



Administrative
Appeals Tribunal

AAT 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, 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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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, 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.

Citizenship

[Darwishi and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 888 (22 February 2018); Senior Member Britten-Jones

CITIZENSHIP – issue of identity – parentage – date of birth – Tribunal satisfied pursuant to s 24(3) of Australian Citizenship Act 2007 (Cth) – Decision set aside and substituted

[Vasiunina and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 943 (19 April 2018); Senior Member C Puplick AM

CITIZENSHIP – application for citizenship by conferral – refusal of citizenship – whether applicant maintains a close and continuing association with Australia – application of Citizenship Policy – decision set aside and remitted

Compensation

[Atkins and Comcare](#) (Compensation) [2018] AATA 889 (13 April 2018); Miss EA Shanahan, Member

WORKERS' COMPENSATION – verbal abuse and threatened physical violence by co-worker – rejection of mediation – failure to resolve workplace matters in the applicant's favour – development of generalised anxiety disorder – acceptance of liability – role of latter in precipitation of asthma attack leading to cardiac arrest – post arrest epilepsy – Lance Adams syndrome – major depressive disorder – total incapacity for work – permanent impairment partially attributed to generalised anxiety disorder – decisions varied

[Banerji and Comcare](#) (Compensation) [2018] AATA 892 (16 April 2018); Deputy President Gary Humphries and Dr B Hughson, Member

COMPENSATION – adjustment disorder characterised by depression and anxiety – mental injury significantly contributed to by Ms Banerji's employment – whether termination of Ms Banerji's employment for breaches of the APS Code of Conduct was reasonable administrative action taken in a reasonable manner – reviewable decision set aside

[Deo and Comcare](#) (Compensation) [2018] AATA 890 (16 April 2018); Miss EA Shanahan, Member

WORKERS' COMPENSATION – compensable soft tissue injury of the neck, consequent upon a motor vehicle accident 2010 – compensable major depressive disorder arising from workplace harassment – psychological permanent impairment acceptance for 10 per cent – cessation of liability for neck injury – claim for lumbar spinal MRI study – new claim for chronic pain syndrome and somatic symptom disorder denied – all decisions with the exception of the claims for chronic pain syndrome and somatic symptom disorder affirmed – decisions concerning chronic pain syndrome and somatic symptom disorder set aside and remitted to the respondent for reconsideration

Corporations

[Joubert and Members of the Companies Auditors and Liquidators Disciplinary Board](#) [2018] AATA 944 (19 April 2018); Deputy President BW Rayment

CORPORATIONS – liquidators – duties and functions of an administrator and liquidator – whether applicant failed to carry out or perform adequately and properly the duties of a liquidator – whether failure to disclose relevant relationships – “relationship”, meaning of – whether failure to disclose indemnities and payments received – whether failure to investigate causes of company failures – whether failure to have proper or adequate systems in place – whether applicant is a fit and proper person to remain registered as a liquidator – whether failure to perform adequately and properly the duties of a liquidator – whether applicant acted recklessly or dishonestly – failure to disclose relevant relationship amounted to dishonesty – lack of due care and diligence established – applicant not a fit and proper person to remain registered as a liquidator – decision affirmed

Freedom of Information

[FRQK and Secretary, Department of Human Services](#) (Freedom of information) [2018] AATA 940 (18 April 2018); Dr P McDermott RFD, Deputy President

FREEDOM OF INFORMATION – Freedom of Information Act 1982 – request for access to documents from Centrelink – whether documents are exempt under the Act – whether documents contain personal information – whether there would be unreasonable disclosure of personal information – whether documents are exempt under public interest test – reasons for seeking access not relevant – documents are conditionally exempt – release of documents would involve unreasonable disclosure of personal information – disclosure would be contrary to public interest – decision affirmed

Migration

[BFXK and Minister for Immigration and Border Protection](#) (Migration) [2018] AATA 886 (16 April 2018); Senior Member C Puplick AM

VISA CANCELLATION – mandatory cancellation – character test – criminal record – primary and other considerations under Ministerial Direction No. 65 – protection of the Australian community – expectations of the Australian community – best interests of children – non-refoulement obligations – remitted for reconsideration

[Romanov and Minister for Immigration and Border Protection](#) (Migration) [2018] AATA 937 (18 April 2018); Senior Member L Kirk

MIGRATION – mandatory visa cancellation – Class BC Subclass 100 spouse visa – failure to pass character test – substantial criminal record – sentenced to a term of imprisonment of 12 months or more – whether there is another reason why the original decision should be revoked – application of Direction 65 – protection of the Australian community – best interests of minor children – expectations of the Australian community – other considerations – decision affirmed

Practice and Procedure

[Rhodes and Civil Aviation Safety Authority](#) [2018] AATA 775 (9 April 2018); Deputy President BJ McCabe

PRACTICE AND PROCEDURE – automatic stay under section 31A of the Civil Aviation Act 1988 (Cth) – whether stay of decision should remain effective for duration of proceedings – identification of proper purpose for stay – exercise of discretion

Public Service

[VYMF and Director-General of Security](#) [2018] AATA 891 (5 April 2018); Dr P McDermott RFD, Deputy President, Deputy President I Molloy and Senior Member D Morris

NATIONAL SECURITY – adverse security assessment – correctness, justification for any opinion or information contained in assessment – whether evidence, information, material relied on sufficiently probative to justify assessment – decision affirmed.

Social Security

[Andre and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 941 (19 April 2018); Member K. Parker

SOCIAL SECURITY – special benefit, newstart allowance and disability support pension – debt raised to recover overpayments – income from past employers only declared in part – income from income protection payments not declared initially and later adjustments to those payments were not disclosed to agency – whether discretion to write off or waive debt enlivened – special circumstances – debt attributable solely by administrative error by the Commonwealth – delay in raising debt – financial circumstances of applicant – applicant in poor health and has a number of disabilities – decision affirmed

[Kocaburak and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 942 (16 April 2018); Ms A Burke, Member

SOCIAL SECURITY – entitlement to age pension – residence requirement – requirement of 10 years qualifying Australian residence – whether claimant had resided in Australia for a continuous period of not less than 10 years – where Act requires decision-maker to have regard to nature and extent of various factors – decision affirmed

[KPZL and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 938 (17 April 2018); Deputy President J Sosso

SOCIAL SECURITY – disability support pension – whether conditions are fully diagnosed, treated and stabilised – 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
Bosanac and Commissioner of Taxation	[2018] AATA 472

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Australian Prudential Regulation Authority v TMeffect Pty Ltd	[2017] AATA 921	[2018] FCA 508
Jamal v Secretary, Department of Social Services	[2016] AATA 43	[2017] FCA 916 [2018] FCA 513
QSVS v Minister for Home Affairs and Anor	[2017] AATA 2708	[2018] FCA 524

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