



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: P34/2025  
File Title: Deripaska v. Minister for Foreign Affairs  
Registry: Perth  
Document filed: Outline of oral argument A-G Vic Intervening  
Filing party: Interveners  
Date filed: 12 Nov 2025

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IN THE HIGH COURT OF AUSTRALIA  
PERTH REGISTRY

BETWEEN:

**OLEG VLADIMIROVICH DERIPASKA**  
Appellant

and

**MINISTER FOR FOREIGN AFFAIRS**  
Respondent

**OUTLINE OF ORAL SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE  
STATE OF VICTORIA (INTERVENING)**

**Part I: Internet Publication**

1. This outline is in a form suitable for publication on the internet.

**Part II: Propositions to be advanced in oral argument**

**Principles relating to the application of s 15A of the *Acts Interpretation Act***

2. Regulations 14 and 15 of the *Autonomous Sanctions Regulations 2011* (Cth) cannot validly impinge on the entrenched jurisdiction conferred by s 75(v) of the Constitution. In so far as they purport to do so, s 15A of the *Acts Interpretation Act 1901* (Cth) applies: **CS [25]**. Unless the contrary intention appears, the constructional imperative of a severance clause is that where reading down can occur, it must: *Tajjour v New South Wales* (2014) 254 CLR 508 at [171]-[173] (**JBA Vol 10, Tab 57**); **VS [12]**; **CS [26]-[33]**.
3. Section 15A operates as a rule of construction, it does not “authorize the Court, by adopting a standard criterion or test merely selected by itself, to redraft a statute or regulation so as to bring it within power and so preserve its validity”: *Pidoto v Victoria* (1943) 68 CLR 87 at 111 (**JBA Vol 8, Tab 50**); **VS [11]**.
4. However, the limitation by reference to which a provision is read down need not be referred to in the text or subject matter of the provision itself (**cf AS [26]-[28]**, **Reply [1]-[3]**). Where a provision expressed in general words has some application in an area that is subject to a clear constitutional limit on legislative power, it is the

Constitution that provides the limitation: *Tajjour* (2014) 254 CLR 508 at [171] (JBA Vol 10, Tab 57); VS [12]-[13]; CS [27]; cf AS [31], Reply [4].

5. Section 15A may be applied in this way even where the relevant constitutional limit is “incapable of precise definition” or a factual inquiry is necessary to determine whether the limitation applies in a particular case: *Tajjour* (2014) 254 CLR 508 at [171] (JBA Vol 10, Tab 57); VS [13].
6. That there can be different ways of *expressing* the constitutional limitation in its application to the relevant law does not result in the court exercising a legislative choice. It reflects that judgment and judicial technique are inherent in an exercise in statutory construction: VS [12]; CS [21]-[23], [29].
7. Even if the Full Court could have expressed the limitation derived from s 75(v) using one or more of the alternative formulations postulated at AS [33], this would involve a constructional, rather than legislative, choice.
8. Victoria adopts the Joint Submissions of the Respondent and the Attorney-General for the Commonwealth at CS [34]-[56] as to why the Full Court did not err in its application of s 15A to the present case: VS [14].

**It is inappropriate and unnecessary for the Court to decide the Appellant’s argument with respect to legal representation and Ch III**

9. The question of whether Ch III imposes some limit on the Commonwealth Parliament’s ability to legislate in a manner that limits a person’s access to legal representation in a Ch III court does not properly arise in this case: VS [19]. Further, this case is an inappropriate vehicle for this Court to consider that question because there are no facts presently before this Court to suggest that any person’s access to a court has been limited by regs 14 and 15: VS [21]-[23].

**Dated:** 12 November 2025



**SARAH KEATING SC**



**MADELEINE SALINGER**