



## 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

[Keys and Comcare](#) [2013] AATA 782; 5/11/2013; Mr S Webb, Member

Knee injury claim – Alleged sprain and aggravation of osteoarthritis – Former employee undertaking a rehabilitation program – Functional capacity assessment relating to prospective employment for the purpose of the rehabilitation program – Knee pain – Unreliable evidence – Not established that left knee symptoms commenced or increased in compensable circumstances – Decision affirmed

### Immigration and Citizenship

[Wong and Minister for Immigration and Border Protection](#) [2013] AATA 775; 30/10/2013; Ms K Hogan, Member

Application for citizenship by conferral – Whether applicant is able to satisfy the ‘good character’ requirements of s 21(2)(h) of the *Australian Citizenship Act 2007* – Applicant overseas for significant periods since obtaining permanent residence – Applicant did not provide overseas penal clearances – Decision affirmed

### Social Security

[Mason and Secretary, Department of Social Services](#) [2013] AATA 781; 1/11/2013; Deputy President PE Hack SC

Qualification – Age pension – Residence – Decision affirmed

[Noble and Secretary, Department of Social Services](#) [2013] AATA 784; 7/11/2013; Senior Member RG Kenny

Benefits and entitlements – Relocation scholarship payment – Qualification for youth allowance at the independent rate based on self – Supporting employment – Qualification requirements for relocation scholarship payment not met – Decision affirmed

[RWYM and Secretary, Department of Social Services](#) [2013] AATA 776; 1/11/2013; Senior Member BJ McCabe

Pensions, benefits and allowance – Disability support pension – Whether applicant’s impairment rating is of 20 points or more – Decision affirmed

[Smith and Secretary, Department of Social Services](#) [2013] AATA 787; 8/11/2013; Dr M Denovan, Member

Pensions, benefits and allowances – Age pension – Disposal of asset – Lack of adequate consideration – Decision affirmed

[Stevens and Secretary, Department of Social Services](#) [2013] AATA 785; 7/11/2013; Senior Member RG Kenny

Pensions, benefits and allowances – Disability support pension – Relevant period for assessment – Physical impairment from heart condition, back condition and hearing loss – Impairment Tables – Conditions fully diagnosed, treated, stabilised and likely to persist for more than 2 years – Overall impairment rating less than 20 points – Applicant not qualified for disability support pension during the relevant period – Decision under review affirmed

## **Taxation**

[Taxpayer and Commissioner of Taxation](#) [2013] AATA 783; 4/11/2013; Senior Member CR Walsh

Income tax – Deductibility of legal expenses – Whether legal expenses incurred in challenging an ASIC banning order prohibiting taxpayer from providing any financial services for 5 year period in the Federal Court and in defending criminal charges for insider trading were incurred by taxpayer ‘in the course of’ gaining or producing assessable income – Whether Federal Court legal expenses non-deductible capital expenditure – Whether criminal charged legal expenses non-deductible private expenditure – Whether private ruling relating to previous income years binding on Commissioner in relation to income year under review – Whether taxpayer ‘employee’ – Whether taxpayer’s position as stockbroker ‘suspended’ or ‘terminated’ – Objection decision affirmed

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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>SZRSN v Minister for Immigration and Citizenship &amp; AAT</b>	<a href="#">[2010] AATA 1034</a>
<b>O’Kane v Comcare</b>	<a href="#">[2013] AATA 722</a>

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### Appeals finalised

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CASE NAME	AAT REFERENCE	COURT REFERENCE
<b>Doherty v Inspector-General in Bankruptcy</b>	<a href="#">[2012] AATA 635</a>	<a href="#">[2013] FCA 1122</a>
<b>Comcare v Lilley</b>	<a href="#">[2011] AATA 472</a>	<a href="#">[2013] FCAFC 121</a> <a href="#">[2013] FCA 26</a>

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## Statements of Principles

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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 Tribunal has been advised that the Repatriation Medical Authority has made the following new Statements of Principles. They take effect from **13 November 2013**.

**Chronic solvent encephalopathy – No. 71 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01886>

**Chronic solvent encephalopathy – No. 72 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01888>

**Malignant neoplasm of the pancreas – No. 73 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01891>

**Malignant neoplasm of the pancreas – No. 74 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01893>

**Epilepsy – No. 75 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01894>

**Epilepsy – No. 76 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01895>

**Epileptic seizure – No. 77 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01897>

**Epileptic seizure – No. 78 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01899>

**Steatohepatitis – No. 79 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01898>

**Steatohepatitis – No. 80 of 2013**

<http://www.comlaw.gov.au/Details/F2013L01900>

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