



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 32 of the SA Public Sector Newsletter.

This issue highlights identity and financial crime, with the Australian Institute of Criminology releasing three new statistical reports examining identity crime and misuse in Australia. The Office of the Australian Information Commissioner (OAIC) has highlighted the dangers of identity theft and the importance of protecting personal information.

At the local level, the State Government has announced revised timing for the implementation of the new planning and development system across large regional towns and metropolitan areas. Since 31 July 2020, the new planning system - PlanSA - has applied across South Australia's outback and rural areas, replacing hard copy council development plans and the manual processing of development applications.

This issue of the Newsletter also provides the usual round-up of practice notes, cases and legislation assistance.

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

Parliament to consider clipping ICAC's wings

A review into the operations of the state's anti-corruption commissioner is set to recommend dramatically limiting the watchdog's powers to investigate matters of maladministration. (28 August 2020) <https://indaily.com.au/news/2020/08/28/parliament-to-consider-clipping-icacs-wings/>

Identity crime and misuse in Australia, 2019

The estimated cost of identity crime in Australia in 2018–19 (including direct and indirect costs) was \$3.1b—17 percent more than in 2015–16. The Australian Institute of Criminology (AIC) has released three new statistical reports examining identity crime and misuse in Australia. (27 August 2020) <https://www.aic.gov.au/media-centre/news/identity-crime-and-misuse-australia-2019>

Looking Back 2020 - report published

The Looking Back report is the Hon. Bruce Lander QC's last public report before his term as South Australia's first Independent Commissioner Against Corruption ends on Tuesday, 1 September 2020. In this report Commissioner Lander offers his observations on the operations of his office and matters related to integrity in South Australian public administration. (27 August 2020) <https://icac.sa.gov.au/media-release/looking-back-2020-report-published>

Boosting support for at risk families in the family law system

The Morrison Government will establish a \$13.5 million pilot program to better identify and support families who are entering the family law system and are at risk of domestic violence. (26 August 2020) <https://www.attorneygeneral.gov.au/media/media-releases/boosting-support-risk-families-family-law-system-26-august-2020>

COVIDSafe now has improved notifications and supports 2 new languages

The Digital Transformation Agency (DTA) has released an update of the COVIDSafe app, set to improve notifications and allow users to use the app in Turkish and Punjabi. The Agency said that since the app's launch a number of iterative enhancements had been made, focused on performance, privacy and accessibility. (22 August 2020) <https://www.dta.gov.au/news/covidsafe-now-has-improved-notifications-and-supports-2-new-languages>

SA supermarket chain facing class action over claims it underpaid staff by nearly \$20m

Nic Butler says he was offered a gift card instead of wages for a day's work at a Romeo's supermarket. Now he's among current and former staff joining a class action lawsuit against the retail group. (21 August 2020) <https://www.abc.net.au/news/2020-08-21/alleged-underpayment-romeos-supermarkets-sa-sparks-class-action/12580206>

ACMA proposes new rules for broadband service failures

The ACMA wants to provide flexibility for retail providers to offer different retail service levels and to innovate, but with an expectation of transparency so consumers can make informed decisions. (20 August 2020) <https://www.acma.gov.au/articles/2020-08/acma-proposes-new-rules-broadband-service-failures>

Scams Awareness Week 2020 — Be yourself. Don't let a scammer be you

The Office of the Australian Information Commissioner (OAIC) has joined into Scams Awareness Week, highlighting the dangers of identity theft and the importance of protecting personal information. (19 August 2020) <https://www.oaic.gov.au/updates/news-and-media/scams-awareness-week-2020/>

Updated timeline for new planning system rollout

The State Government has announced revised timing for the implementation of the new planning and development system - across large regional towns and metropolitan areas - to ensure that implementation of this final and significant phase is done in a manner that presents users and beneficiaries of the system. (18 August 2020) <https://www.agd.sa.gov.au/newsroom/updated-timeline-new-planning-system-rollout>

IN PRACTICE AND COURTS

[An investigation into the effectiveness of ATO communications of taxpayers' rights to review, investigate and appeal](#)

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) is investigating how effectively the Australian Taxation Office communicates appropriate information on taxpayers' rights to review, complain and appeal decisions made and actions taken by the ATO. The closing date for submissions is 30 September 2020.

[ACMA position paper: Misinformation and news quality on digital platforms in Australia](#)

A position paper to guide code development—includes a model code framework for consideration, including objectives and outcomes to be achieved for the benefit of Australian users of digital platforms. The ACMA anticipates having in place a single, industry-wide code by December 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. 21/2020, 10 August 2020.

Current APH Inquiries and Consultations

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.

Legal and Constitutional Affairs References Committee

[Inquiry into domestic violence with particular regard to violence against women and their children](#)

[Nationhood, national identity and democracy](#)

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

LCA Current Inquiries and Consultations

[Insurance Inquiry](#), Australia Small Business and Family Enterprise Ombudsman.

[Inquiry into the human rights of women and girls in the Pacific](#)

Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade.

[Litigation funding and the regulation of the class action industry](#), Parliamentary Joint Committee on Corporations and Financial Services (supplementary submission).

[News media bargaining code](#), Australian Competition & Consumer Commission.

[Review of AFP Powers](#), Parliamentary Joint Committee on Intelligence and Security.

[Review of 'Declared Areas' Provisions](#), Parliamentary Joint Committee on Intelligence and Security.

[Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), Royal Commission.

[An Investigation into the effectiveness of ATO communications of taxpayers' rights to complain, review and appeal](#), Inspector-General of Taxation.

[Review into the Framework of Religious Exemptions in Anti-discrimination Legislation](#), Australian Law Reform Commission.

[Intelligence and Security Legislation Amendment \(Implementing Independent Intelligence Review\) Bill 2020](#)

The Parliamentary Joint Committee on Intelligence and Security is calling for submissions on the Intelligence and Security Legislation Amendment (Implementing Independent Intelligence Review) Bill 2020. On 23 March 2020 the Senate extended the committee's reporting date to 14 October 2020.

South Australia

Reminder: Abuse of Powers of Attorney under the spotlight: Consultation

In the face of increasing concerns about the abuse of Powers of Attorney, legal experts are asking for submissions as part of their review of existing South Australian law. Submissions are open until 4 September 2020 to give their feedback via the [yourSAy](#) website. A [Discussion Paper](#), primarily for legal practitioners, has also been prepared. SALRI will consider submissions and provide a report to the South Australian Government by the end of 2020 with recommendations about how the law can be improved.

[Supreme Court Rules \(current\) - Uniform Civil Rules effective from 17 August 2020](#)

The Uniform Civil Rules 2020 have been amended by Uniform Civil (No 1) Amending Rules 2020, effective 17 August 2020.

[Law Society of SA: Advocacy Notes](#)

Advocacy Notes monthly newsletter providing the latest news and advocacy from the Law Society. (26 August 2020)

COVID-19 Updates

[All matters before Adelaide Magistrates Court - Civil](#)

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Identity crime and misuse in Australia 2019](#)

Franks C & Smith R. Statistical Report no. 29. Canberra: Australian Institute of Criminology: 27 August 2020

The 2019 survey of identity crime and misuse found 25 percent of respondents had experienced misuse of their personal information at some time in their lives, nearly 12 percent within the previous year.

[Sexual assault in Australia - in focus](#)

Australian Institute of Health and Welfare: 28 August 2020

Sexual assault is a major health and welfare issue in Australia. This report draws together a range of available data sources to provide a national summary of the extent, nature and impact of sexual assault. Data are presented separately for Australians aged 15 and over.

[Biodata and biotechnology: Opportunity and challenges for Australia](#)

John Mattick; Australian Strategic Policy Institute: 27 August 2020

This report canvasses the extraordinary recent developments in genome sequencing and genetic engineering. There are resourcing, privacy, vulnerabilities, sensitivities and national security issues to consider, protections to be put in place, and social licenses to be obtained. Big-data analysis skills need be taught in science and engineering, and built into research institutions as well as health, agricultural and environmental management enterprises and agencies.

[Review of the national action plan to combat human trafficking and slavery 2015–19](#)

Samantha Lyneham, Isabella Voce; Australian Institute of Criminology: 25 August 2020

The Department of Home Affairs commissioned the Australian Institute of Criminology to undertake this review of the National Action Plan to Combat Human Trafficking and Slavery 2015–19.

CASES

[Gould v Jordan \[2020\] FCA 1191](#)

PRACTICE AND PROCEDURE – interlocutory application for the separate hearing and determination of issues in defamation proceedings – trial of defences of jurisdictional and contextual truth under ss 28 and 29 of the Uniform Defamation Act likely to be substantial – certain matters indicating that separate hearings may not result in prolongation of the litigation – whether the Respondent has shown there should be departure from the usual course. Held: application granted. Crimes Act 1914 (Cth) s 43(1); Uniform Defamation Act ss 18, 25, 26, 28, 29; Federal Court Rules 2011 (Cth) rr 16.07(2), 30.01

[N & M Martin Holdings Pty Ltd v Commissioner of Taxation \[2020\] FCA 1186](#)

TAXATION – notices of appeal against appealable objection decisions under s. 14ZZ of the Taxation Administration Act 1953 (Cth.)

ADMINISTRATIVE LAW – application for judicial review under s. 39B of the Judiciary Act 1903 (Cth.) and the Administrative Decisions (Judicial Review) Act 1977 (Cth.) – where judicial review sought in respect of decision by the Commissioner not to remit shortfall interest charge under s. 280-160 of Sch. 1 of the Taxation Administration Act 1953 (Cth.) in respect of the beneficiary for the 2014 year of income – whether Commissioner had asked wrong statutory question and had thereby erred at law – whether Commissioner applied test as expressed in s. 8AAG for remission of general interest charge as opposed to test under s. 280-160 for remission of shortfall interest charge. Administrative Decisions (Judicial Review) Act 1977 (Cth.)

[Palmer v State of Western Australia \(No 3\) \[2020\] FCA 1220](#)

The Directions prohibit entry into Western Australia of persons other than those defined as “exempt travellers”.

On 25 May 2020, the applicants, Clive Frederick Palmer and Mineralogy Pty Ltd (the Palmer parties), commenced proceedings in the High Court of Australia seeking a declaration that the Emergency Management Act and/or the Directions are invalid, in whole or in part, on the basis that they contravene s 92 of the Constitution.

Section 92 of the Constitution provides that, “trade, commerce, and intercourse among the States...shall be absolutely free”.

PRACTICE AND PROCEDURE – issue remitted from High Court of Australia – whether intervener requires leave to withdraw – leave to withdraw not required – whether respondents would be prejudiced by withdrawal – where respondents seek rehearing of evidence – rehearing refused

Constitution s 92; Judiciary Act 1903 (Cth) ss 44 and 78A

[Prodata Solutions Pty Ltd v South Australian Fire and Emergency Services Commission \(No 3\) \[2020\] FCA 1210](#)

PRACTICE AND PROCEDURE – application by respondents for dismissal of proceedings pursuant to r 5.23(b)(i) the Federal Court Rules 2011 (Cth) or s 37P(5) of the Federal Court of Australia Act 1976 (Cth) – where the applicant is in default within the meaning of r 5.22 of the Rules – where applicant failed to file lay affidavits within ordered timeframe – where applicant failed to prosecute the proceeding with due diligence – where applicant failed to make a timely application to vary orders progressing the matter to trial – where applicant failed to apply for variation of the trial dates – where applicant's default caused the trial dates to be vacated – where applicant has provided no satisfactory explanation for its default – applicant's conduct having the effect of delaying the progress of the matter to trial in circumstances where orders for delay could not have been secured on the merits – whether the overarching purpose in s 37M of the Federal Court of Australia Act 1976 (Cth) would be "best promoted" by the dismissal of the originating application – originating application dismissed

PRACTICE AND PROCEDURE – application by corporate applicant for dispensation with the requirement in r 4.01(2) of the Federal Court Rules 2011 (Cth) – corporate applicant seeking to be represented in the proceedings by its managing director – where applicant previously terminated the retainer of four successive lawyers in the proceedings – consideration of factors relevant to the exercise of the discretion to dispense with the usual rule – whether respondents' applications for dismissal should be assessed on the assumption that the corporate applicant would be represented by a lawyer in the event that the proceedings were to remain on foot

Federal Court of Australia Act 1976 (Cth) ss 37M, 37N, 37P

Copyright Act 1968 (Cth)

Federal Court Rules 2011 (Cth) rr 1.34, 4.01, 4.04, 5.22, 5.23, 11.02, 30.01

Civil Procedure Act 2010 (Vic) ss 7, 9

Supreme Court (General Civil Procedure) Rules 2015 (Vic) r 6.03

['VE' and Independent Parliamentary Expenses Authority \(Freedom of information\) \[2020\] AICmr 41](#)

Freedom of Information – Access grant – Personal privacy – whether disclosure would be unreasonable – (CTH) Freedom of Information Act 1982 s 47F

['VG' and Department of the Prime Minister and Cabinet \(Freedom of information\) \[2020\] AICmr 42](#)

Freedom of Information – Whether documents contain deliberative matter prepared for a deliberative purpose – Whether disclosure would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency – Whether contrary to public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5), 47C and 47E

['VH' and Australian Taxation Office \(Freedom of information\) \[2020\] AICmr 43](#)

Freedom of Information – Whether documents subject to legal professional privilege – Whether disclosure would have a substantial adverse effect on the management of personnel – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5), 42 and 47E(c)

[Rex Patrick and Department of Defence \(No 2\) \(Freedom of information\) \[2020\] AICmr 40](#)

Freedom of Information – Whether disclosure would disclose trade secrets or commercially valuable information – Whether documents contain deliberative matter prepared for a deliberative process – Whether disclosure would unreasonably affect an organisation in respect of its lawful business affairs – Whether disclosure would prejudice the future supply of information to the Commonwealth – (CTH) Freedom of Information Act 1982 ss 47(1)(a), 47(1)(b), 47C, 47G(1)(a) and 47G(1)(b)

['SX' and Australian Federal Police \(Freedom of information\) \[2020\] AICmr 38](#)

Freedom of Information – Whether disclosure would have a substantial adverse effect on the management or assessment of personnel – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5) and 47E(c)

['SY' and Services Australia \(Freedom of information\) \[2020\] AICmr 39](#)

Freedom of Information – Whether the request satisfies the identification of documents requirement – (CTH) Freedom of Information Act 1982 ss 4(1), 15, 55D

[VANSETTEN v THE STATE OF SOUTH AUSTRALIA \[2020\] SASC 158](#)

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - PROCEDURAL FAIRNESS - GENERALLY

PROCEDURE - CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS - ENDING PROCEEDINGS EARLY - SUMMARY DISPOSAL - SUMMARY JUDGMENT FOR DEFENDANT OR RESPONDENT: STAY OR DISMISSAL OF PROCEEDINGS

LEGISLATION

Commonwealth

Bills

[Family Law Amendment \(Risk Screening Protections\) Bill 2020](#)

Introduced Senate 26 August 2020 - The Bill will amend the Family Law Act 1975 to establish protections for sensitive information generated through, and confer immunity on court workers involved in, family safety risk screening in the federal family law courts.

[Sport Integrity Australia Amendment \(World Anti-Doping Code Review\) Bill 2020](#)

Introduced Senate 26 Aug 2020 - Aligns Australia's anti doping legislation with the revised World Anti Doping Code (Code) and International Standards (Standards) that come into force on 1 January 2021. The Code provides the framework for the operation of global harmonised rules and regulations.

[Interactive Gambling Amendment \(Prohibition on Credit Card Use\) Bill 2020](#)

Introduced Senate 25 August 2020 - The Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020 aims to minimise the scope for problem gambling among Australians betting online by amending the Interactive Gambling Act 2001 (the IGA) to implement a ban on the use of credit cards for betting using certain regulated interactive gambling services.

Regulations

[Electoral and Referendum Amendment \(Prescribed Authorities\) Regulations 2020](#)

26/08/2020 - This instrument amends the Electoral and Referendum Regulation 2016 to include the statutory agency called the National Disability Insurance Scheme Launch Transition Agency, commonly known as the National Disability Insurance Agency (NDIA) to the list of prescribed authorities for the purposes of the Electoral Act.

[ASIC Corporations \(Litigation Funding Schemes\) Instrument 2020/787](#)

21/08/2020 - This instrument provides exemptions to responsible entities of litigation funding schemes from certain provisions in Chapter 7 and Chapter 5C of the Corporations Act 2001 to facilitate the implementation of the regulatory framework for litigation funding schemes commencing on 22 August 2020. This instrument provides relief from the obligation to give Product Disclosure Statements to some members of an open class action; limited exemptions from the content requirements of product disclosure statements; modifications to withdrawal procedures for illiquid schemes in relation to litigation funding scheme members; an exemption from the general licensee duty to maintain a register of members; and an exemption from the obligations in relation to the valuation of scheme property.

South Australia

Regulations

2020-257 [Disability Inclusion \(Publication of Plans\) Variation Regulations 2020](#)

2020-258 [Sheriff's Regulations 2020](#)

2020 -259 [State Procurement Regulations 2020](#)

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