



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.

## Citizenship

[Hossain and Minister for Immigration and Border Protection](#) (Citizenship) [2018] AATA 3645 (27 September 2018); Deputy President JW Constance

CITIZENSHIP – application for citizenship by conferral – refusal of citizenship – whether the applicant is of good character – applicant living in Australia unlawfully for periods of time – costs orders ordered against applicant – application of Citizenship Policy – decision affirmed

## Compensation

[Frew and Comcare](#) (Compensation) [2018] AATA 3647 (27 September 2018); Dr D Cremean, Senior Member

COMPENSATION – long employment history – compensable injury to back – back surgery – whether painful back due still to such injury – if so, whether myotherapy expenses and household expenses payable – decisions denying benefits affirmed

[Gocher and Comcare](#) (Compensation) [2018] AATA 3617 (24 September 2018); Deputy President Rayment QC

COMPENSATION – workers' compensation – poisoning by bacterial vaccines – Q fever – applicant held to suffer from chronic fatigue syndrome – whether there is a causal link between chronic fatigue syndrome and Q fever – causal link established – reviewable decision is set aside and remitted to respondent for reassessment of applicant's entitlements – cost order

## Migration

[Mohammadi and Minister for Home Affairs](#) (Migration) [2018] AATA 3658 (27 September 2018); Mr M O'Loughlin, Member

IMMIGRATION – Mandatory cancellation of visa – Request for revocation of cancellation – Ministerial Direction No. 65 – Primary and other considerations – Decision under review affirmed

## Practice and Procedure

[Hojbota and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3657 (28 September 2018); Senior Member T Tavoularis

PRACTICE AND PROCEDURE – recusal – where Applicants alleged actual or apprehended bias against the Member – who should determine whether the Member should be dismissed – the Member should determine whether they should recuse themselves – actual or apprehended bias – whether any ground of actual or apprehended bias can be made out against the Member – effect of previous statements of the law – conduct of telephone directions hearing – directions made – no actual or apprehended bias exists – the application for the Member to be recused is refused

[Lee and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3615 (24 September 2018); Senior Member T Tavoularis

PRACTICE AND PROCEDURE – jurisdiction – where Applicant previously withdrew her case before the Tribunal – where Tribunal refused to reinstate her application – where Applicant lodged fresh application for review of previous Tribunal matter – whether Tribunal has jurisdiction to hear appeals against its own decisions – Tribunal has no such jurisdiction – application for review dismissed

[Rutherford and Comcare](#) (Compensation) [2018] AATA 3628 (26 September 2018); Mr M Hyman, Member

PRACTICE AND PROCEDURE – compensation – access to documents returned under summons – medical evidence – principles governing access – relevance – privacy – incomplete records – applicant's application for material to be excluded from inspection is denied

## Social Security

[Lyons and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3644 (27 September 2018); Ms DK Grigg, Member

SOCIAL SECURITY – parenting payment – whether member of a couple – whether any special reason to not treat applicant as member of a couple – decision under review affirmed

[Taylor and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3632 (25 September 2018); Ms A Burke, Member

SOCIAL SECURITY – application for disability support pension – whether qualified – right shoulder bursitis, fractured right ankle, lower back pain, abdominal aortic aneurysm, myocardial infarction and anxiety conditions – whether impairment attracts rating of 20 points or more under Impairment Tables – whether program of support had been undertaken – decision under review set aside and substituted

[Wilks and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3646 (27 September 2018); Ms DK Grigg, Member

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

**Correction** – please note the following two decisions appeared in previous bulletins, No. 36 and 37 17 and 24 September 2018, with the incorrect member details. They have been corrected in the published versions and repeated below for your convenience.

[Sertich and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3271 (6 September 2018); Mr M Hyman, Member

FAMILY ASSISTANCE – family tax benefit - where claim made out of time – special circumstances discretion – whether circumstances were special – whether circumstances prevented lodgement of claim – decision under review affirmed

[Scates and Secretary, Department of Social Services](#) (Social services second review) [2018] AATA 3461 (14 September 2018); Ms D K Grigg, Member

SOCIAL SECURITY – age pension – overpayment - whether solely attributable to administrative error – consideration of special circumstances and whether they exist – decision under review affirmed

## **Veterans' Affairs**

[PFLQ and Repatriation Commission](#) (Veterans' entitlements) [2018] AATA 3616 (24 September 2018); Deputy President JW Constance

VETERANS' AFFAIRS – application for a service pension at the single rate – applicant receiving service pension at the partnered rate – whether special circumstances apply – financial hardship – de facto relationship – weekly expenses – assets and liabilities – credit card repayments – financial assistance to family members – living expenses – additional expenses – decision 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

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CASE NAME	AAT REFERENCE
<b>MQMV and Child Support Registrar</b>	<a href="#">[2018] AATA 2924</a>

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