

DECEMBER 2024

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

ADMINISTRATIVE APPEALS REPORTS

2021

EDITOR
KIM ROSS

REPORTERS

CATHERINE BRITTON
STEPHEN CREMEAN
STEPHANIE GRACE KERR

MARCUS VETHECAN
NICHOLAS VIALLE
ALAN ZHENG

VOL 84 — PART 5

PAGES 412-504

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

TABLE OF CASES REPORTED

Part 5 — Pages 412-504

ACN 154 520 199 Pty Ltd (in liq) v Federal Commissioner of Taxation (Fed Ct of Aust)	107
Administrative Appeals Tribunal; Prahauser v (Fed Ct of Aust)	86
Al-Huda Pty Limited v Secretary, Department of Education, Skills and Employment (Fed Ct of Aust)	41
Apted v Federal Commissioner of Taxation (Cth AAT)	288
Attorney-General (Cth); Dreyfus v (Cth AAT)	456
Australia Institute of Business & Technology-International Pty Ltd v Australian Skills Quality Authority (Cth AAT)	343
Australian and International Pilots Association v Civil Aviation Safety Authority (Cth AAT)	1
Australian Capital Territory; Christensen v (Cth AAT)	278
Australian Capital Territory; Haberecht v (Cth AAT)	191
Australian Capital Territory; Kuchlmayr v (Cth AAT)	201
Australian Securities and Investments Commission; Hardy (by his tutor, Lynette Maree Hardy) v (Cth AAT)	443
Australian Skills Quality Authority; Australia Institute of Business & Technology-International Pty Ltd v (Cth AAT)	343
Australian Skills Quality Authority; King Eeducational Service Pty Ltd v (Fed Ct of Aust)	392
Barque Institute Pty Ltd v Tertiary Education Quality and Standards Agency (Fed Ct of Aust)	355
Bebawy; Migration Agents Registration Authority v (Fed Ct of Aust)	484
Christensen v Australian Capital Territory (Cth AAT)	278
Citizenship, Migrant Services and Multicultural Affairs, Minister for; DVRF v (Cth AAT)	448

(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

Civil Aviation Safety Authority; Australian and International Pilots Association v (Cth AAT)	1
Comcare; Gadzikwa v (Fed Ct of Aust)	59
Comcare; Mununggurr v (Fed Ct of Aust)	238
Comcare; Saad and (Cth AAT)	426
Comcare; Vasquez and (Cth AAT)	189
Commissioner of Taxation; Watts and (Cth AAT)	499
Department of Education, Skills and Employment, Secretary; Al-Huda Pty Limited v (Fed Ct of Aust)	41
Department of Social Services, Secretary; Elliott v (Cth AAT)	321
Dreyfus v Attorney-General (Cth) (Cth AAT)	456
DVRF and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	448
Education, Secretary, Department of; Montenegro v (Fed Ct of Aust)	205
Elliott v Secretary, Department of Social Services (Cth AAT)	321
Farrall v National Disability Insurance Agency (Cth AAT)	265
FDFP and National Disability Insurance Agency (Cth AAT)	13
Federal Commissioner of Taxation; Apted v (Cth AAT)	288
Federal Commissioner of Taxation; Kais and (Cth AAT)	337
Gadzikwa v Comcare (Fed Ct of Aust)	59
GKD18 v Minister for Home Affairs (Fed Ct of Aust)	168
H2O Exchange Pty Ltd v Innovation and Science Australia (Fed Ct of Aust)	346
Haberecht v Australian Capital Territory (Cth AAT)	191
Hardy (by his tutor, Lynette Maree Hardy) v Australian Securities and Investments Commission (Cth AAT)	443
Holland and National Disability Insurance Agency (Cth AAT)	376
Immigration and Border Protection, Minister for v Makasa (High Ct of Aust)	412
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; MQGT v (Fed Ct of Aust)	225
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; ZDGY v (Cth AAT)	306
Innovation and Science Australia; H2O Exchange Pty Ltd v (Fed Ct of Aust)	346
Kais and Federal Commissioner of Taxation (Cth AAT)	337
King Educational Service Pty Ltd v Australian Skills Quality Authority (Fed Ct of Aust)	392
Kuchlmayr v Australian Capital Territory (Cth AAT)	201
Makasa; Minister for Immigration and Border Protection v (High Ct of Aust)	412
Mayer and National Disability Insurance Agency (Cth AAT)	20
MDCT and National Disability Insurance Agency (Cth AAT)	311
Migration Agents Registration Authority v Bebawy (Fed Ct of Aust)	484
Minister for Home Affairs; GKD18 v (Fed Ct of Aust)	168
Montenegro v Secretary, Department of Education (Fed Ct of Aust)	205

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

TABLE OF CASES REPORTED

MQGT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust)	225
Mununggurr v Comcare (Fed Ct of Aust)	238
National Disability Insurance Agency; Farrall v (Cth AAT)	265
National Disability Insurance Agency; Holland and (Cth AAT)	376
National Disability Insurance Agency; Mayer and (Cth AAT)	20
National Disability Insurance Agency; MDCT and (Cth AAT)	311
National Disability Insurance Agency; PDFF and (Cth AAT)	13
Prahauser v Administrative Appeals Tribunal (Fed Ct of Aust)	86
Saad and Comcare (Cth AAT)	426
Taxation, Federal Commissioner of; ACN 154 520 199 Pty Ltd (in liq) v (Fed Ct of Aust)	107
Tertiary Education Quality and Standards Agency; Barque Institute Pty Ltd v (Fed Ct of Aust)	355
Vasquez and Comcare (Cth AAT)	189
Watts and Commissioner of Taxation (Cth AAT)	499
ZDGY v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT)	306

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

INDEX

Part 5 — Pages 412-504

ADMINISTRATIVE APPEALS TRIBUNAL

- Appeal from — Agreed error by Tribunal — Remittal — Whether orders to be made for reception of evidence by Tribunal — Costs — Administrative Appeals Tribunal Act 1975 (Cth), ss 43(2), (2B), 44 — Federal Proceedings (Costs) Act 1981 (Cth), s 6(3) — Migration Act 1958 (Cth), ss 303(1)(a), 306, 311A.
Migration Agents Registration Authority v Bebawy (Fed Ct of Aust) 484
- Appeal from — Migration agent — Migration agent — Cancellation of registration — Variation of cancellation decision on review by Tribunal — Extension of cancellation period — Parties agreed Tribunal erred — Whether Tribunal failed to actively engage with submissions — Adequacy of Tribunal's reasons for decision — Whether orders to be made for reception of evidence by Tribunal — Costs — Administrative Appeals Tribunal Act 1975 (Cth), ss 43(2), (2B), 44 — Federal Proceedings (Costs) Act 1981 (Cth), s 6(3) — Migration Act 1958 (Cth), ss 303(1)(a), 306, 311A.
Migration Agents Registration Authority v Bebawy (Fed Ct of Aust) 484
- Jurisdiction and powers — Application for Citizenship — Whether applicant will suffer hardship or disadvantage — Whether there is a cogent reason not to apply the Australian Citizenship Policy — Personal needs and personal wants — Australian Citizenship Act 2007, ss 21(5), 22(1), 24(2).
DVRF and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT) 448
- Jurisdiction and powers — Timing of application for review — Where application lodged before reviewable decision made — Tribunal unable to review decision — New application lodged by consent of parties — Administrative Appeals Tribunal Act 1975 (Cth), s 42A(4).
Saad and Comcare (Cth AAT) 426
- Practice — Production of documents — Summons to produce — Objection to summons — Requirements for issue of summons — Relevance of documents sought to proceedings — Whether overly broad — Whether Harman principle should apply — Corporations Act 2001 (Cth), s 206F — Administrative Appeals Tribunal Act 1975 (Cth), s 40A.
Hardy (by his tutor, Lynette Maree Hardy) v Australian Securities and Investments Commission (Cth AAT) 443
- Practice — Standing to seek review of decision — Taxation — Objection decision — Whether applicant was the person dissatisfied with the Commissioner's objection decision — Employer entitled to seek review of objection decision — Taxation Administration Act 1953 (Cth), ss 14ZZ, 14ZZB — Superannuation Guarantee (Administration) Act 1992 (Cth), s 42 — Administrative Appeals Tribunal Act 1975 (Cth), s 27.
Watts and Commissioner of Taxation (Cth AAT) 499

INDEX

COMMONWEALTH EMPLOYEES COMPENSATION

- Determination of liability — Multiple claims — Definition of injury — Whether employee suffered injury (other than disease) due to employment — Whether Commonwealth has present liability — Safety, Rehabilitation and Compensation Act 1988 (Cth), ss 5A, 5B, 14, 16, 19.
Saad and Comcare (Cth AAT) 426

FREEDOM OF INFORMATION

- Request for access — Exemption — Privilege — Legal advice given to Attorney-General — Partial disclosure of advice — Implied waiver — Conduct inconsistent with maintenance of legal professional privilege — Purpose of disclosure — Discretion of Information — Commissioner not to undertake review — Freedom of Information Act 1982 (Cth) ss 42, 54W(B).
Dreyfus v Attorney-General (Cth) (Cth AAT) 456

IMMIGRATION

- Permanent residence visa — Character test following Administrative Appeals Tribunal decision — Whether delegate of Minister or Tribunal can re-exercise powers to cancel a visa after Tribunal has set aside decision — Construction of statutory scheme — Migration Act 1958 (Cth), s 501(2).
Minister for Immigration and Border Protection v Makasa (High Ct of Aust) 412

WORDS AND PHRASES

- “Hardship or disadvantage” “Cogent reason not to apply the policy”.
DVRF and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Cth AAT) 448