



Administrative  
Appeals Tribunal

# AAT Bulletin

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The *AAT Bulletin* is a weekly publication containing a list of recently published AAT decisions and information relating to appeals against AAT decisions. The Bulletin also 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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# 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.

## Anti-Discrimination

[People with Disability Australia and Australian Human Rights Commission](#) [2015] AATA 548 (28 July 2015); Deputy President JW Constance and Senior Member JF Toohey

DISABILITY DISCRIMINATION – exemption from operation of legislation – supported employees – Business Services Wage Assessment Tool – whether Australian Human Rights Commission had power to grant an “interim” exemption – whether decision procedurally fair – decision under review set aside

## Citizenship

[Woo and Minister for Immigration and Border Protection](#) (Citizenship) [2015] AATA 551 (15 July 2015); Senior Member BJ McCabe

Eligibility – application for Australian citizenship by descent – parent not Australian citizen at time of Applicant’s birth – decision under review affirmed

## Corporations

[Davidson and Registrar of Personal Property Securities](#) [2015] AATA 549 (29 July 2015); Deputy President SA Forgie

PERSONAL PROPERTY SECURITIES – amendment demand for a financing change statement to be registered to amend registration of security interest – whether collateral described in the registration secures any obligation owed by debtor to secured party – debtor a partnership – agreement signed as part of winding up of business of partnership by one of partners – partnership not bound by agreement signed other than in the ordinary course of business – agreement not in the ordinary course of business – agreement executed in name of partnership but not relating to partnership’s business – agreement not binding to secure payment of debt

## Migration and Refugee

[Frugniet and Migration Agents Registration Authority](#) (Migration) [2015] AATA 554 (30 July 2015); Deputy President SA Forgie

Applicant’s objection to lodging statement of facts and contentions and evidentiary material before Respondent – claim of penalty privilege – whether privilege extends to administrative proceedings – procedural rule confined to judicial proceedings – no statutory provision to contrary – consideration of material gathered by Respondent using its investigative powers and otherwise and lodged as obliged to do – role of Tribunal – opportunity for each party to present its case – Applicant to lodge Statement of Facts, Issues and Contentions and evidentiary material before Respondent

LEGAL PRINCIPLES – penalty privilege – privilege against self-incrimination – corporations and individuals distinguished

## Practice and Procedure

[Pacific International College Pty Ltd and Secretary, Department of Education and Training](#) [2015] AATA 547 (29 June 2015); Professor R Deutsch, Deputy President

Summons to Produce Documents – application for summons to be set aside in full – randomly selected categories of material – general fishing expedition – summons revoked

## Social Security

[Burke and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 550 (29 July 2015); Deputy President SA Forgie

Newstart allowance – Newstart Employment Pathway Plan for work with Sea Shepherd for 30 hours per fortnight – Applicant sails beyond Australia’s territorial sea – whether absence allowable – whether humanitarian purpose – decision varied to reflect correct day Applicant left Australia

[Davidson; Secretary, Department of Social Services and](#) (Social services second review) [2015] AATA 533 (22 July 2015); Dr I Alexander, Member

Disability support pension – departmental appeal – whether Applicant’s impairment is rated 20 points or more under the Impairment Tables – whether Applicant suffered from a severe impairment – whether Applicant had a continuing inability to work – decision set aside and substituted

[MacDonald and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 556 (9 July 2015); Senior Member E Fice

Pensions, payments and allowances – Carer payment – Age pension – Rate – Assets test – Administrative law – Administrative Appeals Tribunal – Jurisdiction – No jurisdiction as SSAT did not affirm, vary or set aside decision under review – Extension of time – Extension refused as limited prospects of success

[Radovski and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 546 (28 July 2015); Dr I Alexander, Member

Pensions – carer payment and carer allowance – suspension of payments – extended absence from Australia – portability of payments – whether discretion to extend portability – statutory grounds for extension – no grounds for exercise of discretion – decisions affirmed

[Stojcevski and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 538 (23 July 2015); Senior Member PW Taylor SC

Disability support pension – whether Applicant’s conditions fully diagnosed, treated and stabilised – whether Applicant’s impairment rating is 20 points or more under the Impairment Tables – decision affirmed

[Thompson and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 543 (24 July 2015); Senior Member AC Cotter

Disability support pension – alcohol dependence – whether fully diagnosed, treated and stabilised at the relevant time – decision under review affirmed

[Warren and Secretary, Department of Social Services](#) (Social services second review) [2015]  
AATA 553 (30 July 2015); Mr C Ermert, Member

Disability support pension – whether conditions fully diagnosed, treated and stabilised within the qualification period – whether conditions permanent – 15 impairment points – decision affirmed

[Williams and Secretary, Department of Social Services](#) (Social services second review) [2015]  
AATA 544 (24 July 2015); Senior Member AC Cotter

Lump sum workers' compensation payment – preclusion period – whether special circumstances exist to justify the exercise of the discretion to disregard all or part of the compensation payment being made – compensation payments spent – Applicant's circumstances 'special' – decision under review set aside

# 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

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CASE NAME	AAT REFERENCE
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<b>Commissioner of Taxation v Jayasinghe</b>	<a href="#">[2015] AATA 456</a>
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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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