



Administrative  
Appeals Tribunal

AAT  
Bulletin

# AAT Bulletin

**Issue No. 24/2021**

**29 November 2021**

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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# 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

[Bartrop and Tatro](#) (Child support) [2021] AATA 3844 (31 August 2021); M Douglas, Member

CHILD SUPPORT – particulars of the administrative assessment – whether a fixed annual rate of child support should not apply – application for fixed annual rate not to apply should be accepted for specific period to avoid overpayment – decision under review set aside and sent back to Child Support Registrar

[Chinn and Chinn](#) (Child support) [2021] AATA 4225 (16 September 2021); J Leonard, Member

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

[Fesperman and Brewster](#) (Child support) [2021] AATA 4240 (22 September 2021); H Moreland, 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

CHILD SUPPORT – date of effect of the tribunal's decision – late application for review – no special circumstances exist that prevented the application for review being lodged in time – tribunal declines to make a determination under subsection 95N(2)

[Jourdain and Groves](#) (Child support) [2021] AATA 4243 (6 September 2021); M Douglas, Member

CHILD SUPPORT – care – date of effect provisions – whether there were special circumstances that prevented the objection being lodged in time – electronic service – whether person aware that decision made – special circumstances exist – decision under review set aside

[Wharton and Feek](#) (Child support) [2021] AATA 3848 (9 September 2021); A Byers, Member

CHILD SUPPORT – non-agency payment – no mutual intention – prescribed payment for school fees – regular care of the children – credit of payment correctly refused – decision under review affirmed

## **Citizenship**

**[BDDJ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)** (Citizenship) [2021] AATA 4205 (27 October 2021); Senior Member C Puplick AM

CITIZENSHIP – refusal of a citizenship application – whether the applicant is of good character – indecent assault – domestic violence issues – whether enough time passed since offences – decision affirmed

**[Chodowiec and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)** (Citizenship) [2021] AATA 4175 (12 November 2021); Senior Member P J Clauson AM

CITIZENSHIP – Good Character – Whether Applicant is of good character – Where Tribunal satisfied Applicant presently of good character – Decision set aside and remitted with direction

**[Muzafari and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)** (Citizenship) [2021] AATA 4357 (18 November 2021); Senior Member A Nikolic AM CSC

CITIZENSHIP – application for conferral of Australian citizenship – whether the Tribunal is satisfied of the Applicant's good character – Australian Citizenship Act 2007 (Cth) – Applicant provided false information and counterfeit licence to Department – maintained false information for over a decade – Tribunal not satisfied Applicant is of good character – decision affirmed

**[Nyamande and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)** (Citizenship) [2021] AATA 4319 (22 November 2021); Deputy President Boyle

CITIZENSHIP – refusal of a delegate of the Minister to approve the Applicant becoming an Australian citizen – delegate not satisfied that the Applicant was of good character (Citizenship Act s 21(2)(h)) – Applicant is a citizen of Zimbabwe – Applicant has multiple drink driving and traffic offences – effluxion of time since offending – Tribunal not satisfied of Applicant's good character – reviewable decision affirmed

**[Spall and Minister for Home Affairs](#)** (Citizenship) [2021] AATA 4290 (18 November 2021); Dr D Cremean, Senior Member

CITIZENSHIP – Australian citizenship revoked – criminal offences of indecent assault on minors – pleas of guilty – sentence of imprisonment cumulatively of 12 months – whether contrary to public interest for Applicant to remain an Australian citizen – decision under review affirmed

**[Vaafusuaga and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)** (Citizenship) [2021] AATA 4219 (17 November 2021); Senior Member C Puplick AM

CITIZENSHIP – application for citizenship refused – whether applicant had a parent who was an Australian citizen – whether the Tribunal considers adoption arrangements have been made prior to and at time of birth – decision set aside and remitted

## Compensation

[Campion and Comcare](#) (Compensation) [2021] AATA 4310 (19 November 2021); Deputy President J Sosso

COMPENSATION – whether applicant continues to suffer effects of injury or aggravation – whether employment contributed or continues to contribute to ailment – whether respondent liable to pay compensation – Aggravation of osteoarthritis – knee – ankle or foot – small tear of the posterior horn of the medial meniscus – aggravation of injury – rupture of Baker’s cyst – decision affirmed

## Freedom of Information

[Raiz and Professional Services Review](#) [2021] AATA 4360 (25 November 2021); Deputy President Britten-Jones

FREEDOM OF INFORMATION – review of decision of Professional Services Review that documents are partially or wholly exempt – documents relate to investigations of Professional Services Review into applicant’s possible inappropriate medical practice – documents conditionally exempt under sections 47C and 47E(d) of the Freedom of Information Act 1982 – documents exempt under s 42 of the Freedom – consideration of immunity provisions – disclosure of documents would be against the public interest – the decision under review is affirmed

## Migration

[BLSL and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2021] AATA 4177 (15 November 2021); Senior Member A Nikolic AM CSC

MIGRATION – visa refusal – citizen of India – Protection (Class XA) Visa – failure to pass good character test – exercise of discretion – Ministerial Direction No. 90 applied – reviewable decision set aside

[GPDZ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2021] AATA 4362 (25 November 2021); Senior Member M Griffin QC

MIGRATION – mandatory cancellation of visa- Class BF (Permanent) visa – where visa was cancelled under s 501 because applicant did not pass the character test – substantial criminal record – Ministerial Direction No. 90 – primary considerations – protection of the Australian community – seriousness of offending and future risk – family violence – best interests of minor children in Australia – expectations of the Australian community – other considerations – international non-refoulement obligation – extent of impediments if removed – impact on victims – strength, nature and duration of ties to Australia – appropriate, fair and just consideration to be given to factors behind past criminal conduct – reviewable decision set aside and substituted

[Healey and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2021] AATA 4309 (19 November 2021); Senior Member A Nikolic AM CSC

MIGRATION – Mandatory visa cancellation – citizen of the United Kingdom – Class BB Subclass 155 Five Year Resident Return visa – failure to pass good character test – substantial criminal record – very serious drug offences – family violence – whether another reason to revoke the mandatory cancellation – Ministerial Direction No. 90 applied – decision affirmed

**JSMJ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

(Migration) [2021] AATA 4183 (12 November 2021); R Bellamy, Member

MIGRATION – Non-revocation of mandatory cancellation of a Class XB Subclass 200 Refugee visa - where Applicant does not pass the character test – whether there is another reason to revoke the mandatory cancellation decision – consideration of Ministerial Direction No. 90 – consideration of Australia’s international non-refoulement obligations where receiving country is Burundi – decision under review affirmed

**Nguyen and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

(Migration) [2021] AATA 4308 (22 November 2021); Senior Member B Pola

MIGRATION – application for a Permanent Residence (Spouse Visa) (Class 801) visa – visa refused under s 501(1) of the Migration Act 1958 – whether Tribunal is satisfied that the Applicant passes the character test – whether the Applicant would engage in criminal conduct identified in s 501(6)(d)(i) – consideration of Ministerial Direction No 90 – application of the character test – primary and other considerations – protection of the Australian community – nature and seriousness of criminal offending – risk to the Australian community – expectations of the Australian community – strength, nature and duration of ties to Australia – reviewable decision affirmed

**Pihere and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

(Migration) [2021] AATA 4236 (20 October 2021); Senior Member P Q Wood

MIGRATION – Mandatory cancellation of visa – non-revocation of mandatory visa cancellation – Class TY Subclass 444 Special Category (Temporary) visa – whether applicant passes character test – failure to pass character test – past criminal conduct – risk would engage in criminal conduct – where Applicant made representations seeking revocation of visa cancellation – where delegate not satisfied of another reason to revoke visa cancellation – where Applicant seeks review by Tribunal – contents of Direction 90 – substantial criminal offending – protection of the Australian community – expectations of the Australian community – Applicant’s substance abuse – links to the Australian community – other relevant considerations – extent of impediments if removed – decision under review affirmed

**Pourabbas Aghbolagh and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs**

(Migration) [2021] AATA 4269 (5 November 2021); Senior Member T Tavoularis

MIGRATION – mandatory cancellation of the Applicant's Class BB Subclass 155 Resident Return visa – Migration Act 1958 (Cth) s 501CA(4) – 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 – application of Direction No. 90 – where Applicant a citizen of Afghanistan – decision under review affirmed

**Thompson and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs** (Migration) [2021] AATA 4206 (16 November 2021); Senior Member D J Morris

MIGRATION – applicant held class TY subclass 444 special category (temporary) visa – visa mandatorily cancelled under Migration Act – applicant concedes he fails character test – delegate decided not to revoke mandatory cancellation – applicant seeks review by Tribunal – threshold question as to whether applicant is in category of non-citizen non-alien – consideration of the tripartite test in Mabo case as established in Love and Thoms case limits reach of Parliament’s legislative power – Tribunal finds applicant does not meet tripartite test – applicant placed under guardianship as baby and then brought to Australia as infant – Tribunal further finds applicant is New Zealand citizen - ministerial direction under Act with which decision-makers must comply – primary considerations – protection of the Australian community from criminal or other serious conduct – whether conduct engaged in constituted family violence – what is meant by ‘family violence’ in the context of the Direction – the best interest of minor children in Australia – three relevant children – differing interests of children – expectations of Australian community – other relevant considerations – extent of impediments if applicant removed to New Zealand – impact on victims – links to the Australian community – any other relevant matter – decision under review affirmed

JURISDICTION – whether Tribunal has power to consider application for review – consideration of evidence about whether naturalization and aliens power under Constitution on the evidence supports finding applicant is a non-citizen non-alien – Tribunal satisfied on evidence that jurisdiction exists – applicant therefore entitled to have decision reviewed

**Dayan** (Migration) [2021] AATA 4353 (26 October 2021); F Russo, Member

MIGRATION – Student (Temporary) (Class TU) visas – Subclass 500 (Student) – Federal Circuit Court remittal – genuine student – adverse information – enrolment record – updated statement of purpose and enrolments – return visits to Pakistan – plans to start construction business in Pakistan – reasonable academic progress – decision under review remitted

**KAUR** (Migration) [2021] AATA 4168 (16 September 2021); T Connellan, Member

MIGRATION – Skilled (Provisional) (Class VC) visa – Subclass 485 (Post-study Work) – evidence about criminal history – applied for an Australian Federal Police check – allegedly flawed application process – decision under review affirmed

**Kinn Niyom Pty Ltd** (Migration) [2021] AATA 4194 (27 October 2021); R Skaros, Senior Member

MIGRATION – standard business sponsor – action in relation to sponsorship – cancellation of approval and bar for 12 months – prescribed criterion no longer met – adverse information about person associated with sponsor known to department – sanction on former owner – former owner incorporated new company then sold it and the business to brother-in-law – ongoing business relationship – remained as signatory to new company’s bank account and was identified to ABF by staff – new owner retained most staff, renovated and changed accounting software and procedures – impact on sponsored and other staff – false or misleading information in sponsorship application – relationship of former owner not declared – not a genuine arm’s-length transaction – limited evidence of current operations and future intentions – not reasonable to disregard information – bar period ended in any case – consent to decision without hearing – decision under review affirmed

[Nguyen](#) (Migration) [2021] AATA 4321 (30 August 2021); M Ison, Senior Member

MIGRATION – Partner (Provisional) (Class UF) visa – Subclass 309 (Partner (Provisional)) – genuine spousal relationship – financial aspects – nature of the household – social aspects – nature of the commitment – married for 64 months – lived together for 23 months – kept apart due to circumstances outside their control – member of the family unit – dependent child – decision under review remitted

[Piron](#) (Migration) [2021] AATA 4254 (27 August 2021); N Goetz, Member

MIGRATION – Working Holiday (Temporary) (Class TZ) visa – Subclass 417 (Working Holiday) – false or misleading information – evidence of specified work – ‘adverse information’ – lack of corroborative evidence regarding the applicant’s remuneration – decision under review remitted

## **National Disability Insurance Scheme**

[Barling and National Disability Insurance Agency](#) [2021] AATA (24 November 2021); I Thompson, Member

NATIONAL DISABILITY INSURANCE SCHEME – review of statement of participant supports – reasonable and necessary supports – applicant sought review of statement of participant supports to allow for funding for a vehicle and modifications – decision under review varied

[Ibanez and National Disability Insurance Agency](#) [2021] AATA 4311 (19 November 2021); Buxton, Member

NATIONAL DISABILITY INSURANCE SCHEME – access criteria – whether applicant meets residence requirement – decision under review affirmed

## **Practice and Procedure**

[Abdelfattah and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2021] AATA 4361 (25 November 2021); Senior Member A Poljak

PRACTICE AND PROCEDURE – application for extension of time to lodge application for review – opposed for want of jurisdiction – where applicant applied for Australian Citizenship by conferral using Form 1300t – failure to pass citizenship test – whether Tribunal can determine applicant’s eligibility for Australian Citizenship under incapacity criteria – Tribunal does not have jurisdiction – extension of time application refused for want of jurisdiction



[Golman and Australian Securities and Investments Commission](#) [2021] AATA 4176 (12 November 2021); President The Hon Justice D G Thomas and Deputy President B J McCabe

PRACTICE AND PROCEDURE – Jurisdiction – whether Tribunal has jurisdiction to review decision – disqualification order made by the Australian Securities and Investments Commission (ASIC) pursuant to s 206F of the Corporations Act 2001 (Cth) – whether ASIC had power to make disqualification order – where mechanism for disqualification under s 206F previously enlivened but ASIC decided to not disqualify applicant – whether ASIC prevented from re-exercising power under 206F due to previous disqualification process – whether s 33 of the Acts Interpretation Act 1901 (Cth) applies such that power in s 206F can be re-exercised – Tribunal has jurisdiction to review decision

[Scanlan and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 4332 (22 November 2021); Dr P McDermott RFD, Deputy President

PRACTICE AND PROCEDURE – Request for confidentiality order over name and evidence – no confidential documents identified – no evidence that there is a real possibility of the applicant suffering any serious disadvantage if her name was disclosed – confidentiality order refused

[SSLP and National Disability Insurance Agency](#) [2021] AATA 4207 (8 November 2021); K Parker, Member

PRACTICE AND PROCEDURE – Respondent sought dismissal of application under s 42B(1) of the Administrative Appeals Tribunal Act 1975 (Cth) (AAT Act) – whether proceeding lacks utility – whether Tribunal lacks jurisdiction – Applicant's National Disability Insurance Scheme (NDIS) statement of participant supports and NDIS plan superseded by subsequent statement of participant supports and NDIS plan – characterisation of the decision under review – Tribunal satisfied that it has jurisdiction – Tribunal satisfied proceeding has utility – application to dismiss this proceeding under s 42B(1) of the AAT Act dismissed

[YJDX and Child Support Registrar](#) (Child support second review) [2021] AATA 4295 (18 November 2021); Deputy President S Boyle

PRACTICE AND PROCEDURE – application to be made a party to a proceeding (AAT Act s 30(1A)) – whether Applicant's ex-wife's interests are affected by the decision under review – substantive matter relates to an objection to child support assessment – review of decision of AAT 1 to refuse the Applicant an extension of time to seek review of a decision of the Respondent – ex-wife made a party to the proceeding

## Refugee

[1711073](#) (Refugee) [2021] AATA 4216 (11 August 2021); J Marquard, Member

REFUGEE – protection visa – Samoa – complementary protection – threats of harm by husband/father – victims of family and domestic violence – psychological trauma – physical and sexual violence – applicant's relatives harassed and threatened – ongoing pattern of violent behaviour – high rates of domestic violence in Samoa – societal attitudes discourage reporting of and tolerate domestic abuse – no fear of reprisal – no follow-up action taken by police – decision under review remitted

[1711525](#) (Refugee) [2021] AATA 4368 (30 August 2021); L Hardy, Member

REFUGEE – protection visa – Peru – member of a particular social group – lesbian – accepted by parents but pressured and mistreated by relatives – discrimination by community, church and government – one relationship with a woman before being forced into marriage by family – very long residence as unlawful non-citizen – relationship with man, and child now a citizen – limited social or community life as lesbian and no relationships – inconsistent claims and evidence – remaining relatives now dead or elderly – country information – decision under review affirmed

[1714751](#) (Refugee) [2021] AATA 4215 (24 August 2021); K Millar, Senior Member

REFUGEE – protection visa – Pakistan – applicant escaped indoctrination at young age from madrassa – pursued by supporters of Tehrik-e-Taliban (TTP) – educational record unlikely and unconvincing – account of travel to madrassa does not accord with maps and country information – credibility issues – decision under review affirmed

[1727997](#) (Refugee) [2021] AATA 4300 (3 August 2021); J Pennell, Senior Member

REFUGEE – protection visa – Egypt – religion – Sunni Muslim – imputed religion as Quranist convert – daughter’s conversion to Quranism – imputed political opinion – hostile to government due to son’s political activities – fears harm from daughter’s husband’s family – particular social group – Sunni Muslim whose child has converted to another religion – no family remaining in Egypt – economic hardship – decision under review remitted

[1815681](#) (Refugee) [2021] AATA 4302 (30 September 2021); P Windsor, Member

REFUGEE – protection visa – Nigeria – political opinion – opposition to corruption – fear of current and former union leaders – particular social group – witnesses to murder – credibility concerns – inconsistent timeline – vague and unsubstantiated evidence – decision under review affirmed

[1833892](#) (Refugee) [2021] AATA 4182 (31 August 2021); P Vlahos, Member

REFUGEE – protection visa – Egypt – religion – Coptic Orthodox Christian – discrimination – target of Muslim religious fanatics – credibility concerns – discrimination in education system/workplace – involvement with the reconstruction and building plans of his local church – alleged conversion and abduction of a local girl – delay in leaving country of persecution – decision under review affirmed

[1917470](#) (Refugee) [2021] AATA 4392 (30 August 2021); K Raif, Senior Member

REFUGEE – cancellation – protection visa – Iran – incorrect information in the visa application – nationality – stateless – race – Faili Kurd – Iranian citizenship – identity documents – employment – best interests of the children – military service – non-refoulement obligations – decision under review set aside

[1919254](#) (Refugee) [2021] AATA 4301 (30 September 2021); M Sripathy, Member

REFUGEE – cancellation – protection visa – stateless/Kuwait/Iraq – identity – inconsistent and contradictory information provided in application and documents – names and dates of birth – Kuwaiti birth certificate found to be genuine and Iraqi national identity card found to be counterfeit – Iraqi document obtained by father when applicant a minor – formats and transliterations of given names and surnames – errors in applicant’s details in child’s Australian birth registration – consistent and credible evidence – decision under review set aside

[2002224](#) (Refugee) [2021] AATA 4303 (15 September 2021); S Burford, Member

REFUGEE – protection visa – United Kingdom – race – Gujarati and Southern Indians – access to employment – marriage prospects – ‘taunted’ by friends, acquaintances or extended family – complementary protection – mental health issues – ongoing physical ailments – access to health care – ability to subsist and find employment and accommodation – self-harm – harm arising from mental illness – decision under review affirmed

## Social Services

[Fry and Secretary, Department of Social Services](#) (Social services second review) [2021] AATA 4174 (15 November 2021); R Maguire, Member

SOCIAL SECURITY – Age Pension – cancellation or suspension of pension – where Applicant is represented by appointed nominee – where nominee failed to provide information at departmental request – where department did not send notice of request to Applicant’s nominee – whether cancellation or suspension of pension is reasonable and proportionate – reviewable decision set aside and substituted

[Gilbert; Secretary, Department of Social Services and](#) (Social services second review) [2021] AATA 4306 (19 November 2021); Brigadier A G Warner, AM LVO (Retd), Member

SOCIAL SECURITY – Special Benefit – review of a decision of the Social Services & Child Support Division of the AAT – whether Respondent was qualified for Special Benefit – whether Respondent was subject to the Newly Arrived Resident’s Waiting Period – whether Respondent qualified for exemption from serving Newly Arrived Resident’s Waiting Period – substantial change in circumstances – financial hardship – Reviewable Decision set aside and substituted

[HE and Secretary, Department of Education, Skills and Employment](#) (Social services second review) [2021] AATA 4307 (19 November 2021); P Ranson, Member

SOCIAL SECURITY – Child Care Benefit – Child Care Rebate – Child Care Subsidy – liable to pay – vacation care – outside school hours care session of care – missed sessions of care – absences due to illness – separated parents

[Kahsay and Secretary, Department of Social Services](#) (Social services second review) [2021]  
AATA 4346 (2 November 2021); M East, Member

SOCIAL SECURITY – pension, allowances and benefits – disability support pension – whether the applicant met eligibility requirement for disability support pension – qualification period – assigning impairment ratings – whether the applicant suffers from permanent impairments that attract 20 points or more under the Impairment Tables – Impairment Table 2 – Upper Limb Function – shoulder pain – neck pain – Impairment Table 12 – Visual Function – reduced vision – Applicant found not to meet eligibility requirements – Reviewable Decision affirmed

[Melnikova and Secretary, Department of Social Services](#) (Social services second review) [2021]  
AATA 4293 (18 November 2021); A E Burke AO, Member

SOCIAL SECURITY – assurance of support – valid visa – special benefit and widow allowance paid – jointly and severally liable for the debt - debt due to the Commonwealth – whether recovery of debt should be written off or waived – debt not attributable solely to error made by Centrelink – no special circumstances – decision under review affirmed

[Mintoff and Secretary, Department of Social Services](#) (Social services second review) [2021]  
AATA 4294 (19 November 2021); Dr L Bygrave, Member

SOCIAL SECURITY – family tax benefit – percentage of care – whether change in the percentage of care – date percentage of care should apply from – types of care provided – decision under review affirmed

[Rettay and Secretary, Department of Social Services](#) (Social services second review) [2021]  
AATA 4218 (16 November 2021); M East, Member

SOCIAL SECURITY – pensions, allowances, benefits – age pension –unrealisable asset – whether a loan is an assessable asset – asset value over the assessable limit for age pension – age pension arrears – date of effect – Reviewable Decision affirmed

[Ross; Secretary, Department of Social Services, and](#) (Social services second review) [2021]  
AATA 4296 (18 November 2021); D Mitchell, Member

SOCIAL SECURITY – Disability Support Pension – rate of pension – separated and living under one roof – whether Respondent was a member of a couple – first review found that the Respondent was not a member of a couple – decision under review affirmed

[Vazquez and Secretary, Department of Social Services](#) (Social services second review) [2021]  
AATA 4291 (19 November 2021); Dr L Bygrave, Member

SOCIAL SECURITY – rent assistance – increase of rent – date of effect of favourable determination – decision under review affirmed

## **Taxation**

[Sanderson and Commissioner and Taxation](#) (Taxation) [2021] AATA 4305 (16 November 2021); Senior Member R Olding

TAXATION – INCOME TAX – whether taxpayer resident of Australia – where taxpayer spent 83 days in the income year in Australia – where taxpayer maintained a home in Australia where his wife and child resided – continuity of association with Australia – decision affirmed

TAXATION – INCOME TAX – whether transfers to bank account income or repayments of loans – where no written loan agreement or independent evidence of amounts repaid – whether taxpayer discharged burden of proving assessment excessive – decision affirmed

## **Veterans' Affairs**

[The Estate of Esther Whitby and Repatriation Commission](#) (Veterans' entitlements) [2021] AATA 4217 (17 November 2021); Senior Member D Katter

VETERANS' AFFAIRS – widow's pension – whether the death of the veteran was service caused – 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, 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
<b>Fanoi and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2021] AATA 3249</a>
<b>JLJF and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2021] AATA 3888</a>
<b>NVTN and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2021] AATA 3989</a>

## Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>Adekoya v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2020] AATA 768</a>	<a href="#">[2021] FCA 1400</a>
<b>Ahamed v Secretary, Department of Human Services</b>	<a href="#">[2020] AATA 4939</a>	<a href="#">[2021] FCA 1441</a>
<b>BFMV v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2020] AATA 5213</a>	<a href="#">[2021] FCAFC 199</a> <a href="#">[2021] FCA 573</a>
<b>Deng v Minister Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2021] AATA 2097</a>	<a href="#">[2021] FCA 1456</a>
<b>HRZN v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2021] AATA 1035</a>	<a href="#">[2021] FCA 1431</a>
<b>PDWL v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs &amp; Anor</b>	<a href="#">[2020] AATA 485</a>	<a href="#">[2021] HCATrans 197</a> <a href="#">[2021] FCAFC 48</a> <a href="#">[2020] FCA 1354</a>
<b>QDQY v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs</b>	<a href="#">[2020] AATA 125</a>	<a href="#">[2021] FCA 1394</a>

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**TGWR v Minister for Immigration,  
Citizenship, Migrant Services and  
Multicultural Affairs**

[\[2020\] AATA 5076](#)

[\[2021\] FCAFC 200](#)  
[\[2021\] FCA 763](#)

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**WKMZ v Minister for Immigration,  
Citizenship, Migrant Services and  
Multicultural Affairs & Anor**

[\[2019\] AATA 4381](#)

[\[2021\] HCATrans 195](#)  
[\[2021\] FCAFC 55](#)  
[\[2020\] FCA 1127](#)

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