

Question on notice no. 491

Portfolio question number: SE23-491

2022-23 Supplementary Budget estimates

Legal and Constitutional Affairs Committee, Home Affairs Portfolio

Senator Nick McKim: asked the Department of Home Affairs on 13 February 2023

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For people who were before the Administrative Appeals Tribunal seeking review of a non-revocation decision at the time of their release, will it be necessary to resubmit revocation requests (and thus effectively re-start the revocation process) ?

a. Assuming non-revocation decisions under s 501CA are considered effective, will it be necessary for those people to re-submit applications for review to the Administrative Appeals Tribunal?

Answer —

Please see the attached answer.

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
SUPPLEMENTARY ESTIMATES
FEBRUARY 2023**

**Home Affairs Portfolio
Department of Home Affairs**

Program 2.2: Visas

SE23-491 - Aggregate Sentences Act - review of a non-revocation decision

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a. Assuming non-revocation decisions under s 501CA are considered effective, will it be necessary for those people to re-submit applications for review to the Administrative Appeals Tribunal?

Answer:

Individuals who, on 22 December 2022, were within time to seek merits review at the Administrative Appeals Tribunal (AAT), or had an active merits review process before the AAT do not need to resubmit a revocation request. The original non-revocation decision remains valid and will not be re-considered.

If a review had been lodged with the AAT prior to the *Pearson* decision, and no decision has been made by the AAT, that review will continue.

Further information relating to the impacts of the *Migration Amendment (Aggregate Sentences) Act 2023* can be found at <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/factsheet-aggregate-sentences-act.pdf>.