

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
BEFORE THE COURT OF APPEAL
CIVIL DIVISION**

No 2115 of 2001

BETWEEN

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD
(ACN 065 590 178)(as trustee of the Ansett Australia Ground Staff Superannuation Plan)**

Appellant

and

**ANSETT AUSTRALIA LIMITED (Subject to Deed of Company Arrangement)
(ACN 004 209 410) & ORS**

Respondents

AND BETWEEN

**ANSETT AUSTRALIA LIMITED (Subject to Deed of Company Arrangement)
(ACN 004 209 410) and ORS**

Cross Appellants

and

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD
(ACN 065 590 178)(as trustee of the Ansett Australia Ground Staff Superannuation Plan).**

Cross Respondent

APPELLANTS LIST OF AUTHORITIES

Date of document 2003
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PART A**Cases and Legislation from which Counsel will read****Cases**

1. *Asgard Capital Management Ltd v Maher* [2003] FCAFA 156
2. *ASIC v Plymin* [2003] VSC 123
3. *Attorney-General (Cth) v Breckler* (1999) 197 CLR 83
4. *Bell v. Amberday Pty Ltd* (2001) 39 ACSR 25
5. *In re Beni-Felkai Mining Corporation Ltd* [1934] Ch 406
6. *In re Blazer Fire Lighter Ltd* [1895] 1 Ch 402
7. *Commonwealth v SCI Operations Pty Ltd* (1998) 192 CLR 285
8. *Denny v Yeldon* [1995] 3 All ER 624
9. *Deputy Commissioner of Taxation v Tideturn* (2001) 37 ACSR 152
10. *In re Edgar* [1972] ACLC 40-064
11. *Fisher v Madden* (2002) 41 ACSR1
12. *HIH Insurance Ltd (in liq)* [2001] 39 ACSR 645
13. *In re Kentish Homes Ltd* [1993] BCLC 1375
14. *In re Lundy Granite Co* (1871) LR 6 Ch App 462
15. *McMahon's (Transport) Pty Ltd v Ebbage* [1999] 1 Qd R 185
16. *Mallinson v Scottish Australian Investment Co Ltd* (1920) 28 CLR 66
17. *In re Matthew Bros* [1962] VR 262
18. *In re Mesco Properties* [1980] 1 All ER 117
19. *In re Mineral Resources Ltd* [1999] 1 All ER 746
20. *Minister for Immigration and Ethnic Affairs v Wu Shan Ling* (1996) 185 CLR 259
21. *Sinclair v Brown Coal Liquefaction (Vic) Pty Ltd* [1992] 1 VR 190
22. *Standard Chartered Bank of Australia Ltd v Antico* (1995) 38 NSWLR 290
23. *In re Toshoku Finance UK plc* [2002] 1 WLR 671

24. *Victorian Stevedoring and General Contracting Co Pty Ltd and Meakes v Dignan* (1931) 46 CLR 73
25. *Victorian Workcover Authority v Esso Australia Ltd* (2000) 207 CLR 520
26. *In re Wenborn & Co* [1905] 1 Ch. 414
27. *Willingale v Norris* [1909] 1 KB 57

Legislation

28. *Civil Aviation Act 1988*, sections 27, 97AA, 98(3)(a)
29. *Civil Aviation (Fees) Regulations*, Schedule, Item 5.1
30. *Corporations Act 2001*, section 9 (definition of 'externally-administrated body corporate'), 435A, 444A(5), 556(1)(a), (dd) and (e)
31. *Corporations Regulations 2001*, regulation 5.3A.06 and Schedule 8A
32. *Income Tax Assessment Act 1936*, section 267
33. *Local Government Act 1989*, sections 156, 180
34. *Occupational Superannuation Standards Act 1987*
35. *Occupational Superannuation Standards Act 1987*, Explanatory Memorandum
36. *Occupational Superannuation Standards Act 1987*, Second Reading Speech
37. *Occupational Superannuation Standards Regulations 1987*
38. *Occupational Superannuation Standards Regulations 1987*, Explanatory Statement
39. *Occupational Superannuation Standards (Amendment) Regulations no. 223 of 1992*
40. *Occupational Superannuation Standards (Amendment) Regulations no. 223 of 1992*, Explanatory Statement
41. *Occupational Superannuation Standards (Amendment) Regulations no. 224 of 1992*
42. *Occupational Superannuation Standards (Amendment) Regulations no. 224 of 1992*, Explanatory Statement
43. *Superannuation Guarantee (Administration) Act 1992*
44. *Superannuation Guarantee (Administration) Act 1992 and Superannuation Guarantee Charge Bill 1992*, Explanatory Memorandum

45. *Superannuation Guarantee (Administration) Act 1992*, Supplementary Explanatory Memorandum
46. *Superannuation Guarantee (Administration) Act 1992*, Second Reading Speech
47. *Superannuation Guarantee (Administration) Regulations 1993*
48. *Superannuation Guarantee (Administration) Regulations 1993*, Explanatory Statement
49. *Superannuation Guarantee Charge Act 1992*
50. *Superannuation Guarantee Charge Act 1992*, Second Reading Speech
51. *Superannuation Industry Act (Supervision) Act 1993*
52. *Superannuation Industry Act (Supervision) Act 1993*, Explanatory Memorandum
53. *Superannuation Industry Act (Supervision) Act 1993* Second Reading Speech
54. *Superannuation Industry (Supervision) Regulations 1994*
55. *Superannuation Industry (Supervision) Regulations 1994*, Explanatory Statement

PART B

Cases and Legislation to which Counsel will refer

Cases

56. *Abebe v Commonwealth* (1999) 197 CLR 510
57. *ASIC v DB Management Pty Ltd* (2000) 199 CLR 321
58. *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223
59. *Austin v Commonwealth* (2003) 195 ALR 321
60. *In re Berkeley Applegate (Investment Consultants) Ltd (No.3)* (1989) 5 BCC 803
61. *Crimmins v Stevedoring Industry Finance Committee* (1999) 200 CLR 1
62. *McEvoy v Incat Tasmania Pty Ltd* [2003] FCA 810
63. *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24
64. *Re Office-Co Furniture Pty Ltd (Receivers & Managers Appointed)* [2000] 2 Qd R 49
65. *In re Piacentini* [2003] 3 WLR 354

Legislation

General

66. *Corporations Act 2001*, sections 295, 296, 297
67. *Income Tax Assessment Act 1936*, sections 267, 273A, 279 and 283
68. *Income Tax Assessment Act 1997*, sections 320-35, 320-55, 320-75, 320-85, 320-245
69. *Occupational Superannuation Standards Amendment Act 1993*
70. *Occupational Superannuation Standards Amendment Act 1993*, Explanatory Memorandum
71. *Occupational Superannuation Standards Amendment Act 1993*, Second Reading Speech
72. *Occupational Superannuation Standards Regulations Application Act 1992*
73. *Occupational Superannuation Standards Regulations Application Act 1992*, Explanatory Memorandum
74. *Occupational Superannuation Standards Regulations Application Act 1992*, Second Reading Speech
75. *Social Security Act 1991*, sections 9A and 9B(1A)
76. *Superannuation Legislation Amendment Act (No.3) 1999*
77. *Superannuation Legislation Amendment Act (No.3) 1999*, Second Reading Speech
78. *Superannuation Legislation Amendment Act (No.3) 1999*, Explanatory Memorandum

Australian priority legislation

79. *Insolvency Act 1870* s.113
80. *Mining Companies Act 1871* s.108
81. *Companies Wages Act 1885* s.3
82. *Companies Act 1890* s.299
83. *Companies Act 1910* s.208
84. *Companies Act 1915* s.208
85. *Protection of Wages Convention 1949*
86. *Companies Act 1958* s.216
87. *Companies Act 1961* s.292

- 88. *Crown Debts (Priority) Act 1981*
- 89. *Corporate Law Reform Bill 1992 Explanatory Memorandum*
- 90. *Companies (Victoria) Code 1981, section 441*
- 91. *Companies and Securities Legislation (Miscellaneous Amendments) Act 1985 Explanatory Memorandum*

UK priorities legislation

- 92. *Joint Stock Companies Act 1844.*
- 93. *The Winding Up Act 1846 (Railway Companies)*
- 94. *Joint Stock Companies Winding Up Act 1848*
- 95. *Joint Stock Companies Winding Up Act 1849*
- 96. *Joint Stock Companies Act 1857.*
- 97. *The Companies Act 1862. Part IV Winding Up Provisions*
- 98. *Bankruptcy Act 1883. ss40, 41*
- 99. *Companies Act 1883*
- 100. *Bankruptcy (Agricultural Labourers Wages) Act 1886*
- 101. *Preferential Payments in Bankruptcy Act 1888*
- 102. *Companies (Winding Up) Act 1890*
- 103. *Preferential Payments in Bankruptcy Amendment Act 1897*
- 104. *Companies Act 1900 ss24, 25*
- 105. *Companies Act 1908 ss149, 171, 196, 209*
- 106. *Companies (Winding Up) Rules 1909*
- 107. *Companies Act 1929 ss188, 213, 241, 254, 264*
- 108. *Companies Act 1947 s91*
- 109. *Companies Act 1948 ss242, 267, 285, 309, 319*
- 110. *Taxes Management Act 1970 s108*
- 111. *Companies Act 1980 s74*

- 112. *Companies Act 1985* ss536, 560, 580, 604, 614
- 113. *Insolvency Act 1985* s89
- 114. *Insolvency Act 1986* ss112, 115, 130, 386, 441
- 115. *Companies (Winding Up) Rules 1890*. Rule 31
- 116. *Companies (Winding Up) Rules 1949*. Rule 195
- 117. *Insolvency Rules 1986* Rules 4.220, 12.3, 13.12

PART C

Textbooks and articles likely to be of assistance to the Court

- 118. Keay, McPherson *The Law of Company Liquidation* (4th ed) at 588-589
- 119. Newman, David *The History of Employee Priority and Protection in Australian Corporation Insolvency*, unpublished

Other material

- 120. *Australian Accounting Standard 25: Financial Reporting by Superannuation Plans*
- 121. *Company Law Amendment Committee Report (1925-26)* Cmnd 2657
- 122. Sir Kenneth Cork Review Committee *Insolvency Law and Practice Report* (June 1982) Cmnd 8558, Chapter 32
- 123. Government White paper *A Revised Framework for Insolvency Law* (February 1984) Cmnd 9175
- 124. Superannuation Guarantee Determination 93/8: *Superannuation Guarantee: method of calculating the notional employer contribution rate in accordance with regulation 4 of the Superannuation Guarantee (Administration) Regulations* (see Explanatory Statement to *Superannuation Guarantee (Administration) Regulations 1993*, regulation 4, final paragraph)