



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](mailto: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. 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. 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.

## Compensation

[Abraham and Comcare](#) (Compensation) [2018] AATA 177 (15 February 2018); Senior Member A Poljak

COMPENSATION – workers compensation – section 16 claim – lower back pain – whether applicant made wilful and false representation – medical and claim history not disclosed – disease not taken to be an injury – decision affirmed

[Beasley and Military Rehabilitation and Compensation Commission](#) (Compensation) [2018] AATA 167 (9 February 2018); Deputy President K Bean

COMPENSATION – Commonwealth employees – Liability accepted for digital nerve neuroma 3/4 metatarsal space, left foot, resulting in metatarsalgia – Further claims for compensation lodged in respect of other conditions for which compensation liability denied – Whether claims precluded as outside timeframe contemplated by applicable legislation – Lengthy delay of some 46 years between suffering injuries and making the claims – Decisions under review affirmed.

[Kruljac and Australian Postal Corporation](#) (Compensation) [2018] AATA 171 (9 February 2018); Miss EA Shanahan, Member

WORKERS' COMPENSATION – multiple claims over 20 years – multiple injuries sustained in the course of work – past acceptance of liability in relation to shoulder and cervical spine dysfunction – current claims relate to left shoulder, aggravation of cervical spondylosis, secondary psychological state and s 16 claims relating to treatment and medication – failure to undertake rehabilitation return to work program – suspension of rights under s 37(7) of the SRC Act – later remitted for reconsideration.

[Squires and Comcare](#) (Compensation) [2018] AATA 166 (12 February 2018); Senior Member A Poljak

COMPENSATION – workers compensation – section 14 claim – psychological condition – aggravation of an ailment – whether employment contributed to a material or significant degree – abusive and threatening telephone calls – management issues – lack of contemporaneous evidence – pre-existing vulnerability – decision affirmed

## Migration

[Anyoun and Minister for Immigration and Border Protection](#) (Migration) [2018] AATA 174 (14 February 2018); Senior Member DJ Morris

MIGRATION – request for revocation of mandatory cancellation of applicant’s visa – applicant has substantial criminal record and does not pass character test – whether discretion to revoke the mandatory cancellation should be exercised – procedural issue – admission of a late document – primary considerations – protection of the Australian community from criminal or other serious conduct – best interests of minor children in Australia – expectations of the Australian community – other considerations – non-refoulement obligations – strength, nature and duration of ties – extent of impediments if removed – decision under review affirmed

[Furlong and Minister for Immigration and Border Protection](#) (Migration) [2017] AATA 3014 (21 December 2017); Senior Member Britten-Jones

MIGRATION – visa refusal – skilled-nominated visa – whether person passes the character test – consideration of “criminal” conduct at lower end of the spectrum – whether there is a risk of engaging in criminal conduct – whether discretion to refuse to grant a visa should be exercised – protection of the Australian community from criminal and other serious conduct – primary and other considerations under Ministerial Direction No. 65 – decision under review is set aside.

[Qiao and Minister for Immigration and Border Protection](#) (Migration) [2018] AATA 168 (23 January 2018); Mrs JC Kelly, Senior Member

MIGRATION – visa refusal – student visa – failure to pass the character test – substantial criminal record – term of imprisonment of 12 months or more – protection of the Australian community – nature and seriousness of conduct – risk to the Australian community – expectations of the Australian community – other considerations – decision affirmed

## Social Security

[Housego and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 172 (13 February 2018); Member G Hallwood

SOCIAL SECURITY - pensions, benefits and allowances - Newstart allowance - whether Newstart allowance correctly cancelled - decision under review affirmed

[Joneidi and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 176 (14 February 2018); Dr L Bygrave, Member

SOCIAL SECURITY – disability support pension – impairment – whether disability is fully diagnosed, treated and fully stabilised – whether applicant’s impairments attract 20 points or more under the Impairment Tables – depression – bilateral knees osteoarthritis – spinal and neck condition – other conditions – decision under review affirmed

[Stavriniadis and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 169 (12 February 2018); Dr D Cremean, Senior Member and Ms A Wood, Member

SOCIAL SECURITY – Age Pension– reduction in rate – whether disposal of asset within meaning of s 1123 Social Security Act 1991 – income and assets test – acquisition of joint interest in new property—whether gift or not—consideration—constructive trust – whether diminished value of all assets – decision set aside and remitted

## Taxation

[Coventry and Commissioner of Taxation](#) (Taxation) [2018] AATA 175 (12 January 2018); Ms G Lazanas, Senior Member

TAXATION AND REVENUE – income tax – foreign earnings derived from foreign service – tax exemption lost if earnings exempt from income tax in foreign country only because of any of certain specified reasons – whether taxpayer satisfies definition of Australian project personnel in agreement – objection decision set aside and substituted

[MedAid Pty Ltd and Commissioner of Taxation](#) (Taxation) [2018] AATA 170 (12 February 2018); Deputy President BJ McCabe

TAXPAYER COMPANY DEREGISTERED – joinder application to continue proceedings – person whose interests are affected – interests as a creditor – indirect interests in a company – power to determine where interests affected

## Veterans' Affairs

[Sharpe and Repatriation Commission](#) (Veterans' entitlements) [2018] AATA 173 (14 February 2018); Senior Member A Nikolic AM CSC

VETERANS' AFFAIRS – war widow's pension – operational service – whether veteran's death was war-caused – Statement of Principles concerning Malignant Neoplasm of the Prostate – whether Prostate Cancer caused by increased consumption of animal fat during service – whether reasonable hypothesis connecting death of veteran with service – cause of death dementia – material found not to raise reasonable hypothesis – veteran's death not war-caused – 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

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CASE NAME

AAT REFERENCE

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**None lodged**

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## Appeals finalised

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CASE NAME

AAT REFERENCE

COURT REFERENCE

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**None finalised**

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