

IAN NEIL SC

Senior Counsel 2006 | Call to the Bar 1991 | Legal Practice 1985

EXPERIENCE

A silk since 2006, Mr Neil SC works with leading law firms throughout Australia for clients in mining and resources, building and construction, banking and finance, industry, and government.

The principal focus of Mr Neil SC's practice is employment and industrial law. He also appears frequently in commissions and inquiries, has a wide appellate, commercial, equity and administrative law practice in every jurisdiction in Australia, and appears in and conducts mediations and arbitrations in Australia, Hong Kong, and in the London Beth Din.

Mr Neil SC teaches advocacy as a senior instructor for the Australian Advocacy Institute, and the Australian and NSW Bar Associations. He also mentors new barristers, serves on the NSW Bar Association's Duty Barrister Scheme, and regularly takes pro bono work.

Outside his legal practice, Mr Neil SC is the Chair of the Board of Grameen Australia.

AREAS OF PRACTICE

Employment Law | Industrial Law | Work Health and Safety | Administrative Law | Appellate
| Commissions and Inquiries | Commercial Law | Criminal Law | Discrimination

SELECTED RECENT MATTERS

Employment

Gupta v Portier Pacific Pty Ltd, Full Federal Court, 2020 (judicial review, gig economy)

CEPU v Delta FM Australia Pty Ltd [2020] FCCA 2939 (ordinary and customary turnover of labour)

BP Refinery (Kwinana) Pty Ltd v Tracey [2020] FCAFC 89 (judicial review, unfair dismissal)

Gupta v Portier Pacific Pty Ltd [2020] FWCFB 1698 (whether an Uber Eats driver is an employee)

RCR Tomlinson Ltd v Russell [2017] WASCA 129 (rectification)

Industrial Law

WorkPac Pty Ltd v Rossato, High Court of Australia, 2021 (appeal from the decision in *WorkPac v Rossato* [2020] FCAFC 84)

Berkeley Challenge Pty Ltd v United Voice [2020] FCAFC 113 (meaning of ordinary and customary turnover of labour)

INPEX Australia Pty Ltd v AWU [2020] FWCFB 5321 (appeal in relation to an application for a majority support determination)

WorkPac Pty Ltd v Rossato [2020] FCAFC 84 (test case on the distinction between casual and permanent employees)

CFMMEU v Milin Builders Pty Ltd [2019] FCA 1070 (contravention of the *Fair Work Act 2009* (Cth))

Hail Creek Coal Pty Ltd v CFMMEU [2018] FCAFC 186 (interpretation of enterprise agreement)

WorkPac Pty Ltd v Rossato [2018] FCA 2100 (direction that jurisdiction be exercised by a Full Court)

Skene v WorkPac Pty Ltd [2018] FCCA 3628 (compensation and penalty for mischaracterisation of employee as casual rather than permanent)

CFMMEU v Hay Point Services Pty Ltd (2018) 363 ALR 101 (contravention of the *Fair Work Act 2009* (Cth))

One Key Workforce Pty Ltd v CFMEU (2018) 356 ALR 535 (jurisdictional error, 'better off overall test')

CFMEU v BHP Billiton Nickel West Pty Ltd 263 IR 67 (exercise of right of entry rights)

Commissions and Inquiries

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2019-)

Independent Commission Against Corruption Investigation, Operation Aero (2019)

Criminal Law

Ford v R [2020] NSWCCA 99 (joint criminal enterprise)

Ulman v Live Group Pty Ltd (2018) 367 ALR 95 (contempt)

Discrimination

Brown v Deloitte Touche Tohmatsu, 2021 (age discrimination)

Sklavos v Australasian College of Dermatologists (2017) 256 FCR 247 (disability discrimination)

Kienle v Commonwealth of Australia (2011) 248 FLR 454 (racial discrimination)

SELECTED PUBLICATIONS & SEMINARS

'Set-off in underpayment actions' (A Conversation on Current Issues in the Practice of Employment & Industrial Law Webinar, Federal Court of Australia, 3 December 2020) (with Yaseen Shariff SC)

'Guide to the JobKeeper Scheme' (webinar, NSW Bar Association, 12 May 2020) (with David Chin SC and Christopher Parkin)

Guide to the JobKeeper Scheme – Employment in the time of COVID-19 (4th version, May 2020) (with David Chin SC and Christopher Parkin)

'Employee Rights in the Age of COVID-19' (webinar, NSW Society of Labor Lawyers, 22 April 2020) (with David Chin SC and Christopher Parkin)

'Guide to the JobKeeper Scheme – Employment in time of COVID-19' (webinar, Australian Labour Law Association NSW Chapter, 20 April 2020) (with David Chin SC and Christopher Parkin)

'Unlawful Industrial Action' (workshop, Mills Oakley, 13 March 2020)

'Chalk and Cheese, or Why Gig Economy Workers are not Employees' (CLS Law, Technology and Labour Symposium, Curtin Law School, 12 March 2020)

'The Reasonableness of Restraints' (2018) 46 *Australian Business Law Review* 99 (with Nicholas Saady)

The Modern Contract of Employment (Thomson Reuters, 2nd ed, 2017) (with David Chin SC)

'High Court yet to resolve differences regarding Mutual Trust and Confidence' (2010) 48(4) *Law Society Journal*, 70 (with David Chin SC)

MEMBERSHIPS

NSW Bar Association | Bar Association of Queensland | Western Australia Bar Association | Australian Labour Law Association | Industrial Relations Society of Western Australia | Anglo-Australasian Lawyers Society | Australian Institute of Company Directors | New South Wales Council for Civil Liberties | Union, University & Schools Club of Sydney | The Cricketers' Club of New South Wales | Sydney Cricket Ground | Amnesty International | Capital Punishment Justice Project | Vaucluse Yacht Club | The Cauliflower Club | South West Coast Path