



Administrative
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Bulletin

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The *AAT Bulletin* is a weekly publication containing information about recently published decisions and appeals against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Small Business Taxation Division; Taxation & Commercial and Veterans' Appeals Divisions. The Bulletin also regularly includes a sample of decisions recently published in the AAT's Migration & Refugee Division and Social Services & Child Support Division. It occasionally includes information on legislative changes that affect the AAT.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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Enquiries regarding this publication may be directed to aatweb@aat.gov.au.

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Recent developments

New way to browse AAT decisions on AustLII

To improve public access to decisions and overall transparency, AAT decisions are now searchable by decision type on the [AustLII website](#).

To access this new feature simply navigate to the right hand side of the [AAT page](#) and you will see a list of the AAT's most common decision types under the heading 'About this database'. Clicking on the desired decision type will return all decisions where these search terms are mentioned, listed by date, from newest to oldest.

AAT Recent Decisions

The following decisions were recently delivered by the AAT in the General, FOI, NDIS, Security, Taxation & Commercial and Veterans' Appeals Divisions. This list also includes selected child support decisions published by the Social Services & Child Support Division and examples of recent decisions published by the Migration & Refugee Division. If the decision is to be summarised, this will be noted. Click on the links for direct access to the full text of the decision.

Citizenship

[Fettayleh and Minister for Immigration and Border Protection](#) (Citizenship) [2019] AATA 397 (14 March 2019); Senior Member C Puplick AM

CITIZENSHIP – citizenship test exemption – whether the applicant suffered from a permanent or enduring physical or mental incapacity – decision affirmed

[Hamid and Minister for Home Affairs](#) (Citizenship) [2019] AATA 382 (13 March 2019); Senior Member Chris Puplick AM

CITIZENSHIP – citizenship test exemption – whether the applicant suffered from a permanent or enduring physical or mental incapacity – decision affirmed

Migration

[HMLR and Minister for Home Affairs](#) (Migration) [2019] AATA 398 (14 March 2019); Deputy President The Hon. D Cowdroy OAM QC

MIGRATION – mandatory visa cancellation – TY Subclass 444 Special Category (Temporary) Visa – New Zealand – extensive criminal record – juvenile offending – repeated violent offending – protection of Australian community – best interests of minor children – expectations of Australian community – further offences committed following notification of mandatory cancellation – strength, nature and duration of ties – extent of impediments if removed – decision affirmed

[Margach and Minister for Home Affairs](#) (Migration) [2019] AATA 353 (5 March 2019); Deputy President S A Forgie

MIGRATION – application for revocation of mandatory cancellation of visa – where applicant fails the character test – where substantial criminal record under Migration Act 1958 – risk of reoffending – other reason why cancellation decision should be revoked – decision set aside and substituted for decision revoking mandatory cancellation of visa

[Varley and Minister for Home Affairs](#) (Migration) [2019] AATA 376 (1 March 2019); Dr M Evans, Senior Member

MIGRATION – decision of delegate of Minister not to revoke mandatory cancellation of visa – character test – substantial criminal record – five convictions for intent to procure a person believed to be under 16 years for sexual activity – intent to expose a person believed to be under 16 to indecent matter – Applicant placed advertisement for ‘young teens’ on web site – Direction no. 79 – effect of the Minister’s removal of “minors” as examples of vulnerable members of the community in 13.1.1(c) of Direction no. 79 – primary and other considerations – protection of the Australian community – nature and seriousness of criminal offending – risk to the Australian community – expectations of the Australian community – strength, nature and duration of ties to Australia – extent of impediments if returned to United Kingdom – reviewable decision affirmed

[VCBP and Minister for Home Affairs](#) (Migration) [2019] AATA 337 (6 March 2019); Senior Member D. J. Morris

MIGRATION – mandatory cancellation of visa – term of imprisonment exceeding 12 months – character test – new ministerial Direction No. 79 commences after hearing but before decision – new Direction applies – primary considerations – other considerations – any other reasons – previous cancellation of visa revoked – decision affirmed

[Woods and Minister for Home Affairs](#) (Migration) [2019] AATA 369 (12 March 2019); Mr A Maryniak QC, Member

MIGRATION – request for revocation of mandatory cancellation of Applicant’s visa – Applicant has substantial criminal record and does not pass character test – discretion to revoke mandatory cancellation – primary considerations – protection of the Australian community from criminal or other serious conduct – expectations of Australian community – other considerations – strength, nature and duration of ties – impact on victims – decision under review affirmed

Social Security

[Al-Hallaq and Secretary, Department of Social Services](#) (Social services second review) [2019] AATA 367 (11 March 2019); Dr L Bygrave, Member

SOCIAL SECURITY – disability support pension – whether impairments fully diagnosed, treated and stabilised – whether applicant has an impairment rating of 20 points or more under the Impairment Tables – gastro-oesophageal reflux disorder – irritable bowel syndrome – lower limb condition – mental health condition – hearing condition – back condition – sleep apnoea – diabetes – urinary incontinence – hyperlipidaemia – hypertension – decision affirmed

[Gaitan and Secretary, Department of Social Services](#) (Social services second review) [2019] AATA 395 (13 March 2019); Senior Member The Hon. Matthew Groom

SOCIAL SECURITY – disability support pension – physical impairment – whether qualified for disability support pension at time of claim – whether conditions fully investigated, documented, diagnosed, stabilised and permanent – whether Applicant had an impairment rating of 20 points or more under the impairment tables – decision affirmed

[ZYWS and Secretary, Department of Social Services](#) (Social services second review) [2019]
AATA 396 (12 March 2019); Deputy President Dr P McDermott RFD

SOCIAL SECURITY – whether applicant entitled to Family Tax Benefit for the period of 1 April 2016 to 1 October 2016 – whether the applicant was legally responsible for the child – Decision affirmed

Taxation

[Hazeldine and Australian Securities and Investments Commission](#) [2019] AATA 366 (12 March 2019); Deputy President The Hon. Dennis Cowdroy OAM QC

BUSINESS NAMES REGISTRATION – objection to registration of business name – name only available for registration if not “identical” or “nearly identical” to existing business name – whether “Northern Beaches Private Tutoring Service” and “Northern Beaches Tutoring Services” “identical” or “nearly identical” – whether business name available for registration – decision under review affirmed

Appeals

This section of the Bulletin provides information about appeals that have been lodged or finalised against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. Information is only included about appeals relating to AAT decisions that have been published on [AustLII](#). Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME

AAT REFERENCE

None lodged

Appeals finalised

CASE NAME

AAT REFERENCE

COURT REFERENCE

None finalised



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