



## 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](mailto:aatweb@aat.gov.au).

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## AAT Recent Decisions

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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

[Hartas and Telstra Corporation Limited](#) [2015] AATA 147; 13/3/2015; Dr J Popple, Senior Member

Commonwealth employees – payment for permanent incapacity – payment adjusted for hours employee is able to earn – whether ability to earn affected by subsequent injury – compensation payable ‘as a result of an injury’ – ability to earn calculated but for subsequent injury – decision affirmed

[Johns and Comcare](#) [2015] AATA 164; 20/3/2015; Senior Member GD Friedman

Australian Taxation Office – Law Interpretation Specialist – depressive disorder – breach of code of conduct – whether applicant entitled to compensation for incapacity – whether injury occurred as a result of reasonable administrative action taken in a reasonable manner – whether aggravation of existing condition – decision under review affirmed

### Immigration and Citizenship

[FTZK and Minister for Immigration and Border Protection](#) [2015] AATA 155; 18/3/2015; Deputy President SA Forgie

Remittal from High Court – Convention and Protocol relating to Status of Refugees – whether applicant excluded from its protection by Article 1F(b) – whether there are serious reasons for considering that applicant committed kidnap and murder – decision set aside

### Practice and Procedure

[Bennett and Ors and Commissioner of Taxation](#) [2015] AATA 144; 28/1/2015; The Hon. B Tamberlin QC, Deputy President

Referral to Federal Court on question of law – whether question in the form of a special case – absence of findings or agreement on facts – application refused

[De Los Santos-Aguilar and Migration Agents Registration Authority](#) [2015] AATA 157; 19/3/2015; The Hon. B Tamberlin QC, Deputy President

Reinstatement – whether application for review was dismissed in error – whether discretion to reinstate application should be exercised – application reinstated

### Social Security

[Armao and Secretary, Department of Social Services](#) [2015] AATA 146; 13/3/2015; Dr T Nicoletti, Senior Member

Pensions – disability support pension – cancellation – qualification for pension – whether the applicant’s impairment rating was 20 points or more – decision affirmed

[Baumeister and Secretary, Department of Social Services](#) [2015] AATA 149; 16/3/2015; Professor R McCallum AO, Member

Age pension – Pension Bonus Scheme – whether pension should be paid at single rate or member of a couple rate – member of a couple test – decision under review affirmed

[Chattopadhyay and Secretary, Department of Social Services](#) [2015] AATA 158; 19/3/2015; Senior Member JF Toohey

Social security – disability support pension – ulcerative colitis – diabetes mellitus – glaucoma – hypertension – cardiac disease – whether conditions fully diagnosed treated and stabilised – impairment ratings – program of support – active participation – exemptions – decision under review affirmed

[Curtis-Smith and Secretary, Department of Social Services](#) [2015] AATA 152; 17/3/2015; Dr T Nicoletti, Senior Member

Pensions – age pension – whether the applicant was required to be an Australian resident when he made a claim for age pension – whether applicant was an Australian resident – decision affirmed

[Fidanza and Secretary, Department of Social Services](#) [2015] AATA 150; 16/3/2015; Dr M Denovan, Member

Pensions, benefits and allowances – Disability support pension – DSP – 20 points or more under the Impairment Tables – Fibromyalgia – Decision under review affirmed

[Kormali and Secretary, Department of Social Services](#) [2015] AATA 154; 18/3/2015; Senior Member JF Toohey

Disability support pension – psychiatric impairment – evidence of serious impairment – whether fully diagnosed during claim period – whether fully treated and stabilised during claim period – decision under review affirmed

[McMurray and Secretary, Department of Social Services](#) [2015] AATA 159; 19/3/2015; Mr C Ermert, Member

Family assistance benefits – overpayment – debt owed to the Commonwealth – administrative error – debt attributable solely to error made by the Commonwealth – received in good faith – no financial hardship – no special circumstances – decision affirmed

## **Veterans' Affairs**

[Stewart and Repatriation Commission](#) [2015] AATA 148; 13/3/2015; Dr P McDermott RFD, Senior Member

Widow's pension – Reasonable hypothesis connecting death with service – Ischaemic heart disease – Hypertension – Hypothesis considered reasonable – Applicant entitled to widow's pension – Decision set aside

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## Appeals

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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

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CASE NAME	AAT REFERENCE
<b>Martin v Comcare</b>	<a href="#">[2014] AATA 553</a>

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### Appeals finalised

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CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>Sunesis Pharmaceuticals Inc &amp; Millenium Pharmaceuticals Inc v Commissioner of Patents</b>	<a href="#">[2013] AATA 858</a>	<a href="#">[2015] FCAFC 29</a>
<b>Summers v Repatriation Commission</b>	<a href="#">[2013] AATA 439</a>	<a href="#">[2015] FCAFC 36</a> <a href="#">[2014] FCA 608</a>
<b>Grabovsky v Secretary, Department of Social Services</b>	<a href="#">[2014] AATA 522</a>	<a href="#">[2015] FCA 244</a> <a href="#">[2014] FCA 1130</a>

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