



# HIGH COURT BULLETIN

Produced by the Legal Research Officer,  
High Court of Australia Library  
[2018] HCAB 7 (24 September 2018)

A record of recent High Court of Australia cases: decided, reserved for judgment, awaiting hearing in the Court's original jurisdiction, granted special leave to appeal, refused special leave to appeal and not proceeding or vacated

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## 1: SUMMARY OF NEW ENTRIES

### 2: Cases Handed Down

Case	Title
<a href="#"><i>Mighty River International Limited v Hughes &amp; Ors; Mighty River International Limited v Mineral Resources Limited &amp; Ors</i></a>	Corporations
<a href="#"><i>Pipikos v Trayans</i></a>	Equity
<a href="#"><i>The Queen v Dennis Bauer (A Pseudonym)</i></a>	Evidence
<a href="#"><i>QLN146 v The Republic of Nauru</i></a>	Migration
<a href="#"><i>QLN147 v The Republic of Nauru</i></a>	Migration

### 3: Cases Reserved

Case	Title
<a href="#"><i>Williams v Wreck Bay Aboriginal Community Council &amp; Anor</i></a>	Interpretation

<a href="#"><i>BEG15 v Minister for Immigration and Border Protection &amp; Anor</i></a>	Migration
<a href="#"><i>CQZ15 v Minister for Immigration and Border Protection &amp; Anor</i></a>	Migration
<a href="#"><i>Minister for Immigration and Border Protection v SZMTA &amp; Anor</i></a>	Migration
<a href="#"><i>Northern Territory of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples &amp; Anor; Commonwealth of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples &amp; Anor; Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples v Northern Territory of Australia &amp; Anor</i></a>	Native Title

#### 4: Original Jurisdiction

#### 5: Section 40 Removal

<b>Case</b>	<b>Title</b>
<a href="#"><i>Comcare v Banerji</i></a>	Constitutional Law

#### 6: Special Leave Granted

<b>Case</b>	<b>Title</b>
<a href="#"><i>Brisbane City Council v Amos</i></a>	Procedure

#### 7: Cases Not Proceeding or Vacated

<a href="#"><i>The Commonwealth of Australia &amp; Anor v Commissioner Bret Walker SC &amp; Anor</i></a>	Constitutional Law
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## 2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the September 2018 sittings.

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### Corporations

*Mighty River International Limited v Hughes & Anor; Mighty River International Limited v Mineral Resources Limited & Ors*

**P7/2018, P8/2018:** [\[2018\] HCA 38](#)

**Reasons published:** 12 September 2018

**Coram:** Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

**Catchwords:**

Companies – Voluntary administration – Deed of company arrangement – Where administrator required to form opinion about certain matters as soon as practicable after administration begins – Where administrator required to convene meeting of creditors within convening period – Where convening period may be extended by court order – Where company executed deed which imposed moratorium on creditors' claims while administrators conducted further investigations – Where deed provided no property of company available for distribution to creditors – Whether deed impermissibly extended convening period – Whether administrators formed the requisite opinions – Whether deed should have specified some property available for distribution to creditors – Whether deed a valid deed of company arrangement – Whether deed should be declared void.

Words and phrases – "arrangement alternative to liquidation", "convening period", "deed of company arrangement", "DOCA", "holding DOCA", "in the interests of creditors", "moratorium on claims", "property of the company available for distribution to creditors", "to be available to pay creditors' claims", "voluntary administration".

*Corporations Act 2001* (Cth) – Pt 5.3A, ss 438A, 439A, 444A, 445G.

**Appealed from WASC (CA):** [\[2017\] WASCA 152](#); (2017) 52 WAR 1; (2017) 323 FLR 8

**Held:** Appeals dismissed with costs

*Orders made on 19 June 2018.*

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## Equity

*Pipikos v Trayans*

**A30/2017:** [\[2018\] HCA 39](#)

**Judgment delivered:** 12 September 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Equity – Doctrine of part performance – Where respondent sole registered proprietor of property purchased by respondent and her husband – Where respondent and her husband made improvements to property – Where appellant claimed agreement between appellant and respondent entitled appellant to half-interest in unimproved land – Where alleged agreement did not meet formality requirements of s 26(1) of *Law of Property Act 1936* (SA) – Where s 26(2) of *Law of Property Act* provides that s 26 does not affect law relating to part performance – Whether acts of part performance entitled appellant to specific performance of alleged agreement – Whether acts of part performance must be unequivocally, and in their own nature, referable to agreement of kind alleged – Whether sufficient for purposes of doctrine of part performance to establish that contracting party has knowingly been induced or allowed by counterparty to alter his or her position on faith of contract.

Words and phrases – "enforcement of equities", "equitable estoppel", "equitable fraud", "equity of the statute", "fraud", "parol contract", "part performance", "specific performance", "Statute of Frauds", "unequivocally referable".

*Law of Property Act 1936* (SA) – s 26.

**Appealed from SASC (CA):** [\[2016\] SASCF 138](#); (2016) 126 SASR 436

**Held:** Appeal dismissed with costs

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## Evidence

*The Queen v Dennis Bauer (A Pseudonym)*

**M1/2018:** [\[2018\] HCA 40](#)

**Judgment delivered:** 12 September 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Evidence – Criminal trial – Sexual offences with child under 16 years – Tendency evidence – Admissibility – Severance – Where evidence of complainant as to 17 sexual acts and several uncharged sexual acts admitted as tendency evidence – Where evidence of third party as to Charge 2 admitted as tendency evidence – Whether evidence of complainant and third party admissible as tendency evidence – Whether evidence of each charged act and uncharged act cross-admissible as tendency evidence in proof of each charge – Whether tendency evidence had significant probative value – Whether possibility of risk of contamination, concoction or collusion relevant to determination of probative value – Whether probative value substantially outweighed any prejudicial effect – Whether tendency notice defective – Whether Charge 2 should have been severed from indictment.

Evidence – Criminal trial – Recording of evidence – Admissibility – Where evidence of complainant recorded at previous trial admitted – Where prosecutor told court that complainant had strong preference not to give evidence at trial based on advice from counsellors – Where defence counsel did not challenge complainant's preference not to give evidence – Whether in interests of justice to admit recording.

Evidence – Criminal trial – Hearsay – Admissibility – Where complainant made representations to third party that she was sexually assaulted by respondent – Where representations made in response to leading questions from third party – Where inconsistencies between complainant's representations and other evidence given by complainant – Whether occurrence of asserted facts fresh in complainant's memory at time of representations – Whether probative value of evidence outweighed by danger of unfair prejudice.

Words and phrases – "charged act", "collusion", "complaint", "concoction", "contamination", "credibility", "cross-admissible", "discreditable acts", "fresh in the memory", "improper prejudice", "jury directions", "previously recorded evidence", "propensity", "recording", "reliability", "severance", "sexual attraction", "sexual interest", "sexual offence", "significant probative value", "single complainant", "special feature", "tendency", "uncharged act", "unfair prejudice", "willingness".

*Criminal Procedure Act 2009* (Vic) – ss 194, 379, 380, 381, 385.

*Evidence Act 2008* (Vic) – ss 66, 97, 99, 101, 135, 137.

*Jury Directions Act 2015* (Vic) – ss 61, 62.

*Evidence Regulations 2009 (Vic) – reg 7.*

**Appealed from VSC (CA):** [\[2017\] VSCA 176](#)

**Held:** Appeal allowed

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## Migration

*QLN146 v The Republic of Nauru*

**M26/2018:** [\[2018\] HCA 42](#)

**Judgment delivered:** 11 September 2018

**Coram:** Bell, Keane and Gordon JJ

**Catchwords:**

Nauru – Appeal as of right from Supreme Court of Nauru – Refugees – Where Secretary of Department of Justice and Border Control determined appellant not refugee and not owed complementary protection – Where Refugee Status Review Tribunal affirmed Secretary's determination – Where Tribunal made adverse findings as to credibility – Whether error in Tribunal's reasons.

Words and phrases – "appeal", "credibility", "error".

*Refugees Convention Act 2012 (Nr).*

Convention relating to the Status of Refugees (1951) as modified by the Protocol relating to the Status of Refugees (1967).

**Appealed from Supreme Court of Nauru:** [\[2018\] NRSC 1](#)

**Held:** Appeal dismissed

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*QLN147 v The Republic of Nauru*

**M27/2018:** [\[2018\] HCA 41](#)

**Date heard:** 11 September 2018

**Coram:** Kiefel CJ, Gageler and Nettle JJ

**Catchwords:**

Nauru – Appeal as of right from Supreme Court of Nauru – Refugees – Where Secretary of Department of Justice and Border Control refused application for complementary protection – Where Refugee Status Review Tribunal affirmed Secretary's decision – Where appellant claimed he would be subject to cruel, inhuman or degrading treatment if returned to Sri Lanka – Where basis for claim was that appellant may be remanded in prison if returned to Sri Lanka and prison conditions in Sri Lanka are poor – Whether Tribunal had regard to material before it concerning prison conditions in Sri Lanka – Whether reasons of Tribunal met standard required by s 34(4) of *Refugees Convention Act 2012* (Nr).

Words and phrases – "cruel, inhuman or degrading treatment", "duty to give reasons", "prison conditions".

*Refugees Convention Act 2012* (Nr) – ss 5(1), 6(1), 34(4).

**Appealed from Supreme Court of Nauru:** [\[2018\] NRSC 2](#)

**Held:** Appeal dismissed

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## 3: CASES RESERVED

The following cases have been reserved or part heard by the High Court of Australia.

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### Constitutional Law

*Work Health Authority v Outback Ballooning Pty Ltd & Anor*

**D4/2018:** [\[2018\] HCATrans 144](#); [\[2018\] HCATrans 146](#)

**Date heard:** 14 and 15 August 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law – Inconsistency – *Work Health and Safety (National Uniform Legislation) Act 2011* (NT) – Where hot air balloon passenger died from injuries suffered as result of scarf being sucked into inflation fan – Where appellant alleged first respondent breached s 32 of Act – Where magistrate dismissed complaint on basis *Air Navigation Act 1920* (Cth), *Civil Aviation Act 1988* (Cth) and other Commonwealth regulation covered field of safety of air navigation – Where Supreme Court quashed magistrate’s decision – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding federal civil aviation legislation excluded operation of *Work Health and Safety (National Uniform Legislation) Act 2011* (NT).

**Appealed from NTSC (CA):** [\[2017\] NTCA 7](#); (2017) 326 FLR 1

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### Criminal Law

*Johnson v The Queen*

**A9/2018:** [\[2018\] HCATrans 121](#)

**Date heard:** 20 June 2018

**Coram:** Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ

**Catchwords:**

Criminal law – Evidence – Probative value – Doli incapax – Where jury convicted appellant of five counts of sexual offences against



younger sister – Where Court of Criminal Appeal quashed convictions in respect of count 1 (“shed incident”) because prosecution failed to rebut presumption of *doli incapax* and count 3 (persistent sexual exploitation) because evidence did not identify any particular act – Where Court of Criminal Appeal upheld remaining convictions – Whether Court of Criminal Appeal erred by failing to set aside remaining convictions because evidence led in respect of counts 1 and 3 inadmissible in respect of other counts or permissible use not sufficiently identified – Whether Court of Criminal Appeal erred in failing to find substantial miscarriage of justice.

**Appealed from SASC (FC):** [\[2015\] SASCF 170](#)

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*Rodi v State of Western Australia*

**P24/2018:** [\[2018\] HCATrans 137](#)

**Date heard:** 7 August 2018

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Gordon JJ

**Catchwords:**

Criminal law – Miscarriage of justice – Fresh evidence – *Criminal Appeals Act 2004* (WA) – Where appellant convicted at trial of possession with intent to sell or supply contrary to s 6(1)(a) of *Misuse of Drugs Act 1981* (WA) – Where prosecution witness gave evidence at trial about cannabis yields – Where witness’ evidence inconsistent with witness’ earlier evidence – Where majority of Court of Appeal characterised witness’ earlier evidence as fresh evidence but dismissed appeal on basis no significant possibility appellant would have been acquitted if fresh evidence before jury – Whether majority of Court of Appeal erred in concluding no significant possibility of acquittal – Whether majority of Court of Appeal erred in holding that if prosecutor breached duty of disclosure, breach did not give rise to miscarriage of justice.

**Appealed from WASC (CA):** [\[2017\] WASCA 81](#); (2017) 51 WAR 96

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*Strickland (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Tucker (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Hodges (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Galloway (a*

*pseudonym) v Commonwealth Director of Public Prosecutions & Ors*

[M168/2017](#); [M176/2017](#); [M175/2017](#); [M174/2017](#): [\[2018\] HCATrans 75](#); [\[2018\] HCATrans 78](#)

**Date heard:** 8 and 9 May 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – Stay of proceedings – *Australian Crime Commission Act 2002* (Cth) – Investigations – Where Australian Federal Police (“AFP”) commenced investigation – Where appellants summoned by Australian Crime Commission for compulsory examination – Where examiner failed to make non-publication direction under s 25A(9) of Act prohibiting publication of examination material concerning appellants to AFP and Commonwealth Director of Public Prosecutions – Where primary judge found examination conducted for improper purpose of assisting AFP and had unfair consequences for trial – Where primary judge ordered permanent stay of proceedings – Where Court of Appeal quashed order – Whether Court of Appeal erred in finding unlawful compulsory examination for purpose of achieving forensic advantage insufficient in circumstances to justify permanent stay of proceedings.

**Appealed from VSC (CA):** [\[2017\] VSCA 120](#)

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## Equity

*Ancient Order of Foresters in Victoria Friendly Society Limited v Lifeplan Australia Friendly Society Limited & Anor*

[A37/2017](#): [\[2018\] HCATrans 64](#)

**Date heard:** 12 April 2018

**Coram:** Kiefel CJ, Gageler, Keane, Nettle and Edelman JJ

**Catchwords:**

Equity – Account of profits – *Corporations Act 2001* (Cth) ss 181-183, 1317H – Where appellant employed former employees of respondents – Where respondents brought claim against appellant for knowing assistance in former employees’ breaches of contractual and fiduciary duties and duties of confidence and involvement in contraventions of ss 181-183 – Where primary judge held appellant knowingly participated in breaches of fiduciary

duties and duties of confidence but dismissed claim for account of profits on basis no profits attributable to use of confidential information or breaches of duties – Where Full Court held sufficient causal connection established and awarded account of profits in equity – Where Full Court also held facts constituting knowing participation amounted to involvement in contraventions of ss 181-183 and made same order for account of profits under s 1317H – Whether Full Court erred in finding sufficient causal connection – Whether Full Court erred in ordering account of profits calculated on basis of net present value of future potential profits where no profits actually made and without regard to accumulated losses incurred by appellant.

**Appealed from FCA (FC):** [\[2017\] FCAFC 99](#)

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## Evidence

*McPhillamy v The Queen*

**S121/2018:** [\[2018\] HCATrans 141](#)

**Date heard:** 9 August 2018

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Evidence – Tendency evidence – Where appellant charged with offences involving child sexual abuse – Where trial judge admitted tendency evidence – Where appellant convicted at trial – Where Court of Criminal Appeal dismissed appeal – Whether majority of Court of Criminal Appeal erred in holding tendency evidence had significant probative value – Whether majority of Court of Criminal Appeal erred in holding probative value of tendency evidence substantially outweighed prejudicial effect.

**Appealed from NSW (CA):** [\[2017\] NSWCCA 130](#)

*Orders made on 9 August 2018 allowing the appeal.*

*Written reasons of the Court to be published at a future date.*

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## Interpretation

*Commissioner of Taxation for the Commonwealth of Australia v Tomaras & Ors*

**B9/2018:** [\[2018\] HCATrans 143](#)

**Date heard:** 10 August 2018

**Coram:** Kiefel CJ, Gageler, Keane, Gordon and Edelman JJ

**Catchwords:**

Interpretation – Crown immunity – *Family Law Act 1975* (Cth) s 90AE – Presumption that statutory provisions expressed in general terms do not bind Crown – Where wife commenced proceedings against husband seeking alteration of property interests including order under s 90AE substituting husband for wife in respect of indebtedness to Commissioner – Where Full Family Court held s 90AE conferred power to make order – Whether Full Family Court erred in concluding presumption Crown not bound by statute did not apply in construction of s 90AE – If yes, whether Full Family Court erred in concluding presumption would have been rebutted – Whether Full Family Court erred in failing to conclude neither Commissioner nor Commonwealth “creditor” or “third party” for purposes of s 90AE.

**Appealed from Fam CA (FC):** [\[2017\] FamCAFC 216](#); (2017) 327 FLR 228; (2017) 106 ATR 878

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*Comptroller General of Customs v Zappia*

**S91/2018:** [\[2018\] HCATrans 140](#)

**Date heard:** 8 August 2018

**Coram:** Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ

**Catchwords:**

Interpretation – *Customs Act 1901* (Cth) s 35A – Where respondent employed as general manager of company operating warehouse – Where cigarettes stolen from warehouse – Where respondent served with notice under s 35A of Act requiring payment of amount of duty payable on stolen cigarettes – Where Administrative Appeals Tribunal dismissed application for review of decision to issue notice – Where Full Federal Court allowed appeal – Whether majority of Full Court erred in holding employee of entity holding license to warehouse dutiable goods not capable of being “person who has, or has been entrusted with, the possession, custody or control of dutiable goods” within meaning of s 35A(1) – Whether majority of Full Court erred in holding that on proper construction of

s 35A(1), statutory demand issued by appellant to respondent invalid and of no effect.

**Appealed from FCA (FC):** [\[2017\] FCAFC 147](#); (2017) 254 FCR 363

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*SAS Trustee Corporation v Miles*

**S260/2017:** [\[2018\] HCATrans 147](#)

**Date heard:** 16 August 2018

**Coram:** Kiefel CJ, Bell, Gageler, Nettle and Edelman JJ

**Catchwords:**

Interpretation – *Police Regulation (Superannuation) Act 1906* (NSW) – Where respondent discharged from police force due to infirmities as result of being “hurt on duty” – Where respondent applied for increase in annual superannuation allowance – Where application rejected by trustee – Where trustee’s decision upheld by District Court – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in failing to construe s 10(1A)(b) in context – Whether s 10(1A)(b) authorises payment of additional superannuation allowance where incapacity not due to infirmity determined by Commissioner under s 10B(3) to have been caused by being “hurt on duty”.

**Appealed from NSWSC (CA):** [\[2017\] NSWCA 86](#)

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*Williams v Wreck Bay Aboriginal Community Council & Anor*

**C5/2018:** [\[2018\] HCATrans 183](#)

**Date heard:** 12 September 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Interpretation – Concurrent operation – Where Council leased property to appellant under residential tenancy agreement – Where appellant commenced proceedings in ACT Civil and Administrative Tribunal seeking orders for repairs and compensation – Where Tribunal referred questions of law to Supreme Court for determination – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding ACT laws retain subordinate status when applied to Jervis Bay Territory by force of s 4A of *Jervis*

*Bay Territory Acceptance Act 1915* (Cth) – Whether Court of Appeal erred in concluding ss 8 and 9 of *Residential Tenancies Act 1997* (ACT) not capable of operating concurrently with *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* (Cth) such that ss 8 and 9 do not apply to “Aboriginal Land” for purposes of s 46 of *Aboriginal Land Grant (Jervis Bay Territory) Act*.

**Appealed from ACT (CA):** [\[2017\] ACTCA 46](#); (2017) 12 ACTLR 207; (2017) 326 FLR 58

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## Migration

*BEG15 v Minister for Immigration and Border Protection & Anor*  
**[S135/2018](#)**: [\[2018\] HCATrans 177](#)

**Date heard:** 10 September 2018

**Coram:** Bell, Gageler, Keane, Nettle and Gordon JJ

**Catchwords:**

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Refugee Review Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where Tribunal did not inform appellant of certificate or disclose information to appellant – Where Tribunal affirmed delegate’s decision – Where Federal Circuit Court dismissed application for judicial review – Where Full Federal Court dismissed appeal – Whether Full Court erred in failing to find Tribunal fell into jurisdictional error in acting on invalid certificate – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error – Whether necessary for applicant to show denial of procedural fairness in addition to invalidity of certificate.

**Appealed from FCA (FC):** [\[2017\] FCAFC 198](#); (2017) 253 FCR 36

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*CQZ15 v Minister for Immigration and Border Protection & Anor*  
**[M75/2018](#)**: [\[2018\] HCATrans 177](#)

**Date heard:** 10 September 2018

**Coram:** Bell, Gageler, Keane, Nettle and Gordon JJ

**Catchwords:**

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Administrative Appeals Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where delegate issued further certificate – Where Tribunal did not inform appellant of certificates or disclose information to appellant – Where Tribunal affirmed delegate’s decision – Where Federal Circuit Court concluded Tribunal fell into jurisdictional error in acting upon invalid certificate and failing to disclose existence of certificates to appellant – Where Full Federal Court allowed appeal – Whether Full Court erred in departing from *Minister for Immigration and Border Protection v Singh* (2016) 244 FCR 305 by failing to find Tribunal fell into jurisdictional error in not disclosing certificates – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error.

**Appealed from FCA (FC):** [\[2017\] FCAFC 194](#); (2017) 253 FCR 1

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*ETA067 v The Republic of Nauru*

**M167/2017:** [\[2018\] HCATrans 114](#)

**Date heard:** 14 June 2018

**Coram:** Bell, Keane and Gordon JJ

**Catchwords:**

Migration – *Nauru (High Court Appeals) Act 1976* (Cth) – *Refugees Convention Act 2012* (Nr) – Where appellant applied for refugee status determination – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme Court erred in failing to find Tribunal breached s 22(b) and s 40(1) of *Refugees Convention Act* by failing to consider evidence provided by appellant and failing to act in accordance with principles of natural justice.

**Appealed from Supreme Court of Nauru:** [\[2017\] NRSC 99](#)

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*Minister for Immigration and Border Protection v SZMTA & Anor*  
**S36/2018:** [\[2018\] HCATrans 177](#)

**Date heard:** 10 September 2018

**Coram:** Bell, Gageler, Keane, Nettle and Gordon JJ

**Catchwords:**

Migration – Procedural fairness – *Migration Act 1958* (Cth) s 438(2) – Where first respondent applied for Protection (Class XA) visa – Where application refused by delegate – Where first respondent applied to Administrative Appeals Tribunal for review of decision – Where delegate notified Tribunal s 438(2)(a) applied to certain documents because given in confidence to Minister or Department – Where Tribunal did not inform first respondent of notification – Where copies of documents previously provided to first respondent – Where Federal Circuit Court dismissed application for judicial review – Where Federal Court allowed appeal on basis Tribunal denied first respondent procedural fairness – Whether Federal Court erred in relying on possibility Tribunal may not have had regard to certain information because of notification under s 438(2) in finding Tribunal denied first respondent procedural fairness – Whether Federal Court erred in holding Tribunal denied first respondent procedural fairness in circumstances where documents in possession of first respondent prior to Tribunal hearing.

**Appealed from FCA:** [\[2017\] FCA 1055](#); (2017) 255 FCR 215

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*WET052 v The Republic of Nauru*  
**S267/2017:** [\[2018\] HCATrans 115](#)

**Date heard:** 15 June 2018

**Coram:** Gageler, Keane and Edelman JJ

**Catchwords:**

Migration – *Nauru (High Court Appeals) Act 1976* (Cth) – *Refugees Convention Act 2012* (Nr) – Where appellant applied for refugee status determination – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme Court erred in failing



to find Tribunal's adverse credibility finding illogical and without probative foundation or unreasonable – Whether Supreme Court erred in failing to find Tribunal failed to consider integer of claims to protection and/or consider claims cumulatively.

**Appealed from Supreme Court of Nauru:** [\[2017\] NRSC 96](#)

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## Native Title

*Northern Territory of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Commonwealth of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples v Northern Territory of Australia & Anor*

[D1/2018](#); [D2/2018](#); [D3/2018](#): [\[2018\] HCATrans 174](#); [\[2018\] HCATrans 175](#); [\[2018\] HCATrans 176](#)

**Date heard:** 4, 5 and 6 September 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

### Catchwords:

Native title – Extinguishment – Compensation for extinguishment – *Native Title Act 1993* (Cth) – Where claim brought against Commonwealth and Northern Territory for extinguishment of non-exclusive native title rights and interests in Timber Creek – Where primary judge awarded claim group compensation for economic value of extinguished rights, interest, and solatium for loss or impairment of rights and interests – Where Full Court held primary judge erred in assessing value of extinguished rights and concluded value of rights was 65% of value of freehold title – Whether Full Court's assessment of economic value of rights erroneous or manifestly excessive in light of restrictions and limitations on rights – Whether Full Court erred in failing to find primary judge erred in awarding interest as part of compensation under s 51(1) of Act and not as interest on compensation – Whether Full Court erred in assessing interest by reference to 65% of value of freehold title – Whether Full Court erred in failing to find primary judge erred in assessing compensation for non-economic loss – Whether Full Court erred in failing to find primary judge's assessment of compensation for non-economic loss manifestly excessive – Whether Full Court erred in finding commercial agreements entered into by claimants

containing solatium-type payments irrelevant to assessment of compensation.

**Appealed from FCA (FC):** [\[2017\] FCAFC 106](#); (2017) 346 ALR 247

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## Procedure

*UBS AG v Scott Francis Tyne as Trustee of the Argot Trust*  
**B54/2017:** [\[2018\] HCATrans 67](#)

**Date heard:** 18 April 2018

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

### Catchwords:

Procedure – *Federal Court of Australia Act 1976* (Cth) s 37M – Abuse of process – Where appellant commenced proceedings in High Court of Singapore in 2010 against first respondent and another party – Where respondents and other party subsequently commenced proceedings in Supreme Court of New South Wales – Where Supreme Court proceedings permanently stayed in 2013 – Where respondents commenced proceedings in Federal Court in 2014 raising same factual matters – Where proceedings permanently stayed by primary judge as abuse of process – Where majority of Full Federal Court allowed appeal – Whether majority of Full Federal Court erred in failing to take into account manifest unfairness to appellant and effect of proceedings in bringing administration of justice into disrepute – Whether majority erred in failing to take into account Singapore proceedings in determining whether abuse of process.

**Appealed from FCA (FC):** [\[2017\] FCAFC 5](#); (2017) 250 FCR 341; (2017) 341 ALR 415

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## Stamp Duty

*Commissioner of State Revenue v Placer Dome Inc*  
**P6/2018:** [\[2018\] HCATrans 119](#)

**Date heard:** 18 June 2018

**Coram:** Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ

**Catchwords:**

Stamp duty – *Stamp Act 1921 (WA)* s 76ATI – Assessment – Acquisition of shares – Where Commissioner assessed stamp duty payable for share acquisition on basis value of respondent’s land was value of all respondent’s property less value of “non-land assets” – Where Tribunal affirmed Commissioner’s decision – Where Court of Appeal allowed appeal on basis Tribunal failed to distinguish between value of respondent’s land and value of respondent’s business – Whether Court of Appeal erred in holding Tribunal erred in failing to apply “conventional *Spencer* principles” in valuing land – Whether Court of Appeal erred in concluding evidence supported finding respondent’s business had material goodwill.

**Appealed from WASC (CA):** [\[2017\] WASCA 165](#); (2017) 106 ATR 511

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## 4: ORIGINAL JURISDICTION

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

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## 5: SECTION 40 REMOVAL

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

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### Constitutional Law

#### *Comcare v Banerji*

**C10/2018:** *Removed into High Court under s 40 of Judiciary Act 1903 (Cth) on 12 September 2018*

#### **Catchwords:**

Constitutional law – Implied freedom of political communication – Where employee of Department of Immigration and Citizenship used Twitter account to post anonymous “tweets” critical of Department – Where Department terminated employment under s 15 of *Public Service Act 1999* (Cth) on basis employee used social media in breach of ss 13(1), 13(7) and 13(11) of Australian Public Service Code of Conduct – Where employee submitted claim for compensation under s 14 of *Safety, Compensation and Rehabilitation Act 1988* (Cth) on basis termination led to psychological condition – Where Comcare rejected claim – Where Administrative Appeals Tribunal set aside decision on basis termination infringed implied freedom of political communication so termination not “reasonable administrative action taken in a reasonable manner” within meaning of s 5A of *Safety, Compensation and Rehabilitation Act* – Whether ss 13(11) and 15 of *Public Service Act* incompatible with implied freedom of political communication – Whether Tribunal erred in failing to find decision to terminate employment constituted “reasonable administrative action taken in a reasonable manner”.

*Removed from Federal Court of Australia*

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#### *Clubb v Edwards & Anor*

**M46/2018:** *Removed into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018*

#### **Catchwords:**

Constitutional law – Implied freedom of political communication – *Public Health and Wellbeing Act 2008* (Vic) s 185D – Where s 185D prohibits engaging in “prohibited behaviour” within “safe access zone” – Where “prohibited behaviour” defined to include

“communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, or attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety” – Where appellant convicted of charge under s 185D in Magistrates’ Court – Whether 185D impermissibly burdens implied freedom of political communication.

*Removed from Supreme Court of Victoria*

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*Preston v Avery & Anor*

**H2/2018:** *Removed into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018*

**Catchwords:**

Constitutional law – Implied freedom of political communication – *Reproductive Health (Access to Termination) Act 2013 (Tas) s 9(2)* – Where s 9(2) prohibits protest in relation to terminations that is able to be seen or heard by person accessing or attempting to access premises at which terminations provided – Where appellant convicted in Hobart Court of Petty Sessions of contraventions of s 9(2) – Whether s 9(2) impermissibly burdens implied freedom of political communication.

*Removed from Supreme Court of Tasmania*

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## 6: SPECIAL LEAVE GRANTED

The following cases have been granted special leave to appeal to the High Court of Australia.

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### Arbitration

*Rinehart & Anor v Hancock Prospecting Pty Ltd & Ors; Rinehart & Anor v Georgina Hope Rinehart (in her personal capacity and as trustee of the Hope Margaret Hancock Trust and as trustee of the HFMF Trust) & Ors*

**S143/2018; S144/2018:** [\[2018\] HCATrans 90](#)

**Date heard:** 18 May 2018 – *Special leave granted on limited grounds.*

**Catchwords:**

Arbitration – Arbitration agreements – Interpretation – Where parties entered into series of deeds containing arbitration agreements – Where primary judge ordered trial of question whether arbitration agreements in deeds null and void, inoperative or incapable of being performed – Where Full Court stayed proceeding and referred parties to arbitration – Whether Full Court erred in concluding arbitration clauses expressed to cover disputes “under” agreement extended to disputes concerning the validity of the deeds or provisions thereof.

**Appealed from FCA (FC):** [\[2017\] FCAFC 170](#); (2017) 350 ALR 658 and [\[2017\] FCAFC 208](#)

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### Consumer Law

*Australian Securities and Investments Commission v Kobelt*

**A32/2018:** [\[2018\] HCATrans 153](#)

**Date heard:** 17 August 2018 – *Special leave granted.*

**Catchwords:**

Consumer law – *Australian Securities and Investments Act 2001* (Cth) s 12CB, 12CC – Unconscionable conduct – Where respondent operated general store in remote town – Where respondent provided credit to indigenous customers – Where primary judge

held respondent contravened s 12CB(1) by engaging in system of unconscionable conduct in connection with supply of financial services to customers – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in construction and application of ss 12CB and 12CC.

**Appealed from FCA (FC):** [\[2018\] FCAFC 18](#)

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*Frugtniet v Australian Securities & Investments Commission*

**M136/2018:** [\[2018\] HCATrans 155](#)

**Date heard:** 17 August 2018 – *Special leave granted.*

**Catchwords:**

Consumer law – Banning orders – *National Consumer Credit Protection Act 2009* (Cth) s 80 – *Crimes Act 1914* (Cth) s 85ZZH – Where Commission made banning order under s 80 on basis appellant not “fit and proper person to engage in credit activities” – Where Administrative Appeals Tribunal affirmed Commission’s order – Where primary judge and Full Federal Court dismissed appeals – Whether Full Federal Court erred in holding Tribunal not prevented by *Crimes Act* from considering “spent convictions”.

**Appealed from FCA (FC):** [\[2017\] FCAFC 162](#); (2017) 255 FCR 96

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## Corporations

*Australian Securities & Investments Commission v Lewski & Anor*;  
*Australian Securities & Investments Commission v Wooldridge & Anor*;  
*Australian Securities & Investments Commission v Butler & Anor*;  
*Australian Securities & Investments Commission v Jaques & Anor*;  
*Australian Securities & Investments Commission v Clarke & Anor*

**M79/2018; M80/2018; M81/2018; M82/2018; M83/2018:** [\[2018\] HCATrans 91](#)

**Date heard:** 18 May 2018 – *Special leave granted.*

**Catchwords:**

Corporations – Managed investment schemes – Third party transactions – *Corporations Act 2001* (Cth) ss 208, 209, 601FC,



601FD, 601GC – Where directors resolved to lodge deed purporting to amend constitution to authorise payment of fee to responsible entity – Where appellant brought civil penalty proceedings for contraventions of Act against responsible entity and directors – Where trial judge concluded directors breached duties in resolving to lodge deed and authorising payment of fee – Where Full Court allowed appeals – Whether Full Court erred in concluding deed purporting to amend constitution valid until set aside by Court – Whether Full Court erred in concluding deed binding on responsible entity – Whether Full Court erred in failing to find directors involved in contravention of s 208 by authorising payment of fee to responsible entity.

**Appealed from FCA (FC):** [\[2017\] FCAFC 171](#); (2017) 352 ALR 64

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*Carter Holt Harvey Woodproducts Australia Pty Ltd v Commonwealth of Australia & Ors*

**M137/2018:** [\[2018\] HCATrans 156](#)

**Date heard:** 17 August 2018 – *Special leave granted.*

**Catchwords:**

Corporations – Trustee corporations – *Corporations Act 2001* (Cth) s 433(2) – Where creditors resolved to wind up corporate trustee – Where receivers sought directions – Where primary judge held receivers justified in proceeding on basis receivership surplus properly characterised as trust property and s 433 did not apply to surplus – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding “property of the company” in s 433(2) included not only trustee’s right of indemnity but also underlying trust assets to which trustee company could have recourse – Whether Court of Appeal erred in concluding corporate trustee’s right of indemnity from trust assets was “property comprised in or subject to a circulating security interest” for purposes of s 433(2).

**Appealed from VSC (CA):** [\[2018\] VSCA 41](#); (2018) 330 FLR 149; (2018) 354 ALR 789; (2018) 124 ACSR 246

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## Criminal Law

*Director of Public Prosecutions Reference No 1 of 2017*

**M129/2018:** [\[2018\] HCATrans 145](#)

**Date determined:** 15 August 2018 – *Special leave granted.*

**Catchwords:**

Criminal law – Trial by jury – *Prasad* direction – Where accused charged with murder – Where counsel for accused sought *Prasad* direction on basis prosecution case not strong insofar as prosecution required to prove beyond reasonable doubt accused not acting in self-defence – Where trial judge gave *Prasad* direction – Where jury returned verdicts of not guilty of murder or manslaughter – Where Director of Public Prosecutions referred point of law to Court of Appeal under s 308 of *Criminal Procedure Act 2009* (Vic) – Where Court of Appeal determined giving of *Prasad* direction not contrary to law – Where majority of Court of Appeal determined direction may continue to be administered to jury in criminal trial – Whether Court of Appeal erred in determining giving of *Prasad* direction not contrary to law – Whether majority of Court of Appeal erred in determining *Prasad* direction may continue to be administered to jury in criminal trial.

**Appealed from VSC (CA):** [\[2018\] VSCA 69](#)

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*Grajewski v Director of Public Prosecutions (NSW)*

**S141/2018:** [\[2018\] HCATrans 89](#)

**Date heard:** 18 May 2018 – *Special leave granted.*

**Catchwords:**

Criminal law – Destroy or damage property – *Crimes Act 1900* (NSW) s 195(1) – Meaning of “damage” – Where appellant climbed machine causing operator to shut down machine – Where appellant convicted of intentionally or recklessly damaging property contrary to s 195(1)(a) – Where District Court dismissed appeal and referred question whether facts can support finding of guilt to Court of Criminal Appeal – Where Court of Criminal Appeal answered “yes” – Whether Court of Criminal Appeal erred in concluding “damage” can be established where no physical derangement of property – Whether Court of Criminal Appeal erred in concluding temporary physical interference with functionality of property may constitute “damage” for purpose of s 195.

**Appealed from NSWSC (CA):** [\[2017\] NSWCCA 251](#)

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*McKell v The Queen*

**S223/2018:** [\[2018\] HCATrans 151](#)

**Date heard:** 17 August 2018 – *Special leave granted.*

**Catchwords:**

Criminal law – Trial by jury – Summing up – Where appellant intercepted two consignments between arrival in Sydney and transfer to freight forwarding agency – Where second consignment contained prohibited drug – Where appellant charged with importing commercial quantity of prohibited drug, conspiring to import commercial quantity of prohibited drug and dealing with proceeds of crime – Where appellant tried before jury – Where trial judge commented on evidence in summing up – Where appellant convicted of charges – Where majority of Court of Appeal dismissed appeal against convictions – Whether majority of Court of Appeal erred in failing to find trial judge’s summing up unbalanced and caused miscarriage of justice.

**Appealed from NSWSC (CA):** [\[2017\] NSWCCA 291](#)

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## Interpretation

*Victorian Building Authority v Andriotis*

**M134/2018:** [\[2018\] HCATrans 154](#)

**Date heard:** 17 August 2018 – *Special leave granted.*

**Catchwords:**

Interpretation – *Mutual Recognition Act 1999* (Cth) s 17, 20 – Where respondent registered in New South Wales as waterproofing technician – Where respondent applied to appellant for registration under *Building Act 1993* (Vic) – Where appellant refused to grant registration because respondent not of “good character” as required by s 170(1)(c) of *Building Act* – Where Administrative Appeals Tribunal affirmed decision – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in holding appellant required by s 20(2) to register respondent for equivalent occupation under *Building Act* notwithstanding appellant found respondent not of good character – Whether Full Federal Court erred in holding exception to mutual recognition principle in s 17(2) of *Mutual Recognition Act* does not quality “entitlement” to be registered under s 20(1) – Whether Full Court erred in holding “good character” requirement in *Building Act* not law regulating “manner”

of carrying out occupation within meaning of s 17(2) of *Mutual Recognition Act*.

**Appealed from FCA (FC):** [\[2018\] FCAFC 24](#)

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## Native Title

*KN (deceased) and Others on behalf of the Tjiwarl and Tjiwarl#2 Native Title Claim Groups v State of Western Australia & Ors*  
**P38/2018:** [\[2018\] HCATrans 124](#)

**Date heard:** 21 June 2018 – *Special leave granted.*

### Catchwords:

Native title – Extinguishment – Exploration licence – *Native Title Act 1993* (Cth) s 47B – Where unallocated Crown land subject to exploration licence granted under *Mining Act 1978* (WA) – Where native title determination application filed in respect of land – Where primary judge concluded s 47B applied because exploration licence not “lease” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding exploration licence is “lease” within meaning of s 47B(1)(b)(i).

**Appealed from FCA (FC):** [\[2018\] FCAFC 8](#); (2018) 351 ALR 491

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*Tjungarrayi & Ors v State of Western Australia & Ors*  
**P37/2018:** [\[2018\] HCATrans 124](#)

**Date heard:** 21 June 2018 – *Special leave granted.*

### Catchwords:

Native title – Extinguishment – Petroleum exploration permits – *Native Title Act 1993* (Cth) s 47B – Where land subject to petroleum exploration permits granted under *Petroleum and Geothermal Energy Resources Act 1967* (WA) – Where native title determination application filed in respect of land – Where primary judge concluded s 47B applied because petroleum exploration permits not “leases” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding petroleum exploration permits “leases” within meaning of s 47B(1)(b)(i).

**Appealed from FCA (FC):** [\[2018\] FCAFC 35](#)

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## Procedure

*Brisbane City Council v Amos*

**B8/2018:** [\[2018\] HCATrans 186](#)

**Date heard:** 14 September 2018 – *Special leave granted.*

### Catchwords:

Procedure – Limitation periods – *Limitation of Actions Act 1974* (Qld) – Where Council commenced proceeding against respondent for overdue rates and charges – Where primary judge gave judgment for Council – Where majority of Court of Appeal allowed appeal on basis part of claim beyond 6 year limitation period in s 10(1)(d) of Act – Whether majority erred in holding proceeding falls within both ss 10(1)(d) and 26(1) of Act and inconsistency should be resolved by applying shorter limitation period in s 10(1)(d).

**Appealed from QSC (CA):** [\[2018\] QCA 11](#); (2018) 230 LGERA 51

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## Tort

*Parkes Shire Council v South West Helicopters Pty Limited*

**S140/2018:** [\[2018\] HCATrans 92](#)

**Date heard:** 18 May 2018 – *Special leave granted on limited grounds.*

### Catchwords:

Tort – Negligence – Psychiatric injury – Where Council engaged South West Helicopters to provide helicopter and pilot for aerial survey – Where Council employees died in helicopter crash – Where relatives brought proceedings in negligence for nervous shock against Council and South West Helicopters under *Compensation to Relatives Act 1897* (NSW) – Where primary judge upheld claim – Where majority of Court of Appeal allowed appeal on basis any liability South West Helicopters might have had under *Compensation to Relatives Act* or general law excluded by *Civil Aviation (Carriers' Liability) Act 1959* (Cth) – Whether majority of Court of Appeal erred in construction of s 35 of *Civil Aviation*

*(Carriers' Liability) Act* – Whether majority of Court of Appeal erred in failing to conclude claims against carriers brought by non-passengers following death of passenger not regulated by s 35.

**Appealed from NSW (CA):** [\[2017\] NSWCA 312](#); (2017) 327 FLR 110

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# 7: CASES NOT PROCEEDING OR VACATED

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## Constitutional Law

*The Commonwealth of Australia & Anor v Commissioner Bret Walker SC & Anor*

**[C7/2018](#)**: Special Case referred to Full Court on 30 July 2017

### **Catchwords:**

Constitutional law – Constitution ss 75, 76, 77(iii) – Judicial power – Crown immunity – Crown immunity from State laws – Where Governor of South Australia established Commission – Where first defendant appointed to constitute Commission – Where Commission issued summonses to Department of Agriculture and Water Resources and Murray-Darling Basin Authority to produce specified documents and things and to current and former staff of Murray-Darling Basin Authority to attend for examination – Whether s 10(b) and (c) of *Royal Commissions Act 1917* (SA) authorise Commission to require attendance, answers or returns to inquiries of, or production of documents by, Commonwealth, Murray-Darling Basin Authority, current or former officers or employees of the Commonwealth or Murray-Darling Basin Authority, or resident of State other than South Australia – Whether s 11(1) of Act authorises Commission to commit to gaol or impose penalty on Commonwealth, Murray-Darling Basin Authority, current or former officers or employees of the Commonwealth or Murray-Darling Basin Authority, or resident of State other than South Australia – Whether ss 10(b), 10(c), 11(1)(a), 11(1)(f), 11(2) and 11(3) of Act invalid in application to Commonwealth, Murray-Darling Basin Authority, current or former officers or employees of the Commonwealth or Murray-Darling Basin Authority, or resident of State other than South Australia.

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## 8: SPECIAL LEAVE REFUSED

### Publication of Reasons: 12 September 2018

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Day	Woolworths Limited & Ors (B32/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 105	Application dismissed <a href="#">[2018] HCASL 253</a>
2.	Kraan	Brewer (M41/2018)		Application dismissed <a href="#">[2018] HCASL 254</a>
3.	Mohammed	Minister for Immigration and Border Protection & Anor (M93/2018)	Federal Court of Australia [2018] FCA 767	Application dismissed <a href="#">[2018] HCASL 255</a>
4.	AVR15	Minister for Immigration and Border Protection & Anor (S149/2018)	Federal Court of Australia [2018] FCA 737	Application dismissed <a href="#">[2018] HCASL 256</a>
5.	CRW16	Minister for Immigration and Border Protection & Anor (S161/2018)	Federal Court of Australia [2018] FCA 710	Application dismissed <a href="#">[2018] HCASL 257</a>
6.	AYD16	Minister for Immigration and Border Protection & Anor (S170/2018)	Federal Court of Australia [2018] FCA 841	Application dismissed <a href="#">[2018] HCASL 258</a>
7.	CED17	Minister for Immigration and Border Protection & Anor (S174/2018)	Federal Court of Australia [2018] FCA 877	Application dismissed <a href="#">[2018] HCASL 259</a>
8.	SINGH	Minister for Immigration and Border Protection & Anor (S178/2018)	Federal Court of Australia [2018] FCA 728	Application dismissed <a href="#">[2018] HCASL 260</a>
9.	AQR17	Minister for Immigration and Border Protection & Anor (S180/2018)	Federal Court of Australia [2018] FCA 901	Application dismissed <a href="#">[2018] HCASL 261</a>
10.	CNH16	Minister for Immigration and Border Protection & Anor (S187/2018)	Federal Court of Australia [2018] FCA 866	Application dismissed <a href="#">[2018] HCASL 262</a>
11.	Schmidt	The Queen (B27/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 59	Application dismissed <a href="#">[2018] HCASL 263</a>
12.	AYV16	Minister for Immigration and Border Protection & Anor (B28/2018)	Federal Court of Australia [2018] FCA 696	Application dismissed <a href="#">[2018] HCASL 264</a>



<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	AUV15	Minister for Immigration and Border Protection & Anor (M98/2018)	Federal Court of Australia [2018] FCA 812	Application dismissed <a href="#">[2018] HCASL 265</a>
14.	AUR15	Minister for Immigration and Border Protection & Anor (M101/2018)	Federal Court of Australia [2018] FCA 885	Application dismissed <a href="#">[2018] HCASL 266</a>
15.	Khan & Ors	Minister for Immigration and Border Protection & Anor (S151/2018)	Federal Court of Australia [2018] FCA 627	Application dismissed <a href="#">[2018] HCASL 267</a>
16.	BFG15	Minister for Immigration and Border Protection & Anor (S152/2018)	Federal Court of Australia [2018] FCA 733	Application dismissed <a href="#">[2018] HCASL 268</a>
17.	BVF16	Minister for Immigration and Border Protection & Anor (S157/2018)	Federal Court of Australia [2018] FCA 736	Application dismissed <a href="#">[2018] HCASL 269</a>
18.	SZLZS	Minister for Immigration and Border Protection (S166/2018)	Federal Court of Australia [2018] FCA 748	Application dismissed <a href="#">[2018] HCASL 270</a>
19.	BFB17	Minister for Immigration and Border Protection & Anor (S169/2018)	Federal Court of Australia [2018] FCA 724	Application dismissed <a href="#">[2018] HCASL 271</a>
20.	BKB17	Minister for Immigration and Border Protection & Anor (S183/2018)	Federal Court of Australia [2018] FCA 756	Application dismissed <a href="#">[2018] HCASL 272</a>
21.	Hart	Commissioner of Taxation (B26/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 61	Application dismissed with costs <a href="#">[2018] HCASL 273</a>
22.	Piao	The Queen (A15/2018)	Supreme Court of South Australia (Full Court) [2017] SASCF 94	Application dismissed <a href="#">[2018] HCASL 274</a>
23.	Asling	The Queen (M90/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 132	Application dismissed <a href="#">[2018] HCASL 275</a>
24.	Harris	Dewell & Anor (S171/2018)	Family Court of Australia No media neutral citation	Application dismissed with costs <a href="#">[2018] HCASL 276</a>
25.	XXVII	The Commonwealth of Australia & Ors (A20/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 59	Application dismissed with costs <a href="#">[2018] HCASL 277</a>
26.	Khan	Minister for Immigration and Border Protection & Anor (C6/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 85	Application dismissed with costs <a href="#">[2018] HCASL 278</a>
27.	AWL17	Minister for Immigration and Border Protection & Anor (S132/2018)	Federal Court of Australia [2018] FCA 570	Application dismissed with costs <a href="#">[2018] HCASL 279</a>

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<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
28.	OK	The Queen (S139/2018)	Supreme Court of New South Wales (Court of Criminal Appeal) [2016] NSWCCA 318	Application dismissed <a href="#">[2018] HCASL 280</a>
29.	BJH17 & Ors	Minister for Immigration and Border Protection & Anor (S158/2018)	Federal Court of Australia [2018] FCA 891	Application dismissed with costs <a href="#">[2018] HCASL 281</a>

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## Publication of Reasons: 13 September 2018

No.	Applicant	Respondent	Court appealed from	Result
1.	Young	Hughes Trueman Pty Ltd & Anor (S129/2018)	Federal Court of Australia [2018] FCA 531	Application dismissed with costs <a href="#">[2018] HCASL 242</a>
2.	BJN15	Minister for Immigration and Border Protection & Anor (M70/2018)	Federal Court of Australia [2018] FCA 679	Application dismissed <a href="#">[2018] HCASL 243</a>
3.	AWB17	Minister for Immigration and Border Protection & Anor (M77/2018)	Federal Court of Australia [2018] FCA 625	Application dismissed <a href="#">[2018] HCASL 244</a>
4.	CJT15	Minister Immigration and Border Protection & Anor (M84/2018)	Federal Court of Australia [2018] FCA 618	Application dismissed <a href="#">[2018] HCASL 245</a>
5.	CCD15	Minister for Immigration and Border Protection & Anor (M94/2018)	Federal Court of Australia [2018] FCA 813	Application dismissed <a href="#">[2018] HCASL 246</a>
6.	BFF17	Minister for Immigration and Border Protection & Anor (S150/2018)	Federal Court of Australia [2018] FCA 830	Application dismissed <a href="#">[2018] HCASL 247</a>
7.	CBN17	Minister for Immigration and Border Protection & Anor (S160/2018)	Federal Court of Australia [2018] FCA 788	Application dismissed <a href="#">[2018] HCASL 248</a>
8.	McGinn	Ashfield Council (S163/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 90	Application dismissed <a href="#">[2018] HCASL 249</a>
9.	DDX16	Minister for Immigration and Border Protection & Anor (S167/2018)	Federal Court of Australia [2018] FCA 838	Application dismissed <a href="#">[2018] HCASL 250</a>
10.	CPI16	Minister for Immigration and Border Protection & Anor (S168/2018)	Federal Court of Australia [2018] FCA 747	Application dismissed <a href="#">[2018] HCASL 251</a>
11.	DKK16	Minister for Immigration and Border Protection & Anor (S177/2018)	Federal Court of Australia [2018] FCA 823	Application dismissed <a href="#">[2018] HCASL 252</a>
12.	Buzadzic	Deputy Commissioner of Taxation (M78/2018)		Application dismissed with costs <a href="#">[2018] HCASL 282</a>
13.	Ashraf	Minister for Immigration and Border Protection & Anor (M63/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 50	Application dismissed with costs <a href="#">[2018] HCASL 283</a>

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
14.	AKC17	Minister for Immigration and Border Protection & Anor (S84/2018)	Federal Court of Australia [2018] FCA 255	Application dismissed with costs <a href="#">[2018] HCASL 284</a>
15.	NFS Agribusiness Pty Ltd	Nichols & Ors (S136/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 84	Application dismissed with costs <a href="#">[2018] HCASL 285</a>
16.	BLD15	Minister for Immigration and Border Protection & Anor (S175/2018)	Federal Court of Australia [2018] FCA 790	Application dismissed with costs <a href="#">[2018] HCASL 286</a>

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## 14 September 2018: Brisbane

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	King Tide company Pty Ltd	Arawak Holdings Pty Ltd (B67/2017)	Supreme Court of Queensland (Court of Appeal) [2017] QCA 251	Application dismissed with costs <a href="#">[2018] HCATrans 188</a>
2.	Attorney-General for the State of Queensland	Stephen Graham Longley, Grant Dene Sparks and Martin Francis Ford as liquidators of Linc Energy Limited (in liquidation) & Anor (B10/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 32	Application dismissed with costs <a href="#">[2018] HCATrans 185</a>
	Chief Executive, Department of Environment and Heritage Protection	Stephen Graham Longley, Grant Dene Sparks and Martin Francis Ford as Liquidators of Linc Energy Limited (in liquidation) & Anor (B11/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 32	Application dismissed with costs <a href="#">[2018] HCATrans 185</a>
	Chief Executive, Department of Environment and Heritage Protection	Stephen Graham Longley, Grant Dene Sparks and Martin Francis Ford as Liquidators of Linc Energy Limited (in liquidation) (B12/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 32	Application dismissed with costs <a href="#">[2018] HCATrans 185</a>
3.	Wollaston	The Queen (B17/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 43	Application dismissed <a href="#">[2018] HCATrans 187</a>

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## 14 September 2018: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Sandini Pty Ltd atf The Karratha Rigging Unit Trust & Ors	Ellison & Ors (P22/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 44	Application dismissed with costs <a href="#">[2018] HCATrans 190</a>
	Sandini Pty Ltd atf The Karratha Rigging Unit Trust & Ors	Ellison & Ors (P22/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 44	Application dismissed with costs <a href="#">[2018] HCATrans 190</a>
2.	Sparks	Hobson (S77/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 29	Application dismissed with costs <a href="#">[2018] HCATrans 191</a>
3.	James	Australia and New Zealand Banking Group Limited & Ors (S106/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 41	Application dismissed with costs <a href="#">[2018] HCATrans 189</a>

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