



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.

Carbon Farming Initiative

[Charles IFE Pty Ltd and Domestic Offsets Integrity Committee](#) [2014] AATA 33; 24/1/2014; Deputy President SA Forgie

Application for endorsement of a proposal to vary methodology determination by removing requirement that engineered biodigesters must have been replaced or installed after 1 July 2010 – decision set aside and decision substituted removing requirement

Compensation

[Cullen and Military Rehabilitation and Compensation Commission](#) [2014] AATA 45; 30/1/2014; Senior Member RG Kenny

Service in the Royal Australian Navy – Claim for “schizophrenia”, “depressive disorder”, “PTSD” and “alcohol dependence” – Allegations by applicant of assault committed by senior naval personnel – Allegations of stressful events in East Timor – No evidence to support material contribution to claimed conditions from employment – Respondent not liable to pay compensation for incapacity or impairment – Decision under review affirmed

[Ferranti and National Australia Bank Limited](#) [2014] AATA 40; 30/1/2014; Senior Member J Toohey, Dr Alexander, Member

Lumbar spine – whether applicant suffered an injury – whether respondent liable to compensate applicant – applicant’s evidence unreliable – decision under review affirmed

[Verlinden and Comcare](#) [2014] AATA 46; 31/1/2014; Senior Member J Toohey

Accepted injury to lumbar spine – subsequent aggravations – agreed permanent condition – absence of radiculopathy – whether applicant’s permanent impairment to be assessed by reference to Table 9.17 of the Guide – AMA Guides – clinical judgment – decision under review affirmed

Immigration and Citizenship

[Al-Kaabi and Minister for Immigration and Border Protection](#) [2014] AATA 41; 30/1/2014; Senior Member G Ettinger

Applicant seeking exemption from sitting the Citizenship test – whether the Applicant had a permanent or enduring physical or mental incapacity at the time of making the application that meant she was not capable of demonstrating a basic knowledge of the English language at that time – decision under review set aside and remitted

[Assafiri and Minister for Immigration and Border Protection](#) [2014] AATA 35; 29/1/2014; Senior Member J Toohey

Serious criminal record – whether applicant of good character – whether high standard of good character than under *Migration Act 1958* – Tribunal not satisfied in the circumstances that sufficient time had passed – decision under review affirmed

[Singh and Minister for Immigration and Border Protection](#) [2014] AATA 37; 29/1/2014; Deputy President SD Hotop

Bridging visa – refusal to grant – applicant a citizen of India – applicant in Australia from 2008 – applicant convicted of offences committed in Australia in 2009 and sentenced to 28 months' imprisonment in 2011 – applicant does not pass character test – discretion to refuse visa – protection of Australian community favours refusal of visa – no weight given to best interests of child – other considerations – impact of visa refusal on applicant – protection of Australian community outweighs other considerations – preferable decision is that visa be refused – decision under review affirmed

[Southall and Minister for Immigration and Border Protection](#) [2014] AATA 47; 31/1/2014; Senior Member N Bell

Permanent resident – application for citizenship applicant married to Australian citizen – applicant does not meet residence requirements – exercise of discretion – application of Australian Citizenship Instructions – whether applicant has a close and continuing association with Australia – decision under review set aside

Practice and Procedure

[Atkins and Repatriation Commission](#) [2014] AATA 42; 30/1/2014; Senior Member G Ettinger

VETERANS' AFFAIRS – jurisdiction – application for review of decision of the Veterans' Review Board that it was functus officio – Applicant applied for review of 1996 decisions of the Repatriation Commission which have previously been the subject of applications for review by the Veterans' Review Board and for which decisions had been given – operational service – Applicant suffers PTSD and bipolar disorder – PTSD compensated pursuant to *Commonwealth Employees' Compensation Act 1930* – Applicant has grievances against departmental officers – Tribunal has no jurisdiction to review decision

[Byrt and Commissioner of Taxation](#) [2014] AATA 30; 23/1/2014; Senior Member BJ McCabe

TAXATION – whether Tribunal erred in dismissing the application – whether application can be reinstated – application refused

Social Security

[Kaley and Secretary, Department of Social Services](#) [2014] AATA 39; 29/1/2014; Senior Member RM Creyke

Newstart Allowance – eligibility – definition of partner and 'member of a couple' – 'means' testing – partner's income exceeding allowable limit – decision under review affirmed

[Pepic and Secretary, Department of Social Services](#) [2014] AATA 44; 31/1/2014; Senior Member J Redfern

Disability Support Pension – Continuing inability to work – Whether continuing inability to work arose prior to grant of permanent residency – Whether applicant able to work more than 15 hours per week – decision under review affirmed

[Trickett and Secretary, Department of Social Services](#) [2014] AATA 38; 29/1/2014; Senior Member RM Creyke

Age pension – correct date of claim – whether applicant entitled to retrospective payment – role of Guide to Social Security Law in decision making – decision under review affirmed

[Yazdari and Secretary, Department of Social Services](#) [2014] AATA 34; 28/1/2014; Senior Member RW Dunne, Professor PL Reilly AO, Member

Pensions, benefits and allowances – application for disability support pension rejected – physical, intellectual or psychiatric impairment – whether impairment rating of 20 points or more existed under the Impairment Tables – whether there was a "continuing inability to work" – Job Capacity Assessments conducted – reports of medical practitioners and clinical psychologists considered – decision under review affirmed

Taxation

[Cartesian Capital Pty Ltd and Commissioner of Taxation](#) [2014] AATA 49; 31/1/2014; Senior Member PW Taylor SC

Goods and services tax – entitlement to input tax credits – administrative penalty – calculation of penalty based on tax shortfall – whether conduct involved recklessness – whether applicant entitled to remission of penalty – decision in relation to June 2010 quarter set aside and varied and remainder of decision under review affirmed

Veterans' Affairs

[Allison and Repatriation Commission](#) [2014] AATA 48; 31/1/2014; Senior Member N Bell

Malignant neoplasm of the colorectum – whether reasonable hypothesis that Veteran's condition related to service – standard of reasonable satisfaction – decision under review affirmed

[Bowen and Repatriation Commission](#) [2014] AATA 36; 29/1/2014; Senior Member N Isenberg

Disability pension – lumbar spondylosis and intervertebral disc prolapse – application of Statements of Principles – decision under review affirmed

[McCallum and Repatriation Commission](#) [2014] AATA 50; 31/1/2014; Ms R Perton, Member

Pension at special rate – whether war caused conditions alone cause of inability to work – reason why applicant stopped working for more than 8 hours per week – decision under review 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
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None lodged

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
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None finalised

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