



Administrative  
Appeals Tribunal

AAT  
Bulletin

# 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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Enquiries regarding this publication may be directed to [aatweb@aat.gov.au](mailto:aatweb@aat.gov.au).

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# Recent developments

## Changes to AAT application fees

From 1 July 2018 application fees in the Administrative Appeals Tribunal will increase.

### General, Freedom of Information, Security and Taxation & Commercial Divisions

From 1 July 2018 application fees for the review of a decision, where a fee is payable, will increase as follows:

- The standard application fee will increase to **\$920**
- The fee payable for certain taxation applications will increase to **\$91**
- Concession: \$100 (no change).

### Migration and Refugee Division

From 1 July 2018 application fees for the review of a decision, where a fee is payable, will increase to **\$1,764**.

In cases where a 50% fee reduction is granted the reduced fee will be **\$882**.

## AAT Information Videos

The AAT has [translated six information videos](#) into the seven most commonly spoken languages by Tribunal users, including Arabic, Farsi (Persian), Mandarin, Punjabi, Serbian, Urdu and Vietnamese.

The AAT has also developed a new video, [Accessible information about the AAT](#), to assist users with vision, hearing and cognitive impairment to better understand the role of the Tribunal.

All videos are available on our [website](#) and [YouTube channel](#).

# 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

[Khoshaba and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 1829 (18 June 2018); Senior Member A Younes

CITIZENSHIP – application for conferral of Australian citizenship – refusal of citizenship application on grounds applicant had not successfully completed required citizenship test – purpose of citizenship test is to assess whether person seeking citizenship understands the nature of the application, has an adequate knowledge of Australia and responsibilities and privileges of citizenship, and a basic knowledge of English – applicant sat and failed multiple citizenship tests – decision affirmed

[Neumeier and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 1834 (19 June 2018); DK Grigg, Member

CITIZENSHIP – general residency requirements not satisfied – whether permanent residence requirements met – whether spousal discretion available - decision under review affirmed

## Compensation

[Demirbas and Comcare](#) (Compensation) [2018] AATA 1827 (15 June 2018); Senior Member R Cameron

COMPENSATION – left leg sciatica – bilateral rhizolysis procedure – whether surgery compensable – whether pain migratory from left to right – acceleration of existing condition – aggravation of existing condition – decision set aside

[Woodward and Comcare](#) (Compensation) [2018] AATA 1835 (14 June 2018); DK Grigg, Member

COMPENSATION – Commonwealth employees – whether applicant entitled to compensation – whether injury contributed to by employee's employment – whether injury suffered as a result of reasonable administrative action undertaken in a reasonable manner – decision under review affirmed

## Migration

[Li and Minister for Immigration and Border Protection](#) (Migration) [2018] AATA 1831 (15 June 2018); LM Gallagher, Member

IMMIGRATION – Visitor (Class FA) visa – whether discretion to refuse visa should be exercised pursuant to s 501(1) of the Migration Act 1958 (Cth) – character test – offence involving misappropriation of public funds – crime of embezzlement – Direction No. 65 – primary and other relevant considerations – protection of the Australian community from criminal or other serious conduct – nature and seriousness of the conduct – risk to the Australian community should further offences be committed – best interests of minor children – expectations of the Australian community – other relevant considerations – impact on family members – decision under review affirmed

## Practice and Procedure

[Anderson and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1826 (15 June 2018); Dr L Bygrave, Member

EXTENSION OF TIME – principles to be applied – Hunter Valley Developments Pty Ltd – reasons for delay – prejudice to the respondent and general public – merits of substantive matter – special circumstances – extension of time refused

[Gjergji and Minister for Home Affairs](#) (Citizenship) [2018] AATA 1823 (13 June 2018); M Hyman, Member

PRACTICE AND PROCEDURE – access to summoned documents – where documents provided in redacted and clean copies – police and court records – records include personal information of third parties – relevance of material – relevance of redacted information – access granted to documents with redactions

## Social Security

[Blake and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1822 (18 June 2018); Dr L Bygrave, Member

SOCIAL SECURITY – Disability Support Pension – applicant's impairments total twenty points or more under the Impairment Tables – fibromyalgia – type II bipolar disorder – no continuing inability to work at date of claim – decision affirmed

[Du and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1824 (18 June 2018); Senior Member B Stefaniak AM RFD

SOCIAL SECURITY – disability support pension – whether disability is fully diagnosed, treated and stabilised – whether applicant's impairments attract 20 points or more under the Impairment Tables during the relevant period – continuing inability to work because of impairments – decision under review affirmed

[El-Hazzouri; Secretary, Department of Social Services and](#) (Social services second review) [2018] AATA 1821 (18 June 2018); Dr I Alexander, Member

SOCIAL SECURITY - Disability Support Pension – the applicant's impairments do not total twenty points or more under the Impairment Tables – decision set aside and substituted

[Incorvaia and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1830 (19 June 2018); Mr A Cameron, Member

SOCIAL SECURITY – Disability Support Pension – whether conditions fully diagnosed, treated and stabilized – continuing inability to work – program of support requirements – decision affirmed

[Mcllroy and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1832 (19 June 2018); DK Grigg, Member

FAMILY ASSISTANCE – parenting payment – overpayment – how calculated – whether sole administrative error – decision under review affirmed in part

## **Taxation**

[Mavris and Commissioner of Taxation](#) (Taxation) [2018] AATA 1825 (19 June 2018); Senior Member Ms G Lazanas

TAXATION – LUXURY CAR TAX – supplies of luxury cars – whether luxury car tax quotes obtained by the supplier – meaning of quote – administrative penalty – failure to lodge Business Activity Statements – uplift in penalty – objection decisions set aside and remitted to Commissioner

# 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                    |
|---|----------------------------------|
| <b>Elton and Repatriation Commission</b>  | <a href="#">[2018] AATA 1329</a> |
| <b>WA Bright Kids Family Day Care Pty Ltd and Secretary, Department of Education and Training</b> | <a href="#">[2018] AATA 1312</a> |
| <b>Wang and Australian Securities and Investments Commission</b>                                  | <a href="#">[2018] AATA 1405</a> |

## Appeals finalised

| CASE NAME                | AAT REFERENCE                    | COURT REFERENCE                |
|--------------------------|----------------------------------|--------------------------------|
| <b>Portors v Comcare</b> | <a href="#">[2017] AATA 2166</a> | <a href="#">[2018] FCA 914</a> |



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