



## Ben Olbourne

Year of call: 2003

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*"A strategic thinker, who is well suited to complex international disputes." The Legal 500*

Ben provides advisory and advocacy services across a broad range of international commercial disputes in England and other jurisdictions in relation to both court and arbitration proceedings. He has acted as sole or junior counsel before courts at all levels in England and in arbitrations under all the principal sets of arbitral rules. He has particular experience working in Asia and for Asian clients, having lived and worked in the region for many years.

Ben's recent work has been principally in the general commercial, international trade and commodities, construction (infrastructure and vessels), insurance/reinsurance, energy, natural resources, and shipping/carriage of goods sectors. That work includes substantive hearings as well as applications for interim and post-judgment relief. Much of that work is of a multi or cross-jurisdictional nature involving questions of private international law and/or disputes governed by foreign laws. He has also provided expert opinions on English law for use in foreign proceedings on a range of substantive and procedural legal issues.

Ben accepts appointments as an arbitrator and has been appointed as sole arbitrator, wing and chair, in more than 40 references in matters under ICC, LCIA, LMAA, SIAC, and AIAC rules, among others, and in ad hoc proceedings. Many of these cases have involved state-owned enterprises or public sector undertakings. Governing laws have included English, Russian, Cypriot, Chinese/Hong Kong, Australian, Malaysian, Singaporean, Vietnamese and Indian. Seats have included Singapore, London, Hong Kong, Hyderabad, Delhi, Paris, Moscow, Hong Kong, and Perth. He is recommended as an arbitrator in the leading regional directories.

Ben is admitted in New South Wales (Australia) in 1999 and was an associate (Legal Assistant) to Chief Justice Gleeson of the High Court of Australia from 1999-2000. He was a Junior Counsel to the Crown (C Panel) from 2008-2013.

## Areas of expertise

Commercial

Alternative Dispute Resolution

Construction

Energy and Natural Resources

## Commercial

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Ben's practice encompasses a wide range of general and specialist commercial matters, mostly with an international focus or multi-jurisdictional features, including in the fields of construction, company sale and purchase, agency, banking, joint ventures, shareholder disputes, insurance and reinsurance, competition, energy (including renewables), transport and oil, gas and other resources.

Ben has particular experience in the international trade, commodities and transport sectors. In the transport sector, he acts for owners, charterers, cargo interests, protection and indemnity (P&I) clubs and other insurers and financial institutions in respect of all aspects of 'dry' shipping, including disputes under charterparties (time, voyage, bareboat, contracts of affreightment), bills of lading, and payment and security instruments (e.g. letters of credit, performance guarantees). He also acts for service providers (e.g. bunker providers, ship repairers, and ship managers) and buyers/sellers in sale and purchase disputes. Much of his recent work has been in respect of vessel construction, including acting for yards, buyer/owners, and others, including in respect of delay, negligent construction, repudiation, and other disputes.

In the trade/commodities sector, he acts for sellers, buyers, insurers and financial institutions in relation to time, voyage and other charterparties and contracts on FOB, CIF and other terms in relation to all types of commodities, including oil and gas, steel, ore, coal, cement, grains, and chemicals. Ben's work includes disputes underpayment and security instruments, including letters of credit and guarantees. His recent work includes disputes involving sham transactions, circular trades, and credit sleeving.

The majority of Ben's recent work has been in private arbitrations. Further details of subject matter, seat, governing law, etc., can be provided on request. He is regularly instructed in respect of substantive arbitrations, interim relief, challenges to awards, and ancillary matters, including appointment and removal of arbitrators, extensions of time, orders for the taking and/or preservation of evidence, and summary disposal.

## Alternative Dispute Resolution

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Ben accepts appointments as an arbitrator in international commercial matters in all areas of commercial law and principally in the areas of his counsel practice. He has been appointed in more than 40 references as both sole arbitrator and as a member of a panel (including as chair) under all leading sets of rules (ICC, LCIA, LMAA, SIAC, AIAC, VIAC, among others) and in ad hoc proceedings. Many of these cases have involved state-owned enterprises or public sector undertakings. Governing laws have included English, Russian, Cypriot, Chinese/Hong Kong, Australian, Malaysian, Singaporean, Vietnamese and Indian. Seats have included Singapore, London, Hong Kong, Hyderabad, Delhi, Paris, Moscow, Hong Kong, and Perth. He is recommended as an arbitrator in the leading regional directories.

## Construction

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Ben is regularly instructed, principally in international arbitrations, in all aspects of construction disputes across many jurisdictions and sectors, including energy (e.g. power plants, pipelines, distribution facilities), maritime (e.g. commercial and research vessels, offshore vessels, rigs and platforms, recreational craft), and infrastructure (e.g. roads, airports, factories). Ben has recent experience of claims involving legal issues (e.g. construction of contracts, applicability of limitation provisions), professional negligence claims, technical/engineering disputes, compliance with international standards, claims for extensions of time, delay and liquidated damages, quantum disputes, and also related financial disputes such as claims under performance bonds.

Ben is typically involved in cases involving complex technical and factual disputes and in 'document-heavy' matters. He is familiar with the principal international construction contracts and also bespoke clauses and contracts, and with different analytical methodologies such as critical path analysis. Many of Ben's cases

have involved claims on behalf of or against states and state-owned enterprises/public sector undertakings.

## Energy and Natural Resources

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Ben acts for a wide range of interests in upstream, mid-stream and downstream sectors. For further details, see “Commercial” and “Construction” above.

Recent examples include acting for a coal trader in a US\$50m dispute with a major European power generating company, acting for a European company in a US\$9bn claim against a West African state for repudiation of a natural gas construction, operation and off-take agreement, acting for an Indonesian drilling company in respect of claims arising out of an on-shore oil-drilling programme, acting for an oil pipeline design and construction team in dispute with a head contractor in Africa, and acting for a number of Chinese state-owned manufacturing and construction companies.

For further details, see “Commercial” and “Construction” above.

## Qualifications

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### Education

- LLM (1st), University of Cambridge (1999)
- LLB (1st), University of Sydney (1997)
- B.A. (Hons) (1st), Australian National University (1994)
- B.Ec., University of Sydney (1993)

## Additional Information

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A Major Scholar of the Inner Temple, Ben was called to the Bar in 2003. Previously, Ben worked as a senior legal officer (Temporary) in the Office of International Law in the Australian Attorney-General’s Department. From 2000-2002, he tutored and examined in torts and contracts and Public International Law at University College London. He was an associate to Chief Justice Gleeson of the High Court of Australia from 1999-2000.

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