



## HIGH COURT OF AUSTRALIA

13 May 2026

OLEG VLADIMIROVICH DERIPASKA v MINISTER FOR FOREIGN AFFAIRS  
[2026] HCA 14

Today, the High Court dismissed an appeal from a judgment of the Full Court of the Federal Court of Australia. The appeal concerned whether regs 14 and 15 of the *Autonomous Sanctions Regulations 2011* (Cth) ("the Regulations") could be read down to have a partial but constitutionally valid operation.

The *Autonomous Sanctions Act 2011* (Cth) ("the Act") authorises the making of regulations which impose sanctions, including in respect of the "proscription of persons or entities (for specified purposes or more generally)" and "restriction or prevention of uses of, dealings with, and making available of, assets". Under reg 6(a) of the Regulations, the Minister may by legislative instrument designate a person or entity mentioned in an item of the table within reg 6 as a "designated person or entity" for the country mentioned in the item. Item 6A of the table mentions "Russia" and mentions for that country, relevantly, "[a] person or entity 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". Designation of a person or entity under reg 6(a) triggers the operation of regs 14 and 15, the contravention of which constitutes an offence. A person contravenes reg 14 if the person "directly or indirectly makes an asset available to, or for the benefit of, a designated person or entity". A person contravenes reg 15 if the person "holds" a "controlled asset" (being "an asset owned or controlled by a designated person or entity") and "uses or deals with the asset" or "allows the asset to be used or dealt with" or "facilitates the use of the asset or dealing with the asset". Regulation 18 empowers the Minister to grant a permit authorising, amongst other things, conduct that would otherwise contravene reg 14 or 15.

The appellant is a Russian national who the Minister for Foreign Affairs designated for targeted financial sanctions under reg 6(a) by legislative instrument on 17 March 2022, on the basis that the Minister was satisfied that the appellant was, or had been, engaging in an activity or performing a function that was of economic or strategic significance to Russia. On 7 November 2022, the Minister granted a permit under reg 18, which authorised both the making available of an asset to, or for the benefit of, a designated person or entity and the use of, or dealing with, a controlled asset where doing so was associated with the provision of legal and ancillary services to a designated person. On 30 October 2024, the Minister revoked the permit and issued a new permit with similar scope.

By a proceeding commenced in the Federal Court of Australia under s 39B of the *Judiciary Act 1903* (Cth), the appellant challenged the making of the legislative instrument. The primary judge accepted the Minister's concession that the practical operation of regs 14 and 15 to deny a designated person access to legal representation absent a permit under reg 18 would impermissibly impair the ability of the designated person to invoke the jurisdiction of the High Court under s 75(v) of the *Constitution* or the Federal Court under s 39B of the *Judiciary Act* to enforce the limits of decision-making power conferred by or under the Act. The primary judge nevertheless held that the Regulations having that practical operation can and must be "read and construed" in accordance with s 15A of the *Acts Interpretation Act 1901* (Cth) and s 13 of the *Legislation Act 2003* (Cth) to exclude the constitutionally impermissible operation which those provisions would otherwise have. The primary judge's decision was upheld on appeal to the Full Court.

The High Court unanimously dismissed the appeal. Regulations 14 and 15 can be read and construed to exclude the constitutionally impermissible operation.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*