

MAY 2024

Reports of the Administrative Appeals Tribunal and
Administrative Appeals Tribunal decisions on appeal
in the Federal Court and High Court

ADMINISTRATIVE APPEALS REPORTS

2020

EDITOR
KIM ROSS

REPORTERS
CATHERINE BRITTON
STEPHANIE GRACE KERR
AARON MOSS
ALAN ZHENG

VOL 83 — PART 2

PAGES 90-185

The mode of citation of this part will be:
83 AAR

TABLE OF CASES REPORTED

Part 2 — Pages 90-185

Aged Care Quality and Safety Commissioner; Mercer and (Cth AAT)	78
ANI15 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust)	22
Australian Skills Quality Authority, Site Skills Group Pty Ltd and (Cth AAT)	72
Burns and Commissioner of Taxation, Re (Cth AAT)	1
Comcare; WKVM and (Cth AAT)	146
Comcare; Wonson and (Fed Ct of Aust)	90
Department of Social Services Secretary; Re Elliott and (Cth AAT)	123
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; ANI15 v (Fed Ct of Aust)	22
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; KXRQ v (Cth AAT)	163
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; Omar and (Cth AAT)	58
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; Zada and (Cth AAT)	37
KXRQ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	163
Mack and Department of Social Security (Cth AAT)	152
Mercer and Aged Care Quality and Safety Commissioner (Cth AAT)	78
Morrison-Francis and Commissioner of Taxation (Cth AAT)	64
Omar and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	58
Re Elliott and Secretary, Department of Social Services (Cth AAT)	123
Re Le'Sam Accounting Pty Ltd and Tax Practitioners Board (Cth AAT)	176
Site Skills Group Pty Ltd and Australian Skills Quality Authority (Cth AAT)	72

(Cases in **bold** reported in this part)



© 2024 Thomson Reuters (Professional) Australia Limited

Lawbook Co.

ABN 64 058 914 668

Published in Sydney

ISSN 0813-779X

TABLE OF CASES REPORTED

Social Security, Department of; Mack and (Cth AAT)	152
Tax Practitioners Board; Re Le'Sam Accounting Pty Ltd and (Cth AAT)	176
Taxation, Commissioner of; Morrison-Francis and (Cth AAT)	64
Taxation, Commissioner of; Re Burns and (Cth AAT)	1
WKVM and Comcare (Cth AAT)	146
Wonson and Comcare (Fed Ct of Aust)	90
Zada and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	37

(Cases in **bold** reported in this part)

INDEX

Part 2 — Pages 90-185

ADMINISTRATIVE APPEALS TRIBUNAL

- Jurisdiction and powers — Social security overpayment — Applicant seeking to have debt partially waived — Settlement reached — Application for review of decision made by Secretary of Department of Social Services — Whether decision was a reviewable decision — Whether decision was a non-reviewable decision — Delegated Authority of Secretary of Department of Social Services — Social Security (Administration) Act 1999 (Cth), ss 141, 142, 144, 179, 181Administrative Appeals Tribunal Act 1975 (Cth), ss 3(3), 25, 42A(4).
Re Elliott and Secretary, Department of Social Services (Cth AAT) 123
- Practice — Application for stay — Disability support pension — Factors relevant to grant of stay — Prospects of success — Prejudice to parties — Public interest — Financial hardship — Whether application will be rendered nugatory — Whether applicant would experience financial hardship if not granted stay order — Partial stay — Administrative Appeals Tribunal Act 1975 (Cth), s 41.
Mack and Department of Social Security (Cth AAT) 152
- Practice — Confidentiality — Release from implied undertaking — Medical reports — Use of medical reports in professional conduct complaint — Whether appropriate for Tribunal to release from undertaking — Relevant factors — Prejudice — Whether use of document in public interest — Safety, Rehabilitation and Compensation Act 1988 (Cth).
WKVM and Comcare (Cth AAT) 146
- Practice — Stay pending review — Relevant factors — Termination of tax agent registration — Unauthorised access of former client's details on Tax Agents Portal — Request for information from Tax Practitioners Board — Failure to respond in timely, responsible and reasonable manner — Prospects — Public interest — Whether review rendered nugatory if stay not granted — Tax Agents Services Act 2009 (Cth), s 60-100 — Administrative Appeals Tribunal Act 1975 (Cth), s 41.
Re Le'Sam Accounting Pty Ltd and Tax Practitioners Board (Cth AAT) 176
- Reasons of Tribunal — Adequacy — Whether Tribunal discharged obligation to give reasons — Safety, Rehabilitation and Compensation Act 1988 (Cth), s 7(7) — Administrative Appeals Tribunal Act 1975 (Cth), ss 43(2), 43(2B), 43(AA), 44.
Wonson and Comcare (Fed Ct of Aust) 90

CITIZENSHIP

- Application for citizenship — Refusal — Failure to meet residence requirement — Failure to meet special residency requirements — Absence from Australia at time of decision — Australian Citizenship Policy — Whether Administrative Appeals Tribunal bound by Australian Citizenship Policy — Lack of permanent residency visa due to processing delays — Whether processing delays amounted to administrative error — Australian Citizenship Act 2007 (Cth), ss 21(2), 22(1), 22(1A), 22(1B), 24(5).
KXRQ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT) 163

INDEX

COMMONWEALTH EMPLOYEES COMPENSATION

- Disease or injury — Psychiatric injury — Whether suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment — Whether suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment — Safety, Rehabilitation and Compensation Act 1988 (Cth), ss 5A, 5B. — Safety, Rehabilitation and Compensation Act 1988 (Cth), ss 5A, 5B.
Wonson and Comcare (Fed Ct of Aust) 90

DISEASE OR INJURY

- Psychiatric injury — Whether “suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment” — Safety, Rehabilitation and Compensation Act 1988 (Cth), ss 5A, 5B.
Wonson and Comcare (Fed Ct of Aust) 90

WORDS AND PHRASES

- “Suffered as a result of reasonable administrative action taken in a reasonable manner in respect of the employee's employment”.
Wonson and Comcare (Fed Ct of Aust) 90

WORDS AND PHRASES

- “Decision” — “A decision under this Act made personally” — “Reviewable decision” — “Non-reviewable decision”.
Re Elliott and Secretary, Department of Social Services (Cth AAT) 123