HIGH COURT OF AUSTRALIA

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN: **JZQQ**
Appellant
and
MINISTER FOR IMMIGRATION, CITIZENSHIP AND MULTICULTURAL AFFAIRS
First Respondent
and
ADMINISTRATIVE APPEALS TRIBUNAL
Second Respondent

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE NORTHERN TERRITORY OF AUSTRALIA (INTERVENING)

PART I – CERTIFICATION

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

PARTS II AND III – INTERVENTION

2. The Attorney-General for the Northern **Territory** of Australia intervenes in support of the First Respondent and the Commonwealth Attorney-General (**Commonwealth Respondents**) pursuant to s 78A of the *Judiciary Act 1903* (Cth).

PART IV – ARGUMENT

A. SUMMARY

3. The Territory adopts the submissions of the Commonwealth Respondents and makes only one supplementary submission, namely that Ground 2 is foreclosed by ***Duncan*** *v Commission Against Corruption* (2015) 256 CLR 83.

4. The Court held in *Duncan* that the retrospective alteration of substantive rights by a Commonwealth law, so as to retrospectively authorise an otherwise invalid exercise of statutory executive power, does not involve an impermissible direction contrary to Ch III of the Constitution, even if the validity of that executive action is in issue in

pending litigation.[1] The facts and statutory context in *Duncan* are materially indistinguishable from the present appeal.

5. *Duncan* concerned State legislation, but the Court disposed of the direction argument by holding that an identical Commonwealth law would not have offended Ch III.[2] The Appellant does not seek leave to re-open *Duncan*. That is fatal to the direction component of Ground 2.

6. The argument based on s 75(v) of the Constitution and must be dismissed for the same reasons given in *Duncan* for dismissing the argument in that case relying on ***Kirk*** *v Industrial Relations Commission of New South Wales* (2010) 239 CLR 531.

B. DUNCAN IS A COMPLETE ANSWER TO THE DIRECTION ARGUMENT

7. The Appellant contends that the ***Migration Amendment*** *(Aggregate Sentences)* ***Act*** *2023* (Cth) is invalid because it purported to direct the Federal Court as to the conclusion it should reach in this case: **AS [27]-[56]**. An identical argument, made in relevantly identical circumstances, was dismissed in *Duncan*.

8. In *Duncan*:

   (a) The Independent **Commission** Against Corruption had published a report making findings that the applicant had engaged in "corrupt conduct".[3]

   (b) The applicant commenced proceedings for judicial review of the report, including on the ground that those findings were infected by jurisdictional error by reason of the constructional issue identified in *Independent Commission Against Corruption v* ***Cunneen*** (2015) 256 CLR 1.[4] That decision held that, as

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1 *Duncan* (2015) 256 CLR 83, [25]-[26] (French CJ, Kiefel, Bell, Keane JJ), [44] (Nettle and Gordon JJ).

2 *Duncan* (2015) 256 CLR 83, [16]-[18], [31] (French CJ, Kiefel, Bell and Keane JJ) adopting the technique referred to in *Garlett v Western Australia* (2022) 96 ALJR 30, [121] (Gageler J); *Minister for Home Affairs v Benbrika* (2021) 272 CLR 68, [82] (Gageler J) and [158] (Gordon J); *Vella v Commissioner of Police* (2019) 269 CLR 219, [147] (Gageler J); *Condon v Pompano Pty Ltd* (2013) 252 CLR 38, [126] (Hayne, Crennan, Kiefel and Bell JJ); *Wainohu v New South Wales* (2011) 243 CLR 181, [43] (French CJ and Kiefel J); *South Australia v Totani* (2010) 242 CLR 1, [339] (Heydon J); *Forge v Australian Securities and Investments Commission* (2006) 228 CLR 45, [194] (Kirby J); ***Baker*** *v The Queen* (2004) 223 CLR 513, [22]-[24] and [51] (McHugh, Gummow, Hayne and Heydon JJ); *Silbert v Director of Public Prosecutions (WA)* (2004) 217 CLR 181, [10] (Gleeson CJ, McHugh, Gummow, Hayne, Callinan and Hedyon JJ); *Fardon v Queensland* (2004) 223 CLR 575, [87] (Gummow J, Hayne J agreeing), [144(5)] (Kirby J) and [219] (Callinan and Heydon JJ); *H A* ***Bachrach*** *Pty Ltd v Queensland* (1998) 195 CLR 547, [14] (the Court).

3 *Duncan* (2015) 256 CLR 83, [2] (French CJ, Kiefel, Bell and Keane JJ).

4 Ibid, [3].

a matter of construction, the phrase "corrupt conduct" did not encompass conduct which did not compromise the probity of public administration.[5]

(c) During the pendency of the application for judicial review, the legislature passed the *Independent Commission Against Corruption Amendment (Validation) Act 2015* (NSW) (**ICAC Amendment Act**) which validated the impugned conduct by altering the *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**) with retrospective effect to reverse the constructional issue identified in *Cunneen*.

(d) It was common ground that, when published, the report was infected by jurisdictional error by reason of the issue identified in *Cunneen* and that a court would have been able to declare the impugned passages beyond power.[6]

(e) The effect of the legislation was (if constitutionally sound) to reverse that position, and to render the application for judicial review redundant.[7]

9. The facts in *Duncan* are not materially distinguishable from those pertaining to the Appellant. In particular:

(a) The Appellant was taken into detention as a consequence of decisions made by or on behalf of the Respondents.

(b) The Appellant sought judicial review of his detention, including on the ground that the decisions leading to his detention were infected by jurisdictional error by reason of the constructional issue identified in *Pearson v Minister for Home Affairs* (2022) 295 FCR 177 (***Pearson No. 1***). That decision held that, as a matter of construction, the phrase "sentenced to a term of imprisonment of 12 months or more" in s 501(7)(c) of the *Migration Act 1958* (Cth) (**Migration Act**) did not include an aggregate sentence of that duration.[8]

(c) The Amending Act was passed during the pendency of the Appellant's application for judicial review and validated the impugned decisions by altering the Migration Act retrospectively to reverse the issue in *Pearson No. 1*.

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5 *Cunneen* (2015) 256 CLR 1, [50]-[51] (French CJ, Hayne, Kiefel and Nettle JJ).
6 *Duncan* (2015) 256 CLR 83, [3], [7] (French CJ, Kiefel, Bell and Keane JJ).
7 Ibid, [7] (French CJ, Kiefel, Bell and Keane JJ).
8 *Pearson No. 1* (2022) 295 FCR 177, [40], [49] (the Court).

(d) Subject to the notice of contention, the impugned decisions were, when made, infected by jurisdictional error by reason of the issue identified in *Pearson No. 1* and the Federal Court would have been able to quash those decisions.

(e) Subject to Ground 1, the relevant effect of the Migration Amendment Act was to reverse that position, rendering the pending judicial proceedings redundant.

10. The ICAC Amendment Act and the Migration Amendment Act employed an identical validating structure. The ICAC Amendment Act isolated "things done" which were rendered invalid by reason of the constructional issue identified in *Cunneen* and then validated those things to the extent that they were rendered invalid by reason of that issue: ss 34(1), 35(1). It did so by saying that those things were "taken to have been, and always to have been validly done": s 35(1). The majority held that this operated to amend the ICAC Act by changing the meaning of "corrupt conduct", as a matter of substantive law, from the meaning given to that expression in *Cunneen* and thereby retrospectively expanding the jurisdiction of the Commission.[9]

11. Similarly, the Migration Amendment Act isolates "things done" which were rendered invalid by the constructional issue identified in *Pearson No. 1* and validates those things to the extent that they were invalid by reason of that issue: Schedule 1, Items 3, 4(1) and (3). It does so by providing that the thing is "taken for all purposes to be valid and to have always been valid": Item 4(3). This language is relevantly identical to that considered in *Duncan*.

12. The High Court unanimously dismissed the challenge in *Duncan* to the ICAC Amendment Act as an impermissible direction to the judiciary. That conclusion was reached by reference to what has since been referred to as a "long line of cases"[10], establishing that it is "now *well settled* that a statute which alters substantive rights does not involve an interference with judicial power contrary to Ch III of the Constitution even if those rights are in issue in pending litigation".[11]

13. Without rehearsing those authorities[12], they establish that a distinction should be drawn between a law which (permissibly) grants or withholds jurisdiction to exercise statutory executive power and a law which (impermissibly) purports to direct courts

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9 Ibid, [12], [15].
10 *Mineralogy Pty Ltd v Western Australia* (2021) 274 CLR 219, [85] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ).
11 *Duncan* (2015) 256 CLR 83, [26] (French CJ, Kiefel, Bell and Keane JJ).
12 See ibid, [14]-[28] (French CJ, Kiefel, Bell and Keane JJ).

as to the manner and outcome of their jurisdiction.[13] The retrospective conferral of executive jurisdiction by the ICAC Amendment Act fell into the former category.[14] Likewise, the Migration Amendment Act merely retrospectively confers jurisdiction on decision-makers under the Migration Act.

14. The distinction arises at the intersection between Parliament's undoubted power to authorise executive action (including with retrospective effect) and the entrenched supervisory jurisdiction of this Court (and State Supreme Courts) to review the legality of past executive action. The line of cases from this Court, of which *Duncan* is one, resolves that tension by recognising that what Parliament can authorise prospectively, it can authorise retrospectively.

15. Against that, the Appellant says *Duncan* is distinguishable on four bases.

First distinguishing feature: reference to pending proceedings in legislation

16. The first is that the ICAC Amendment Act did not contain any "express or implied reference to *pending* proceedings": **AS [51]** (emphasis in original). The submission is without substance because the Appellant accepts that – in spite of that asserted absence – the ICAC Amendment Act had the substantive effect of applying its change of law to pending proceedings: **AS [45]**. But it is "*the operation and effect* of the law" which is controlling in this context, and the operation and effect of a law is to be discerned solely from "the nature of the rights, duties, powers and privileges which the statute changes, regulates or abolishes".[15] It being accepted that the *effect* of the ICAC Amendment Act and the Migration Amendment Act on pending proceedings is the same, the result cannot be different.

17. In any event, the premise of the argument is incorrect. Section 35(2)(b) of the ICAC Amendment Act extended its validating effect to "legal proceedings and matters arising in or as a result of those proceedings". The present tense ("arising in") included matters arising in extant proceedings: **cf AS [51]**. Finally, s 35(5) provided that the

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13 Ibid, [24]-[26] (French CJ, Kiefel, Bell and Keane JJ).

14 Ibid, [25] (French CJ, Kiefel, Bell and Keane JJ).

15 *Bachrach* (1998) 195 CLR 547, [12] (the Court), quoted with approval in *Mineralogy Pty Ltd v Western Australia* (2021) 274 CLR 219, [83]-[84] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ). See also ***Parklands Darwin*** *Pty Ltd v Minister for Infrastructure, Planning and Logistics* [2021] NTSCFC 4, [35] (the Court), *Question of Law Reserved (No. 1 of 2019)* (2019) 135 SASR 226 (SASCFC), [15]-[16] (Stanley J, Nicholson and Doyle JJ agreeing); *Question of Law Reserved (No. 1 of 2018)* (2018) 275 A Crim R 400 (SASCFC), [106]-[107] (Hinton J, Lovell J agreeing); *The* ***Palace Gallery*** *Pty Ltd v The Liquor and Gambling Commissioner* (2014) 118 SASR 567 (SASCFC), [49] (the Court); *Building Construction Employees and Builders' Labourers Federation of New South Wales v Minister for Industrial Relations* (1986) 7 NSWLR 372 (NSWCA), 377B-C (Street CJ).

Commission was authorised to take certain action even if a finding of corrupt conduct "*is* declared a nullity or otherwise set aside by a court". Again, that naturally extended the provision to orders to be made in pending litigation: **cf AS [51]-[52]**.

Second distinguishing feature: reference to pending proceedings in extrinsic material

18. The second asserted difference is that there was not any reference to pending litigation in the extrinsic material in *Duncan*: **AS [52]**. That was not a factor relied on in *Duncan* itself[16] and is therefore not a distinguishing feature. In any event, the submission is simply a weaker version of the first submission. In *H A Bachrach Pty Ltd v Queensland*[17], it was plain from statements made by members of the government that the impugned legislation was intended to bring about an end to the plaintiff's litigation.[18] Nevertheless, the Court said that:[19]

> Whether the Act constitutes an impermissible interference with judicial process … does not depend upon the motives or intentions of the Minister or individual members of the legislature [and] it does not advance the plaintiff's argument to attribute malevolent designs to the Minister or to other persons who promoted or supported the legislation.

19. On this basis, courts entertaining similar challenges have refused to receive extrinsic material which is relevant only to establishing the motives of legislators.[20] If advertence to pending litigation in extrinsic material is irrelevant, its (asserted) absence in *Duncan* and its (asserted) presence here cannot be a relevant distinguishing feature.

Third distinguishing feature: direction that certain "facts" are established

20. The third asserted distinction is that, unlike in *Duncan*, the Migration Amendment Act is said to "prescribe[] that… certain facts are to be taken as established": **AS [50]**. The

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16 The extracts of the Hansard referred to in **AS [52]** are not discussed or cited in *Duncan*.

17 *Bachrach* (1998) 195 CLR 547, [10] (the Court).

18 See similarly *Baker* (2004) 223 CLR 513, where the Second Reading Speech identified by name the 10 prisoners to whom the legislation was directed and *Parklands Darwin* [2021] NTSCFC 4, [35] (the Court) where it was "plain from the media release and Second Reading Speech extracted above that the defendant [Minister] expected and intended that" the enactment of the impugned validating Act would bring to an end judicial review proceedings in the Supreme Court. See also ***Chu Kheng Lim*** *v Minister for Immigration, Local Government and Ethnic Affairs* (1992) 176 CLR 1, 73 (McHugh J); ***Nicholas*** *v The Queen* (1998) 193 CLR 173, [197(4)] (Kirby J).

19 *Bachrach* (1998) 195 CLR 547, [12] (the Court). See also *Australian Building Construction Employees' and Builders Labourers' Federation v Commonwealth* (1986) 161 CLR 88, 96-97 (the Court); *Chu Kheng Lim* (1992) 176 CLR 1, 73 (McHugh J); *Building Construction Employees and Builders' Labourers Federation of New South Wales v Minister for Industrial Relations* (1986) 7 NSWLR 372, 377B-C (Street CJ).

20 *Question of Law Reserved (No. 1 of 2019)* (2019) 135 SASR 226 (SASCFC), [15]-[16] (Stanley J, Nicholson and Doyle JJ agreeing); *Question of Law Reserved (No. 1 of 2018)* (2018) 275 A Crim R 400 (SASCFC), [106]-[107] (Hinton J, Lovell J agreeing); *Palace Gallery* (2014) 118 SASR 567 (SASCFC), [49] (the Court).

argument misfires because the Appellant does not identify any "facts" which the Migration Amendment Act directs to be taken as established.

21. Further, the submission relies on observations in *Bachrach* which distinguished the legislation there in issue with that considered in *Building Construction Employees and Builders' Labourers Federation of New South Wales v Minister for Industrial Relations* (1986) 7 NSWLR 372 (***NSW BLF Case***). In the latter case, s 3(1) of the *Builders Labourers Federation (Special Provisions) Act 1986* (NSW) provided that the registration of an entity "shall, for all purposes, be taken to have been cancelled on 2 January 1985". That specified, *as a matter of fact* and law, that the entity's registration had been cancelled *on that date*, whether or not that had occurred or purportedly occurred. That operated in conjunction with other provisions of the Act which dealt with only one entity, specifically referred to litigation involving that entity, and dealt "with specificity, with incidents of particular litigation involving" that entity (e.g. costs): ss 3(3)-(4).[21] The Amending Act does not exhibit those features and, in particular, does not prescribe any facts which must be "taken to be" established.

22. Finally, the Court in *Bachrach* did not refer "with apparent approval" to the analysis of this issue in the *NSW BLF Case*: **contra AS [40]**. It rejected a submission that the legislation in *Bachrach* was similar to that considered in the *NSW BLF* Case. It did not say that those features (if present) would have rendered the legislation invalid. The Court in the *NSW BLF Case* unanimously held the legislation to be valid[22], only two members of the Court considered (*obiter dicta*[23]) that the legislature had exercised judicial power[24], and that minority reasoning is inconsistent with subsequent High Court authority. For example, the High Court has subsequently clarified that legislation which specifies that an administrative decision is "taken to be valid" substantively validates that decision and does require a court to treat as valid that which is left invalid[25], contrary to what was suggested by Street CJ in the *NSW BLF Case*.[26]

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21 *NSW BLF Case* (1986) 7 NSWLR 372, 375D-378F (Street CJ), 395D-F (Kirby P).
22 Ibid, 387E (Street CJ), 406F (Kirby P), 406G (Glass JA), 412G (Mahoney JA), 420D (Priestley JA).
23 *AC v The King* (2023) 111 NSWLR 514 (NSWCCA), [137] (Beech-Jones CJ at CL, in dissent but not on this issue).
24 *NSW BLF Case* (1986) 7 NSWLR 372, 375D-378F (Street CJ), 394A-395F (Kirby P).
25 See the provisions upheld in *Duncan* (2015) 256 CLR 83, [8] (French CJ, Kiefel, Bell and Keane JJ) and *Australian Education Union v General Manager of Fair Work Australia* (2012) 246 CLR 11 (***AEU***) 7, [2] (French CJ, Crennan and Kiefel JJ).
26 *NSW BLF Case* (1986) 7 NSWLR 372, 378B-C (Street CJ).

Fourth distinguishing feature: the Amending Act does not operate "generally"

23. Although less clear, the fourth asserted distinction appears to be that the legislation in *Duncan* operated "*generally*" to validate the conduct of the Commission whereas the Migration Amendment Act does not operate generally: **AS [46]**. That submission is not developed and cannot be sustained because of the relevantly identical language used in the ICAC Amendment Act and the Migration Amendment Act.[27]

24. The ICAC Amendment Act applied generally to "[a]nything done or purporting to have been done by the Commission" which was invalid by reason of the issue identified in *Cunneen*: ss 34(1) and 35(1). The Migration Amendment Act applies generally to "a thing done, or purportedly done, before the commencement under [certain laws]" which were invalid because of the issue in *Pearson No. 1*: Item 4(1).

25. In any event, it is well accepted that legislation will not offend Ch III merely because it is directed to a single person or closed class of persons[28], a single decision or closed class of decisions[29], a single parcel of land[30], or a set of contracts[31]: **cf AS [50]**.

C. THE SECTION 75(V) ARGUMENT

26. The Appellant's second argument under Ground 2 is that the Migration Amendment Act is invalid because it derogates from the entrenched jurisdiction of Ch III courts[32] to engage in judicial review for jurisdictional error: **AS [57]-[63]**.

27. The Court in *Duncan* dismissed an identical argument[33] which relied on the principle in *Kirk* that "[l]egislation which would take from a State Supreme Court power to grant relief on account of jurisdiction error is beyond State legislative power".[34] That

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27 See also *NSW BLF Case* (1986) 7 NSWLR 372, 395A-F (Kirby P), comparing the legislation in *R v Humby; ex parte Rooney* (1973) 129 CLR 231 – which was "addressed in terms of *generality* to all cases in respect of which purported decrees had been made by a court officer" – and the legislation in the *NSW BLF Case*, which was concerned with a single entity. The Amending Act falls in the former category.

28 *Australian Building Construction Employees and Builders Labourers' Federation v Commonwealth* (1986) 161 CLR 88; *Minogue v Victoria* (2019) 268 CLR 1, [23] (Kiefel CJ, Bell, Keane, Nettle and Gordon JJ); *Knight v Victoria* (2017) 261 CLR 306, [26] (the Court); *Nicholas v The Queen* (1990) 193 CLR 173, [27]-[29] (Brennan CJ), [57] (Toohey J), [83]-[84] (Gaudron J), [163]-[167] (McHugh J) and [246]-[147] (Hayne J); *Question of Law Reserved (No. 1 of 2019)* (2019) 135 SASR 226 (SASCFC), [25] (Stanley J, Nicholson and Doyle JJ agreeing).

29 *Duncan* (2015) 256 CLR 83; *Nelungaloo v Commonwealth* (1947) 75 CLR 495; *AEU* (2012) 246 CLR 117.

30 *H A Bachrach Pty Ltd v Queensland* (1998) 195 CLR 547, [2] (the Court).

31 *Collingwood v Victoria (No. 2)* [1994] 1 VR 652.

32 This reference is overbroad and should instead be understood as a reference to federal courts exercising jurisdiction under, or derived from, s 75(v) of the Constitution: *Graham v Minister for Immigration and Border Protection* (2017) 263 CLR 1, [46] (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ).

33 *Duncan* (2015) 256 CLR 83, [9] (French CJ, Kiefel, Bell and Keane JJ).

34 *Kirk* (2010) 239 CLR 531, [100] (French CJ, Gummow, Hayne, Crennan, Kiefel and Bell JJ).

principle is the functional analogue – at the State level – of the proposition that s 75(v) of the Constitution guarantees "an entrenched minimum provision of judicial review" for jurisdictional error at the Commonwealth level.[35]

28. The legislation struck down in *Kirk* provided that a decision of the New South Wales Industrial Court was final and might not be appealed against, reviewed, quashed or called into question by any court or tribunal.[36] Such privative clauses offend Ch III because they purport to deny constitutionally entrenched judicial review jurisdiction. Validation provisions do not have that effect because they create "new norms of conduct… *anterior to* the performance of the judicial function" (emphasis added).[37]

29. Consistent with that, the majority in *Duncan* said that the legislation in that case did not deprive the Supreme Court of entrenched jurisdiction because, by retrospectively validating the relevant conduct, it was merely expanding the jurisdiction of the Commission. Their Honours observed that (citations omitted):[38]

> This Court's decision in *Kirk* was concerned with legislative intrusion upon the supervisory jurisdiction of the Supreme Courts of the States over administrative agencies and inferior courts; but it did not deny the competence of State legislatures to alter the substantive law to be applied by those agencies and courts. As has been explained, [the ICAC Amendment Act], properly understood, effects an alteration in the substantive law as to what constitutes corrupt conduct; it does not withdraw any jurisdiction from the Supreme Court. The Court of Appeal remains seized of the proceedings pending before it. Accordingly, [the amendment] does not contravene the *Kirk* principle.

30. The same is true of the Migration Amendment Act. As explained above, Item 4(3) of Schedule 1 operates to retrospectively expand the jurisdiction of decision-makers under the Migration Act. It does not purport to withdraw any jurisdiction from a federal court with jurisdiction under or derived from s 75(v). The Migration Amendment Act may narrow the enquiry which a court may otherwise have made, but within the scope of that controversy the process of judicial review is untrammeled.[39]

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35 *Plaintiff S157/2002 v Commonwealth* (2003) 211 CLR 476, [103] (Gaudron, McHugh, Gummow, Kirby and Hayne JJ). As to the functional equivalence of those limitations, see *Hossain v Minister for Immigration and Border Protection* (2018) 264 CLR 123, [20] (Kiefel CJ, Gageler and Keane JJ); *Quinn v Director of Public Prosecutions (Cth)* (2021) 106 NSWLR 154, [4] (Leeming JA, Johnston J agreeing); A Vial, 'The Minimum Entrenched Supervisory Review Jurisdiction of State Supreme Courts: *Kirk v Industrial Relations Commission (NSW)* (2010) 239 CLR 531 (2011) 32(8) *Adelaide Law Review* 145, 158; J Spigelman, 'The Centrality of Jurisdictional Error' (2010) 21(2) *PLR* 77, 81.

36 *Industrial Relations Act 1996* (NSW), s 179.

37 *Kuczborski v Queensland* (2014) 254 CLR 51, [255] (Crennan, Kiefel, Gageler and Keane JJ).

38 *Duncan* (2015) 256 CLR 83, [29] (French CJ, Kiefel, Bell and Keane JJ).

39 *Deputy Commissioner of Taxation v Buzadzic* [2019] VSCA 221, [94] (the Court); *Parklands Darwin* [2021] NTSCFC 4, [36] (the Court).

D. CONCLUSION

31. For those reasons, the principle in *Duncan* dictates the answer to the direction argument. The fact that the Appellant does not seek leave to re-open that case means this part of Ground 2 must be dismissed. The s 75(v) argument must also be dismissed for the same reason that the *Kirk* argument was dismissed in *Duncan*.

PART V – ESTIMATE OF TIME

32. The Territory estimates that no more than 10 minutes will be required for oral submissions.

Dated: 5 June 2024

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN: **JZQQ**
Appellant
and
MINISTER FOR IMMIGRATION, CITIZENSHIP AND MULTICULTURAL AFFAIRS
First Respondent
and
ADMINISTRATIVE APPEALS TRIBUNAL
Second Respondent

ANNEXURE TO INTERVENER'S SUBMISSIONS (ATTORNEY-GENERAL FOR THE NORTHERN TERRITORY OF AUSTRALIA)

Pursuant to paragraph 3 of Practice Direction No 1 of 2019, the Attorney-General for the Northern Territory sets out below a list of the constitutional, statutory and statutory instrument provisions referred to in these submissions.

No.	Description	Version	Provisions
1.	*Builders Labourers Federation (Special Provisions) Act 1986* (NSW)	As enacted	s 3(1), (3) and (4)
2.	*Commonwealth Constitution*	Current	s 75(v)
3.	*Independent Commission Against Corruption Amendment (Validation) Act 2015* (NSW)	As enacted	ss 34(1), 35(1), 35(2)(b)
4.	*Migration Act 1958* (Cth)	In force 15.10.2020 to 21.03.2021	s 501(7)(c)
5.	*Migration Amendment (Aggregate Sentences) Act 2023* (Cth)	As enacted	Whole Act