HIGH COURT OF AUSTRALIA

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Details of Filing

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IN THE HIGH COURT OF AUSTRALIA
PERTH REGISTRY

BETWEEN: **OLEG VLADIMIROVICH DERIPASKA**
Appellant

and

MINISTER FOR FOREIGN AFFAIRS
Respondent

JOINT SUBMISSIONS OF THE RESPONDENT AND THE ATTORNEY-GENERAL OF THE COMMONWEALTH OF AUSTRALIA (INTERVENING)

PART I: CERTIFICATION AND INTERVENTION

1. These submissions are in a form suitable for publication on the internet.

2. The Attorney-General of the Commonwealth intervenes pursuant to s 78A of the *Judiciary Act 1903* (Cth) in support of the respondent.

PART II: ISSUES

3. The appeal raises the "sole issue" identified in the Appellant's Submissions (**AS**) at [2], whether regs 14 and 15 of the *Autonomous Sanctions Regulations 2011* (Cth) (**Regulations**) were correctly "read down" (or partially disapplied[1]) by reference to a limitation derived from s 75(v) of the Constitution. The issues sought to be raised in **AS [42]-[52]** did not properly arise below and do not properly arise in this Court.

PART III: SECTION 78B OF THE JUDICIARY ACT 1903 (CTH)

4. The appellant has given adequate notice under s 78B of the ***Judiciary Act*** *1903* (Cth): Core Appeal Book (**CAB**) at 128.

PART IV: FACTS

5. There are no disputed facts.

PART V: ARGUMENT

6. These submissions address, first, the statutory scheme and procedural background (**Section A**). They then identify a pervasive difficulty, and basic error, with the Appellant's case: namely, that it confuses the potential for a choice to be made about the expression of the constitutional limitation by reference to which a statutory provision must be partially disapplied (being a choice that does not prevent partial disapplication) with the existence of a choice between different ways to reduce a law to validity (which does) (**Section B**). Next, the submissions set out the correct principles to be applied, which are consistent with the principles applied by the Full Court (**Section C**). They then respond to the Appellant's various submissions (**Sections D to F**) before concluding briefly (**Section G**).

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[1] These submissions use the phrase "partial disapplication" with the meaning described by Edelman J in ***Clubb*** *v Edwards* (2019) 267 CLR 171 at [422]-[424] and [431]-[433]. The same technique is commonly also described as "reading down" (the Full Court treating the terms as interchangeable: Full Court (**FC**) **[85],** Core Appeal Book (**CAB**) **96**), but as "reading down" can also describe the different technique discussed by Edelman J at [416]-[417] the former phrase is adopted for clarity.

A Statutory scheme and procedural background

7. On 17 March 2022, the then Minister for Foreign Affairs decided under the *Autonomous Sanctions Act 2011* (Cth) (**ASA**) and the **Regulations** to "designate" the Appellant for targeted financial sanctions and to "declare" him for travel bans.[2]

8. The ASA provides for autonomous sanctions which may be either country-specific or thematic: s 3. Consistent with the long title of the ASA, those sanctions are to facilitate the conduct of Australia's external affairs: **FC at [4]; CAB 76.** Section 4 of the ASA defines an autonomous sanction to mean a sanction which: (a) "is intended to influence, directly or indirectly … in accordance with Australian Government policy" a foreign government entity, a member of a foreign government entity, or another person or entity outside Australia; or (b) which involves the prohibition of conduct in or connected with Australia that facilitates, directly or indirectly, the engagement of such a person or entity in action outside Australia that is contrary to Australian Government policy.

9. Section 6 of the ASA provides that the Minister may by legislative instrument specify a provision of a law of the Commonwealth as a sanction law. A "sanction law" is defined in s 4 as a provision that is specified in an instrument under s 6(1).

10. Section 10 of the ASA provides that sanctions may be made by regulations, including for the "proscription of persons or entities" and the "restriction or prevention of uses of, dealings with, and making available of, assets": s 10(1)(a)-(b).

11. Regulation 6(a)-(b) of the Regulations provides for the country-specific designation of persons or entities or the declaration of persons as mentioned in a table within that provision. Designation or declaration is achieved by legislative instrument. In June 2014, the Minister, acting under reg 6(1) of the Regulations, made the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) List 2014* (Cth) (**2014 Instrument**). In February 2022, the 2014 Instrument was renamed the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) List 2014* (Cth).[3]

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[2] *Deripaska v Minister for Foreign Affairs* [2025] FCAFC 36 (**FC**) at [1]; **CAB 75**.
[3] *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No 4) Instrument 2022* (Cth), s 4 and Sch 1.

12. Regulations 14 and 15 establish, respectively, prohibitions on dealing with designated persons or entities, and dealing with controlled assets. A "controlled asset" is defined in reg 3 as "an asset owned or controlled by a designated person or entity". An "asset" is defined in s 4 of the ASA to mean:

> (a) an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired; and
>
> (b) a legal document or instrument in any form (including electronic or digital) evidencing title to, or interest in, such an asset or such property.

13. Both regs 14 and 15 have been declared by the Minister to be "sanction laws" for the purposes of s 6 of the ASA.[4] By reason of that declaration (but not otherwise), contravention of regs 14 and 15 is an offence against s 16 of the ASA.

14. Regulation 18 provides for the Ministerial grant of a permit to a person authorising, inter alia, "the making available of an asset to a person or entity that would otherwise contravene regulation 14" or "a use of, or a dealing with, a controlled asset": reg 18(1)(e)-(f). A permit may be granted on application by a person or on the Minister's initiative: reg 18(2).

15. Item 6A was inserted into the table in reg 6 by the *Autonomous Sanctions Amendment (Russia) Regulations 2022* (Cth), which commenced on 25 February 2022: **FC [11]; CAB 79**. Item 6A relates to Russia and authorises the designation and/or declaration of "[a] person … that the Minister is satisfied is, or has been, engaging in an activity or performing a function that is of economic or strategic significance to Russia".

16. Also in February 2022, s 3A was inserted into the 2014 Instrument by item 10 of Schedule 1 to the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No 4) Instrument 2022* (Cth): **FC [22]-[23]; CAB 81**. Item 13 of that Schedule also added Schedule 2 ("Designated persons and entities and declared persons–Russia"), which included persons from Russia in the list of designated and declared persons under regs 6(a) and (b).

17. On 17 March 2022, the then Minister for Foreign Affairs made the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No 7) Instrument 2022* (Cth). That instrument amended Part 1 of Schedule 2 to the 2014 Instrument to include the Appellant's name (and one other

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[4] *Autonomous Sanctions (Sanction Law) Declaration 2012* (Cth), s 3 and Sch 1; **FC [17]; CAB 80**.

name) in the list of designated and declared persons with respect to Russia: **FC [25]-[26]; CAB 82**. That was done on the basis that the Appellant met the listing criteria in item 6A ("Russia") of reg 6, being a person that the Minister "is satisfied is, or has been, engaging in an activity or performing a function that is of economic or strategic significance to Russia".[5] The Ministerial Submission provided to the Minister concerning the Appellant noted that his listing "would demonstrate that we are committed to imposing severe sanctions on Russia in response to its invasion of Ukraine": **ABFM 19 at 20; Primary Judgment (PJ) [23]-[26]; CAB 15-17**.

18. The Full Court accepted that the listing of the Appellant "enlivened regs 14 and 15 which prohibited a person from dealing with the appellant or his controlled assets and made it an offence under s 16 of the Act for the appellant or his bodies corporate to engage in conduct that contravenes a sanction law": **FC [27]; CAB 82**. However, the Appellant has had the benefit of two successive permits issued under reg 18: **FC [29], [31]**; **CAB 82;** see, eg, **ABFM 12-16**.

B A basic problem with the Appellant's case

19. Regulations 14 and 15 have many undoubtedly valid operations, including those having nothing to do with payment of lawyers or the conduct of court proceedings. The Appellant nonetheless seeks to invalidate them in their entirety. He seeks to achieve that result by asserting the inseverability of particular operations of regs 14 and 15 that would be inconsistent with Chapter III, being operations that do not actually affect him because of the permits that have been issued pursuant to reg 18. The existence of those permits highlights the high degree of artificiality in this challenge, in which the Appellant complains about the alleged effect of regs 14 and 15 on other people who do not fall within permits concerning the use of assets to invoke s 75(v) jurisdiction. That situation may never arise. Nevertheless, in the absence of actual facts to crystallise the issues, the Appellant has concocted numerous hypothetical scenarios upon which the Court is invited to rule. To do so would fly in the face of the settled prudential approach by which the Court does not decide constitutional questions divorced from real facts.[6]

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[5] Appellant's Book of Further Materials (**ABFM**) at 19-23.
[6] See ***Mineralogy*** *Pty Ltd v Western Australia* (2021) 274 CLR 219 at [57] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ). See also ***Knight*** *v Victoria* (2017) 261 CLR 306 at [32]-[33] (Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ); *Unions NSW v New South Wales [No 3]* (2023) 277

20. In the courts below, and in this Court, there was and is no dispute that regs 14 and 15 cannot validly impede or stultify the invocation of the entrenched jurisdiction conferred by s 75(v) of the Constitution and its statutory analogues. Importantly, however, the Minister argued, and the Federal Court agreed, that acceptance of that proposition did not render regs 14 and 15 invalid in their entirety. Instead, their invalid operations were partially disapplied, pursuant to the principle that a law "expressed in general words" is given "no application within an area in which legislative power is subject to a clear constitutional limitation": **FC [80]**; **CAB 94**.

21. The Appellant's case, on analysis, does little more than cavil at whether the Full Court correctly described the scope of the constitutional limitation derived from s 75(v). The Full Court recognised that there was a question about "how best to express" that constitutional limitation: **FC [84], CAB 95**. Whilst acknowledging that there were other ways to express it, ultimately the Full Court accepted the Minister's submission that regs 14 and 15 should be partially disapplied to the extent necessary to permit actions taken for the purpose, in the sense of pursuing an objective end or goal, of invoking the entrenched jurisdiction: **FC [82]-[84]; CAB 95-96**.

22. Could the limitation derived from s 75(v) be described in a different or better way? Maybe. But that is a possibility that is inherent in the exegesis of any constitutional limitation, as the history of constitutional adjudication amply demonstrates.

23. The existence of room for debate about how to express or articulate a constitutional principle does not prevent partial disapplication by reference to that principle.[7] In contending otherwise, the Appellant's argument elides the different levels of the analysis. It takes the inevitable leeway that exists in relation to the judicial articulation of a constitutional limitation and, by sleight of hand, presents that leeway as an impediment to partial disapplication on the ground that it would require the court to make a legislative choice. However, articulation of the way in which a constitutional limitation is expressed, and thus of the area in which general language that would intersect with that limitation must be disapplied, is a judicial task. For that reason, it is erroneous to equate partial disapplication by reference to a clear

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CLR 627 at [14] (Kiefel CJ, Gageler, Gordon, Gleeson and Jagot JJ).

[7] ***Tajjour*** *v New South Wales* (2014) 254 CLR 508 at [171] (Gageler J), approved in ***Graham*** *v Minister for Immigration and Border Protection* (2017) 263 CLR 1 at [66], fn 109 (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ).

constitutional limitation with the quite different situation that may arise if a law could be reduced to validity in different ways so as to render it a law with respect to different heads of power. It is only in the latter situation that partial disapplication would involve an impermissible legislative judgment unless the law itself indicates the head of power that provides the standard, criterion or test by reference to which partial disapplication can occur.[8]

24. The Appellant does not seriously engage with the statutory mandate (discussed in the next paragraph) to read down or disapply the Regulations to the extent necessary and possible to preserve validity: see **PJ [57]-[59], CAB 25**. Instead, he seeks to invalidate regs 14 and 15 in their entirety, by imagining a litany of hypothetical circumstances and asking the Court to determine that they evidence operations of those regulations that are both invalid and inseverable. The answer to that rhetorical strategy is that the debates it invites are debates about whether particular factual scenarios are within the constitutional limitation arising from s 75(v) or not. They are not debates about whether regs 14 and 15 can be disapplied to prevent infringement of that constitutional limitation.

C The correct approach

25. Regulations 14 and 15 are subject to legislated reading down and severance rules. The regulation-making power in s 10 of the ASA is subject to s 15A of the *Acts Interpretation Act 1901* (Cth) (**AIA**) and, to the extent that s 10 is read down to accommodate a constitutional limitation, the Regulations must be construed so far as possible so as not to exceed that power so read down.[9] In addition, s 15A of the AIA is made applicable to the construction of the Regulations,[10] and an equivalent rule of construction also applies directly and "perhaps repetitively": **PJ [56], CAB 24**.[11]

26. These rules of construction can appropriately be observed by formulating a "composite hypothetical question", whether, if the impugned regulations had been enacted as primary legislation, they would have been compliant with the relevant constitutional limitation.[12] The effect of s 15A of the AIA is to supply a prima facie

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[8] See ***Pidoto*** *v Victoria* (1943) 68 CLR 87 at 111 (Latham CJ), and the many authorities that have applied it.
[9] Section 13(1)(c) of the *Legislation Act 2003* (Cth).
[10] Section 13(1)(a) of the *Legislation Act 2003* (Cth).
[11] Section 13(2) of the *Legislation Act 2003* (Cth).
[12] *Palmer v Western Australia* (2021) 272 CLR 505 at [122]-[124] (Gageler J); ***YBFZ*** *v Minister for*

presumption that "the enactment should be divisible and that any parts found constitutionally unobjectionable should be carried into effect independently of those which fail".[13] That presumption is subject to a contrary intention, in the sense of a "positive indication" that the law was intended to operate fully or not at all.[14] But, unless such a contrary intention is discerned, "the constructional imperative of a severance clause is that reading down must occur".[15]

27. As both the learned primary judge and the Full Court correctly recognised, the principles applicable to the partial disapplication of regs 14 and 15 are those articulated by five Justices in *Victoria v Commonwealth* (***IR Act Case***).[16] That case establishes that one circumstance in which s 15A of the AIA may operate to require partial disapplication is where "a law expressed in general terms" is intended "to operate in an area where Parliament's legislative power is subject to a clear limitation".[17] In such a case, there is no question of the Court selecting for itself the criterion or test that controls the partial disapplication (cf **AS [28]**). The applicable criterion is supplied by the Constitution itself. For that reason, there is no question of the Court being required to "select[] one limitation rather than another" in order to reduce a law to validity,[18] thereby going beyond the limits of judicial power.[19]

28. The Appellant submits that the *IR Act Case* supports the proposition that s 15A of the AIA is only applicable where the impugned law refers to the subject-matter of the constitutional limitation: **AS [26]-[27]**. The *IR Act Case* itself reveals the error in that submission. In that case, the relevant constitutional limitation was the *Melbourne Corporation* principle, which invalidates Commonwealth laws that would destroy or curtail the continued existence of the States or their capacity to function as governments.[20] Yet the general words of the statutory provision that was in issue in that case (s 6) made no reference to the *Melbourne Corporation*

Immigration, Citizenship and Multicultural Affairs (2024) 419 ALR 457 at 468-469 at [19] (Gageler CJ, Gordon, Gleeson and Jagot JJ).
[13] *Bank of New South Wales v Commonwealth* (1948) 76 CLR 1 at 371 (Dixon J).
[14] *Cam & Sons Pty Ltd v Chief Secretary (NSW)* (1951) 84 CLR 442 at 454 (Dixon, Williams, Webb, Fullagar and Kitto JJ); *Tajjour* (2014) 254 CLR 508 at [169] (Gageler J).
[15] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J).
[16] (1996) 187 CLR 416 at 501-503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[17] (1996) 187 CLR 416 at 502-503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[18] *IR Act Case* (1996) 187 CLR 416 at 502 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ); *Pidoto* (1943) 68 CLR 87 at 111 (Latham CJ).
[19] *Spence v Queensland* (2019) 268 CLR 355 at [87] (Kiefel CJ, Bell, Gageler and Keane JJ).
[20] *IR Act Case* (1996) 187 CLR 416 at 498 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).

limitation.[21] It was the fact that s 6 purported to bind the States that meant that the impugned Act operated in an area where Parliament's power was subject to a clear constitutional limitation, such that the general words were partially disapplied to "preclude[] invalidity for infringing the limitation on Commonwealth legislative power".[22] Contrary to **AS [27]**, that partial disapplication was permissible despite the fact that the provisions in question made no reference to the *Melbourne Corporation* limitation. The fact that the impugned law operated with respect to terms and conditions of employment was relevant not because it identified the "standard or test to be applied for the purpose of reading down" (cf **AS [26]**, quoting *Pidoto*), but because it meant that the impugned law operated in an area where Commonwealth's legislative power is subject to a clear constitutional limit.

29. Before leaving the *IR Act Case*, it may be noted that the expression of the *Melbourne Corporation* limit has varied markedly over time (and, indeed, that has been said to "var[y] with the form of the legislation under consideration").[23] Further, the application of that limit likewise involves questions of "evaluation and degree".[24] Yet neither of those matters prevent the *Melbourne Corporation* principle from supplying a "clear constitutional limitation" by reference to which partial disapplication can occur. The *IR Act Case* therefore itself demonstrates that the existence of room for argument as to the expression of a constitutional limitation does not prevent partial disapplication by reference to that limitation.[25]

30. The same approach has been applied to provisions expressed in general words that infringed other constitutional limitations, including the implied freedom of political

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[21] *IR Act Case* (1996) 187 CLR 416 at 501 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ), stating "Section 6 of the Act is not, in terms, subject to any limitation or prohibition. More particularly, it is not, in terms, made subject to those matters pertaining to State employees which were identified in [*Re AEU* (1995) 184 CLR 188 at 232-233] as falling within the scope and content of the implied limitation recognised in the *Melbourne Corporation Case*."
[22] *IR Act Case* (1996) 187 CLR 416 at 503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[23] ***Austin*** *v Commonwealth* (2003) 215 CLR 185 at [124] (Gaudron, Gummow and Hayne JJ).
[24] *Austin* (2003) 215 CLR 185 at [124] (Gaudron, Gummow and Hayne JJ); see also [228] (McHugh J), [279]-[283] (Kirby J); *Clarke v Federal Commissioner of Taxation* (2009) 240 CLR 272 at [16] (French CJ), [66], (Gummow, Heydon, Kiefel and Bell JJ), [93] (Hayne J).
[25] A point likewise made in *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J).

communication,[26] Chapter III[27] and s 92.[28]

31. Of particular note, in *Tajjour*, Gageler J explained and applied the *IR Act Case* in a case involving the implied freedom of political communication. While his Honour was in dissent in that case, his analysis has been cited with approval by a plurality of six Justices in *Graham*[29] and by single Justices on numerous other occasions.[30] That approval extends to Gageler J's statements that the principle in the *IR Act Case* that a provision expressed in general words may be read down "so as to have no application within an area in which legislative power is subject to a clear constitutional limitation"[31] is applicable "even if the constitutional limitation is incapable of precise definition"[32] and "even if an inquiry of fact is required to determine whether [it] would or would not be engaged in so far as the law would apply to particular persons in particular circumstances".[33]

32. *Tajjour* concerned s 93X of the *Crimes Act 1900* (NSW), which provided that a person who "habitually consorts with convicted offenders" and "consorts with those convicted offenders after having been given an official warning in relation to each of those convicted offenders" is guilty of an offence.[34] Gageler J held that s 93X infringed the implied freedom of political communication in "its application to association for a purpose of engaging in communication on governmental or political matter".[35] Nevertheless, notwithstanding that the text of s 93X made no reference to that purpose, Gageler J held that s 93X could be read down by reference to the "clear

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[26] See, eg, *Wotton v State of Queensland* (2012) 246 CLR 1 at [22] (French CJ, Gummow, Hayne, Crennan and Bell JJ); *Clubb* (2019) 267 CLR 171 at [146] (Gageler J), [341] (Gordon J); *Wainohu v New South Wales* (2011) 243 CLR 181 at [113] (Gummow, Hayne, Crennan and Bell JJ).
[27] See, eg, ***Burns*** *v Corbett* (2018) 265 CLR 304 at [64] (Kiefel CJ, Bell and Keane JJ) and [119]-[120] (Gageler J), where State legislation conferring State judicial power in general terms upon a State tribunal was partially disapplied to the extent to which it purported to confer jurisdiction of the kind conferred by s 75(iv). See also *Wilson v Minister for Aboriginal & Torres Strait Islander Affairs* (1996) 189 CLR 1 at 20 (Brennan CJ, Dawson, Toohey, McHugh and Gummow J); *Graham* (2017) 263 CLR 1 at [48], [66] (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ); *Knight* (2017) 261 CLR 306.
[28] See the discussion of the s 92 case law in *Clubb* (2019) 267 CLR 171 at [219]-[230] (Nettle J). See also *Tajjour* (2014) 254 CLR 508 at [172]-[173] (Gageler J), referring to some of the same cases.
[29] (2017) 263 CLR 1 at [66], fn 109 (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ).
[30] ***Farm Transparency*** *International Ltd v New South Wales* (2022) 277 CLR 537 at [191] (Gordon J); *Clubb* (2019) 267 CLR 171 at [145]-[148] (Gageler J), [340]-[341] (Gordon J); *Burns* (2018) 265 CLR 304 at [120] (Gageler J).
[31] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J), citing *IR Act Case* (1996) 187 CLR 416 at 502-503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[32] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J).
[33] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J).
[34] *Tajjour* (2014) 254 CLR 508 at [135] (Gageler J).
[35] *Tajjour* (2014) 254 CLR 508 at [138] (Gageler J).

constitutional limitation" supplied by the implied freedom.[36] Specifically, s 93X could be read "as having no application in so far as the section would apply to consorting which is or forms part of an association for a purpose of engaging in communication on governmental or political matter".[37] *Tajjour* therefore illustrates the permissibility of partial disapplication framed by reference to the purpose of action that might otherwise have involved a criminal offence.

33. The case law upon which Gageler J relied in *Tajjour* amply supports partial disapplication based upon the object or purpose of a person's conduct.[38] His Honour identified examples where provisions were read down by reference to engagement in conduct in the course of State banking,[39] and the exercise of powers only for the purpose of maintaining and enforcing military discipline.[40] His Honour also cited cases addressing a "reading down" with respect to the constitutional limitation in s 92 (as previously understood) on the basis of the object of a person's conduct.[41] For example, in *Carter v Potato Marketing Board*,[42] the Court considered that a Queensland offence of having delivered any commodity to, or received any commodity from, any person other than the Potato Marketing Board would be invalid in respect of transactions involving interstate trade. In *Nominal Defendant v Dunstan*,[43] the Court stated in obiter that an offence of using or enabling the use of an uninsured motor vehicle on a public street could be read down so as to have no application in respect of a motor vehicle exclusively engaged in interstate trade, commerce or intercourse.

34. The Federal Court correctly applied the above principles to regs 14 and 15. The broad language that regulates the use of assets imposed by regs 14 and 15 on its face extends to assets that may be used to pay for legal advice and representation, as is recognised in reg 20(3)(b)(vii) and (viii). As such, those regulations purport to operate in an area where the constitutional limitation derived from s 75(v) also applies. That is sufficient for the constitutional limitation arising from s 75(v) to

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[36] *Tajjour* (2014) 254 CLR 508 at [171], [178] (Gageler J).
[37] *Tajjour* (2014) 254 CLR 508 at [178] (Gageler J).
[38] See also *Ravbar v Commonwealth* (2025) 99 ALJR 1000 at [63] (Gageler CJ).
[39] *Bourke v State Bank of New South Wales* (1990) 170 CLR 276 at 291-292.
[40] *Re Nolan; Ex parte Young* (1991) 172 CLR 460 at 487-488 (Brennan and Toohey JJ).
[41] *Tajjour* (2014) 254 CLR 508 at [172] (Gageler J).
[42] (1951) 84 CLR 460 at 484.
[43] (1963) 109 CLR 143 at 151-152.

prevent regs 14 and 15 from having "applications that would subvert the exercise of jurisdiction under s 75(v) or s 39B(1)" (**PJ [73]; CAB 30**) or from applying with respect to actions taken for the objective purpose of invoking the jurisdiction conferred by s 75(v) or its statutory analogues (**FC [84]; CAB 95-96**). There is nothing to indicate that the Regulations were intended to operate in an all-or-nothing fashion, such that, if the Regulations cannot validly prevent the use of controlled assets to invoke the entrenched jurisdiction, they do not apply at all. Further, while the constitutional limitation confines the area of operation of regs 14 and 15, in cases where they apply the operation of regs 14 and 15 is unchanged.

35. The above reasoning answers the Appellant's challenge to regs 14 and 15 in their entirety. No question as to the application of regs 14 and 15 following such partial disapplication arises, because those regulations do not relevantly constrain the Appellant in light of the successive permits issued under reg 18.

D Response to the Appellant's "Ten Problematic Features" (AS [13]-[18])

36. None of the ten so-called "problematic features" identified by the Appellant (addressed in turn below) call into question the Full Court's analysis.

37. ***Appropriateness of characterisation as a single "objective purpose":*** The Appellant submits that a single objective purpose is untenable because a lawyer's work on behalf of a client occurs on a "temporal continuum" on which multiple purposes rise and fall away: **AS [13]**. This addresses "purpose" at an inappropriate level of generality. The Full Court's construction directs attention to action taken for the identified objective purpose, but does not require that to be the "single" purpose. Whether particular action in engaging a lawyer and receiving legal services was taken for the necessary objective purpose could be litigated and decided as a question of fact in a case where it was in dispute. It cannot usefully be assessed in the abstract.

38. ***Appropriateness of characterisation of objective purpose by reference to relief:*** Contrary to **AS [14]**, there is no absurdity in framing the objective purpose by reference to the forms of relief sought. To the contrary, any partial disapplication of regs 14 and 15 must be limited in that way, given the centrality of the relief sought to the jurisdiction that is entrenched by s 75(v).

39. ***Application of objective purpose to steps taken prior to receiving advice on s 75(v):*** **AS [15]** conflates the objective purpose articulated by the Full Court with the

subjective purpose and/or knowledge of the person seeking relief. Action may be taken for the objective purpose of invoking jurisdiction under s 75(v) irrespective of a person's subjective knowledge of that jurisdiction or intention to invoke it.

40. ***Constitutional source of "objective purpose":*** Contrary to the "fourth" point in **AS [16]**, "objective purpose" does not need any foothold in the text of regs 14 and 15. "Objective purpose" was the language used by the Full Court to express or articulate the constitutional limitation that arises from s 75(v). To the extent that regs 14 and 15 purport to operate in the area in which that constitutional limitation applies, they are of course subject to it. That is so whether or not they refer to that limitation. The regulations can be partially disapplied by reference to that limitation because the Constitution itself supplies the applicable standard, criterion or test. In that respect, partial disapplication by reference to constitutional limitations must be distinguished from reading down or partial disapplication in cases where legislation is invalid on head of power grounds.[44] In the latter situation, commonly the legislation could be read down or partially disapplied in different ways to bring it within different heads of power, and the existence of that choice (the product of which may result in the law having valid applications to different classes of people or to different subject-matter, depending on the choice that is made) makes reading down or partial disapplication impossible unless the appropriate choice can be identified "based upon some particular standard, criterion or test … discovered from the terms of the law itself".[45]

41. ***Relevance of the fact that certain criminal offences operate by reference to "subjective intention":*** Contrary to the "fifth" point in **AS [16]**, there is no incongruity between the objective purpose referred to by the Full Court and the subjective elements of the "offences" in regs 14 and 15. In fact, regs 14 and 15 do not create criminal offences, and have no subjective elements. Contravention of those regulations is an offence only by reason of the Minister's declaration under s 6 of the ASA that those regulations are "sanction laws" and, even then, the "subjective elements" are elements of the offence against s 16 of the ASA. In any case, the

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[44] The difference between these situations is reflected in the two examples given in the *IR Act Case* (1996) 187 CLR 416 at 502-503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[45] *Pidoto* (1943) 68 CLR 87 at 111 (Latham CJ). In *Pidoto*, references to "war or defence purposes" in unchallenged provisions of the impugned regulations provided the indication necessary to preserve the impugned provisions as laws supported by s 51(vi). See also *Strickland v Rocla Concrete Pipes* (1971) 124 CLR 468 at 519-520 (Walsh J).

asserted incongruity does not exist because the constitutional limitation derived from s 75(v) and the criminal offence created by s 16 of the ASA are simply different legal norms. To the extent that the sphere of operation of regs 14 and 15 is confined by partial disapplication to avoid infringing the constitutional limitation, the actions that may contravene s 16 are correspondingly reduced. But that is not accurately described as involving a defence,[46] let alone as a "judicially-invented defence" (**AS [16]**). The elements of the offence, including the fault elements, are unchanged, notwithstanding that those elements can be engaged only by conduct that falls within the constitutionally limited sphere of operation of regs 14 and 15.

10 42. ***Proof of objective purpose:*** Contrary to the "sixth" point in **AS [16]**, partial disapplication may occur "even if an inquiry of fact is required to determine whether the constitutional limitation would or would not be engaged in so far as the law would apply to particular persons in particular circumstances".[47] Whether action is taken for the objective purpose of invoking s 75(v) is a question of constitutional fact, to be ascertained like any other such fact.[48]

43. ***No inconsistency between partial disapplication and the statutory scheme:*** Contrary to the "seventh" point in **AS [17]**, which asserts that partial disapplication "cuts against the grain" of the "designedly draconian" statutory scheme, the extrinsic materials recognise that the legislative scheme would not remove an individual's
20 constitutionally assured right to judicial review.[49]

44. ***No inconsistency with the requirement that a designated person obtain a permit to pay legal expenses and professional fees:*** Contrary to the "eighth" point in **AS [17]**, the facility to obtain a permit (even with respect to professional fees and legal expenses) has broader operation than the constitutional limitation, and so does not indicate a contrary intention that would prevent partial disapplication.

45. ***No inconsistency between partial disapplication and s 12 ASA:*** Contrary to the

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[46] See, eg, *Clubb* (2019) 267 CLR 171 at [150]-[152] (Gageler J).
[47] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J).
[48] See, eg, *Clubb* (2019) 267 CLR 171 at [150]-[152] (Gageler J), [347] (Gordon J). See also *Maloney v The Queen* (2013) 252 CLR 168 at [351] (Gageler J); *Unions NSW v New South Wales (No 2)* (2019) 264 CLR 595 at [94] (Gageler J); *Vanderstock v Victoria* (2023) 279 CLR 333 at [47] (Gordon J).
[49] Statement of Compatibility with Human Rights for the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) Amendment (No 7) Instrument* 2022, which refers three times to the availability of judicial review: **ABFM 32 at 34, 36 and 38.**

"ninth" point in **AS [17]**, whether s 12 of the ASA superordinates regs 14 and 15 over s 39B(1) of the *Judiciary Act* is an academic question. If s 39B(1) were to attract a constitutional limitation of the kind given to s 476A of the *Migration Act 1958* (Cth) in *Graham*,[50] then s 12 would not be construed as having that superordinating effect. Alternatively, if s 39B does not have such a degree of constitutional protection, then there would be no difficulty with s 12 having such an effect.

46. ***Relevance of Automotive Invest:*** Contrary to the "tenth" point in **AS [18]**, nothing turns on the Full Court's reference to *Automotive Invest*:[51] **FC [86]; CAB 96**. It is clear that the Full Court was applying an objective notion of purpose. In any case, the reference to objective purpose was part of the Full Court's expression or articulation of the constitutional limitation derived from s 75(v). The Appellant again makes the error of treating the existence of judicial choice as to how a single constitutional limitation should be expressed as if it were a legislative choice between "one or more of a number of several possible limitations".[52]

E Response to the Appellant's Other Submissions (AS [19]-[41])

47. ***The Full Court's construction is consistent with s 75(v):*** At **AS [20]-[25]**, the Appellant contends that, even if disapplied in the way accepted by the Full Court, regs 14 and 15 continue to prohibit conduct that is a necessary precursor to a client knowing "their rights and obligations", and having "the capacity to invoke judicial power". For the reasons outlined at [37] and [39] above, these submissions frame objective purpose at an inappropriate level of generality. It is artificial to contend that a designated person who approaches a lawyer to determine whether it is possible to challenge their designation or declaration does not, at that point, fall within the scope of the limitation identified by the Full Court at **FC [84]**; **CAB 95-96**.

48. ***The fact that the partial disapplication derives from a constitutional limitation does not render it impermissible:*** The Appellant contends that the Full Court's reading down is "impermissible" because "it cannot be derived from the text or subject-matter of the ASA or ASR": **AS [26]**. That submission fails to engage with the Full

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[50] *Graham* (2017) 263 CLR 1 at [48] (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ).
[51] *Automotive Invest Pty Ltd v Federal Commissioner of Taxation* (2024) 98 ALJR 1245 at [110] (Edelman, Steward and Gleeson JJ).
[52] *Pidoto* (1943) 68 CLR 87 at 111 (Latham CJ).

Court's recognition at **FC [81]; CAB 94-95** that:

> A provision expressed in general words that operates, on its terms, in an area which is subject to a clear constitutional limitation can be read down as subject to that limitation: *Industrial Relations Act* case at 502–503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ); *Tajjour* at [171] (Gageler J).

That reasoning is correct, for the reasons addressed in [27]-[33] above.

49. ***The Full Court's reference to "judgment and degree" discloses no error:*** The third purported error identified by the Appellant (**AS [32]-[35])** relates to the Full Court's statement that "[t]he precise reading down, so as not to be inconsistent with the constitutional limitation, is a question of judgment and degree": **FC [84]; CAB 95**. This submission is premised on a mischaracterisation of the Full Court's ultimate holding at **FC [84]**; **CAB 95-96**. The Full Court's reference to "judgment and degree" was directed towards the point that reading down can occur even if there is room for debate as to the expression of the relevant constitutional limitation. That reasoning was correct, for the reasons addressed in [31] above.

50. ***The Full Court did not infringe other strictures on partial disapplication:*** Nor is the Full Court's approach contrary to other "strictures on reading down": ***cf*** **AS [36]-[41]**. The Appellant's five arguments are dealt with in turn.

51. *First*, *YBFZ* does not assist the Appellant: ***cf*** **AS [37]**. That case involved no issue or argument concerning partial disapplication. Indeed, it expressly proceeded on the "(correct) assumption that [the impugned provisions] are valid or invalid in all their applications".[53] The discussion of "reading down" in *YBFZ* concerned whether the regulation that governed the imposition of the relevant visa conditions should be construed so that, in every case, it directed attention to whether there was a "risk of harm arising from future offending".[54] That question – which involved "reading down" in its strict sense – is far removed from the present question of partial disapplication, where a constitutional limit supplies the necessary criterion.[55] The plurality's statement that s 15A of the AIA does not permit "the confining of the field of operation of a statutory provision in circumstances where that more confined field

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[53] *YBFZ* (2024) 419 ALR 457 at [19] (Gageler CJ, Gordon, Gleeson and Jagot JJ).
[54] *YBFZ* (2024) 419 ALR 457 at [66] (Gageler CJ, Gordon, Gleeson and Jagot JJ).
[55] *YBFZ* (2024) 419 ALR 457 at [67]-[74] (Gageler CJ, Gordon, Gleeson and Jagot JJ). Only at [75] did the plurality's reasoning turn upon s 15A of the AIA.

is incapable of specification with any certainty"[56] plainly cannot properly be read as overruling the many cases discussed above (none of which were challenged) in which this Court has partially disapplied general statutory language to the extent necessary to prevent infringement of constitutional limitations. For that reason, nothing in *YBFZ* detracts from the primary judge's reasoning that, where a statute is read down by reference to a constitutional limitation, "some indeterminacy in the articulation of the relevant constitutional principle is not a barrier to reading down", that being reasoning the Full Court correctly observed was "unimpeachable": **PJ [72]; CAB 29** and **FC [49], [65]; CAB 86, 90**.

10 52. *Secondly,* the partial disapplication involves no alteration to the policy or purpose of the scheme: ***cf* AS [38]**. The Appellant's argument here rests on a strained definition of "proscription" that was advanced below in support of a now-abandoned argument that the Minister had misunderstood her powers: **FC [107]-[110]; CAB 101-102**. That argument was shortly disposed of by the Full Court at **FC [111]; CAB 102**. The legislative scheme does not evince an intention that it is to be "moderated, if at all, only by ministerial permit" (ie irrespective of constitutional limits): **AS [38]**. Nor is the policy to be "designedly draconian" in a way that would exclude judicial review. To the contrary, as already noted ([43] above), the extrinsic material repeatedly contemplates that judicial review would be available.

20 53. *Thirdly*, the Appellant's argument that there was a "contrary intention" to exclude s 15A of the AIA is untenable: ***cf* AS [39]**. There is simply nothing to provide a "positive indication"[57] that Parliament intended that regs 14 and 15 be wholly invalid (even in relation to dealings with assets in contexts entirely unrelated to judicial proceedings) unless those regulations could prohibit the provision or use of assets to seek s 75(v) review. The asserted contrary intention appears to be based in large part on the assertion that "regs 14 and 15 are criminal provisions": **AS [39]**. As already noted, the relevant criminal provision is actually s 16 of the ASA, which applies to regs 14 and 15 only by reason of the Minister's subsequent specification of those regulations as "sanction laws" under s 6 of the ASA. In any case, this Court has

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[56] *YBFZ* (2024) 419 ALR 457 at [75] (Gageler CJ, Gordon, Gleeson and Jagot JJ).
[57] *R v* ***Poole****; Ex parte Henry [No 2]* (1939) 61 CLR 634 at 652 (Dixon J); *Clubb* (2019) 267 CLR 171 at [148] (Gageler J).

accepted that partial disapplication of criminal offence provisions is possible.[58] Finally, the fact that enforcement of regs 14 and 15 would require an inquiry into the objective purpose of conduct does not reveal the contrary intention necessary to exclude s 15A of the AIA, because partial disapplication is possible "even if an inquiry of fact is required to determine whether the constitutional limitation would or would not be engaged in so far as the law would apply to particular persons in particular circumstances".[59] That point is illustrated by the inquiry that is necessary whenever s 189 of the *Migration Act 1958* (Cth) is partially disapplied to prevent it from exceeding the constitutional limitations identified in both *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs*[60] and *Love v Commonwealth*.[61]

54. *Fourthly*, contrary to **AS [40]**, the partial disapplication of regs 14 and 15 is not inconsistent with the principle that s 15A only functions where "an impugned provision is capable of operating in a distributive manner". It is simply not correct that "conduct that falls within the Partial Disapplication cannot be separated from conduct that falls outside it". In fact, the vast majority of conduct that is captured by regs 14 and 15 will involve restrictions on assets that are unrelated to judicial review proceedings, and that on any view would be unaffected by any partial disapplication of those regulations. The Appellant's assertion that partial disapplication is impossible because the same conduct may be within or outside regs 14 and 15 depending on the purpose for which it is taken is inconsistent with the authorities discussed in [33] above.

55. The way in which the Appellant's argument to the contrary is said to be supported by *Bank of New South Wales v Commonwealth*[62] is obscure: ***cf*** **AS [40]**. His reliance on *Re F; Ex parte F* is also inapposite, because that case turned upon the fact that the proposed reading down would have changed the character of the custody orders that

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[58] See, eg, *Farm Transparency* (2022) 277 CLR 537 at [97] (Gageler J, Gleeson J agreeing at [273]), [123], [191] (Gordon J), [217] (Edelman J, Steward J agreeing at [269]); *Clubb* (2019) 267 CLR 171 at [26]-[29] (Kiefel CJ, Bell and Keane JJ), [149] (Gageler J), [341], [347] (Gordon J), [438]-[440] (Edelman J); *Cam and Sons Pty Ltd v Chief Secretary (NSW)* (1951) 84 CLR 442 at 454 (Dixon, Williams, Webb, Fullagar and Kitto JJ); *Carter v Potato Marketing Board* (1951) 84 CLR 460 at 484 (Dixon, McTiernan, Williams, Webb, Fullagar and Kitto JJ); *Grannall v Marrickville Margarine Pty Ltd* (1955) 93 CLR 55 at 75-76 (Dixon CJ, McTiernan, Webb and Kitto JJ).
[59] *Tajjour* (2014) 254 CLR 508 at [171] (Gageler J), which was approved in the cases cited in fn 29 and 30.
[60] (2023) 280 CLR 137 at [55] (the Court).
[61] (2020) 270 CLR 152 at [81] (Bell J).
[62] (1948) 76 CLR 1 at 252 (Rich and Williams JJ).

could be made under the impugned provision (producing orders that were enforceable only against the parties to a marriage, instead of orders enforceable against citizens generally[63]). That would have infringed the settled principle that s 15A of the AIA cannot apply unless "the operation of the remaining parts of the law remains unchanged".[64] By contrast, if regs 14 and 15 are partially disapplied in the manner proposed, "the operation of [those regulations] is correspondingly limited but their operation is otherwise unaffected".[65] Contrary to **AS [40]**, in the cases where regs 14 and 15 validly apply, permits will be needed, in accordance with the terms of the Regulations, before a person can do anything that would otherwise be prohibited by those regulations. The fact that permits are not needed in cases where regs 14 and 15 do not apply does not demonstrate a "fundamental alteration" of the scheme in the cases in which those regulations do apply.

56. *Fifthly*, the Appellant submits that the Full Court's partial disapplication is "not an 'expression of the constitutional limitation' that is 'anchor[ed] … in factual reality'", since, "[a]s a matter of ordinary experience, the purposes of any particular conduct are manifold": **AS [41]**. That submission should be rejected for the reasons addressed in [33] above.

F Response to Appellant's Other Issues (AS [42]-[52])

57. The Appellant argues, on two bases, that regs 14 and 15 would be invalid even if the Full Court's partial disapplication is accepted. Neither issue properly arises.

58. ***The Appellant's argument with respect to legal representation and Chapter III:*** In the proceedings below, there was no dispute between the parties that regs 14 and 15 could not apply according to their terms because they would impinge on the entrenched jurisdiction under s 75(v) of the Constitution: **FC [39]; CAB [84]**. The issue was whether regs 14 and 15 could be partially disapplied by reference to that limitation because, if they could, then regs 14 and 15 were not wholly invalid. The Full Court held that they could. This was sufficient to dispose of the matter, there being no issue as to the precise boundaries of that partial disapplication (by reason

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[63] (1986) 161 CLR 376 at 385 (Gibbs CJ).
[64] Eg *Pidoto* (1943) 68 CLR 87 at 108 (Latham CJ); *IR Act Case* (1996) 187 CLR 416 at 502 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).
[65] *IR Act Case* (1996) 187 CLR 416 at 503 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).

of the fact that the Appellant's permits meant that regs 14 and 15 did not prevent his pursuit of this proceeding, irrespective of those precise boundaries).

59. The Appellant now attempts to expand these proceedings by posing hypothetical examples of litigation which he may wish to bring, and then contending that regs 14 and 15 are invalid on the basis that they would prevent him from being legally represented in such proceedings: **AS [43]**. The short answer is that the Appellant has brought none of these actions. He has not, in constituting this proceeding, obtained (or even alleged) the factual foundation necessary to support the assertions now made by way of submission. In particular, no issues arise in the present proceeding about whether, independently of s 75(v), Chapter III precludes Parliament from legislating so as to prevent a person from being represented by a lawyer in a Chapter III court. This case is not a suitable vehicle for the determination of that question, the Appellant plainly not having been so prevented.

60. ***The Appellant's argument with respect to s 75(iii) likewise does not arise:*** It is likewise unnecessary for this Court to decide whether, or to what extent, Parliament may legislate so as to make the invocation of s 75(iii) jurisdiction dependent upon the exercise of Ministerial discretion: **AS [47]**.

61. The extent to which the jurisdiction conferred by s 75(iii) may be entrenched, in the sense that the Parliament cannot validly inhibit its invocation, is "far from settled": **FC [95]; CAB 98**. It is clearly entrenched to the extent that it overlaps with s 75(v) but, beyond that, there are large questions. In this case, the Appellant's proceedings are within s 75(v),[66] and his arguments based upon s 75(iii) were, as the Full Court observed, "hypotheticals": **FC [97]; CAB 98**. In those circumstances, there was no error in the Full Court's conclusion that it was "unnecessary and inappropriate, in the circumstances of this case, for this court to decide … constitutional issues about the entrenchment of s 75(iii)": **FC [96]; CAB 98**. In any case, contrary to the implication in **AS [51]**, no argument was put that, even if it <u>is</u> possible to read down or disapply regs 14 and 15 to avoid infringing the constitutional limitation derived from s 75(v), it is <u>not</u> possible to do so by reference to s 75(iii).[67] On the arguments that have been

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[66] The Appellant having sought both injunctive and declaratory relief: see AS [51]; CAB 125.
[67] That is unsurprising, as partial disapplication by reference to s 75(iii) would be even more straightforward than it is with respect to s 75(v), given that s 75(iii) jurisdiction turns simply on whether proposed litigation is brought by or against the Commonwealth (or a person being sued on its behalf).

advanced, the validity of regs 14 and 15 therefore cannot stand or fall on any issue concerning s 75(iii). That being so, in accordance with the settled prudential approach, this Court should not decide any issue of any entrenchment of s 75(iii).[68]

62. If the Court is minded to consider the extent to which s 75(iii) jurisdiction is entrenched in the present case, there are cogent reasons why s 75(iii) should not be treated in the same manner as 75(v). Unlike s 75(v), which serves a specific purpose in the constitutional structure by entrenching jurisdiction by reference to particular remedies and a notion of jurisdictional error to which those particular remedies respond, s 75(iii) does not require the existence of particular causes of action or remedies. Rather, it is predicated on liability existing under the general law.[69] That leaves scope for legislation to exclude actions of the Executive Government from common law liability. Importantly, however, "[a]ny exclusion of actions of the Executive Government from common law liability was to result not from the existence of a generalised immunity from jurisdiction but through the operation of such substantive law as might be enacted by the Parliament under s 51(xxxix) or under another applicable head of Commonwealth legislative power".[70] That being so, the constitutional considerations which support the entrenchment of s 75(v)[71] do not apply in relation to s 75(iii), except in cases where those provisions overlap.

G Conclusion

63. Regulations 14 and 15 are valid. The appeal should be dismissed with costs.

PART VI: ESTIMATE OF TIME

64. Approximately 2 hours will be required to present oral argument.

Dated: 9 October 2025

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[68] *Knight* (2017) 261 CLR 306 at [32] (the Court); *Mineralogy* (2021) 274 CLR 219 at [57]-[60] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ).
[69] *Commonwealth v Mewett* (1997) 191 CLR 471.
[70] *Plaintiff M68/2015 v Minister for Immigration and Border Protection* (2016) 257 CLR 42 at [125].
[71] See, eg, *Bodruddaza v Minister for Immigration and Multicultural Affairs* (2007) 228 CLR 651 at [45]-[46] (Gleeson CJ, Gummow, Kirby, Hayne, Heydon and Crennan JJ); *Graham* (2017) 263 CLR 1 at [38]-[44], [48] (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ).

ANNEXURE TO RESPONDENT AND INTERVENER'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date(s)
Principal legislation					
1.	*Commonwealth Constitution*	Compilation No 6 (29 July 1997 to present)	ss 51(vi), 51(xxxix); Ch III (generally); ss 75(iii), 75(iv), 75(v), 92	Currently in force	N/A
2.	*Acts Interpretation Act 1901* (Cth)	Compilation No 38 (11 December 2024 to present)	s 15A	Currently in force, governs interpretation of legislation	N/A
3.	*Autonomous Sanctions Act 2011* (Cth)	Compilation No 3 (8 December 2021 to 8 April 2024)	ss 3, 4, 6, 10, 12, 16	In force on date of decision to 'designate' and 'declare' the appellant	17 March 2022
4.	*Autonomous Sanctions Regulations 2011* (Cth)	Compilation No 14 (5 March 2022 to 27 March 2022)	regs 3, 6, 14, 15, 18, 20	In force on date of decision to 'designate' and 'declare' the appellant	17 March 2022
5.	*Autonomous Sanctions Amendment (Russia) Regulations 2022* (Cth)	F2022L00180 (25 February 2022 to 26 September 2022)	Sch 1, item 1	Amending regulations	25 February 2022 (date amendments commenced)
Other legislation					
6.	*Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and*	F2022L00334 (17 March 2022 to 26 September 2022)	s 4; Sch 1	Amending instrument to 'designate' and 'declare' appellant	18 March 2022 (date amendments commenced)

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date(s)
	Ukraine) Amendment (No 7) Instrument 2022 (Cth)				
7.	*Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Russia and Ukraine) List 2014* (Cth)	Compilation No 16 (18 March 2022 to 24 March 2022)	s 3A; Sch 1	In force immediately following decision to 'designate' and 'declare' the appellant	18 March 2022
8.	*Autonomous Sanctions (Sanction Law) Declaration 2012* (Cth)	Compilation No 1 (25 August 2012 to present)	s 3; Sch 1	In force at all relevant times	N/A
9.	*Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment (No 4) Instrument 2022* (Cth)	F2022L00192 (25 February 2022 to 26 September 2022)	s 4; Sch 1	Amending instrument	26 February 2022 (date amendments commenced)
10.	*Crimes Act 1900* (NSW)	Version from 31 January 2014 to 19 May 2014	s 93X	Version considered in *Tajjour*	N/A
11.	*Industrial Relations Act 1988* (Cth)	Version from 30 July 1995 to 14 January 1996 (as amended by the *Qantas Sale Act 1992* (Cth))	s 6	Version considered in the *IR Act Case*	N/A
12.	*Judiciary Act 1903* (Cth)	Compilation No 51 (11 December 2024 to present)	s 39B	Illustrative	N/A

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date(s)
13.	*Migration Act 1958* (Cth)	Compilation No 166 (6 September 2025 to present)	s 189	Illustrative	N/A
14.	*Migration Act 1958* (Cth)	Compilation No 129 (24 March 2016 to 15 June 2016)	s 476A	Version considered in *Graham*	N/A