



Administrative
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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 information about decisions of interest recently published in the AAT's Migration & Refugee 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, Taxation & Commercial and Veterans' Appeals Divisions as well as about select decisions recently published in 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

[LHJS and Minister for Immigration and Border Protection](#) (Citizenship) [2015] AATA 842 (30 October 2015); Ms R Perton, Member

Application for Australian citizenship – conviction for indecent assault – suspended sentence – whether applicant of good character at time of decision

Compensation

[Dainty and Comcare](#) (Compensation) [2015] AATA 844 (2 November 2015); Dr D Cremean, Senior Member

Carpal tunnel syndrome and ganglion – whether conditions related to employment – decision under review affirmed

Migration and Refugee

[1504363](#) (Migration) [2015] AATA 3432 (14 September 2015); G Cullen, Member

Student (Temporary) (Class TU) visa – Subclass 573 Higher Education Sector – cl 573.227 – Holder of subclass 600 visa at time of application – Exceptional reasons – Benefit to Australia - Study in Australia will enhance service to Filipino community – Decision under review remitted

[1503287](#) (Migration) [2015] AATA 3430 (18 September 2015); C Wilson, Member

Partner (Residence) (Class BS) – Subclass 801 – cl 801.226 – PIC 4020 – Applicant provided false and misleading information – PIC 4020 amendment applies only to applications made on or after 24 November 2012 – Date of application 4 January 2008 – Decision under review remitted

[1417442](#) (Migration) [2015] AATA 3435 (23 September 2015); H McGlade, Member

Child (Residence) (Class BT) visa – Subclass 802 – cl 802.225 – Public Interest Criteria 4017 – Law of applicant's home country – Consent granted by biological father – Decision under review remitted

[1506013](#) (Migration) [2015] AATA 3440 (23 September 2015); S Georgiadis, Member

Visitor (Class FA) visa – Hong Kong – Subclass 600 – cl 600.211 – Not a genuine temporary entrant – Other migration pathways available – Decision under review affirmed

[1420164](#) (Migration) [2015] AATA 3439 (24 September 2015); B Henry, Member

Business Skills (Residence) (Class DF) visa – Subclass 890 – cl 890.212 – Inadequate net assets and turn-over in main business during 12 months preceding application – Decision under review affirmed

[1405541](#) (Migration) [2015] AATA 3437 (25 September 2015); J Billings, Senior Member

Other Family (Residence) (Class BU) – Subclass 838 (Aged Dependent Relative) – cl 838.212 – cl 838.221 – Fernandez v MIBP [2015] FCCA 1698 – Applicant aged dependent relative of sponsor – Decision under review remitted

[1414233](#) (Migration) [2015] AATA 3436 (29 September 2015); A Duri, Member

Aged Parent (Residence) (Class BP) – Subclass 804 – cl 804.214 – Balance of family test – Greater number of children in Malaysia than Australia – Decision under review affirmed

[1408427](#) (Migration) [2015] AATA 3422 (1 October 2015); D Smyth, Senior Member

Prospective Marriage (Temporary) (Class TO) – Subclass 300 – cl 300.221A – Public Interest Criterion 4020 – Undeclared first marriage legally annulled – No impediment to the marriage in Australian law – Decision under review remitted

[1508078](#) (Migration) [2015] AATA 3462 (5 October 2015); A Ho, Member

Visitor (Class FA) visa – Vietnam – Subclass 600 – cl 600.211 – Genuine temporary entrant – Review applicant previously overstayed visa – Incentives for visa applicant to comply with conditions – Require a security for the grant of the visa – Offshore partner visa application commenced – Decision under review remitted

[1508850](#) (Migration) [2015] AATA 3473 (6 October 2015); D Hubble, Member

Partner (Temporary) (Class UK) visa – Subclass 820 – cl 820.211(2)(d)(ii) – Criterion 3001 – Compelling reasons for not applying Schedule 3 criteria – Australian citizen child - Pregnant at the time of application – Decision under review remitted

[1506376](#) (Migration) [2015] AATA 3458 (7 October 2015); A Dronjic, Member

Return (Residence) (Class BB) visa – Subclass (155) (Five Year Resident Return) – Applicant not a permanent resident or former citizen – Ministerial Intervention request – Decision under review affirmed

[1503266](#) (Migration) [2015] AATA 3460 (8 October 2015); G Cullen, Member

Student (Temporary) (Class TU) – Subclass 572 – cl 572.314 – Secondary applicant member of family unit – Genuine relationship – Relationship not declared in visa application – Decision under review affirmed

[1503352](#) (Migration) [2015] AATA 3431 (22 September 2015); S Roushan, Senior Member

Student (Temporary) (Class TU) visa – Subclass 572 Vocational Education and Training Sector – cl 572.223(1)(a) – Demonstrated clear objectives and trajectory – Decision under review remitted

[1505773](#) (Migration) [2015] AATA 3457 (8 October 2015); H Claringbold, Member

Child (Migrant) (Class AH) visa – Subclass 117 (Orphan Relative) – cl 117.211 – cl 117.221 – Child originally adopted under Chinese law – Relative of an Australian citizen – Decision under review remitted

[1312181](#) (Refugee) [2015] AATA 3512 (29 September 2015); A Younes, Senior Member

Protection visa – Irregular Maritime Arrival – Sri Lanka – Race – Tamil – Imputed political opinion – Relatives' links to Liberation Tigers of Tamil Eelam – People's Liberation Organisation of Thamil-eelam – Illegal departure – Decision under review remitted

[1502620](#) (Refugee) [2015] AATA 3464 (29 September 2015); R Smidt, Member

Protection visa – China – Social group – Breach of family planning and one child policy – Unable to pay fine for breach – Involved in fight with family planning officials – Official discrimination – Decision under review affirmed

[1400655](#) (Refugee) [2015] AATA 3467 (30 September 2015); R Hearn Mackinnon, Member

Protection visa – Afghanistan – Ethnicity – Hazara – Religion – Non-practicing Shia – Christianity – Relocation not reasonable – Decision under review remitted

[1408481](#) (Refugee) [2015] AATA 3465 (30 September 2015); N Burns, Member

Protection visa – Sri Lanka – Ethnicity – Tamil – Imputed political opinion – LTTE supporter – Social group – Three wheel driver – Illegal departure – Failed asylum seeker – Decision under review affirmed

[1311958](#) (Refugee) [2015] AATA 3510 (5 October 2015); R H Mackinnon, Member

Protection visa – Irregular Maritime Arrival – Afghanistan – Race – Tajik – Religion – Shia – Afghan National Army – Internal relocation not reasonable – Decision under review remitted

[1500421](#) (Refugee) [2015] AATA 3502 (8 October 2015); P Hunter, Member

Protection visa – China – Religion – Catholic – Unregistered church – Escape from police custody – Decision under review remitted

Practice and Procedure

[Moignard and Commissioner of Taxation](#) (Taxation) [2015] AATA 841 (30 October 2015); Deputy President K Bean

Appeal to Federal Court allowed – Matter remitted to Tribunal for rehearing – Order that unless proper cause shown to Tribunal, no further evidence to be adduced – Applicant sought leave to adduce further oral and documentary evidence – Relevant topics canvassed during applicant's oral evidence at original hearing – Application to adduce further oral evidence refused – Applicant granted leave to rely on one additional document only

Social Security

[Bhalabhadrapatruni and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 849 (12 October 2015); Dr D Cremean, Senior Member

Newstart allowance – overpayment – ensuing indebtedness – whether debt to be written off or waived or not – “solely” – “special circumstances” – decision affirmed

[Cheng and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 846 (3 November 2011); Professor R McCallum AO, Member

Pensions – disability support pension – whether applicant’s conditions were fully diagnosed, treated and stabilised – whether applicant’s impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Mosavi and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 845 (2 November 2015); Dr T Nicoletti, Senior Member

Pensions – disability support pension – whether applicant’s conditions considered permanent – whether conditions fully diagnosed, treated and stabilised – whether rating of 20 points or more can be given under Impairment Tables – decision affirmed

[Palmer and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 832 (26 October 2015); Deputy President PE Hack SC

Pension bonus – applicant received modest pension in 2009 before pension cancelled – lodged claim in 2014 – whether earlier receipt of pension precludes applicant from pension bonus – relevant criteria that person not receive age pension previously – applicant does not qualify for bonus – application dismissed

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
Charan & Charan v Secretary, Department Social Services	[2015] AATA 760
Amini v Administrative Appeals Tribunal	[2015] AATA 799
Fard v Secretary, Department of Immigration and Border Protection	[2015] AATA 790

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Comcare v Reardon	[2015] AATA 360	[2015] FCA 1166

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