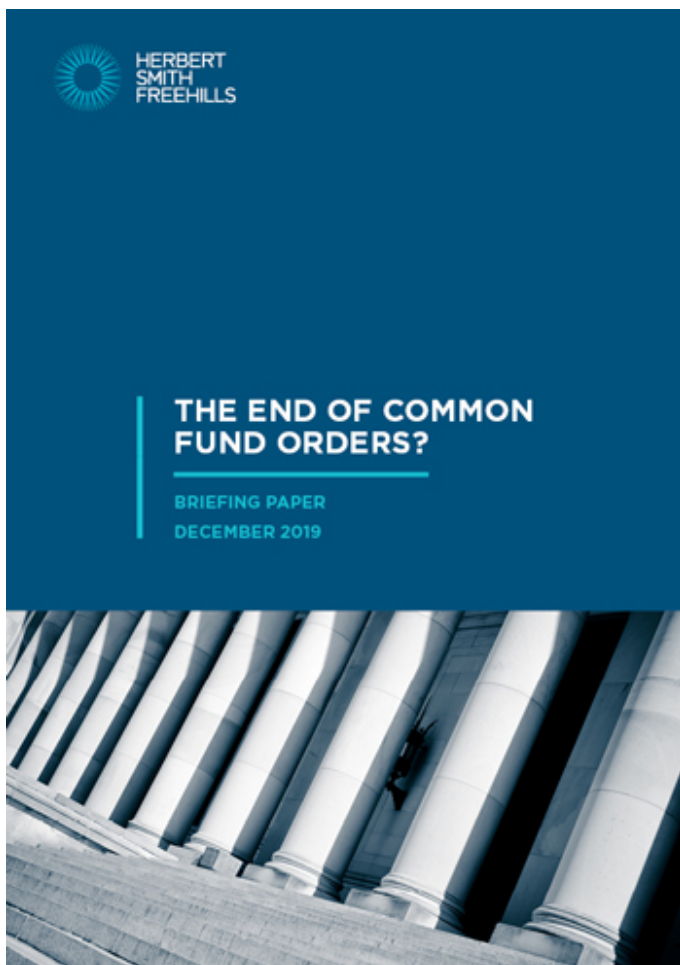


THE END OF COMMON FUND ORDERS AS WE KNOW THEM?

11 December 2019 | Australia
Legal Briefings

Since 2016, common fund orders have been made in a number of Australian class actions under a particular statutory provision of the Federal Court of Australia Act (s 33ZF) and its State-based equivalents.



The effect of a common fund order is to require group members to contribute to the litigation funder a percentage of their entitlement under any settlement or judgment, whether or not the group member had entered into a funding agreement with the funder.

However, a recent decision of the High Court of Australia has held that courts cannot rely on this provision to make common fund orders. Consequently, absent any statutory intervention, common fund orders of this kind will no longer feature in the Australian class action landscape.

A briefing paper setting out our observations and insights is now available.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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