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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, 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 Practice Direction for Giving Documents or Things to the AAT

From 2 April 2020 the President's practice direction which sets out how documents and other things may be lodged with, or otherwise given, to the AAT has been revised. The revised practice direction can be found <http://www.aat.gov.au/landing-pages/practice-directions-guides-and-guidelines/giving-documents-or-things-to-the-aat-practice-dir>

The revised practice direction removes prohibitions on submitting certain documents by electronic means to the AAT, including documents produced under summons and the lodgement of section 37 documents in General Division. It also regularises the current practice in the MRD and SSCSD that departmental documents are lodged via a secure electronic transfer facility.

AAT Recent Decisions

This section of the Bulletin provides information about all decisions recently published in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Small Business Taxation, Taxation & Commercial and Veterans' Appeals. 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. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Child Support

[TQRY and Child Support Registrar](#) (Child support second review) [2020] AATA 669 (26 March 2020); P Ranson, Member

CHILD SUPPORT – care arrangements – percentage of care – date of effect – decision under review affirmed

[VXQB and Child Support Registrar](#) (Child support second review) [2020] AATA 697 (2 April 2020); Dr M Evans-Bonner, Senior Member

CHILD SUPPORT – percentage of care decision – actual care – delegated care – pattern of care – dispute about percentage of care whilst child living with grandparents – interpretation of evidence before the Tribunal – date of effect – AAT Tier 1 decision affirmed

[Grant and Saylor](#) (Child support) [2020] AATA 587 (29 January 2020); M Kennedy, Member

CHILD SUPPORT – departure determination – income, property and financial resources of both parents – benefits derived from business – high child care costs – decision under review set aside and substituted

[Obeid and Obeid](#) (Child support) [2019] AATA 6620 (9 December 2019); J D'Arcy, Member

CHILD SUPPORT – departure determination – income, property and financial resources of the liable parent – benefits derived from share holdings – decision under review set aside and substituted

[Fabian and Lloris](#) (Child support) [2020] AATA 586 (15 January 2020); J Longo, Member

CHILD SUPPORT – percentage of care – determination of the likely pattern of care from the start of the administrative assessment – decision under review set aside and substituted.

[Sebastian and Jaeger](#) (Child support) [2020] AATA 583 (30 January 2020); Member J Longo

CHILD SUPPORT – opt-in arrears – whether there were unpaid amounts – application for collection of unpaid amounts should be accepted – decision under review affirmed

[Isaac and Isaac](#) (Child support) [2020] AATA 582 (24 January 2020); R Anderson, Member

CHILD SUPPORT – departure determination – costs of education - manner expected by both parents – cost of maintaining the child is significantly affected – financial resources of both parents – decision under review set aside and substituted

Citizenship

[Slafa and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)

(Citizenship) [2020] AATA 667 (27 March 2020); Dr L Bygrave, Member

CITIZENSHIP – application for Australian citizenship by conferral – refuse to approve application – whether applicant has a permanent or enduring physical or mental incapacity – citizenship test – decision under review affirmed

[VKTT and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)

(Citizenship) [2020] AATA 649 (20 March 2020); Deputy President J Sosso

MIGRATION – non-revocation of mandatory cancellation of a Class TY Subclass 444 Special Category (Temporary) visa – where the Applicant does not pass the character test – whether there is another reason to revoke the mandatory cancellation decision – consideration and application of Ministerial Direction No. 79 – decision under review affirmed.

Compensation

[Claridge and Comcare](#) (Compensation) [2020] AATA 655 (24 March 2020); Senior Member P J

Clauson AM

WORKERS' COMPENSATION – Safety, Rehabilitation and Compensation Act 1988 (Cth) – Whether employment contributed to ailment to a significant degree – Balance of probabilities – Risk factor not conclusive of causation – Decision under review affirmed

[Cremona and Comcare](#) (Compensation) [2020] AATA 696 (1 April 2020); D Mitchell, Member

COMPENSATION – liability accepted in respect of injury – where Applicant suffered from somatisation disorder – where Applicant claimed psychological treatment – whether treatment is in relation to injury – whether treatment is reasonable in the circumstances – decision under review affirmed

[Ellison and Comcare](#) (Compensation) [2020] AATA 698 (2 April 2020); K Parker, Member

WORKERS' COMPENSATION – “ceased effects” determination – claim for payment of medical expenses and incapacity payments under s 16 and s 19 of the Safety, Rehabilitation and Compensation Act 1988 (Cth) – applicant suffered from an underlying degenerative lumbar spine disease prior to 2009 – claim made by applicant for back injury suffered as a result of a specific incident on 21 April 2009 – Comcare accepted liability under s 14 for “lumbar sprain” – Comcare misdescribed compensable injury – Tribunal found that compensable injury was an aggravation of applicant's underlying disease – effects of compensable injury ceased to exist as from 11 January 2018 to the present time and at the present time – ongoing symptoms after 11 January 2018 arose from effects of applicant's underlying disease – non-binding observation made that underlying disease was contributed to, to a significant degree, by the general nature and conditions of applicant's employment with the employer from 2002 to 2009 – scope of applicant's claim did not extend to this injury – Tribunal did not have jurisdiction to make decision awarding payment of compensation under s 16 or s 19 to applicant in respect of ongoing effects of the underlying disease after 11 January 2018 – applicant at liberty to make further claim in respect of underlying degenerative disease – decision affirmed

[Klinge and Comcare](#) (Compensation) [2020] AATA 677 (26 March 2020); Deputy President J Sosso

COMPENSATION – diagnosed condition of schizophrenia – relationship between the Applicant's first stress induced psychotic episode and schizophrenia – whether the Applicant's schizophrenia was materially contributed to by his employment – Comcare not liable to pay compensation – decision under review affirmed

[Saffioti and Comcare](#) (Compensation) [2020] AATA 691 (30 March 2020); Senior Member D O'Donovan

WORKERS COMPENSATION – delusional disorder – whether the disorder is an injury or a disease – characterisation of delusional disorder as a mental injury in the ordinary sense not made out – whether employment contributed to a significant degree – whether workplace stress can unmask a delusional disorder – whether workplace stress did unmask a delusional disorder – workplace events with no foundation in reality - decision under review affirmed

Freedom of Information

[Morgan and Australian Building and Construction Commissioner](#) [2020] AATA 651 (18 March 2020); Deputy President S A Forgie

FREEDOM OF INFORMATION – access refused under s 24 (practical refusal reason) of the Freedom of Information Act 1982 – whether request would substantially and unreasonably divert resources of agency – whether reasons of applicant for request can be considered – no public interest in fulfilling request – decision affirmed

Industrial Law

[Scaturro and Secretary, Attorney General's Department](#) [2020] AATA 653 (10 March 2020); Brigadier A G Warner, Member

FAIR ENTITLEMENTS GUARANTEE – whether Applicant entitled to long service leave – whether Applicant completed more than seven years continuous employment – whether Applicant entitled to redundancy pay – whether Applicant was issued a notice of termination – whether employer was a small business employer immediately before the termination of the Applicant's employment – decision under review affirmed

Migration

[Bloomfield and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2020] AATA 658 (20 March 2020) Mr S Evans, Member

MIGRATION – cancellation of Applicant's Class BB, Subclass 155 Five Year Resident Return visa – Applicant is a citizen of Tonga – failure of the character test – whether discretion should be exercised to cancel visa – Direction No 79 – protection of the Australian community – best interests of minor children – expectations of the Australian community – strength, nature and duration of ties – impact on victims – extent of impediments if removed – decision under review affirmed

BQBR and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 679 (27 March 2020); Senior Member M Griffin QC

MIGRATION – temporary visa – citizen of New Zealand – failure to pass character test – offending history – whether discretion to revoke mandatory cancellation should be exercised – considerations under Direction No. 79 – primary considerations – other considerations – decision under review affirmed

Brown and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 668 (24 March 2020); Deputy President Boyle

MIGRATION – Migration Act 1958 (Cth) – mandatory visa cancellation – s 501CA(4) – substantial criminal record – another reason why the cancellation decision should be revoked – Direction 79 – protection of the Australian community – nature and seriousness of the conduct – the risk to the Australian community – best interests of the child – strength, nature and duration of ties – extent of impediments if removed – decision affirmed

Erradi and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 703 (3 April 2020); Senior Member C J Furnell

MIGRATION – Partner Class BS Subclass 801 (Permanent visa) – mandatory cancellation of visa – Morocco – stalking - using a carriage service to menace, harass or cause offence - using a carriage service to threaten serious harm - using a carriage service to threaten to kill – not satisfied passed character test – not satisfied any other reason mandatory cancellation should be revoked – decision affirmed

GTWS and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 695 (1 April 2020); Senior Member L Kirk

MIGRATION – mandatory cancellation of a Class BB (Subclass 155) Resident Return visa – substantial criminal record – character test – whether there is another reason to revoke the mandatory cancellation of the visa – Ministerial Direction No. 79 – primary considerations – protection of the Australian community – expectations of the Australian community – other considerations – where Applicant is at a medium-high risk of re-offending – decision under review affirmed

HLQV and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 685 (30 March 2020); Senior Member D J Morris

MIGRATION – mandatory cancellation of visa – applicant formerly held Class XA Subclass 866 Protection visa – applicant is citizen of Libya – whether recent decision in BAL19 v Minister for Home Affairs [2019] FCA 2189 applicable – that decision distinguishable on facts – the statutory character test – ministerial direction No. 79 – primary considerations – protection of Australian community – best interests of affected minor children – expectations of Australian community – whether international non-refoulement obligations owed – strength, nature and duration of ties to Australia – extent of impediments if removed – significant mental health conditions – judicially supervised treatment order yet to commence – decision under review set aside and new decision substituted

RVJB and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 665 (21 March 2020); Mr A Maryniak QC, Member

MIGRATION – Protection (Class XA) (subclass 855) Visa refusal – Sudanese national – section 36(1C) of Migration Act 1958 (Cth) – Applicant has been convicted by a final judgment of a particularly serious crime – Ministerial Direction no. 75 – whether a danger to the Australian community – time span and seriousness of the offending – decision under review set aside and remitted

Say and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2020] AATA 694 (1 April 2020); Senior Member D J Morris

MIGRATION – mandatory cancellation of a Class BF Transitional (Permanent) visa – substantial criminal record – applicant is a citizen of the Kingdom of Cambodia – applicant does not pass character test – ministerial Direction No. 79 – whether another reason to revoke mandatory cancellation of visa – primary considerations – protection of the Australian community – best interests of minor children – expectations of Australian community – other relevant considerations – strength, nature and duration of ties to Australia – applicant has been resident of Australia since a young child – extent of impediments if removed – language barriers – discretion not enlivened – decision under review affirmed

1606368 (Migration) [2019] AATA 6685 (1 November 2019); A Mercer, Member

MIGRATION – Business Skills (Residence) (Class DF) visa – Subclass 892 (State/Territory Sponsored Business Owner) – net assets in nominated main business – funds held in an investment scheme – security for commercial lease to operate business – terms of related Deed – net business and personal assets – continual ownership interest in ‘main business’ – broad considerations – not restricted to form 1217 – evidence of import/export activities at time of visa application – active operation at time of Tribunal’s decision – unique or exceptional circumstances – unfair or unreasonable results – well settled in Australia – penalised for having made a commercial decision – Ministerial Intervention requested – decision under review affirmed

Pant (Migration) [2019] AATA 6640 (28 November 2019); H Kroger, Member

MIGRATION – cancellation – Student (Temporary) (Class TU) visa – Subclass 573 Higher Education Sector – enrolment in a registered course – deferment due to unplanned pregnancy – family medical issues – required to study English requisite again – meeting with the Dean of the faculty – renewed confirmation of enrolment – additional family support – decision under review set aside

Shaikh (Migration) [2020] AATA 610 (5 March 2020); H Claringbold, Member

MIGRATION – Partner (Temporary) (Class UK) – Subclass 820 (Partner) – Federal Circuit Court remittal – application not lodged within 28 days after last substantive visa ceased – migration history and time as unlawful non-citizen – compelling reasons for not applying criterion – genuine relationship not, of itself, a compelling reason – length of relationship and financial circumstances – best interests of child – decision under review remitted

[Singh](#) (Migration) [2020] AATA 630 (12 March 2020); S Norman, Member

MIGRATION – Employer Nomination (Permanent) (Class EN) – Subclass 187 (Employer Nomination Scheme) – bogus documents and false or misleading information provided by second applicant – education in English medium – English as a subject but other instruction in Punjabi – documents obtained by parents and translated – country information – prevalence of document fraud – long residence and plans to reside permanently – child born in Australia – associated position nomination refused and refusal affirmed on review – members of family unit – referral for consideration by minister – decision under review affirmed

[MANYANG](#) (Migration) [2020] AATA 611 (2 March 2020); S Griffiths, Member

MIGRATION – Partner (Provisional) (Class UF) – Subclass 309 (Partner (Provisional)) – de facto partner – previously married and separated – long period without contact – financial, household and social aspects of relationship – nature of commitment – adverse information in delegate's decision record – allegations of divorce and applicant's threat to kill sponsor denied by parties – decision under review remitted

[1717900](#) (Migration) [2019] AATA 6644 (19 July 2019); D Crawshay, Member

MIGRATION – Partner (Provisional) (Class UF) visa – Subclass 309 (Spouse (Provisional)) – requisite level of commitment at time of visa application – high level of companionship and emotional support despite physical separation – joint ownership of assets – financial support – parties view relationship as long-term – lack of evidence – decision under review remitted

Practice and Procedure

[Gadzikwa and Comcare](#) (Compensation) [2020] AATA 631 (18 March 2020); K Parker, Member

PRACTICE AND PROCEDURE – request by applicant for issuing of summonses for identified people to appear to give evidence and for the production of identified documents – Comcare opposed the issuing of the summonses – whether the evidence expected to be given by those people and the identified documents would assist in the review of the decision and determination of the principal application – principal application involves review of decision by Comcare to refuse an extension of time to allow the applicant to request reconsideration of Comcare's decision to deny liability under s 14 of the Safety, Rehabilitation and Compensation Act 1988 in respect of a claimed injury – summons refused

[Norman and Tax Practitioners Board](#) (Taxation) [2020] AATA 640 (20 March 2020); Dr P McDermott RFD, Deputy President

PRACTICE AND PROCEDURE – application for stay of decision – termination of registration as tax agent – breach of code of professional conduct – interests of persons affected by the review – applicant's personal circumstances – public interest – stay granted, subject to conditions

[RLDY and Child Support Registrar](#) (Child support second review) [2020] AATA 688 (30 March 2020); Senior Member C Puplick AM

CHILD SUPPORT – Extension of time application – whether there is an acceptable explanation for the delay – time of receipt of administrative decision -- merits of substantial application – prejudice to others – extension of time application refused

Refugee

[1729652](#) (Refugee) [2019] AATA 6484 (12 August 2019); S Lee, Member

REFUGEE – protection visa – Malaysia – Nigeria – Federal Circuit Court Remittal – race – mixed race relationship – religion – Christian – family disapproval – societal discrimination – racism and prejudice – threat by gangsters – threats from Boko Haram – lack of police protection – caste system – mental health issues – threat of kidnapping – third country protection – Economic Community of West Africa – decision under review remitted

[1618665](#) (Refugee) [2019] AATA 6496 (23 August 2019); C Smolicz, Member

REFUGEE – protection visa – Italy – political opinion – Democratic Party of Albania – claims targeted by Socialist Party of Albania members – family opposed to Albania’s Communist Party – fears harm by Albanian mafia in Italy – lengthy stay in Italy without experiencing politically motivated violence – inconsistent and vague evidence – renounced Albanian citizenship – decision under review affirmed

[1710223](#) (Refugee) [2019] AATA 6481 (9 October 2019); S Roushan, Senior Member

REFUGEE – cancellation – protection visa – Iraq – particular social group – employed by Iraqi Security Forces – religion – Sunni – fears harm by militia groups – People’s Mobilisation Forces – brother killed – incorrect answers – no non-compliance – travelled to Iraq to visit sick child – return not necessarily inconsistent with claimed fear – obtained approval to travel – decision under review set aside

[1811922](#) (Refugee) [2019] AATA 6683 (8 November 2019); N Burns, Member

REFUGEE – cancellation – protection visa – Iran – incorrect information in visa application – nationality – not stateless Faili Kurd but Kurdish Iranian citizen – religion – non-religious Muslim convert to Christianity in Australia – ethnicity and actual or imputed political opinion – involvement in anti-government protests and activities – church and community activities – young child an Australian citizen – best interests of the child – life and education in Australia – limited relationship with extended family – country information – decision under review set aside

[1825967](#) (Refugee) [2019] AATA 6583 (12 December 2019); J Silva, Member

REFUGEE – protection visa – Sri Lanka – Federal Court remittal – ethnicity – Tamil – religion – Roman Catholic – imputed political opinion and activities – family’s links to Tamil Tigers – visible injury and scarring as civilian during civil war – siblings’ service, death and disappearance – period in internally displaced persons’ camp and army camp – interrogation and beatings – illegal departure – relatives granted protection visas, but one voluntarily returned to home country – fear of harm as failed asylum seeker – credibility – inconsistent evidence – decision under review affirmed

[1927623](#) (Refugee) [2020] AATA 403 (13 February 2020); J Pennell, Senior Member

REFUGEE – cancellation – protection visa – Stateless – Burma (Myanmar) Rohingya – risk to Australian community – criminal convictions and community corrections orders – supervision, assessment, treatment and rehabilitation – mental health – relationship with child and former partner – best interests of the child – support from cousin – complementary protection – country information – real risk of significant harm if returned – decision under review set aside

Social Services

[Bogomaz and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 652 (24 March 2020); Emeritus Professor P A Fairall, Senior Member

SOCIAL SECURITY – Newstart allowance – employment pathway plan – mutual obligation requirements – taxi driver – mutual obligation failure – Newstart allowance suspended – reconnection requirement – four weeks – failure to satisfy the reconnection requirement – Newstart allowance cancelled – decision affirmed

[Burgess and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 690 (30 March 2020); Senior Member B Pola

SOCIAL SECURITY – Disability Support Pension – DSP – whether condition is fully diagnosed, fully treated and fully stabilised – whether 20 points or more under the Impairment Tables during the Qualification Period - decision under review affirmed

[CTXL and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 654 (23 March 2020); Emeritus Professor P A Fairall, Senior Member

SOCIAL SECURITY – family tax benefit – percentage of care – separated couple still living together – whether care provided by paternal grandmother should be attributed solely to the father – decision affirmed

[David and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 687 (31 March 2020); Mr S Evans, Member

SOCIAL SECURITY – disability support pension – application for unlimited portability – whether applicant has a severe impairment – 20 points or more under a single Impairment Table – whether applicant will have a severe impairment for the next five years – capacity to work independently of a program of support – decision set aside and substituted

[Greeg and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 666 (25 March 2020); R West, Member

SOCIAL SECURITY – disability support pension – spinal condition – diabetes – urinary incontinence – cataracts – depression – whether conditions fully treated and stabilised in the qualification period – whether impairments attract rating of 20 points or more under impairment tables – decision under review affirmed

[Iliovski and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 686 (31 March 2020); Dr S Fenwick, Senior Member

SOCIAL SECURITY – application for disability support pension – whether qualified – conditions of the spine, right wrist and prostate – whether impairment attracts rating of 20 points or more under Impairment Tables – where program of support had not been undertaken – applicant did not meet the qualifying criteria – decision under review affirmed

[Kelly and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 684 (27 March 2020); Ms L Rieper, Member

SOCIAL SECURITY – carer payment – carer allowance – rent assistance – start date – date of claim – whether payment can be backdated – claim for carer payment made outside 13 week time limit – sought review of rent assistance cancellation outside 13 week time limit – decision affirmed

[Martin and Secretary, Department of Social Services](#) (Social services second review) [2020] ATTA 595 (19 March 2020); Senior Member D R Davies

SOCIAL SECURITY – age pension – whether applicant satisfied qualification criteria – whether applicant was an Australian resident during the relevant period – decision under review affirmed

[McKeough and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 692 (12 March 2020); Mr R Reitano, Member

SOCIAL SECURITY – disability support pension – neck and shoulder pain – lower back pain – chronic pain syndrome – depression and anxiety – whether conditions fully diagnosed, treated and stabilised – whether applicant has a continuing inability to work – whether applicant participated in a Program of Support – decision affirmed

[Muir and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 702 (3 April 2020); Ms A Burke AO, Member

SOCIAL SECURITY – fair entitlements guarantee payment – income maintenance period – whether severe financial hardship – decision under review set aside and remitted.

[Opijnen and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 657 (24 March 2020); Brigadier A G Warner, Member

SOCIAL SECURITY – Disability Support Pension – whether Applicant's impairments were fully diagnosed, treated and stabilised at the qualification period – whether Applicant's impairments attract 20 points under the Impairment Tables – whether Applicant has a continuing inability to work – decision under review affirmed

[Searles and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 676 (20 March 2020); I Thompson, Member

SOCIAL SECURITY – pensions benefits and allowances – disability support pension -disability support pension – cancellation of existing payment – medical review – whether Tribunal satisfied that applicant not qualified for DSP as at the date of cancellation – decision under review set aside

[TQDJ and Secretary, Department of Social Services](#) (Social services second review) [2020] AATA 689 (30 March 2020); P Ranson, Member

SOCIAL SECURITY – Family Tax Benefit – FTB – percentage of care – decision under review affirmed

Taxation

[Burns and Commissioner of Taxation](#) (Taxation) [2020] AATA 671 (25 March 2020); The Honourable Justice J A Logan RFD, Deputy President

TAXATION – INCOME TAX – where applicant was medically discharged from the Army – where applicant was classified under the Military Benefits and Superannuation Act 1991 (Cth) (MSB Act) as having a Class A invalidity – whether the invalidity pension payments under the MSB Act for the income years ended 30 June 2014, 2015, 2016 and 2017 (relevant income years) should be treated in the manner prescribed in s 307-145(1) of the Income Tax Assessment Act 1997 (Cth) (ITAA97) – where the Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018 (Cth) (amending regulations) were made during the course of the review proceedings – where at the times of assessment and when the applicant exercised statutory rights of objection against the assessments and private ruling, at the time when the objection decision was made, at the time when the right of review was exercised in respect of that objection decision and the private ruling there was no specification in the Income Tax Assessment Regulations 1997 (Cth) of any “superannuation benefit” for the purposes of s 307-70(1) of the ITAA97 – whether s 7 of the Acts Interpretation Act 1901 (Cth) and s 12 of the Legislation Act 2003 (Cth) apply so as to require review to be conducted unaffected by the amending regulations

[Hill and Tax Practitioners Board](#) (Taxation) [2020] AATA 678 (26 March 2020); Mr P W Taylor SC, Senior Member

TAX AGENTS – tax agent registration cancellation – Tax Practitioners Board – decision to prevent reapplying for tax agent registration for five years – conduct of personal affairs – whether applicant is a fit and proper person – non-disclosure of compliance defaults and overdue tax obligations – decision under review affirmed

TAX AGENTS – re-application determination – applicant ineligible to re-apply for registration for five year period – maximum ineligibility period – two years appropriate period for re-application determination – decision under review set aside and substituted

Tribunals

[Farrelly and Other](#) [2020] AATA 704 (1 April 2020); W Frost, Member

PRACTICE AND PROCEDURE – dismissal for lack of jurisdiction – decision not reviewable under Fringe Benefits Tax Assessment Act 1986 – decision not reviewable by the Tribunal - application dismissed

[FMSG and Child Support Registrar](#) (Child support second review) [2020] AATA 693 (1 April 2020); Dr P McDermott RFD, Deputy President

PRACTICE AND PROCEDURE – jurisdiction – whether Tribunal has jurisdiction to review matter – child support – percentage of care – the Tribunal found to have jurisdiction to review the AAT1 decision

[Stark and Commissioner of Taxation](#) (Taxation) [2020] AATA 656 (25 March 2020); Senior Member R Olding

PRACTICE AND PROCEDURE – TAXATION – jurisdiction of the Tribunal – no jurisdiction to hear claims against Commissioner of Taxation for compensation or reimbursement of expenses, even if raised in objection or application for review

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, Small Business Taxation, 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
Bourne and Commissioner of Taxation	[2020] AATA 190
Jokic and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 279
Singh and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 237
Walker and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 31

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Chen v Secretary, Department of Social Services	[2019] AATA 560	[2020] FCA 384
RWDX v Minister for Immigration and Border Protection	[2019] AATA 123	[2020] FCA 391
Minister for Home Affairs v Stowers	[2019] AATA 3640	[2020] FCA 407



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