DECISION

Fair Work Act 2009
s 536LU - Application for an unfair deactivation remedy

Tanzeel Ur Rehman
v
Portier Pacific Pty Ltd
(UDE2025/384)

DEPUTY PRESIDENT BEAUMONT PERTH, 20 MARCH 2026

Deactivation; reactivation; tactical reinstatement and the voluntary adoption of measures to restore the person to the pre-deactivation status; s 536LQ(1); s 536LQ(3).

1 Issue and outcome

[1] On 30 December 2025, Mr Tanzeel Ur Rehman (the **Applicant**) made an application pursuant to s 536LU of the *Fair Work Act 2009* (Cth) (the **Act**) seeking an unfair deactivation remedy. Portier Pacific Pty Ltd (the **Respondent**), responded that it did not seek to contest the fairness of the deactivation for the purposes of s 536LF of the Act.

[2] Attempts were made by the parties to resolve the dispute prior to hearing. These attempts included, but were not limited to, the Respondent reactivating the Applicant to the Respondent's digital labour platform on 20 February 2026. However, the matter did not resolve, and the Applicant now seeks an order to restore lost pay under s 536LQ(3) of the Act. This order can only be made if the Commission makes an order under s 536LQ(1) and considers it appropriate to grant the order. The Respondent contends that the Commission has no basis upon which to make an order pursuant to s 536LQ of the Act.

[3] For the reasons that follow, I have decided to make an order under s 536LQ(1) of the Act and given that the Applicant has suffered a financial loss as a consequence of being unfairly deactivated, I consider it appropriate to make an order under s 536LQ(3) of the Act to require the Respondent to pay the Applicant an amount for the remuneration lost because of the deactivation. Orders[1] to that effect issue concurrently with this decision. My detailed reasons follow.

2 Background

[4] The Applicant commenced performing work as a driver on the digital labour platform operated by the Respondent (**Uber Driver Platform**) on 30 May 2023.

[5] The Applicant first entered into a services agreement with the Respondent on 20 March 2023 and accepted the terms of the most recent services agreement with the Respondent on 9 June 2025 (**Services Agreement**).

[6] The Applicant's account on the Uber Driver Platform was deactivated on 15 December 2025 because the Applicant is said to have failed a background check.

[7] The Respondent reactivated the Applicant on 20 February 2026. This was communicated to the Applicant on that same day. The reactivation communication confirmed that:

(a) the Respondent deemed the Applicant to have performed work through or by means of the Uber Driver Platform on a regular basis during the period from 15 December 2025 to 20 February 2026; and
(b) the Applicant's access to the Uber Driver Platform and provision of services is on the same terms and conditions as those on which he was engaged by the Respondent immediately before his deactivation on 15 December 2025.[2]

[8] Between 16 June 2025 and 15 December 2025, (equating to 182 days or approximately 6 months), the Applicant earned, according to the Respondent, a total of $13,126.56, being an average of $504.87 per week on the Uber Driver Platform.[3]

3 Agreed matters

[9] It was uncontentious between the parties that the Applicant:

a) was an 'employee-like worker', who performed work through or by means of the Respondent's 'digital labour platform', the Respondent being a 'digital labour platform operator', and that the Applicant had been performing work for the Respondent on a regular basis for a period of at least 6 months at the time of his deactivation;
b) was deactivated by the Respondent on 15 December 2025 and as such is able to make an application (s 536LU(1));
c) accrued earnings from performing work for the Respondent in the 12-month period immediately preceding his deactivation which fell below the contractor high income threshold that if met or exceeded would otherwise preclude the application being made (s 536LU(2)); and
d) having been deactivated on 15 December 2025 and having filed his unfair deactivation application on 30 December 2025, made his application within 21 days of the date of his deactivation.

[10] As observed, the Respondent reactivated the Applicant on 20 February 2026 and does not seek to contest the fairness of the deactivation for the purposes of section 536LF of the Act.

4 Legislative framework and principles

[11] Part 3A-3 of the Act governs the unfair deactivation or unfair termination of regulated workers. The objects of Part 3A-3 include establishing a framework for dealing with unfair

deactivation of employee-like workers that balances the needs of regulated businesses and the needs of regulated workers, establishing procedures for dealing with unfair deactivation that are quick, flexible, informal and address the needs of regulated businesses and regulated workers, and provide remedies if a deactivation or termination is found to be unfair, with an emphasis on reactivation (s 536LC of the Act).

[12] A person who has been deactivated may apply to the Commission for an order under Division 4 of Part 3A-3 (s 536LU(1) of the Act). The Commission may order a remedy for unfair deactivation if it is satisfied that the person was protected from unfair deactivation at the time of being deactivated, the person has been unfairly deactivated, and the person has made an application under s 536LU of the Act.[4] The Commission must not order the payment of compensation to an applicant in an unfair deactivation matter.[5]

[13] Section 536LQ of the Act governs the available remedies in relation to an application for unfair deactivation. It provides:

> **536LQ Remedy—reactivation etc.**
>
> *Reactivation*
>
> (1) An order for a person's reactivation must be an order that the digital labour platform operator who operated the digital labour platform at the time of the deactivation take measures to restore the person to the position they would have been in but for the deactivation, including as follows:
>
> (a) if the person's access to the digital labour platform was suspended—by removing the suspension;
>
> (b) if the person's access to the digital labour platform was terminated—by reinstating the person's access to the digital labour platform;
>
> (c) by modifying the person's access to the digital labour platform so that the access is as it was before the person's access to the digital labour platform was terminated or suspended.
>
> (2) **[If original digital labour platform no longer exists]**
>
> If:
>
> (a) the digital labour platform (the ***original digital labour platform***) from which the person was deactivated no longer exists; and
>
> (b) a similar digital labour platform (the ***second digital labour platform***) is operated by an associated entity of the operator of the original digital labour platform;
>
> the order under subsection (1) may be an order to the associated entity to provide access to the second digital labour platform on terms and conditions no less favourable than those immediately before the person's access to the original digital labour platform was terminated or suspended.
>
> *Order to restore lost pay*

> (3) If the FWC makes an order under subsection (1) and considers it appropriate to do so, the FWC may also make any order that the FWC considers appropriate to cause the digital labour platform operator or the associated entity to pay to the person an amount for the remuneration lost, or likely to have been lost, by the person because of the deactivation.
>
> (4) **[Determining amount]**
>
> In determining an amount for the purposes of an order under subsection (3), the FWC must take into account:
>
> (a) the amount of any remuneration earned by the person from work of any kind during the period between the deactivation and the making of the order for reactivation; and
>
> (b) the amount of any remuneration reasonably likely to be so earned by the person during the period between the making of the order for reactivation and the actual reactivation.

[14] The manner of deciding on and working out remedies under Part 3A-3 of the Act is intended to ensure that a 'fair go all round' is accorded to both the regulated business and the regulated workers concerned.[6]

[15] In *Hotak v Rasier Pacific Pty Ltd* ('***Hotak***') the Full Bench explained that the purpose of an order to restore lost pay under s 536LQ(3)-(4) of the Act is to place an employee-like worker in the financial position they would have occupied had they not been unfairly deactivated.[7] This, said the Full Bench, will generally involve the following steps:

(a) **Assessing lost earnings**: Determine the amount of remuneration the worker would have earned from the digital labour platform operator during the period between deactivation and reactivation. In many cases, calculating the average of the worker's weekly earnings from the digital labour platform in the period leading up to the deactivation will provide a reasonable estimate of the earnings they would likely have received had they continued working.

(b) **Deducting substitute earnings**: Subtract any earnings the worker received from other employment or working arrangements during the period between deactivation and reactivation, but only to the extent that such work would not have been undertaken had the worker remained active on the platform. That is, if the worker had a second job and would, in the counterfactual scenario, have continued working in that job to the same extent, those earnings do not replace remuneration lost because of the deactivation.

There will need to be a slight adjustment to this calculation if the worker's actual reactivation takes place *after* an order for reactivation is made. In such circumstances, s 536LQ(4) of the Act requires that the Commission take into account:

(i) the amount of any remuneration earned by the person from work of any kind during the period between the deactivation and the making of the order for reactivation; and
(ii) the amount of any remuneration reasonably likely to be so earned by the person during the period between the making of the order for reactivation and the actual reactivation.

(c) **Deducting avoided expenses**: Subtract any expenses the worker would have incurred had they continued working through or by means of the platform during the period between deactivation and reactivation. This ensures that any order to restore lost pay under s 536LQ(3) of the Act is confined to "remuneration lost, or likely to have been lost, because of the deactivation.[8]

5 Consideration

[16] The Commission must decide three initial matters before considering the merits of an unfair deactivation application (s 536LW of the Act). The first is whether the application was made within the period required in s 536LU(3). The second is whether the applicant was protected from unfair deactivation, and the third is whether the deactivation was consistent with the *Fair Work (Digital Labour Platform Code) Instrument 2024* (the **Code**). Whilst I have addressed the first and second initial matters, I have not addressed the third. As the Respondent does not seek to contest the fairness of the deactivation, I am content to find that the deactivation was inconsistent with the Code, and, in respect of s 536LF of the Act, I find that the deactivation was unfair.

[17] The preconditions in s 536LP of the Act for the Commission to exercise its discretion to make an order for the Applicant's reactivation have therefore been satisfied. The word 'reactivation' is not defined in the Act.[9] However, as a remedy, it is clearly intended to reverse the effect of a deactivation, which is informed by the meaning of 'deactivated' in s 536LG of the Act.[10]

[18] It is accepted that the Applicant had been reactivated to the Uber Driver Platform on 20 February 2026. The Respondent therefore submits that there are no further measures that the Respondent could take to restore the Applicant to the position he would have been in but for the deactivation. It is on that basis that the Respondent contends that the Commission has no basis to make an order pursuant to s 536LQ(1) and (3) of the Act and distinguishes its position to that which confronted the Full Bench in *Hotak*.

[19] To further explain the Respondent's position, it is necessary to take a more detailed look at *Hotak*. In *Hotak*, the applicant sought an order to restore lost pay under s 536LQ(3) of the Act. The Full Bench identified that such an order can only be made if the Commission makes an order under s 536LQ(1) and considers it appropriate to do so.

[20] The Full Bench in *Hotak* explained that to be within power, an order for reactivation must be an order that the digital labour platform operator take measures to restore the person to the position they would have been in but for the deactivation (s 536LQ(1) of the Act).[11] At paragraphs [105] to [114] of *Hotak*, the Full Bench provided a detailed exposition of the interpretation of s 536LQ(1) of the Act. The Full Bench concluded that having had regard to the relevant aspects of the text, context, and purpose of s 536LG(1) of the Act, the general words in the chapeau to s 536LQ(1) should not be read down so as to confine the Commission's power to making an order limited solely to restoring a worker's access to the digital labour platform. The Full Bench considered that such a narrow construction would be inconsistent with the broader remedial purpose of the provision and the flexible language Parliament had employed.

[21] Having established the manner in which s 536LQ(1) was to be interpreted, the Full Bench expressed the following at paragraphs [115] to [118]:

> **[115]** We consider it appropriate, having regard to all the circumstances of this case—including our finding that Mr Hotak was unfairly deactivated—to exercise our discretion to order his reactivation. Although Uber voluntarily restored Mr Hotak's access to its driver platform on 19 May 2025, our formal order will require Uber to reinstate his access to its driver platform. Such an order will satisfy the requirement in s 536LQ(1) of the Act that "an order for a person's reactivation must be an order that the digital labour platform operator … take measures to restore the person to the position they would have been in but for the deactivation." The making of a formal order also serves a clear and practical purpose: it provides certainty for the parties and ensures enforceability. In the event of non-compliance, s 536MG of the Act applies. That provision prohibits contravention of an order made under Part 3A-3 and is a civil remedy provision. A breach may attract a maximum penalty of 60 penalty units.
>
> **[116]** The order we will make for Mr Hotak's reactivation will also ensure that his access to the Uber driver app is restored on terms that place him in the position he would have been in but for the deactivation. The order will be in the following terms:
>
> > 1. Pursuant to s 536LP(1) of the Fair Work Act 2009 (Cth), the Fair Work Commission orders that Rasier Pacific Pty Ltd (Uber) must reinstate Mr Hotak's access to the digital labour platform operated by Uber on the basis that:
> >
> > > (a) for the purpose of s 536LD(c) of the Act, Mr Hotak is deemed to have performed work through or by means of Uber's digital labour platform on a regular basis during the period from 24 March 2025 (being the date of his suspension) to 19 May 2025 (being the date of his reactivation); and
> > >
> > > (b) Uber offers to Mr Hotak that he be engaged on the same terms and conditions as those on which he was engaged by Uber immediately before his deactivation on 8 April 2025.
> >
> > 2. This order commences operation on 26 September 2025.
>
> **[117]** We consider that the requirement in paragraph 1(a) above is necessary to restore Mr Hotak to the position he would have occupied but for his deactivation on 8 April 2025. At that time, Mr Hotak was protected from unfair deactivation under s 536LD of the Act, as he met the statutory criteria: he was an employee-like worker, had performed work through Uber's digital labour platform, and had done so on a regular basis for at least six months. Absent the inclusion of this requirement in our reactivation order, Uber could deactivate Mr Hotak shortly after he was reactivated in accordance with our order, at a time when he would not yet have reacquired the statutory protection under s 536LD. Such an outcome would undermine the remedial purpose of the order and the protections afforded by the Act. (footnotes omitted)
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> **[118]** We are also satisfied that the requirement in paragraph 1(b) above is necessary to restore Mr Hotak to the position he would have been in but for his deactivation. On 19 May 2025, Mr Hotak received a message via the Uber driver app indicating that he could resume work. However, unlike the situation prior to his deactivation, he was not offered, nor notified of, the terms and conditions governing his engagement from that date. While it is clear that Mr Hotak has performed work and received payment from Uber since 19 May 2025, and a contract may therefore be inferred, the evidence before the Commission does not establish that the terms of the current contract are the same as those under which he was previously engaged. In these

> circumstances, the requirement in paragraph 1(b) is necessary to ensure that Mr Hotak's contractual position is properly restored.

[22] A return to the background of this decision reveals that on 20 February 2025, the Applicant received a reactivation communication from the Respondent which included, amongst other matters, the following:

> We confirm that your on-going work on the platform will be governed by the same terms and conditions contained in your services agreement that applied immediately before your access to the platform was removed. By accepting further trips you affirm and accept these terms and conditions. Please refer to your profile to access a copy of the services agreement….
>
> We are further pleased to inform you that, for the purpose of section 536LD(c) of the Fair Work Act 2009 (Cth) (which concerns when a person is protected from unfair deactivation), Uber undertakes to treat the full period that you were unable to access the platform as one in which you performed work through or by means of the platform on a regular basis…[12]

[23] The reactivation communication advised the Applicant that the Respondent had determined that his account was 'eligible' for reactivation. In *Hotak*, the order of the Full Bench stated that Uber 'must reinstate Mr Hotak's access to the digital labour platform'.[13] Otherwise, the reactivation communication essentially mirrored the order of the Full Bench in *Hotak* to the extent that it confirmed that the Applicant's terms and conditions of engagement would be governed by the same terms and conditions in his Service Agreement that applied immediately prior to the removal of access to the platform (or as otherwise stated in *Hotak* – 'that he be engaged on the same terms and conditions as those on which he was engaged by Uber immediately before his deactivation on …'). Furthermore, it gave an undertaking to treat the full period in which the Applicant was unable to access the platform as one in which he performed work through or by means of the platform on a regular basis; s 536LD(c) of the Act was directly referenced in the reactivation communication. Of course, in *Hotak* the order similarly deemed, for the purpose of s 536LD(c) that the applicant performed work through or by means of Uber's digital labour platform on a regular basis during the period of the deactivation.

[24] That the reactivation communication mirrors the order of the Full Bench in *Hotak* as described, appears to lead the Respondent to its contention that there are no further measures that the Respondent could take to restore the Applicant to the position he would have been in but for the deactivation and, on that basis, the Commission has no basis to make an order for the restoration of lost remuneration.

[25] As already observed, an order to pay a person an amount for lost remuneration, or remuneration likely to have been lost, arises only in circumstances where: (a) the Commission makes an order under 536LG(1) of the Act; and (b) considers it appropriate to make that order. The Respondent's contention in this context is fundamentally premised upon rendering an order under s 536LQ(1) as having no utility – that is, by the issuance of the reactivation communication and the measures taken by the Respondent that it details, the Commission lacks or has no basis upon which to make an order under s 536LQ(1) of the Act. The corollary of that contention is that by taking the measures that it did, the Respondent has effectively neutered the Commission's power to make an order to pay to the Applicant an amount for remuneration lost or likely lost.

[26] For current purposes, it is sufficient to highlight the following in respect of the Respondent's contention.

[27] First, the reactivation communication referred to the Respondent having 'determined that your [the Applicant's] account is eligible for reactivation'. As was the case in *Hotak*, whilst the Respondent had *voluntarily* communicated to the Applicant that his account was 'eligible for reactivation', an order of the Commission under s 536LQ(1) of the Act *will require* the Respondent to *reinstate* the Applicant's access to the Uber Driver Platform insofar as the order will be such that the Respondent take measures to restore the Applicant to the position he would have been in but for the deactivation. An order under s 536LG(1) in contrast to the reactivation communication, is enforceable under the Act; non-compliance with the order allows for the Applicant to pursue a cause of action pursuant to s 536MG of the Act (a civil remedy provision).

[28] Second, whilst the reactivation communication mirrors the terms of the Full Bench's order in *Hotak* to the extent that the Applicant's on-going work on the Uber Drive Platform will be governed by the same terms and conditions contained in his Services Agreement that applied prior to deactivation and his period of performing work on the Uber Driver Platform is uninterrupted by the deactivation period (s 536LD(c)), the issuance of an order under s 536LQ(1) ensures certainty in respect of these measures by articulating them in a public facing document that, again, is enforceable under s 536MG of the Act.

[29] Third, one of the express objects of Part 3A-3 of the Act is to 'provide remedies if a deactivation … is found to be unfair'.[14] As was identified by the Full Bench in *Hotak* at paragraphs [87] to [88]:

> Uber's contention—that the Commission's jurisdiction to grant a remedy ceases if the digital labour platform operator restores access to the worker prior to the determination of the application—sits uneasily with that statutory object. Such an interpretation would undermine the remedial purpose of the provision and risk incentivising tactical reinstatements to avoid scrutiny or accountability.
>
> Relatedly, Uber's construction would produce unjust consequences. For example, an employee-like worker who was unfairly deactivated from a digital labour platform may suffer significant financial loss due to the interruption in access. Under Uber's interpretation, the platform operator could voluntarily reactivate the worker at any time prior to the Commission's decision, thereby, so Uber contends, extinguishing the Commission's jurisdiction and depriving the worker of any entitlement to a remedial order. Such a result would frustrate the statutory purpose and deny meaningful redress for unfair deactivation. This construction should be rejected, particularly where, as here, the statutory text does not compel it.

[30] To reiterate what was said in *Hotak*, in circumstances where the Commission's jurisdiction to deal with an unfair deactivation application has been properly and regularly invoked, it is presumed that Parliament did not intend to withdraw or limit that jurisdiction unless such an implication arose *clearly* and *unmistakably*. In this case, in contrast to *Hotak*, the Respondent has taken measures in addition to voluntary reactivation to restore the Applicant to his pre-deactivation position. The taking of these measures as communicated in the reactivation communication should not, in my view and in the context of this application, assume the character of a tactical measure to avert the issuance of an order under s 536LQ(3) of the Act. The evidence does not support such a conclusion.

[31] However, that a respondent to an application under s 536LU may avert the issuance of an order to restore lost pay under s 536LQ(3) of the Act by voluntarily taking measures as referred to in s 536LQ(1) and contending that an order under s 536LQ(1) is of no utility and therefore the Commission has no basis upon which to make such order, appears contrary to the legislative intent of the provision.

[32] In this case, the Respondent's submissions broach that on 20 February 2026, it offered to pay the Applicant $5,500.00 in exchange for the Applicant signing a settlement agreement and withdrawing the proceedings. It may be argued that, in and of themselves, the express terms of the reactivation communication rendered an order under s 536LQ(1) of the Act of no utility. Or, that in conjunction with the terms expressed in the reactivation communication, the monetary offer also evinced that the Respondent had taken measures to restore the Applicant to his pre-deactivation position – hence rendering an order under s 536LQ(1) of no utility.

[33] These contentions are, however, premised upon a failure to acknowledge the certainty and enforceability that arises from an order made under s 536LQ(1) of the Act and, for that matter, under s 536LQ(3). To the extent that the Respondent may press that the amount of $5,500.00 *accurately* reflected remuneration lost or likely lost and that the Respondent's requirement that the Applicant enter into a settlement agreement as drafted by the Respondent's representative would nevertheless place the Applicant in the position that he would have been but for the deactivation, is simply misconceived.

[34] In conclusion, the Respondent's contention that the Commission has no basis to make an order pursuant to s 536LQ(1) of the Act cannot be upheld. The order that will issue for the Applicant's reactivation will ensure that his access to the Uber Driver Platform is restored on terms that place him in the position he would have been in but for the deactivation. The order will be in the following terms:

> A. Pursuant to s 536LP(1) of the *Fair Work Act 2009* (Cth), the Fair Work Commission orders that Portier Pacific Pty Ltd must, to the extent it has not yet done so, reinstate Mr Tanzeel Rehman's access to the digital labour platform operated by Portier Pacific Pty Ltd (**Uber Driver Platform**) within 7 days of the date of this Order, on the basis that:
>
> > (i) for the purpose of s 536LD(c) of the Act, Mr Rehman is deemed to have performed work through or by means of the Uber Driver Platform on a regular basis during the period from 15 December 2025 (being his deactivation date) to 20 February 2025 (being the date of his reactivation); and
> >
> > (ii) to the extent that Portier Pacific Pty Ltd has not yet done so, it offers to Mr Rehman that he be engaged on the same terms and conditions as those on which he was engaged by Portier Pacific Pty Ltd immediately before his deactivation on 15 December 2025.

[35] Turning to s 536LQ(3) of the Act, such order is limited to a requirement that the Respondent pay to the Applicant an amount for the remuneration lost, or likely to have been lost, because of the deactivation.

[36] The Applicant seeks remuneration lost in an amount that reflects not only his historical earnings but also the reasonable earning capacity he is said to have possessed at the time of

deactivation. Based on his earnings history and the capacity to work, he states that he seeks an amount of $15.000.00.

[37] Whilst the Applicant observes that the Respondent submits his average weekly earnings were $504.87, the Applicant does not accept that this figure accurately reflects his typical earnings immediately prior to his deactivation. The Applicant submits at that his weekly pay was $786.00 per week.

[38] Consistent with the methodology described at paragraph [131] of *Hotak*, I find as follows:

a) an average of the Applicant's weekly earnings from the Respondent in the 12-week period leading up to 15 December 2025 is an appropriate period, in my opinion, by which to accurately determine the Applicant's average weekly earnings – noting the temporal relationship between that period and the date of the deactivation and that it is apparent that the Applicant had taken on more work - the average of the weekly earnings of the Applicant was therefore $747.05;
b) the date on which the Respondent deactivated the Applicant provides a proper basis from which to calculate the earnings the Applicant would likely have received had he continued to work on the Uber Driver Platform in the period of 15 December 2025 to 20 February 2026 (the date of reactivation), that amounts to nine weeks and four days, which I am content to treat as nine and a half weeks, this amounts to $7,096.96 gross;
c) there are no earnings to deduct in the Applicant's case. It appears from his evidence[15] that he had not performed any paid work since his deactivation to the time of the hearing (noting that notwithstanding the Applicant's reactivation, the Respondent acknowledged that certain paperwork was required to be submitted by the Applicant); and
d) whilst the Applicant would likely have incurred expenses had he continued working on the Uber Driver Platform during the period between his deactivation and his reactivation, he adduced no evidence addressing such expenses and the Respondent did not press for a reduction. I therefore make no deduction from the amount of remuneration for lost pay.

6 Disposition

[39] Based on the above, I intend to make an order as detailed at paragraph [34] of this decision, and, in addition, I intend to make an order for the payment of lost remuneration in the

amount of $7,096.96 (gross) to the Applicant within 14 days of the date of this decision. Such an order will not constitute payment of compensation prohibited by s 536LP(3) of the Act.

DEPUTY PRESIDENT

Appearances:

T Rehman, the Applicant
H Cranendonk, for the Respondent

Hearing details:

2026.
By video using Microsoft Teams:
3 March.

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[1] PR797881.

[2] Witness Statement of Emilee Fairlie dated 23 February 2026 (**Fairlie Statement**), [8], [Annexure B].

[3] Ibid [9], [Annexure C].

[4] *Fair Work Act 2009* (Cth) (‘***Act***’) s 536LP(1)–(2).

[5] Ibid 536LP(3).

[6] Ibid s 536LC(2).

[7] [2025] FWCFB 214, [131] (‘***Hotak***’).

[8] Ibid.

[9] Ibid [103].

[10] Ibid.

[11] Ibid [104].

[12] Fairlie Statement (n 2) [Annexure B].

[13] *Hotak* (n 7) [116].

[14] *Act* (n 4) s 536LC(1)(c).

[15] Digital Hearing Book, 30 [5].