



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

[Costs Disputes - Amendment of the Legal Profession Uniform General Rules 2015](#)

On 1 July 2019 the [Legal Profession Uniform General Amendment \(Indexation\) Rule 2019](#) commenced. It adds rule 111A to the Legal Profession Uniform General Rules 2015.

[ALRC: Where next for law reform](#)

In May and June 2019, the ALRC held four seminars on the future of law reform in conjunction with the Law Schools at UNSW, ANU and Melbourne University. To find out more about each seminar you can read a short summary.

MEDIA

Data Standards Body welcomes initial live use of banking Product Reference Data standards

The Federal Government's Consumer Data Right (CDR) regime, which will give Australians greater control over their own data, is one step closer with the API-based publication of banking Product Reference Data on 1 July 2019, developed using CDR standards. <https://www.csiro.au/en/News/News-releases/2019/Data-Standards-Body-welcomes-initial-live-use-of-banking-Product-Reference-Data-standards>

Morrison Government delivers to protect farmers

The Morrison Government has introduced legislation to protect them from the unlawful actions of animal activists. The Criminal Code Amendment (Agricultural Protection) Bill 2019 introduces new offences for the incitement of trespass, property damage, or theft on agricultural land. <https://www.attorneygeneral.gov.au/Media/Pages/morrison-government-delivers-to-protect-farmers.aspx>

APRA publishes guidance on cyber security

The Australian Prudential Regulation Authority has released updated guidance on managing cyber crime and other information security risks. <http://www.insurancenews.com.au/regulatory-government/apra-publishes-guidance-on-cyber-security>

Industrial Reforms introduced into Parliament

The Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 and the Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019 have been introduced into the House of Representatives. The Ensuring Integrity Bill implements recommendations giving more power and greater flexibility to the Federal Courts to de-register lawbreaking unions and take action against certain militant parts of unions and their officials. <https://www.attorneygeneral.gov.au/Media/Pages/industrial-reforms-a-major-test-for-labor.aspx>

Chief Judge review to reduce court delays in NSW

The Chief Judge of the District Court, the Honourable Justice Derek Price AM, will carry out a review of case management and jury processes to reduce delays in criminal proceedings in the District and Supreme Courts. The Department of Communities and Justice will assist the Chief Judge with his review of possible reforms in case management and jury processes. <https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2019/chief-judge-review-to-reduce-court-delays.aspx>

Stronger protections for telecommunications consumers

Telco consumers will be better protected from financially over committing themselves and poor sales practices under new consumer protection rules approved today. ACMA Chair Nerida O'Loughlin said the impact of this is serious, particularly for those in vulnerable circumstances, leading to financial hardship and denial of access to critical services. <https://www.acma.gov.au/theACMA/stronger-protections-for-telecommunications-consumers>

Evidence Law Reform

Attorney General Mark Speakman today advocated for historic reforms nationally to enable greater admissibility of tendency and coincidence evidence in child sexual assault proceedings. Judges would be required to exclude tendency or coincidence evidence about a defendant if its probative value does not outweigh the danger of unfair prejudice to the defendant. <https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2019/evidence-law-reform.aspx>

LCA: Proposed citizenship stripping laws undermine national security, go 'against grain of our justice system'

Law Council President, Arthur Moses SC, told the Independent National Security Legislation Monitor's public review hearing that the proposed amendments to the Australian Citizenship Act 2007 (Cth) were not necessary or proportionate, may leave individuals stateless and inadvertently weaken national security. <https://www.lawcouncil.asn.au/media/proposed-citizenship-stripping-laws-undermine-national-security-go-against-grain-of-our-justice-system>

OAIC: Statement on Wilson Asset Management

Wilson Asset Management (International) Pty Ltd (WAMI) has committed to a court-enforceable undertaking to address its privacy practices following an investigation by the OAIC. The OAIC is concerned that WAMI collected information from the website that was not reasonably necessary for its administration of the petition, such as individuals' phone numbers, full addresses, and details of their submissions on the proposal. <https://www.oaic.gov.au/media-and-speeches/statements/statement-on-wilson-asset-management>

OAIC: Court-enforceable undertaking to drive better privacy practices at Commonwealth Bank

The Commonwealth Bank of Australia (CBA) will be required to substantially improve its privacy practices under a court-enforceable undertaking given to the Australian Information Commissioner and Privacy Commissioner. <https://www.oaic.gov.au/media-and-speeches/media-releases/court-enforceable-undertaking-to-drive-better-privacy-practices-at-commonwealth-bank>

Sumo Power pays \$46,200 for telemarketing without consent

An ACMA investigation found that Sumo Power—an electricity, gas and internet provider—could not show it had consent to conduct telemarketing to numbers on the Do Not Call Register. This was due to their poor record keeping practices. <https://www.acma.gov.au/theACMA/sumo-power-pays-46200-for-telemarketing-without-consent>

LCA: Unfair criticism and sexist attack on High Court Judges should not be tolerated

The front-page story in the Courier Mail, which attacks the spouse travel allowances of spouses of High Court of Australia Judges, is unfair and sexist. The Law Council of Australia is especially disappointed the spouse of the High Court of Australia's Chief Justice has unfairly been drawn into the media report regarding travel expenses. <https://www.lawcouncil.asn.au/media/media-releases/unfair-criticism-and-sexist-attack-on-high-court-judges-should-not-be-tolerated>

PUBLISHED - ARTICLES, PAPERS, REPORTS**[Accountability, transparency and diversity – the importance of an independent tribunal appointment process](#)**

Arthur Moses, resident, Law Council of Australia: COAT Annual Conference 2019.

The Rule of Law demands the independence of tribunals. Yet maintaining the appearance of independence is equally crucial to promote public trust and confidence in tribunal members and their decision-making. In an age of transparency, this presentation will consider three contemporary challenges to the appearance of independence of modern tribunals.

CASES**[QP' and the Commonwealth Bank of Australia Limited \(Privacy\) \[2019\] AICmr 48](#)**

Privacy — Privacy Act 1988 (Cth) — Australian Privacy Principles — APP 10 Quality of personal information disclosed — Breach of APP 10.2 — Compensation awarded — Non-economic loss — Aggravated damages not awarded.

[Ngo v Commissioner for Fair Trading, Department of Finance, Services and Innovation \[2019\] NSWCATOD 103](#)

ADMINISTRATIVE REVIEW — Home Building — Supervisor certificate — Where respondent refused to grant applicant supervisor certificate - Whether applicant had experience which would enable him to do, or to supervise, the work for which the certificate is required — Whether the Tribunal should depart from a policy known as the "Instrument" — Whether application of the policy would produce an unjust decision — Whether the Tribunal may take into account uncorroborated evidence given by the applicant about his construction experience.

[JE v Secretary, Department of Family and Community Services \[2019\] NSWCA 162](#)

ADMINISTRATIVE LAW — judicial review — appeal from Children's Court to District Court — whether error of law on the face of the record or jurisdictional error established — where common ground that applicant not accorded procedural fairness ADMINISTRATIVE LAW — procedural fairness — common ground applicant denied procedural fairness — whether discretionary grounds to refuse relief — whether proceedings should be remitted to the District Court APPEAL — leave to appeal — where statement of claim in District Court struck out for disclosing no reasonable cause of action — discretion to extend time to apply for leave — where no explanation for 29 months delay — whether case is fairly arguable.

[Gaynor v Local Court of NSW & Ors \[2019\] NSWSC 805](#)

CONSTITUTIONAL LAW — diversity jurisdiction — whether s 34B of the Civil and Administrative Tribunal Act is constitutionally valid — whether the Local Court can exercise jurisdiction if the existence of its jurisdiction is conditioned upon an application being first made with the NSW Civil and Administrative Tribunal in circumstances where the Tribunal does not have jurisdiction to determine the matter CONSTITUTIONAL LAW — whether Part 3A of the Civil and Administrative

Tribunal Act offends the Kable principle – whether the NSW parliament lacks extra-territorial power – whether Part 3A of the Civil and Administrative Tribunal Act fails to give full faith and credit to the laws of Queensland ADMINISTRATIVE LAW – whether it would be possible for the Local Court to be satisfied of the matter in s 34B(2)(c) of the Civil and Administrative Tribunal Act – whether it would be possible for the Local Court to be satisfied of the matter in s 34B(2)(d) of the Civil and Administrative Tribunal Act – whether ss 49ZS and 49ZT of the Anti-Discrimination Act deprive the Local Court of jurisdiction.

[Misrachi v Public Guardian \[2019\] NSWSC 752](#)

ADMINISTRATIVE LAW – administrative tribunals – Civil and Administrative Tribunal (NSW) – whether the Tribunal erred in failing to afford procedural fairness – whether the Tribunal failed to take into account the general principles in s 4 of the Guardianship Act 1987 (NSW) – whether the Tribunal made a manifestly unreasonable decision – whether the Tribunal placed excessive reliance on matters to the exclusion of all relevant factors – whether the Tribunal ought to have allowed the Daughter to adduce particular medical evidence.

IN PRACTICE AND COURTS

Current Senate Inquiries - Legal and Constitutional Affairs Legislation Committee

[Criminal Code Amendment \(Agricultural Protection\) Bill 2019 \[Provisions\]](#)

The bill would amend the Criminal Code Act 1995 to introduce two new offences relating to the use of a carriage service to incite trespass, property offences, or other offences on agricultural land. On 4 July 2019 the Senate referred the provisions of the Criminal Code Amendment (Agricultural Protection) Bill 2019 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 6 September 2019. The deadline for submission to the inquiry is 31 July 2019.

Current Senate Inquiries - Finance and Public Administration Legislation Committee

[Ministers of State \(Checks for Security Purposes\) Bill 2019](#)

On 4 July 2019, the Senate referred the Ministers of State (Checks for Security Purposes) Bill 2019 for inquiry and report by 11 November 2019. The closing date for submissions is 23 August 2019.

[Federal court and tribunal fees to increase from 1 July](#)

From 1 July, the fees payable in federal courts and tribunals will increase to reflect changes to the consumer price index. The revised fees are published in the Government Notices Gazette.

[AAT fee increase on 1 July 2019](#)

Annual Federal Courts and Tribunals Fee Increases from 1 July 2019.

[AAT: Changes to AAT application fees on 1 July 2019](#)

Application fees at the Administrative Appeals Tribunal increased on 1 July 2019.

[AAT Bulletin](#)

The AAT Bulletin is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions, including immigration and citizenship.

[HCA Bulletins](#)

High Court of Australia Bulletin [2019] HCAB 5.

[AHRC: Commission calls for public submissions](#)

The AHRC has released an issues paper for 'Free and Equal': An Australian conversation on human rights and has called for public submissions. Submissions are open until 12 July 2019. See the [terms of reference](#), and [issues paper](#).

NSW

[Update: Uniform Evidence Law Reform 2019](#)

The proposed reforms to the Uniform Evidence Law would implement the Royal Commission's objective of facilitating greater admissibility of tendency and coincidence evidence in child sexual assault proceedings. The Australasian Parliamentary Counsel's Committee will now draft a model bill for CAG's consideration later this year.

[Review of the Civil and Administrative Tribunal Act 2013](#)

The Department of Justice is conducting a review of the Civil and Administrative Tribunal Act 2013 (NSW) to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

[NSW LRC: Open Justice Review - Court and tribunal information: access, disclosure and publication](#)

The Attorney General has asked us to review the operation of suppression and non-publication orders and access to information in NSW courts and tribunals. See the Terms of reference. Information about making a submission may be found on our website.

LEGISLATION

Act Compilation

[Freedom of Information Act 1982](#)

01/07/2019 - Act No. 3 of 1982 as amended

Bills

[Australian Security Intelligence Organisation Amendment \(Sunsetting of Special Powers Relating to Terrorism Offences\) Bill 2019](#)

House of Representatives Introduced and read a first time 04 July 2019 Second reading moved 04 July 2019. The Australian Security Intelligence Organisation Amendment (Sunsetting of Special Powers Relating to Terrorism Offences) Bill 2019 (the Bill) amends the Australian Security Intelligence Organisation Act 1979 (ASIO Act) to extend the operation of the Australian Security Intelligence Organisation's (ASIO) questioning, and questioning and detention powers in Division 3 of Part III of the ASIO Act, for a further 12 months.

[Criminal Code Amendment \(Agricultural Protection\) Bill 2019](#)

House of Representatives Introduced and read a first time 04 July 2019 Second reading moved 04 July 2019. This Bill would amend the Criminal Code Act 1995(Criminal Code)to introduce two new offences relating to the incitement of trespass or property offences on agricultural land.

NSW

Regulations and other miscellaneous instruments

[Births, Deaths and Marriages Registration Amendment \(Fees\) Regulation 2019](#) (2019-310) — published LW 1 July 2019.

[Relationships Register Amendment \(Fees\) Regulation 2019](#) (2019-311) — published LW 1 July 2019

[Companion Animals Amendment Regulation 2019](#) (2019-279) — published LW 28 June 2019

[Disability Inclusion Amendment \(Supported Group Accommodation\) Regulation 2019](#) (2019-280) — published LW 28 June 2019

Bills assented to

Crimes (Administration of Sentences) Amendment (Inmate Behaviour) Act 2019 No 5 — Assented to 25 June 2019. For the full text of Bills, and details on the passage of Bills, [see Bills](#).

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

Your contacts responsible for navigating our firm, connecting you with the appropriate expertise and achieving maximum efficiency.

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HELP DESK SERVICES

Thomson Geer is delighted to offer access to NSW Government to its Legal Help Desk on our usual terms of engagement and as set out below.

Scope

We are pleased to be able to work collaboratively with NSW Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- advice regarding potential transactions – up to 30 minute

teleconference with a Partner, Special Counsel or relevant Senior Associate.

(Help Desk Services)

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 02 8248 5810; or
- (b) Emailing legalhelpdesk@tglaw.com.au

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and

SUB-PANEL APPOINTMENTS

Thomson Geer are appointed to the following NSW Government sub-panels:

1(c) Major commercial matters (incl. ICT)

2(a) Commercial and contractual matters

4(a) Employment and industrial relations law

4(f) Discrimination

6(b) General litigation and dispute resolution

6(c) Debt recovery