



## 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.

### Child Support

[Kay and Child Support Registrar](#) [2015] AATA 429; 17/6/2015; Deputy President SA Forgie, Dr D Cremean, Member

Departure Prohibition Order (DPO) issued – application for Departure Authorisation Certificate (DAC) – security provided by third party – whether appropriate – security to be given by payer – decision affirmed

### Compensation

[Aguilar and Australian Postal Corporation](#) [2015] AATA 420; 15/6/2015; Senior Member J Handley

Applicant employed with respondent for 16 years – work has been repetitive and heavy, frequently undertaken quickly and involving pushing and pulling movements – persisting complaint of left shoulder and upper back pain – some complaint of neck pain – decision concerning the left shoulder injury is set aside – decision concerning the neck injury is affirmed

[Holden and Comcare](#) [2015] AATA 422; 15/6/2015; Senior Member JF Toohey

Compensation – permanent impairment – whether degree of permanent impairment increased by 10 per cent – decision under review affirmed

### Corporations

[Lantern Hotel Group and Australian Securities and Investments Commission](#) [2015] AATA 428; 17/6/2016; Senior Member PW Taylor SC

Buy back from security holders – ASIC refusal to grant exemption from buy back provision in Corporations Act – exemption only sought in relation to a particular transaction independently assessed as reasonable and fair – decision under review set aside – parties directed to draft proposed terms of substituted decision in accordance with these reasons

### Immigration and Citizenship

[Bhowmik and Minister for Immigration and Border Protection](#) [2015] AATA 426; 17/6/2015; The Hon B Tamberlin QC, Deputy President

Character test – whether Applicant is of good character – decision under review set aside and substituted

## Social Security

[Hernandez and Secretary, Department of Social Services](#) [2015] AATA 419; 12/6/2015; Dr M Denovan, Member

Pensions, benefits and allowances – Disability Support Pension – New Start Allowance – Overpayment – Collection of debt – Waiver – Administrative error – Special Circumstances – Decision under review affirmed

[Judd and Secretary, Department of Social Services](#) [2015] AATA 418; 12/6/2015; Senior Member BJ McCabe

Benefits and entitlements – disability support pension – cancellation – insufficient points under impairment tables to satisfy criteria – no entitlement at time of cancellation – decision under review affirmed

[Sidiropoulos and Secretary, Department of Social Services](#) [2015] AATA 421; 22/4/2015; Professor R McCallum AO, Member

Newstart Allowance – cancellation of payment – whether failure without reasonable excuse to comply with a requirement to inform the Department of particular information – no discretion – decision affirmed

[Sidwel and Anor and Secretary, Department of Social Services and Anor](#) [2015] AATA 402, 5/6/2015; Deputy President K Bean, Mr I Thompson, Member

Disability Support Pension (DSP) – Two DSP claims in respect of same conditions – Whether conditions fully diagnosed, treated and stabilised – Whether conditions attract an impairment rating of 20 points or more under the Impairment Tables – Applicant not qualified for DSP during relevant assessment periods – decision under review affirmed

[Slaven and Secretary, Department of Social Services](#) [2015] AATA 427; 17/6/2015; Dr G Hughes, Member

Calculation of Applicant's age pension rate – whether the value of second property to be included as an asset – whether a constructive trust exists in favour of a disabled child – insufficient evidence of a common understanding or that it would be a fraud for the Applicant to deny the existence of a trust – decision under review affirmed

[Spelta and Secretary, Department of Social Services](#) [2015] AATA 425; 16/6/2015; Senior Member BJ McCabe

Pensions, benefits and allowances – Disability support pension – rent assistance – where Applicant sought review outside of 13 week period – information notices given under social security law – decisions under review affirmed

[Stark; Secretary, Department of Social Services and](#) [2015] AATA 424; 16/6/2015; Senior Member BJ McCabe

Disability support pension – cancellation decision – multiple medical conditions – psychiatric condition attracted insufficient impairment points at relevant time – shoulder condition not fully diagnosed, treated and stabilised at relevant time – medical criteria not satisfied – decision under review affirmed

[Zalega and Secretary, Department of Social Services](#) [2015] AATA 417; 12/6/2015; Senior Member BJ McCabe

Disability support pension – compensation for work injury – preclusion period – statutory discretion to disregard payment – no special circumstances – decision under review affirmed

## **Veterans' Affairs**

[Ellis and Repatriation Commission](#) [2015] AATA 431; 19/6/2015; Deputy President SA Forgie

Whether death war-caused – principles relevant in determining whether reasonable hypothesis on whole of material – decision set aside

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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 |
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None lodged

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### Appeals finalised

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| CASE NAME | AAT REFERENCE | COURT REFERENCE |
|-----------|---------------|-----------------|
|-----------|---------------|-----------------|

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None finalised

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