

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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Hussin A.Rothana



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Table of Contents Employment Law Paper Topics

1. Understanding the eBook Employment Law Paper Topics
 - The Rise of Digital Reading Employment Law Paper Topics
 - Advantages of eBooks Over Traditional Books
2. Identifying Employment Law Paper Topics
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Employment Law Paper Topics
 - User-Friendly Interface
4. Exploring eBook Recommendations from Employment Law Paper Topics
 - Personalized Recommendations
 - Employment Law Paper Topics User Reviews and Ratings

- Employment Law Paper Topics and Bestseller Lists
- 5. Accessing Employment Law Paper Topics Free and Paid eBooks
 - Employment Law Paper Topics Public Domain eBooks
 - Employment Law Paper Topics eBook Subscription Services
 - Employment Law Paper Topics Budget-Friendly Options
- 6. Navigating Employment Law Paper Topics eBook Formats
 - ePub, PDF, MOBI, and More
 - Employment Law Paper Topics Compatibility with Devices
 - Employment Law Paper Topics Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Employment Law Paper Topics
 - Highlighting and Note-Taking Employment Law Paper Topics
 - Interactive Elements Employment Law Paper Topics
- 8. Staying Engaged with Employment Law Paper Topics
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Employment Law Paper Topics
- 9. Balancing eBooks and Physical Books Employment Law Paper Topics
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Employment Law Paper Topics
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Employment Law Paper Topics
 - Setting Reading Goals Employment Law Paper Topics
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Employment Law Paper Topics
 - Fact-Checking eBook Content of Employment Law Paper Topics
 - Distinguishing Credible Sources

13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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