



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 information about decisions of interest recently published in the AAT's Migration & Refugee 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 Divisions as well as about select decisions recently published in 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.

Education and Training

[Austwide Institute of Training Pty Ltd and Secretary, Department of Education and Training](#) [2016] AATA 266 (28 April 2016); Senior Member FD O'Loughlin

Vocational education – application for renewal of registration as NVR registered training organisation – non-compliance with standards – application for registration for new courses – non-compliance with Education Services for Overseas Students Act 2000 (Cth) – Decision under review affirmed

Practice and Procedure

[Elton and Repatriation Commission](#) [2016] AATA 260 (22 April 2016); Miss EA Shanahan, Member

Apprehension of bias – respondent's request that expert medical witness be called to refute applicant's dispersions on his professional conduct – impact on the tribunal member's approach to the decision and the facts – comments relating only to credit – no substantive or factual basis – rules against bias – no actual bias alleged

[Von Stieglitz and Comcare](#) [2016] AATA 216 (6 April 2016); Deputy President G Humphries

Application for recusal on grounds of apprehended bias – application refused

Social Security

[Ozcan and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 262 (26 April 2016); Dr G Hughes, Member

Social security payments – disability support pension – whether applicant suffering 20 point impairment in respect of either a spinal condition or a psychiatric condition – portability – decision set aside

[ZBHT and Secretary, Department of Social Services](#) (Social services second review) [2016] AATA 263 (3 March 2016); Senior Member E Fice

Child support – family tax benefit – percentage of care – separated under one roof – financial care and physical care – whether actual levels of care different – decision set aside

Taxation

[TBCL and Commissioner of Taxation](#) (Taxation) [2016] AATA 264 (27 April 2016); Dr P McDermott RFD, Deputy President

Private ruling – function of the Tribunal – consideration of the stated facts comprising the scheme the subject of the ruling – additional information materially different – decision remitted to enable the Commissioner to request the applicant to make another application for a private ruling

Death Benefit dependent – interdependency relationship – close personal relationship – shared residence of itself insufficient - domestic support and personal care

Veterans' Affairs

[Perren and Repatriation Commission](#) (Veterans' entitlements) [2016] AATA 253 (20 April 2016); Senior Member N Isenberg

Pension – defence service – lumbar spondylosis – thoracic spondylosis – statement of principles – whether applicant lifted loads of at least 35 kilograms while bearing weight to a cumulative total of at least 168000 kilograms within any ten year period before the clinical onset of conditions – application of statement of principles – threshold limit not met – 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
Saltmarsh v Repatriation Commission	[2016] AATA 178
Chen v Migration Agents Registration Authority & Administrative Appeals Tribunal	[2016] AATA 188
Haque v Migration Agents Registration Authority	[2016] AATA 186
Wu v Secretary, Department of Social Services	[2016] AATA 226

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
The Applicant 0108 of 2014 v Secretary, Department of Social Services	[2015] AATA 446	[2016] FCA 421
Fard v Secretary, Department of Immigration and Border Protection	[2015] AATA 790	[2016] FCA 417

Statements of Principles

This section of the *Bulletin* provides information on recent developments in relation to Statements of Principles made by the Repatriation Medical Authority for the purposes of the [Veterans' Entitlements Act 1986](#) and the [Military Rehabilitation and Compensation Act 2004](#).

New Statements of Principles

The AAT has been advised that the Repatriation Medical Authority has made the following new Statements of Principles. They take effect from **23 May 2016**.

Benign neoplasm of the eye and adnexa (Reasonable Hypothesis) – No. 41 of 2016

<https://www.legislation.gov.au/Details/F2016L00565>

Benign neoplasm of the eye and adnexa (Balance of Probabilities) – No. 42 of 2016

<https://www.legislation.gov.au/Details/F2016L00569>

Intervertebral disc prolapse (Reasonable Hypothesis) – No. 43 of 2016

<https://www.legislation.gov.au/Details/F2016L00563>

Intervertebral disc prolapse (Balance of Probabilities) – No. 44 of 2016

<https://www.legislation.gov.au/Details/F2016L00564>

Opisthorchiasis (Reasonable Hypothesis) – No. 45 of 2016

<https://www.legislation.gov.au/Details/F2016L00579>

Opisthorchiasis (Balance of Probabilities) – No. 46 of 2016

<https://www.legislation.gov.au/Details/F2016L00584>

Clonorchiasis (Reasonable Hypothesis) – No. 47 of 2016

<https://www.legislation.gov.au/Details/F2016L00561>

Clonorchiasis (Balance of Probabilities) – No. 48 of 2016

<https://www.legislation.gov.au/Details/F2016L00562>

Malignant neoplasm of the urethra (Reasonable Hypothesis) – No. 49 of 2016

<https://www.legislation.gov.au/Details/F2016L00580>

Malignant neoplasm of the urethra (Balance of Probabilities) – No. 50 of 2016

<https://www.legislation.gov.au/Details/F2016L00581>

Cholelithiasis (Reasonable Hypothesis) – No. 51 of 2016

<https://www.legislation.gov.au/Details/F2016L00557>

Cholelithiasis (Balance of Probabilities) – No. 52 of 2016

<https://www.legislation.gov.au/Details/F2016L00558>

Cut, stab, abrasion and laceration (Reasonable Hypothesis) – No. 53 of 2016

<https://www.legislation.gov.au/Details/F2016L00567>

Cut, stab, abrasion and laceration (Balance of Probabilities) – No. 54 of 2016

<https://www.legislation.gov.au/Details/F2016L00571>

Parkinson's disease and secondary parkinsonism (Reasonable Hypothesis) – No. 55 of 2016

<https://www.legislation.gov.au/Details/F2016L00560>

Parkinson's disease and secondary parkinsonism (Balance of Probabilities) – No. 56 of 2016

<https://www.legislation.gov.au/Details/F2016L00570>

Optochiasmatic arachnoiditis (Reasonable Hypothesis) – No. 57 of 2016

<https://www.legislation.gov.au/Details/F2016L00566>

Optochiasmatic arachnoiditis (Balance of Probabilities) – No. 58 of 2016

<https://www.legislation.gov.au/Details/F2016L00568>



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