



Administrative
Appeals Tribunal

AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing information about recently published decisions and appeals against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. The Bulletin also regularly includes a sample of decisions recently published in the AAT's Migration & Refugee Division and Social Services & Child Support Division. It occasionally includes information on legislative changes that affect the AAT.

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 all decisions recently published in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals. This list also includes selected child support decisions published by the Social Services & Child Support Division and examples of recent decisions published by the Migration & Refugee Division. 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

[Debnam and Military Rehabilitation and Compensation Commission](#) (Compensation) [2017] AATA 470 (12 April 2017); Deputy President IR Molloy

Claimed neuralgia condition – whether neuralgia condition caused by surgery performed – medical evidence – decision under review affirmed

[Parker and Military Rehabilitation and Compensation Commission](#) (Compensation) [2017] AATA 456 (11 April 2017); Senior Member T Tavoularis

Claim for rehabilitation and compensation of injuries – deviated nasal septum – sleep apnoea – irritable bowel syndrome – hearing loss associated with bilateral tinnitus and otitis media – Commonwealth Employees' Compensation Act 1930 applicable – whether Respondent suffered prejudice – yes, significant lapse of time – in any event injuries not related to military service – all decisions under review affirmed

[Sambastian and Australian Postal Corporation](#) (Compensation) [2017] AATA 448 (7 April 2017); Deputy President K Bean

Left shoulder and right elbow injuries – Whether applicant entitled to incapacity payments – Whether applicant received offer of suitable employment – Whether duties resulted in aggravation of pre existing, non-compensable condition – Whether duties which aggravated a pre-existing condition could be considered suitable – Whether rehabilitation program suitable – Whether reasonable excuse for failing to undertake rehabilitation program – Whether ongoing liability for right elbow condition

Education and Research

[Penman and Secretary, Department of Education and Training](#) [2017] AATA 447 (7 April 2017); Ms R Perton, Member

Higher education – re-crediting of FEE-HELP fees – student enrolled for full-time course – claims to have lodged application for deferment or leave of absence – claim not processed – application for re-crediting of fees lodged after application period – whether special circumstances exist – decision affirmed

Migration

[Redzic and Minister for Immigration and Border Protection](#) (Migration) [2017] AATA 445 (7 April 2017); Ms R Perton, Member

Visa cancellation – character test – protection of the Australia community – serious conduct – dishonesty, drug and driving offences – continuation of offences following formal warning of possible visa cancellation – expectations of Australian community – strength, nature and duration of ties to Australia – decision affirmed

Social Security

[Bondzulich and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 455 (10 April 2017); Senior Member AC Cotter

Family tax benefit – late claim – whether the reconciliation period should be extended – whether special circumstances prevented applicant from lodging returns within time – decision under review affirmed

[Harrison and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 458 (10 April 2017); Mr C Ermert, Member

Disability Support Pension – cancellation – relevant date – whether physical, intellectual or psychiatric impairment – whether impairments fully diagnosed, fully treated and fully stabilised – whether impairment rating of 20 or more points – decision affirmed

[HFHK and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 469 (11 April 2017); Mr DJ Morris, Member

Child Care Benefit – Family Tax Benefit – whether applicant paid in excess of correct entitlement – is debt raised and recoverable – should debt be waived or written off, in part or full – applicant is war widow – deficiencies between computer systems of Department and Department of Veterans' Affairs – was there 'maladministration' – whether severe financial hardship or special circumstances making desirable to waive debt applicable – decision affirmed

[Holdsworth; Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 446 (7 April 2017); Mr I Thompson, Member

Disability support pension – cancellation of existing payment – medical review – respondent did not qualify for DSP as at the date of cancellation – decision under review set aside

[Sahbegovic and Secretary, Department of Social Services](#) (Social services second review) [2017] AATA 464 (11 April 2017); Mr C Ermert, Member

Disability Support Pension – physical, intellectual or psychiatric impairments – whether conditions fully diagnosed, fully treated and fully stabilised – whether impairments attract 20 impairment points – decision affirmed

Taxation

[Banks and Commissioner of Taxation](#) (Taxation) [2017] AATA 468 (11 April 2017); Senior Member E Fice

Appeal against objection decision – income tax assessment – claimed deductions disallowed on audit – whether assessment excessive or otherwise incorrect – claimed deduction for work-related travel allowance – application of exception from substantiation for travel and overtime meal allowances – applicant unable to rely on exception from substantiation due to amount claimed – applicant unable to prove deductions – applicant unable to prove assessment excessive or otherwise incorrect

Penalties – administrative penalties – where applicant's taxation shortfall arose due to failure of applicant and applicant's tax agent to take reasonable care – where applicant incorrectly advised as to taxation obligations – where applicant failed to provide tax agent with all relevant information – penalties correctly imposed – no basis for remission of penalties for any other reason contended

Veterans' Affairs

[Hall and Repatriation Commission](#) (Veterans' Entitlements) [2017] AATA 457 (10 April 2017); Deputy President Dr P McDermott RFD

Veterans' Affairs – veterans' entitlements – eligibility for payment of pension bonus – whether application lodged within prescribed time – where partner is still a participant in the workforce – application not lodged within prescribed time – decision under review affirmed

Appeals

This section of the Bulletin provides information about appeals that have been lodged or finalised against decisions in the AAT's General, Freedom of Information, National Disability Insurance Scheme, Security, Taxation & Commercial and Veterans' Appeals Divisions. Information is only included about appeals relating to AAT decisions that have been published on [AustLII](#). Full copies of the decisions can be accessed through the hyperlinks provided below.

Appeals lodged

CASE NAME	AAT REFERENCE
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None lodged

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
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Doutch v Commissioner of Taxation & Anor

[\[2015\] AATA 972](#)

[\[2017\] HCASL 85](#)

[\[2016\] FCAFC 166](#)

Tisdell v Secretary, Department of Social Services

[\[2016\] AATA 762](#)

[\[2017\] FCA 351](#)

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