



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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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.

Immigration and Citizenship

[Brown and Minister for Immigration and Border Protection](#) [2015] AATA 414; 12/6/2015; Professor R Deutsch, Deputy President

Character test – whether Applicant is of good character – decision under review affirmed

Social Security

[Anwar; Secretary, Department of Social Services and](#) [2015] AATA 413; 12/6/2015; Senior Member JF Toohey

Disability support pension (DSP) – portability period – DSP suspended and then cancelled – whether Centrelink should have cancelled DSP – whether preferable decision was to continue suspension until Applicant returned to Australia – payability – whether cancellation was rational and proportionate in the circumstances – decision to cancel pension set aside

[Brown and Secretary, Department of Social Services](#) [2015] AATA 409; 11/6/2015; Miss EA Shanahan, Member

Residential aged care – calculation of the residential care subsidy payable to an approved provider – assessment of assets – whether or not value of care recipients principle place of residence/home can be disregarded – provision of care by resident fund – period of some residence in question – on the balance of probabilities s 44-26A(6)(b) satisfied until 4 May 2015 – decision set aside and substituted

[Butters and Secretary, Department of Social Services](#) [2015] AATA 406; 9/6/2015; Ms S Taglieri, Member

Disability Support Pension – whether condition(s) including psychological condition result in 20 points of impairment – whether there is continuing inability to work – decision affirmed

[Daley and Secretary, Department of Social Services](#) [2015] AATA 412; 12/6/2015; Dr I Alexander, Member

Disability support pension – whether Applicant's conditions were fully diagnosed, treated and stabilised – whether Applicant's impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Dunn; Secretary, Department of Social Services and](#) [2015] AATA 401; 5/6/2015; Mr I Thompson, Member

Disability support pension – permanent conditions – whether Respondent has an impairment rating of 20 points or more under the Impairment Tables – whether Respondent had a continuing inability to work – whether Respondent has a severe impairment – decision under review affirmed

[Makram and Secretary, Department of Social Services](#) [2015] AATA 408; 10/6/2015; Dr I Alexander, Member

Disability support pension – whether Applicant's conditions were fully diagnosed, treated and stabilised – whether Applicant's impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Nelson and Secretary, Department of Social Services](#) [2015] AATA 405; 5/6/2015; Senior Member AF Cunningham

Age pension-lump sum compensation payment – preclusion period – special circumstances – decision under review set aside

[Nguyen and Secretary, Department of Social Services](#) [2015] AATA 407; 10/6/2015; Dr I Alexander, Member

Disability support pension – whether Applicant's conditions were fully diagnosed, treated and stabilised – whether Applicant's impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Sayers and Secretary, Department of Social Services](#) [2015] AATA 410; 11/6/2015; Senior Member BJ McCabe

Disability support pension – multiple medical conditions – sleep apnoea not fully diagnosed, treated and stabilised – other conditions attract insufficient impairment points – medical criteria not satisfied – decision under review affirmed

Veterans' Affairs

[Maloney and Repatriation Commission](#) [2015] AATA 404; 5/6/2015; Deputy President JW Constance

Pension – special rate of pension – whether incapacity from accepted conditions of itself alone renders Applicant totally or permanently incapacitated – non-accepted conditions of obesity and sleep apnoea – time out of workforce and age relevant

Pension – intermediate rate of pension – whether incapacity from accepted conditions of itself alone renders Applicant incapable of working part-time or intermittently – whether accepted conditions alone prevent from continuing to undertake remunerative work – decision affirmed

[Mossman and Repatriation Commission](#) [2015] AATA 346; 21/5/2015; Deputy President IR Molloy

War widow's pension – whether death war-caused – whether tobacco consumption related to service – reasonable hypothesis connecting death with service – hypothesis considered reasonable – ischaemic heart disease – decision set aside and substituted

[Sheldon and Repatriation Commission](#) [2015] AATA 415; 12/6/2015; Deputy President PE Hack SC

Veterans' entitlements – pension – special rate – what type of work may be undertaken with Applicant's skills, qualifications or experience – whether, realistically and practically, a backhoe operator is expected to undertake some manual labour – whether there are other reasons preventing continuing remunerative work – decision under review set aside

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
Khorrarnadel v Secretary, Department of Social Services	[2015] AATA 383
Hananeia v Secretary, Attorney-General's Department	[2015] AATA 319

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Mulligan v National Disability Insurance Agency	[2014] AATA 374	[2015] FCA 544
Minister for Immigration and Border Protection v Tran	[2014] AATA 957	[2015] FCA 546
Pattle v Department of Social Services	[2014] AATA 683	[2015] FCA 556
Cao v Secretary, Department of Families, Housing, Communities Services and Indigenous Affairs	[2013] AATA 591	[2015] FCA 563 [2014] FCA 52
O'Donnell v K & S Freighters Pty Ltd	[2014] AATA 437	[2015] FCA 573

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