suited to working on a part-time basis and 56% of members are part-time.

Table 4.1 sets out the tribunals' membership as at 30 June 2012.

A list of members and their appointment periods as at 30 June 2012 is available in appendix 1 of this report. Member biographies are available on the tribunals' website.

**TABLE 4.1 – MEMBERSHIP AS AT 30 JUNE 2012**

|                         | Women     | Men       | Total      |
|-------------------------|-----------|-----------|------------|
| Principal Member        | 0         | 1         | 1          |
| Deputy Principal Member | 1         | 0         | 1          |
| Senior members          | 3         | 6         | 9          |
| Full-time members       | 15        | 21        | 36         |
| Part-time members       | 48        | 17        | 65         |
| <b>Total</b>            | <b>67</b> | <b>45</b> | <b>112</b> |

**MEMBER RECRUITMENT**

Following a selection process undertaken during early 2012, an additional three senior members, 14 full-time members and 18 part-time members were

appointed with effect from 1 July 2012, for terms of three or five years.

Table 4.2 sets out the membership as at 1 July 2012.

**TABLE 4.2 – MEMBERSHIP AS AT 1 JULY 2012**

|                         | Women     | Men       | Total      |
|-------------------------|-----------|-----------|------------|
| Principal Member        | 0         | 0         | 0*         |
| Deputy Principal Member | 1         | 0         | 1          |
| Senior members          | 6         | 6         | 12         |
| Full-time members       | 22        | 28        | 48         |
| Part-time members       | 59        | 23        | 84         |
| <b>Total</b>            | <b>88</b> | <b>57</b> | <b>145</b> |

Note: Deputy Principal Member Ms Amanda MacDonald acted as Principal Member from the conclusion of Mr Denis O'Brien's appointment in June until Ms Kay Ransome commenced on 20 August 2012.

## MEMBER PROFESSIONAL DEVELOPMENT AND PERFORMANCE

To achieve the objective of having skilled, motivated and adaptable members, the tribunals conduct annual performance reviews for all members, with mid-year updates. The member performance review and assessment process is designed to ensure member performance is assessed fairly and equitably, and in a manner that does not compromise the member's decision-making independence.

Performance reviews provide direction for the member professional development program by identifying members' training and development needs. The process involves members reflecting on their own performance against a framework of competencies and identifying their learning needs, with senior members providing feedback and guidance.

Member Professional Development Committees are responsible for providing a consistent point of reference for the delivery of a quality professional development program. The committees are chaired by the Deputy Principal Member who has responsibility for the professional development of members.

The professional development program generally consists of two sessions per month covering legal issues, country of origin information, member forums on caseload issues, practice management and personal development skills, and information technology. Highlights for the year included a briefing on political and social developments in Egypt, and a briefing on Afghanistan cultural and social issues.

In February 2012, Professor Jane McAdam delivered training in complementary protection for members. Professor McAdam provided an overview

of Australia's complementary protection regime, in an international context, and examined how similar terms have been interpreted in international and foreign jurisprudence.

A significant focus of professional development is new member induction, which assists new members to understand their role and to quickly acquire knowledge of relevant legislation, tribunal procedures, case issues and working arrangements.

Members also attended various external conferences and presentations in the areas of decision-making in a tribunal context, administrative and migration law.

## STAFFING

Professional staff support to members is vital to efficient and lawful conduct of reviews. An important role of staff is the provision of member and client services. Registry staff are the point of contact when applicants or their representatives lodge review applications or deal with the tribunals on issues concerning the conduct of reviews. Efficient and effective staff dealings with all stakeholders are essential for good tribunal performance and are important to our professional reputation. Important values are understanding and responding to client needs and seeking to improve services for individuals, families, businesses and the community.

Country Advice and Information Services and Legal Services staff provide high quality advice and information to members to support the conduct of reviews. Caseload Strategy, Finance and Business Services, Human Resources, Policy and Coordination and Technology Services staff provide a range of enabling services to support the operation of the tribunals and the delivery of high quality decisions.

Staff are employed under the *Public Service Act 1999* and are appointed as tribunal officers under the Migration Act. As at 30 June 2012, the tribunals employed 303 APS employees comprising:

- 255 ongoing full-time employees;
- 37 ongoing part-time employees;
- 10 non-ongoing full-time employees; and
- One non-ongoing part-time employee.

Table 4.3 sets out the number of staff employed as at 30 June 2012. Approximately 39% of employees are men and 61% are women.

Further staffing statistics are set out in appendix 2.

## WORKFORCE PLANNING

The tribunals continue to review strategies to attract and retain quality staff. A wide range of skills and expertise are required, from general administrative staff, to lawyers, accountants, and technology professionals. Staff are employed across 10 sections: Caseload Strategy, Country Advice and Information Services, Executive, Finance and Business Services, Human Resources, Legal Services, the New South Wales Registry, Policy and Coordination, Technology Services and the Victoria Registry.

**TABLE 4.3 – STAFF AS AT 30 JUNE 2012**

| APS Level               | New South Wales Registry |           | Victoria Registry |           | Total      |
|-------------------------|--------------------------|-----------|-------------------|-----------|------------|
|                         | Women                    | Men       | Women             | Men       |            |
| APS 1                   | 1                        | 0         | 0                 | 0         | 1          |
| APS 2                   | 2                        | 4         | 2                 | 1         | 9          |
| APS 3                   | 25                       | 10        | 18                | 9         | 62         |
| APS 4                   | 32                       | 16        | 11                | 5         | 66         |
| APS 5                   | 23                       | 11        | 12                | 6         | 52         |
| APS 6                   | 18                       | 18        | 7                 | 6         | 49         |
| Legal Officer           | 5                        | 4         | 2                 | 4         | 15         |
| Executive Level 1       | 11                       | 11        | 4                 | 2         | 28         |
| Senior Legal Officer    | 3                        | 2         | 2                 | 2         | 8          |
| Executive Level 2       | 4                        | 2         | 2                 | 1         | 9          |
| Principal Legal Officer | 1                        | 0         | 0                 | 0         | 1          |
| SES B1                  | 0                        | 1         | 0                 | 0         | 1          |
| SES B2                  | 0                        | 1         | 0                 | 0         | 1          |
| <b>Total</b>            | <b>124</b>               | <b>79</b> | <b>60</b>         | <b>38</b> | <b>303</b> |

The tribunals participate in and take a close interest in the annual State of the Service survey conducted on behalf of the Australian Public Service Commission (APSC). This survey is conducted across APS agencies and employees, and provides valuable information on employees' views on a range of issues including attraction and retention. The survey results are available on the APSC website and identify areas where APS agencies perform well and areas where there is a need for improvement or review.

With changes in the availability of skills and changing expectations about the length of time a person may stay in one job, the tribunals are conscious of the need to be flexible in approach and expectations. The ways in which vacancies are advertised, the nature of the work, the workplace environment, training, personal development and advancement, remuneration and flexibility of conditions are all factors which impact on our capacity to attract and retain quality staff.

## LEARNING AND DEVELOPMENT

A changing work practice environment requires us to do our core business well, to define roles, standards and expectations clearly and to identify good performance. A major focus for the tribunals during the year was on leadership development with all executive level managers participating in a structured program. Other targeted training included client satisfaction workshops to help improve client service delivery for registry staff, selection committee training and team leadership training. Organisational-wide training focussed on workplace resilience, employee self-service information sessions and in-house sessions on the new complementary protection arrangements.

Individual development and training needs are identified through the performance agreement system. The objectives of the performance agreement system are:

- providing a clear link between individual performance, and organisational priorities and plans;
- improving communication between employees and supervisors;
- determining learning and development needs and appropriate activities; and
- defining supervisor and employee responsibilities and expectations.

An online centralised performance agreement system was introduced into the tribunals at the end of 2011. The system stores individual performance agreements and provides reporting and monitoring functionality.

The tribunals have a studies assistance scheme. A total of 21 staff undertook approved courses of study, taking a total of 86 days study leave and being reimbursed \$56,109 in course fees.

## EXECUTIVE REMUNERATION

The tribunals have two Senior Executive Service (SES) officers. Remuneration and conditions are set through determinations under section 24(1) of the *Public Service Act 1999*, taking into account current APS remuneration levels and the market demand for the skills of the officers.

## ENTERPRISE AGREEMENT

The tribunals' certified agreement was replaced by a new enterprise agreement on 16 May 2012, which covers all non-SES employees. The nominal expiry date is 30 June 2014.

The objectives set out in the agreement aim to facilitate achievement of the goals and objectives of the tribunals by:



- encouraging employees and managers to manage and prioritise workloads within reasonable working hours;
  - maintaining a strong performance-based culture;
  - increasing operational efficiency with streamlined administrative processes and working arrangements;
  - recognising and valuing the participation of employees;
  - attracting and retaining staff;
  - providing a positive working environment;
  - providing flexibility in working hours to assist employees balance their professional and personal lives; and
  - upholding the APS Values.
- a public transport loan scheme;
  - influenza vaccination and eyesight testing;
  - allowances for first aid officers, fire wardens, health and safety representatives and harassment contact officers;
  - a period of five years for return to work, or access to part-time work, following the birth or adoption of a child;
  - a four-part performance rating scale;
  - access to unpaid career interval leave after five years of service;
  - contributions towards promoting good health; and
  - salary increases that provide 3% average annual wage increases over the life of the agreement.

The agreement includes provision for:

- access to an employee assistance program;
- study assistance;

Table 4.4 sets out the salary range as at 30 June 2012. This reflects the most recent salary increase in the agreement, which was 4.75% from 24 May 2012.

**TABLE 4.4 – SALARY RANGE PAY POINTS**

| Level                            | Lowest    | Highest   |
|----------------------------------|-----------|-----------|
| APS 1                            | \$25,311  | \$46,588  |
| APS 2                            | \$47,698  | \$52,858  |
| APS 3                            | \$54,282  | \$58,559  |
| APS 4                            | \$60,459  | \$65,616  |
| APS 5                            | \$67,398  | \$72,773  |
| APS 6                            | \$74,584  | \$83,597  |
| Information Technology (APS 4-5) | \$60,459  | \$72,773  |
| Legal Officer (APS4-6)           | \$60,459  | \$83,597  |
| Executive Level 1                | \$93,201  | \$103,033 |
| Senior Legal Officer             | \$93,201  | \$116,094 |
| Executive Level 2                | \$112,835 | \$131,526 |
| Principal Legal Officer          | \$126,975 | \$138,003 |

The agreement also includes an individual flexibility clause which provides for the supplementation of terms and conditions. As at 30 June 2012, supplementary agreements were in place with 11 employees in accordance with the flexibility clause.

Salary advancement through pay points at each classification level occurs where an employee is assessed as 'effective' or above in their most recent performance appraisal and if a broadband applies, meeting any requirements for advancement.

Five officers at the EL2/SES levels received performance pay. An aggregate amount of \$30,361 was paid in performance-linked bonuses during 2011–12 in respect of performance in the 2011 calendar year. The average bonus payment was \$6,072, and payments ranged from \$3,247 to \$8,238.

## WORK HEALTH AND SAFETY

The *Work Health and Safety Act 2011* (WHS Act) came into effect on 1 January 2012. Consequently, the tribunals have commenced a process of reviewing all WHS-related policies, procedures and practices to ensure compliance with legislation and consistency with the model codes of practice.

The tribunals have an established health and safety management arrangement, which commits to ensuring the health and safety at work of members, staff, contractors and visitors through:

- providing and maintaining a healthy and safe work environment;
- providing financial and other resources to ensure that necessary WHS programs and activities are established and maintained;
- providing a forum for consultation and cooperation on WHS matters;

- complying with legislation as a minimum standard and implementing in full the requirements of the WHS Act in all aspects of the tribunals' business;
- making all levels of management within the tribunals accountable for WHS; and
- ensuring that all members and staff of the tribunals are aware of their obligations under the WHS Act.

The tribunals' health and safety representatives are elected as required under the WHS Act. All representatives attend a five day training course that covers their responsibilities under the WHS Act. WHS committees in Sydney and Melbourne meet regularly.

No investigations were conducted under the WHS Act during 2011–12, and there were no notifiable incidents, or any directions or notices given.

The tribunals' focus is on reducing the social and financial cost of workplace injury and illness through timely intervention, promoting preventative activities and improving WHS capability. WHS and preventative activities undertaken in the tribunals during the year included:

- providing office and workstation assessments by professional occupational therapists and physiotherapists;
- facilitating instruction and education by occupational therapists and physiotherapists of members and staff in correct ergonomic practices and injury prevention;
- providing influenza vaccinations in the workplace;
- improving awareness of health and safety issues of members and staff through improved WHS induction training and processes;

- updating and improving general WHS information provision;
- improving local purchasing procedures to ensure WHS risks are assessed prior to purchasing; and
- reviewing and developing the tribunals' guidelines with WHS implications thereby improving consistency of responses across the tribunals and enhanced WHS practices relating to critical incidents.

## WORKPLACE DIVERSITY

The tribunals value a workplace free from discrimination and harassment, and seek to ensure that employment decisions are based on merit. Through the enterprise agreement, the tribunals emphasise flexibility and choice for employees to enable balance between work, family, community and lifestyle choices.

The tribunals' workplace diversity program focuses on strategies to facilitate an understanding of workplace diversity principles and to ensure fairness and inclusiveness are applied in all business activities, and in human resource policies and practices. The principles underlying the workplace diversity program are:

- treating each other with respect and dignity;
- making decisions based on equity and merit;
- recognising people as individuals and valuing their diversity;
- using the contributions that people can make to the tribunals;
- taking appropriate action to identify and deal with discrimination and harassment; and
- providing a safe, secure and healthy working environment.

In response to the government's commitment to increase the representation of indigenous employees in the APS to 2.7% by 2015, the tribunals increased efforts to recruit and retain indigenous employees. During the year, an indigenous cadet, recruited via the centralised APSC Indigenous Pathways to Employment program, continued a structured program of rotations through various sections of the tribunals.

The tribunals' Reconciliation Action Plan 2012 is being prepared for endorsement by Reconciliation Australia. As part of the tribunals' ongoing commitment and support to Aboriginal and Torres Strait Islander culture and heritage, a program of events in the tribunals' Sydney and Melbourne offices included the celebration of NAIDOC Week, National Sorry Day and Reconciliation Week. The tribunals' workplace diversity program includes the celebration of the UN International Day of the World's Indigenous People and Harmony Day.

The tribunals are committed to providing a workplace that is safe and free from behaviour that may reasonably be perceived as harassing, intimidating, overbearing, bullying, or physically or emotionally threatening and ensuring that all employees are treated with respect and courtesy. To ensure the safety, rights and obligations of members and staff, complaints handling is based on confidentiality, impartiality, procedural fairness and protection from victimisation.

Information is provided to all staff and members in regard to workplace harassment prevention. Consistent with the tribunals' Workplace Harassment Prevention Guideline, workplace harassment contact officers were appointed and trained as required during 2011–12.

## DISABILITY REPORTING

The tribunals' disability reporting is through the APSC's annual *State of the Service Report*.

### Changes to disability reporting in annual reports

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007-08, reporting on the employer role was transferred to the APSC's *State of the Service Report* and the *APS Statistical Bulletin*. These reports are available at [www.apsc.gov.au](http://www.apsc.gov.au). From 2010-11, departments and agencies have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by a new National Disability Strategy which sets out a 10 year national policy framework for improving life for Australians with disability, their families and carers. A high level report to track progress for people with disability at a national level will be produced by the Standing Council on Community, Housing and Disability Services to the Council of Australian Governments and will be available at [www.fahcsia.gov.au](http://www.fahcsia.gov.au). The Social Inclusion Measurement and Reporting Strategy agreed to by the government in December 2009 will also include some reporting on disability matters in its regular *How Australia is Faring* report and, if appropriate, in strategic change indicators in agency annual reports. More detail on social inclusion matters can be found at [www.socialinclusion.gov.au](http://www.socialinclusion.gov.au).

## ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL PERFORMANCE

The *Environment Protection and Biodiversity Conservation Act 1999* sets out the principles of ecologically sustainable development. Members and staff are encouraged to contribute to reducing the tribunals' impact on the environment. The tribunals use 100% recycled A4 paper and lower energy computers, encourage the use of double-sided printing, promote awareness about the use of electricity and water, and are actively moving to the storage and use of electronic records and documents. Walk to Work and Ride to Work days have significant participation by members and staff, and support from management.

### GREEN COMMITTEE

The tribunals' Green Committee identifies opportunities and develops proposals for more environmentally sustainable practices, processes, purchasing and disposals. The committee promotes an environmentally sustainable culture within the tribunals, consistent with the tribunals' environmental policy.

### PURCHASING

The tribunals' purchasing arrangements with suppliers include contracts and notified consultancies, interpreting services, communication services, rental of property, and other goods and services. All purchases over \$10,000 are recorded on AusTender and the tribunals comply with the Senate Order on Departmental and Agency Contracts by publishing on the tribunals' website details of contracts exceeding \$100,000 in value. The tribunals' Annual Procurement Plan is also published on its website.

All purchasing is conducted in accordance with the Commonwealth Procurement Guidelines and CEIs. In line with these policies, the tribunals conduct procurement with value for money as the core principle. This is achieved through encouraging competition, the efficient, effective, economical and ethical use of resources, and accountability and transparency in decision making. Official air travel is arranged consistently with the government's *Use of the Lowest Practical Fare for Official Air Travel* policy.

The tribunals provided information and participated in activities related to scoping studies being conducted regarding whole-of-government procurement during the course of the year.

No contracts or offers were exempted from publication in AusTender. The tribunals use a standard contract pro forma with provisions providing for access by the Auditor-General.

The tribunals did not have any competitive tendering and contracting contracts during 2011–12 for the provision of services previously performed in-house.

## ASSET MANAGEMENT

The tribunals manage over 1,000 assets with a combined value of \$4.5 million. The major asset categories include fit-out, office machines, furniture and fittings, information technology equipment and intangible assets (software). Assets are depreciated at rates applicable for each asset class.

Accrual-based monthly reports are prepared on the progress of purchases against capital plans and depreciation against the budget in order to achieve effective asset management. Bi-annual stocktakes are performed to update and verify the accuracy of asset records.

During the year, the tribunals engaged the Australian Valuation Office to revalue its fixed assets.

## CONSULTANCY SERVICES

A range of services are provided to the tribunals under contract, including consultancy services. Consultants are distinguished from other contractors by the nature of the work they perform. A consultant is an individual, a partnership or a corporation engaged to provide professional, independent and expert advice or services that will assist with agency decision making.

The tribunals engage the services of consultants when: there is a need for specialist knowledge or skills; an independent assessment or opinion is desirable; the proposed consultancy meets corporate objectives or will bring about productivity savings; and alternatives to the use of a consultant have been considered. In determining whether contracts are for consultancy or non-consultancy services, the tribunals have regard to the Guidance on Procurement Publishing Obligations published by DoFD.

During 2011–12, four new consultancy contracts were entered into involving total actual expenditure of \$51,661 (there were no expenditures in 2011–12 on one contract). All contract values exceeded \$10,000. No ongoing consultancy contracts were active during 2011–12. Information on expenditure on contracts and consultancies is also available on the AusTender website at [www.tenders.gov.au](http://www.tenders.gov.au).

Table 4.5 sets out the tribunals' annual expenditure on consultancy contracts.

**TABLE 4.5 – ANNUAL EXPENDITURE ON CONSULTANCY CONTRACTS**

| Consultant name                   | Description   | Expenditure | Selection process | Justification   |
|-----------------------------------|---|-------------|-------------------|---|
| Buchan Consulting                 | Stakeholder survey 2011–12 (started 6 December 2011, ended 30 June 2012)                | \$30,711    | Open tender       | Need for independent research or assessment                                     |
| Property Control Group Pty Ltd    | Property search and lease negotiations (started 17 April 2012, ended 1 July 2012)       | \$6,600     | Direct source     | Need for additional accommodation due to member and staff increases             |
| Mine Development Services Pty Ltd | Records management and business analysis (started 23 November 2011, ended 30 June 2012) | \$14,350    | Direct source     | Design records management plan to obtain a Certificate of Destruction Authority |

## PURCHASER/PROVIDER ARRANGEMENTS

All agencies are required to report on purchaser/provider arrangements. Purchaser/provider arrangements relate to arrangements where the outputs of one agency are purchased by another agency to contribute to outcomes.

Purchaser/provider arrangements can occur between Commonwealth agencies or between Commonwealth agencies and state or territory government, or private sector bodies. The tribunals have no purchaser/provider arrangements.

The tribunals have a service delivery agreement with the AAT for the provision by the AAT of accommodation, registry and support services in Adelaide and Perth, and registry and support services in Brisbane. The tribunals have members based in each of those locations. The tribunals also have a service delivery agreement with the department, for the provision by the tribunals of country advice and legal services to the IPAO.

## DISCRETIONARY GRANTS

All agencies are required to report on discretionary grants. Discretionary grants are payments where discretion is used to determine whether or not a particular body receives a grant. The tribunals did not provide or receive any discretionary grants during 2011–12.

## ADVERTISING AND MARKET RESEARCH

All agencies are required to report on advertising and market research. During 2011–12, the tribunals spent \$19,959 (inclusive of GST) on advertising services. The tribunals did not engage any market research services.

Table 4.6 sets out the tribunals' expenditure on advertising services in 2011–12.

**TABLE 4.6 – EXPENDITURE ON ADVERTISING SERVICES**

| Vendor               | Amount          | Description            |
|----------------------|-----------------|------------------------|
| Adcorp Australia Ltd | \$19,959        | Employment advertising |
| <b>Total</b>         | <b>\$19,959</b> |                        |

## **CORRECTION OF ERRORS IN PREVIOUS ANNUAL REPORT**

An error in the MRT lodgements figure for 2009–10, and reported in the 2009–10 and 2010–11 annual reports, has been identified and corrected in this report. MRT lodgements for 2009–10 were 8,333 not 8,332.





# FINANCIAL INFORMATION

## PART 05

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# FINANCIAL INFORMATION

The MRT and the RRT are prescribed as a single agency, the 'Migration Review Tribunal and Refugee Review Tribunal' for the purposes of the FMA Act. The operations of the tribunals are funded through Appropriation Acts.

The following two tables are provided consistent with guidelines set out in *Requirements for annual reports for departments, executive agencies and FMA Act bodies*, issued by the Department of the Prime Minister and Cabinet in June 2012. The tables do not form part of the audited financial statements, which are set out from page 75.

## AGENCY RESOURCE STATEMENT 2011-12

|   |   | Actual<br>Available<br>appropriation<br>2011-12<br>\$'000 | Payments<br>made<br>2011-12<br>\$'000 | Balance<br>remaining<br>2011-12<br>\$'000 |
|---|---|---|---------------------------------------|---|
|   |   | (a)   | (b)                                   | (a) - (b)                                 |
| <b>Ordinary annual services<sup>1</sup></b>                   |   |   |                                       |   |
| Departmental appropriation <sup>2</sup>                       |   | 57,395  | 50,050                                | 7,345                                     |
| <b>Total</b>  |   | <b>57,395</b>   | <b>50,050</b>                         | <b>7,345</b>                              |
| <b>Administered expenses</b>                                  |   |   |                                       |   |
| Outcome 1   |   | 4,481   | 4,481                                 | -   |
| <b>Total</b>  |   | <b>4,481</b>  | <b>4,481</b>                          | <b>-</b>                                  |
| <b>Total ordinary annual services</b>                         | A | <b>61,876</b>   | <b>54,531</b>                         | <b>7,345</b>                              |
| <b>Departmental non-operating</b>                             |   |   |                                       |   |
| Equity injections   |   | 263   | -                                     | 263                                       |
| <b>Total</b>  |   | <b>263</b>  | <b>-</b>                              | <b>263</b>                                |
| <b>Total other services</b>                                   | B | <b>263</b>  | <b>-</b>                              | <b>263</b>                                |
| <b>Total Available Annual Appropriations and payments A+B</b> |   | <b>62,139</b>   | <b>54,531</b>                         | <b>7,608</b>                              |
| <b>Total net resourcing and payments for the MRT-RRT A+B</b>  |   | <b>62,139</b>   | <b>54,531</b>                         | <b>7,608</b>                              |

1. Appropriation Bill (No.1) 2011-12 and Appropriation Bill (No.3) 2011-12, prior years unspent departmental appropriation and Section 31 relevant agency receipts. \$5.616m of prior years' appropriations meet criteria for a formal reduction in appropriations but at law this had not occurred before the end of the reporting period.
2. Includes an amount of \$1.659m in 2011-12 for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

## EXPENSES AND RESOURCES FOR OUTCOME 1

| <b>Outcome 1:<br/>To provide correct and preferable decisions<br/>for visa applicants and sponsors through<br/>independent, fair, just, economical,<br/>informal and quick merits reviews of<br/>migration and refugee decisions.</b> | Budget*<br>2011-12<br>\$'000 | Actual<br>expenses<br>2011-12<br>\$'000 | Variation<br>2011-12<br>\$'000 |
|---|------------------------------|---|--------------------------------|
|   | <b>(a)</b>                   | <b>(b)</b>                              | <b>(a)-(b)</b>                 |
| <b>Program 1.1: Final independent merits<br/>review of decisions concerning refugee<br/>status and the refusal or cancellation of<br/>migration and refugee visas.</b>  |                              |   |                                |
| Administered expenses   |                              |   |                                |
| Special Appropriations  | 8,300                        | 6,232                                   | 2,068                          |
| Departmental expenses   |                              |   |                                |
| Departmental Appropriation <sup>1</sup>   | 46,972                       | 53,332                                  | (6,360)                        |
| <b>Total for Program 1.1</b>  | <b>55,272</b>                | <b>59,564</b>                           | <b>(4,292)</b>                 |
| <b>Total expenses for Outcome 1</b>   | <b>55,272</b>                | <b>59,564</b>                           | <b>(4,292)</b>                 |
|   | 2010-11                      | 2011-12                                 |                                |
| <b>Average Staffing Level (number)</b>  | <b>319</b>                   | <b>348</b>                              |                                |

\* Full year budget, including any subsequent adjustment made to the 2011-12 Budget.

1. Departmental Appropriation combines "Ordinary annual services (Appropriation Bill No. 1)" and "Revenue from independent sources (s31)".

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## INDEPENDENT AUDITOR'S REPORT

### To the Minister for Immigration and Citizenship

I have audited the accompanying financial statements of the Migration Review Tribunal and Refugee Review Tribunal for the year ended 30 June 2012, which comprise: a Statement by the Chief Executive and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Reconciliation Schedule; Administered Cash Flow Statement; Schedule of Administered Commitments; Schedule of Administered Contingencies; and Notes comprising a Summary of Significant Accounting Policies and other explanatory information.

#### *Chief Executive's Responsibility for the Financial Statements*

The Chief Executive of the Migration Review Tribunal and Refugee Review Tribunal is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as is necessary to enable the preparation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Migration Review Tribunal and Refugee Review Tribunal's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of

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the Migration Review Tribunal and Refugee Review Tribunal's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Chief Executive of the Migration Review Tribunal and Refugee Review Tribunal, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### ***Independence***

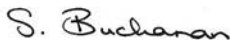
In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

#### ***Opinion***

In my opinion, the financial statements of the Migration Review Tribunal and Refugee Review Tribunal:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Migration Review Tribunal and Refugee Review Tribunal's financial position as at 30 June 2012 and of its financial performance and cash flows for the year then ended.

Australian National Audit Office



Serena Buchanan  
Audit Principal

Delegate of the Auditor-General

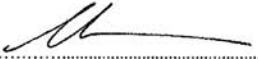
Canberra  
7 September 2012

Migration Review Tribunal and Refugee Review Tribunal

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2012 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

Signed.....



Kay Ransome  
Chief Executive

7 September 2012

Signed.....



Colin Plowman  
Chief Financial Officer

7 September 2012

**Statement of Comprehensive Income***for the period ended 30 June 2012*

|   | Notes     | 2012<br>\$'000        | 2011<br>\$'000        |
|---|-----------|-----------------------|-----------------------|
| <b>EXPENSES</b>   |           |                       |                       |
| Employee benefits   | <u>3A</u> | <u>41,658</u>         | <u>35,201</u>         |
| Supplier  | <u>3B</u> | <u>10,021</u>         | <u>9,507</u>          |
| Depreciation and amortisation   | <u>3C</u> | <u>1,477</u>          | <u>1,155</u>          |
| Finance costs   | <u>3D</u> | <u>65</u>             | <u>101</u>            |
| Decrement on revaluation of assets  | <u>3E</u> | <u>111</u>            | <u>-</u>              |
| Losses from asset sales   | <u>3F</u> | <u>-</u>              | <u>1</u>              |
| <b>Total expenses</b>   |           | <b><u>53,332</u></b>  | <b><u>45,965</u></b>  |
| <b>LESS:</b>  |           |                       |                       |
| <b>OWN-SOURCE INCOME</b>  |           |                       |                       |
| <b>Own-source revenue</b>   |           |                       |                       |
| Sale of goods and rendering of services                                   | <u>4A</u> | <u>1,457</u>          | <u>350</u>            |
| <b>Total own-source revenue</b>   |           | <b><u>1,457</u></b>   | <b><u>350</u></b>     |
| <b>Gains</b>  |           |                       |                       |
| Other   | <u>4B</u> | <u>42</u>             | <u>38</u>             |
| <b>Total gains</b>  |           | <b><u>42</u></b>      | <b><u>38</u></b>      |
| <b>Total own-source income</b>  |           | <b><u>1,499</u></b>   | <b><u>388</u></b>     |
| <b>Net cost of services</b>   |           | <b><u>51,833</u></b>  | <b><u>45,577</u></b>  |
| Revenue from Government   | <u>4C</u> | <u>48,168</u>         | <u>42,932</u>         |
| <b>Total Comprehensive loss attributable to the Australian Government</b> |           | <b><u>(3,665)</u></b> | <b><u>(2,645)</u></b> |

The above statement should be read in conjunction with the accompanying notes.



**Balance Sheet**  
as at 30 June 2012

|   | Notes | 2012<br>\$'000 | 2011<br>\$'000 |
|---|-------|----------------|----------------|
| <b>ASSETS</b>                             |       |                |                |
| <b>Financial Assets</b>                   |       |                |                |
| Cash and cash equivalents                 | 5A    | 304            | 125            |
| Trade and other receivables               | 5B.15 | 6,829          | 6,765          |
| <b>Total financial assets</b>             |       | <u>7,133</u>   | <u>6,890</u>   |
| <b>Non-Financial Assets</b>               |       |                |                |
| Land and buildings                        | 6A    | 837            | 1,254          |
| Property, plant and equipment             | 6B.C  | 1,180          | 878            |
| Intangibles                               | 6D.E  | 2,556          | 2,416          |
| Other                                     | 6F    | 30             | 199            |
| <b>Total non-financial assets</b>         |       | <u>4,603</u>   | <u>4,747</u>   |
| <b>Total assets</b>                       |       | <u>11,736</u>  | <u>11,637</u>  |
| <b>LIABILITIES</b>                        |       |                |                |
| <b>Payables</b>                           |       |                |                |
| Suppliers                                 | 7     | 1,612          | 1,090          |
| <b>Total payables</b>                     |       | <u>1,612</u>   | <u>1,090</u>   |
| <b>Interest Bearing Liabilities</b>       |       |                |                |
| Leases                                    | 8     | 848            | 1,394          |
| <b>Total interest bearing liabilities</b> |       | <u>848</u>     | <u>1,394</u>   |
| <b>Provisions</b>                         |       |                |                |
| Employee provisions                       | 9     | 9,026          | 7,160          |
| <b>Total provisions</b>                   |       | <u>9,026</u>   | <u>7,160</u>   |
| <b>Total liabilities</b>                  |       | <u>11,486</u>  | <u>9,644</u>   |
| <b>Net assets</b>                         |       | <u>250</u>     | <u>1,993</u>   |
| <b>EQUITY</b>                             |       |                |                |
| <b>Parent Entity Interest</b>             |       |                |                |
| Contributed equity                        |       | 14,782         | 12,860         |
| Reserves                                  |       | 384            | 384            |
| Retained surplus (accumulated deficit)    |       | (14,916)       | (11,251)       |
| <b>Total parent entity interest</b>       |       | <u>250</u>     | <u>1,993</u>   |

The above statement should be read in conjunction with the accompanying notes.

**Statement of Changes in Equity**  
for the period ended 30 June 2012

|  | Retained earnings |                 | Asset revaluation reserve |            | Contributed equity/capital |               | Total equity   |                |
|--|-------------------|-----------------|---------------------------|------------|----------------------------|---------------|----------------|----------------|
|  | 2012              | 2011            | 2012                      | 2011       | 2012                       | 2011          | 2012           | 2011           |
|  | \$'000            | \$'000          | \$'000                    | \$'000     | \$'000                     | \$'000        | \$'000         | \$'000         |
| <b>Opening balance</b>   | (11,251)          | (8,606)         | 384                       | 384        | 12,860                     | 10,876        | 1,993          | 2,654          |
| <b>Comprehensive income</b>  |                   |                 |                           |            |                            |               |                |                |
| Surplus (Deficit) for the period   | (3,665)           | (2,645)         |                           |            |                            |               | (3,665)        | (2,645)        |
| <b>Total comprehensive income</b>  | <b>(3,665)</b>    | <b>(2,645)</b>  |                           |            |                            |               | <b>(3,665)</b> | <b>(2,645)</b> |
| <b>Transactions with owners</b>  |                   |                 |                           |            |                            |               |                |                |
| <b>Contributions by owners</b>   |                   |                 |                           |            |                            |               |                |                |
| Equity injection - Appropriations  |                   |                 |                           |            | 263                        | 80            | 263            | 80             |
| Departmental capital budget  |                   |                 |                           |            | 1,659                      | 1,904         | 1,659          | 1,904          |
| <b>Sub-total transactions with owners</b>                                      | <b>-</b>          | <b>-</b>        | <b>-</b>                  | <b>-</b>   | <b>1,922</b>               | <b>1,984</b>  | <b>1,922</b>   | <b>1,984</b>   |
| <b>Closing balance attributable to the Australian Government as at 30 June</b> | <b>(14,916)</b>   | <b>(11,251)</b> | <b>384</b>                | <b>384</b> | <b>14,782</b>              | <b>12,860</b> | <b>250</b>     | <b>1,993</b>   |

The above statement should be read in conjunction with the accompanying notes.

**Cash Flow Statement***for the period ended 30 June 2012*

|   | Notes     | 2012<br>\$'000 | 2011<br>\$'000 |
|---|-----------|----------------|----------------|
| <b>OPERATING ACTIVITIES</b>   |           |                |                |
| <b>Cash received</b>  |           |                |                |
| Appropriations  |           | 49,300         | 44,592         |
| Sales of goods and rendering of services                            |           | 1,522          | 130            |
| Net GST received  |           | 988            | 1,071          |
| Other   |           | 1              | -              |
| <b>Total cash received</b>  |           | <b>51,811</b>  | <b>45,793</b>  |
| <b>Cash used</b>  |           |                |                |
| Employees   |           | 39,792         | 34,803         |
| Suppliers   |           | 11,229         | 10,303         |
| Borrowing costs   |           | 65             | 101            |
| <b>Total cash used</b>  |           | <b>51,086</b>  | <b>45,207</b>  |
| <b>Net cash from (used by) operating activities</b>                 | <u>10</u> | <b>725</b>     | <b>586</b>     |
| <b>INVESTING ACTIVITIES</b>   |           |                |                |
| <b>Cash used</b>  |           |                |                |
| Purchase of property, plant and equipment                           |           | 750            | 958            |
| <b>Total cash used</b>  |           | <b>750</b>     | <b>958</b>     |
| <b>Net cash from (used by) investing activities</b>                 |           | <b>(750)</b>   | <b>(958)</b>   |
| <b>FINANCING ACTIVITIES</b>   |           |                |                |
| <b>Cash received</b>  |           |                |                |
| Contributed equity  |           | 750            | 958            |
| <b>Total cash received</b>  |           | <b>750</b>     | <b>958</b>     |
| <b>Cash used</b>  |           |                |                |
| Repayment of borrowings   |           | 546            | 510            |
| <b>Total cash used</b>  |           | <b>546</b>     | <b>510</b>     |
| <b>Net cash from (used by) financing activities</b>                 |           | <b>204</b>     | <b>448</b>     |
| <b>Net increase (decrease) in cash held</b>                         |           | <b>179</b>     | <b>76</b>      |
| Cash and cash equivalents at the beginning of the reporting period  |           | 125            | 49             |
| <b>Cash and cash equivalents at the end of the reporting period</b> | <u>5A</u> | <b>304</b>     | <b>125</b>     |

The above statement should be read in conjunction with the accompanying notes.

## SCHEDULE OF COMMITMENTS

as at 30 June 2012

|   | 2012          | 2011           |
|---|---------------|----------------|
|   | \$'000        | \$'000         |
| <b>BY TYPE</b>                            |               |                |
| <b>Commitments receivable</b>             |               |                |
| Net GST recoverable on commitments        | (979)         | (1,454)        |
| <b>Total commitments receivable</b>       | <u>(979)</u>  | <u>(1,454)</u> |
| <b>Commitments payable</b>                |               |                |
| <b>Other commitments</b>                  |               |                |
| Operating leases                          | 10,767        | 15,992         |
| <b>Total other commitments</b>            | <u>10,767</u> | <u>15,992</u>  |
| <b>Net commitments by type</b>            | <u>9,788</u>  | <u>14,538</u>  |
| <b>BY MATURITY</b>                        |               |                |
| <b>Commitments receivable</b>             |               |                |
| <b>Other commitments receivable</b>       |               |                |
| Net GST recoverable on commitments        | (979)         | (1,454)        |
| <b>Total other commitments receivable</b> | <u>(979)</u>  | <u>(1,454)</u> |
| <b>Commitments payable</b>                |               |                |
| <b>Operating lease commitments</b>        |               |                |
| One year or less                          | 4,926         | 4,934          |
| From one to five years                    | 5,841         | 11,058         |
| <b>Total operating lease commitments</b>  | <u>10,767</u> | <u>15,992</u>  |
| <b>Net commitments by maturity</b>        | <u>9,788</u>  | <u>14,538</u>  |

NB: Commitments are GST inclusive where relevant.

On 1 September 2003, the two tribunals re-located in new premises in Melbourne with a lease for a period of 10 years. The commitment at 30 June 2012 is \$2.1m.

On 1 May 2005, the two tribunals re-located in new premises in Sydney with a lease for a period of 10 years. The commitment at 30 June 2012 is \$8.7m.

On 1 July 2011, the tribunals entered into an office lease in Brisbane for a period of 2 years. The commitment at 30 June 2012 is \$0.1m.

Operating leases included are effectively non-cancellable and comprise:

| <i>Nature of lease</i>          | <i>General description of leasing arrangement</i>   |
|---------------------------------|---|
| Leases for office accommodation | Lease payments are subject to annual increase in accordance with the terms of the lease agreements. |

The above statement should be read in conjunction with the accompanying notes.

## **SCHEDULE OF CONTINGENCIES**

*as at 30 June 2012*

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The MRT-RRT has no contingent assets or liabilities

This schedule should be read in conjunction with the accompanying notes.

| <b>Administered Schedule of Comprehensive Income</b>                     |       |               |               |
|--|-------|---------------|---------------|
|  |       | 2012          | 2011          |
|  | Notes | \$'000        | \$'000        |
| <b>Income administered on behalf of Government</b>                       |       |               |               |
| <i>for the period ended 30 June 2012</i>                                 |       |               |               |
| <b>Revenue</b>   |       |               |               |
| <b>Non-taxation revenue</b>  |       |               |               |
| Other - MRT application fees   | 17    | 20,463        | 12,815        |
| Other - RRT post decision fees   | 17    | 3,041         | 2,857         |
| <b>Total non-taxation revenue</b>  |       | <b>23,504</b> | <b>15,672</b> |
| <b>Total revenues administered on behalf of Government</b>               |       | <b>23,504</b> | <b>15,672</b> |
| <b>Expenses administered on behalf of Government</b>                     |       |               |               |
| <i>for the period ended 30 June 2012</i>                                 |       |               |               |
| Write-down and impairment of assets                                      | 16A   | 1,751         | 1,574         |
| Other - refunds  | 16B   | 4,481         | 4,234         |
| <b>Total expenses administered on behalf of Government</b>               |       | <b>6,232</b>  | <b>5,808</b>  |
| <b>Surplus</b>   | 20    | <b>17,272</b> | <b>9,864</b>  |
| This schedule should be read in conjunction with the accompanying notes. |       |               |               |

| <b>Administered Schedule of Assets and Liabilities</b>                   |       |              |              |
|--|-------|--------------|--------------|
|  |       | 2012         | 2011         |
|  | Notes | \$'000       | \$'000       |
| <b>Assets administered on behalf of Government</b>                       |       |              |              |
| <i>as at 30 June 2012</i>  |       |              |              |
| <b>Financial assets</b>  |       |              |              |
| Cash and cash equivalents  | 18A   | 71           | 86           |
| Trade and other receivables  | 18B   | 1,782        | 1,305        |
| <b>Total financial assets</b>  |       | <b>1,853</b> | <b>1,391</b> |
| <b>Liabilities administered on behalf of Government</b>                  |       |              |              |
| <i>as at 30 June 2012</i>  |       |              |              |
| <b>Financial liabilities</b>   |       |              |              |
| Other  | 19    | -            | -            |
| <b>Total financial liabilities</b>                                       |       | <b>-</b>     | <b>-</b>     |
| <b>Net assets/(liabilities)</b>  |       | <b>1,853</b> | <b>1,391</b> |
| This schedule should be read in conjunction with the accompanying notes. |       |              |              |

| <b>Administered Reconciliation Schedule</b>                             |  |              |              |
|---|--|--------------|--------------|
|   |  | 2012         | 2011         |
|   |  | \$'000       | \$'000       |
| Opening administered assets less administered liabilities as at 1 July  |  | 1,391        | 808          |
| Adjustment for rounding   |  | -            | (2)          |
| Adjusted opening administered assets less administered liabilities      |  | 1,391        | 806          |
| Surplus (deficit) items:  |  |              |              |
| Plus: Administered income   |  | 23,504       | 15,672       |
| Less: Administered expenses   |  | (6,232)      | (5,808)      |
| Appropriation transfers from OPA:                                       |  |              |              |
| Annual appropriations for administered expenses                         |  | 4,481        | 4,234        |
| Transfers to OPA  |  | (21,291)     | (13,513)     |
| Closing administered assets less administered liabilities as at 30 June |  | <b>1,853</b> | <b>1,391</b> |

**Administered Cash Flow Statement**

|  |            | 2012          | 2011          |
|--|------------|---------------|---------------|
|  | Notes      | \$'000        | \$'000        |
| <b>Administered Cash Flows</b>   |            |               |               |
| <i>for the period ended 30 June 2012</i>                                 |            |               |               |
| <b>OPERATING ACTIVITIES</b>  |            |               |               |
| <b>Cash received</b>   |            |               |               |
| Fees   |            | 21,273        | 13,540        |
| <b>Total cash received</b>   |            | <b>21,273</b> | <b>13,540</b> |
| <b>Cash used</b>   |            |               |               |
| Other - refunds  |            | 4,481         | 4,234         |
| <b>Total cash used</b>   |            | <b>4,481</b>  | <b>4,234</b>  |
| <b>Net cash flows from (used by) operating activities</b>                | <u>20</u>  | <b>16,792</b> | <b>9,306</b>  |
| Cash and cash equivalents at the beginning of the reporting period       |            | 86            | 59            |
| Cash from Official Public Account for:                                   |            |               |               |
| -Transfer from other entities (Finance - Whole of Government)            |            | 4,481         | 4,234         |
|  |            | <b>4,567</b>  | <b>4,293</b>  |
| Cash to Official Public Account for:                                     |            |               |               |
| - Appropriations   |            | 21,288        | 13,513        |
|  |            | <b>21,288</b> | <b>13,513</b> |
| <b>Cash and cash equivalents at the end of the reporting period</b>      | <u>18A</u> | <b>71</b>     | <b>86</b>     |
| This schedule should be read in conjunction with the accompanying notes. |            |               |               |

**Schedule of Administered Commitments***as at 30 June 2012*

There are no administered commitments at 30 June 2012 (2011: Nil)

**Schedule of Administered Contingencies***as at 30 June 2012*

There are no administered contingencies at 30 June 2012 (2011: Nil)

### **1.1 Objectives of the Migration Review Tribunal and Refugee Review Tribunal**

The Migration Review Tribunal (the MRT) and the Refugee Review Tribunal (the RRT) are statutory bodies established under the *Migration Act 1958*.

The Financial Management and Accountability Regulations were amended with effect from 1 July 2006 to establish a single prescribed agency, the 'Migration Review Tribunal and Refugee Review Tribunal' (MRT-RRT) for the purposes of the *Financial Management and Accountability Act 1997* (the FMA Act).

The MRT-RRT has one outcome:

Outcome 1: To provide correct and preferable decisions for visa applicants and sponsors through independent, fair, just, economical, informal and quick merits reviews of migration and refugee decisions.

The continued existence of the MRT-RRT in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the MRT-RRT's administration and programs.

The MRT-RRT activities contributing toward this outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the MRT-RRT in its own right. Administered activities involve the management or oversight by the MRT-RRT, on behalf of the Government, of items controlled or incurred by the Government.

The MRT-RRT conducts the following administered activities: 1. the collection of MRT application fees and RRT post decision fees. 2. The repayment of fees to successful applicants.

### **1.2 Basis of Preparation of the Financial Statements**

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are general purpose financial statements.

The financial statements have been prepared in accordance with:

- a) Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2011; and
- b) Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executor contracts are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when, and only when, the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

### **1.3 Significant Accounting Judgements and Estimates**

In the process of applying the accounting policies listed in this note, the entity has made the following judgements that have the most significant impact on the amounts recorded in the financial statements: the fair value of property, plant and equipment has been taken to be the market value as determined by an independent valuer.



## 1.4 New Australian Accounting Standards

### Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. There are no new accounting standards, amendments to standards and interpretations issued by the Australian Accounting Standards Board that are applicable to the current period, which have had a material financial impact on the MRT-RRT.

### Future Australian Accounting Standard Requirements

No new standards, amendments to standards or interpretations issued by the Australian Accounting Standards Board that are applicable to future periods are expected to have a material financial impact on the MRT-RRT.

## 1.5 Revenue

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- a) the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- b) the probable economic benefits associated with the transaction will flow to the MRT-RRT.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Appropriations receivable are recognised at their nominal amounts.

### Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

### Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the MRT-RRT gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

## 1.6 Gains

### Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

### Sale of Assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

## 1.7 Transactions with the Government as Owner

### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity.

## 1.8 Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

### Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will apply at the time the leave is taken, including the MRT-RRT's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

### Superannuation

Most staff and members of the MRT-RRT are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), Australian Government Employees Superannuation Trust (AGEST) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The MRT-RRT makes employer contributions to the employees' superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The MRT-RRT accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

## 1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

### 1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

### 1.11 Cash

Cash and cash equivalents includes cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

### 1.12 Financial Assets

The MRT-RRT classifies its financial assets in the '*loans and receivables*' category.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

#### Loans and Receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

#### Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

*Financial assets held at cost* - if there is objective evidence that an impairment loss has been incurred, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

### 1.13 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

#### Other Financial Liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

### 1.14 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the balance sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

### 1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

## 1.16 Property, Plant and Equipment

### Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the balance sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

### Revaluations

Fair values for each class of asset are determined as: Leasehold Improvements at '*Depreciated Replacement Cost*', and Plant and Equipment at '*Market Value*'.

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment has been credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets were recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

### Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to MRT-RRT using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

|                        | 2012                 | 2011          |
|------------------------|----------------------|---------------|
| Leasehold improvements | <b>Lease term</b>    | Lease term    |
| Plant and Equipment    | <b>3 to 10 years</b> | 3 to 10 years |

### Impairment

All assets were assessed for impairment at 30 June 2012. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the MRT-RRT were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

## 1.17 Intangibles

MRT-RRT's intangibles are comprised of internally developed software and purchased software for internal use. These assets are carried at cost less accumulated amortisation.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of MRT-RRT's software are 3 to 10 years (2011: 3 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2012.

### **1.18 Taxation / Competitive Neutrality**

The MRT-RRT is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- a) where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- b) for receivables and payables.

### **1.19 Reporting of Administered Activities**

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the schedule of administered items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

#### **Administered Cash Transfers to and from the Official Public Account**

Revenue collected by MRT-RRT for use by the Government rather than the agency is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the agency on behalf of the Government and reported as such in the statement of cash flows in the schedule of administered items and in the administered reconciliation schedule.

#### **Revenue**

All administered revenues are revenues relating to the course of ordinary activities performed by the MRT-RRT on behalf of the Australian Government. As such, administered appropriations are not revenues of the individual entity that oversees distribution or expenditure of the funds as directed.

Revenue is generated from fees charged for MRT applications when lodged and RRT applications once the decision has been made (post-decision fee). Administered fee revenue is recognised when invoiced (RRT fees) or received (MRT fees).

#### **Loans and Receivables**

Where loans and receivables are not subject to concessional treatment, they are carried at amortised cost using the effective interest method. Gains and losses due to impairment, derecognition and amortisation are recognised through profit or loss.

## Note 2: Events After the Reporting Period

There has not been any event occurring after balance date that has not been brought to account in the 2011-12 financial report.

**Note 3: Expenses**

|                                   | 2012          | 2011          |
|-----------------------------------|---------------|---------------|
|                                   | \$'000        | \$'000        |
| <b>Note 3A: Employee Benefits</b> |               |               |
| Wages and salaries                | 30,523        | 26,296        |
| Superannuation:                   |               |               |
| Defined contribution plans        | 2,260         | 1,724         |
| Defined benefit plans             | 2,753         | 2,455         |
| Leave and other entitlements      | 6,122         | 4,726         |
| <b>Total employee benefits</b>    | <b>41,658</b> | <b>35,201</b> |

**Note 3B: Suppliers****Goods and services**

|  |              |              |
|--|--------------|--------------|
| Property operating expenses (excluding lease payments) | 1,239        | 1,291        |
| Interpreting   | 1,334        | 1,057        |
| Communications   | 863          | 935          |
| Interstate facilities                                  | 842          | 646          |
| Printing and Stationery                                | 323          | 410          |
| Other  | 2,267        | 2,217        |
| <b>Total goods and services</b>                        | <b>6,868</b> | <b>6,556</b> |

**Goods and services are made up of:**

|  |              |              |
|--|--------------|--------------|
| Provision of goods – external parties    | 561          | 620          |
| Rendering of services – related entities | 1,529        | 1,308        |
| Rendering of services – external parties | 4,778        | 4,628        |
| <b>Total goods and services</b>          | <b>6,868</b> | <b>6,556</b> |

**Other supplier expenses****Operating lease rentals – external parties:**

|                                      |               |              |
|--------------------------------------|---------------|--------------|
| Minimum lease payments               | 2,991         | 2,791        |
| Workers compensation expenses        | 162           | 160          |
| <b>Total other supplier expenses</b> | <b>3,153</b>  | <b>2,951</b> |
| <b>Total supplier expenses</b>       | <b>10,021</b> | <b>9,507</b> |

**Note 3C: Depreciation and Amortisation****Depreciation:**

|                               |            |            |
|-------------------------------|------------|------------|
| Property, plant and equipment | 334        | 223        |
| Buildings                     | 526        | 466        |
| <b>Total depreciation</b>     | <b>860</b> | <b>689</b> |

**Amortisation:**

|  |              |              |
|--|--------------|--------------|
| Intangibles                                | 617          | 466          |
| <b>Total amortisation</b>                  | <b>617</b>   | <b>466</b>   |
| <b>Total depreciation and amortisation</b> | <b>1,477</b> | <b>1,155</b> |

**Note 3D: Finance Costs**

|                            |           |            |
|----------------------------|-----------|------------|
| Finance leases             | 65        | 101        |
| <b>Total finance costs</b> | <b>65</b> | <b>101</b> |

**Note 3E: Write-Down and Impairment of Assets****Asset write-downs and impairments from:**

|  |            |          |
|--|------------|----------|
| Revaluation decrement - Property Plant & Equipment | 111        | -        |
| <b>Total write-down and impairment of assets</b>   | <b>111</b> | <b>-</b> |

**Note 3F: Losses from Asset Sales****Property, plant and equipment:**

|                                      |          |          |
|--------------------------------------|----------|----------|
| Carrying value of assets sold        | -        | 1        |
| <b>Total losses from asset sales</b> | <b>-</b> | <b>1</b> |

## Note 4: Income

|                    | 2012   | 2011   |
|--------------------|--------|--------|
| OWN-SOURCE REVENUE | \$'000 | \$'000 |

### Note 4A: Sale of Goods and Rendering of Services

|  |                     |                   |
|--|---------------------|-------------------|
| Rendering of services - related entities             | <u>1,457</u>        | <u>350</u>        |
| <b>Total sale of goods and rendering of services</b> | <b><u>1,457</u></b> | <b><u>350</u></b> |

### GAINS

#### Note 4B: Other Gains

|                                   |                  |                  |
|-----------------------------------|------------------|------------------|
| Resources received free of charge | 41               | 38               |
| Other                             | <u>1</u>         | <u>-</u>         |
| <b>Total other gains</b>          | <b><u>42</u></b> | <b><u>38</u></b> |

### REVENUE FROM GOVERNMENT

#### Note 4C: Revenue from Government\*

##### Appropriations:

|                                      |                      |                      |
|--------------------------------------|----------------------|----------------------|
| Departmental appropriation           | <u>48,168</u>        | <u>42,932</u>        |
| <b>Total revenue from Government</b> | <b><u>48,168</u></b> | <b><u>42,932</u></b> |

\* The entity received \$18k (2011: \$9k) under the Paid Parental Leave Scheme.



## Note 5: Financial Assets

|   | 2012         | 2011         |
|---|--------------|--------------|
|   | \$'000       | \$'000       |
| <b>Note 5A: Cash and Cash Equivalents</b>           |              |              |
| Cash on hand or on deposit                          | 304          | 125          |
| <b>Total cash and cash equivalents</b>              | <b>304</b>   | <b>125</b>   |
| <b>Note 5B: Trade and Other Receivables</b>         |              |              |
| <b>Good and Services:</b>                           |              |              |
| Goods and services - related entities               | 175          | 242          |
| <b>Total receivables for goods and services</b>     | <b>175</b>   | <b>242</b>   |
| <b>Appropriations receivable:</b>                   |              |              |
| For existing programs                               | 6,361        | 6,321        |
| <b>Total appropriations receivable</b>              | <b>6,361</b> | <b>6,321</b> |
| <b>Other receivables:</b>                           |              |              |
| GST receivable from the Australian Taxation Office  | 257          | 188          |
| Other   | 36           | 14           |
| <b>Total other receivables</b>                      | <b>293</b>   | <b>202</b>   |
| <b>Total trade and other receivables (gross)</b>    | <b>6,829</b> | <b>6,765</b> |
| <b>Receivables are expected to be recovered in:</b> |              |              |
| No more than 12 months                              | 6,829        | 6,765        |
| More than 12 months                                 | -            | -            |
| <b>Total trade and other receivables (net)</b>      | <b>6,829</b> | <b>6,765</b> |
| <b>Receivables are aged as follows:</b>             |              |              |
| Not overdue   | 6,829        | 6,765        |
| <b>Total receivables (gross)</b>                    | <b>6,829</b> | <b>6,765</b> |

## Note 6: Non-Financial Assets

2012                      2011  
\$'000                      \$'000

### Note 6A: Land and Buildings

#### Leasehold improvements:

|                                     |            |              |
|-------------------------------------|------------|--------------|
| Fair value                          | 1,915      | 1,807        |
| Accumulated depreciation            | (1,078)    | (553)        |
| <b>Total leasehold improvements</b> | <b>837</b> | <b>1,254</b> |
| <b>Total land and buildings</b>     | <b>837</b> | <b>1,254</b> |

No indicators of impairment were found for land and buildings.

No land or buildings are expected to be sold or disposed of within the next 12 months.

### Note 6B: Property, Plant and Equipment

#### Other property, plant and equipment:

|  |              |            |
|--|--------------|------------|
| Fair value                                       | 1,180        | 1,505      |
| Accumulated depreciation                         | -            | (627)      |
| <b>Total other property, plant and equipment</b> | <b>1,180</b> | <b>878</b> |
| <b>Total property, plant and equipment</b>       | <b>1,180</b> | <b>878</b> |

Property, plant and equipment was revalued at fair value at 30 June 2012.

No indicators of impairment were found for property, plant and equipment.

### Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2011-12)

|  | Buildings<br>\$'000 | Other property,<br>plant &<br>equipment<br>\$'000 | Total<br>\$'000 |
|--|---------------------|---|-----------------|
| <b>As at 1 July 2011</b>                                 |                     |   |                 |
| Gross book value   | 1,806               | 1,505   | 3,311           |
| Accumulated depreciation and impairment                  | (552)               | (627)   | (1,179)         |
| <b>Net book value 1 July 2011</b>                        | <b>1,254</b>        | <b>878</b>  | <b>2,132</b>    |
| Additions  | 109                 | 747   | 856             |
| Depreciation expense                                     | (526)               | (334)   | (860)           |
| Decrement on Revaluation                                 |                     | (111)   | (111)           |
| Disposals:   |                     |   |                 |
| Other  | -                   | -   | -               |
| <b>Net book value 30 June 2012</b>                       | <b>837</b>          | <b>1,180</b>                                      | <b>2,017</b>    |
| <b>Net book value as of 30 June 2012 represented by:</b> |                     |   |                 |
| Gross book value   | 1,915               | 1,180   | 3,095           |
| Accumulated depreciation and impairment                  | (1,078)             | -   | (1,078)         |
| <b>Net book value 30 June 2012</b>                       | <b>837</b>          | <b>1,180</b>                                      | <b>2,017</b>    |

### Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2010-11)

|  | Buildings<br>\$'000 | Other property,<br>plant &<br>equipment<br>\$'000 | Total<br>\$'000 |
|--|---------------------|---|-----------------|
| <b>As at 1 July 2010</b>                                 |                     |   |                 |
| Gross book value   | 1,595               | 787   | 2,382           |
| Accumulated depreciation and impairment                  | (86)                | (632)   | (718)           |
| <b>Net book value 1 July 2010</b>                        | <b>1,509</b>        | <b>155</b>  | <b>1,664</b>    |
| Additions  | 211                 | 529   | 740             |
| Depreciation expense                                     | (466)               | (223)   | (689)           |
| Disposals:   |                     |   |                 |
| Other  | -                   | (1)   | (1)             |
| <b>Net book value 30 June 2011</b>                       | <b>1,254</b>        | <b>878</b>  | <b>2,132</b>    |
| <b>Net book value as of 30 June 2011 represented by:</b> |                     |   |                 |
| Gross book value   | 1,806               | 1,505   | 3,311           |
| Accumulated depreciation and impairment                  | (552)               | (627)   | (1,179)         |
| <b>Net book value 30 June 2011</b>                       | <b>1,254</b>        | <b>878</b>  | <b>2,132</b>    |

| <b>Note 6D: Intangibles</b>    | <b>2012</b>   | <b>2011</b>   |
|--------------------------------|---------------|---------------|
|                                | <b>\$'000</b> | <b>\$'000</b> |
| <b>Computer software:</b>      |               |               |
| Internally developed – in use  | 5,510         | 5,195         |
| Purchased                      | 1,279         | 836           |
| Accumulated amortisation       | (4,233)       | (3,615)       |
| <b>Total computer software</b> | <b>2,556</b>  | <b>2,416</b>  |
| <b>Total intangibles</b>       | <b>2,556</b>  | <b>2,416</b>  |

No indicators of impairment were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

**Note 6E: Reconciliation of the Opening and Closing Balances of Intangibles (2011-12)**

|  | <b>Computer software internally developed</b> | <b>Computer software purchased</b> | <b>Total</b>  |
|--|---|------------------------------------|---------------|
|  | <b>\$'000</b>                                 | <b>\$'000</b>                      | <b>\$'000</b> |
| <b>As at 1 July 2011</b>                                 |   |                                    |               |
| Gross book value   | 5,195   | 836                                | 6,031         |
| Accumulated amortisation and impairment                  | (2,948)                                       | (667)                              | (3,615)       |
| <b>Net book value 1 July 2011</b>                        | <b>2,247</b>                                  | <b>169</b>                         | <b>2,416</b>  |
| Additions  | 315   | 442                                | 757           |
| Disposals:   |   |                                    |               |
| Other  | -   | -                                  | -             |
| Amortisation   | (509)   | (108)                              | (617)         |
| <b>Net book value 30 June 2012</b>                       | <b>2,053</b>                                  | <b>503</b>                         | <b>2,556</b>  |
| <b>Net book value as of 30 June 2012 represented by:</b> |   |                                    |               |
| Gross book value   | 5,510   | 1,278                              | 6,788         |
| Accumulated amortisation and impairment                  | (3,457)                                       | (775)                              | (4,232)       |
|  | <b>2,053</b>                                  | <b>503</b>                         | <b>2,556</b>  |

**Note 6E (Cont'd): Reconciliation of the Opening and Closing Balances of Intangibles (2010-11)**

|  | <b>Computer software internally developed</b> | <b>Computer software purchased</b> | <b>Total</b>  |
|--|---|------------------------------------|---------------|
|  | <b>\$'000</b>                                 | <b>\$'000</b>                      | <b>\$'000</b> |
| <b>As at 1 July 2010</b>                                 |   |                                    |               |
| Gross book value   | 4,797   | 787                                | 5,584         |
| Accumulated amortisation and impairment                  | (2,530)                                       | (632)                              | (3,162)       |
| <b>Net book value 1 July 2010</b>                        | <b>2,267</b>                                  | <b>155</b>                         | <b>2,422</b>  |
| Additions  | 398   | 62                                 | 460           |
| Amortisation   | (418)   | (48)                               | (466)         |
| <b>Net book value 30 June 2011</b>                       | <b>2,247</b>                                  | <b>169</b>                         | <b>2,416</b>  |
| <b>Net book value as of 30 June 2011 represented by:</b> |   |                                    |               |
| Gross book value   | 5,195   | 836                                | 6,031         |
| Accumulated amortisation and impairment                  | (2,948)                                       | (667)                              | (3,615)       |
|  | <b>2,247</b>                                  | <b>169</b>                         | <b>2,416</b>  |

**Note 6F: Other Non-Financial Assets**

|  | <b>2012</b>   | <b>2011</b>   |
|--|---------------|---------------|
|  | <b>\$'000</b> | <b>\$'000</b> |
| Prepayments  | 30            | 199           |
| <b>Total other non-financial assets</b>                                    | <b>30</b>     | <b>199</b>    |
| <b>Total other non-financial assets - are expected to be recovered in:</b> |               |               |
| No more than 12 months   | 30            | 199           |
| <b>Total other non-financial assets</b>                                    | <b>30</b>     | <b>199</b>    |

No indicators of impairment were found for other non-financial assets.

## Note 7: Payables

|   | 2012         | 2011         |
|---|--------------|--------------|
|   | \$'000       | \$'000       |
| <b>Note 7: Suppliers</b>  |              |              |
| Trade creditors and accruals                                      | 1,612        | 1,090        |
| <b>Total supplier payables</b>                                    | <b>1,612</b> | <b>1,090</b> |
| <b>Supplier payables expected to be settled within 12 months:</b> |              |              |
| Related entities  | 500          | 308          |
| External parties  | 1,112        | 782          |
| <b>Total</b>  | <b>1,612</b> | <b>1,090</b> |
| <b>Total supplier payables</b>                                    | <b>1,612</b> | <b>1,090</b> |

Settlement was usually made within 30 days.

## Note 8: Interest Bearing Liabilities

|   | 2012       | 2011         |
|---|------------|--------------|
|   | \$'000     | \$'000       |
| <b>Note 8: Leases</b>                                 |            |              |
| Finance leases  | 848        | 1,394        |
| <b>Total finance leases</b>                           | <b>848</b> | <b>1,394</b> |
| <b>Payable:</b>                                       |            |              |
| Within one year:                                      |            |              |
| Minimum lease payments                                | 611        | 611          |
| Deduct: future finance charges                        | (25)       | (65)         |
| In one to five years:                                 |            |              |
| Minimum lease payments                                | 288        | 874          |
| Deduct: future finance charges                        | (26)       | (26)         |
| <b>Finance leases recognised on the balance sheet</b> | <b>848</b> | <b>1,394</b> |

Finance leases exist in relation to the fitout of the Melbourne office. The leases are non-cancellable and for a fixed term of 10 years. The interest rate in the lease is 9.31%. There are no contingent rentals.

## Note 9: Provisions

|   | 2012         | 2011         |
|---|--------------|--------------|
|   | \$'000       | \$'000       |
| <b>Note 9: Employee Provisions</b>                        |              |              |
| Leave   | 6,665        | 5,527        |
| Other   | 2,361        | 1,633        |
| <b>Total employee provisions</b>                          | <b>9,026</b> | <b>7,160</b> |
| <b>Employee provisions are expected to be settled in:</b> |              |              |
| No more than 12 months                                    | 4,218        | 3,506        |
| More than 12 months                                       | 4,808        | 3,654        |
| <b>Total employee provisions</b>                          | <b>9,026</b> | <b>7,160</b> |

## Note 10: Cash Flow Reconciliation

|  | 2012       | 2011       |
|--|------------|------------|
|  | \$'000     | \$'000     |
| <b>Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement</b> |            |            |
| <b>Cash and cash equivalents as per:</b>   |            |            |
| Cash flow statement  | 304        | 125        |
| Balance sheet  | 304        | 125        |
| <b>Difference</b>  | <u>-</u>   | <u>-</u>   |
| <b>Reconciliation of net cost of services to net cash from operating activities:</b>           |            |            |
| Net cost of services   | (51,833)   | (45,577)   |
| Add revenue from Government  | 48,168     | 42,932     |
| <b>Adjustments for non-cash items</b>  |            |            |
| Depreciation / amortisation  | 1,477      | 1,155      |
| Decrement of non-financial assets on revaluation   | 111        | -          |
| Loss on disposal of assets   | -          | 1          |
| <b>Changes in assets / liabilities</b>   |            |            |
| (Increase) / decrease in net receivables   | 1,108      | 1,419      |
| (Increase) / decrease in prepayments   | 169        | 4          |
| Increase / (decrease) in employee provisions   | 1,866      | 453        |
| Increase / (decrease) in supplier payables   | (341)      | 199        |
| Increase / (decrease) in other payable   | -          | -          |
| <b>Net cash from (used by) operating activities</b>  | <u>725</u> | <u>586</u> |

## Note 11: Contingent Liabilities and Assets

### Quantifiable Contingencies

There are no quantifiable contingent liabilities or assets at 30 June 2012 (2011: Nil).

### Unquantifiable Contingencies

The MRT-RRT had no legal claims against it at 30 June 2012 (2011: Nil).



## Note 12: Senior Executive Remuneration

### Note 12A: Senior Executive Remuneration Expense for the Reporting Period

|   | 2012             | 2011           |
|---|------------------|----------------|
|   | \$               | \$             |
| <b>Short-term employee benefits:</b>      |                  |                |
| Salary                                    | 799,976          | 518,162        |
| Annual leave accrued                      | 80,967           | 45,429         |
| Performance bonuses                       | 20,865           | -              |
| Other <sup>3</sup>                        | 113,569          | 167,702        |
| <b>Total short-term employee benefits</b> | <b>1,015,377</b> | <b>731,293</b> |
| <b>Post-employment benefits:</b>          |                  |                |
| Superannuation                            | 289,938          | 79,181         |
| <b>Total post-employment benefits</b>     | <b>289,938</b>   | <b>79,181</b>  |
| <b>Other long-term benefits:</b>          |                  |                |
| Long-service leave                        | 27,079           | 14,562         |
| <b>Total other long-term benefits</b>     | <b>27,079</b>    | <b>14,562</b>  |
| <b>Total</b>                              | <b>1,332,394</b> | <b>825,036</b> |

#### Notes:

- Note 12A is prepared on an accrual basis (therefore the performance bonus expenses disclosed above may differ from the cash 'Bonus paid' in Note 12B).
- Note 12A excludes acting arrangements and part-year service where total remuneration expended for a senior executive was less than \$150,000.
- Other - includes motor vehicles, accommodation and other allowances.

### Note 12B: Average Annual Remuneration Packages and Bonus Paid for Substantive Senior Executives as at the end of the Reporting Period

| as at 30 June 2012  |                          |                         |                                     |                                |                  |             |
|---|--------------------------|-------------------------|-------------------------------------|--------------------------------|------------------|-------------|
| Fixed Elements and Bonus Paid <sup>1</sup>                    | Senior Executives<br>No. | Reportable Salary<br>\$ | Fixed elements                      |                                | Bonus Paid<br>\$ | Total<br>\$ |
|   |                          |                         | Contributed<br>Superannuation<br>\$ | Reportable<br>Allowances<br>\$ |                  |             |
| <b>Total remuneration (including part-time arrangements):</b> |                          |                         |                                     |                                |                  |             |
| \$180,000 to \$209,999  | 1                        | 152,052                 | 40,777                              | 7,197                          | 8,865            | 208,891     |
| \$270,000 to \$299,999  | 2                        | 197,440                 | 75,597                              | -                              | 6,000            | 279,037     |
| \$360,000 to \$389,999  | 1                        | 253,044                 | 97,967                              | 18,402                         | -                | 369,413     |
| <b>Total</b>  | <b>4</b>                 |                         |                                     |                                |                  |             |

| as at 30 June 2011  |                          |                         |                                     |                                |                  |             |
|---|--------------------------|-------------------------|-------------------------------------|--------------------------------|------------------|-------------|
| Fixed Elements and Bonus Paid <sup>1</sup>                    | Senior Executives<br>No. | Reportable Salary<br>\$ | Fixed elements                      |                                | Bonus Paid<br>\$ | Total<br>\$ |
|   |                          |                         | Contributed<br>Superannuation<br>\$ | Reportable<br>Allowances<br>\$ |                  |             |
| <b>Total remuneration (including part-time arrangements):</b> |                          |                         |                                     |                                |                  |             |
| \$180,000 to \$209,999  | 1                        | 161,343                 | 19,123                              | 6,585                          | 0                | 187,051     |
| \$240,000 to \$269,999  | 1                        | 225,095                 | 23,690                              | -                              | 0                | 248,785     |
| \$300,000 to \$329,999  | 1                        | 276,570                 | 36,368                              | 14,550                         | 0                | 327,488     |
| <b>Total</b>  | <b>3</b>                 |                         |                                     |                                |                  |             |

#### Notes:

- This table reports substantive senior executives who received remuneration during the reporting period. Each row is an averaged figure based on headcount for individuals in the band.
- 'Reportable salary' includes the following:
  - gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
  - reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
  - exempt foreign employment income.
- The 'contributed superannuation' amount is the average actual superannuation contributions paid to senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per the individuals' payslips.
- 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.
- 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.
- Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

## Note 12 (Contd): Senior Executive Remuneration

During the reporting period, the salaries of 72 Tribunal members were \$150,000 or more. Remuneration for members is fixed by Remuneration Tribunal determination. Members are appointed and conduct reviews under the *Migration Act 1958*, and are not disclosed as senior executives in Note 12A and 12B.

### Note 12C: Other Highly Paid Staff

| Average annual reportable remuneration <sup>1</sup>           | Staff No. | 2012                                 |   |  |                               | Total \$ |
|---|-----------|--------------------------------------|---|--|-------------------------------|----------|
|   |           | Reportable salary <sup>2</sup><br>\$ | Contributed superannuation <sup>3</sup><br>\$ | Reportable allowances <sup>4</sup><br>\$ | Bonus paid <sup>5</sup><br>\$ |          |
| <b>Total remuneration (including part-time arrangements):</b> |           |                                      |   |  |                               |          |
| \$150,000 to \$179,999  | 29        | 134,251                              | 32,623  | -  | -                             | 166,874  |
| \$180,000 to \$209,999  | 38        | 158,715                              | 29,584  | -  | -                             | 188,299  |
| \$210,000 to \$239,999  | 5         | 174,842                              | 36,713  | -  | -                             | 211,555  |
| <b>Total</b>  | <b>72</b> |                                      |   |  |                               |          |

| Average annual reportable remuneration <sup>1</sup>           | Staff No. | 2011                                 |   |  |                               | Total \$ |
|---|-----------|--------------------------------------|---|--|-------------------------------|----------|
|   |           | Reportable salary <sup>2</sup><br>\$ | Contributed superannuation <sup>3</sup><br>\$ | Reportable allowances <sup>4</sup><br>\$ | Bonus paid <sup>5</sup><br>\$ |          |
| <b>Total remuneration (including part-time arrangements):</b> |           |                                      |   |  |                               |          |
| \$150,000 to \$179,999  | 32        | 145,375                              | 26,304  | -  | -                             | 171,679  |
| \$180,000 to \$209,999  | 14        | 151,530                              | 36,454  | -  | -                             | 187,984  |
| <b>Total</b>  | <b>46</b> |                                      |   |  |                               |          |

#### Notes:

1. This table reports staff:

- who were employed by the entity during the reporting period;
- whose reportable remuneration was \$150,000 or more for the financial period; and
- were not required to be disclosed in Tables A or B.

Each row is an averaged figure based on headcount for individuals in the band.

2. 'Reportable salary' includes the following:

- gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- exempt foreign employment income.

3. The 'contributed superannuation' amount is the average actual superannuation contributions paid to staff in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per the individuals' payslips.

4. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

5. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.

6. Various salary sacrifice arrangements were available to other highly paid staff including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

**Note 13: Remuneration of Auditors**

|  | 2012      | 2011      |
|--|-----------|-----------|
|  | \$'000    | \$'000    |
| Financial statement audit services were provided free of charge to the entity. | 41        | 38        |
| <b>Fair value of the services provided:</b>                                    | <u>41</u> | <u>38</u> |

No other services were provided by the auditors of the financial statements.

## Note 14: Financial Instruments

|  | 2012   | 2011   |
|--|--------|--------|
|  | \$'000 | \$'000 |

### Note 14A: Categories of Financial Instruments

#### Financial Assets

##### Loans and receivables:

|  |            |            |
|--|------------|------------|
| Cash and cash equivalents                  | 304        | 125        |
| Loans and Receivables                      | 211        | 256        |
| <b>Total</b>                               | <b>515</b> | <b>381</b> |
| <b>Carrying amount of financial assets</b> | <b>515</b> | <b>381</b> |

#### Financial Liabilities

##### At amortised cost:

|   |              |              |
|---|--------------|--------------|
| Finance lease                                   | 848          | 1,394        |
| Other Liabilities - Suppliers                   | 1,612        | 1,090        |
| <b>Total</b>                                    | <b>2,460</b> | <b>2,484</b> |
| <b>Carrying amount of financial liabilities</b> | <b>2,460</b> | <b>2,484</b> |

### Note 14B: Expense from Financial Liabilities

#### Financial liabilities - at amortised cost

|  |             |              |
|--|-------------|--------------|
| Interest expense   | (65)        | (101)        |
| <b>Net (loss) from financial liabilities - at amortised cost</b> | <b>(65)</b> | <b>(101)</b> |

### Note 14C: Fair Value of Financial Instruments

|                               | Carrying amount | Fair value   | Carrying amount | Fair value   |
|-------------------------------|-----------------|--------------|-----------------|--------------|
|                               | 2012            | 2012         | 2011            | 2011         |
|                               | \$'000          | \$'000       | \$'000          | \$'000       |
| <b>Financial Assets</b>       |                 |              |                 |              |
| Cash and cash equivalents     | 304             | 304          | 125             | 125          |
| Loans and Receivables         | 211             | 211          | 256             | 256          |
| <b>Total</b>                  | <b>515</b>      | <b>515</b>   | <b>381</b>      | <b>381</b>   |
| <b>Financial Liabilities</b>  |                 |              |                 |              |
| Finance lease                 | 848             | 834          | 1,394           | 1,349        |
| Other Liabilities - Suppliers | 1,612           | 1,612        | 1,090           | 1,090        |
| <b>Total</b>                  | <b>2,460</b>    | <b>2,446</b> | <b>2,484</b>    | <b>2,439</b> |

Fair value for each class of financial assets and financial liabilities is determined at market value.

### Note 14D: Credit Risk

The MRT-RRT's maximum exposure to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Balance Sheet.

The MRT-RRT has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

### Note 14E: Liquidity Risk

The MRT-RRT financial liabilities are payables, loans from government and finance leases. The exposure to liquidity risk is based on the notion that the MRT-RRT will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and mechanisms available to the MRT-RRT (e.g. Advance to the Finance Minister) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations.

### Note 14F: Market Risk

The MRT-RRT holds a fixed lease at 9.31% for leasehold property and is not exposed to market risks. The MRT-RRT is not exposed to 'Currency risk' or 'Other price risk'.

## Note 15: Financial Assets Reconciliation

|   |              | 2012         | 2011   |
|---|--------------|--------------|--------|
|   |              | \$'000       | \$'000 |
| <b>Financial assets</b>   | <b>Notes</b> |              |        |
| <b>Total financial assets as per balance sheet</b>              |              | <b>7,133</b> | 6,890  |
| Less: non-financial instrument components:                      |              |              |        |
| Appropriations receivable                                       | 5B           | <b>6,361</b> | 6,321  |
| GST Receivable from ATO   | 5B           | <b>257</b>   | 188    |
| Total non-financial instrument components                       |              | <b>6,618</b> | 6,509  |
| <b>Total financial assets as per financial instruments note</b> | 14A          | <b>515</b>   | 381    |

**Note 16: Administered - Expenses**

|  | 2012         | 2011         |
|--|--------------|--------------|
|  | \$'000       | \$'000       |
| <b>EXPENSES</b>                                      |              |              |
| <b>Note 16A: Write-down and Impairment of assets</b> |              |              |
| Write-down and impairments from:                     |              |              |
| Bad debts - RRT fees                                 | 1,751        | 1,574        |
| <b>Total write-down and impairment of assets</b>     | <b>1,751</b> | <b>1,574</b> |
| <b>Note 16B: Other</b>                               |              |              |
| Refund of fees                                       | 4,481        | 4,234        |
| <b>Total other expenses</b>                          | <b>4,481</b> | <b>4,234</b> |

**Note 17: Administered - Income**

|  | 2012          | 2011          |
|--|---------------|---------------|
|  | \$'000        | \$'000        |
| <b>REVENUE</b>   |               |               |
| <b>Non-Taxation Revenue</b>                              |               |               |
| <b><u>Other Revenue</u></b>                              |               |               |
| Other - MRT application fees                             | 20,463        | 12,815        |
| Other - RRT post decision fees                           | 3,041         | 2,857         |
| <b>Total other revenue</b>                               | <b>23,504</b> | <b>15,672</b> |
| <b>Total income administered on behalf of Government</b> | <b>23,504</b> | <b>15,672</b> |

**Note 18: Administered - Financial Assets**

|   | 2012<br>\$'000                 | 2011<br>\$'000  |
|---|--------------------------------|-----------------|
| <b>FINANCIAL ASSETS</b>                                     |                                |                 |
| <b>Note 18A: Cash and Cash Equivalents</b>                  |                                |                 |
| Cash on hand or on deposit                                  | 71                             | 86              |
| <b>Total cash and cash equivalents</b>                      | <b>71</b>                      | <b>86</b>       |
| <b>Note 18B: Trade and Other Receivables</b>                |                                |                 |
| <b>Other receivables:</b>                                   |                                |                 |
| Fees  | 4,756                          | 3,154           |
| <b>Total other receivables</b>                              | <b>4,756</b>                   | <b>3,154</b>    |
| <b>Total trade and other receivables (gross)</b>            | <b>4,756</b>                   | <b>3,154</b>    |
| <b>Less: Impairment allowance account:</b>                  |                                |                 |
| Other   | 2,974                          | 1,849           |
| <b>Total impairment allowance account</b>                   | <b>2,974</b>                   | <b>1,849</b>    |
| <b>Total trade and other receivables (net)</b>              | <b>1,782</b>                   | <b>1,305</b>    |
| <b>Receivables are expected to be recovered in:</b>         |                                |                 |
| No more than 12 months                                      | 1,782                          | 1,305           |
| More than 12 months   | -                              | -               |
| <b>Total trade and other receivables (net)</b>              | <b>1,782</b>                   | <b>1,305</b>    |
| <b>Receivables were aged as follows:</b>                    |                                |                 |
| Not overdue   | 322                            | 317             |
| Overdue by:   |                                |                 |
| 0 to 30 days  | 327                            | 215             |
| 31 to 60 days   | 177                            | 169             |
| 61 to 90 days   | 379                            | 187             |
| More than 90 days   | 3,551                          | 2,266           |
| <b>Total receivables (gross)</b>                            | <b>4,756</b>                   | <b>3,154</b>    |
| <b>The impairment allowance account is aged as follows:</b> |                                |                 |
| Not overdue   | -                              | -               |
| Overdue by:   |                                |                 |
| 0 to 30 days  | -                              | 2               |
| 31 to 60 days   | 109                            | 5               |
| 61 to 90 days   | 224                            | 6               |
| More than 90 days   | 2,641                          | 1,836           |
| <b>Total impairment allowance account</b>                   | <b>2,974</b>                   | <b>1,849</b>    |
| <b>Reconciliation of the Impairment Allowance Account:</b>  |                                |                 |
| <b>Movements in relation to 2012</b>                        |                                |                 |
|   | Other<br>receivables<br>\$'000 | Total<br>\$'000 |
| <b>Opening balance</b>                                      | <b>1,305</b>                   | <b>1,305</b>    |
| Increase recognised in net surplus                          | 477                            | 477             |
| <b>Closing balance</b>                                      | <b>1,782</b>                   | <b>1,782</b>    |
| <b>Movements in relation to 2011</b>                        |                                |                 |
|   | Other<br>receivables<br>\$'000 | Total<br>\$'000 |
| <b>Opening balance</b>                                      | <b>562</b>                     | <b>562</b>      |
| Increase recognised in net surplus                          | 743                            | 743             |
| <b>Closing balance</b>                                      | <b>1,305</b>                   | <b>1,305</b>    |



**Note 19: Administered - Payables**

|                                | 2012     | 2011     |
|--------------------------------|----------|----------|
|                                | \$'000   | \$'000   |
| <b>PAYABLES</b>                |          |          |
| <b>Note 19: Other Payables</b> |          |          |
| Other                          | -        | -        |
| <b>Total other payables</b>    | <u>-</u> | <u>-</u> |

**Note 20: Administered - Cash Flow Reconciliation**

|   | 2012          | 2011         |
|---|---------------|--------------|
|   | \$'000        | \$'000       |
| <b>Reconciliation of cash and cash equivalents as per Administered Schedule of Assets and Liabilities to Administered Cash Flow Statement</b> |               |              |
| <b>Cash and cash equivalents as per:</b>  |               |              |
| Schedule of administered cash flows   | 71            | 86           |
| Schedule of administered assets and liabilities   | 71            | 86           |
| <b>Difference</b>   | <u>-</u>      | <u>-</u>     |
| <b>Reconciliation of surplus to net cash from operating activities:</b>   |               |              |
| Surplus   | 17,272        | 9,864        |
| Rounding  | (3)           | (2)          |
| <b>Changes in assets / liabilities</b>  |               |              |
| (Increase) / decrease in net receivables  | <u>(477)</u>  | <u>(556)</u> |
| <b>Net cash from (used by) operating activities</b>   | <u>16,792</u> | <u>9,306</u> |

## **Note 21: Administered Contingent Assets and Liabilities**

### **Quantifiable Administered Contingencies**

At 30 June 2012, the MRT-RRT had no contingent assets or contingent liabilities (2011: Nil).

### **Unquantifiable Administered Contingencies**

At 30 June 2012, the MRT-RRT had no legal claims against it (2011: Nil).

**Note 22: Administered Financial Instruments**

|  | 2012   | 2011   |
|--|--------|--------|
|  | \$'000 | \$'000 |

**Note 22A: Categories of Financial Instruments****Financial Assets:**

|  |              |              |
|--|--------------|--------------|
| Cash                                       | 71           | 86           |
| Loans and Receivables                      | 1,782        | 1,305        |
| <b>Carrying amount of financial assets</b> | <b>1,853</b> | <b>1,391</b> |

**Note 21B: Fair Value of Financial Instruments**

|                          | Carrying amount | Fair value   | Carrying amount | Fair value   |
|--------------------------|-----------------|--------------|-----------------|--------------|
|                          | 2012            | 2012         | 2011            | 2011         |
|                          | \$'000          | \$'000       | \$'000          | \$'000       |
| <b>Financial Assets:</b> |                 |              |                 |              |
| Cash on hand             | 71              | 71           | 86              | 86           |
| Loans and receivables    | 1,782           | 1,782        | 1,305           | 1,305        |
| <b>Total</b>             | <b>1,853</b>    | <b>1,853</b> | <b>1,391</b>    | <b>1,391</b> |

**Note 22C: Credit Risk**

The MRT-RRT is not exposed to credit risk at reporting date in relation to each class of recognised financial assets.

**Note 22D: Liquidity Risk**

The MRT-RRT has no financial liabilities and is not exposed to liquidity risk.

**Note 22E: Market Risk**

The MRT-RRT is not exposed to market risk.

## Note 23: Appropriations

Table A: Annual Appropriations ('Recoverable GST exclusive')

|                           | 2012 Appropriations         |                   |                            | Appropriation applied in 2012 (current and prior years) \$'000 | Variance \$'000 |
|---------------------------|-----------------------------|-------------------|----------------------------|--|-----------------|
|                           | Appropriation Act           | FMA Act           | Total appropriation \$'000 |  |                 |
|                           | Annual Appropriation \$'000 | Section 31 \$'000 |                            |  |                 |
| <b>DEPARTMENTAL</b>       |                             |                   |                            |  |                 |
| Ordinary annual services  | 46,772                      | 200               | 46,972                     | 50,050   | (3,078)         |
| Other services            |                             |                   |                            |  |                 |
| Equity                    | 263                         |                   | 263                        | -  | 263             |
| <b>Total departmental</b> | <b>47,035</b>               | <b>200</b>        | <b>47,235</b>              | <b>50,050</b>  | <b>(2,815)</b>  |

**Notes:**

- (a) Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.
- (b) An adjustment has been made to increase revenue from Government for surplus in caseload totalling \$4.673m in 2011/12. This adjustment met the recognition criteria of a formal addition in revenue (in accordance with FMO Div 101) but at law the appropriations had not been amended before the end of the reporting period.
- (c) The Minister of Finance and Deregulation had approved an operating loss of \$0.8m for 2011-12. The operating loss was funded from appropriations accumulated from previous years.

|                           | 2011 Appropriations         |                   |                            | Appropriation applied in 2011 (current and prior years) \$'000 | Variance \$'000 |
|---------------------------|-----------------------------|-------------------|----------------------------|--|-----------------|
|                           | Appropriation Act           | FMA Act           | Total appropriation \$'000 |  |                 |
|                           | Annual Appropriation \$'000 | Section 31 \$'000 |                            |  |                 |
| <b>DEPARTMENTAL</b>       |                             |                   |                            |  |                 |
| Ordinary annual services  | 43,218                      | 130               | 43,348                     | 45,524   | (2,176)         |
| Other services            |                             |                   |                            |  |                 |
| Equity                    | 80                          |                   | 80                         | 80   | -               |
| <b>Total departmental</b> | <b>43,298</b>               | <b>130</b>        | <b>43,428</b>              | <b>45,604</b>  | <b>(2,176)</b>  |

**Notes:**

- (a) Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.
- (b) An adjustment has been made to increase revenue from Government for surplus in caseload totalling \$1.618m in 2010/11. This adjustment met the recognition criteria of a formal addition in revenue (in accordance with FMO Div 101) but at law the appropriations had not been amended before the end of the reporting period.
- (c) The Minister of Finance and Deregulation had approved an operating loss of \$4.426m for 2010-11. The operating loss was funded from appropriations accumulated from previous years.

Table B: Departmental and Administered Capital Budgets ('Recoverable GST exclusive')

|   | 2012 Capital Budget Appropriations |  |  | Capital Budget Appropriations applied in 2012 (current and prior years) |                                    |                       | Variance \$'000 |
|---|------------------------------------|--|--|---|------------------------------------|-----------------------|-----------------|
|   | Appropriation Act                  | FMA Act                                    | Total Capital Budget Appropriations \$'000 | Payments for non-financial assets <sup>3</sup> \$'000                   | Payments for other purposes \$'000 | Total payments \$'000 |                 |
|   | Annual Capital Budget \$'000       | Appropriations reduced <sup>2</sup> \$'000 |  |   |                                    |                       |                 |
| <b>DEPARTMENTAL</b>   |                                    |  |  |   |                                    |                       |                 |
| Ordinary annual services - Departmental Capital Budget <sup>1</sup> | 1,659                              | -  | 1,659                                      | 750   | -                                  | 750                   | 909             |

**Notes:**

- Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
- Appropriations reduced under Appropriation Acts (No.1,3,5) 2011-12: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
- Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

|   | 2011 Capital Budget Appropriations |  |  | Capital Budget Appropriations applied in 2011 (current and prior years) |                                    |                       | Variance \$'000 |
|---|------------------------------------|--|--|---|------------------------------------|-----------------------|-----------------|
|   | Appropriation Act                  | FMA Act                                    | Total Capital Budget Appropriations \$'000 | Payments for non-financial assets <sup>3</sup> \$'000                   | Payments for other purposes \$'000 | Total payments \$'000 |                 |
|   | Annual Capital Budget \$'000       | Appropriations reduced <sup>2</sup> \$'000 |  |   |                                    |                       |                 |
| <b>DEPARTMENTAL</b>   |                                    |  |  |   |                                    |                       |                 |
| Ordinary annual services - Departmental Capital Budget <sup>1</sup> | 1,904                              | -  | 1,904                                      | 878   | -                                  | 878                   | 1,026           |

**Notes:**

- Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
- Appropriations reduced under Appropriation Acts (No.1,3,5) 2011-12: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
- Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.

**Note 23: Appropriations (contd)****Table C: Unspent Departmental Annual Appropriations ('Recoverable GST exclusive')**

| Authority                        | 2012         | 2011          |
|----------------------------------|--------------|---------------|
|                                  | \$'000       | \$'000        |
| Appropriation Act No 1 (2006/07) | 815          | 815           |
| Appropriation Act No 1 (2007/08) | 2,278        | 2,278         |
| Appropriation Act No 1 (2008/09) | 1,540        | 1,540         |
| Appropriation Act No 1 (2009/10) | 983          | 983           |
| Appropriation Act No 1 (2010/11) | 276          | 4,797         |
| Appropriation Act No 1 (2011/12) | 1,453        | -             |
| Appropriation Act No 2 (2011/12) | 263          | -             |
| <b>Total</b>                     | <b>7,608</b> | <b>10,413</b> |

**Table D: Special Appropriations ('Recoverable GST exclusive')**

| Authority                  | Type   | Purpose                        | Appropriation applied |              |
|----------------------------|--------|--------------------------------|-----------------------|--------------|
|                            |        |                                | 2012                  | 2011         |
|                            |        |                                | \$'000                | \$'000       |
| FMA Act S28 [Administered] | Refund | Refund of MRT application fees | 4,415                 | 4,201        |
| FMA Act S28 [Administered] | Refund | Refund of RRT application fees | 66                    | 33           |
| <b>Total</b>               |        |                                | <b>4,481</b>          | <b>4,234</b> |

*Note:* Compliance with Statutory Conditions for Payments from the Consolidated Revenue Fund

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. The Department of Finance and Deregulation provided information to all agencies in 2011 regarding the need for risk assessments in relation to compliance with statutory conditions on payments from special appropriations, including special accounts. The possibility of this being an issue for the agency was reported in the notes to the 2010-11 financial statements and the agency undertook to investigate the issue during 2011-12.

During 2011-12, the MRT-RRT developed a plan to review exposure to risks of not complying with statutory conditions on payments from appropriations. The plan involved:

- identifying each special appropriation and special account;
- determining the risk of non-compliance by assessing the difficulty of administering the statutory conditions and assessing the extent to which existing payment systems and processes satisfy those conditions; and
- testing a selection of transactions.

The agency identified one special appropriation involving statutory conditions for payment for refunds by the Commonwealth under s28 of the *Financial Management and Accountability Act 1997*. As at 30 June 2012 this work had been completed in respect of this special appropriations with statutory conditions for payment (\$4,481,179 expenditure in 2011-12). The work conducted to date has identified no issues of compliance with Section 83.

**Note 24: Compensation and Debt Relief**

| <b>Compensation and Debt Relief - Administered (FMA Act only)</b>   | <b>2012</b> | <b>2011</b> |
|---|-------------|-------------|
|   | \$          | \$          |
| No 'Act of Grace' payments were expensed during the reporting period (2011: Nil payments).  | -           | -           |
| No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the Financial Management and Accountability Act 1997 (2011: 39 waivers). | -           | 54,600      |
| No waivers of amounts owing to the Australian Government were made pursuant to Regulation 4.13(4) of the Migration Regulations 1994 (2011: 474 waivers). <sup>1</sup>       | -           | 663,600     |

1. From 1 July 2011, the application fee for MRT cases increased to \$1,540, or, in cases of severe financial hardship to the review applicant a reduced fee of \$770. No waivers were granted in 2011-12.

**Note 25: Reporting of Outcomes****Note 25A: Net Cost of Outcome Delivery**

|  | Outcome 1      |                |
|--|----------------|----------------|
|  | 2012<br>\$'000 | 2011<br>\$'000 |
| <b>Expenses</b>                                    |                |                |
| Administered                                       | 6,232          | 5,808          |
| Departmental                                       | 53,332         | 45,965         |
| <b>Total</b>                                       | <b>59,564</b>  | <b>51,773</b>  |
| <b>Income from non-government sector</b>           |                |                |
| <b>Administered</b>                                |                |                |
| Other  | 23,504         | 15,672         |
| <b>Total administered</b>                          | <b>23,504</b>  | <b>15,672</b>  |
| <b>Departmental</b>                                |                |                |
| Other  | -              | -              |
| <b>Total departmental</b>                          | <b>-</b>       | <b>-</b>       |
| <b>Total</b>                                       | <b>23,504</b>  | <b>15,672</b>  |
| <b>Other own-source income</b>                     |                |                |
| Administered                                       | -              | -              |
| Departmental                                       | 1,499          | 388            |
| <b>Total</b>                                       | <b>1,499</b>   | <b>388</b>     |
| <b>Net cost/(contribution) of outcome delivery</b> | <b>34,561</b>  | <b>35,713</b>  |

Outcome 1 is described in Note 1.1. Net costs shown included intra-government costs that were eliminated in calculating the actual Budget Outcome.

**Note 25B: Major Classes of Departmental Expense, Income, Assets and Liabilities by Outcome**

|                                    | Outcome 1      |                |
|------------------------------------|----------------|----------------|
|                                    | 2012<br>\$'000 | 2011<br>\$'000 |
| <b>Departmental Expenses:</b>      |                |                |
| Employees                          | 41,658         | 35,201         |
| Suppliers                          | 10,021         | 9,507          |
| Depreciation and Amortisation      | 1,477          | 1,155          |
| Finance costs                      | 65             | 101            |
| Decrement on revaluation of assets | 111            | -              |
| Other Expenses                     | -              | 1              |
| <b>Total</b>                       | <b>53,332</b>  | <b>45,965</b>  |
| <b>Departmental Income:</b>        |                |                |
| Income from government             | 48,168         | 42,932         |
| Rendering of services              | 1,499          | 388            |
| <b>Total</b>                       | <b>49,667</b>  | <b>43,320</b>  |
| <b>Departmental Assets</b>         |                |                |
| Financial Assets                   | 7,133          | 6,890          |
| Non-Financial Assets               | 4,603          | 4,747          |
| <b>Total</b>                       | <b>11,736</b>  | <b>11,637</b>  |
| <b>Departmental Liabilities</b>    |                |                |
| Payables                           | 1,612          | 1,090          |
| Interest Bearing Liabilities       | 848            | 1,394          |
| Provisions                         | 9,026          | 7,160          |
| <b>Total</b>                       | <b>11,486</b>  | <b>9,644</b>   |

**Note 25C: Major Classes of Administered Expenses, Income, Assets and Liabilities by Outcome**

|   | Outcome 1      |                |
|---|----------------|----------------|
|   | 2012<br>\$'000 | 2011<br>\$'000 |
| <b>Administered expenses</b>                |                |                |
| Write down and impairment of assets         | 1,751          | 1,574          |
| Other Expenses - refund of application fees | 4,481          | 4,234          |
| <b>Total</b>                                | <b>6,232</b>   | <b>5,808</b>   |
| <b>Administered income</b>                  |                |                |
| Other non-tax revenue                       | 23,504         | 15,672         |
| <b>Total</b>                                | <b>23,504</b>  | <b>15,672</b>  |
| <b>Administered assets</b>                  |                |                |
| Financial assets                            | 1,853          | 1,391          |
| <b>Total</b>                                | <b>1,853</b>   | <b>1,391</b>   |
| <b>Administered liabilities</b>             |                |                |
| Other                                       | -              | -              |
| <b>Total</b>                                | <b>-</b>       | <b>-</b>       |



**Note 26: Net Cash Appropriation Arrangements**

|  | 2012<br>\$'000        | 2011<br>\$'000        |
|--|-----------------------|-----------------------|
| <b>Total comprehensive (loss) less depreciation/amortisation expenses previously funded through revenue appropriations<sup>1</sup></b> | <b>(2,188)</b>        | <b>(1,490)</b>        |
| Add: depreciation/amortisation expenses previously funded through revenue appropriation  | <u>(1,477)</u>        | <u>(1,155)</u>        |
| <b>Total comprehensive (loss) - as per the Statement of Comprehensive Income</b>   | <b><u>(3,665)</u></b> | <b><u>(2,645)</u></b> |

1. From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.



# APPENDICES

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# APPENDIX 1 – MEMBERSHIP

The tribunals' members make decisions on applications for review. The members are appointed under the Migration Act by the Governor-General for fixed terms on a full-time or part-time basis. The Remuneration Tribunal determines the remuneration arrangements for members.

While there are no mandatory qualifications for the appointment of members, persons appointed as members to the tribunals have typically worked in a profession or have had

extensive experience at senior levels in the private or public sector. Member biographies are available on the tribunals' website.

A list of members and their appointment periods as at 30 June 2012 is set out below.

The first appointment date reflects the date from which there have been continuing appointments to the MRT, the RRT or both tribunals.

| Member              | Office                  | Appointed  | Current appointment expires | Gender | Location  |
|---------------------|-------------------------|------------|-----------------------------|--------|-----------|
| Mr Denis O'Brien    | Principal Member        | 3/09/2007  | 30/06/2012                  | M      | Sydney    |
| Ms Amanda MacDonald | Deputy Principal Member | 1/12/2000  | 31/03/2015                  | F      | Sydney    |
| Mr John Billings    | Senior Member           | 1/07/2011  | 30/06/2016                  | M      | Melbourne |
| Mr John Cipolla     | Senior Member           | 1/02/2000  | 30/06/2016                  | M      | Sydney    |
| Ms Linda Kirk       | Senior Member           | 1/01/2009  | 30/12/2013                  | F      | Melbourne |
| Mr Peter Murphy     | Senior Member           | 1/01/2009  | 31/12/2013                  | M      | Melbourne |
| Dr Irene O'Connell* | Senior Member           | 28/08/2000 | 31/12/2013                  | F      | Sydney    |
| Ms Kira Raif        | Senior Member           | 1/07/2006  | 30/06/2016                  | F      | Sydney    |

| Member               | Office           | Appointed  | Current appointment expires | Gender | Location  |
|----------------------|------------------|------------|-----------------------------|--------|-----------|
| Mr Shahyar Roushan   | Senior Member    | 1/10/2001  | 30/06/2016                  | M      | Sydney    |
| Mr Giles Short       | Senior Member    | 28/07/1997 | 31/12/2013                  | M      | Sydney    |
| Mr Donald Smyth      | Senior Member    | 14/07/2003 | 30/06/2016                  | M      | Brisbane  |
| Ms Jennifer Beard    | Full-time Member | 1/07/2009  | 30/06/2014                  | F      | Melbourne |
| Ms Danica Buljan     | Full-time Member | 1/10/2001  | 30/06/2015                  | F      | Melbourne |
| Mr Tony Caravella    | Full-time Member | 1/07/2009  | 30/06/2014                  | M      | Perth     |
| Ms Ruth Cheetham     | Full-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Ms Denise Connolly   | Full-time Member | 1/07/2010  | 30/06/2015                  | F      | Sydney    |
| Mr Richard Derewlany | Full-time Member | 1/10/2001  | 30/06/2015                  | M      | Sydney    |
| Ms Dione Dimitriadis | Full-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Mr Antonio Dronjic   | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Melbourne |
| Mr Alan Duri         | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Sydney    |
| Ms Suseela Durvasula | Full-time Member | 1/10/2001  | 30/06/2015                  | F      | Sydney    |
| Mr Paul Fisher       | Full-time Member | 1/07/2006  | 30/06/2014                  | M      | Melbourne |
| Mr Patrick Francis   | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Melbourne |
| Ms Rosa Gagliardi*   | Full-time Member | 31/07/2006 | 30/06/2014                  | F      | Melbourne |
| Ms Michelle Grau     | Full-time Member | 1/07/2010  | 30/06/2015                  | F      | Brisbane  |
| Mr George Haddad     | Full-time Member | 1/07/2006  | 30/06/2014                  | M      | Melbourne |

| Member              | Office           | Appointed  | Current appointment expires | Gender | Location  |
|---------------------|------------------|------------|-----------------------------|--------|-----------|
| Mr Ismail Hasan     | Full-time Member | 1/07/2009  | 30/06/2014                  | M      | Sydney    |
| Ms Margret Holmes   | Full-time Member | 1/07/2009  | 30/06/2014                  | F      | Melbourne |
| Mr Simon Jeans      | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Sydney    |
| Mr Dominic Lennon   | Full-time Member | 14/07/2003 | 30/06/2014                  | M      | Melbourne |
| Mr Donald Lucas     | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Melbourne |
| Ms Alison Mercer    | Full-time Member | 1/07/2011  | 30/06/2016                  | F      | Melbourne |
| Mr Paul Millar      | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Sydney    |
| Mr David Mitchell   | Full-time Member | 7/07/1999  | 30/06/2015                  | M      | Melbourne |
| Mr Adam Moore       | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Melbourne |
| Ms Louise Nicholls  | Full-time Member | 31/10/2001 | 30/06/2015                  | F      | Sydney    |
| Mr Charles Powles   | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Melbourne |
| Mr Andrew Rozdilsky | Full-time Member | 1/07/2010  | 30/06/2015                  | M      | Sydney    |
| Mr Hugh Sanderson   | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Sydney    |
| Ms Wan Shum         | Full-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Mr James Silva      | Full-time Member | 14/07/2003 | 30/06/2014                  | M      | Sydney    |
| Mr Chris Smolicz    | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Adelaide  |
| Ms Jan Speirs       | Full-time Member | 1/07/2011  | 30/06/2016                  | F      | Brisbane  |
| Mr Fraser Syme      | Full-time Member | 1/07/2011  | 30/06/2016                  | M      | Brisbane  |

| Member                      | Office           | Appointed  | Current appointment expires | Gender | Location  |
|-----------------------------|------------------|------------|-----------------------------|--------|-----------|
| Ms Linda Symons             | Full-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |
| Ms Mary Urquhart            | Full-time Member | 1/07/2006  | 30/06/2014                  | F      | Melbourne |
| Mr Robert Wilson            | Full-time Member | 1/07/2002  | 30/06/2015                  | M      | Sydney    |
| Mr Sean Baker               | Part-time Member | 1/07/2011  | 30/06/2016                  | M      | Melbourne |
| Ms Diane Barnetson          | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |
| Ms Wendy Boddison*          | Part-time Member | 28/07/1997 | 30/06/2015                  | F      | Melbourne |
| Ms Margie Bourke            | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Melbourne |
| Ms Melissa Bray             | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Melbourne |
| Ms Nicole Burns             | Part-time Member | 1/07/2007  | 30/06/2015                  | F      | Melbourne |
| Ms Mary Cameron             | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Melbourne |
| Ms Catherine Carney-Orsborn | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |
| Ms Jennifer Ciantar         | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Ms Christine Cody           | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Sydney    |
| Mr Tim Connellan            | Part-time Member | 1/07/2007  | 30/06/2015                  | M      | Melbourne |
| Mr Clyde Cosentino          | Part-time Member | 1/07/2007  | 30/06/2015                  | M      | Brisbane  |
| Ms Angela Cranston          | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Mr Glen Cranwell            | Part-time Member | 1/07/2009  | 30/06/2014                  | M      | Brisbane  |
| Ms Gabrielle Cullen         | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |

| Member              | Office           | Appointed  | Current appointment expires | Gender | Location  |
|---------------------|------------------|------------|-----------------------------|--------|-----------|
| Ms Megan Deane      | Part-time Member | 23/03/2000 | 30/06/2015                  | F      | Sydney    |
| Mr Ted Delofski     | Part-time Member | 1/10/2001  | 30/06/2015                  | M      | Sydney    |
| Mr David Dobell     | Part-time Member | 1/07/2006  | 30/06/2014                  | M      | Sydney    |
| Mr Jonathon Duignan | Part-time Member | 8/01/2001  | 30/06/2015                  | M      | Sydney    |
| Ms Jennifer Ellis   | Part-time Member | 15/06/1999 | 30/06/2015                  | F      | Melbourne |
| Ms Jennifer Eutick  | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Brisbane  |
| Ms Bronwyn Forsyth  | Part-time Member | 25/09/2006 | 30/06/2014                  | F      | Sydney    |
| Ms Mila Foster      | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Mr Steve Georgiadis | Part-time Member | 1/07/2011  | 30/06/2016                  | M      | Adelaide  |
| Mr Brook Hely       | Part-time Member | 1/07/2009  | 30/06/2014                  | M      | Melbourne |
| Ms Diane Hubble     | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Melbourne |
| Ms Sally Hunt       | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Sydney    |
| Ms Lesley Hunt      | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Brisbane  |
| Ms Rowena Irish     | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Sydney    |
| Ms Naida Isenberg   | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Mr Andrew Jacovides | Part-time Member | 19/09/1993 | 30/06/2015                  | M      | Sydney    |
| Ms Deborah Jordan   | Part-time Member | 1/07/2007  | 30/06/2015                  | F      | Melbourne |
| Ms Suhad Kamand     | Part-time Member | 1/07/2009  | 30/06/2014                  | F      | Sydney    |



| Member                | Office           | Appointed  | Current appointment expires | Gender | Location  |
|-----------------------|------------------|------------|-----------------------------|--------|-----------|
| Ms Josephine Kelly    | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Mr Marten Kennedy     | Part-time Member | 1/07/2011  | 30/06/2016                  | M      | Adelaide  |
| Ms Kay Kirmos         | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Melbourne |
| Mr Anthony Krohn      | Part-time Member | 1/07/2010  | 30/06/2015                  | M      | Melbourne |
| Ms Suzanne Leal       | Part-time Member | 1/10/2001  | 30/06/2015                  | F      | Sydney    |
| Mr Gary Ledson        | Part-time Member | 1/07/2007  | 30/06/2015                  | M      | Melbourne |
| Ms Patricia Leehy     | Part-time Member | 28/07/1997 | 30/06/2015                  | F      | Sydney    |
| Ms Christine Long     | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Mr Bruce MacCarthy    | Part-time Member | 1/07/2009  | 30/06/2014                  | M      | Sydney    |
| Ms Jane Marquard*     | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |
| Ms Rosemary Mathlin   | Part-time Member | 1/07/1993  | 30/06/2015                  | F      | Sydney    |
| Ms Philippa McIntosh* | Part-time Member | 5/09/1993  | 30/06/2015                  | F      | Sydney    |
| Ms Vanessa Moss       | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Perth     |
| Ms Mara Moustafine*   | Part-time Member | 1/07/2009  | 30/06/2014                  | F      | Sydney    |
| Ms Sydelle Muling     | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Melbourne |
| Mr Andrew Mullin      | Part-time Member | 14/07/2003 | 30/06/2014                  | M      | Sydney    |
| Ms Alison Murphy      | Part-time Member | 1/07/2010  | 30/06/2015                  | F      | Melbourne |
| Ms Ann O'Toole        | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |

| Member                 | Office           | Appointed  | Current appointment expires | Gender | Location  |
|------------------------|------------------|------------|-----------------------------|--------|-----------|
| Ms Sophia Panagiotidis | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Melbourne |
| Ms Susan Pinto         | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Ms Pauline Pope        | Part-time Member | 14/07/2003 | 30/06/2014                  | F      | Sydney    |
| Ms Rania Skaros        | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Ms Meena Sripathy      | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Sydney    |
| Ms Pamela Summers      | Part-time Member | 1/07/2009  | 30/06/2014                  | F      | Sydney    |
| Ms Karen Synon         | Part-time Member | 1/10/2001  | 30/06/2015                  | F      | Melbourne |
| Mr Peter Tyler*        | Part-time Member | 1/07/2007  | 30/06/2015                  | M      | Melbourne |
| Ms Alexis Wallace      | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Brisbane  |
| Ms Phillipa Wearne     | Part-time Member | 1/07/2006  | 30/06/2014                  | F      | Sydney    |
| Ms Belinda Wells       | Part-time Member | 1/07/2009  | 30/06/2014                  | F      | Adelaide  |
| Ms Carolyn Wilson      | Part-time Member | 1/07/2009  | 30/06/2014                  | F      | Adelaide  |
| Mr David Young         | Part-time Member | 14/07/2003 | 30/06/2014                  | M      | Melbourne |
| Ms Kirsten Young       | Part-time Member | 1/07/2011  | 30/06/2016                  | F      | Melbourne |

\* Also working on IPA0 matters.

# APPENDIX 2 – ADDITIONAL STAFFING STATISTICS

The following membership and staffing statistics are provided in addition to those set out in part 4 of the report.

## Ongoing and non-ongoing staff

|                       | 30 June 2012 |            |            | 30 June 2011 |            |            | 30 June 2010 |           |            |
|-----------------------|--------------|------------|------------|--------------|------------|------------|--------------|-----------|------------|
|                       | Women        | Men        | Total      | Women        | Men        | Total      | Women        | Men       | Total      |
| Ongoing full-time     | 150          | 105        | 255        | 146          | 93         | 239        | 140          | 89        | 229        |
| Ongoing part-time     | 30           | 7          | 37         | 25           | 6          | 31         | 31           | 6         | 37         |
| Non-ongoing full-time | 4            | 6          | 10         | 7            | 6          | 13         | 4            | 1         | 5          |
| Non-ongoing part-time | 1            | 0          | 1          | 1            | 0          | 1          | 0            | 0         | 0          |
| Casual                | 0            | 0          | 0          | 0            | 0          | 0          | 1            | 0         | 1          |
| <b>Total</b>          | <b>185</b>   | <b>118</b> | <b>303</b> | <b>179</b>   | <b>105</b> | <b>284</b> | <b>176</b>   | <b>96</b> | <b>272</b> |

## Members and staff by location at 30 June 2012

|              | Sydney     | Melbourne  | Brisbane  | Adelaide | Perth    | Total      |
|--------------|------------|------------|-----------|----------|----------|------------|
| Members      | 57         | 39         | 9         | 5        | 2        | 112        |
| Staff        | 203        | 98         | 2         | 0        | 0        | 303        |
| <b>Total</b> | <b>260</b> | <b>137</b> | <b>11</b> | <b>5</b> | <b>2</b> | <b>415</b> |

## Members and staff by age at 30 June 2012

| Age      | Staff | Members |
|----------|-------|---------|
| Under 25 | 8     | 0       |
| 25 to 34 | 76    | 1       |
| 35 to 44 | 80    | 25      |
| 45 to 54 | 77    | 44      |
| 55 to 64 | 53    | 36      |
| Over 65  | 9     | 6       |

# APPENDIX 3 – LIST OF REQUIREMENTS

Agencies are required to prepare annual reports for parliament consistent with requirements approved by the Joint Committee of Public Accounts and Audit and published by the Department of the Prime Minister and Cabinet. Detailed below are the page numbers relating to each of the annual report requirements.

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# GLOSSARY

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST, ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

# GLOSSARY OF TERMS AND ABBREVIATIONS

|                      |   |
|----------------------|---|
| <b>AASB</b>          | Australian Accounting Standards Board   |
| <b>AAT</b>           | The Administrative Appeals Tribunal is a statutory body that provides independent merits review of a range of government decisions  |
| <b>affirm</b>        | To ratify the decision under review – the original decision remains unchanged and in force  |
| <b>AFP</b>           | Australian Federal Police   |
| <b>AGEST</b>         | Australian Government Employees Superannuation Trust  |
| <b>ANAO</b>          | The Australian National Audit Office is a specialist public sector practice providing a full range of audit services to the parliament and public sector agencies and statutory bodies  |
| <b>ANZSCO</b>        | Australian and New Zealand Standard Classification of Occupations   |
| <b>applicant</b>     | The applicant for review  |
| <b>appropriation</b> | An amount authorised by parliament to be drawn from the Consolidated Revenue Fund or Loan Fund for a particular purpose, or the amount so authorised. Appropriations are contained in specific legislation – notably, but not exclusively, the appropriation acts |
| <b>APS</b>           | The Australian Public Service   |
| <b>APSC</b>          | The Australian Public Service Commission  |
| <b>APS employee</b>  | A person engaged under section 22 or a person who is engaged as an APS employee under section 72 of the <i>Public Service Act 1999</i>  |
| <b>ARMC</b>          | The tribunals' Audit and Risk Management Committee which oversees the engagement and work program of the tribunals' internal auditors and considers issues relating to risk management  |
| <b>ASCO</b>          | Australian Standard Classification of Occupations   |
| <b>asylum seeker</b> | An asylum seeker is a person who is outside their country of origin, has applied for recognition as a refugee in another country and is awaiting a decision on their application  |

|   |   |
|---|---|
| <b>ATO</b>                              | Australian Taxation Office  |
| <b>AusTender</b>                        | The Commonwealth Government's procurement information system  |
| <b>AustLII</b>                          | The Australasian Legal Information Institute publishes a website that provides free internet access to Australasian legal materials including published MRT and RRT decisions   |
| <b>AWA</b>                              | Australian Workplace Agreement  |
| <b>board</b>                            | See Management Board  |
| <b>bridging visa</b>                    | A bridging visa is a temporary visa generally granted to an eligible non-citizen to enable them to remain lawfully in Australia for one of a number of specified reasons the most common being while they are awaiting the outcome of application for a substantive visa  |
| <b>case</b>                             | A case is an application for review before the MRT or the RRT. It is the tribunals' practice to count multiple applications for review as a single case where the legislation provides that the applications for review can be handled together usually where members of a family unit have applied for the grant of visas at the same time |
| <b>caseload and constitution policy</b> | A Principal Member Direction on Caseload and Constitution sets out arrangements for the constitution and processing of cases before the tribunals each financial year   |
| <b>CEIs</b>                             | Under section 44 of the FMA Act, Chief Executive Instructions are issued by the chief executive to manage the affairs of the agency in a way that promotes the proper use of Commonwealth resources   |
| <b>chief financial officer</b>          | The chief financial officer is the executive responsible for both the strategic and operational aspects of financial planning management and record-keeping in APS departments and agencies. The Registrar is the chief financial officer of the tribunals  |
| <b>China</b>                            | The People's Republic of China  |
| <b>Comcare</b>                          | A statutory authority responsible for workplace safety rehabilitation and compensation  |
| <b>Commonwealth Ombudsman</b>           | The Commonwealth Ombudsman considers and investigates complaints about Commonwealth Government departments and agencies including the tribunals   |

|  |   |
|--|---|
| <b>competitive tendering and contracting</b> | The process of contracting out the delivery of government activities previously performed by an agency to another organisation. The activity is submitted to competitive tender and the preferred provider of the activity is selected from the range of bidders by evaluating offers against predetermined selection criteria                  |
| <b>complementary protection</b>              | Protection that is complementary to Australia's obligations under the Refugees Convention that ensures no person, as a consequence of being removed from Australia to a receiving country, faces a real risk of suffering significant harm  |
| <b>constitution</b>                          | Constitution is the formal process by means of which the tribunal is constituted and a case allocated to a member for the purposes of a particular review. Once constituted as the tribunal for the purposes of a particular review, a member is responsible for the decision-making processes and the decision of the tribunal for that review |
| <b>consultancy</b>                           | A consultancy is one type of service delivered under a contract for services. A consultant is an entity engaged to provide professional independent and expert advice or services and may be an individual a partnership or a corporation   |
| <b>corporate governance</b>                  | The process by which agencies are directed and controlled. It is generally understood to encompass authority, accountability, stewardship, leadership direction and control   |
| <b>CSS</b>                                   | Commonwealth Superannuation Scheme  |
| <b>DCBs</b>                                  | Departmental Capital Budgets  |
| <b>decision</b>                              | The formal document which sets out in writing the tribunal decision and reasons for a particular review   |
| <b>department</b>                            | The Department of Immigration and Citizenship. Officers of the department hold delegations to make the primary decisions reviewable by the tribunals  |
| <b>Deputy Principal Member</b>               | The Deputy Principal Member assists the Principal Member with the operations of tribunals   |
| <b>Deputy Registrar</b>                      | The Deputy Registrar of the tribunals assists the Registrar   |
| <b>District Registrar</b>                    | District Registrars assist the Registrar. A District Registrar is responsible for day-to-day operations and management of a tribunal registry   |
| <b>DoFD</b>                                  | The Department of Finance and Deregulation  |
| <b>EL</b>                                    | Executive level officer of the APS  |
| <b>enterprise agreement</b>                  | The Enterprise Agreement 2012-14 sets out the terms and conditions for applicable tribunal employees  |

|  |  |
|--|--|
| <b>executive officer</b>                 | The executive officer is the Principal Member. The Principal Member is responsible for the overall operation and administration of the tribunals   |
| <b>expenditure</b>                       | The total or gross amount of money spent by the government on any or all of its activities   |
| <b>FBT</b>                               | Fringe Benefits Tax  |
| <b>FCA</b>                               | The Federal Court of Australia   |
| <b>FCAFC</b>                             | The Full Court of the Federal Court of Australia   |
| <b>financial results</b>                 | The results shown in the financial statements of an agency   |
| <b>FMA Act</b>                           | The <i>Financial Management and Accountability Act 1997</i> is the principal legislation governing the collection payment and reporting of public moneys, the audit of the Commonwealth Public Account and the protection and recovery of public property. FMA regulations and orders are made pursuant to the FMA Act |
| <b>FMC</b>                               | The Federal Magistrates Court of Australia   |
| <b>FMO</b>                               | Finance Minister's Orders  |
| <b>FOI</b>                               | Freedom of Information   |
| <b>FOI Act</b>                           | The <i>Freedom of Information Act 1982</i> creates a legally enforceable right of public access to documents in the possession of agencies   |
| <b>grant</b>                             | Commonwealth financial assistance as defined under regulations 3A(1) and 3A(2) of the Financial Management and Accountability Regulations 1997   |
| <b>Green Committee</b>                   | The tribunals' Green Committee promotes an environmentally sustainable culture within the tribunals consistent with the tribunals' environmental policy  |
| <b>GST</b>                               | The Goods and Services Tax is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia   |
| <b>Guide to Refugee Law in Australia</b> | The Guide to Refugee Law in Australia was developed in 1996 as a reference tool for members and staff of the RRT. It contains an analysis of the legal issues relevant to the determination of refugee status in Australia and is regularly updated to reflect developments in the law                                 |
| <b>HCA</b>                               | The High Court of Australia  |
| <b>hearing</b>                           | An appearance by a person before either the MRT or the RRT. The appearance may be in person, or by video or telephone link   |

|   |   |
|---|---|
| <b>IAG</b>  | The Interpreter Advisory Group seeks to ensure the tribunals maintain access to a high standard of interpreters   |
| <b>IARLJ</b>                                      | The International Association of Refugee Law Judges   |
| <b>ICT Review</b>                                 | Review undertaken by Sir Peter Gershon into the Commonwealth Government's use and management of information and communication technology  |
| <b>IFAs</b>                                       | Individual flexibility arrangements   |
| <b>IPAO</b>                                       | The Independent Protection Assessment Office makes and reviews assessments of protection claims made by irregular maritime arrivals who cannot apply for a visa unless permitted to do so by the Minister personally. These assessments are not reviewable by the MRT or RRT. From 1 July 2012 IPAO functions transferred to the tribunals  |
| <b>IPS</b>  | Information Publication Scheme  |
| <b>irregular maritime arrivals</b>                | Asylum seekers that arrive in Australia by boat without a visa. From 24 March 2012, the RRT is responsible for the review of denied protection visa applications by irregular maritime arrivals   |
| <b>jurisdiction</b>                               | Jurisdiction defines the scope of the tribunals' power to review decisions  |
| <b>Lavarch Review</b>                             | A review of the efficiency and operations of the tribunals undertaken by the Professor Hon Michael Lavarch, AO. The review examined possible ways to reduce the backlog of cases and strategies for the smooth transition to the RRT of review decisions involving irregular maritime arrivals. The <i>Report on the increased workload of the MRT and the RRT</i> was published in June 2012 |
| <b>Management Board</b>                           | The Management Board is a body that manages the strategic operations of the tribunals. It consists of the Principal Member, the Deputy Principal Member, the Registrar, the Deputy Registrar and senior members   |
| <b>Member</b>                                     | A member is constituted as the MRT or the RRT for the purposes of a particular review and is responsible for the decision-making process and the decision of the MRT or the RRT for that review   |
| <b>Member Code of Conduct</b>                     | Establishes the conduct to be observed by all members of the tribunals in performing their functions and duties   |
| <b>Member Professional Development Committees</b> | The tribunals' Sydney and Melbourne Member Professional Development Committees support the delivery of a targeted, quality professional development program to build and maintain skilled, motivated and adaptable members  |

|                                 |   |
|---------------------------------|---|
| <b>merits review</b>            | Merits review is the administrative reconsideration of the subject matter of the decision under review  |
| <b>MIAC</b>                     | The acronym MIAC is used to identify the Minister for Immigration and Citizenship in abbreviated court citations  |
| <b>Migration Act</b>            | The <i>Migration Act 1958</i> is the principal legislation which establishes the tribunals and sets out their functions, powers and procedures. The act is the legislative basis for all decisions reviewable by the tribunals  |
| <b>migration agent</b>          | A migration agent is someone who uses knowledge of migration law and procedures to advise or assist a person who is applying for a visa or in other transactions with the department or the tribunals. They may be a lawyer and may work in the private or not-for-profit sector. A migration agent operating in Australia is required by law to be registered with the OMARA |
| <b>Migration Regulations</b>    | The Migration Regulations 1994  |
| <b>Minister</b>                 | The Minister for Immigration and Citizenship  |
| <b>MRT</b>                      | The Migration Review Tribunal   |
| <b>non-ongoing APS employee</b> | An APS employee who is not an ongoing APS employee. A temporary employee engaged for a specified term or the duration of a specified task   |
| <b>OMARA</b>                    | The Office of the Migration Agents Registration Authority undertakes the role of regulator to the migration advice industry. It is responsible for registration, complaints, professional standards, education and training for migration agents  |
| <b>ongoing APS employee</b>     | A person engaged as an ongoing APS employee as mentioned in section 22(2)(a) of the <i>Public Service Act 1999</i> . A person employed on a continuing basis  |
| <b>OPA</b>                      | Official Public Account   |
| <b>operational plan</b>         | The tribunals' Operational Plan 2011–12 outlines the key focus areas and planned activities to ensure delivery of the tribunals' strategic objectives   |
| <b>operations</b>               | Functions, services and processes performed in pursuing the objectives or discharging the functions of an agency  |
| <b>outcomes</b>                 | The results, impacts or consequence of actions by government on the Australian community  |

|                                    |  |
|------------------------------------|--|
| <b>outputs</b>                     | The goods or services produced by agencies on behalf of government for external organisations or individuals. Outputs include goods and services produced for other areas of government external to an agency  |
| <b>PAES</b>                        | Portfolio Additional Estimates Statements inform parliament of changes in resourcing since the Budget, providing information on new measures and their impact on the financial and non-financial planned performance of agencies   |
| <b>performance pay</b>             | Also known as performance-linked bonuses and usually taking the form of a one-off payment in recognition of performance. Retention and sign-on payments are not considered to be performance pay, and nor is performance-linked advancement which includes advancement to higher pay points which then becomes the employee's nominal salary |
| <b>Portfolio Budget Statements</b> | Portfolio Budget Statements inform parliament of the proposed allocation of resources to government outcomes by agencies within the portfolio  |
| <b>primary decision</b>            | A primary decision is the decision subject to review by either the MRT or the RRT  |
| <b>Principal Member</b>            | The Principal Member is the executive officer of the tribunals and is responsible for the tribunals' overall operations and administration; ensuring that their operations are as fair, just, economical, informal and quick as practicable; allocating work determining guidelines and issuing written directions                           |
| <b>Principal Member directions</b> | Sections 353A and 420A of the Migration Act provide that the Principal Member may give written directions as to the operation of the tribunals and the conduct of reviews by the tribunals   |
| <b>Principal Registry</b>          | The Principal Registry is the tribunals' national office. The tribunals' executive functions are performed at the Principal Registry   |
| <b>protection visas</b>            | Protection visas are a class of visas, a criterion for which is that the applicant for the visa is a non-citizen in Australia to whom Australia has protection obligations under the Refugees Convention, or a non-citizen in Australia who is the spouse or a dependant of a non-citizen who holds a protection visa                        |
| <b>Protocol</b>                    | The 1967 UN Protocol Relating to the Status of Refugees removed the time and geographical limitation in the Refugees Convention's definition of a refugee  |
| <b>PSS</b>                         | Public Sector Superannuation Scheme  |



|  |  |
|--|--|
| <b>PSSap</b>                           | Public Sector Superannuation accumulation plan   |
| <b>purchaser/provider arrangements</b> | Arrangements under which the services of one agency are purchased by another agency to contribute to outcomes. Purchaser/provider arrangements can occur between Commonwealth Government agencies or between Commonwealth Government agencies and state/territory government agencies or private sector bodies |
| <b>Refugees Convention</b>             | The Convention Relating to the Status of Refugees agreed at Geneva on 28 July 1951 as amended by the Protocol Relating to the Status of Refugees agreed at New York on 31 January 1967   |
| <b>Registrar</b>                       | The Registrar of the tribunals assists the Principal Member with the administrative management of the tribunals  |
| <b>Registry</b>                        | A registry is an office of the tribunals   |
| <b>remit</b>                           | To send the matter back for reconsideration. A tribunal may remit a decision to the department when it decides that a visa applicant has satisfied the criteria which the primary decision-maker found were not satisfied, or that the visa applicant is a refugee   |
| <b>Remuneration Tribunal</b>           | The Remuneration Tribunal is the statutory body that determines the remuneration for key Commonwealth offices, including tribunal members  |
| <b>representative</b>                  | A representative is someone who can forward submissions and evidence to the tribunals, contact the tribunals on the applicant's behalf, and accompany the applicant to any meeting or hearing arranged by the tribunals. With very limited exceptions, a representative must be a registered migration agent   |
| <b>review applicant</b>                | A review applicant is a person who has made an application for review to either of the tribunals   |
| <b>review application</b>              | A review application is an application for review that has been made to either of the tribunals  |
| <b>reviewable decision</b>             | A reviewable decision is a decision that can be reviewed by either the MRT or the RRT. Reviewable decisions are defined in the Act and the Regulations   |
| <b>RRT</b>                             | The Refugee Review Tribunal  |
| <b>Senior Management Group</b>         | The Senior Management Group comprises the Registrar, the Deputy Registrar, district registrars and directors. This group meets at least once a month and deals with agency management and planning issues  |

|                            |  |
|----------------------------|--|
| <b>senior member</b>       | Senior members provide guidance to and are responsible for members   |
| <b>service charter</b>     | The tribunals' service charter sets out the agency's service standards. It is government policy that agencies which provide services directly to the public have service charters in place. A service charter is a public statement about the service an agency will provide and what customers can expect from the agency |
| <b>SES</b>                 | Senior Executive Service of the APS  |
| <b>set aside</b>           | To revoke the decision under review – the original decision is deemed not to have been made. A tribunal sets aside a decision when it decides that the primary decision should be changed. When a tribunal sets aside a primary decision it may substitute a new decision in place of the primary decision                 |
| <b>source country</b>      | The country of nationality or citizenship of a visa applicant  |
| <b>statutory objective</b> | The tribunals' statutory objective is to provide a mechanism of review that is fair, just, economical, informal and quick. The MRT and the RRT's statutory objectives are set out in sections 353 and 420 respectively of the Migration Act  |
| <b>TIS</b>                 | Translating and Interpreting Service   |
| <b>TRA</b>                 | Trades Recognition Australia   |
| <b>tribunal</b>            | The Migration Review Tribunal (the MRT) or the Refugee Review Tribunal (the RRT)   |
| <b>tribunals</b>           | The Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT), unless otherwise indicated  |
| <b>tribunals' plan</b>     | The Tribunals' Plan 2011-13. It is a high level document setting out the tribunals' key strategic aims and priorities and core values  |
| <b>UN</b>                  | United Nations   |
| <b>UOW</b>                 | University of Wollongong   |
| <b>visa applicant</b>      | A visa applicant is a person who has made a visa application   |
| <b>WHS</b>                 | Work health and safety   |
| <b>workplace diversity</b> | The concept of workplace diversity values and utilises the contributions of people of different backgrounds, experiences and perspectives  |

# INDEX

TO PROVIDE VISA APPLICANTS AND SPONSORS WITH INDEPENDENT, FAIR, JUST,  
ECONOMICAL, INFORMAL AND QUICK REVIEWS OF MIGRATION AND REFUGEE DECISIONS

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