



## PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 14 of the SA Public Sector Newsletter.

This fortnight the proposed legislation to establish a new Court of Appeal in South Australia has been introduced. The new court is intended to function as a division of the Supreme Court of South Australia to improve efficiency.

A review of the operation and effectiveness of the sentencing reductions regime has also been completed, with recommendations made to the Attorney-General. The review focused on prosecution of major indictable offences in SA following changes to the legislation in 2018.

We hope you enjoy this edition of our public sector newsletter.

### IN THE MEDIA

#### Major Indictable Review: No tsunami of cases but needs improvement in SA

A review considering the effectiveness of reforms to the management of major indictable offences has recommended changes to the way matters are dealt with, including prescribing time limits for disclosure and priority given to child sexual assault cases. (15 October 2019) <https://www.agd.sa.gov.au/newsroom/major-indictable-review-no-tsunami-cases-needs-improvement>

#### Automatic suppression laws to go

South Australians would be able to know the identity of people charged with sex offences once they face court under reforms to suppression laws to be introduced to State Parliament. (17 October 2019) <https://www.agd.sa.gov.au/newsroom/automatic-suppression-laws-go>

#### Legal fraternity in support of Court of Appeal as it edges closer to reality

Laws to establish a new Court of Appeal in South Australia will be introduced to the SA State Parliament, on the back of stakeholder support for change. (16 October 2019) <https://www.agd.sa.gov.au/newsroom/legal-fraternity-support-court-appeal-it-edges-closer-reality>

#### Whistleblowers Wanted: Public servants urged to report “wrongdoing” in SA

Anti-corruption commissioner Bruce Lander has emailed tens of thousands of public servants across the state, calling on them to “comply with their reporting obligations” by informing his office of suspected maladministration in their workplace. (21 October 2019) <https://indaily.com.au/news/local/2019/10/21/whistleblowers-wanted-public-servants-urged-to-report-wrongdoing/>

#### AEC enrolls new election webpage

The Australian Electoral Commission (AEC) has launched a new Transparency Register on its main website to improve public access to the data political parties and candidates are required to lodge at each election. (21 October 2019) <https://transparency.aec.gov.au/>

#### Privacy complaints, FOI reviews on rise in 2018–19

Increases in privacy complaints and freedom of information requests and reviews last year demonstrate the increasing value the community places on information, according to Australian Information Commissioner and Privacy Commissioner. (21 October 2019) <https://www.oaic.gov.au/updates/news-and-media/privacy-complaints-foi-reviews-on-rise-in-2018-19/>

#### Home Affairs investigated over FOI laws

The information watchdog has launched an investigation into the Home Affairs department’s compliance with freedom of information laws. (25 October 2019) <https://www.perthnow.com.au/politics/home-affairs-investigated-over-foi-laws-ng-s-1975645>

#### Police sign up to fight forced marriages

The Australian Federal Police (AFP) has partnered with Anti-Slavery Australia (ASA) to launch a new campaign raising awareness about forced marriages and their illegality in Australia. (17 October 2019) <https://www.afp.gov.au/news-media/media-releases/forced-marriage-awareness-campaign-launched-australia%E2%80%99s-busiest-airport>

## Bill to cut red tape and restore certainty to native title agreements

Streamlining the native title claim process and removing uncertainty around the validity of some mining and exploration agreements are the key aims of a Bill tabled in Parliament this month by the Morrison Government. The Bill will provide claimant groups with increased transparency and accountability for prescribed bodies corporate (the corporations set up to manage native title). (17 October 2019) <http://www.attorneygeneral.gov.au/Media/Pages/bill-to-cut-red-tape-and-restore-certainty-to-native-title-agreements-17-october-2019.aspx>

## Why the government's proposed facial recognition database is causing such alarm

Since before the 2019 election, the Morrison government has been keen to introduce a new scheme that would allow government agencies, telcos and banks to use facial recognition technology to collect and share images of people across the country. <https://theconversation.com/why-the-governments-proposed-facial-recognition-database-is-causing-such-alarm-125811>

## IN PRACTICE AND COURTS

### [ICAC Looking Back Report Published](#)

The Looking Back report reflects upon conduct and practices in South Australian public administration and the operations of the Commissioner's office and the Office for Public Integrity (OPI). (16 October 2019)

### [2018-19 ICAC / OPI Annual Report Tabled](#)

The 2018-2019 Annual Report of the Independent Commissioner Against Corruption (ICAC) and the Office for Public Integrity (OPI) was tabled in parliament earlier this month. (15 October 2019)

### [Attorney Generals Department: Major Indictable Reform](#)

The Attorney-General has released the final report prepared by the Hon Brian Martin AO QC into reforms into the way serious criminal charges are handled. This review was commissioned by the Attorney-General in March 2019. (15 October 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. Issue No. 42/2019, 21 October 2019

### [OAIC: Consultation opens on draft privacy rules](#)

The OAIC is seeking feedback over its draft Privacy Safeguard Guidelines. The planned rules apply to the Consumer Data Right (CDR) regime, which aims to provide Australians with greater choice and control over how their data will be used and disclosed. The CDR scheme will be rolled out in February, starting with the banking sector. Closing date for submissions is 20 November 2019.

## ACMA: The form of records kept by broadcasters

Consultation closes: 08 November 2019

We've decided to update the instrument that sets out the form of the records broadcasters need to keep. A draft of the updated instrument can be downloaded here [Consultation draft: Approval of form of record](#). (10 October 2019)

## Legal and Constitutional Affairs Legislation Committee

[Native Title Legislation Amendment Bill 2019](#)  
[Customs Amendment \(Product Specific Rule Modernisation\) Bill 2019 \[Provisions\]](#)  
[Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protection Measures\) Bill 2019 \[Provisions\]](#)

## Legal and Constitutional Affairs References Committee

[Impact of changes to service delivery models on the administration and running of Government programs](#)

[Nationhood, national identity and democracy](#)

## Senate Committee Inquiries

### Community Affairs Legislation Committee

[Social Security \(Administration\) Amendment \(Income Management to Cashless Debit Card Transition\) Bill 2019](#)

[Social Services Legislation Amendment \(Drug Testing Trial\) Bill 2019](#)

## Legal and Constitutional Affairs Legislation Committee

[Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protection Measures\) Bill 2019 \[Provisions\]](#)

[The impact of changes to service delivery models on the administration and running of Government programs](#)

[Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press](#)

The inquiry was referred by the Attorney-General, The Hon Christian Porter MP who noted that the Government will consider proposals from media organisations and interested bodies which aim to ensure the right balance is struck between a free press and keeping Australians safe. For further information about the inquiry see the full terms of reference. As agreed by the Attorney-General, the reporting date for this inquiry has been extended to 28 November 2019.

## PUBLISHED - ARTICLES, PAPERS, REPORTS

### [Guide to health privacy](#)

The guide outlines the key practical steps that health service providers should take to embed good privacy in their practice. In addition, the guide outlines how key privacy obligations apply to and operate in the healthcare context. This guide has been written to help health services providers — from doctors and private sector hospitals, through under the Privacy Act 1988, and embed good privacy in their practice.

### [The risk of the digital status quo: how governments can enable digital transformation](#)

Satyamoorthy Kabilan; Public Policy Forum: 17 October 2019. Digital transformation can be risky – but the status quo is riskier. Drawing on insights of CIOs and senior public servants, this report identifies strategies for dealing with the risks of not embracing digital technology for public services, including: legacy systems costs, cyber security, people and culture, and service failure.

## CASES

### [Hutchinson v Comcare \(No 5\) \[2019\] FCA 1665](#)

COSTS – Public Interest Disclosure Act 2013 (Cth) s 18: costs only if proceedings instituted vexatiously, without reasonable cause or if the applicant's unreasonable act or omission caused the other party to incur costs – whether the proceedings were instituted without reasonable cause – costs awarded.

### [Dezfouli and Australian Federal Police \(Freedom of information\) \[2019\] AATA 4079](#)

FREEDOM OF INFORMATION – access – where documents were produced to Applicant either in full or with exemptions – whether the Respondent took all reasonable steps to find documents within the scope of the access request – whether information contained in identified documents fall under exemptions in FOI Act – public interest considerations – decision affirmed. Freedom of Information Act 1982 (Cth) – ss 7, 24A, 33, 37, 42, 47B, 47E, 47F, 54W, 55G, 57A, 93A.

### [‘RG’ and Department of the Prime Minister and Cabinet \(Freedom of information\) \[2019\] AICmr 69](#)

Freedom of Information – Whether material obtained in confidence – (CTH) Freedom of Information Act 1982 s 45.

### [Paul Farrell and Australian Federal Police \(Freedom of information\) \[2019\] AICmr 68](#)

Freedom of Information – Freedom of Information – Whether disclosure would prejudice lawful methods or procedures – Whether disclosure would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency – Whether disclosure of personal information unreasonable – Whether disclosure is contrary to public interest – (CTH) Freedom of Information Act 1982 ss 11A(5), 22, 37(2)(b), 47E(d) and 47F.

### [‘RF’ and Department of Home Affairs \(Freedom of information\) \[2019\] AICmr 67](#)

Freedom of Information – Whether disclosure of personal information unreasonable – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5) and 47F.

### [RIBBON v THE QUEEN \[2019\] SASCFC 130](#)

CRIMINAL LAW - PARTICULAR OFFENCES - DRUG OFFENCES - OTHER OFFENCES

APPEAL AND NEW TRIAL - NEW TRIAL - IN GENERAL AND PARTICULAR GROUNDS - PARTICULAR GROUNDS - MISDIRECTION OR NON-DIRECTION - JUDGE'S SUMMING UP

APPEAL AND NEW TRIAL - NEW TRIAL - IN GENERAL AND PARTICULAR GROUNDS - PARTICULAR GROUNDS - IMPROPER ADMISSION OR REJECTION OF EVIDENCE

STATUTES - ACTS OF PARLIAMENT - INTERPRETATION - PARTICULAR WORDS AND PHRASES - SPECIFIC INTERPRETATIONS

STATUTES - ACTS OF PARLIAMENT - INTERPRETATION - CONSIDERATION OF EXTRINSIC MATTERS

Bearing in mind all of these considerations, I consider it was appropriate and necessary that the trial judge direct the jury that they must be unanimously agreed as to at least one of the three particulars of the physical element of “imports the substance” relied upon by the prosecution before convicting the appellant. In failing to give an extended unanimity direction along these lines, the trial judge fell into error.

## LEGISLATION

### [Transport Security Amendment \(Serious Crime\) Bill 2019](#)

HR 23/10/2019 - to clarify and align the legislative basis for undertaking background checks of individuals under the Aviation and Maritime Acts.

### [Commonwealth Electoral Amendment \(Lowering Voting Age and Increasing Voter Participation\) Bill 2019](#)

HR 21/10/2019 – The changes to the Commonwealth Electoral Act 1918 are intended to lower the minimum age of a voter in Australian federal elections and referenda from 18 to 16 years of age, while keeping the minimum age of compulsory voting and eligibility to stand as a federal parliamentarian at 18 years of age.

### [National Integrity \(Parliamentary Standards\) Bill 2019](#)

Senate 17/10/2019 - This Bill is part of a package of bills to promote public confidence in the integrity of Parliament, the public sector and the democratic system. This package is about creating a culture of integrity and a practical and pro-active approach to preventing and addressing corruption. The Bill will create a statutory code of conduct for parliamentarians and their staff.

Note: The Bill will operate alongside the National Integrity Commission Bill 2018(No. 2) which seeks to establish the Australian National Integrity Commission.

### [Social Services Legislation Amendment \(Drug Testing Trial\) Bill 2019](#)

HR 17/10/2019 - Amends the: Social Security Act 1991 and Social Security (Administration) Act 1999 to establish a two year drug testing trial in three regions for 5000 new recipients of newstart allowance and youth allowance; Farm Household Support Act 2014 to make consequential amendments.

## [National Disability Insurance Scheme Act 2013](#)

18/10/2019 - Act No. 20 of 2013 as amended

## [Administrative Decisions \(Judicial Review\) Act 1977](#)

16/10/2019 – Act No. 59 of 1977 as amended

## Act Proclamations

24.10.2019 p 3572 [Administrative Arrangements \(References in eProjects Panel Agreement\) Proclamation 2019](#)

24.10.2019 p 3572 [Statutes Amendment \(Child Exploitation and Encrypted Material\) Act \(Commencement\) Proclamation 2019](#)

## Regulations

2019-221 [Youth Justice Administration Variation Regulations 2019](#)

2019-224 [Criminal Law Consolidation \(General\) \(Child Exploitation Material\) Variation Regulations 2019](#)

## Acts

[Liquor Licensing \(Miscellaneous\) Amendment Act 2019](#)  
Assented to 24.10.2019

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