

OCTOBER 2024

The Authorised Reports of Decisions of
the Federal Court of Australia

THE
FEDERAL COURT
REPORTS

2024

EDITOR
VICTOR KLINE

CONSULTING EDITORS
DR OREN BIGOS KC
DAVID ASH

REPORTERS IN THIS PART
MITCHELL BRUNKER
FRANCIS CARDELL-OLIVER
SAMUEL CUMMINGS

PRODUCTION EDITOR
MYUNG COLE

VOL 304 — PART 2

PAGES 163-317

The mode of citation of this part will be:
304 FCR

TABLE OF CASES REPORTED

Part 2 — Pages 163-317

Australian Financial Complaints Authority Ltd; Nguyen v	286
Australian Information Commissioner; Patrick v	1
Coleman; Veale v	182
Commonwealth v Palmanova Pty Ltd	163
Environment and Water, Minister for; Environment Council of Central Queensland Inc v	91
Environment Council of Central Queensland Inc v Minister for Environment and Water	91
Fire Rescue Victoria; United Firefighters' Union of Australia v	219
Health and Aged Care, Secretary, Department of v M House Pty Ltd	297
Home Affairs, Minister for; Save the Children Australia v	262
Hot Wok Food Makers Pty Ltd v United Workers Union (No 3)	136
Immigration, Citizenship and Multicultural Affairs, Minister for; TPTN v	244
M House Pty Ltd; Secretary, Department of Health and Aged Care v	297
National Tertiary Education Industry Union; University of Sydney v	18
Nguyen v Australian Financial Complaints Authority Ltd	286
Palmanova Pty Ltd; Commonwealth v	163
Patrick v Australian Information Commissioner	1
Save the Children Australia v Minister for Home Affairs	262
TPTN v Minister for Immigration, Citizenship and Multicultural Affairs	244
United Firefighters' Union of Australia v Fire Rescue Victoria	219
United Workers Union (No 3); Hot Wok Food Makers Pty Ltd v	136
University of Sydney v National Tertiary Education Industry Union	18
Veale v Coleman	182

(Cases in **bold** reported in this part)



© 2024 Thomson Reuters (Professional) Australia Limited

Lawbook Co.

ABN 64 058 914 668

Published in Sydney

ISSN 0813-7803

INDEX

Part 2 — Pages 163-317

ADMINISTRATIVE LAW

Judicial review — Jurisdictional error — Where an error has been made by the decision-maker — Whether the error was material to the decision.	
<i>TPTN v Minister for Immigration, Citizenship and Multicultural Affairs and Another</i>	244
Prerogative writs — Habeas corpus — Applicability of remedy — Where a respondent does not exercise control over detention or custody of a person — Whether the Court can use the “pressure of the writ” to test whether that is the case.	
<i>Save the Children Australia v Minister for Home Affairs and Another</i>	262
Prerogative writs — Habeas corpus — Applicability of remedy — Where control over detention or custody is in issue — Whether control in fact is sufficient.	
<i>Save the Children Australia v Minister for Home Affairs and Another</i>	262

BANKRUPTCY

Bankruptcy notice — Judgment debt — Foreign currency — Australian currency equivalent — Exchange rate — Date of exchange rate — Rounding of exchange rate — Where exchange rate to be taken two business days before bankruptcy notice issued — Where bankruptcy notice in fact used exchange rate from correct date — Where notice stated wrong date — Where exchange rate rounded — Where prescribed form only allowed two decimal places — Validity of notice — Whether compliance with regulations — Whether substantial compliance with regulations — Whether formal defect or irregularity — Bankruptcy Regulations 2021 (Cth), reg 12 — Acts Interpretation Act 1901 (Cth), s 25C — Bankruptcy Act 1966 (Cth), s 306.	
<i>Veale v Coleman</i>	182

ENVIRONMENTAL LAW

Cultural heritage — Movable cultural heritage — Forfeiture of — Where certain protected objects of foreign countries that had been exported from their country of origin were liable for forfeiture — Whether objects were only liable for forfeiture in the event the act of exportation occurred on or after the commencement of the relevant statute — Protection of Movable Cultural Heritage Act 1986 (Cth), s 14(1).	
<i>Commonwealth v Palmanova Pty Ltd</i>	163

INDEX

HEALTH LAW

Therapeutic goods — Release of therapeutic goods information — Whether appellant was authorised to release certain information to the public — Whether relevant information was therapeutic goods information — Whether decision to release relevant information was legally unreasonable — Therapeutic Goods Act 1989 (Cth), ss 61(1), 61(5A), 61(5C), 61(5D) — Therapeutic Goods Regulations 1990 (Cth), Pt 5 — Therapeutic Goods Information (Laboratory Testing) Specification 2017 (Cth).	
<i>Secretary, Department of Health and Aged Care v M House Pty Ltd</i>	297
Therapeutic goods — Testing of therapeutic goods — Whether Department's capacity to undertake non-statutory sampling and testing was wholly displaced or relevantly modified by regulatory regime concerning the examination, testing and analysis of therapeutic goods — Therapeutic Goods Regulations 1990 (Cth), Pt 5.	
<i>Secretary, Department of Health and Aged Care v M House Pty Ltd</i>	297

IMMIGRATION

Visas — Cancellation of — Where the decision-maker took into account juvenile offending by the visa-holder — Where jurisdictional error established — Whether that error was material to the decision.	
<i>TPTN v Minister for Immigration, Citizenship and Multicultural Affairs and Another</i>	244

INDUSTRIAL LAW

Arbitration — Fair Work Commission (FWC) — Arbitral power — Failure to exercise — Settle the dispute — Where two pending matters before FWC — Where overlapping issue in each — Where FWC defers determination of overlapping issue — Where resolution of issue might widen and inflame dispute — Where FWC declines to resolve issue — Whether failure to exercise arbitral power — Whether failure to settle the dispute — Fair Work Act 2009 (Cth), s 739(4).	
<i>United Firefighters' Union of Australia v Fire Rescue Victoria and Another</i>	219

INSURANCE

Death benefits — Binding death benefit nominations — Where insured made a binding death benefit nomination in favour of his de facto partner — Whether the de facto relationship had terminated prior to insured's death by suicide.	
<i>Nguyen v Australian Financial Complaints Authority Ltd and Others</i>	286