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

AARON MOSS CATHERINE BRITTON

VOL 83 — PART 5

PAGES 390-495

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

TABLE OF CASES REPORTED

Part 5 — Pages 390-495

Arbito V Minister for immigration and Border Protection (Fed Ct of Aust)	202
Aged Care Quality and Safety Commissioner; Mercer and (Cth AAT)	
	. /0
ANI15 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust)	22
Australian Postal Corporation; Hickey v (Cth AAT)	
	208
Australian Securities and Investments Commission; Ehrenfeld v (Cth	206
AAT) Australian Securities and Investments Commission; Schroeder and	286
(Cth AAT)	110
, , , , , , , , , , , , , , , , , , , ,	410
Australian Skills Quality Authority, Site Skills Group Pty Ltd and (Cth AAT)	72
Burns and Commissioner of Taxation, Re (Cth AAT)	
Comcare; Flahive and (Cth AAT)	
Comcare; WKVM and (Cth AAT)	
Comcare; Wonson and (Fed Ct of Aust)	90
Dao v Minister for Home Affairs (Fed Ct of Aust)	270
Department of Social Services Secretary; Re Elliott and (Cth AAT)	123
Ehrenfeld v Australian Securities and Investments Commission (Cth	
AAT)	286
Eros v Minister for Immigration, Citizenship, Migrant Services and	
Multicultural Affairs (Fed Ct of Aust)	226
FAK19 v Minister for Immigration, Citizenship, Migrant Services and	
Multicultural Affairs (Fed Ct of Aust)	247
Flahive and Comcare (Cth AAT)	
Ford and Minister for Immigration, Citizenship, Migrant Services	
and Multicultural Affairs (Migration) (Cth AAT)	430
(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

Gage v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust)	372
Hickey v Australian Postal Corporation (Cth AAT)	
HWLJ v Minister for Immigration, Citizenship, Migrant Services and	200
Multicultural Affairs (Fed Ct of Aust)	186
Immigration and Border Protection, Minister for; AFD16 v (Fed Ct of Aust)	292
Immigration, Citizenship, Migrant Services and Multicultural	
Affairs (Migration), Minister for; Ford v (Cth AAT)	430
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; ANI15 v (Fed Ct of Aust)	
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; Cage v (Fed Ct of Aust)	372
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; Eros v (Fed Ct of Aust)	
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; FAK19 v (Fed Ct of Aust)	
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; HWLJ v (Fed Ct of Aust)	
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; KXRQ v (Cth AAT)	
Immigration, Citizenship, Migrant Services and Multicultural Affairs,	
Minister for; LSNZ and (Cth AAT)	328
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; MBJY v (Fed Ct of Aust)	300
Immigration, Citizenship, Migrant Services and Multicultural Affairs,	390
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
LSNZ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	328
Mack and Department of Social Security (Cth AAT)	152
Magazine Co v Federal Commissioner of Taxation (Cth AAT)	239
Mahathevan v Tax Practitioners Board (Cth AAT)	357
MBJY v Minister for Immigration, Citizenship, Migrant Services	
and Multicultural Affairs (Fed Ct of Aust)	
Mercer and Aged Care Quality and Safety Commissioner (Cth AAT)	
Minister for Home Affairs; Dao v (Fed Ct of Aust)	
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
Schroeder and Australian Securities and Investments Commission	170
(Cth AAT)	418

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

TABLE OF CASES REPORTED

Site Skills Group Pty Ltd and Australian Skills Quality Authority (Cth	
AAT)	72
Social Security, Department of; Mack and (Cth AAT)	152
Tax Practictioners Board; Re Le'Sam Accounting Pty Ltd and (Cth	
AAT)	176
Tax Practitioners Board; Mahathevan v (Cth AAT)	357
Taxation, Commissioner of; Morrison-Francis and (Cth AAT)	64
Taxation, Commissioner of; Re Burns and (Cth AAT)	1
Taxation, Federal Commissioner of; Magazine Co v (Cth AAT)	239
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 5 — Pages 390-495

ADMINISTRATIVE APPEALS TRIBUNAL	
Evidence — Mandatory visa cancellation — Material disclosing facts and allegations of offences for which Applicant acquitted at trial — Whether material relevant to the Tribunal's decision-making process — Whether Tribunal's decision is affected by apprehended bias by reason of the allegedly irrelevant and prejudicial material being before the Tribunal — Onus and standard of proof — Migration Act 1958 (Cth) s 501(3A); 501CA(4). **MBJY v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust) —	390
Evidence — Oral evidence — Immigration — Protection Visa — Claims for self-incrimination privilege — Obligation of applicants to answer Tribunal's questions — Refusal to answer questions based on representative's view of relevance — Relevance of questions regarding applicant's credibility — Migration Act 1958 (Cth), Pt 7. Ford and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration) (Cth AAT)	430
Jurisdiction and powers — Immigration — Protection Visa — Tribunal's power to regulate the course of hearing — Tribunal's power to regulate conduct of applicant's representation during hearing — Migration Act 1958 (Cth), Pt 7. Ford and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration) (Cth AAT)	430
Jurisdiction and powers — Statutory interpretation — Amendments to companies legislation in response to financial sector reform recommendation of Hayne Royal Commission — Stronger regulators legislation — Amendments enacted after reviewable decision — Amended after reviewable decision — Whether Tribunal to apply amended legislation — Revised and additional grounds for review — Whether question on review same as that before original decision maker — Whether remittal to primary decision maker more appropriate — Corporations Act 2001 (Cth), Ch 7, ss 920A, 920B, 1666, 1667 — Financial Sector Reform (Hayne Royal Commission Response–Stronger Regulators (2019 Measures)) Act 2020 (Cth) — Administrative Appeals Tribunal Act 1975 (Cth), s 42D. Schroeder and Australian Securities and Investments Commission	
(Cth AAT)	418
IMMIGRATION	
Migration Agent — Cancellation of registration — Breach of Code of Conduct for migration agents — Whether applicant a person of integrity or fit and proper person to give immigration assistance — Role of migration agent as representative in Administrative Appeals Tribunal hearing — Conduct of agent interrupting, pre-emptively terminating and advising client not to attend hearing, or to decline to answer questions asked by Tribunal — Migration Act 1958 (Cth), ss 303, Pt 7.	
Ford and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration) (Cth AAT)	430