



Administrative  
Appeals Tribunal

AAT  
Bulletin

# 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](mailto: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

[Kazakos and Comcare](#) (Compensation) [2018] AATA 1503 (1 June 2018); Senior Member DJ Morris

COMPENSATION – Psychiatric condition – assault during a work day – whether liability accepted – differential diagnoses of condition – whether 'injury' or 'disease' – history of treatment – whether condition aggravated to substantial degree by employment – decision affirmed

[Kumatia and Comcare](#) (Compensation) [2018] AATA 1505 (1 June 2018); Mr S Webb, Member

COMPENSATION – accepted left ankle 'injury' – fall at work – fractured fibula – use of crutches – altered gait – subsequent onset of low back and radicular symptoms – claim for treatment of low back symptoms – threshold liability rejected – meaning of 'injury' – jurisdiction to determine compensation in respect of medical treatment – pre-existing degenerative changes in lumbar spine – conflicting medical theories and evidence – balance of probabilities test – examination of facts – altered gait contributed to onset of low back and right lower limb symptoms – degree of contribution – employment contribution was significant – decision set aside

## Corporations

[Mansfield and A committee convened under section 20-10 of the Insolvency Practice Schedule](#) (Corporations) [2018] AATA 1510 (5 June 2018); Deputy President J Redfern

CORPORATIONS LAW – review of decision to refuse application to be registered as a liquidator – whether applicant has the qualifications, experience, knowledge and abilities prescribed by the Insolvency Practice Schedule and Rules – consideration of the meaning of 'exposure to processes (including Bankruptcy) under the Bankruptcy Act 1966' – where applicant is not a resident of Australia or in another prescribed country under s 20-20(4)(i) of the Insolvency Practice Schedule – whether applicant should be registered as a liquidator subject to certain conditions – decision set aside and substituted

## Practice and Procedure

[Kloren and Comcare](#) (Compensation) [2018] AATA 1500 (29 May 2018); Mr M Hyman, Member

PRACTICE AND PROCEDURE – motion for dismissal for abuse of process – principles governing summary decisions – whether estoppel applies in the tribunal – application of provisions allowing the tribunal to manage its own processes – relitigation of matters covered by consent decision – whether the tribunal has jurisdiction where implementation of consent decision challenged – tribunal has jurisdiction within certain constraints

COMPENSATION – AE (ability to earn) – whether based on the ability to earn in suitable employment or actual earnings – application of considerations relating to participation in the labour market – how and when those considerations are taken into account – calculation of compensation

[McCann and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1498 (31 May 2018); Mr C Edwardes, Member

PRACTICE AND PROCEDURE – application for extension of time to lodge application for review of decision – Tribunal not satisfied that reasonable in all the circumstances to grant extension of time – disability support pension – application for extension of time refused

[O’Riordan and Minister for Home Affairs](#) (Citizenship) [2018] AATA 1497 (25 May 2018); Senior Member C Puplick AM

PRACTICE AND PROCEDURE – extension of time application – whether it is reasonable in all the circumstances to grant the extension – whether delay was significant – whether the explanation for delay was sufficient – whether the application has merit – whether applicant is likely to, or will continue to, reside in Australia or maintain a close and continuing association – extension of time application granted

## **Social Security**

[BPPB and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1504 (01 June 2018); Mr C Edwardes, Member

Social Security – disability support pension – mental health – impairment tables – did applicant have 10 impairment points – continuing inability to work rating – participation in program of support – decision under review affirmed

[Carden and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1499 (31 May 2018); Mr C Edwardes, Member

Social security – compensation - motor vehicle accident - consent judgement – compensation preclusion period applied – carer’s payment – straitened financial circumstances – ill health – evidence does not support special circumstances – decision affirmed

[Carmody and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1506 (1 June 2018); Mr C Edwardes, Member

Social Security – disability support pension – impairment tables – did applicant have 20 impairment points – continuing inability to work rating – participation in program of support – decision under review affirmed

[Cumming and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1502 (31 May 2018); Mr C Edwardes, Member

SOCIAL SECURITY – disability support pension cancelled – whether applicant had conditions that were fully diagnosed, fully treated and fully stabilised – whether applicant had 20 impairment points – whether applicant had severe impairment – spinal condition – mental health condition – diabetes – morbid obesity – carpal tunnel syndrome – shoulder condition – hip pain – varicose veins – decision under review affirmed

[O'Regan and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1501 (1 June 2018); Ms DK Grigg, Member

SOCIAL SECURITY – disability support pension – whether conditions permanent – whether 20 points or more under the impairment tables during the relevant period – decision under review affirmed

[Pustul and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1507 (31 May 2018); Mr C Edwardes, Member

Social Security – disability support pension – assessing impairments and assigning impairment ratings – qualification period – continuing inability to work rating – participation in program of support – decision affirmed

[Tudo and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 1508 (1 June 2018); Mr I Thompson, Member

SOCIAL SECURITY – disability support pension – whether the applicant's conditions were fully diagnosed, fully treated and fully stabilised as at the date of the claim or within 13 weeks – 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
<b>KQHR and Minister for Immigration and Border Protection</b>	<a href="#">[2018] AATA 684</a>
<b>Ronaki and Minister for Immigration and Border Protection</b>	<a href="#">[2018] AATA 427</a>
<b>Snell and Commonwealth of Australia</b>	<a href="#">[2018] AATA 1107</a>

## Appeals finalised

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



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