

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE

**COMMERCIAL AND EQUITY DIVISION
COMMERCIAL LIST**

No. 2115/01 F5382

BETWEEN:

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY
LTD (ACN 065 590 178) (as Trustee of the ANSETT GROUND STAFF
SUPERANNUATION PLAN) & Ors**

Plaintiffs

and

**ANSETT AUSTRALIA LTD
(ADMINISTRATORS APPOINTED) (ACN 004 209 410) & Ors**

Defendants

SLB 11

Date of Document:

6 February 2002

Filed on behalf of:

The Plaintiffs

Prepared by:

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This is the document marked SLB 11 now produced and shown to Simone Louise Bingham at the time of affirming this Affidavit this 6th day of February, 2002.

Before me:

Anne Gooley.....

ANNE GOOLEY
of 456 Lonsdale Street, Melbourne
a natural person who is a current
practitioner within the meaning
of the Legal Practice Act, 1996.

required by the Employer shall (to the extent permitted under the Act) out of the moneys received or held by the Trustees in respect of the Member refund to the Employer without interest any sums so paid or owing.

POWER TO DISMISS

8. Nothing in this Deed or in the Rules shall restrict the right of the Employer to dismiss an employee or be used to increase damages in any action brought against the Employer in respect of an employee's dismissal.

DAMAGES AND COMPENSATION

9. Nothing in this Deed or in the Rules shall in any way affect the right of the Member or the Member's legal personal representatives or other person to claim damages or compensation by common law or under a Worker's Compensation Act or any other statute in force governing compensation to a Member injured or deceased from an accident arising out of or in the course of the Member's employment with the Employer and the amount payable in terms of this Deed and the Rules shall not be reduced by reason of any payment of damages or compensation as aforesaid except as may be provided in this Deed and the Rules.

APPOINTMENT AND REMOVAL OF TRUSTEES

10. (1) The Trustees may be natural persons or corporations or natural persons and corporations.
- (2) The number of Trustees shall be six comprising three Trustees (representing the Employer) nominated and appointed by the Principal Employer and three Trustees (representing the Members) who shall also be Members of the Plan nominated and appointed by the Members PROVIDED THAT the appointment of the Trustees representing the Members shall be arranged by the Australian Council of Trade Unions acting on behalf of the Members.
- (3) The office of a Trustee shall become vacant if:
- (a) the Trustee resigns his or her office by notice in writing to the Principal Employer and the other Trustees or (in the case

of a Member Trustee) ceases to be a Member;

- (b) the Trustee becomes bankrupt or makes an assignment to or composition with his or her creditors; or in the case of a corporation, an order is made or an effective resolution is passed for its winding up, or it is placed in liquidation or receivership;
 - (c) the Trustee becomes mentally ill or of unsound mind;
 - (d) the Trustee is removed from office by the Principal Employer or (in the case of a Member Trustee) by the Members;
 - (e) the Trustee dies.
- (4) The Principal Employer may at any time and from time to time:
- (a) remove any or all Trustees (other than a Member Trustee) from office;
 - (b) appoint new Trustees as replacement Trustees;
 - (c) appoint a corporation as one of the Trustees;
- The Members may at any time and from time to time through the Australian Council of Trade Unions:
- (a) remove a Member Trustee from office; and
 - (b) appoint a new Trustee as a replacement Member Trustee.
- (5) When exercising its powers under sub-clause 10(4) the Principal Employer or the Members through the Australian Council of Trade Unions as the case may be shall give prompt written notice of the action to the former Trustee and the remaining Trustees then in office.
- (6) If a Trustee temporarily is absent from Australia or unable to carry out his or her duties as Trustee, such Trustee may with the consent of the other Trustees appoint a person to act in his or her place during the period of his or her absence and the actions during that

period of the person so appointed shall for the purposes of this Deed and the Rules be deemed to be the actions of the Trustee who appointed such person. For the purposes of this Deed and the Rules the term "Trustee" shall include such appointee.

MEETINGS OF TRUSTEES

11. (1) (a) The Trustees may regulate their meetings as they think fit and may determine the quorum for the transaction of business PROVIDED THAT at any such meeting the Principal Employer and the Members shall equally be represented.
- (b) Any power, authority, question or discretion may be decided or exercised by a resolution of the Trustees passed by at least four votes in favour taken at a meeting of the Trustees at which a quorum is present, each Trustee present being entitled to one vote.
- (c) A resolution in writing signed by all the Trustees shall have the same effect and validity as a resolution of the Trustees passed at a meeting of the Trustees at which a quorum is present.
- (2) A corporate Trustee may act by resolution of its board of directors or by any person appointed under sub-clause 13(2).
- (3) The Trustees shall cause proper minutes to be kept and entered in a book provided for the purpose of recording all their resolutions and proceedings relating to the carrying out of the provisions of this Deed and the Rules.

TRUSTEES - LIABILITY AND INDEMNITY

12. (1) No Trustee or director or officer of a corporation holding office as a Trustee shall be under any personal liability in respect of any loss or breach of trust relating to the Plan unless the same shall have been due to his or her own dishonesty.
- (2) (a) Each of the Trustees and directors of any corporate Trustee shall be indemnified by the Plan against all liabilities incurred by the Trustee in the execution or attempted execution