



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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Contents

AAT Recent Decisions	2
Compensation.....	2
Corporations	3
National Security.....	3
Practice and Procedure	3
Social Security	3
Taxation and Revenue.....	4
Veterans' Affairs.....	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

[Khoury and Comcare](#) [2015] AATA 326; 14/5/2015; Deputy President JW Constance, Dr M Couch, Member

Liability for medical expenses and incapacity – whether Applicant continued to suffer effects of accepted condition – injury to left knee – ongoing symptoms result of earlier non work-related injury – decision affirmed

Injury – major depressive disorder – claimed psychiatric condition secondary to accepted knee injury – decision affirmed

[Munday and Comcare](#) [2015] AATA 314; 8/5/2015; Dr J Popple, Senior Member

Commonwealth employees – whether Applicant suffered a psychological injury – whether outside normal mental functioning and behaviour – whether Applicant suffered a physical condition – decision affirmed

[Saari and Comcare](#) [2015] AATA 309; 8/5/2015; Deputy President SD Hotop

Commonwealth employees – applicant suffered compensable physical and mental injuries – applicant claimed compensation for incapacity for work resulting from physical injuries – applicant claimed compensation for permanent impairment resulting from physical injuries – applicant claimed compensation for permanent impairment resulting from major depressive disorder – amount of incapacity compensation payable to applicant – applicant's "normal weekly earnings" – applicant's post-injury work hours – applicant elected to reduce work hours in certain periods – applicant ceased to be employed by Commonwealth – reviewable decision regarding incapacity payments set aside – applicant suffered permanent impairment as result of compensable injury to neck and each shoulder – degree of permanent impairment resulting from each injury less than 10% – respondent not liable to pay compensation for permanent impairment in respect of applicant's injury to neck and each shoulder – reviewable decision affirmed – applicant suffered permanent impairment as result of major depressive disorder and chronic pain disorder – applicant's impairment resulting from chronic pain disorder indistinguishable from impairment resulting from major depressive disorder – degree of permanent impairment resulting from major depressive disorder 10% – respondent liable to pay compensation for permanent impairment and non-economic loss in respect of major depressive disorder – reviewable decision affirmed

[Vasios and Australian Postal Corporation](#) [2015] AATA 317; 13/5/2015; Deputy President K Bean

Liability accepted for bilateral carpal tunnel syndrome – whether Applicant continues to suffer symptoms of compensable injury – existence of degenerative arthritic condition – whether Applicant continues to be incapacitated for work as a result of compensable injury – decision under review set aside

Corporations

[Stasiw and Australian Securities and Investments Commission and Anor](#) [2015] AATA 328; 15/5/2015; The Hon. R Nicholson, Deputy President

Business names register – objection to registration of business name – unavailability of business name which identical or nearby identical to registered company name – whether Business Names Determination provides precise and exhaustive mechanism to decide objection – Determination limited to setting matters to be disregarded – manner in which comparison is to be carried out in absence of provision of matters to be considered

National Security

[RZBV and Director-General of Security and Anor](#) [2015] AATA 296; 5/5/2015; Deputy President JW Constance, Deputy president SE Frost, Senior Member N Isenberg

NATIONAL SECURITY – adverse security assessment – cancellation of Australian passport – likely to engage in conduct which might prejudice security – assessed as likely to engage in politically motivated violence – whether assessment should be affirmed as correct – decisions affirmed

Practice and Procedure

[Overton and Secretary, Department of Social Services](#) [2015] AATA 318; 15/4/2015; Senior Member BJ McCabe

Application for reinstatement – power to reinstate – relevant considerations – explanation for non-appearance – merits of the case – substantive claim for disability support pension – no evidence applicant satisfies ‘medical criteria’ – no evidence diagnosed condition was fully treated and fully stabilised – substantive application for review unlikely to succeed – application for reinstatement refused

[Piekarska and Secretary, Department of Social Services](#) [2015] AATA 324; 14/5/2015; Senior Member AF Cunningham

Applications for extension of time – lack of merit in substantive applications – applications refused

Social Security

[Dutta and Secretary, Department of Employment](#) [2015] AATA 327; 15/5/2015; Professor R McCallum AO, Member

Special Benefit – Applicant eligible for Special Benefit – whether to exercise discretion to grant Special Benefit – policy considerations – long term available funds test – whether large purchase was exceptional or unforeseen expense – decision affirmed

[Karadaghian and Secretary, Department of Social Services](#) [2015] AATA 325; 14/5/2015; Dr I Alexander, Member

Disability support pension – whether Applicant’s conditions were fully diagnosed, treated and stabilised – whether Applicant’s impairments are rated 20 points or more under the Impairment Tables – decision affirmed

[Kezic and Secretary, Department of Social Services](#) [2015] AATA 313; 8/5/2015; Senior Member CR Walsh

Disability support pension (DSP) – Applicant has “impairments” (being disc facet degeneration of the cervical spine, diabetes mellitus type 2, Crohn’s disease, a mental health condition (delusional disorder), left knee osteoarthritis, gastro oesophageal reflux disease, sleep apnoea, asthma and hyperferritinism) – Applicant’s impairments did not attract 20 points or more under the Impairment Tables on the date he claimed DSP or within 13 weeks thereafter – Applicant does not have a “continuing inability to work” – decision under review affirmed

[Mentink and Secretary, Department of Social Services](#) [2015] AATA 316; 11/5/2015; Dr P McDermott RFD, Senior Member

Age pension – cancellation decision – Australian residency requirement not satisfied – decisions affirmed

PRACTICE AND PROCEDURE – whether s 1220 constituted an operative or final decision

Taxation and Revenue

[PXTY and Commissioner of Taxation](#) [2015] AATA 274; 29/4/2015; Deputy President SE Frost

Energy grants – fuel tax credits – entitlement to credits when diesel fuel acquired for use for a specified purpose – whether diesel fuel used for a qualifying purpose – objection decisions affirmed

Veterans’ Affairs

[Hodgson and Repatriation Commission](#) [2015] AATA 315; 11/5/2015; Deputy President JW Constance

Widow’s pension – whether death of the veteran was war-caused – death from ischaemic heart disease – whether material raises reasonable hypothesis connecting death with service – hypothesis that anxiety disorder resulting from war service caused major depression which caused ischaemic heart disease – decision set aside and substituted

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
Rigoli v Commissioner of Taxation	[2015] AATA 169
Telstra Corporation Limited v Hunter	[2015] AATA 218

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Secretary, Department of Social Services v Vaneski	[2014] AATA 728	[2015] FCA 433
Kumar v Minister for Immigration and Border Protection and Administrative Appeals Tribunal	[2014] AATA 944	[2015] FCA 446

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