



Administrative
Appeals Tribunal

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 information about decisions of interest recently published in the AAT's Migration & Refugee 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.

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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 Divisions as well as about select decisions recently published in 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

[TRHL and Minister for Immigration and Border Protection](#) (Citizenship) [2015] AATA 803 (15 October 2015); Senior Member CR Walsh

REVOCAATION – Applicant, an Australian citizen, extradited to the United Kingdom and convicted of 13 “serious (child sex) offences” and sentenced to 11 years imprisonment – Applicant’s convictions and sentence upheld on appeal – Applicant’s Australian citizenship revoked by the Minister – whether it would be “contrary to the public interest” for the Applicant to remain an Australian citizen – decision under review affirmed

Freedom of Information

[Duley and Secretary, Department of Human Services](#) (Freedom of information) [2015] AATA 816 (30 September 2015); Dr James Poppo, Senior Member

Whether all reasonable steps taken to find documents – Department discovered and disclosed documents subsequent to initial decision – any inadequacy of initial search remedied by subsequent search – decision under review affirmed.

Migration

[Brown and Migration Agents Registration Authority](#) [2015] AATA 693 (10 September 2015); Dr D Cremean, Senior Member

MIGRATION AGENT REGISTRATION – Fit and proper person – Relevant factors – Criminal history – Decision affirmed

Professions and Trades

[Delis and Tax Practitioners Board](#) [2015] AATA 820 (23 October 2015); Senior Member E Fice

Administration of federal tax legislation – Tax agents – Renewal of registration – Registration and cancellation – Fit and proper person – Good fame, integrity and character – Compliance with taxation laws – Failure to remit compulsory superannuation payments to employees – decisions affirmed

Social Security

[Antrassian and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 818 (23 October 2015); Dr I Alexander, Member

Pensions – disability support pension – whether applicant’s conditions were fully diagnosed, treated and stabilised – whether applicant’s impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Boff and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 783 (9 October 2015); Professor R McCallum AO, Member

Pensions – disability support pension – whether applicant’s conditions were fully diagnosed, treated and stabilised – whether applicant’s impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Bornecrantz and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 814 (20 October 2015); Professor R Deutsch, Deputy President

Pensions – age pension – cancellation of age pension – assets test – whether applicant satisfied the asset test – decision affirmed

[Davies and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 819 (4 September 2015); Deputy President SE Frost, Mr N Gaudion, Member

Debt – overpayment of Newstart Allowance and Age Pension – failure to disclose ownership of assets – valuation of property – amount of overpayment – decision set aside

[Fozzard and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 817 (22 October 2015); Senior Member JF Toohey

Family tax benefit – child support – maintenance action – exemption from taking action – whether applicant entitled to more than the base rate during the relevant period – decision under review affirmed

[Haloum and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 798 (13 October 2015); Professor R McCallum AO, Member

Pensions – disability support pension – whether applicant’s conditions were fully diagnosed, treated and stabilised – decision affirmed

[Kelly and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 810 (20 October 2015); Senior Member AC Cotter

Disability support pension – DSP – unlimited portability – whether 20 points or more under impairment table during the relevant period – whether conditions are fully diagnosed, treated and stabilised – value of medical evidence – decision under review affirmed

[Marano and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 813 (20 October 2015); Dr I Alexander, Member

Pensions – disability support pension – whether applicant’s conditions were fully diagnosed, treated and stabilised – whether applicant’s impairment is rated 20 points or more under the Impairment Tables – decision affirmed

[Nikolovski and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 809 (20 October 2015); Dr I Alexander, Member

Disability support pension – spinal condition – upper limb decision – mental health condition – whether applicant's conditions were fully diagnosed, treated and stabilised – whether applicant's impairment rated 20 points or more under the Impairment Tables – whether applicant had a continuing inability to work – whether applicant had a severe impairment under one Impairment Table – decision set aside and substituted

[Scherma and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 756 (9 September 2015); Dr D Cremean, Senior Member

Disability support pension – Impairment Tables – severe impairment – continuing inability to work

[Uddin and Secretary, Department of Social Services](#) (Social services second review) [2015] AATA 815 (21 October 2015); Senior Member JF Toohey

Age Pension – qualifying Australian residence – international agreement – working age residence – interpretation of agreement – insufficient qualifying period of residence – decision under review affirmed

[Vanderwerf; Secretary, Department of Social Services and](#) (Social services second review) [2015] AATA 804 (16 October 2015); Deputy President K Bean

Pension bonus scheme – First full-year bonus period – Whether construction of deck by respondent on his own property 'gainful work' – Whether for financial gain or reward – Whether similar task to household maintenance or domestic tasks – Discretion to treat activity as gainful work – Special circumstances – Decision under review varied

Veterans' Affairs

[Jones and Repatriation Commission](#) (Veterans' entitlements) [2015] AATA 812 (20 October 2015); Senior Member AC Cotter

Disability pension – depressive disorder – sleep apnoea – whether conditions connected to service – clinical onset outside period prescribed by statement of principles – connection of conditions to service not established – decision under review 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

CASE NAME	AAT REFERENCE
Linwood v Repatriation Commission	[2015] AATA 704

Appeals finalised

CASE NAME	AAT REFERENCE	COURT REFERENCE
Millar v Commissioner of Taxation	[2015] AATA 114	[2015] FCA 1104
The Study and Prevention of Psychological Diseases Foundation v Commissioner of Taxation	[2013] AATA 919	[2015] FCA 1117
Corby v Comcare	[2015] AATA 42	[2015] FCA 1124
Curtis-Smith v Secretary, Department of Social Services	[2015] AATA 152	[2015] FCA 1115

Statements of Principles

This section of the *Bulletin* provides information on recent developments in relation to Statements of Principles made by the Repatriation Medical Authority for the purposes of the [Veterans' Entitlements Act 1986](#) and the [Military Rehabilitation and Compensation Act 2004](#).

New Statements of Principles

The AAT has been advised that the Repatriation Medical Authority has made the following new Statements of Principles. They take effect from **16 November 2015**.

Pterygium (Reasonable Hypothesis) – No. 116 of 2015

<http://www.comlaw.gov.au/Details/F2015L01671>

Pterygium (Balance of Probabilities) – No. 117 of 2015

<https://www.comlaw.gov.au/Details/F2015L01674>

Pinguecula (Reasonable Hypothesis) – No. 118 of 2015

<http://www.comlaw.gov.au/Details/F2015L01670>

Pinguecula (Balance of Probabilities) – No. 119 of 2015

<http://www.comlaw.gov.au/Details/F2015L01672>

Malignant neoplasm of the oesophagus (Reasonable Hypothesis) - No. 120 of 2015

<http://www.comlaw.gov.au/Details/F2015L01685>

Malignant neoplasm of the oesophagus (Balance of Probabilities) - No. 121 of 2015

<https://www.comlaw.gov.au/Details/F2015L01686>

Dental caries (Reasonable Hypothesis) – No. 122 of 2015

<http://www.comlaw.gov.au/Details/F2015L01675>

Dental caries (Balance of Probabilities) – No. 123 of 2015

<http://www.comlaw.gov.au/Details/F2015L01676>

Loss of teeth (Reasonable Hypothesis) – No. 124 of 2015

<http://www.comlaw.gov.au/Details/F2015L01678>

Loss of teeth (Balance of Probabilities) – No. 125 of 2015

<http://www.comlaw.gov.au/Details/F2015L01679>

Discoid lupus erythematosus (Reasonable Hypothesis) – No. 126 of 2015

<http://www.comlaw.gov.au/Details/F2015L01680>

Discoid lupus erythematosus (Balance of Probabilities) – No. 127 of 2015

<http://www.comlaw.gov.au/Details/F2015L01681>

Amended Statements of Principles

The AAT has been advised that the Repatriation Medical Authority has made the following instruments amending the Statements of Principles for the specified conditions. They took effect on **16 November 2015**.

Chronic obstructive pulmonary disease - No. 128 of 2015

<http://www.comlaw.gov.au/Details/F2015L01687>

Chronic obstructive pulmonary disease - No. 129 of 2015

<http://www.comlaw.gov.au/Details/F2015L01688>

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