

# **Groundbreaking Judgment in Australia on electromagnetic hypersensitivity syndrome (EHS) Fw: Legal acknowledgement of EHS in Australia. Administrative Appeals Tribunal of Australia: Dr Alexander McDonald and Comcare.**

**Groundbreaking electromagnetic hypersensitivity syndrome (EHS) Judgment in Australia**--Australian court has determined that Comcare is to pay compensation for an injury suffered by Dr David McDonald as a result of exposure to electromagnetic fields at work.

According to Next-up.org Legal acknowledgement of the condition of EHS in Australia has been ruled for the first time in Australia.

The Administrative Appeals Tribunal of the Australian Federal Court has provided legal recognition of the health effects of electromagnetic radiation (EMR) also known as electromagnetic frequencies (EMF).

In a workplace compensation case, handed down on 28 February 2013, the Tribunal found that Dr Alexander McDonald suffered a workplace injury of a worsening of his sensitivity to EMR, as a result of him being required, by his employer, to trial the use of electronic equipment.

The judge ruled that he was

'... satisfied on the balance of probabilities that Dr McDonald has suffered either:

- an aggravation of his sensitivity to EMF; or,
- an aggravation of his symptoms by reason of his honest belief that he suffers from the condition of EMF sensitivity...'

Copy of Judgment: See in particular sections 1 - 2 - 16 – 21 – 37 – 38 – 39 – 71 – 81 – 83 – 95 – 111 - 112 Judge, Deputy President J W Constance, in Section 94 on 28 February 2013, also wrote,

“Based on what the Federal Court said Comcare argues that “[a] perception of an event or state of affairs relates to the triggering aggravation, exacerbation or acceleration of the disease, not the belief of the disease itself.” [58] I do not accept that the Court intended that what it said was to be read as excluding the possibility that a disease, as distinct from an aggravation of a disease, could be suffered as a result of a perception by a worker. In the first sentence of paragraph 23 quoted above the Court refers to “Mr Wiegand’s ailment or an aggravation of the ailment”. However I do not need to decide this question as I am satisfied that the ailment from which Dr McDonald suffers is not itself a perception. In this case the perceptions, if any, of Dr McDonald are that the disorder (and therefore the ailment) from which he suffers is caused by exposure to EMF and that the aggravation of the disorder was caused by his exposure to EMF during the trials carried out by his employer.”

The full Administrative Appeals Tribunal of the Australian Federal Court determination can be found at: <http://www.austlii.edu.au/au/cases/cth/aat/2013/105.html>