



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 33 of the SA Public Sector Newsletter.

The South Australian Government will continue support for residential and commercial tenants struggling with the impacts of COVID-19 for another six months, with an extension to the COVID-19 Emergency Response Act introduced to Parliament on 9 September.

Other legislation tabled in Parliament includes proposed amendments to the Fair Trading Act, which aim to better protect South Australians from unscrupulous payday lenders and those offering consumer leases, and draft legislation which significantly reduces sentence discounts available to serious criminal offenders for early guilty pleas.

At the federal level, the Department of Prime Minister and Cabinet has released its Corporate Plan for 2020-24. In light of the impacts of COVID-19 and the natural disasters Australia suffered in the prelude to 2020-21, the four-year agenda is aimed at strengthening the economy, supporting families, regions and communities, keeping people safe and protecting national interests.

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

SA takes the lead on unscrupulous payday lenders

South Australians will be better protected from unscrupulous payday lenders and those offering consumer leases, under draft legislation tabled in State Parliament. Attorney-General Vickie Chapman

said there was a pressing need to act to protect South Australians from payday loan sharks as discussions on a nationwide approach have gone nowhere. (11 September 2020) <https://www.premier.sa.gov.au/news/media-releases/news/sa-takes-the-lead-on-unscrupulous-payday-lenders>

Attorney General: Reviews of Judicial Impartiality and the Legislative Framework for Corporations and Financial Services Regulation

The Morrison Government has referred two matters to the Australian Law Reform Commission (ALRC) for review. First, on the issue of judicial impartiality, and the second, a review of the legislative framework for corporations and financial services regulation. (11 September 2020) <https://www.attorneygeneral.gov.au/media/media-releases/reviews-judicial-impartiality-and-legislative-framework-corporations-and-financial-services-regulation-11-september-2020>

PM&C: Corporate plan unveiled

The Department of Prime Minister and Cabinet has set out a four-year agenda aimed at strengthening the economy, supporting families, regions and communities, keeping people safe and protecting national interests. The Department's Corporate Plan for 2020-24 stresses the need to be ready to respond to critical issues as they emerge. (10 September 2020) https://corporateplan.pmc.gov.au/sites/default/files/2020-08/corporate-plan-2020-24_0.pdf

Pandemic prompts family violence strategy

Services Australia has launched its Family and Domestic Violence Strategy 2020-23 emphasising support for people affected by family violence when forced to stay home during the pandemic. (10 September 2020) <http://mediahub.servicesaustralia.gov.au/news/new-strategy-to-support-people-affected-by-family-violence-in-our-changing-world/>

Services Australia's Strategy can be accessed [here](#).

Emergency relief for commercial and residential tenants set to continue

The Marshall Government will continue support for residential and commercial tenants struggling with the impacts of COVID-19 for another six months, under legislation to be introduced to State Parliament. (08 September 2020) <https://www.agd.sa.gov.au/newsroom/emergency-relief-commercial-and-residential-tenants-set-continue>

ICAC Investigation update

Late on 4 September 2020, the Honourable Ann Vanstone QC advised that in each case she had determined to continue the investigation commenced by predecessor, the Honourable Bruce Lander QC. In each case she withdrew the Notices issued on 5 August 2020 under the *Independent Commissioner Against Corruption Act 2012* requiring them to produce documents. (07 September 2020) <https://icac.sa.gov.au/public-statement/7sep2020>

Reforming sentence discounts

In a move to better protect the community the Marshall Government is introducing legislation to significantly reduce sentence discounts available to serious criminal offenders for early guilty pleas. (07 September 2020) <https://www.premier.sa.gov.au/news/media-releases/news/reforming-sentence-discounts>

LCA: ASIO's extraordinary detention powers extended until March 2021

The LCA says COVID-19 should not be used as an excuse to curtail Australia's personal freedoms that are unrelated to the pandemic. Law Council President, Pauline Wright, noted the highly extraordinary nature of these powers, which have no equivalent in the laws of Australia's closest intelligence partners, including the United States, United Kingdom, Canada and New Zealand. (04 September 2020) <https://www.lawcouncil.asn.au/media/media-releases/asio-extraordinary-detention-powers-extended-until-march-2021>

Strengthening controls on high-risk terrorist offenders

The Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020 – introduced in Federal Parliament – will establish an extended supervision order scheme to ensure that high risk terrorist offenders who are released into the community at the end of their custodial sentences are subject to close supervision in proportion to the level of risk they pose to community safety. (03 September 2020) <https://minister.homeaffairs.gov.au/peterdutton/Pages/strengthening-controls-on-high-risk-terrorist-offenders.aspx>

Lifting the cyber security of the internet of things: Voluntary code of practice

The Morrison Government has released a voluntary Code of Practice to improve the security of the Internet of Things (IoT) in Australia – including everyday devices

such as smart fridges, smart televisions, baby monitors and security cameras. (03 September 2020) <https://minister.homeaffairs.gov.au/peterdutton/Pages/voluntary-code-of-practice.aspx>

ACMA: Telstra, Optus, TPG and Dodo breach NBN service continuity rules

The ACMA has found TPG, Optus, Dodo and Telstra in breach of consumer protection rules after more than 1,500 of their customers were left without telco services while trying to migrate to the NBN. All four companies have provided court-enforceable undertakings to introduce measures to improve compliance with the service continuity rules. (01 September 2020) <https://www.acma.gov.au/articles/2020-08/telstra-optus-tpg-and-dodo-breach-nbn-service-continuity-rules>

Corporate Plan 2020-21 sets out OAIC strategic priorities

The Office of the Australian Information Commissioner (OAIC) has published its Corporate Plan for 2020-21, which sets out its strategic priorities and key activities for the next four years. The OAIC will achieve our core purpose – to promote and uphold privacy and information access rights – in the context of a vastly different environment to that of a year ago. (31 August 2020) <https://www.oaic.gov.au/updates/news-and-media/corporate-plan-2020-21-sets-out-oaic-strategic-priorities/>

ALRC's final report on Australia's corporate criminal responsibility regime

Attorney-General Christian Porter tabled the Australian Law Reform Commission's (ALRC) final report on Australia's corporate criminal responsibility regime, representing one of the most detailed examinations ever undertaken of the nation's corporate accountability framework. (31 August 2020) <https://www.attorneygeneral.gov.au/media/media-releases/alrcs-final-report-australias-corporate-criminal-responsibility-regime-31-august-2020>

New data shows Australians want accountable AI

The Australian Human Rights Commission (AHRC) has discovered that 46 per cent of people in Australia were not aware that the Government makes important decisions about them using artificial intelligence (AI). (31 August 2020) <https://humanrights.gov.au/about/news/new-data-shows-australians-want-accountable-ai>

SA's Aboriginal heritage protection laws could serve as a model for other jurisdictions, but there should be appeal rights on decisions to disturb heritage sites

Currently in SA, WA and other jurisdictions, only landowners have the right to cause a review a decision of the Minister under Aboriginal heritage laws. The series of events that led to the blast of the Juukan cave highlighted the dangers of a legislative framework that has no appeal rights. (September 2020) <https://www.lawsocietysa.asn.au/Public/Publications/Resources/heritageprotection.aspx>

IN PRACTICE AND COURTS

[APSC: Social media - Guidance for Australian Public Service Employees and Agencies](#)

This guidance was aimed at helping APS employees, managers, and Agencies understand and assess the risks that employees' online behaviour could pose to public confidence in Agencies and the APS, and strike a reasonable balance between employees' rights as individuals and their obligations as Public Servants. (10 September 2020)

High Court of Australia

[High Court of Australia Bulletin \[2020\] HCAB 06](#) (14 August 2020)

[LSC: Regulation of litigation funding schemes](#)

The Legal Services Council has amended the Legal Profession Uniform General Rules 2015 with effect from 22 August 2020 so the prohibitions in s 258(1) and (3) of the Legal Profession Uniform Law do not apply in relation to litigation funding schemes now regulated as managed investment schemes. The new rule will operate for 12 months to allow for consultation.

[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 to have 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, including immigration and citizenship. Issue No. 23/2020, 7 September 2020.

Family Court and Federal Circuit Court of Australia – Current ongoing projects – September 2020

[Priority Property Pool 500](#)

The Federal Circuit Court of Australia has introduced a new process to manage family law property disputes for cases where the value of the net property pool is under \$500,000. The new process, known as the Priority Property Pool 500 (PPP500), started on 1 March 2020 and will operate for two years as a pilot program in Adelaide, Brisbane, Melbourne and Parramatta.

[The Lighthouse Project](#)

The Lighthouse Project is a ground-breaking and innovative initiative in the way in which the Courts will screen for risk and focus on public health and improved outcomes for families involved in the family law system. A pilot for this project will commence in Adelaide, Brisbane and Parramatta and the Courts are looking to secure additional government funding to expand nationally.

[Family Court and FCC welcome risk-screening Bill](#)

The Family Court of Australia and Federal Circuit Court of Australia have declared their support for the introduction of the [Family Law Amendment \(Risk Screening Protections\) Bill 2020](#). While it is very uncommon for the courts to take a public stance on proposed legislation, it is understandable as the Bill establishes a framework to facilitate the courts' new Lighthouse Project family violence and risk-screening initiative. It will operate as a pilot program in Adelaide, Brisbane and Parramatta Family Court and FCC welcome risk-screening Bill.

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](#)

South Australia

[Courts Administration Authority of SA](#)

Communication from the Supreme Court - Revocation of COVID-19 Practice Changes - 1 September 2020

On 31 August 2020, the Judges' resolved to revoke the COVID-19 practice changes of 20 March 2020, subject to the following. Public health measures adapted to the directions and recommendations of public health authority will be maintained. The UCR will be amended so that submissions, rather than outlines, will be required in all appeal matters before the Court. In the case of applications for permission to appeal in criminal matters, those submissions must be provided three business days before the day on which the application is listed.

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

Advocacy Notes monthly newsletter providing the latest news and advocacy from the Law Society. (31 August 2020)

Payday Lending Reform: Consultation

Feedback is invited on the [draft Fair Trading \(Small Amount Credit Contracts and Consumer Leases\) Amendment Bill 2020](#). All feedback received will be considered in finalising the Bill and drafting supporting Regulations. Please email your feedback to CBSReforms@sa.gov.au. Submissions close 6 November 2020.

PUBLISHED - ARTICLES, PAPERS, REPORTS[Corporate Criminal Responsibility](#)

ALRC: 31 September 2020

The Australian Law Reform Commission report, Corporate Criminal Responsibility, was tabled in Parliament on 31 August 2020. The ALRC has made 20 recommendations for reform.

[Corporate Plan 2020-21 sets out OAIC strategic priorities](#)

OAIC: 31 August 2020

The Corporate Plan 2020-21 sets out strategic priorities and key activities.

[Establishment and Use of ICT Related Procurement Panels and Arrangements](#)

ANAO: 31 August 2020

The objective of this audit was to assess the extent to which entities' establishment and use of ICT related procurement panels and arrangements supported the achievement of value for money outcomes.

CASES[Private R v Cowen \[2020\] HCA 31](#)

Constitutional law (Cth) – Defence – Military discipline – Where plaintiff charged with assault occasioning actual bodily harm – Where plaintiff and complainant members of Australian Defence Force at time of alleged conduct – Where neither plaintiff nor complainant on duty or in uniform – Where plaintiff charged under s 61(3) of Defence Force Discipline Act 1982 (Cth) – Where s 61(3) provided defence member guilty of offence if engaged in conduct outside Jervis Bay Territory and that conduct would constitute Territory offence if it took place in Jervis Bay Territory – Where plaintiff's conduct also constituted offence under ordinary criminal law and civil courts available – Where plaintiff challenged jurisdiction of Defence Force magistrate to hear charge – Whether s 51(vi) of Constitution supported conferral of jurisdiction by Defence Force Discipline Act upon service tribunal to hear charge.

[Glencore Coal Assets Australia Pty Ltd v Australian Competition Tribunal \[2020\] FCAFC 145](#)

COMPETITION – applications for review of decision of the Australian Competition Tribunal (Tribunal) reviewing decision of the Australian Competition and Consumer Commission (ACCC) – where ACCC made an arbitration determination pursuant to s 44S of Competition and Consumer Act 2010 (Cth) (CCA) – where Tribunal conducted a "re-arbitration" pursuant to s 44ZP of the CCA – where declared service is the right to access and use monopoly infrastructure assets at Port of Newcastle

ADMINISTRATIVE LAW – application for judicial review of decision of Australian Competition Tribunal (Tribunal) by Australian Competition and Consumer Commission (ACCC) – where ACCC made arbitration determination pursuant to s 44S of Competition and Consumer Act 2010 (Cth) (CCA) – where Tribunal conducted a "re-arbitration" pursuant to s 44ZP of the CCA – where ACCC sought declaration that Tribunal erred whether ACCC can seek review pursuant to s 163A(3) of the CCA

[Wells Fargo Trust Company, National Association \(trustee\) v VB Leasco Pty Ltd \(administrators appointed\) \[2020\] FCA 1269](#)

STATUTES – interpretation – statute implementing treaty – International Interests in Mobile Equipment (Cape Town Convention) Act 2013 (Cth) – Convention on International Interests in Mobile Equipment – Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Art XI – Vienna Convention on the Law of Treaties, Arts 31, 32

STATUTES – meaning of "give possession of the aircraft object to the creditor" in the context of Art XI of Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment – whether "give possession" requires delivery of certain aircraft objects to the applicants in the United States or whether it entails making the aircraft objects available to the applicants – proper interpretation requires delivery of the relevant aircraft objects to the applicants in the United States

CORPORATIONS – whether administrators should be relieved of certain liability – administrators acted reasonably concerning providing assistance to the applicants to recover aircraft objects – s 443B notice of no effect upon the basis that the notice did not fulfil the obligations under Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment – administrators relieved of liability from the period 16 June 2020 to 20 October 2020 under s 44B(8) and s 447A of the Corporations Act 2001 (Cth)

[Francis and Sport Integrity Australia \(Freedom of information\) \[2020\] AATA 3314](#)

FREEDOM OF INFORMATION – Confidentiality Order – Freedom of Information Act 1982 – Claim exempt documents containing material obtained in confidence (section 45, Freedom of Information Act) – Claim disclosure of document would disclose deliberative matter (section 47C, Freedom of Information Act) or would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency (section 47E(d), Freedom of Information Act) – Confidentiality Order Granted

[WÄRTSILÄ AUSTRALIA PTY LTD \(ACN 003 736 892\) v PRIMERO GROUP LTD \(ACN 149 964 045\) & ORS \[2020\] SASC 162](#)

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

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

CONTRACTS - BUILDING, ENGINEERING AND RELATED CONTRACTS - THE CONTRACT - CONSTRUCTION OF PARTICULAR CONTRACTS AND IMPLIED CONDITIONS - OTHER MATTERS

[SLOAN v SERVICE STREAM LIMITED \(NO 2\) \[2020\] SADC 120](#)

PROCEDURE - CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS - COSTS - DEPRIVING SUCCESSFUL PARTY OF COSTS

PROCEDURE - CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS - COSTS - OFFERS OF COMPROMISE, PAYMENTS INTO COURT AND SETTLEMENTS - OFFER OF COMPROMISE OR OFFER TO SETTLE OR CONSENT TO JUDGMENT PURSUANT TO RULES

The defendant denied liability in its entirety for the plaintiff's claim on the basis that it had discharged any duty of care owed by it to him, whether pursuant to common law or under statute

LEGISLATION**Commonwealth****Acts**[Tertiary Education Quality and Standards Agency Amendment \(Prohibiting Academic Cheating Services\) Act 2020](#)

07/09/2020 - Act No. 78 of 2020 as made

[National Vocational Education and Training Regulator Amendment \(Governance and Other Matters\) Act 2020](#)

07/09/2020 - Act No. 77 of 2020 as made

Bills[Australia's Foreign Relations \(State and Territory Arrangements\) \(Consequential Amendments\) Bill 2020](#)

House of Representatives Second reading moved 03 September 2020

To prevent "arrangements" with foreign governments that the government says "adversely affect Australia's foreign relations or are inconsistent with our foreign policy". This Bill makes consequential amendments to the Administrative Decisions (Judicial Review) Act 1977 (the ADJR Act) to list the Foreign Relations Bill as a law to which the ADJR Act does not apply.

[Crimes Legislation Amendment \(Economic Disruption\) Bill 2020](#)

Introduced HR 02 September 2020

The Bill contains a range of measures to improve and clarify Commonwealth arrangements targeting the criminal business model, ensuring that law enforcement has suitable tools to detect illicit financial flows through effective information-gathering, confiscate relevant assets and prosecute responsible individuals. The Bill amends the Crimes Act 1914 (Crimes Act), Criminal Code Act 1995 (the Criminal Code), the COAG Reform Fund Act 2008 and the Proceeds of Crime Act 2002 (the POC Act).

[Fair Work Amendment \(One in, All in\) Bill 2020](#)

Registered 01 September 2020

This bill will give the Fair Work Commission (FWC) the power to deal with disputes relating to employee eligibility for the Jobkeeper payment. This bill extends the FWC's jurisdiction to deal with disputes about whether an employee is eligible for the Jobkeeper scheme.

[Electoral Legislation Amendment \(Miscellaneous Measures\) Bill 2020](#)

Senate Committee of the Whole debate 03 September 2020; Third reading agreed to 03 September 2020

Amends the: Commonwealth Electoral Act 1918 to: clarify the interaction between federal, state and territory electoral funding and disclosure regimes following the High Court decision in Spence v Queensland [2019] HCA 15; make technical amendments in relation to entity registration and public election funding rules; and allow a senior Australian Electoral Commission staff member rather than a senior Divisional Returning Officer to be on the Redistribution Committee for the Australian Capital Territory; Commonwealth Electoral Act 1918 and Referendum (Machinery Provisions) Act 1984 to amend various aspects of voting and scrutiny processes; and Referendum (Machinery Provisions) Act 1984 to extend the electronically assisted voting method to Australians working in Antarctica.

[Counter-Terrorism Legislation Amendment \(High Risk Terrorist Offenders\) Bill 2020](#)

House of Representatives Second reading moved 03 September 2020

This Bill will establish an extended supervision order scheme to ensure that high risk terrorist offenders who are released into the community at the end of their custodial sentences are subject to close supervision in proportion to the level of risk they pose to community safety.

South Australia**Proclamations**

10.9.2020 p 4557 [Statutes Amendment \(Electricity and Gas\) \(Energy Productivity\) Act \(Commencement\) Proclamation 2020](#)

10.9.2020 p 4559 [Administrative Arrangements \(Administration of Waite Trust \(Vesting of Land\) Act\) Proclamation 2020](#)

10.9.2020 p 4560 [Administrative Arrangements \(Committal of Acts\) Proclamation 2020](#)

Regulations

2020-264 [Surveillance Devices \(Prescribed Circumstances\) Variation Regulations 2020](#)

2020-265 [Motor Vehicles \(Audio Visual Recordings\) Variation Regulations 2020](#)

2020-266 [Criminal Law Consolidation \(Criminal Organisations\) \(Premises in Para Hills West\) Variation Regulations 2020](#)

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