



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 23 of the SA Public Sector Newsletter.

This issue highlights the developing privacy considerations arising from the COVID-19 measures implemented by Australian Governments, including privacy guidance issued by the Office of the Australian Information Commissioner for public servants working from home and the need for transparency around the Federal Government's new COVID-19 phone app.

The Government's COVID-19 response otherwise dominates, including at a State level, the suite of measures introduced to protect SA community and jobs, and at a federal level, the establishment of a Senate Select Committee on COVID-19 to inquire into the Australian Government's response to the COVID-19 pandemic. The committee is to present its final report on or before 30 June 2022.

The High Court's judgment in *The Queen v Pell* is also addressed in this issue, as well as the usual round up of practice notes, cases and legislation.

COVID-19 - USEFUL LINKS

[Cleaning and disinfection in the workplace - non-health care settings](#)

[Home isolation and self-quarantine information](#)

[Latest SA Health Updates](#)

[South Australian COVID-19 response](#)

[South Australian Government COVID-19 website](#)

IN THE MEDIA

COVID-19 testing blitz for South Australia

South Australia is launching a two-week testing blitz for COVID-19. The expansion of testing criteria will give symptomatic South Australians reassurance they are not infected. (15 April 2020) <https://www.premier.sa.gov.au/news/media-releases/news/covid-19-testing-blitz-for-south-australia>

Financial support to help Australian exporters bounce back

The new COVID-19 Export Capital Facility will enable Australian exporters access to business-saving loans, targeting previously profitable exporters who are unable to gain finance from commercial sources. (15 April 2020) <https://www.dfat.gov.au/news/news/financial-support-help-australian-exporters-bounce-back>

IMF forecasts big coronavirus growth hit amid world in a 'great lockdown'

The International Monetary Fund (IMF) forecasts Australia's economy would be one of the worst-hit economies in the Asian region, before rebounding in 2021. (14 April 2020) <https://www.abc.net.au/news/2020-04-14/imf-forecasts-big-coronavirus-growth-hit/12147818>

JobKeeper Payment Supporting Millions of Jobs

More than 800,000 businesses have already registered for the JobKeeper payments as part of the \$130 billion JobKeeper package. The payments are estimated to save the unemployment rate 5 percentage points than what the expected rates would be. (14 April 2020) <https://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/jobkeeper-payment-supporting-millions-jobs>

Coronavirus Hotline to Expand Significantly

Training for 850 new call centre staff will begin to expand the capacity of the coronavirus information hotline from 15 seats to 100. The plan will allow the public to have increased access and support to accurate information from a trusted source. (13 April 2020) <https://www.premier.sa.gov.au/news/media-releases/news/coronavirus-hotline-to-expand-significantly>

Contingency measures to ensure continuity of aged care during COVID-19

The Federal Government is launching measures to ensure aged care recipients receive the quality of care during the COVID-19 pandemic. The measures are aimed at strengthening the workforce and filling staffing gaps to support aged care facilities. (12 April 2020) <https://www.health.gov.au/ministers/senator-the-hon-richard-colbeck/media/contingency-measures-to-ensure-continuity-of-aged-care-during-covid-19>

Over 200 organisations outline human rights concerns at outset of COVID crisis

More than 200 not-for-profit and community organisations have backed a major report calling on the Australian Government to strengthen its commitment to human rights in its laws, policies and practices. (09 April 2020) <https://www.hrlc.org.au/news/2020/4/9/upr-human-rights-concerns-covid-crisis>

LCA: Comments on the High Court judgment Pell v The Queen, from the Law Council of Australia President, Ms Pauline Wright

The High Court is the ultimate decision-maker within our judicial system in Australia and its job is to impartially scrutinise decisions made in lower courts to determine whether the law has been properly applied. In criminal trials, the prosecution bears the burden of proof and must prove every element of their case to the jury beyond a reasonable doubt. (08 April 2020) <https://www.lawcouncil.asn.au/media/media-releases/comments-on-the-high-court-judgment-pell-v-the-queen>

Read the full judgement summary from George Pell's successful High Court of Australia appeal

Cardinal George Pell has won his appeal against his child sexual abuse convictions. The High Court granted special leave to appeal against a decision of the Court of Appeal of the Supreme Court of Victoria and unanimously allowed the appeal. (07 April 2020) <https://www.abc.net.au/news/2020-04-07/george-pell-high-court-of-australia-full-judgment-summary/12128468>

Parliamentary scrutiny of Federal Government's COVID-19 response vital for democracy

The Human Rights Law Centre welcomed the Senate's vote to establish a cross-party Senate Select Committee to provide democratic oversight and scrutiny of the Morrison Government's response to the COVID-19 public health emergency. (08 April 2020) <https://www.hrlc.org.au/news/2020/4/8/covid-senate-select-committee>

Greater transparency needed around Federal Government's new COVID 19 phone app

Human rights and privacy experts have called on Federal Health Minister Greg Hunt to explain privacy and surveillance issues arising from the Federal Government's recently launched Coronavirus Australia app. (08 April 2020) <https://www.hrlc.org.au/news/2020/4/8/greater-transparency-needed-around-federal-governments-new-covid-19-phone-app>

Simplifying Deductions For Working From Home

The Australian Tax Office announced temporary arrangements for Australians working from home due to COVID-19. Taxpayers will be able to claim certain deductions rather than calculating specific running expenses. (7 April 2020) <https://ministers.treasury.gov.au/ministers/michael-sukkar-2019/media-releases/simplifying-deductions-working-home>

Protecting the community and local jobs

Better protections for landlords and private tenants, and a suite of measures to protect South Australian jobs are among the initiatives that form part of the Government's legislative response to the coronavirus (COVID-19). (07 April 2020) <https://www.agd.sa.gov.au/newsroom/protecting-community-and-local-jobs>

Services Australia passes partner audit

An audit of the effectiveness of agreement arrangements between Services Australia and other entities in supporting the delivery of services and payments has found that the systems in place are largely effective. (06 April 2020) https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2019-2020_30.pdf

Online safety guide for women and young girls

Minister for Women Bronnie Taylor announced a new digital toolkit designed to educate and empower young women and girls to stay safe online is now live. (04 April 2020) <https://www.dcj.nsw.gov.au/news-and-media/media-releases/online-safety-guide-for-women-and-young-girls>

For more information, visit <https://www.esafety.gov.au/women>

Hundreds of asylum seekers' names made public in government data breach

In a breach of the migration act, the Federal Court publishes hundreds of asylum seekers' names online, potentially putting them at risk in their home countries. (31 March 2020) <https://www.abc.net.au/news/2020-03-31/federal-court-in-protection-visa-data-breach-published-names/12102536>

Public servants to be deployed where the need is greatest: Woolcott

Public servants across the bureaucracy will be redeployed during the COVID-19 outbreak. Australian Public Service Commissioner, Peter Woolcott said that in the short term, the key priority was increasing capacity in areas critical to the delivery of services during the pandemic. (27 March 2020) <https://www.canberratimes.com.au/story/6699330/public-servants-to-be-deployed-where-need-is-greatest/>

IN PRACTICE AND COURTS

CDPP update regarding COVID-19

The Commonwealth Director of Public Prosecutions Ms Sarah McNaughton SC has this morning released an update to key stakeholders regarding COVID-19 and progression and early resolution of criminal cases. (03 April 2020)

Practice Notes

[Joint Practice Direction - Special measures in response to COVID-19](#)

Family Court of Australia and Federal Circuit Court of Australia, 2 of 2020 (31 March 2020)

[OAIC: COVID-19 Privacy Guidance](#)

The OAIC has released privacy guidance for agencies and private sector employers to help keep workplaces safe and handle personal information appropriately as part of the COVID-19 response. This includes answers to frequently asked questions. We've also issued detailed advice to help regulated entities assess the privacy risks involved in changed working environments. (08 April 2020) [COVID-19](#)

[OAIC: COVID-19 response from Australian privacy regulators](#)

As entities move fast to find solutions to public health and economic problems, Privacy Commissioners and Ombudsmen reiterate the value of conducting short-form Privacy Impact Assessments to help ensure personal information is handled in a way that is necessary, reasonable and proportionate. (27 March 2020).

[AAT Bulletin](#)

The AAT Bulletin is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions. Issue No. 12/2020, 6 April 2020.

[Australian Bushfires Disaster Emergency Declaration – Understanding your privacy obligations](#)

The Attorney-General has made the Privacy (Australian Bushfires Disaster) Emergency Declaration (No. 1) 2020 (the emergency declaration) under Part VIA of the Privacy Act 1988 (Cth) (Privacy Act). The emergency declaration was made in response to bushfires in Australia resulting in death, injury and property damage occurring from August 2019 into 2020. The emergency declaration expires on 20 January 2021.

Current Senate Inquiries

Select Committee on [COVID-19](#)

Environment and Communications References Committee

[Press Freedom](#)

On 16 March 2020, the Committee presented a progress report recommending that the Senate grant an extension of time to report until 20 May 2020.

Legal and Constitutional Affairs References Committee

[Nationhood, national identity and democracy](#)

On 23 March 2020 the committee's reporting date was extended to 9 September 2020.

Legal and Constitutional Affairs Legislation Committee

[Federal Circuit and Family Court of Australia Bill 2019 \[Provisions\] and Federal Circuit and Family Court of Australia \(Consequential Amendments and Transitional Provisions\) Bill 2019 \[Provisions\]](#) Report by 20 November 2020.

South Australia

[New COVID-19 laws include measures to continue legal services](#)

The Society has been working actively to ensure the people can access legal services in the face of current and any further restrictions imposed in response to the COVID-19 pandemic. The Stage Government's COVID-19 Emergency Response Bill 2020, Bill, which passed the Parliament on 8 April 2020, includes a number of measures which were sought by the Society in a letter to the Attorney General. (09 April 2020)

[Law Society COVID-19 practice management guide](#)

In recognition of the COVID-19 crisis the Ethics and Practice Unit of the Society has prepared a COVID 19 – Practice Management Information and Strategies guide which references State and Federal Government business initiatives particularly relevant to small to medium law practices, and provides advice on the observance of certain regulatory and ethical matters in the current circumstances that will be relevant to all law practices. (31 March 2020)

Court South Australia COVID-19

09/04/2020 [All matters before Adelaide Magistrates Court – Civil from 19 March 2020](#)

06/04/2020 [New listings arrangements and hearing procedures in Magistrates Courts 6 April 2020](#)

02/04/2020 [All matters before District Court Masters from 14 April 2020](#)

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Australia's children](#)

AIHW: 03 April 2020

This report brings together a range of data on children's wellbeing and their experiences at home, school and in the community. Highlights are presented in [Australia's children: in brief](#).

[Recommendations on privacy and data protection in the fight against COVID-19](#)

Estelle Massé; Access Now: 31 March 2020

In this paper, the authors provide privacy and data protection recommendations for governments to fight against COVID-19 in a rights-respecting manner.

[Australian government guide to Regulatory Impact Analysis](#)

Department of the Prime Minister and Cabinet (Australia): 30 March 2020

This guide has been prepared for every member of the Australian Public Service involved in policy making. It provides the context for regulation and encourages policy makers to think about potential impacts early in the policy process.

[Case Management by the Office of the Commonwealth Director of Public Prosecutions](#)

ANAO: 30 March 2020

The audit objective was to examine the efficiency of the Office of the Commonwealth Director of Public Prosecutions' (CDPP's) case management.

ANAO Performance Audits in Progress

Due to table: June, 2020 Open for contribution
[Administration of financial disclosure requirements under the Commonwealth Electoral Act](#)

Due to table: June, 2020 Open for contribution
[Management of the Australian Government's Register of Lobbyists – follow-up](#)

CASES

[Pell v The Queen \[2020\] HCA 12](#)

Special leave to appeal granted.

Appeal treated as instituted and heard *instanter* and allowed.

Criminal law – Sexual offences against children – Appeal against conviction by jury on ground that verdict unreasonable or cannot be supported having regard to whole of evidence – Where prosecution case wholly dependent upon acceptance of truthfulness and reliability of complainant's account – Where jury assessed complainant's evidence as credible and reliable – Where witnesses gave unchallenged evidence of specific recollections, practices and routines inconsistent with acceptance of complainant's account ("unchallenged inconsistent evidence") – Where Court of Appeal required to take into account forensic disadvantage experienced by applicant – Whether prosecution negated reasonable possibility that applicant did not commit offences – Whether Court of Appeal required applicant to establish offending impossible to raise reasonable doubt – Whether unchallenged inconsistent evidence required jury, acting rationally, to have entertained doubt as to applicant's guilt.

Criminal practice – Appeal – Video evidence – Where evidence of complainant and other witnesses recorded – Where Court of Appeal viewed recorded witness testimony – Whether proper discharge of appellate court's function necessitated review of recorded witness testimony.

Words and phrases – "beyond reasonable doubt", "compounding improbabilities", "credibility and reliability", "function of the appellate court", "function of the jury", "impossibility", "improbability of events", "invariable practice", "jury's advantage in seeing and hearing the witnesses", "negated the reasonable possibility", "opportunity witnesses", "realistic opportunity for the offending to have occurred", "religious ritual", "routines and practices", "significant forensic disadvantage", "significant possibility that an innocent person has been convicted", "solid obstacles to conviction", "standard and burden of proof", "unchallenged evidence", "uncorroborated", "video-recordings of the witnesses at trial".

Crimes Act 1958 (Vic), ss 45(1), 47(1).

Criminal Procedure Act 2009 (Vic), ss 276(1)(a), 378, 379(b)(i).

Judiciary Act 1903 (Cth), s 37.

Jury Directions Act 2015 (Vic), ss 4A, 39.

[QSuper Board v Australian Financial Complaints Authority Limited \[2020\] FCAFC 55](#)

CONSTITUTIONAL LAW – Judicial power of the Commonwealth – Australian Financial Complaints Authority (AFCA) given powers to determine superannuation complaints – AFCA determined that superannuation trustee's decision not to refund money to member operated unreasonably or unfairly in its operation in relation to that member – decision alleged to be or to involve an impermissible exercise of judicial power because it was "in effect" a determination of existing rights of the parties in relation to the operation of s 1017B of the Corporations Act – AFCA's determination did not involve any determination of rights under s 1017B – entitlement of non-judicial body to determine rights of parties as a step "along the way" to a non-judicial decision discussed – ability of non-judicial body to determine rights of parties where other aspects of judicial power not present – application dismissed.

[AUSENCO OPERATIONS PTY LTD & ANOR v FERRETTI INTERNATIONAL OTTOWAY PTY LTD & ANOR \[2020\] SASC 46](#)

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - JURISDICTIONAL MATTERS

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - PROCEDURAL FAIRNESS - HEARING - NATURE OF HEARING - OPPORTUNITY TO PRESENT CASE

CONTRACTS - BUILDING, ENGINEERING AND RELATED CONTRACTS - REMUNERATION - STATUTORY REGULATION OF ENTITLEMENT TO AND RECOVERY OF PROGRESS PAYMENTS - ADJUDICATION OF PAYMENT CLAIMS

[SLATER v LEECH & ORS \[2020\] SADC 38](#)

ADMINISTRATIVE LAW - JUDICIAL REVIEW

LEGISLATION

South Australia

Bills

[Freedom of Information \(Miscellaneous\) Amendment](#)

Adj 2nd reading 08/04/2020

Proclamations

2.4.2020 p 631 [Statutes Amendment and Repeal \(Simplify\) Act \(Commencement\) Proclamation 2020](#)

2.4.2020 p 632 [Judicial Conduct Commissioner \(Miscellaneous\) Amendment Act \(Commencement\) Proclamation 2020](#)

9.4.2020 p 700 [Correctional Services \(Miscellaneous\) Amendment Act \(Commencement\) Proclamation 2020](#)

- Acts**
- 2020-4 [Supply Act 2020](#)
 - 2020-6 [Coroners \(Undetermined Natural Causes\) Amendment Act 2020](#)
 - 2020-7 [COVID-19 Emergency Response Act 2020](#)
- Regulations and Rules**
- 2020-28 [Emergency Management \(Expiation Notices\) Variation Regulations 2020](#)
 - 2020-29 [Supreme Court \(Fees\) Variation Regulations 2020](#)
 - 2020-30 [District Court \(Fees\) Variation Regulations 2020](#)
 - 2020-31 [Magistrates Court \(Fees\) \(Miscellaneous\) Variation Regulations 2020](#)
 - 2020-38 [Youth Justice Administration \(Psychological Assessment\) Variation Regulations 2020](#)
 - 2020-39 [Freedom of Information \(General\) \(SACAT Principal Officer\) Variation Regulations 2020](#)
 - 2020-40 [Correctional Services \(Drug and Alcohol Testing\) Variation Regulations 2020](#)
 - 2020-43 [Cost of Living Concessions \(COVID-19 JobSeeker Household Payment\) Variation Regulations 2020](#)
 - 2020-44 [Development \(Public Health Emergency\) Variation Regulations 2020](#)

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