

Employment law topics:

1. Intro & sources of employment law

- a. Contract
- b. Common law
- c. Policies and procedures
- d. Awards and enterprise agreements
- e. International labour standards
- f. Statutory regulation

2. Employment relationship

- a. Employment (of service)
- b. Independent contractor (for service)

i. Legal test:

1. Control – *Zuijs v Wirth Brothers Pty Ltd* (1955) 93 CLR 562
2. Multi-factor test: *Stevens v Brodribb Sawmilling Co Pty Ltd* (1986) 160 CLR 16 per Mason J.
3. Labour Hire Agreements (ODCO arrangements): *loo BWIU v Odco Pty Ltd* (1991) 29 FCR 104
4. Multi-factor – independent vs employee: *Hallis v Vabu Pty Ltd* [2001] 207 CLR 21; HCA 44

3. Employment contract

Restraint of trade

- ***Koops Martin Financial Services Pty Ltd v Reeves* [2006] NSWSC 449**
- ***Miles v Genesys Wealth Advisers* [2009] NSWCA 25**

- Remedy: Interlocutory injunction to stop the employee from engaging in the conduct, pending final hearing seeking a permanent injunction and/or damages.

○

Employment Contract Terms : Express and Implied

4. Employment duties

a. Implied by law

- i. Obey: duties related to change of work type, location and methods
- ii. Care and skill: duty to indemnify
- iii. Fidelity and loyalty

5. Mutual and employer duties

6. Termination of the employment contract

7. Remedies for breach of the employment contract

8. Statutory regulation

9. Unfair dismissal

10. General protections and other termination rights

11. Industrial action and freedom of association

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Annelies Wilder-Smith



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