



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

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

[Barrett and Australian Postal Corporation](#) [2013] AATA 531; 30/7/2013; Senior Member BJ McCabe and Dr GJ Maynard, Brigadier (Rtd), Member

Australia Post employee – Liability for aggravated condition – Activity aggravating an underlying condition – Erosive arthropathy – Respondent liable – Decision set aside

[Grace and Australian Postal Corporation](#) [2013] AATA 529; 30/7/2013; Senior Member JF Toohey and Dr M Couch, Member

Postal services officer – Mail delivery – Cervical spine – Right shoulder – Severe widespread degenerative changes – Liability denied – Whether the applicant suffered an injury – Whether evidence of sudden or identifiable physiological change – Decision under review set aside

[Melder and Comcare](#) [2013] AATA 534; 31/7/2013; Deputy President JW Constance

Adjustment disorder with depression and anxiety – Whether employment contributed to a significant degree – Whether reasonable administrative action taken in a reasonable manner – Decision under review affirmed

[Parker and Military Rehabilitation and Compensation Commission](#) [2013] AATA 539; 2/8/2013; Senior Member RG Kenny

Military Compensation – Claims for “wrong glasses from the army” and “congenital protrusion both heels” – Alleged relationship to Army service occurring prior to commencement of *Safety, Rehabilitation and Compensation Act 1988* (Cth) – Transitional provisions – Failure to give notice of accident as soon as practicable under *Commonwealth Employees’ Compensation Act 1930* (Cth) – Commonwealth prejudiced by want of notice – Relevance of mistake for late notice and late claim – Relevance of ignorance about making a claim – No reasonable cause for late notice or late claim – Decision under review affirmed

[Pickett and Comcare](#) [2013] AATA 516; 23/7/2013; Deputy President SD Hotop

Commonwealth employees – Applicant employed by Australian Bureau of Statistics as urban collector July-September 2011 – Applicant suffered dog bite in course of employment – Dog bite a compensable injury – Applicant subsequently suffered slurred speech – Slurred speech not contributed to, to a significant degree, by employment – Slurred speech not a compensable injury – Applicant did not seek medical treatment or obtain medical certificate in relation to dog bite – Applicant not incapacitated for work as result of dog bite - no compensation payable to applicant for dog bite – Respondent not liable to pay compensation to applicant for slurred speech – Decision under review varied

Freedom of Information

[Lee and Minister for Immigration and Citizenship](#) [2013] AATA 532; 31/7/2013; Senior Member D Letcher, QC

Request to amend date of birth on government records – Onus on Minister to prove records not incorrect – Cambodian birth certificate – Conflicting dates of birth – Authenticity of documentation – Decision under review affirmed

Immigration and Citizenship

[Amir and Minister for Immigration and Citizenship](#) [2013] AATA 541; 2/8/2013; Senior Member JL Redfern

Visa cancellation – Character test – Criminal history – Seriousness of conduct and risk of further offending – Protection of Australian community – Duration and nature of the person's ties to Australia –Tolerance to low level criminal conduct where non-citizen has long established links to Australia – Underlying mental health issues and addictions – Decision under review is set aside and substituted with a decision that the applicant's visa not be cancelled.

Social Security

[Cole and Anor Secretary, Department of Families, Housing, Community Services and Indigenous Affairs and Anor](#) [2013] AATA 536; 1/8/2013; Senior Member AF Cunningham

Disability support pension – Meaning of ordinary income – Lump sum payment of arrears of superannuation pension entitlements – Ordinary income test – assessed as ordinary income for 12 months following receipt – Ordinary income exceeded income test threshold – No DSP payable

[Elmir and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2013] AATA 533; 31/7/2013; Senior Member N Bell

Disability support pension – DSP – Impairment tables – Applicant does not meet impairment rating requirement – Program of support – Decision under review affirmed

Zaarour and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs [2013] AATA 535; 31/7/2013; Senior Member N Isenberg

Special benefit – Newly arrived resident's waiting period – No substantial change in circumstances beyond the Applicant's control – Special benefit not payable – Decision under review affirmed

Taxation

Vision Intelligence Pty Ltd and Commissioner of Taxation [2013] AATA 527; 30/7/2013; Professor R Deutsch, Deputy President

Income tax – Research and development offset – Claim for offset disallowed on the basis the contracted expenditure had not been incurred in the year of income – Penalty – Whether the applicant failed to take reasonable care – Whether penalty should be remitted – Objection decision under review set aside

Trade and Commerce

Preston SuperAccess Pty Limited and Australian Trade Commission [2013] AATA 537; 2/8/2013; The Hon B Tamberlin, QC, Deputy President

Industry assistance – Export market development grants – Change of ownership of business – Whether the new business is similar to the old business – Whether the new business should be treated as a continuation of the old business – Decision under review affirmed

Vocational Education and Training

Australian Academy of Management & Science Pty Ltd and Australian Skills Quality Authority [2013] AATA 530; 30/7/2013; Senior Member PW Taylor SC

Vocational Education and Training – Non-compliance with relevant standards – Appropriate "sanction" – Cancellation decision set aside

Appeals Finalised

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
Soames v Secretary, Department of Families, Housing, Community Services and Indigenous Affairs	[2013] AATA 473

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Hancox v Commissioner of Taxation	[2012] AATA 836	[2013] FCA 735
Frugtniet v Tax Practitioners Board	[2013] AATA 188	[2013] FCA 752



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