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## **Government squibs it on independent appointments to new Administrative Review Tribunal**

### **Statement by Dr Sophie Scamps**

The Attorney General, Mark Dreyfus has failed his first big test of ensuring public appointments are free from cronyism by giving himself unfettered power to both assess candidates for the new Administrative Review Tribunal (ART) and appoint them.

The draft bill for the new body has now been released. It is long on rhetoric about merits-based appointments and the need to ensure that appointees are properly qualified.

But it lacks a mechanism for **independent assessment** of candidates or any **transparency** mechanisms that would give confidence in the process.

The bill is clear: it is the Attorney General who appoints the new members of the ART, and that's appropriate in the Westminster system.

But it must be underpinned by transparent and independent selection processes.

The bill says the minister "**may**" establish assessment panels. But he is not required to do so, and there is no detail of who might be appropriate to serve on such a panel or whether they must include independent members.

The explanatory memorandum says assessment panels would operate in a similar way to the ABC and SBS board selection panels. These have often been ignored by ministers, who have chosen instead to appoint mates.

While the bill says "merit criteria" can be elaborated in regulations, we don't know what they are.

"It was deemed by Labor that the extreme step of abolishing the Administrative Appeals Tribunal was required due to rampant political and Jobs for Mates style appointments by the former Coalition government to it," Dr Scamps said.

"Yet the design of the new Administrative Review Tribunal as proposed by the Attorney General, does nothing to address the major underlying flaw that permitted this as appointments will still be made at the discretion of the Attorney General."

"It completely ignores the need for an independent selection panel as a key part of the appointment process," she said.

Why would the Government take the extraordinary step of abolishing an important institution of our democracy because its appointment process was fatally flawed, only to replace it with a new institution which suffers the same flaw?

"If the Government is serious about creating impartial and trusted public institutions, they must adopt my Jobs for Mates Private Members Bill which was developed in partnership with the Centre for Public Integrity and outlines the framework for a transparent and independent appointments process."

“The strength of a democracy is underpinned by the trust its people have in it. If we want a strong and resilient democracy, we must continue to build integrity infrastructure into our democratic system, and a major pillar of this is having independent selection panels for major public appointments,” she said.

“Australians are sick and tired of the erosion of their democracy. This is an incredibly disappointing further step along that road,” she said.

**For further comment, interviews: Anne Davies 0408223875.**

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### **Background on the Jobs for Mates bill:**

My Transparent and Quality Public Appointments Bill 2023 (‘Ending Jobs for Mates Bill’) sets out a process to achieve independence and transparency in the appointments process.

The Bill would create a Public Appointments Commissioner (PAC) and departmental Independent Selection Panels (ISP) overseen by a Parliamentary Joint Committee on Appointments (PJCA).

- Up to half the members of the PJCA may be drawn from the government, but the Chair (who has a casting vote) must not – ensuring its independence from the Government of the day.
- The Bill would apply to all major Commonwealth public appointments,

It would include roles such as the National Anti-Corruption Commissioner, the Information Commissioner and Members of the AAT, now the ART.

- The PAC and departmental ISPs would be responsible for implementing a transparent and independent recruitment process, including:

- publicly advertising the criteria for the role (as determined by the Minister)

- assessing all applicants against the selection criteria, as well as on the basis of quality, experience, and integrity, and with a view to promoting diversity.

- At the end of the recruitment process, the PAC and departmental ISPs would provide Ministers with a shortlist of at least three candidates to choose from, and a written statement certifying their appropriateness for the role. That statement must be tabled in Parliament once the appointment is made.

- Importantly, the Minister would be unable to select someone who is not on that shortlist or add candidates to the list.

The appointment provisions can be found in Part 8, division 3 of the Administrative Review Bill, available on the parliamentary website.

Examples of the way the ABC board panels have operated are here:

[ABC board: secret shortlist of candidates ignored in favour of mining executive | Australian Broadcasting Corporation | The Guardian](#)

[Minister ignored two prominent women for ABC board, picked mate instead \(crikey.com.au\).](#)

[ABC board members appointed by Fifield despite being rejected by merit-based panel | Australian Broadcasting Corporation | The Guardian](#)

[Former ABC, SBS independent panel member Neil Brown hits out at Coalition for 'unqualified' board appointments \(smh.com.au\)](http://www.smh.com.au)