



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.

Courts and Judicial System

[Hall and Australian Federal Police](#) [2012] AATA 775; 7/11/2012; Professor RM Creyke, Senior Member

Jurisdiction of Tribunal – Legislation relating to Australian Federal Police – Application dismissed

Defence

[Sullivan and Commonwealth Superannuation Corporation](#) [2012] AATA 774; 7/11/2012; Senior Member JF Toohey, Dr I Alexander, Member

Applicant served with Australian peacekeeping force in the Sinai – Discharged administratively – Evidence that applicant suffered from post-traumatic stress disorder at time of discharge – Whether applicant should be treated as if he was retired on ground of invalidity, or physical or mental incapacity to perform duties – Decision under review affirmed

Practice and Procedure

[Gillespie and Australian Securities and Investments Commission](#) [2012] AATA 779; 8/11/2012; Senior Member BJ McCabe

Application for a stay on the implementation of the decision – Application for orders preventing publication of the decision on the public register – Banning orders in relation to the provision of financial services – Danger that the hearing will be rendered nugatory – Damage to the applicant's reputation and employment prospects – Interests of the public in being fully informed – Decision under review set aside

[Opie and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2012] AATA 769; 5/11/2012; Senior Member K Bean

Application for stay – Minimal hardship likely to be suffered if stay not granted – Some potential difficulties with recovery of monies paid out if substantive application unsuccessful – Prospects of success less than even – Request for stay order refused

Social Security

[Burke and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2012] AATA 768; 5/11/2012; Senior Member AF Cunningham

Age pension – Amending legislation from 20 September 2009 – Transitional provisions – Decision under review affirmed

Karnib and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs [2012] AATA 764; 2/11/2012; Senior Member AK Britton

Pensions, benefits and allowances – Disability support pension – Compensation preclusion period – Lump sum preclusion period – Whether special circumstances exist – Legal costs – Ongoing expenses – Gambling – Debts – Medical expenses – If so, whether discretion should be exercised to treat compensation payment as not being made – Decision under review affirmed

Longstaff and Secretary, Department of Education, Employment and Workplace Relations [2012] AATA 777; 8/11/2012; Senior Member AF Cunningham

Pensions, benefits and allowances – Newstart allowance – Participation failures – Connection failures and a no show, no pay failure – Applicant's excuses not objectively reasonable – Decision under review affirmed

Pyle and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs [2012] AATA 771; 6/11/2012; Dr KS Levy, RFD, Senior Member

Pensions, benefits and allowances – Disability support pension – Relevant period – Impairment Tables – No impairment rating of 20 points or more – Decision under review affirmed

Sandu and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs [2012] AATA 778; 31/10/2012; Ms K Hogan, Member

Carer Allowance – Residency Requirement – Decision under review affirmed

Taxation

The Employed Accountant and Commissioner of Taxation [2012] AATA 770; 6/11/2012; Deputy President SE Frost

Income tax – Burden of proof – Whether misappropriated funds assessable income – Client's cheques intended to pay ATO deposited into applicant's bank account – Interest deductions in connection with rental properties – Whether deductions can be claimed in relation to a loan to employer – Penalty – Decisions set aside and remitted

Tax Agents

Modini and Tax Practitioners Board [2012] AATA 772; 6/11/2012; Deputy President RP Handley

Application for registration as individual tax agent – Applicant for registration as individual tax agent rejected – Whether Applicant satisfies 'fit and proper person' requirements under the *Tax Agent Services Act 2009* to be registered as an individual tax agent – Whether Applicant satisfies relevant experience requirement under the *Tax Agent Services Act 2009* – Decision under review affirmed

Veterans' Affairs

[Rayson and Repatriation Commission](#) [2012] AATA 776; Senior Member E Fice and Dr R Blakley, Member

Widows' pension – Royal Australian Navy – Eligible war service – Operational service – Kind of death of a veteran – Reasonable hypothesis – Was the death of the veteran war-caused – Cerebrovascular accident – Hypertension – Depression – Cerebral haemorrhage – Cerebral ischaemia – Smoking – 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 |
|---|---------------------------------|
| Schulz v Repatriation Commission | [2012] AATA 561 |
| Fraser v Commissioner of Taxation | [2012] AATA 655 |
| Soames v Secretary, Department of Families, Housing, Community Services and Indigenous Affairs | [2012] AATA 699 |
| Soames v Secretary, Department of Families, Housing, Community Services and Indigenous Affairs | [2012] AATA 107 |

Appeals finalised

| CASE NAME | AAT REFERENCE | COURT REFERENCE |
|--|---------------------------------|----------------------------------|
| Commissioner of Taxation v Crown Insurance Services Ltd | [2011] AATA 847 | [2012] FCAFC 153 |
| Rawsthorne v Minister for Immigration and Citizenship & AAT | [2012] AATA 484 | [2012] FCA 1217 |



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