



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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Enquiries regarding this publication may be directed to aatweb@aat.gov.au.

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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

[Downes and Military Rehabilitation and Compensation Commission](#) [2014] AATA 688; 19/9/2014; Dr M Denovan, Member

Guide to Determining Impairment and Compensation (GARP M) – the MRCA Guide – lifestyle rating – rating for resting joint pain – impairment rating – decision partially substituted for new rating – remainder of decision remitted to respondent for calculation of compensation

[Rand and Comcare](#) [2014] AATA 672; 12/9/2014; Senior Member RM Creyke and Dr B Hughson, Member

Commonwealth employees – whether applicant's adjustment disorder with mixed anxiety and depressed mood, for which liability was accepted, was an effective and operative cause of incapacity for work and need for treatment from 15 March 2005 onwards – matter on remittal from the Federal Court – decision under review affirmed

[Sidhu and Comcare](#) [2014] AATA 671; 12/9/2014; Senior Member RM Creyke

Commonwealth employee – whether administrative actions contributed significantly to injury – whether administrative actions undertaken were reasonable – whether administrative actions were undertaken in a reasonable manner – decision under review affirmed

Corporations

[Coshott and Australian Securities and Investments Commission](#) [2014] AATA 677; 17/9/2014; Senior Member JL Redfern

Permanent banning order – failure to comply with a financial services law – findings of dishonesty – whether director carrying on financial services business – involvement in contravention – misleading and deceptive conduct – failure to keep records – contraventions serious – good fame or character – evidentiary issues where allegations of dishonesty – whether Tribunal reasonably satisfied on available material of finding of dishonesty – decision affirmed

Electoral

[Horrex and Australian Electoral Commission and Bell \(Joined Party\)](#) [2014] AATA 681; Deputy President PE Hack SC

Application to join parties – Application to stay a decision of a third party – Who are proper parties to the proceedings – Tribunal has no jurisdiction to stay decision of .au Domain Administration Ltd – Application to join parties partially refused

Freedom of Information

[Spragg and Chief Executive Officer of Customs](#) [2014] AATA 667; 12/6/2014; Deputy President SD Hotop

Request for access to document – personal information – unreasonable disclosure of personal information – document conditionally exempt – public interest – factors favouring access – factors weighing against access – access to document would, on balance, be contrary to public interest – exempt document – decision under review affirmed

Immigration and Citizenship

[Li and Minister for Immigration and Border Protection](#) [2014] AATA 674; 16/9/2014; Senior Member PW Taylor SC

Citizenship application – Close and continuing association with Australia – Decision set aside – Decision remitted to Minister for redetermination

[Setiawan and Minister for Immigration and Border Protection](#) [2014] AATA 682; 18/9/2014; Senior Member PW Taylor SC

Cancellation of approval of citizenship application – whether applicant is not of good character – absence of criminal convictions – deceptive conduct in dealing with government department responsible for immigration and citizenship – overstaying visa – use of a false name – use of a forged passport – decision affirmed

Social Security

[Lind and Secretary, Department of Social Services](#) [2014] AATA 680; 17/9/2014; Dr M Denovan, Member

Pensions, benefits and allowances – age pension payment – compensation – statutory objectives – affected payment – preclusion period – whether special circumstances exist – assessment of legal expenses – financial hardship – decision under review affirmed

[Los and Secretary, Department of Social Services](#) [2014] AATA 684; 19/9/2014; Senior Member N Isenberg

Claim for baby bonus – Whether an effective claim – No tax file number provided for father of child – Failure to provide necessary documents renders claim ineffective – Whether request to review claim was within time limit – Request made out of time – No special circumstances to warrant an extension of time – No evidence of severe illness associated with birth of the child – Decision under review affirmed

[Pattle and Secretary, Department of Social Services](#) [2014] AATA 683; 18/9/2014; Deputy President SD Hotop and Dr J Chaney, Member

Disability support pension (DSP) – applicant claimed DSP – applicant's claim rejected – applicant had medical conditions resulting in impairment in relevant period – applicant's impairment is of 5 points under Impairment Tables – applicant not qualified for DSP in relevant period – decision under review affirmed

[Rapoff and Secretary, Department of Social Services](#) [2014] AATA 676; 15/9/2014; Senior Member CR Walsh

Age pension – member of a couple treated as pooling their resources (income and assets) – Centrelink requested information from applicant regarding her husband's income and assets – applicant failed to comply with Centrelink's request for information – Centrelink unable to assess applicant's claim – applicant had no reasonable excuse for not complying – decision under review affirmed

[Threadgold and Secretary, Department of Social Services](#) [2014] AATA 654; 9/9/2014; Senior Member AF Cunningham

Arrears of parenting payment – failure to seek review of cancellation decision – decision under review affirmed

[Wiese and Secretary, Department of Social Services](#) [2014] AATA 678; 17/9/2014; Dr M Denovan, Member

Pension bonus – assets of company – family trust – administrative error – overpayment received in good faith – decision under review affirmed

Veterans' Affairs

[McKinley and Repatriation Commission](#) [2014] AATA 670; 12/6/2014; Senior Member J Handley

Operational service in East Timor – whether alcohol dependence war-caused – diagnosis of psychiatric condition – whether applicant suffers posttraumatic stress disorder (PTSD) – previous application before the Tribunal concerning generalised anxiety disorder (GAD) – whether applicant estopped from pursuing current application – applicant entitled to pursue current application – finding of diagnosis of GAD and alcohol use disorder – neither war-caused – incidents relied on by applicant were not 1A or 1B stressors – decision affirmed

[Wallam and Repatriation Commission](#) [2014] AATA 679; 17/9/2014; Dr M Denovan, Member

Benefits and entitlements – eligibility for pension – anxiety disorder – alcohol dependence – death of a significant other – no connection between eligible defence service and condition – not entitled to any benefits – decision affirmed

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
None lodged	

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
McKenzie v Repatriation Commission	[2013] AATA 216	[2014] FCA 1007 [2014] FCA 777
Mori v Secretary, Department of Social Security	[2013] AATA 737	[2014] FCA 1014 [2014] FCA 333

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