



# 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.

### Compensation

[Griffiths and Telstra Corporation Limited](#) [2013] AATA 695; 27/9/2013; Senior Member AK Britton

Workers' Compensation – Entitlement to medical treatment and incapacity payments – Respondent made own motion decision that it was not presently liable to pay compensation for medical treatment or incapacity payments – This does not preclude the Applicant making future claims for medical treatment or incapacity payments

PRACTICE AND PROCEDURE – Frivolous or vexatious application – Whether the Tribunal can make a determination about medical expenses incurred after the original determination – Whether a decision by the Tribunal would be devoid of practical effect

### Higher Education

[Confidential and Secretary, Department of Education](#) [2013] AATA 707; 3/10/2013; Senior Member E Fice

Re-credit of FEE-HELP – Special circumstances – Removal of a fail grade – Reviewable decisions under the *Higher Education Support Act* – Administration Guidelines

### Immigration and Citizenship

[Reddy and Minister for Immigration and Border Protection](#) [2013] AATA 706; 3/10/2013; Senior Member Dean Letcher QC

Class TY Subclass 444 Special Category (Temporary) visa – Cancellation – Character test – Substantial criminal record – Primary and other considerations – Decision affirmed

[Surjanto and Minister for Immigration, Multicultural Affairs and Citizenship](#) [2013] AATA 689; 26/9/2013; Senior Member AK Britton

Citizenship by conferral – Residence requirement – Ministerial discretion – Whether there was a close and continuing association with Australia – Decision set aside and remitted

[Tihema and Minister for Immigration and Border Protection](#) [2013] AATA 715; 4/10/2013; Senior Member N Bell

Visa cancellation – Character grounds – Substantial criminal record – Decision under review affirmed

## **Practice and Procedure**

[Carbone and Comcare](#) [2013] AATA 703; 1/10/2013; Mr S Webb, Member

Application for extension of time in which to make an application – Previous application dismissed – Related applications on foot – Applicant relied on information provided by the tribunal – No prejudice – Fairness – Merit – Extension granted

## **Social Security**

[Berry and Secretary, Department of Social Services](#) [2013] AATA 705; 2/10/2013; Senior Member AF Cunningham

Disability support pension – Conditions of poliomyelitis, hypertension, hypercholesterolemia – conditions fully diagnosed, treated and stabilised – 20 point impairment rating not satisfied – Decision under review affirmed

[Clarke and Secretary, Department of Education, Employment and Workplace Relations and Anor](#) [2013] AATA 699; 27/9/2013; Mr S Webb, Member

Social Security – Parenting payment single – Separated parents with shared care of two children – PP child – Principal carer determination for each child – Equal care – Policy guidelines – Relevant factors for the assessment of greater need – Care arrangements for each child not the same – Consideration of the status quo – Decision set aside

[Edwards and Secretary, Department of Social Services](#) [2013] AATA 704; 2/10/2013; Dr M Denovan

Pensions, benefits and allowances – Disability support pension – Less than 20 points under the Impairment Tables – Decision affirmed

[McLauchlan and Secretary, Department of Social Services](#) [2013] AATA 714; 26/9/2013; Deputy President PE Hack SC

Compensation payments – Preclusion period – Whether special circumstances exist – Decision under review affirmed

[Soames and Secretary, Department of Families, Housing, Community Services and Indigenous Affairs](#) [2013] AATA 693; 27/9/2013; Senior Member AK Britton

Debt recovery – Disability support pension – Whether the debt can be waived – Whether the Applicant knowingly made a false statement or representation to Centrelink – Meaning of “knowingly” – Inference of actual knowledge drawn – Decision affirmed

## Taxation

[Confidential and Commissioner of Taxation](#) [2013] AATA 701; 30/9/2013; Senior Member FD O'Loughlin

Goods and services tax – Whether input tax credits allowable – Whether an enterprise carried on – Whether creditable acquisitions made – Whether burden of proof satisfied – Decision under review affirmed

[Keep and Commissioner of Taxation](#) [2013] AATA 709; 26/9/2013; Senior Member CR Walsh

Income tax – Capital gains tax – Main residence exemption – Whether house became applicant's main residence as soon as practicable after the completion of its construction – Whether house continued to be applicant's main residence for at least 3 months – Decision under review affirmed

## Veterans' Affairs

[James and Repatriation Commission](#) [2013] AATA 700; 30/9/2013; Senior Member BJ McCabe and Dr M Sullivan, Member

Pensions and entitlements – Special rate pension – War caused incapacity alone causing loss – Work associated stress – Decision under review affirmed

## Vocational Education and Training

[G Plus G Global Trading Pty Ltd and Australian Skills Quality Authority](#) [2013] AATA 698; 27/9/2013; Senior Member E Fice

Non-compliance – Renewal of registration – VET Quality Framework – National Code Standards – Standards for NVR Registered Training Organisations – 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
<b>Robson v Military Rehabilitation and Compensation Commission</b>	<a href="#">[2012] AATA 809</a>
<b>Wright v Telstra Corporation Limited</b>	<a href="#">[2013] AATA 615</a>
<b>Commissioner of Taxation v AP Energy Investments Limited</b>	<a href="#">[2013] AATA 626</a>
<b>Fletcher v Secretary, Department of Families, Housing, Community Services and Indigenous Affairs</b>	<a href="#">[2013] AATA 633</a>

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### Appeals finalised

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CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>O'Dowd v Repatriation Commission</b>	<a href="#">[2012] AATA 789</a>	<a href="#">[2013] FCA 991</a>
<b>Guden v Minister for Immigration and Citizenship</b>	<a href="#">[2013] AATA 380</a>	<a href="#">[2013] FCA 980</a>

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