



Administrative
Appeals Tribunal

AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing information about recently published decisions and appeals against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. The Bulletin also regularly includes a sample of decisions recently published in the AAT's Migration & Refugee Division and Social Services & Child Support Division. It occasionally includes information on legislative changes that affect the AAT.

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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Enquiries regarding this publication may be directed to aatweb@aat.gov.au.

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AAT Recent Decisions

The following decisions were recently delivered by the AAT in the General, FOI, NDIS, Security, Taxation & Commercial and Veterans' Appeals Divisions. This list also includes selected child support decisions published by the Social Services & Child Support Division and examples of recent decisions published by the Migration & Refugee Division. If the decision is to be summarised, this will be noted. Click on the links for direct access to the full text of the decision.

Citizenship

[Kashef Haghighi and Minister for Immigration and Border Protection](#) (Citizenship) [2017] AATA 1161 (28 July 2017); Senior Member JF Toohey

Application refused – whether applicant of good character – previous offences not disclosed – whether applicant submitted false documents in support of past visa application – whether sufficient time passed – decision under review affirmed

Compensation

[Cleland and Comcare](#) (Compensation) [2017] AATA 1179 (31 July 2017); Ms LM Gallagher, Member

Commonwealth employees – aggravation of myalgia and myositis – major depressive disorder – whether liable under section 24 and section 27 – whether applicant continues to suffer from accepted conditions – section 14 determinations remain in force – decision under review affirmed

[Den Hartog and Comcare](#) (Compensation) [2017] AATA 1164 (28 July 2017); Dr C Kendall, Deputy President

Accepted claim for aggravation of hearing loss – revocation of original determinations accepting liability – whether workplace contributed to injury – audiometry pattern not that of noise induced hearing loss – decision affirmed

[Milevska and Comcare](#) (Compensation) [2017] AATA 1177 (31 July 2017); Deputy President BJ McCabe

WORKER'S COMPENSATION – whether ailments constitute an injury suffered by an employee – consideration of the nature of shoulder, elbow and wrist conditions – whether applicant suffers from one or more diseases – whether the applicant's employment has significantly contributed to or aggravated any disease(s) – whether the applicant condition(s) are an injury or injuries that arose out of or in the course of employment – decision set aside in part

Industrial Law

[Merante and Secretary, Department of Employment](#) [2017] AATA 1178 (1 August 2017); Deputy President SA Forgie

FAIR ENTITLEMENTS GUARANTEE – whether effective claim – claim not lodged before the end of 12 months of insolvency event – no power to extend time - no reasonable prospect of success – application dismissed

Migration

[HCYQ and Minister for Immigration and Border Protection](#) (Migration) [2017] AATA 1162 (28 July 2017); Ms R Perton, Member

Refusal of bridging visa – character test – criminal record – protection of Australian community – risk to the Australian community should the conduct be repeated – whether risk of future harm acceptable – exercise of discretion – rejection of applicant’s claim for a bridging visa in association with application for a protection visa – decision under review affirmed

Social Security

[Hallam and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1160 (28 July 2017); Mr DJ Morris, Member

Disability Support Pension (DSP) – cancellation – 2011 Determination applies – whether qualified – whether impairments assigned 20 or more impairment points – 15 points assigned – not qualified at time cancelled – decision affirmed

[Ma and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1180 (4 July 2017); Professor MJ McGrowdie, Senior Member

Overpayment of Newstart Allowance – whether the Applicant has a recoverable Newstart Allowance debt – whether payments into the Applicant’s bank accounts are to be treated as income – rental income – domestic payments – deposits from the Applicant’s family members – decision set aside and remitted for reconsideration

[Magrath and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1165 (31 July 2017); Ms DK Grigg, Member

Newstart allowance – overpayment – where applicant did not notify of change of circumstances – where no administrative error – where no special circumstances – decision under review affirmed

[Ollershaw and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1176 (31 July 2017); Senior Member B Stefaniak AM RFD

Disability support pension – application for disability support pension refused – whether applicant’s conditions were fully diagnosed, treated and stabilised – whether applicant’s impairments rated at 20 points or more under the Impairment Tables – decision affirmed

[Rossi and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1096 (3 April 2017); Senior Member T Tavoularis

Disability Support Pension – whether Applicant had conditions that were fully diagnosed, treated and stabilised during relevant period – whether Applicant had 20 impairment points – conditions listed as: diseased liver, liver cancer, Hepatitis C, discopathy and radiculopathy, back injuries, shattered right foot and depression - Applicant’s conditions not fully treated and stabilised – no impairment ratings could be assigned - decision under review is affirmed

[Starkey and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 1163 (28 July 2017); Senior Member A Poljak

Disability support pension – whether applicant's conditions were fully diagnosed, treated and stabilised – whether applicant's impairments are rated 20 points or more under the Impairment Tables – depression and PTSD – decision affirmed

Veterans' Affairs

[Glossop and Repatriation Commission](#) (Veterans' entitlements) [2017] AATA 1166 (28 July 2017); Senior Member T Tavoularis

Application for the Special Rate of pension – where Applicant was assessed as entitled to disability pension at 100% of the General Rate – where Applicant had a number of accepted and non-accepted conditions – Veterans' Entitlements Act 1986 section 24 – “alone test” – whether Applicant satisfied the “alone test” – section 24(2)(b) – “ameliorating provisions” – whether ameliorating provisions applied to Applicant – Intermediate Rate of pension – whether Applicant eligible for pension at the Intermediate Rate – decision under review affirmed

Appeals

This section of the Bulletin provides information about appeals that have been lodged or finalised against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. Information is only included about appeals relating to AAT decisions that have been published on [AustLII](#). Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
Griffiths v Australian Postal Corporation	[2017] AATA 1025

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