



Administrative
Appeals Tribunal

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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Please note that due to upcoming public holidays, the next issue of the Bulletin will be published on 26 April 2022.

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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

[GJNP and Child Support Registrar](#) (Child support second review) [2022] AATA 551 (28 March 2022); P Ranson, Member

Social security — Child support — Assessment — Percentage of care — Working out actual care of a child — Children reside predominately at boarding school — Decision under review set aside and substituted

[Carman and Carman](#) (Child support) [2022] AATA 371 (27 January 2022); J Prentice, 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 - court orders not complied with – whether reasonable action taken by parent with reduced care – whether reasonable action taken by parent with increased care – interim period applied for 14 weeks – decision under review set aside and substituted

[Godfrey and Bamer](#) (Child support) [2022] AATA 352 (31 January 2022); R Ellis, Senior Member

CHILD SUPPORT – particulars of the administrative assessment – estimate reconciliation – whether correctly reconciliation of income estimates – decision under review affirmed

[Fritz and Payne](#) (Child support) [2022] AATA 317 (1 February 2022); P Jensen, Member

CHILD SUPPORT – non-agency payment – prescribed payment for school fees – discretion exercised not to credit – decision under review affirmed

[Molven and Kingsford](#) (Child support) [2022] AATA 318 (14 January 2022); S Letch, Member

CHILD SUPPORT – particulars of the administrative assessment – whether the adjusted taxable incomes for past periods for the liable parent should be changed – conditions for changing income to higher income retrospectively – conditions for changing the incomes to lower amounts – decisions under review affirmed – decision in one matter set aside and substituted

[Zina and Cento](#) (Child support) [2022] AATA 372 (28 January 2022); S Letch, Member

CHILD SUPPORT – departure determination – income, property and financial resources of the liable parent – a ground for departure established – decision to depart – decision under review set aside and substituted

Citizenship

[Akbari and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2022] AATA 509 (17 March 2022); A Nikolic AM CSC, Senior Member

CITIZENSHIP – application for conferral of Australian citizenship – failure to pass citizenship test – Australian Citizenship Act 2007 (Cth) – eligibility of persons under 18 – general eligibility provisions – exercise of discretion to refuse citizenship approval of other minor applicants – Citizenship Policy – Revised Citizenship Procedural Instructions – United Nations Convention on the Rights of the Child – assessment of each applicant in their own right – best interests of the children – no significant hardship or disadvantage identified – reviewable decisions affirmed

[Akot and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2022] AATA 481 (21 March 2022); J Sosso, Deputy President

CITIZENSHIP – application for citizenship by conferral – eligibility – refusal of citizenship – whether Applicant has satisfied s 21(2)(c) of Australian Citizenship Act – general residence requirement under s 22(1)(a) – Applicant outside Australia for 482 days in four years immediately before the date of application – decision under review affirmed

[Durrani and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2022] AATA 540 (25 March 2022); Dr L Bygrave, Member

CITIZENSHIP – application for Australian citizenship by conferral – whether applicant is a person of good character pursuant to paragraph 21(2)(h) of the Australian Citizenship Act 2007 (Cth) – single offence – common assault – conditional release order without conviction 12 months – apprehended domestic violence order 12 months – Australian Citizenship [Policy Statement] – Citizenship Procedural Instruction 15 – decision set aside and remitted

[Hassanzada and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Citizenship) [2022] AATA 603 (31 March 2022); Dr D Cremean, Senior Member

CITIZENSHIP – Application for Australian citizenship – identity – numerous alleged lies in application and elsewhere – lies admitted – Tribunal satisfied as to Applicant's identity – Tribunal not satisfied as to Applicant's good character – Decision Under review affirmed except as regards identity

[WYZG and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#)

(Citizenship) [2022] AATA 510 (18 February 2022); Dr S Fenwick, Senior Member

CITIZENSHIP – application for citizenship by conferral – identity – inconsistencies in personal data provided previously – taskera issued in absentia by Afghanistan authorities – whether details of life story corroborated – decision set aside and substituted

Compensation

[Daw and Comcare](#) (Compensation) [2022] AATA 543 (25 March 2022); Dr P McDermott RFD, Deputy President

Comcare – Vestibular migraine – migraine – tinnitus – vertigo – dizziness – oscillopsia – Australian Public Service employee – non-economic loss – whole person impairment – lengthy claims history – where decision under review affirmed

[XWQF and Australian Capital Territory](#) (Compensation) [2022] AATA 476 (11 March 2022); S Webb, Member

WORKER'S COMPENSATION – claim for psychological injury – allegations of bullying, misdirection and inadequate support – previous psychiatric illness and compensation claim – issues of credit and reliability – inconsistent evidence – nature and diagnosis of psychiatric illness – ongoing illness and treatment - illness in the context of employment – employment contribution not to a significant degree – claim not made out – decision affirmed

Customs

[Philip Morris Limited and Comptroller-General of Customs](#) [2022] AATA 548 (23 March 2022); B J McCabe, Deputy President

ELIGIBILITY FOR DRAWBACK OF IMPORT DUTY PAYABLE IN RESPECT OF GOODS DESPATCHED FROM AUSTRALIAN WAREHOUSES FOR EXPORT IN JULY AND AUGUST 2019 – whereas the applicant made an application for drawback of import duty payable – whether the applicant gave notice in writing as required under Regulation 37 – whether there is a discretion to pay the drawback notwithstanding non-compliance with Regulation 37 – applicant was ineligible for drawback payments because the applicant did not comply with the requirement to give notice – decision under review affirmed

[Solar Juice Pty Ltd and Comptroller-General of Customs](#) [2022] AATA 550 (24 March 2022); K James, Senior Member and Professor A O'Connell, Senior Member

CUSTOMS – importation of goods – whether separate or composite goods – whether dumping duty payable – whether goods within scope of Dumping Notice – decision set aside and remitted

Freedom of Information

[WLSX and Secretary, Department of Home Affairs](#) [2022] AATA 533 (14 March 2022); C Puplick AM, Senior Member

FREEDOM OF INFORMATION – amendment of records – Respondent to establish whether decision not to amend records is justified – Respondent to establish whether Tribunal should give adverse decision to the applicant – whether date of birth is correct – whether Tribunal can establish correct date of birth – whether it is appropriate to amend to most correct approximation – decision set aside and substituted

Migration

[Calimoso and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2022] AATA 511 (1 March 2022); B J Illingworth, Senior Member

MIGRATION – refusal to grant a visa – s 501 character test applied – whether discretion to refuse visa should be exercised – considerations in Direction 90 – whether considerations weigh in favour of refusing visa – decision under review set aside

[Chand and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2022] AATA 618 (25 March 2022); T Tavoularis, Senior Member

MIGRATION – Non-revocation of a mandatory cancellation of a Class TY 444 Special (Temporary) 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 – decision under review set aside and substituted

[De Silva and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2022] AATA 605 (31 March 2022); A Nikolic AM CSC, Senior Member

MIGRATION – visa refusal – citizen of Sri Lanka – Return (Residence) (Class BB) visa –family violence – rehabilitation and remorse – risk of engaging in criminal conduct in Australia – best interests of children – exercise of discretion – Ministerial Direction No. 90 applied – reviewable decision affirmed

[Diehl and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs](#) (Migration) [2022] AATA 604 (24 February 2022); The Hon. D Cowdroy AO QC, Deputy President

MIGRATION - discretionary visa cancellation - failure to pass the character test - whether there is another reason not to exercise the discretion to cancel the Applicant's visa - Ministerial Direction No. 90 - nature and seriousness of offending conduct - risk of reoffending - protection of the Australian community - family violence committed by the non-citizen - expectations of the Australian community - strength, nature and duration of ties to Australia - impediments to removal - decision set aside and substituted

Elkhouli and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2022] AATA 482 (17 March 2022); The Hon. J Pascoe AC CVO, Deputy President

MIGRATION – mandatory cancellation of visa under s 501(3A) – refusal to revoke cancellation – failure of character test due to substantial criminal record – is there another reason to revoke – protection of the Australian community – risk of reoffending – best interests of minor children – links to the Australian community – decision set aside and substituted

Gomes De Oliveira and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2022] AATA 512 (7 March 2022); R Bellamy, Member

MIGRATION – visa refusal – whether Applicant fails character test under s 501(6) – whether not of good character – whether more than minimal or remote risk of reoffending – domestic violence – offending out of character – evidence of reform – decision set aside and substituted

HCVN and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2022] AATA 483 (16 March 2022); Emeritus Professor P A Fairall, Senior Member

MIGRATION – mandatory cancellation of visa – Special Category TY-444 visa – where visa was cancelled under s 501CA(4) because applicant did not pass character test – substantial criminal record - Ministerial Direction No. 90 – primary considerations – protection of the Australian community – seriousness of offending and future risk – best interests of minor children in Australia – expectations of the Australian community – other considerations – extent of impediments if removed –links to the Australian community – the strength, nature and duration of ties to Australia – mandatory cancellation of visa revoked - decision under review set aside and substituted

RAHARUHI TE HUIA and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2022] AATA 477 (7 March 2022); R Maguire, Member

MIGRATION – non-revocation of mandatory cancellation – Class TY Subclass 444 Special Category (Temporary) Visa – where the Applicant does not pass the character test by virtue of his “substantial criminal history” – whether there is “another reason” to revoke the mandatory cancellation – consideration of Ministerial Direction No 90 – singular domestic violence offence; independent and authoritative evidence of repeat strangulation incidents – decision under review affirmed

Va'a and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

(Migration) [2022] AATA 573 (1 March 2022); P Q Wood, Senior Member

MIGRATION – Mandatory cancellation of visa – non-revocation of mandatory visa cancellation – Class TY Subclass 444 Special Category (Temporary) visa – New Zealand Citizen – whether applicant passes character test – failure to pass character test – past 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 – best interests of minor children – protection of the Australian community – expectations of the Australian community – Applicant’s drug use and driving offences – links to the Australian community – other relevant considerations – extent of impediments if removed – decision under review affirmed

[2201956](#) (Migration) [2022] AATA 485 (23 February 2022); W Shum, Member

MIGRATION – Bridging E (Class WE) visa – Subclass 050 (Bridging (General)) – abiding by the visa conditions – employment without permission – applicant’s immigration history – repeated Bridging Visa applications – awaiting the outcome of judicial review – applicant changed his identity to re-enter Australia – 3-year exclusion from Australia – immigration detention – wife’s illness – decision under review affirmed

[Nguyen](#) (Migration) [2022] AATA 586 (7 March 2022); K Millar, Senior Member

MIGRATION – Other Family (Migrant) (Class BO) visa – Subclass 116 (Carer) – Federal Circuit Court remittal – relationship between visa applicant niece and review applicant aunt – review applicant’s and her sister’s birth certificates give different names for mother and different dates of birth for father – statutory declaration by sister – scope of impairment and need for assistance – assistance cannot be provided by other specified family members or service providers – six grandchildren’s family, work and occasional care – current home-care package for 8 hours per week – community and social support – members of family unit – decision under review remitted

[Raj](#) (Migration) [2022] AATA 587 (28 February 2022); K Raif, Senior Member

MIGRATION – cancellation – Partner (Temporary) (Class UK) visa – Subclass 820 (Spouse) – incorrect information on visa application and Incoming Passenger Cards – applicant convicted of offences – applicant deported from New Zealand – Australian partner and child – lengthy residence in Australia – family commitments in Australia – best interests of the child – decision under review set aside

[Singh](#) (Migration) [2022] AATA 463 (22 February 2022); M Foster, Member

MIGRATION – Partner (Provisional) (Class UF) visa – Subclass 309 (Partner (Provisional)) – sponsorship limitation – 5-year time limit – long-standing spouse relationship – previous sponsored relationship did not proceed to marriage – compassionate circumstances – visa applicant visits to the sponsor – periods of joint residence – social recognition of the relationship – business and family plans – decision under review remitted

[Ye](#) (Migration) [2021] AATA 5355 (15 November 2021); D Dragovic, Senior Member

MIGRATION – Regional Employer Nomination (Permanent) (Class RN) visa – Subclass 187 (Regional Sponsored Migration Scheme) – Direct Entry stream – Accountant (General) – subject of an approved nomination – adverse information – tax conviction – ongoing investigation into occupational, health and safety issues – whether reasonable to disregard – decision under review remitted

National Disability Insurance Scheme

[JLZT and National Disability Insurance Agency](#) [2022] AATA 541 (25 March 2022); S Webb, Member

NATIONAL DISABILITY INSURANCE SCHEME – request for access – disability thresholds – meaning of ‘impairment’ – ‘impairment’ differentiated from causal condition and functional effects – fact intensive assessment – physical, cognitive and psychiatric impairments – Tribunal not limited to impairments decided by original decision-maker – permanent impairment – substantially reduced functional capacity – requirement for lifelong support – decision set aside

[Klewer and National Disability Insurance Agency](#) [2022] AATA 566 (30 March 2022); F Meagher, Deputy President

NATIONAL DISABILITY INSURANCE SCHEME – review of supports in plan – whether provision of overnight care for 10 hours per night, seven days per week is reasonable and necessary pursuant to section 34 of the National Disability Insurance Scheme Act 2013 (Cth) – if so, whether the Respondent should fund the Applicant’s mother to provide such support – decision under review affirmed.

[Short and National Disability Insurance Agency](#) [2022] AATA 549 (21 March 2022); B W Rayment OAM QC, Deputy President

NATIONAL DISABILITY INSURANCE SCHEME – access to scheme – Hypermobility Syndrome, Fibromyalgia and Chronic Fatigue – permanence of the condition - Decision under review set aside and substituted

[XMFS and National Disability Insurance Agency](#) [2022] AATA 568 (30 March 2022); Dr L Bygrave, Member

NATIONAL DISABILITY INSURANCE AGENCY – access to the scheme – whether applicant meets the disability or early intervention requirements – multiple conditions including lumbar spondylosis with bilateral foraminal stenosis, degenerative disc disease, facet joint arthritis, chronic pain syndrome, adjustment disorder with depressed mood, severe obstructive sleep apnoea, type 2 diabetes mellitus, morbid obesity, asthma, chronic obstructive pulmonary disease – whether impairments are permanent – whether impairments result in substantially reduced functional capacity – whether provision of early intervention supports is likely to reduce the applicant’s future needs for supports in relation to disability – decision under review affirmed

Practice and Procedure

[GMXV and National Disability Insurance Agency](#) [2022] AATA 505 (17 March 2022); K Parker, Senior Member

PRACTICE AND PROCEDURE – deemed recusal application – National Disability Insurance Scheme – child participant – mother of participant asserts that the Member constituted to hear this application is biased in favour of the NDIA and against child participant – deemed request by mother that Member recuse herself – Tribunal not satisfied Member has actual or apprehended bias – Member decided not to recuse herself – deemed recusal application refused

[Hunt and Repatriation Commission](#) (Veterans' entitlements) [2022] AATA 565 (29 March 2022); Dr S Fenwick, Senior Member

PRACTICE AND PROCEDURE – jurisdiction of Tribunal under Veteran's Entitlement Act 1986 – application for review of decision assessing rate of disability pension – whether Veteran's Review Board failed to conduct review – scope of Tribunal review considered – Tribunal has jurisdiction

[Noronha and Comcare](#) (Compensation) [2022] AATA 478 (11 March 2022); The Hon. J Pascoe AC CVO, Deputy President

PRACTICE AND PROCEDURE – interlocutory application for dismissal under s 42A(5) – where the matter has failed to progress – workers compensation – consistent failure to comply with s 57 notice under the SRC Act – where Applicant contends matter should be stood over until particular document can be produced – application for dismissal is granted

[S & A Financial & Accounting Services Pty Ltd and Tax Practitioners Board](#) (Taxation) [2021] AATA 5402 (14 October 2021); B J McCabe, Deputy President

PRACTICE AND PROCEDURE – reinstatement – whereas the applicant brought an application in the name of the company – the applicant is no longer a director of that company – the current director of the company requested that the application be withdrawn – applicant applied for reinstatement after being authorised to represent the company – application for reinstatement refused – Tribunal does not have the power to reinstate proceedings

[Wang and Australian Securities and Investments Commission](#) [2022] AATA 457 (18 February 2022); R Cameron, Senior Member

STAY APPLICATION – prospects of success – consequence of the refusal of the stay – public interest – consequences for the respondent – whether the application would be rendered nugatory – other relevant matters – stay order granted – CONFIDENTIALITY APPLICATION – prejudice to the applicant – high threshold – public transparency – confidentiality order refused

[Webster and Secretary, Department of Social Services](#) [2022] AATA 479 (18 March 2022); S Barton, Member

PRACTICE AND PROCEDURE – extension of time application – social security – Parenting Payment – member of a couple – length of delay – explanation for delay – prejudice to Respondent – merits of the application – alternative avenue of relief – extension of time refused

[Worthington and National Disability Insurance Agency](#) [2022] AATA 606 (30 March 2022); D O'Donovan, Senior Member

PRACTICE AND PROCEDURE – dismissal of application for non-attendance at alternative dispute resolution - repeated non-attendance – failure to provide proper explanation for non-attendance - application dismissed

Refugee

[1707840](#) (Refugee) [2022] AATA 569 (1 February 2022); S Baker, Member

REFUGEE – protection visa – Fiji – imputed political opinion – public servant – military role in workplace – fear of harm by army officers – employment – failure to resume duties after leave – returned asylum seeker – retirement age – decision under review affirmed

[1708434](#) (Refugee) [2022] AATA 574 (2 February 2022); M Hawkins AM, Member

REFUGEE – protection visa – Vietnam – political opinion – membership and activity in opposition political party – fundraising, protests and social media/blogging – returned failed asylum seeker – credibility – original claim of fear of harm from abusive step-father abandoned and new claim made shortly before hearing – political activity dates from after delegate's decision – unconvincing explanation of timing and motivation – conduct not otherwise than for purpose of strengthening claim – fear of harm not well-founded – complementary protection – country information – party outlawed within Vietnam and social media activity monitored – harassment, arrests, detention and convictions of members – applicant's own social media activity limited and mostly private – publicly identified on party's social media – no state protection available or relocation possible – decision under review remitted

[1713284](#) (Refugee) [2022] AATA 517 (20 January 2022); L Hardy, Member

REFUGEE – protection visa – Peru – imputed political opinion – husband's work as law court administrator – involvement in proceedings against corrupt political organisations and individuals – death threats – particular social group – family members of people who acted against or have information against corrupt police – credibility – vague and inconsistent claims and evidence about job description and responsibilities, and about threats – no claim for protection made in other countries visited – delay in applying for protection – applied after failing English language test for skills visa – returned to home country with no harm – child has lived in Australia most of her life – Ministerial intervention requested – decision under review affirmed

[1805548](#) (Refugee) [2022] AATA 504 (13 January 2022); L Mojsin, Member

REFUGEE – protection visa – Ukraine – Federal Circuit Court remittal – race and imputed political opinion – Russian-speaking ethnic Russian – assaulted by Right Sector members – brother-in-law an active separatist militia member – threats to applicant and wife by Ukrainian nationalists – particular social group – homosexual male – NSW relationship certificate – liability for military service as a reservist – credibility – no evidence that brother-in-law still alive and active – returned to home country after working abroad – claim on grounds of homosexuality not made in application or at previous tribunal hearing – no reference to applicant on partner’s social media – previous claim on grounds of religion not pursued – decision under review affirmed

[1809526](#) (Refugee) [2022] AATA 491 (3 January 2022); K Chapman, Member

REFUGEE – protection visa – Ethiopia – race – mixed Amhara and Oromo ethnicity – Amharic speaker – widespread ethnic conflict – fear harm from the Oromo and Tigray people – Oromo Liberation Army (OLA) – Tigray People’s Liberation Front (TPLF) – political opinion – supporter of Coalition for Unity and Democracy Party (CUDP, aka Kinijit) – particular social group – female political supporters of opposition parties in Ethiopia – vague and limited evidence – decision under review remitted

[2101532](#) (Refugee) [2022] AATA 576 (1 February 2022); M McAdam, Member

REFUGEE – cancellation – protection visa – stateless/Iraq/Iran – Federal Circuit Court remittal – incorrect answers given in visa application – citizenship – stateless or Iranian citizen – born in Iraq and living in Iran from a young age after father killed – mother’s remarriage to Iranian citizen – applicant’s Iranian driver’s licence includes father’s name and national identity card number – accuracy of translation relied on by department – licence obtained by third party while applicant in Australia to expedite gaining Australian licence – real state of satisfaction required that ground of cancellation exists – Iranian licence includes photo taken later in Australia – adverse claims made by separated wife in Family Court proceedings and anonymous allegations made to department – decision under review set aside

[2107042](#) (Refugee) [2022] AATA 572 (21 February 2022); A Murphy, Member

REFUGEE – cancellation – protection visa – Sri Lanka – risk to the health, safety or good order of the Australian community – applicant convicted of an offence – protection obligations – compelling need to remain in Australia – chronic mental illness – homelessness – non-refoulement obligations – indefinite detention – community support – decision under review set aside

Social Services

[Boyd and Secretary, Department of Social Services](#) (Social services second review) [2022] AATA 484 (21 March 2022); D Mitchell, Member

SOCIAL SECURITY – Age Pension debt – whether the Applicant was a homeowner – principal home – assets test – financial hardship rules – ongoing issues with family court orders – rate of Age Pension – where debt fully paid – where no sole administrative error – where no special circumstances – decision under review affirmed

[Ghanavi and Secretary, Department of Social Services](#) (Social services second review) [2022] AATA 552 (28 March 2022); D Mitchell, Member

SOCIAL SECURITY – Age Pension – date of claim – start day – decision under review affirmed

[Leitch and Secretary, Department of Social Services](#) (Social services second review) [2022] AATA 498 (22 March 2022); R Maguire, Member

SOCIAL SECURITY – Disability Support Pension – whether Applicant suffered a physical, intellectual or psychiatric impairment – where Applicant suffers from spinal, upper and lower limb, mental health and heart conditions – whether conditions fully diagnosed in the qualification period – whether conditions fully treated and stabilised in qualification period – whether Applicant's impairment is 20 points or more under the Impairment Tables – whether the Applicant has a continuing inability to work – whether Applicant participated in Program of Support – where overall impairment arising from fully diagnosed, fully treated, and fully stabilised conditions is nil points – decision under review affirmed

[Williams and Secretary, Department of Social Services](#) (Social services second review) [2022] AATA 525 (23 March 2022); K Millar, Senior Member

SOCIAL SECURITY – pensions, benefits and allowances – claim for disability support pension rejected – whether applicant's conditions were fully diagnosed, treated and stabilised during the qualification period – whether applicant's conditions attracted an impairment rating of at least 20 points – whether applicant had a continuing inability to work – decision under review affirmed

Taxation

[Le and Commissioner of Taxation](#) (Taxation) [2022] AATA 610 (30 March 2022); R Reitano, Member

TAXATION AND COMMERCIAL – default assessments – onus of proof – non-lodgement of tax returns – asset betterment – unexplained wealth – administrative penalties – remittal of penalties – decision affirmed

[XGPH and Commissioner of Taxation](#) (Taxation) [2022] AATA 567 (29 March 2022); D Mitchell, Member

TAXATION – income tax – deductions – employee – work-related car expenses – work-related travel expenses – other work-related expenses – incurred – in the course of deriving assessable income - substantiation of expenses – decision under review varied

Veterans' Affairs

[Dihm and Military Rehabilitation and Compensation Commission](#) (Veterans' entitlements) [2022] AATA 480 (18 March 2022); D Mitchell, Member

VETERANS' AFFAIRS – claim for compensation – dental caries - date of onset of disease prior to commencement of the Safety, Rehabilitations and Compensation (Defence-related Claims) Act 1988 (Cth) – transitional provisions dictate eligibility requirements – whether the Veteran's disease was contributed to by his service – whether the Veteran's disease resulted in incapacity for work – 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
Ba and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2022] AATA 191
Bristowe and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2022] AATA 200
Frugniet and Australian Securities and Investments Commission	[2022] AATA 295
Korokan and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2022] AATA 198
Mamatta and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2022] AATA 1
Pillay and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2022] AATA 270
The Estate of Esther Whitby and Repatriation Commission	[2021] AATA 4217

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Boys v Repatriation Commission	[2020] AATA 2116	[2022] FCA 257
El Khoueiry v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2021] AATA 3577	[2022] FCA 247
FGBP v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs	[2020] AATA 3816	[2022] FCA 253
Taylor v Minister for Home Affairs	[2021] AATA 19	[2022] FCA 309
Tohi v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor	[2020] AATA 495	[2022] HCASL 38 [2021] FCAFC 125 [2020] FCA 1223

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