



AAT Bulletin

ISSUE NO. 8/2015

23 FEBRUARY 2015

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.

The AAT does not make any representation or warranty about the accuracy, reliability, currency or completeness of any material contained in this Bulletin or on any linked site. While the AAT makes every effort to ensure that the material in the Bulletin is accurate and up-to-date, you should exercise your own independent skill and judgement before you rely on it. Information contained in this Bulletin is not legal advice and is intended as a general guide only. You should rely on your own advice or refer to the full cases and legislation in relation to any proceedings.

Enquiries regarding this publication may be directed to aatweb@aat.gov.au.

Contents

AAT Recent Decisions	2
Compensation	2
Immigration and Citizenship	2
Industry and Science	2
Practice and Procedure	3
Social Security	3
Taxation	4
Appeals	5
Appeals lodged	5
Appeals finalised.....	5

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.

Compensation

[Clifford and Military Rehabilitation and Compensation Commission](#) [2015] AATA 86; 19/2/2015; Deputy President SD Hotop

Commonwealth employees – Applicant commenced National Service in Australian Army in July 1966 – Applicant medically discharged from National Service in September 1966 by reason of bilateral hearing loss – Applicant claimed compensation for hearing loss in September 2012 – Respondent accepted liability to pay compensation to applicant for bilateral hearing loss sustained in September 1966 – Applicant claimed permanent impairment compensation in respect of bilateral hearing loss – Tribunal not satisfied that applicant’s bilateral hearing loss causally related to National Service – Applicant not entitled to permanent impairment compensation for bilateral hearing loss – Decision under review affirmed

Immigration and Citizenship

[Hasib and Minister for Immigration and Border Protection](#) [2015] AATA 82; 13/2/2015; Senior Member CR Walsh

Eligibility for citizenship by conferral – “Good character” requirement – Applicant convicted in 2007 of 10 offences relating to credit card fraud, being “serious” offences under the Australian Citizenship Instructions – Applicant remained in Australia as an unlawful non-citizen for over a year following cancellation of his student visa – Mitigating factors outweigh applicant’s behaviour – Decision under review set aside and substituted

Industry and Science

[Automotive Components Limited \(Receivers and Managers Appointed\) \(In Liquidation\) and Secretary, Department of Industry and Science](#) [2015] AATA 79; 13/2/2015; Deputy President SA Forgie

Automotive Transformation Scheme – ATS participant – Automotive component producer – Deregistered in January 2014 on basis that unlikely to meet ongoing conditions of its registration as an ACP in 2013 ATS year – Applicant registered in national interest from 1 January 2012 to 31 December 2013 and not required to meet production volume and value conditions – Whether production volumes and values assessed by reference to 2013 ATS year or 2014 ATS year – Production value is total revenue of sales of automotive components produced in preceding 12 months – Condition to be met in each ATS year following the ATS year in which the registration takes effect and so in 2013 ATS year – Decision under review affirmed

Practice and Procedure

[Cameron and Secretary, Department of Human Services](#) [2015] AATA 62; 2/2/2015; Senior Member JF Toohey

Freedom of Information – Request for information outside the scope of FOI legislation – Whether application for review frivolous – Whether application should be dismissed — No utility in application proceeding – Application dismissed

[Cassin and Secretary, Department of Employment](#) [2015] AATA 84; 18/2/2015; Senior Member BJ McCabe

APPLICATION FOR EXTENSION OF TIME – Reasonable excuse for delay – Merits of the case – Liquid asset waiting period – Legislative formula – No severe financial hardship – Unlikely to succeed at substantive hearing – Application for extension of time refused

[Gallway and Australian Postal Corporation](#) [2015] AATA 88; 18/2/2015; Ms S Taglieri, Member

Proceedings – Application to reopen case to tender evidence – Counsel failed to tender documents – Evidence has some evidentiary value – Whether in the interests of justice – Prejudice to the Respondent can be cured – Application allowed

[Iyengar and Commissioner of Taxation](#) [2015] AATA 80; 16/2/2015; Dr J Popple, Senior Member

Income tax – Reviewable objection decision – Stay order sought – Whether Tribunal has jurisdiction to issue a stay order for an objection decision – Stay application refused

[Tiplady and Repatriation Commission](#) [2015] AATA 81; 11/2/2015; Senior Member BJ McCabe

Jurisdiction – Whether there is a reviewable decision – Date of effect of pension – Earlier decision of the Tribunal – No jurisdiction

Social Security

[Daoud and Secretary, Department of Social Services](#) [2015] AATA 69; 23/1/2015; Senior Member JF Toohey

Social security – Disability support pension – Back condition – Psychological condition – Tribunal not satisfied conditions fully diagnosed treated and stabilised – Decision under review affirmed

[Saric and Secretary, Department of Social Services](#) [2015] AATA 87; 19/2/2015; Dr P McDermott, Senior Member

Disability Support Pension – Unlimited portability – Cancellation of DSP – Decision under review affirmed

Taxation

[Bryxl Pty Ltd as Trustee for the Kypu Trust and Commissioner of Taxation](#) [2015] AATA 89; 19/2/2015; Senior Member E Fice

TAXES AND DUTIES – Goods and Services Tax – Basic and special rules – Registration

TAXES AND DUTIES – Goods and Services Tax – Basic and special rules – Supplies and acquisitions – Basic rules – Creditable acquisitions – Carrying on an enterprise – Land development – No land acquisitions made

TAXES AND DUTIES – Administration of federal tax legislation – Penalties, offences and prosecutions – Particular penalties and offences – False or misleading statements or records – Penalty – Where recklessness as to operation of taxation law – Claim for GST input tax credits

TAXES AND DUTIES – Administration of federal tax legislation – Australian business numbers – Deregistration

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
Clare v Australian Community Pharmacy Authority	[2014] AATA 932

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Beezley v Repatriation Commission	[2014] AATA 495	[2015] FCA 78
Repatriation Commission v Watkins	[2011] AATA 918	[2015] FCAFC 10

© Commonwealth of Australia 2015



With the exception of the Commonwealth Coat of Arms and any third party material, this work is licensed under a [Creative Commons Attribution 3.0 Australia Licence](#). Content from this publication should be attributed as: Administrative Appeals Tribunal, *AAT Bulletin*.

To the extent that copyright subsists in third party material, it remains with the original owner and permission may be required to reuse the material.

The terms under which the Coat of Arms can be used are detailed on the following website: <http://www.itsanhonour.gov.au/coat-arms/>.

Enquiries regarding the licence are welcome at aatweb@aat.gov.au.

This licence is limited to the *AAT Bulletin* and does not extend to the full text of AAT decisions. Separate licence terms for AAT decisions can be found on [AustLII](#). Those terms provide that section 182A of the *Copyright Act 1968* applies.