



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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# 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

[Lazar and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 2445 (24 July 2018); Senior Member M Griffin QC

CITIZENSHIP – conferral of Australian citizenship – requirements of citizenship – understanding of nature of application – possess a basic knowledge of the English language – adequate knowledge of Australia and the responsibilities and privileges of Australian citizenship – failure to pass citizenship test – decision affirmed

## Compensation

[DXVN and Telstra Corporation Limited](#) (Compensation) [2018] AATA 2152 (9 July 2018); Deputy President J Sosso

Workers' compensation – whether the Applicant suffers a condition outside the boundaries of normal mental functioning and behaviour – when condition arose – whether aggravation of condition contributed to, to a significant degree, by his employment – reasonable administrative action in a reasonable way – counselling action – s 14 Safety, Rehabilitation and Compensation Act 1988 – decision under review affirmed

[Lock and Comcare](#) (Compensation) [2018] AATA 2386 (23 July 2018); Deputy President S Boyle

COMPENSATION – commonwealth employee – accepted injuries - partial tear of rotator cuff and lumber sprain – hip, thigh and buttock pain right side – Applicant fell in the course of employment – whether first application is a reviewable decision – right interosseous cyst in the scaphoid and lunate – reasonable medical treatment

## Corporations

[Alzheimer's Association of Queensland Inc and Australian Securities and Investments Commission](#) [2018] AATA 2403 (20 July 2018); Deputy President RI Hanger AM QC

Transfer of business name – identical or nearly identical business name – whether business name available to an entity – whether discretion available to ASIC to refuse to transfer and register business name – decision under review affirmed

## Migration

[NBCM and Minister for Home Affairs](#) (Migration) [2018] AATA 2387 (23 July 2018); Senior Member L Kirk

MIGRATION – section 501 visa cancellation – Class TY Subclass 444 Special Category visa – failure to pass character test – substantial criminal record – sentenced to two or more terms of imprisonment totaling 12 months – whether the discretion to cancel the visa should be exercised – application of Direction 65 – protection of the Australian community – best interests of minor children affected by the decision – expectations of the Australian community – other considerations – decision affirmed

## Practice and Procedure

[ACN 154 520 199 Pty Ltd and Commissioner of Taxation](#) (Taxation) [2018] AATA 2404 (23 July 2018); Deputy President B J McCabe and Senior Member G Lazanas

PRACTICE AND PROCEDURE – objection to summons – where summons issued to third party – where summons issued to obtain evidence going to credit of expert witnesses – where submitted that materials sought was not for a 'legitimate forensic purpose' – where submitted that the scope of the summons is too broad or oppressive – where applicant undertook to pay reasonable costs arising from summons – where decided summons in relation to certain categories appropriate – and in relation to a category too broad – where decided applicant to provide revised summons to be issued to third party

[Fitzgibbon and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 2385 (23 July 2018); DK Grigg, Member

PRACTICE AND PROCEDURE – dismissed for non-appearance – application for reinstatement – where no corroborated reason for non-appearance – consideration of the merits – application for reinstatement refused

## Social Security

[De Silva Wijeyeratne and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 2443 (24 July 2018); Ms A Burke, Member

SOCIAL SECURITY – disability support pension – whether qualified – bilateral knee and mental health conditions – whether impairment attracts rating of 20 points or more under Impairment Tables – whether program of support had been undertaken – decision affirmed

[Tang and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 2442 (18 July 2018); Professor R McCallum AO, Member

SOCIAL SECURITY – disability support pension – 13 week qualifying period – impairment tables – fully diagnosed – fully treated – fully stabilised – neck and lower back pain – upper limb condition – lower limb condition – hearing loss – decision affirmed

## Veterans' Affairs

[Clarke and Repatriation Commission](#) (Veterans' entitlements) [2018] AATA 2246 (13 July 2018);  
Deputy President J Sosso

VETERANS' ENTITLEMENTS – war widow pension – service in Malaya and Thailand – Deledio test – Statement of Principles No. 37 of 2013 – where veteran died of malignant neoplasm of the colorectum – whether the veteran's smoking habit increased during his operational service – whether his increase in smoking habit was connected to his rendering of operational service

# 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

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CASE NAME	AAT REFERENCE
<b>ZMBZ and Minister for Immigration and Border Protection</b>	<a href="#">[2018] AATA 1869</a>

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## Appeals finalised

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CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>Hong v Minister for Immigration and Border Protection</b>	<a href="#">[2017] AATA 2386</a>	<a href="#">[2018] FCA 1085</a>
<b>Leota v Minister for Home Affairs</b>	<a href="#">[2017] AATA 1365</a>	<a href="#">[2018] FCA 1073</a>

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