



AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions. The Bulletin occasionally includes information on legislative changes that affect the AAT and other important developments.

It is recommended that the Bulletin be read on-line. This has the advantage of allowing the reader to use hyperlinks to access the full text of cases and other internet sites mentioned in the Bulletin.

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Statements of Principles

This section of the Bulletin provides information on recent developments in relation to Statements of Principles made by the Repatriation Medical Authority for the purposes of the [Veterans' Entitlements Act 1986](#) and the [Military Rehabilitation and Compensation Act 2004](#).

New Statements of Principles

The Tribunal has been advised that the Repatriation Medical Authority has made the following new Statements of Principles. They take effect from **13 March 2013**.

[Polycythaemia vera – No. 11 of 2013](#)

[Polycythaemia vera – No. 12 of 2013](#)

[Seborrhoeic dermatitis – No. 13 of 2013](#)

[Seborrhoeic dermatitis – No. 14 of 2013](#)

[Essential thrombocythaemia – No. 15 of 2013](#)

[Essential thrombocythaemia – No. 16 of 2013](#)

[Primary myelofibrosis – No. 17 of 2013](#)

[Primary myelofibrosis – No. 18 of 2013](#)

Amended Statements of Principles

The Tribunal has been advised that the Repatriation Medical Authority has made the following instruments amending the Statements of Principles for the specified conditions. They take effect from **13 March 2013**.

[Hypopituitarism – No. 19 of 2013](#)

[Hypopituitarism – No. 20 of 2013](#)

AAT Recent Decisions

This section of the Bulletin provides information about decisions recently published by the AAT. Only AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Defence

[Howie and Commonwealth Superannuation Corporation](#) [2013] AATA 114; 1/3/2013; Deputy President SD Hotop

Defence Force Retirement and Death Benefits Scheme (DFRDBS) – Military Superannuation and Benefits Scheme (MSBS) – Applicant retired from Australian Regular Army in July 2010 – Applicant a recipient member of DFRDBS – Applicant a member of Army Reserve – Applicant undertook to render continuous full-time service (CFTS) with Australian Regular Army from 8 November 2011 to 7 March 2012 – Applicant resumed CFTS on 8 November 2011 – Applicant elected in writing not to become member of MSBS before 8 November 2011 – Applicant did not communicate election to respondent before resuming CFTS on 8 November 2011 – Applicant became member of MSBS on 8 November 2011 – Applicant continued to receive retirement pay under DFRDBS in period from 8 November 2011 to 23 February 2012 – Retirement pay under DFRDBS not payable to applicant in that period – Amount of retirement pay under DFRDBS paid to applicant in that period recoverable by respondent – Decision under review affirmed

Immigration and Citizenship

[Tokorua Pareina and Minister for Immigration and Citizenship](#) [2013] AATA 115; 5/3/2013; Deputy President RP Handley

Visa cancellation – Direction No 55 – Character test – Substantial criminal record – Primary considerations – Other considerations – Decision under review set aside and substituted

Practice and Procedure

[Liu and Australian Securities and Investments Commission](#) [2013] AATA 117; 6/3/2013; Professor R Deutsch, Deputy President

Interlocutory application – Corporations – Australian Securities and Investment Commission – Stay of decision and confidentiality orders – Whether desirable to grant stay order and confidentiality order – Stay and confidentiality orders refused

Social Security

[Taylor and Secretary, Department of Education, Employment and Workplace Relations](#) [2013] AATA 119; 6/3/2013; Ms K Hogan, Member

Parenting payment – Overpayment of parenting payment – Debt due to commonwealth as a result of overpaid parenting payment – Failure to advise of a change of circumstances – Tribunal unable to waive debt pursuant to section 1237a of the *Social Security Act* – Whether applicant knowingly made false statement or false representation or failed or omitted to comply with the requirements of the *Social Security Act* and the *Social Security (Administration) Act* – Whether special circumstances exist in respect to the applicant – Tribunal unable to waive or

write off the debt under section 1236 or 1237aad of the *Social Security Act* – Decision under review set aside and remitted for further consideration

Taxation

[Picton Finance Limited and Commissioner of Taxation](#) [2013] AATA 116; 5/3/2013; Senior Member PW Taylor SC

Income tax – Share trading by company incorporated in Vanuatu – On and off market transactions – Onus of proof – Cost of and proceeds from sales of shares – Time at which shares came to be held as trading stock – Election of value of trading stock – timing of election – Whether income from share trading derived from an Australian source – Penalty – Decision in respect to the 2007 tax year is set aside and remitted and the decision in respect to the 2008 tax year is affirmed

Appeals

This section of the Bulletin provides information about appeals against AAT decisions that have been lodged or finalised. Only appeals in relation to AAT decisions that have been published on [AustLII](#) have been included. Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
Commissioner of Taxation v Dowling	[2013] AATA 49

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Abel v Secretary, Department of Education, Employment and Workplace Relations	[2012] AATA 155	[2013] FMCA 124
Minister for Immigration and Citizenship v Shume	[2012] AATA 465	[2013] FCA 158
Rawson Finances Pty Ltd v Commissioner of Taxation	[2011] AATA 628	[2013] FCAFC 26 [2012] FCA 753



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