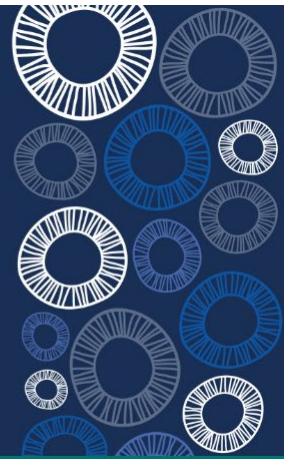




Administrative
Appeals Tribunal

AAT Bulletin



AAT Bulletin

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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 online. 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, 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

[Danabie and Smailie](#) (Child support) [2024] AATA 2310 (9 May 2024); J Bakas, Member

CHILD SUPPORT – departure determination – particulars of the administrative assessment – special circumstances – conditions to not apply adjusted taxable incomes – unjust and inequitable determination – changing the incomes to lower amounts – decisions under review set aside and substituted

[Lyon and Morden](#) (Child support) [2024] AATA 1883 (10 May 2024); A Ryding, Member

CHILD SUPPORT – percentage of care – provision of ongoing daily care – acceptance of application for a child support assessment – commencement date for child support liability – decision under review set aside

[Montgomery and Holt](#) (Child support) [2024] AATA 1884 (25 April 2024); S Letch, Member

CHILD SUPPORT – departure determination – ground for departure – income, property and financial resources – earning capacity – benefits derived from business – application for review set aside and substituted

[Vann and Moat](#) (Child support) [2024] AATA 2027 (2 May 2024); S De Bono, Senior Member

CHILD SUPPORT – change of assessment – percentage of care – there is no change to the assessment – decision under review affirmed

[Welaman and Welaman](#) (Child support) [2024] AATA 2279 (1 May 2024); S Hoffman, Member

CHILD SUPPORT – particulars of the administrative assessment – estimate of income – reconciliation provisions – deferred income from imputation credit – refusal of estimate – decision under review affirmed

[XLRT and Child Support Registrar](#) (Child support second review) [2024] AATA 2856 (7 August 2024); A Poljak, Senior Member

CHILD SUPPORT – Percentage of care – Care period – What were the parents' percentages of care for the children during an appropriate period – Available evidence considered – Decision under review affirmed

Compensation

[Nguyen and Australian Postal Corporation](#) (Compensation) [2024] AATA 2982 (15 August 2024); A Poljak, Senior Member

WORKERS COMPENSATION – Parcel Post Officer – Australia Post – seeking compensation for bilateral epicondylitis – Whether claimed condition is an ‘ailment’ – Whether ‘ailment’ contributed by employment – whether ‘disease’ – Whether suffered an ‘injury’ – Whether Respondent liable to pay compensation pursuant to section 14 of the SRC Act – Denial of liability – Decision affirmed

[Pierson and Military Rehabilitation and Compensation Commission](#) (Compensation) [2024] AATA 2851 (12 August 2024); A George, Senior Member and Lieutenant Colonel R Ormston

VETERANS – death of veteran – complications of sudden ascent during scuba diving – whether a service death – shore leave – interval in course of employment – whether veteran ‘induced or encouraged’ to engage in activity – level of generality of inducement or encouragement – degree of discretion or choice – decision set aside and remitted with direction

Education and Research

[Williams and Secretary, Department of Education](#) [2024] AATA 2920 (15 August 2024); D J Morris, Senior Member

EDUCATION AND RESEARCH – higher education assistance – where applicant in receipt of HECS-HELP assistance – where applicant failed certain academic units – where applicant sought re-credit of HECS-HELP balance on grounds that special circumstances applied – where university declined to re-credit HECS-HELP balance – review by Tribunal – consideration of special circumstances – decision under review is affirmed

Freedom of Information

[Australian Conservation Foundation Incorporated and Secretary, Department of Climate Change, Energy, the Environment and Water](#) (Freedom of information) [2024] AATA 2824 (7 August 2024); A Maryniak KC, Member

FREEDOM OF INFORMATION – request for access to documents relating to the Toondah Harbour Project – where documents created during the statutory consultation process under the Environmental Protection and Biodiversity Conservation Act 1999 (Cth) – Freedom of Information Act 1982 (Cth) s 47(1)(b) exemption – s 47G conditional exemption – exemptions not established – decision set aside and substituted

[Hanel and Comcare](#) (Freedom of information) [2024] AATA 2954 (20 August 2024); B J Illingworth, Senior Member

Implied Undertaking of Confidentiality – Harman Undertaking – Freedom of information – Application for release of documents – release of documents for other purposes – grounds for release of proceeding documents – poor merits for release

Migration

[2207993](#) (Migration) [2023] AATA 4864 (18 July 2023); M Sripathy, Senior Member

MIGRATION – cancellation – Return (Residence) (Class BB) visa – subclass 155 (Five Year Resident Return) – not satisfied as to the visa holder’s identity – incorrect and inconsistent information about identity, date of birth and family composition – Faili Kurd ethnicity – psychological and mental health – consistent documentation and corroborating evidence provided – decision under review set aside

[2314893](#), [2314885](#), [2314890](#) (Migration) [2024] AATA 1896 (8 May 2024); L Holub, Member

MIGRATION – Visitor (Class FA) visa – Subclass 600 (Visitor) – Sponsored Family stream – genuine temporary entrant – trigger for the requirements of section 359AA – incentives to remain in Australia – strong family connection in Australia – decision under review affirmed

[Berryman and Minister for Immigration, Citizenship, and Multicultural Affairs](#) (Migration) [2024] AATA 2952 (21 August 2024); L M Gallagher, Member

MIGRATION – decision of delegate of Minister to cancel visa – character test – Direction no. 110 – primary and other considerations – protection of Australian community – nature and seriousness of criminal offending – risk to the Australian community should the Applicant commit further offences or engage in other serious conduct – strength, nature and duration of ties to Australia – best interests of children – expectations of the Australian community – extent of impediments if removed – Applicant is a 74 year old citizen of New Zealand – extent of impediments if returned to New Zealand – decision to cancel visa is affirmed

[Donevski and Minister for Immigration, Citizenship, and Multicultural Affairs](#) (Migration) [2024] AATA 2945 (5 August 2024); S Burford, Deputy President

MIGRATION – decision of delegate of Minister not to revoke mandatory cancellation of visa – character test – Direction no. 110 – primary and other considerations – protection of Australian community – nature and seriousness of criminal offending – risk to the Australian community should the Applicant commit further offences or engage in other serious conduct – strength, nature and duration of ties to Australia – best interests of children – expectations of the Australian community – extent of impediments if removed – Applicant is a 53 year old citizen of North Macedonia – extent of impediments if returned to North Macedonia – Non-Revocation Decision is affirmed

[Mohammadi](#) (Migration) [2024] AATA 1934 (14 June 2024); M Sheargold, Member

MIGRATION – cancellation – Skilled (Provisional) (Class VC) visa – Subclass 485 (Temporary Graduate) – member of the family unit – parties divorced in Australia – applicant completed Nursing studies – demand for dowry in Iran – skilled employment – decision under review set aside

[Mukhtar and Minister for Immigration, Citizenship and Multicultural Affairs](#) (Migration) [2024] AATA 2886 (8 August 2024); W Frost, Member

MIGRATION – cancellation of Applicant’s Child (Class AH) subclass 101 visa – mandatory cancellation of visa under s501(3A) Migration Act – whether Applicant passes the character test – substantial criminal record – consideration of Ministerial Direction 110 – whether ‘another reason’ why decision should be revoked under s501CA(4) – decision under review affirmed

[Multivac Australia Pty Ltd](#) (Migration) [2024] AATA 1933 (4 June 2024); Alison Mercer, Senior Member

MIGRATION – sponsorship cancellation or bar – sponsorship obligations – transferring sponsorship or recruitment costs to another person – directing sponsored workers to repay Skilling Australians Fund levy – perceived entitlement to recover fees when a sponsored employee resigns – levy costs not recovered – taking action that would result in transfer of costs – vulnerability of sponsored workers – decision under review set aside

[Shaheen](#) (Migration) [2024] AATA 1936 (7 June 2024); S Baker, Member

MIGRATION – Visitor (Class FA) visa – Subclass 600 (Visitor) – tourist stream – visiting sister and nephew – genuine temporary entrant and compliance with conditions – no previous travel – ties to home country – changed circumstance from time of visa application – wife will remain in home country with recently-separated adult child – farm business, employees and residential properties require ongoing involvement – decision under review remitted

[Trevail](#) (Migration) [2024] AATA 1931 (7 June 2024); N Goetz, Member

MIGRATION – Visitor (Class FA) visa – sponsored family stream – specified relative – sponsorship form declared sponsor not related to applicant – long-term partner, with dual-citizen children who have lived in both countries – form gives biological relationships as examples – statements and documentation – sponsor’s regular travel until COVID restrictions, and applicant’s care for elderly mother – decision made without hearing necessary – decision under review remitted

[Yun Li and Minister for Immigration, Citizenship and Multicultural Affairs](#) (Migration) [2024] AATA 2953 (21 August 2024); J Cipolla, Senior Member

MIGRATION – Business Talent (Permanent) (Class EA) (subclass 132) visa – visa cancellations – whether genuine effort made to obtain substantial ownership interest in an eligible business in Australia – whether genuine effort to utilise skills in actively participating at a senior level in the day-to-day management of that business – whether there is an intention to continue to make such efforts – whether cancellation would result in extreme hardship – decisions affirmed

[ZXPT and Minister for Immigration, Citizenship and Multicultural Affairs](#) (Migration) [2024] AATA 2923 (19 August 2024); A Younes, Deputy President

MIGRATION – mandatory visa cancellation – failure to pass the character test – Ministerial Direction No. 110 – nature and seriousness of offending conduct – protection of the Australian community – conduct engaged in family violence – strength nature and duration of ties to Australia – best interests of minor children – expectations of the Australian community – impediments to removal – decision affirmed

National Disability Insurance Scheme

[BMMG and National Disability Insurance Agency](#) [2024] AATA 2985 (29 July 2024); K Buxton, Senior Member

NATIONAL DISABILITY INSURANCE SCHEME – Access Criteria – Permanence – Disability requirement in section 24 of the Act not satisfied – Early intervention requirements in section 25 of the Act not satisfied – Applicant not having met the disability and early intervention requirements of the Act – Decision under review affirmed

[Bonnici and National Disability Insurance Agency](#) [2024] AATA 2916 (16 August 2024); P French, Member

NATIONAL DISABILITY INSURANCE SCHEME – National Disability Insurance Agency – reviewable decision of Chief Executive Officer – preparing participants’ plans – approval of statement of participant supports – reasonable and necessary supports – whether requested support will assist the participant to pursue the goals, objectives and aspiration including the statement of participant goals and aspirations – whether the support will assist the participant to undertake activities so as to facilitate the participant’s social and economic participation – whether requested support represents value for money – whether requested support will be, or is likely to be, effective and beneficial – where the requested supports would harm the participant – reviewable decision affirmed

[Carter and National Disability Insurance Agency](#) [2024] AATA 2955 (21 August 2024); J Collins, Senior Member

NATIONAL DISABILITY INSURANCE SCHEME – access criteria – s24 NDIS Act – s25 NDIS Act – whether applicant meets disability requirements – whether applicant meets the early intervention requirements – whether impairments substantially reduce functional capacity

[Clarke and National Disability Insurance Agency](#) [2024] AATA 2860 (14 August 2024); D Connolly, Senior Member

NATIONAL DISABILITY INSURANCE SCHEME – access criteria – osteoarthritis – anxiety – whether a longstanding condition is a permanent impairment – post traumatic stress disorder (PTSD) – decision affirmed

[Colefax and National Disability Insurance Agency](#) [2024] AATA 2854 (9 August 2024); P Hunter, Member

NATIONAL DISABILITY INSURANCE SCHEME – access request – Functional Neurological Disorder – Somatic Symptom Disorder – chronic pain – whether there is substantially reduced capacity – assistive technology – access granted – decision set aside and substituted

[Oczesaschek and National Disability Insurance Agency](#) [2024] AATA 2889 (12 August 2024); K Buxton, Senior Member

NATIONAL DISABILITY INSURANCE SCHEME – reasonable and necessary supports – where the Applicant is an accepted participant of the National Disability Insurance Scheme – funding for medium-term accommodation – individualised living option (ILO) – decision under review set aside

[Petterson and National Disability Insurance Agency](#) [2024] AATA 2922 (12 August 2024); The Honourable P Goward AO, Senior Member

National Disability Insurance Scheme – access criteria – Chronic Fatigue Syndrome – osteoporosis – permanence of impairments – substantially reduced capacity – decision affirmed

[RKKR and National Disability Insurance Agency](#) [2024] AATA 2913 (15 August 2024); A Younes, Deputy President

National Disability Insurance Scheme – reasonable and necessary supports – value for money – Restrictive Practice – Environmental restrictive practice – childproofing – freedom of movement – behavioural support plan – decision under review affirmed

[SDCY and National Disability Insurance Agency](#) [2024] AATA 2858 (8 July 2024); D O'Donovan, Deputy President

NATIONAL DISABILITY INSURANCE SCHEME – statement of participant supports – whether identified supports should be included in statement of participant supports – decision under review varied

[TRCH and National Disability Insurance Agency](#) [2024] AATA 2918 (15 August 2024); T Bubutievski, Member

NATIONAL DISABILITY INSURANCE SCHEME – review of decision relating to approval of Applicant's statement of participant supports (SOPS) under his NDIS plan – child participant has autism (level 3), severe intellectual disability, sensory processing disorder and attention deficit hyperactivity disorder – request for additional funding for allied health interventions, support worker assistance, feeding program and travel – whether “reasonable and necessary supports” criteria under s 34(1) of the National Disability Insurance Scheme Act 2013 (Cth) (NDIS Act) are met – Tribunal satisfied that some requested supports meet those criteria and should be included in Applicant's SOPS – payment of outstanding invoices – Decision Under Review set aside and remitted with direction to facilitate the approval of a new SOPS for the Applicant

Passports

[Willats and Minister for Foreign Affairs](#) [2024] AATA 2983 (19 August 2024); A McLean-Williams, Member

PASSPORTS – Australian Passports Act 2005 (Cth) – Department of Foreign Affairs and Trade – Australian Passports Office – Australian Travel document – Australian passport – refusal to issue Australian passport to a child – parental responsibility – non-lodging parent – non-contact between non-lodging parent and child – substantial period – special circumstances – decision under review set aside and substituted

Practice and Procedure

[Campion and Comcare](#) (Compensation) [2024] AATA 2850 (9 August 2024); P Ranson, Member

COMPENSATION – extension of time – length of delay in applying for review – awareness of appeal rights – inadequate explanation for delay – the merits of the substantive application must be considered – whether there is prejudice to the respondent – public interest considerations – extension of time refused

[Drain and National Disability Insurance Agency](#) [2024] AATA 2887 (14 August 2024); N Purcell, Member

PRACTICE AND PROCEDURE – deemed decision – extension of time – jurisdiction

[Hoefl and Secretary, Department of Social Services](#) (Social services second review) [2024] AATA 2917 (19 August 2024); L Benjamin, Member

PRACTICES AND PROCEDURES – where Applicant lodged review application regarding refusal of Age Pension by Social Services and Child Support Division – where Applicant has had several previous applications before Tribunal regarding same substantive issue – whether present application abuse of process – where Applicant has failed to proffer cogent submissions on why present application materially different – application dismissed

[Isherwood and National Disability Insurance Agency](#) [2024] AATA 2956 (20 August 2024); B J Illingworth, Senior Member and G Hallwood, Member

PRACTICE AND PROCEDURE – Remittal by Federal Court of Australia on ground of failure to afford natural justice – Tribunal made adverse finding as to the credibility of a witness – request that the Federal Court remit the hearing to differently constituted Tribunal declined because the evidence forming the basis of that credibility finding would not be revisited – the witness the subject of the adverse finding now relied on including further evidence – witnesses credibility will be revisited – whether apprehended bias is enlivened – application granted

[Little and Victorian Bar Inc](#) [2024] AATA 2852 (2 August 2024); P Britten-Jones, Deputy President and G Pearson, Chairperson of the New Zealand Trans-Tasman Occupations Tribunal

Trans-Tasman Mutual Recognition Act 1997 (Cth) (TTMRA) – application by the respondent for costs pursuant to s 34 of the TTRMA applicant – application refused

[Mills and National Disability Insurance Agency](#) [2024] AATA 2914 (15 August 2024); T Bubutievski, Member

Jurisdiction – previous original decision – deemed internal review decision – requested support not considered and not capable of being considered at the time of the original decision – change to the nature of the decision before the original decision-maker – limited jurisdiction – subsequent original decision made under subsection 47A(4)(b) – reviewable decision – internal review conducted – Tribunal has jurisdiction

[RRSJ and National Disability Insurance Agency](#) [2024] AATA 2944 (16 August 2024); D Connolly, Senior Member

PRACTICE AND PROCEDURE – NATIONAL DISABILITY INSURANCE SCHEME – request for an internal review decision withdrawn in error – no reassessment of the plan – original decision deemed to be affirmed – the Tribunal has jurisdiction – in the circumstances an extension of time to apply for review is granted

[Thompson and Secretary, Department of Home Affairs](#) [2024] AATA 2853 (9 August 2024); A George, Senior Member

PRACTICE AND PROCEDURE – application for reinstatement – matter dismissed for non-appearance of applicant – whether appropriate to reinstate matter – merits poor – application for reinstatement refused

[United Global Capital Pty Ltd and Australian Securities & Investments Commission](#) [2024]

AATA 2864 (26 July 2024); D O'Donovan, Deputy President

PRACTICE AND PROCEDURE – Stay application – interim orders made to restrain ASIC from publishing information about banning order and Australian Financial Services Licence cancellation – orders made under section 41 – application for revocation of orders – whether statutory threshold for grant of orders still met in light of subsequent appointment of administrator – whether continued interference with ASIC's statutory objectives appropriate – order revoked

[VMWY and Child Support Registrar](#) (Child support second review) [2024] AATA 2855 (2 July 2024); Emeritus Professor P A Fairall, Senior Member

PRACTICE AND PROCEDURE – Extension of time to review decision of Child Support Registrar – Extent of delay – Whether reasonable explanation for delay – Merits of application for review – Whether prejudice to other parties – Decision under review affirmed

[Wilson and Optus Administration Pty Limited](#) (Compensation) [2024] AATA 2919 (15 August 2024); D J Morris, Senior Member

PRACTICE AND PROCEDURE – application lodged for review of determination relating to accepted compensation claim – history of application – respondent sought dismissal on basis applicant had failed within a reasonable time to proceed with his application – in the alternative respondent sought dismissal on basis the application has no reasonable prospect of success – consideration of the principles – applicant has received state compensation for an injury – applicant seeks to use that injury as basis for this claim – no evidence of new 'injury' – law precludes compensation in such a case – tribunal dismisses application as having no reasonable prospect of success

[Ziolkowski and Commissioner of Taxation](#) (Taxation) [2024] AATA 2857 (13 August 2024); R Olding, Senior Member

PRACTICE AND PROCEDURE – where applicant repeatedly failed to comply with the Tribunal's directions – application for review dismissed

Professions and Trades

[Amana Community Services and Aged Care Quality and Safety Commissioner](#) [2024] AATA 2984 (14 August 2024); A Poljak, Senior Member

HEALTH AND AGED CARE – refusal of application for approval as an approved provider of aged care – whether the applicant has experience in providing aged care or other relevant forms of care – whether the Applicant demonstrated understanding of its responsibilities as a provider of home care – whether the Applicant has systems in place to meet its responsibilities as a provider of home care – whether the Applicant has sound financial management – consideration of conduct as, and compliance with responsibilities of being, a NDIS provider – decision under review set aside and substituted

Refugee

[1726185](#) (Refugee) [2024] AATA 2126 (22 February 2024); D Smyth, Member

REFUGEE – protection visa – Malaysia – particular social group – lesbian of Chinese ethnicity – relationships with women – preference for male clothing – male English name – real chance of suffering physical and other mistreatment amounting to serious harm – decision under review remitted

[2100442](#) (Refugee) [2024] AATA 2125 (3 March 2024); R Gagliardi, Member

REFUGEE – protection visa – Indonesia – death of Australian citizen husband – minor child – Australian citizen son's experience of racism in Indonesia – Australian citizen son not covered by provisions of Migration Act 1958 – non-attendance at hearing – tribunal unaware of applicant's immigration status and advice received – applicant eligible to apply for spouse visa after husband's death – applicant can apply for ministerial intervention – decision under review affirmed

[1833119](#) (Refugee) [2024] AATA 1785 (13 March 2024); L Symons, Senior Member

REFUGEE – protection visa – Ghana – particular social group – homosexual male – physical assault – fear of killing – delay in applying for protection – state protection – relationships with women – decision under review affirmed

[2013984](#) (Refugee) [2024] AATA 1973 (26 March 2024); Kylie Allen, Member

REFUGEE – protection visa – Sudan – religion – Coptic Orthodox Christians – discrimination, harassment, threats and attempts at conversion to Islam – members of family unit – former husband's separate application – child's developmental condition – targeted and treated badly, and no rights or services – mental health and treatment – single woman and returnees from western country perceived as wealthy – country information – attacks on churches, family and community members displaced and looting of houses – general security and humanitarian conditions – decision under review remitted

[1901903](#) (Refugee) [2024] AATA 1958 (8 May 2024); A Verduci, Member

REFUGEE – protection visa – Malaysia – original claim of workplace discrimination – delay in review and changes of circumstances – civil marriage to Australian citizen and birth of child – genuine relationship not for purpose of strengthening claim – applicant non-practicing Muslim considered apostate and husband non-practicing Christian – country information – federal civil and state-based syariah law and trend towards religious conservatism – inter-faith marriage not recognised, and child not Malaysian citizen and considered illegitimate – health registration and school enrolments – real chance of serious harm by authorities and parts of society – decision under review remitted

[2014603](#) (Refugee) [2024] AATA 2331 (15 May 2024); K Allen, Member

REFUGEE – protection visa – Sudan – religion – Coptic Christians – particular social group – people with disabilities – sexual harassment – fear of killing – forced conversion – detention – security situation in Sudan – decision under review remitted

[1820393](#) (Refugee) [2024] AATA 1819 (23 May 2024); M Haag, Member

REFUGEE – Protection Visa – Vietnam – had 3 Australian Citizen children – applicant may be perceived to be a single woman – applicant's removal may also not be in her child's best interests – referral to the Minister – decision under review affirmed

Social Security

[Lozi and Secretary, Department of Social Services](#) (Social services second review) [2024] AATA 2921 (16 August 2024); S Evans, Member

SOCIAL SECURITY – Jobseeker Payment (JSK) applications – lump sum termination payment – subject to income maintenance period (IMP) – date of grant for JSK – whether Applicants experiencing severe financial hardship – whether unavoidable or reasonable expenditure – Applicants not experiencing financial hardship – reviewable decision affirmed

[Nikolic; Secretary, Department of Social Services and](#) (Social services second review) [2024] AATA 2883 (10 July 2024); Emeritus Professor P A Fairall, Senior Member

SOCIAL SECURITY – age pension – portability – overseas residence – whether respondent ceased to be an Australian resident – where respondent maintained continuing ties to Australia – decision under review affirmed

[Voloder and Secretary, Department of Social Services](#) (Social services second review) [2024] AATA 2885 (19 July 2024); A Maryniak KC, Member

SOCIAL SECURITY – Aged pension recipient – income and assets test – Social Security Act 1991 s 1064 – Pension rate calculator A – reviewable decision set aside and substituted

Veterans' Affairs

[Pool and Repatriation Commission](#) (Veterans' entitlements) [2024] AATA 2884 (15 August 2024); A George, Senior Member and Lieutenant Colonel R Ormston

VETERANS – jurisdiction of the Tribunal – death of veteran – antecedent cause of death – depressive disorder – alcohol use disorder – substance use disorder – clinical onset – Category 1A stressor – serious physical assault – death threats – Category 1B stressor – viewing corpse – Category 2 stressor – bullying – disharmony in the workplace – marginalisation in the workplace – decision is 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
Donevski and Minister for Immigration, Citizenship, and Multicultural Affairs	[2024] AATA 2945
Duong and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 5944
GQHJ and Minister for Immigration, Citizenship and Multicultural Affairs	[2024] AATA 2630

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Jattan v Minister for Immigration, Citizenship and Multicultural Affairs	[2023] AATA 3630	[2024] FCA 866
Mizen v Minister for Immigration, Citizenship and Multicultural Affairs	[2023] AATA 3113	[2024] FCA 934
Muller v Minister for Immigration, Citizenship and Multicultural Affairs	[2024] AATA 224	[2024] FCA 924
Spaleta v Secretary, Department of Social Services	[2018] AATA 2581	[2024] FCA 916

Statements of Principles

This section of the *Bulletin* provides information on recent developments including the notification or completion of investigations in relation to Statements of Principles made by the Repatriation Medical Authority (RMA) for the purposes of section 120A(2) of the [Veterans' Entitlements Act 1986 \(VEA\)](#) and section 338(2) of the [Military Rehabilitation and Compensation Act 2004 \(MRCA\)](#). These Acts require reference to be had to Statements of Principles made about particular conditions concerning injury, disease or death.

If the RMA gives notice that it intends to carry out an investigation in respect of a particular kind of condition, the Repatriation Commission cannot determine a claim made under the VEA about the incapacity or death of a person relating to that condition, until the RMA has determined a Statement of Principles or declares that it does not propose to determine a Statement of Principles about the condition. Also during this period, claims under the MRCA cannot be determined, reconsidered or reviewed by either the Repatriation Commission, the Veterans' Review Board or the AAT, until the RMA has determined a Statement of Principles about the condition concerned or declared it does not propose to do so.

Certain claims cannot succeed if the RMA has declared it does not propose to make a Statement of Principles in relation to the particular condition.

Existing Statements of Principles are also reviewed, amended or revoked from time to time.

New Statements of Principles

The AAT has been advised that the RMA has made the following new Statements of Principles. These take effect from 24 September 2024:

Fracture (Balance of Probabilities) – No. 63 of 2024

<https://www.legislation.gov.au/F2024L01042/latest/text>

Fracture (Reasonable Hypothesis) – No. 62 of 2024

<https://www.legislation.gov.au/F2024L01041/latest/text>

Meniere disease and Meniere syndrome (Balance of Probabilities) – No. 69 of 2024

<https://www.legislation.gov.au/F2024L01048/latest/text>

Meniere disease and Meniere syndrome (Reasonable Hypothesis) – No. 68 of 2024

<https://www.legislation.gov.au/F2024L01047/latest/text>

Neoplasm of the pituitary gland (Balance of Probabilities) – No. 71 of 2024

<https://www.legislation.gov.au/F2024L01050/latest/text>

Neoplasm of the pituitary gland (Reasonable Hypothesis) – No. 70 of 2024

<https://www.legislation.gov.au/F2024L01049/latest/text>

Osteoporosis (Balance of Probabilities) – No.67 of 2024

<https://www.legislation.gov.au/F2024L01046/latest/text>

Osteoporosis (Reasonable Hypothesis) – No. 66 of 2024

<https://www.legislation.gov.au/F2024L01045/latest/text>

Pathological fracture (Balance of Probabilities) – No. 65 of 2024

<https://www.legislation.gov.au/F2024L01044/latest/text>

Pathological fracture (Reasonable Hypothesis) – No. 64 of 2024

<https://www.legislation.gov.au/F2024L01043/latest/text>

Pinguecula (Balance of Probabilities) – No. 61 of 2024

<https://www.legislation.gov.au/F2024L01040/latest/text>

Pinguecula (Reasonable Hypothesis) – No. 60 of 2024

<https://www.legislation.gov.au/F2024L01039/latest/text>

Statements of Principles to be revoked

The AAT has been advised that the following Statements of Principles determined by the RMA **will be revoked** on **24 September 2024**:

Fracture (Balance of Probabilities) – No. 95 of 2015

<https://www.legislation.gov.au/F2015L01343/asmade/text>

Fracture (Reasonable Hypothesis) – No. 94 of 2015

<https://www.legislation.gov.au/F2015L01340/asmade/text>

Meniere’s disease (Balance of Probabilities) – No. 109 of 2015

<https://www.legislation.gov.au/F2015L01329/asmade/text>

Meniere’s disease (Reasonable Hypothesis) – No. 108 of 2015

<https://www.legislation.gov.au/F2015L01328/asmade/text>

Neoplasm of the pituitary gland – No. 53 of 2015

<https://www.legislation.gov.au/F2015L00259/latest/text>

Neoplasm of the pituitary gland – No. 54 of 2015

<https://www.legislation.gov.au/F2015L00260/asmade/text>

Osteoporosis – No. 98 of 2014

<https://www.legislation.gov.au/F2014L01388/asmade/text>

Osteoporosis – No. 99 of 2014

<https://www.legislation.gov.au/F2014L01391/asmade/text>

Pinguecula (Balance of Probabilities) – No. 119 of 2015

<https://www.legislation.gov.au/F2015L01672/asmade/text>

Pinguecula (Reasonable Hypothesis) – No. 118 of 2015

<https://www.legislation.gov.au/F2015L01670/asmade/text>



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