



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 information about decisions of interest recently published in the AAT's Migration & Refugee 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

This section of the Bulletin provides information about all decisions recently published in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions as well as about select decisions recently published in the Migration & Refugee Division. 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.

Citizenship

[Laalaa and Minister for Immigration and Border Protection](#) (Citizenship) [2015] AATA 579 (10 August 2015); Senior Member G Ettinger

Application for citizenship by conferral – failure to meet tests in outlined section 21(3)(d) of the *Citizenship Act 2007* – whether Applicant suffers a permanent and enduring mental incapacity such that she is not capable of understanding the nature of the application, or demonstrating a basic knowledge of English or demonstrating an adequate knowledge of Australia and the responsibilities and privileges of citizenship – reports of psychologists – decision under review affirmed

Compensation

[NRJT and Australian Offshore Solutions Pty Ltd](#) (Compensation) [2015] AATA 588; 13/8/2015; Deputy President Dr C Kendall

Seafarers – compensation – request for medical examination – refusal to attend – claim compensation suspended – whether refusal to attend reasonable – reconsideration determination affirmed in relation to failure to attend medical appointments

[Rose and Military Rehabilitation and Compensation Commission](#) (Compensation) [2015] AATA 583; 11/8/2015; Senior Member CR Walsh

Hearing loss and tinnitus conditions – whether “injury” or “disease” – date of onset – notice provisions – failure to notify not occasioned by mistake, absence from Australia or other reasonable cause – significant prejudice to Respondent – accepted “aggravation of Scheuermann’s disease” (back) condition – date impairment became “permanent” – no new impairment – decisions under review affirmed

Freedom of Information

[MacTiernan and Secretary, Department of Infrastructure and Regional Development](#) (Freedom of Information) [2015] AATA 584; 11/8/2015; Senior Member CR Walsh

Whether discretion to reduce or not impose (waive) the applicable charge to process the Applicant’s FOI Request should be exercised – no “financial hardship” to the Applicant – whether the giving of access to documents in question in the “general public interest” or “in the interest of a substantial section of the public” – “objects” of FOI Act considered – decision under review set aside and substituted

Practice and Procedure

[JWTT and Commissioner of Taxation](#) (Taxation) [2015] AATA 587; 12/8/2015 Deputy President SE Frost

Application for confidentiality orders by taxpayer – Part IVC review application – request for private hearing under s14ZZE – request for further broader orders restricting or prohibiting the disclosure of evidence or the content of documents – allegations of criminal activities by taxpayer and third parties – potential risks to safety of taxpayer and witnesses – no compulsion to give evidence in these proceedings – privilege against self-incrimination – assertions regarding criminal charges speculative only – public interest and interests of administration of justice of greater weight – request for proposed orders declined

Social Security

[Clark and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 589, 13/8/2015; Mr C Ermert, Member

Disability support pension – whether conditions fully diagnosed, treated and stabilised within the qualification period – whether conditions permanent – zero impairment points – decision affirmed

[Hall and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 585; 2/7/2015; Ms R Perton, Member

Disability support pension – whether accepted medical conditions attract 20 points within 13 weeks of the claim – program of support – decision affirmed

[Sneddon; Secretary, Department of Social Service and](#) (Social services second review) [2015] AATA 595; 14/8/2015; Senior Member D Cremean

Youth allowance — lump sum settlement — preclusion period — no special circumstances — decision set aside

[Sparrow and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 586; 16/7/2015; Senior Member NA Manetta

Pensions, benefits and allowances – age pension – whether the Applicant was an Australian resident when he made a claim for age pension – Applicant is an Australian citizen – nature and extent of family relationships in Australia – nature and extent of assets in Australia – decision set aside

[Tisdell and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 582; 11/8/2015; Senior Member Dr J Popple

Compensation preclusion period — disability support pension — whether special circumstances exist to shorten preclusion period — whether Applicant received letter advising of preclusion period — Applicant given wrong advice — Applicant purchased modified house — unexpected ill health — breakdown of relationship — application of the 50% rule — financial hardship — hardship not due to extravagant spending or recklessness — part of lump sum payment ought to be treated as not having been made — decision set aside and substituted

Transport

[RNYB and Minister for Infrastructure and Regional Development](#) [2015] AATA 576 (7 August 2015); Deputy President Dr C Kendall

Importation of motor vehicle – nonstandard vehicle – inheritance – discretion – no grounds for exercise of discretion – decision affirmed

Veterans' Affairs

[Sizmur and Repatriation Commission](#) (Veterans' entitlements) [2015] AATA 580 (10 August 2015); Senior Member BJ McCabe

Veterans' entitlements – rate of service pension – application for pension at special rate or intermediate rate – must cease work because of war-caused injury or disease – Applicant left work because of dismissal – non-service related factors contributed to inability to work – decision under review affirmed

[Lewis and Military Rehabilitation and Compensation Commission](#) (Veterans' entitlements) [2015] AATA 581; 11/8/2015; Senior Member N Isenberg

Benefits and entitlements — whether veteran suffered a service death — whether veteran suffered a service injury — whether veteran suffered an injury (including a disease) that arose out of, or in the course of, his military service or that was contributed, to a material degree, by his military service — whether veteran suffered an injury as an unintended consequence of treatment paid for by the Commonwealth — veteran died due to cardiac arrest — no causal factor relating condition to service — criteria not met — decisions 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
Levao v Secretary, Department of Social Services	Oral decision

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Rigoli v Commissioner of Taxation	[2015] AATA 169	[2015] FCA 803

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