



## 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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## 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

[Digiglio and Transpacific Industries Pty Ltd](#) [2015] AATA 226; 15/4/2015; Senior Member GD Friedman

Left shoulder, hips, lower back and groin injuries – whether significant contribution by employment – previous injury in 1998 – whether contribution by events that occurred prior to respondent becoming licensee on 1 July 2008

[Hunter and Telstra Corporation Limited](#) [2015] AATA 218; 13/4/2015; Deputy President IR Molloy

Commonwealth employees – Whether injury a result of reasonable administrative action – Major depressive disorder – Where multiple contributing factors – Decision under review set aside and Tribunal decision substituted

[Huynh and Australian Postal Corporation](#) [2015] AATA 235; 17/4/2015; Senior Member J Handley

Applicant diagnosed with plantar fasciitis – worked more than 20 years standing and walking on concrete floors – plantar fasciitis idiopathic, pre-existing and a non-compensable ailment – bilateral chronic pain experienced – no change in the pathology of the condition – applicant vulnerable to pain by the employment activities – no relevant distinction between aggravation or exacerbation – pain part of the disease – contribution to a significant degree by the employment – decisions set aside.

[Singer and Comcare](#) [2015] AATA 231; 17/4/2015; Senior Member Isenberg

Workers compensation incapacity payments – whether the average weekly earnings and normal weekly earnings were correctly calculated – whether there has been any underpayment of compensation payments – decision affirmed

### Customs

[Brand Developers Aust Pty Ltd and Chief Executive Officer of Customs](#) [2015] AATA 215; 10/4/2015; Deputy President SA Forgie

Whether eligible for concessional rate – whether description of TCO to be met precisely – whether goods may have additional features outside the description of the TCO – precise description of TCO to be met – “Y-shaped” vegetable peeler and lid each takes goods outside of description of TCO but booklet and packaging do not – decision affirmed

## Health

[Elhelwe and Australian Community Pharmacy Authority & Ors](#) [2015] AATA 219; 14/4/2015; Deputy President JW Constance

PHARMACISTS – application to supply pharmaceutical benefits from particular premises – small shopping centre – whether supermarket with gross leasable area of 2,500 square metres – construction of supermarket – meaning of market – decision affirmed

## Immigration and Citizenship

[Rana and Minister for Immigration and Border Protection](#) [2015] AATA 227; 16/4/2015; Senior Member P Taylor

Application for Australian citizenship – whether Applicant of good character – nature of good character – Applicant convicted of offences involving dishonesty – consideration of sentencing judge's remarks – supporting witnesses unaware of circumstances of convictions – decision affirmed.

## Practice and Procedure

[ATP Group Pty Ltd and Tax Practitioners Board](#) [2015] AATA 225; 16/3/2015; Deputy President R Deutsch

PRACTICE AND PROCEDURE – stay – operation of a decision to cancel registration as tax agent – public interest – reputational damage – prospects of success – stay granted

## Social Security

[Clarke and Secretary, Department of Social Services](#) [2015] AATA 165; 20/3/2015; Senior Member JF Toohey

Disability support pension – compensation affected payment – preclusion period – whether preclusion period correctly calculated – whether special circumstances – decision under review set aside

[Elbehidi and Secretary, Department of Employment](#) [2015] AATA 228; 24/3/2015; Senior Member RW Dunne

Pensions, benefits and allowances – application for newstart allowance – applicant's business not making a profit and he is in financial difficulty – whether applicant was "unemployed" – whether self-employed – self-employment was not "very short term" or "sporadic" – discretion available to treat applicant as being unemployed for newstart allowance – discretion not exercised – decision under review affirmed

[Lloyd and Secretary, Department of Social Services](#) [2015] AATA 214; 10/4/2015; Prof R McCallum AO, Member

Pensions – disability support pension – whether Applicant's conditions were fully diagnosed, treated and stabilised – whether Applicant's impairment rated 20 points or more under the Impairment Tables – decision under review affirmed

[Loughman and Secretary, Department of Social Services](#) [2015] AATA 220; 14/4/2015; Deputy President JW Constance

Disability support pension – whether impairments fully diagnosed, treated and stabilised – whether impairments could be rated twenty or more impairment points – decision affirmed

[Mirza and Secretary, Department of Social Services](#) [2015] AATA 223; 14/4/2015; Professor R McCallum AO, Member

Disability support pension – whether applicant's impairments are rated 20 points or more under the Impairment Tables – thirteen week qualification period – decision affirmed

## **Veterans' Affairs**

[Bergin and Repatriation Commission](#) [2015] AATA 224; 15/4/2015; Senior Member N Isenberg

Widow's pension – whether Applicant and veteran in de facto relationship – no joint financial interests – some sharing of household responsibilities – lived together and had sexual relationship – conducted themselves as couple – veteran did not hold himself out as de facto – mixed reaction of family and friends – no de facto relationship – decision under review affirmed

[Kermode and Repatriation Commission](#) [2015] AATA 234; 17/4/2015; Senior Member NA Manetta

Veterans' Entitlements Act 1986 – preliminary question concerning date of payment of benefit - previous claims - no power to backdate pension to date of earlier finally determined claim

[Schmidt and Repatriation Commission](#) [2015] AATA 229; 17/4/2015; Senior Member N Isenberg

Entitlements – Anxiety disorder – Alcohol dependence – Whether veteran's condition was war-caused – Decision under review affirmed

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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>Long v Comcare</b>	<a href="#">[2014] AATA 975</a>

### Appeals finalised

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CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>None finalised</b>		

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