



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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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 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.

Child Support

[Confidential and Principal Member, Social Security Appeals Tribunal](#) [2014] AATA 812; 23/10/2014; Senior Member CR Walsh

Extension of time application – Principal Member, Social Security Appeals Tribunal refused applicant's application for an extension of time in which to lodge application for review of a decision of the Child Support Registrar refusing to change a child support assessment – Tribunal not positively satisfied that it is proper for it to grant extension of time application – decision under review affirmed

Compensation

[Jensen and Military Rehabilitation and Compensation Commission](#) [2014] AATA 807; 30/10/2014; Senior Member BJ McCabe

VETERANS' AND MILITARY COMPENSATION – liability for shoulder condition accepted – entitlement to incapacity benefits – calculation of applicant's actual and normal earnings – no substitution of minimum wage for calculated civilian components – reviewable decision affirmed

[Kelly and Australian Postal Corporation](#) [2014] AATA 779; 24/10/2014; Senior Member D Letcher QC

Employee of licensed corporation – whether no present entitlement to compensation – adjustment disorder with mixed anxiety and depressed mood – decision affirmed

[Stirling and Repatriation Commission](#) [2014] AATA 804; 30/10/2014; Senior Member BJ McCabe

VETERANS' AND MILITARY COMPENSATION – several non-accepted conditions – ischaemic heart disease – depressive disorder – alcohol abuse or dependence – gastro-oesophageal reflux disease – application of relevant Statements of Principle – Tribunal not reasonably satisfied conditions connected to service – reviewable decisions affirmed

[Wilson and Australian Postal Corporation](#) [2014] AATA 805; 30/10/2014; Senior Member JL Redfern

Employee of licensed corporation – claim for compensation for injury resulting in permanent impairment – whether accepted psychological injury arising from 2009 road rage incident resulted in permanent impairment – assessment of the degree of permanent impairment – costs – decision set aside

[Winter and Comcare](#) [2014] AATA 811; 30/10/2014; Deputy President PE Hack SC and Dr M Sullivan, Member

Permanent impairment – whether a “need” for supervision and direction – decision set aside

Corporations

[Liu and Australian Securities and Investments Commission](#) [2014] AATA 817; 31/10/2014;
Senior Member JL Redfern

Licensing – permanent banning order – failure to comply with a financial services law – misleading and deceptive conduct – issue and distribution of defective product disclosure statement – contraventions serious – significant investor losses – failure of director of investment manager to ensure compliance with product disclosure statement – undisclosed payments – good fame or character – decision affirmed

Defence

[Wilson and Commonwealth Superannuation Corporation](#) [2014] AATA 795; 28/10/2014;
Deputy President PE Hack SC

Defence Force Retirement and Death Benefits – applicant retired from army – whether applicant should have been retired on medical grounds due to posttraumatic stress disorder – insufficient evidence to show applicant suffering posttraumatic stress disorder on discharge – decision under review affirmed

Immigration and Citizenship

[Albu-Riyashi and Minister for Immigration and Border Protection](#) [2014] AATA 797;
28/10/2014; Deputy President JW Constance

Whether the applicant is of good character – previous convictions – domestic violence – failure to disclose convictions and good behaviour bond on the application for citizenship – decision affirmed

[Torres and Minister for Immigration and Border Protection](#) [2014] AATA 814; 28/10/2014;
Senior Member CR Walsh

Citizenship by conferral – eligibility – general residence requirement – Applicant convicted of offence of intentionally exporting child pornography videos – offence “major” under Australian Citizenship Instructions – Applicant not of “good character” – decision under review affirmed

Practice and Procedure

[The Overseas Applicants and Commissioner of Taxation](#) [2014] AATA 788; 27/10/2014;
Senior Member G Lazanas

Interlocutory Application – receipt of evidence – application for oral evidence to be given by video link or to be taken by commission – applicants concerned about the respondent issuing a departure prohibition order if they attend to give evidence in person – application for oral evidence to be given by video link granted

[Stylis and Commissioner of Patents](#) [2014] AATA 796; 28/10/2014; Deputy President SA Forgie

Whether Tribunal has jurisdiction to review decision refusing to stay consideration of a request to make a direction to co-patentees to become joined as parties in Supreme Court proceedings against third party – Commissioner refuses to stay consideration of application – whether Commissioner has made a decision that is reviewable by the Tribunal

WORDS AND PHRASES – decision under an enactment – “decision” – “under”

Social Security

[Barnes and Secretary, Department of Social Services](#) [2014] AATA 786; 24/10/2014; Mr M Hyman, Member

Pensions and benefits – parenting payment – overpayment – debt recovery – whether debt should be written off – whether debt should be waived – decision under review set aside and substituted

[Barron; Secretary, Department of Education and](#) [2014] AATA 783; 24/10/2014; Mr M Hyman, Member

Special child care benefit – child at risk of serious abuse or neglect – application of policy – whether a continuing risk of neglect – decision under review affirmed

[Froude and Secretary, Department of Social Services](#) [2014] AATA 808; 30/10/2014; Dr M Denovan, Member

Pensions, benefits and allowance – applicant in receipt of disability support pension – applicant wishes to remain overseas for more than six week portability period – whether portability can be extended – whether applicant suffers ‘severe impairment’ – decision under review affirmed.

[Grasso and Secretary, Department of Social Services](#) [2014] AATA 781; 24/10/2014; Senior Member D Letcher QC

Pensions – Disability Support Pension – whether applicant's condition fully diagnosed, treated and stabilised – whether applicant's impairment is rated 20 points or more under the Impairment Tables – impairment rating of nil points – decision under review affirmed

[Hywood and Secretary, Department of Social Services and Anor](#) [2014] AATA 791; 17/10/2014; Senior Member NA Manetta

FAMILY TAX BENEFIT – estranged parents living apart – percentage share of care – SSAT finding that applicant had no care percentage set aside – applicant found to have had 51 percent care

[James and Secretary, Department of Social Services](#) [2014] AATA 802; 29/10/2014; Dr M Denovan, Member

Carer Payment – whether eligible to receive Carer Payment – whether constant care provided – whether Applicant qualifies for Carer Payment – decision affirmed

[Kamal and Secretary, Department of Social Services](#) [2014] AATA 806; 30/10/2014; Mr C Ermert, Member

Disability Support Pension – Impairment Tables – functional impairment – whether impairment rating of 20 points – decision affirmed

[Krieger and Secretary, Department of Social Services](#) [2014] AATA 799; 29/10/2014; Senior Member NA Manetta

Pensions benefits and allowances – Disability Support Pension – whether conditions warrant 20 points – whether continuing inability to work – decision refusing pension affirmed

[Mahmood and Secretary, Department of Social Services](#) [2014] AATA 784; 24/10/2014; Senior Member D Letcher QC

Disability Support Pension – extension of portability period – whether applicant unable to return to Australia because of an event that occurred or began during period of absence – Applicant alleged he received threats to his life while in Iraq in 2013 – Family Tax Benefit – estimate of income not provided to Centrelink as requested – decision under review affirmed

[Natalizi and Secretary, Department of Social Services](#) [2014] AATA 803; 30/10/2014; Senior Member PW Taylor SC

Disability support pension – psychiatric condition – portability – cancellation decision – whether condition fully treated and stabilised – whether a severe impairment – decision under review affirmed

[Parker and Secretary, Department of Social Services](#) [2014] AATA 809; 30/10/2014; Dr M Denovan, Member

Pensions, benefits and allowances – Disability Support Pension – whether a rating of 20 points or more under the Impairment Tables – section 94(1) not satisfied – decision affirmed

[RPZP and Secretary, Department of Social Services](#) [2014] AATA 800; 29/10/2014; Ms S Taglieri, Member

Portability of Carer Payment and Allowance - whether to extend portability period due to serious illness - discretion refused to be exercised

[Sabeei and Secretary, Department of Social Services](#) [2014] AATA 815; 31/10/2014; Senior Member PW Taylor SC

Disability Support Pension – Psychological injury – Left hand injury – No severe functional impairment – No participation in a program of support – Decision under review affirmed

[Tabije and Secretary, Department of Social Services](#) [2014] AATA 778; 24/10/2014; Mr M Hyman, Member

Pensions and benefits – carer payment – overpayment – cancellation of payment – debt – whether debt should be written off – whether debt should be waived – decision under review affirmed

[Watts and Secretary, Department of Social Services](#) [2014] AATA 819; 31/10/2014; Dr M Denovan, Member

Pensions, benefits and allowances – Disability support pension – 20 points or more under the Impairment Tables – Decision affirmed.

[Zemek and Secretary, Department of Social Services](#) [2014] AATA 801; 29/10/2014; Dr M Denovan, Member

Pensions, benefits and allowances – Disability Support Pension – 20 points or more under the Impairment Tables – decision affirmed

Taxation

[Ryan and Commissioner of Taxation](#) [2014] AATA 818; 31/10/2014; Senior Member G Lazanas

Goods and services tax – entitlement to input tax credits – private use – apportionment considerations – decision with respect to assessment of GST is set aside and matter remitted to Commissioner

Veterans' Affairs

[Catherine Coleman as the LPR of the late Leonard Coleman and Repatriation Commission](#) [2014] AATA 782; 24/10/2014; Senior Member D Letcher QC

Disability pension – eligible defence service – substance abuse disorder-alcohol – posttraumatic stress disorder – alleged sexual assault – decision affirmed

[Collins and Repatriation Commission](#) [2014] AATA 787; 24/10/2014; Senior Member D Letcher QC

Pension – operational service – claim that the veteran's death was war-caused – consideration of Statement of Principles – the Tribunal affirms the decision under review

[Holden and Repatriation Commission](#) [2014] AATA 810; 30/10/2014; Senior Member GD Friedman

Veterans' entitlements – widow's claim – death from ischaemic heart disease – whether psychiatric condition contributed to ischaemic heart disease – remittal from Federal Court

[Lilley and Repatriation Commission](#) [2014] AATA 798; 28/10/2014; Dr P McDermott RFD, Senior Member

Ischaemic heart disease – defence-caused – whether reasonable satisfaction – Veterans' Review Board found not defence-caused – decision 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
Cakany v Australian Postal Corporation	[2014] AATA 714
Ulese v Minister for Immigration and Border Protection & AAT	[2012] AATA 793

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Duwai v Minister for Immigration and Border Protection & AAT	[2013] AATA 339	[2014] FCA 1141
Kaluza v Repatriation Commission	[2013] AATA 424	[2014] FCA 1137
Kawicki v Repatriation Commission	[2014] AATA 207	[2014] FCA 1147

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