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

VOL 85 — PART 2

PAGES 97-193

The mode of citation of this part will be: **85 AAR**

TABLE OF CASES REPORTED

Part 2 — Pages 97-193

Multicultural Affairs v (High Ct of Aust)	13
Administrative Appeals Tribunal; Gadzikwa v (Fed Ct of Aust)	
Board of Professional Engineers of Queensland v Gardner (Fed Ct	
of Aust)	179
DCP17 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Fed Ct of Aust)	48
Gadzikwa v Administrative Appeals Tribunal (Fed Ct of Aust)	1
Gardner; Board of Professional Engineers of Queensland v (Fed	
Ct of Aust)	179
Immigration, Citizenship, Migrant Services and Multicultural Affairs, Minister for; DCP17 v (Fed Ct of Aust)	48
Le v Commissioner of Taxation (Fed Ct of Aust)	
MDCT v National Disability Insurance Agency (Cth AAT)	
Military Rehabilitation and Compensation Commission; Palmer	
and (Cth AAT)	160
Minister for Immigration, Citizenship, Migrant Services and	
Multicultural Affairs v AAM17 (High Ct of Aust)	13
National Disability Insurance Agency; MDCT v (Cth AAT)	32
Palmer and Military Rehabilitation and Compensation	
Commission (Cth AAT)	
SDCV v Director-General of Security (Fed Ct of Aust)	
Security, Director-General of; SDCV v (Fed Ct of Aust)	97
Taxation, Commissioner of; Le v (Fed Ct of Aust)	69

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



© 2025 Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668 Lawbook Co. Published in Sydney

ISSN 0813-779X

INDEX

Part 2 — Pages 97-193

ADMINISTRATIVE APPEALS TRIBUNAL

 Appeal from — Mutual recognition — Fire safety certifier — New South Wales occupation — Whether equivalent occupation in Queensland — Whether Tribunal misconstrued equivalence test in mutual recognition legislation — Relevance of condition imposed by Tribunal — Whether Tribunal's reliance on evidence of irrelevant consideration — New South Wales occupation classification changed after relevant decision — Administrative Appeals Tribunal Act 1975 (Cth), s 44 — Building and Development Certifiers Act 2018 (NSW) — Building Professionals Act 2005 (NSW) — Mutual Recognition Act 1992 (Cth), ss 21, 29 — Professional Engineers Act 2002 (Qld). Board of Professional Engineers of Queensland v Gardner (Fed Ct of Aust) 	179
Practice — Implied undertaking to not use documents produced for ulterior or collateral purpose — Harmon obligation owed to Tribunal — Request for release from undertaking — Steps to exercise of Tribunal's discretion. Palmer and Military Rehabilitation and Compensation Commission	
(Cth AAT)	
Procedural fairness — Cancellation of visa — Ministerial non-disclosure certificate — Statutory regime modifying common law principles of procedural fairness in merits review by the Tribunal — Adverse security assessment (ASA) — Whether certificate requires conduct of proceedings in a procedurally unfair manner — Whether statutory regime is contrary to constitutional requirements of judicial power — Constitution, Ch III — Administrative Appeals Tribunal Act 1975 (Cth), ss 39, 39A, 39B, 43AAA, 44, 46(2). SDCV v Director-General of Security (Fed Ct of Aust)	
Reasons of Tribunal — Non-disclosure certificate — Adverse security assessment (ASA) — Where ASA grounds for cancellation of visa — Requirement for Tribunal to give reasons — Whether Tribunal required to publish closed reasons — Publication of open and closed reasons — Whether it was open to Tribunal to reach decision based on open and closed evidence — Whether Tribunal required to make positive findings on unchallenged evidence in open court — Administrative Appeals Tribunal Act 1975 (Cth), ss 39, 39A, 39B, 43(2), 43AAA.	/
SDCV v Director-General of Security (Fed Ct of Aust)	97

INDEX

WORDS AND PHRASES	
"Directly or indirectly, a risk to security".	
SDCV v Director-General of Security (Fed Ct of Aust)	. 97
"Practical injustice".	
SDCV v Director-General of Security (Fed Ct of Aust)	. 97