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The *AAT Bulletin* is a fortnightly 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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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

[MMZG and Child Support Registrar](#) (Child support second review) [2021] AATA 2619 (30 July 2021); P Ranson, Member

CHILD SUPPORT – care percentage decision – where parents agree as to percentage of care – where objection filed outside 28 day period – whether Tribunal prevented from considering date of effect – whether special circumstances prevented lodging of objection within time – special circumstances shown – decision set aside and substituted

[Bonsor and Child Support Registrar](#) (Child support) [2021] AATA 2428 (16 June 2021); R King, Member

CHILD SUPPORT – percentage of care – whether there was a change to the likely pattern of care – existing percentage of care determinations revoked and new determinations made – decision under review set aside and substituted – date of effect provisions – whether there were special circumstances that prevented the objection being lodged in time – no special circumstances exist

[Eidson and Child Support Registrar](#) (Child support) [2021] AATA 2427 (14 June 2021); J Thomson, Member

CHILD SUPPORT – particulars of the administrative assessment – whether a terminating event happened in relation to the payee – none of the parents had at least 35% care – terminating event happened - decision under review set aside and substituted – date of effect of the tribunal's decision – late application for review - whether there were special circumstances that prevented the application for review being lodged in time – no special circumstances

[Gofton and Colborn](#) (Child support) [2021] AATA 2429 (10 June 2021); A Byers, Member

CHILD SUPPORT – collection method – application for employer withholding to cease – whether application ought to have been accepted – decision under review affirmed

[Scoggins and Raynor](#) (Child support) [2021] AATA 2425 (15 June 2021); T Bututievski, Member

CHILD SUPPORT – departure determination – income, property and financial resources of the liable parent – whether payment for total and permanent disability a financial resource – a ground for departure established – decision to depart – decision under review set aside and substituted

[Voaden and Child Support Registrar](#) (Child support) [2021] AATA 2345 (3 June 2021); D Benk, Senior Member

CHILD SUPPORT – application for extension of time - no satisfactory explanation for the delay - little merit - extension of time refused

Citizenship

[Bille and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2584 (23 July 2021); Senior Member J Rau SC

CITIZENSHIP – application for Australian citizenship – application for citizenship refused – whether Tribunal is satisfied Applicant is of good character – prior conviction – decision under review affirmed

[Hussaini and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2578 (16 July 2021); Senior Member A Nikolic AM CSC

CITIZENSHIP – application for conferral of Australian citizenship – good character – whether Tribunal is satisfied of Applicant's good character – s 21 Australian Citizenship Act 2007 (Cth) – Australian Citizenship Policy Statement – Revised Citizenship Procedural Instructions – Applicant convicted of family violence offences in 2015 – sufficient pattern of good conduct since offending – Tribunal satisfied Applicant is now of good character – decision set aside

[Khodl and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2500 (26 July 2021); Senior Member J C Kelly

CITIZENSHIP – application for Australian citizenship by descent – whether applicant is of good character – theft – possession of child/adolescent pornography – Australian Citizenship [Policy Statement] – Australian Citizenship Procedural Instructions – decision under review affirmed

[KJZM and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2621 (30 July 2021); Senior Member P J Clauson

CITIZENSHIP – Australian Citizenship by Conferral – rejection of Citizenship – criteria – good character – charged with criminal conduct – convicted after application – protection visa resident - of good character – remitted

[MBTZ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2577 (29 July 2021); Senior Member T Tavoularis

CITIZENSHIP – cancellation of approval for Australian citizenship by conferral – character test – whether Tribunal is satisfied applicant was not of good character at time of cancellation – applicant charged with foreign domestic crimes – applicant under investigation for Australian domestic crimes – failure to disclose change in circumstances – decision under review affirmed

[Mir and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 2538 (27 July 2021); Senior Member C Puplick AM

CITIZENSHIP – application for Australian citizenship by conferral – refusal of citizenship – does not have a permanent or enduring physical or mental incapacity – application of Citizenship Procedural Instructions – decision affirmed

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

(Citizenship) [2021] AATA 2700 (4 August 2021); K Parker, Member

CITIZENSHIP – refusal of application for citizenship by conferral – whether Tribunal satisfied as to Applicant’s identity – identity documents contained inconsistent information about Applicant’s year and place of birth and first and middle names – whether adequate explanation for discrepancies – consideration of applicant’s life story – whether official documents obtained by Applicant from Albania were authentic – Tribunal satisfied as to Applicant’s identity – reviewable decision set aside and remitted for reconsideration with direction that no prohibition applies under s 24(3) of the Australian Citizenship Act 2007

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

(Citizenship) [2021] AATA 2630 (14 July 2021); Senior Member A Nikolic AM CSC

CITIZENSHIP – application for conferral of Australian citizenship – Faili Kurd – whether the Tribunal is satisfied of the Applicant’s identity – s 24 Australian Citizenship Act 2007 (Cth) – National Identity Proofing Guidelines – Revised Citizenship Procedural Instructions – three pillars of identity – lack of documents prior to arrival in Australia – inconsistencies in life story – Tribunal not satisfied of Applicant’s identity – decision affirmed

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

(Citizenship) [2021] AATA 2537 (27 July 2021); S Evans, Member

CITIZENSHIP – citizenship by conferral – where the Applicant satisfies subsection 21(5) of the Australian Citizenship Act 2007 (Cth) (“the Act”) – issue to be determined: whether the discretion contained in subsection 24(2) of the should be exercised to refuse the Applicant’s citizenship application – provisions of the Act considered – relevant cases considered – relevant policy considered – Applicant’s background and circumstances considered – decision under review affirmed

Compensation

Gyawali and Comcare (Compensation) [2021] AATA 2582 (29 July 2021); W Frost, Member

WORKERS’ COMPENSATION – whether Applicant suffered from a ‘disease’ or ‘injury’ within the meaning of the Safety, Rehabilitation and Compensation Act 1988 – non-specific neck and shoulder pain (left) or aggravation – left shoulder impingement syndrome – cervical spondylosis – whether Respondent liable to pay compensation in respect of claimed condition – whether Applicant is a witness of credit – decision under review affirmed

Kelly and Comcare (Compensation) [2021] AATA 2575 (29 July 2021); Deputy President J W Constance

WORKERS’ COMPENSATION – liability to pay compensation – whether the Applicant suffered an ailment – reasoning in Comcare v Mooi – whether Applicant suffered a condition outside the boundaries of normal mental functioning and behaviour – Tribunal not satisfied on the balance of probabilities that the Applicant suffered an ailment – decision affirmed

[Zoumaras and Comcare](#) (Compensation) [2021] AATA 2668 (30 July 2021); Senior Member B J Illingworth

COMPENSATION – applicant suffers adjustment disorder - whether applicant satisfies s 5A(1)(a) or (b) of the Safety, Rehabilitation and Compensation Act 1988 – whether the applicant’s condition is excluded from being an “injury” due to operation of reasonable administrative action exclusionary provision – reasonable administrative action taken – action undertaken in a reasonable manner – decision under review affirmed

Freedom of Information

[Patrick and Secretary, Department of Prime Minister and Cabinet](#) (Freedom of Information) AATA 2719 (5 August 2021); The Honourable Justice White

FREEDOM OF INFORMATION – review of the refusals by the Department of Prime Minister and Cabinet to give access to documents to minutes of the National Cabinet – whether documents are exempt documents pursuant to s 34(1) of the Freedom of Information Act 1982 (Cth) (the FOI Act) – consideration of the meaning of “committee of the Cabinet” – whether National Cabinet is a committee of the Cabinet – whether documents are conditionally exempt documents pursuant to s 47B of the FOI Act because their disclosure would or could reasonably be expected to cause damage to relations between the Commonwealth and a State – decisions set aside – order for access made

[Gothe-Snape; Chief Executive Officer, Services Australia and](#) [2021] AATA 2710 (4 August 2021); Deputy President S Boyle

FREEDOM OF INFORMATION – review of a decision of the Australian Information Commissioner – Cabinet confidentiality – whether exemption under s 34 of the FOI Act applies – request for material regarding the implementation of Taskforce Integrity – conditional exemption under s 47C of the FOI Act – document was brought into existence for the dominant purpose of briefing a Minister on a document to be submitted to Cabinet – document exempt under s 34(1)(c) – information in the document is not purely factual material – exception to the exemption under s 34(6) does not apply – reviewable decision varied

[Knight and Commonwealth Ombudsman](#) (Freedom of information) [2021] AATA 2504 (26 July 2021); Deputy President P Britten-Jones

FREEDOM OF INFORMATION – review of decisions of Australian Information Commissioner that parts of documents are exempt – documents conditionally exempt under section 47F and section 47E(d) of the Freedom of Information Act 1982 – access would involve unreasonable disclosure of personal information – No obligation under section 27A to consult with persons concerned when access denied – public interest met by current extent of disclosure – decisions under review affirmed

Migration

[Corbett and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2021] AATA 2501 (5 July 2021); Senior Member L Kirk

MIGRATION – mandatory cancellation – failure to pass the character test – Direction 90 – primary considerations – protection of Australian community – best interests of minor children – expectations of Australian community – other considerations – impediments if removed from Australia – links to Australian community – decision set aside and substituted

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

(Migration) [2021] AATA 2502 (26 July 2021); Senior Member T Tavoularis

MIGRATION – mandatory cancellation of the Applicant's Subclass 101 Child (Permanent) visa – Migration Act 1958 (Cth) s 501(3A) – Applicant fails to pass the character test – substantial criminal record – sentenced to a term of imprisonment for 12 months or more – whether there is another reason why the cancellation should be revoked – s 501CA – application of Direction No. 90 – decision under review affirmed

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

(Migration) [2021] AATA 2729 (6 August 2021); Senior Member L Kirk

MIGRATION – mandatory cancellation – failure to pass the character test – Direction 90 – primary considerations – protection of Australian community – best interests of minor children – expectations of Australian community – other considerations – impediments if removed from Australia – impact on victims – links to Australian community – decision affirmed

1919235 (Migration) [2021] AATA 2550 (29 June 2021); A Murphy, Member

MIGRATION – cancellation – Return (Residence) (Class BB) visa – Subclass 155 (Five Year Resident Return) – incorrect answers in protection visa application – country of citizenship and fear of harm – stateless Kuwaiti Bidoon fearing harm in Iraq – marriage certificate stating Iraqi birthplace and children's nationality by descent – two voluntary returns with no harm – discretion to cancel visa – credible evidence of residence in and expulsion from Kuwait – marriage certificate not genuine – granted Iraqi citizenship sometime after arriving there and initially provided identity card to department – later applications made on his behalf confused status in and claims against Kuwait and Iraq – claim against Iraq based on ethnicity, religion and imputed political opinion – travel for seriously ill daughter and after attack on father – wife and children now refugees in third country with partner visa application in progress – applicant's physical and mental health, destitution and homelessness – country information – general security and status as vulnerable returnee from Western country – non-refoulement – decision under review set aside

Baradi (Migration) [2021] AATA 2574 (27 May 2021); M Sripathy, Member

MIGRATION – Partner (Provisional) (Class UF) visa – Subclass 309 (Partner (Provisional)) – genuine spousal relationship – credible witnesses – previous marriage – identity theft – financial aspects – household arrangements – six-months pregnant – social aspects – commitment to each other – plans for the future – delegate's decision at primary stage – priority processing of application on remittal recommended – decision under review remitted

Ghasemipoor (Migration) [2021] AATA 2495 (24 June 2021); S Hoffman, Member

MIGRATION – Business Skills (Residence) (Class DF) visa – Subclass 892 (State/Territory Sponsored Business Owner) – business and personal assets – assets in main business – value of net assets in the business – goodwill – Australian Accounting Standards Board (AASB) Standard 138 – internally generated goodwill – decision under review affirmed

[Prajapati](#) (Migration) [2021] AATA 2543 (9 July 2021); M East, Member

MIGRATION – Skilled (Provisional) (Class VC) visa – Subclass 485 (Temporary Graduate) – graduate work stream – no application for skills assessment before visa application made – nomination for one stream – no prohibition against being considered in either stream or changing stream after application – wording and process confusing – application substantially compliant – assessed against post-study work stream – decision made on papers – decision under review remitted

[Wong](#) (Migration) [2021] AATA 2419 (25 June 2021); K Malyon, Member

MIGRATION – Temporary Business Entry (Class UC) visa – Subclass 457 (Temporary Work (Skilled)) – skills, qualifications and employment background to perform the nominated occupation – occupation of Stonemason – Stonemason apprenticeship – occupational qualifications and licence – verifying relevant work experience – union membership – decision under review remitted

National Disability Insurance Scheme

[Devine and National Disability Insurance Agency](#) [2021] AATA 2549 (16 July 2021); I Thompson, Member

NATIONAL DISABILITY INSURANCE SCHEME – access to the scheme – disability requirements – early intervention requirements – consideration of medical history – decision affirmed

[JJGZ and National Disability Insurance Agency](#) [2021] AATA 2702 (5 August 2021); Dr L Bygrave, Member

NATIONAL DISABILITY INSURANCE SCHEME – reasonable and necessary supports – where applicant diagnosed with Zlotogora-Ogur Syndrome – natural therapies – naturopathy – natural supplements – whether requested supports are reasonable and necessary pursuant to subsection 34(1) of the National Disability Insurance Scheme Act 2013 (Cth) – whether supports represent value for money – whether supports relate to disability – no disadvantage principle – decision under review affirmed

[Yang and National Disability Insurance Agency](#) [2021] AATA 2666 (4 August 2021); I Thompson, Member

NATIONAL DISABILITY INSURANCE SCHEME – access to the scheme – disability requirements – early intervention requirements – consideration of medical history – decision affirmed

Practice and Procedure

[CRWR and National Disability Insurance Agency](#) [2021] AATA 2514 (26 July 2021); The Hon. J Pascoe AC CVO, Deputy President

PRACTICE AND PROCEDURE – National disability insurance scheme – Dismissal application – Jurisdiction – s 42A(4) of the Administrative Appeals Tribunal Act 1975 – Where parties reached agreement in respect of reasonable and necessary supports – Where Applicant requested travel costs to enable reasonable and necessary supports to be provided to the Applicant in his home – Where travel costs were not subject to an internal review decision – Whether Tribunal has jurisdiction to review the request for travel costs – No jurisdiction found – Application dismissed

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

(Citizenship) [2021] AATA 2631 (26 July 2021); Dr L Bygrave, Member

EXTENSION OF TIME – citizenship – principles to be applied – reasons for delay – prejudice to the respondent and general public if extension granted – merits of substantive application – whether applicant meets general eligibility requirements – whether application for extension of time is reasonable in all the circumstances – extension of time refused

Girle and Secretary, Department of Social Services (Social services second review) [2021] AATA

2579 (29 July 2021); D Mitchell, Member

PRACTICE AND PROCEDURE – whether the Applicant has failed to comply with directions and reasonably progress the applications – application dismissed

Hoyt and National Disability Insurance Agency [2021] AATA 2580 (26 July 2021); Dr L Bygrave,

Member

NATIONAL DISABILITY INSURANCE SCHEME – jurisdiction – whether internal review conducted pursuant to subsection 100(6) of the National Disability Insurance Scheme Act 2013 (Cth) – Tribunal does not have jurisdiction – application dismissed

Pearson and National Disability Insurance Agency [2021] AATA 2730 (6 August 2021); K Buxton,

Member

PRACTICE AND PROCEDURE – National Disability Insurance Scheme Act 2013 (Cth) – application for review of decision to approve statement of supports in participant plan – interlocutory application for direction that Applicant participate in an assessment with a psychiatrist and an occupational therapy – whether Tribunal has power to compel Applicant to participate in further assessments under section 33 of the Administrative Appeals Tribunal Act 1975 (Cth) – direction for occupational therapy assessment made – direction for psychiatric assessment not made

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

(Citizenship) [2021] AATA 2721 (5 August 2021); The Hon. D Cowdroy AO QC, Deputy President

CITIZENSHIP – application for citizenship – application to dismiss application for review – no reasonable prospect of success – where applicant subject to Conditional Release Order – Minister prohibited from approving application for citizenship – application dismissed

Steley and National Disability Insurance Agency [2021] AATA 2539 (27 July 2021); K Buxton,

Member

PRACTICE AND PROCEDURE – NATIONAL DISABILITY INSURANCE SCHEME – where Applicant applied to Tribunal to review a decision to approve the statement of participant supports in the Applicant's plan – where additional supports not considered within internal review decision – jurisdiction of the Tribunal – Tribunal has jurisdiction to consider matters that were before the primary decision-maker

Refugee

[1610543](#) (Refugee) [2021] AATA 2351 (11 May 2021); Deputy President J L Redfern PSM

REFUGEE - Protection (Class XA)(Subclass 866) visa – Pakistan – claims based on Shi'a religion and Pashtun Turi ethnicity – membership of a particular social group – family association with Jirga elders – fear of harm from Sunni extremists and Tehreek-e-Taliban Pakistan – whether the applicant faces a real chance of persecution in all areas of Pakistan – assessment at time of decision but having regard to the reasonably foreseeable future – decision under review remitted with direction.

[1700141](#) (Refugee) [2021] AATA 2671 (30 June 2021); D Barker, Member

REFUGEE – protection visa – China – not appropriately notified of protection visa refusal 16 years ago – Falun Gong – Tiananmen protests – criminal offence in Australia – mental health – credibility – decision under review affirmed

[1811082](#) (Refugee) [2021] AATA 2667 (12 May 2021); P Haag, Member

REFUGEE – protection visa – Ethiopia – political opinion – anti-government protestor – member of Ginbot 7 – race – Oromo – particular social group – single mother of Amhara or Oromo or mixed ethnicity – arrested, interrogated and imprisoned – victim of domestic violence – threats of violence by former husband – prevalence of domestic violence – decision under review remitted

[1904679](#) (Refugee) [2021] AATA 2670 (21 June 2021); K Raif, Senior Member

REFUGEE – protection visa – cancellation – Iran – incorrect information – stateless Faili Kurd claims – Iranian citizenship via marriage – applicant forced to provide false information by ex-husband – ex-husband's desire to live in Australia – claims of domestic violence – credibility issues – decision under review affirmed

[1917114](#) (Refugee) [2021] AATA 2669 (31 May 2021); Dr N Manetta, Senior Member

REFUGEE – cancellation – protection visa – Albania – incorrect information in application – undisclosed return visits to Albania – undisclosed offences in third country – applicant visited son – failure to confirm evidence of offences in third country – lack of cogent and compelling evidence – decision under review set aside

[2005388](#) (Refugee) [2021] AATA 2712 (1 July 2021); K Millar, Senior Member

REFUGEE – protection visa – Iran – cancellation – incorrect information – Federal Circuit Court remittal – false identity – initial arrival on tourist visa – Muslim converted to Christianity – mental health issues – incorrect information of identity and method of arrival does not invalidate main claim – decision under review set aside

Social Services

[Ahmad and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2547 (28 July 2021); D Mitchell, Member

SOCIAL SECURITY – disability support pension – DSP – whether medical conditions fully diagnosed, fully treated and fully stabilised – whether 20 points or more under the impairment tables during the relevant period – decision under review affirmed

[Hanli and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2629 (26 July 2021); Dr L Bygrave, Member

SOCIAL SECURITY – carer allowance – private home not shared – whether care receiver assessed and rated under Adult Disability Assessment Tool and given a score of at least 30 – whether professional questionnaire score is at least 12 – requirements not met – decision affirmed

[Hof and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2672 (30 July 2021); Senior Member B J Illingworth

FAMILY ASSISTANCE – court orders – shared care – percentage of care – actual care – family tax benefit child – other party's evidence preferred – decision under review affirmed

[Lowe and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2548 (14 July 2021); M Kennedy, Member

SOCIAL SECURITY – disability support pension – whether medical conditions diagnosed, treated and stabilised during the qualification period – whether an impairment rating of 20 points or more existed under the Impairment Tables – 15 points assigned – decision under review affirmed

[Morcombe and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2626 (2 August 2021); M East, Member

SOCIAL SECURITY – parenting payment (partnered) (PPP) – whether the Applicant was overpaid PPP – decision to raise and recover PPP debt – whether a debt to the Commonwealth – whether the debt should be recovered in full – whether recovery of all or part of the debt should be waived or written off – whether debt attributable to sole administrative error of the Commonwealth – whether there are special circumstances that make it desirable to waive the debt – obligation to declare changes in circumstances – failure to disclose partner's income – Reviewable Decision affirmed

[Morrison and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2499 (23 July 2021); Emeritus Professor PA Fairall, Senior Member

SOCIAL SECURITY – disability support pension – Table 5 – mental health function – severe impairment required – whether supported by evidence – decision set aside

[Ozkose and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 2620 (30 July 2021); Senior Member C Puplick AM

SOCIAL SECURITY – entitlement to disability support pension – whether conditions fully treated and stabilised during the qualification period – whether impairment was of 20 points or more under s 94(1)(b) – decision affirmed

Taxation

[Cessnock Holden Central Pty Ltd and Commissioner of Taxation](#) (Taxation) [2021] AATA 2576 (29 July 2021); Senior Member R Olding

TAXATION – JOBKEEPER PAYMENTS – where applicant incorporated on 16 June 2020 – where applicant cannot satisfy requirement of carrying on a business on 1 March 2020 – decision affirmed

[Hartley and Commissioner of Taxation](#) (Taxation) [2021] AATA 2622 (2 August 2021); Mr R Reitano, Member

TAXATION – monies paid and declared as salary over seven tax years – remote area housing benefits claim under s 58ZC – expense payment benefits claim under s 60 – where employment agreement contained no obligation to make claimed payments – decision under review affirmed

[S & L Consulting Pty Ltd and Commissioner of Taxation](#) (Taxation) [2021] AATA 2714 (5 August 2021); Senior Member R J Olding

TAXATION – CASH FLOW BOOST – where eligibility for cash flow boost depends on whether claimant required to withhold Pay-As-You-Go (PAYG) amounts from payments to contractor – where obligation to withhold arises only if claimant and contractor entered into voluntary withholding agreement in approved form – where claimant did not withhold PAYG from payments to contractor – whether claimant obliged to withhold – whether agreement to withhold nil PAYG amount is a valid agreement – whether agreement to withhold at rate not contemplated by the legislation is a valid agreement - held agreement not in approved form – decision affirmed

[Stark and Commissioner of Taxation](#) (Taxation) [2021] AATA 2583 (29 July 2021); Senior Member R J Olding

TAXATION – whether payment received in settlement of a claim for deceptive conduct and wrongful dismissal is an Employment Termination Payment – whether payment in consequence of termination of employment – whether payment because of genuine redundancy – whether payment for personal injury – held payment is an Employment Termination Payment – decision under review set aside

Veterans' Affairs

[Holborn and Repatriation Commission](#) (Veterans' entitlements) [2021] AATA 2581 (29 July 2021); Deputy President J Sosso

VETERANS' AFFAIRS – Disability pension claim – Malignant neoplasm of the lung – Ischaemic heart disease – Chronic obstructive pulmonary disease – Hypertension – Depressive disorder – causal connection to conditions of service – relevant Statement of Principles not met – service provided only the setting in which smoking habit continued – decision 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, 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
Ford and Comcare	[2021] AATA 2170
Law and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2021] AATA 1994
Ross and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2021] AATA 1773
Smith and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2021] AATA 1853

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
DOM19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2018] AATA 4603	[2021] FCA 862
Frugtniet v Secretary, Department of Social Services and Anor	[2019] AATA 547	[2019] FCA 1617 [2021] FCAFC 127
Leach v Comcare	[2018] AATA 1632	[2021] FCAFC 134 [2019] FCA 1698
Makarov v Minister for Home Affairs	[2019] AATA 5161	[2021] FCAFC 129 [2020] FCA 1655
Pearson v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 3527	[2021] FCA 825
PKZM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 5190	[2021] FCA 845
QHRY v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2021] AATA 288	[2021] FCA 827

YKSB v Minister for Home Affairs & Anor

[\[2019\] AATA 759](#)

[\[2021\] HCASL 76](#)

[\[2020\] FCAFC 224](#)

[\[2020\] FCA 476](#)



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