



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.

Aged Care

[Tripodi and Secretary, Department of Health and Ageing](#) [2013] AATA 65; 11/2/2013; Senior Member RW Dunne

"Supported resident" – How to work out value of person's assets – Net value of person's property – Whether value of home can be disregarded – Decision under review affirmed

Compensation

[Cook and Thales Australia Limited and Cook \(Joined Party\) and Comcare \(Joined Party\)](#) [2013] AATA 67; 13/2/2013; Deputy President JW Constance

Apportionment of sum payable under subsection 17(3) – Decision-maker to have regard to losses suffered by dependants as a result of the cessation of the employee's earnings – Loss may be of capital nature if as a result of the cessation of the employee's earnings – Likelihood of future events – Decision under review set aside

[Kelk and Australian Postal Corporation](#) [2013] AATA 75; 15/2/2013; Deputy President PE Hack SC

Incapacity – Not satisfied psychological condition contributed to, to a significant degree, by employment – Not satisfied applicant suffered from injury to hands, arms and shoulders – Not satisfied applicant suffered from any difficulties with voice in the relevant period – Not satisfied applicant's accepted injury resulted in permanent impairment – Each decision under review affirmed

[Young and TNT Australia Pty Ltd](#) [2013] AATA 72; 15/2/2013; Mr P Wulf, Member

Claim for compensation in respect of injury to left ear – Respondent's determination and reviewable decision made on basis that injury was non-employment related – Tribunal's jurisdiction – True scope of applicant's claim – No medical evidence to support claim – Decision affirmed

Intellectual Property

[Merck Sharp & Dohme Corp and Commissioner of Patents](#) [2013] AATA 71; 15/2/2013; The Hon B Tamberlin QC, Deputy President and Dr TM Nicoletti, Senior Member

Patents – Extension of term – Extension of time – Whether there was an error or omission – Whether the discretion should be exercised – Decision under review affirmed

Practice and Procedure

[Confidential A and Anor and Commissioner of Taxation](#) [2013] AATA 24; 21/1/2013; Professor R Deutsch, Deputy President

Interlocutory decision – Confidentiality order sought by Applicants under s 35 of the *Administrative Appeals Tribunal Act 1975*.

Social Security

[HZDW and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2013] AATA 66; 14/1/2013; Ms R Perton, Member

Whether applicant homeowner for the purposes of the assets test – Whether a social security recipient living on a boat is a homeowner – Decision under review affirmed

[Iuele and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2013] AATA 70; 10/1/2013; Ms R Perton, Member

Age pension – Pension bonus scheme – Registration for scheme – Receiving age pension prior to registration – Decision under review affirmed

Taxation

[Confidential and Commissioner of Taxation](#) [2013] AATA 76; 15/2/2013; Senior Member E Fice

Capital Gains Tax – Small business exemptions – CGT event A1 – Disposal of a CGT asset – Heads of Agreement – Intention to create legal relations – Binding agreement – Condition precedent and condition subsequent – Formal Contract of Sale – Sale of a Business – Date of disposal of the CGT asset – 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 |
|--|---------------------------------|
| Salahuddin v Minister for Immigration and Citizenship & AAT | [2013] AATA 1 |
| Williams v Minister for Immigration and Citizenship & AAT | [2013] AAAtA 16 |

Appeals finalised

| CASE NAME | AAT REFERENCE | COURT REFERENCE |
|-----------------------|---------------|-----------------|
| None finalised | | |



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