



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.

Aviation

[Goldstein and Civil Aviation Safety Authority](#) [2016] AATA 57 (5 February 2016); Deputy President IR Molloy

Refusal to grant class 2 medical certificate – whether applicant suffers from safety-relevant medical conditions – whether likely that medical conditions will interfere with safe exercise of privileges or performance of duties – whether conditions can be imposed to ameliorate the risk to air navigation safety – safety-relevant medical conditions made out – conditions applied – refusal decision set aside and class 2 medical certificate issued with conditions

Citizenship

[Nimpis and Minister for Immigration and Border Protection](#) (Citizenship) [2016] AATA 64 (9 February 2016); Senior Member RW Dunne

Application for Australian Citizenship – good character – application refused on character grounds – criminal record – decision under review affirmed

Compensation

[Power-James and Comcare](#) (Compensation) [2016] AATA 25 (22 January 2016); Mr S Webb, Member

Injury claim – lower back and hip ailments – difference between 'injury' and 'disease' – ailments existing prior to claimed injury – movement likely to produce increase in symptoms without physiological change – symptoms arising from already symptomatic ailment – no frank injury – ailments not significantly contributed to by employment – decision affirmed

Migration and Refugee

Migration

[1508046](#) (Migration) [2016] AATA 3173 (28 January 2016); J Kelly, Senior Member

Visitor (Class FA) visa – Sri Lanka – Subclass 600 (Visitor) (Class FA) – cl 600.211 – Visa applicant intends to stay in Australia temporarily – Pending Aged Dependent Relative application – Substantial compliance with previous visa – Security conditions in Sri Lanka now improved – Can visit while awaiting outcome of permanent visa application – Decision under review remitted

[1502170](#) (Migration) [2016] AATA 3161 (1 February 2016); H Claringbold, Member

Other Family (Residence) (Class BU) visa – Subclass 835 (Remaining Relative) – cl 835.212 – Applicant not the remaining relative of an Australian relative — Applicant has near relatives outside Australia – No jurisdiction in the matter of secondary applicant – Decision under review affirmed [1420924](#) (Migration) [2016] AATA 3162 (2 February 2016); M Grau, Member

Other Family (Residence) (Class BU) visa – Subclass 838 (Aged Dependent Relative) – cl 838. 212 – cl 838.213 – cl 838.221 – Substantially or wholly reliant upon the sponsor – Hearing impairment – Reliance upon the sponsor is not contrived – Decision under review remitted

Refugee

[1514968](#) (Refugee) [2016] AATA 3104 (20 January 2016); L Nicholls, Senior Member

Protection visa – Ghana – Invalid application for review – Lodged out of time – Method of notification – Tribunal does not have jurisdiction in this matter

[1416470](#) (Refugee) [2016] AATA 3107 (22 January 2016); C Cody, Member

Protection visa – Lebanon – Complementary protection criteria – Religion – Maronite Christian – Fears ill-treatment or harassment – Failure to do military service – Credibility issues – Applicant in Australia for 20 years – Circumstances do not warrant a referral to the Minister – Decision under review affirmed

[1417275](#) (Refugee) [2016] AATA 3112 (25 January 2016); S Pinto, Member

Protection visa – Pakistan – Political opinion – Pakistan Muslim League member – Fear of harm from Pakistan People's Party – Credibility issues – Decision under review affirmed

Social Security

[Hills and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 59 (5 February 2016); Mr S Webb, Member

Youth allowance – cessation of study – requirement to satisfy activity test – overpayment – debt – administrative error – compliance with notice – good faith – decision under review affirmed

[Lee and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 60 (8 February 2016); Senior Member AC Cotter

Disability support pension – unlimited portability – whether severe impairment – value of medical evidence – future work capacity – decision under review affirmed

[Reid and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 62 (8 February 2016); Deputy President Dr P McDermott RFD

Lump sum workers' compensation payment – preclusion period – whether special circumstances exist to justify the exercise of the discretion to disregard all or part of the compensation payment being made – financial hardship – ill health – significant equity in real property – special circumstances not made out – decision under review affirmed

[Scutcheon and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 61 (8 February 2016); Mr I Thompson, Member

Disability support pension – whether 20 points or more under the Impairment Tables during the Relevant Period – whether conditions are fully diagnosed, treated and stabilised – applicant not qualified for DSP – decision under review affirmed

[Stevens; Secretary, Department of Social Services and](#) (Social services second review) [2016] AATA 56 (5 February 2016); Deputy President K Bean

Disability support pension – Whether respondent's conditions fully diagnosed, treated and stabilised during assessment period – Whether impairments attract a rating of 20 points or more under the Impairment Tables – Whether continuing inability to work – Respondent prevented, solely because of impairments, from improving capacity to find, gain or remain in employment through continued participation in program of support – Decision under review varied

[Taylor; Secretary, Department of Social Services and](#) (Social services second review) [2016] AATA 63 (9 February 2016); Mr C Ermert, Member

Family tax benefits – extension of time to make application to Tribunal – whether there were special circumstances to justify an extension of time – decision set aside

[Wilson and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 66 (9 February 2016); Deputy President Dr P McDermott RFD

Debt Recovery and Waiver – disability support pension – whether debt due solely to administrative error – overpayment due to failure to disclose partner's termination payments – applicant disputes failure – insufficient evidence to support alleged disclosure – administrative error not made out – decision under review affirmed

Taxation

[Devi and Commissioner of Taxation](#) (Taxation) [2016] AATA 67 (9 February 2016); Senior Member G Lazanas

Income – whether applicant conducted a business of share trading – whether applicant entitled to deductions for losses – decision under review affirmed

Veterans' Affairs

[Phillips and Repatriation Commission](#) (Veterans' entitlements) [2016] AATA 65 (9 February 2016); Senior Member Dr D Cremean

Claim for pension – Wernicke-Korsakoff syndrome – alcohol abuse – whether reasonable hypothesis – whether hypothesis disapproved – 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
Tukana v Secretary, Department of Employment & AAT	[2016] AATA 45

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
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None finalised

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