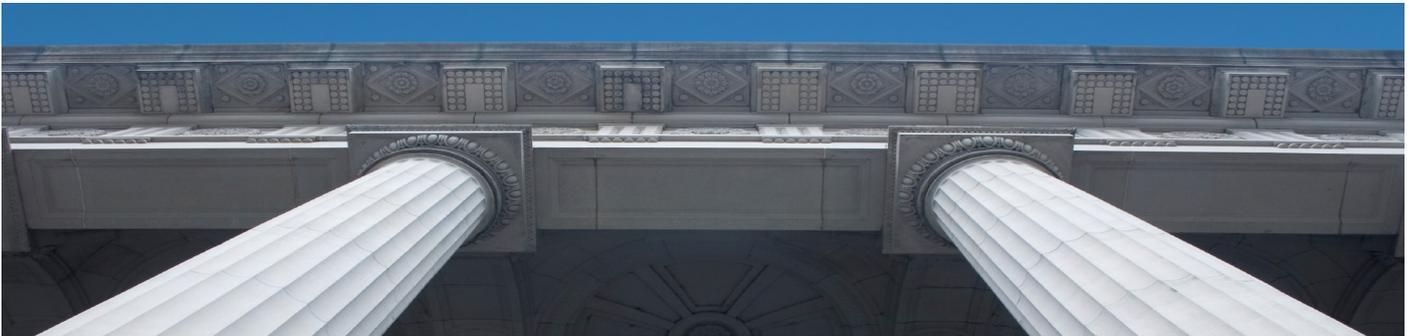


9 OCTOBER 2020

ISSUE 34



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 34 of the SA Public Sector Newsletter.

The South Australian Government's COVID-19 Emergency Response Act has been extended until 6 February 2021, continuing a number of the measures introduced in response to the pandemic. These include provisions involving commercial leases, restrictions on rent increases, the use of 'virtual' visits by the Community Visitor and alternative methods of signing and witnessing documents.

In further Parliamentary news, the Lower House of South Australia's Parliament passed legislation to reduce the discount for serious violent and sexual offenders who admit their crimes, to 25 per cent. The bill has yet to pass through the Upper House. A bill to create "safe access zones" that prevent protesting within 150 metres of an abortion clinic has also passed the Lower House of South Australia's Parliament.

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

Australians want more control over privacy, survey shows

Privacy is a major concern for 70% of Australians while 87% want more control and choice over the collection and use of their personal information, the Australian Community Attitudes to Privacy Survey 2020 shows. (24 September 2020) <https://www.oaic.gov.au/updates/news-and-media/australians-want-more-control-over-privacy-survey-shows/>

COVID-19 Emergency Act extension passes State Parliament

The Marshall Government's COVID-19 Emergency Response Act has been extended until 6 February 2021, or 28 days after the COVID-19 Emergency Direction expires - whichever comes first after a vote in State Parliament. (24 September 2020) <https://www.agd.sa.gov.au/newsroom/covid-19-emergency-act-extension-passes-state-parliament>

Doggone good idea

Changes proposed to the Evidence Act that will allow canine court companions to accompany vulnerable witnesses while they are giving evidence in South Australia's courts will be introduced into State Parliament. (23 September 2020) <https://www.agd.sa.gov.au/newsroom/doggone-good-idea>

Bill to outlaw protests near abortion clinics passes first hurdle in SA Parliament

A bill to create "safe access zones" that prevent protesting within 150 metres of an abortion clinic passes its first hurdle in South Australia's Parliament. (23 September 2020) <https://www.abc.net.au/news/2020-09-23/sa-safe-access-zones-for-abortion-clinics-pass-lower-house/12693456>

NCA bombing accused jailed for trafficking cannabis, possessing silencer

Domenic Perre is sentenced to more than seven years' jail for unrelated drug and firearm offences — but could apply for release as early as 2023. (22 September 2020) <https://www.abc.net.au/news/2020-09-22/nca-bombing-accused-domenic-perre-jailed-for-drug-trafficking/12688892>

Early guilty plea by killer of teenage couple prompts sentencing debate

Laws that would limit criminal sentencing discounts will come too late to apply to double murderer Pawel Klosowski, who admitted to shooting two teenagers including his son. (22 September 2020) <https://www.abc.net.au/news/2020-09-22/pawel-klosowski-murder-plea-sparks-sentence-discount-debate/12687878>

Government welcomes decision to extradite Malka Leifer

The Morrison Government has welcomed a decision by an Israeli court that has paved the way for former Melbourne school teacher Malka Leifer to finally face due process back in Australia. (22 September 2020) <https://www.attorneygeneral.gov.au/media/media-releases/government-welcomes-decision-extradite-malka-leifer-22-september-2020>

SA Police stop would-be thieves in their tracks

Serious Criminal Trespass offences against homeowners has dropped significantly after SA Police completed a targeted operation to shutdown offenders. Minister for Police, Vincent Tarzia, said the encouraging figures are a testament to SAPOL's ability to protect homes and businesses from theft. (21 September 2020) <https://www.premier.sa.gov.au/news/media-releases/news/sa-police-stop-would-be-thieves-in-their-tracks>

Election funds audit strikes a ballot

A performance audit into the Australian Electoral Commission's (AEC) financial disclosure scheme has found management of the scheme to be only partially effective. (21 September 2020) <https://www.anao.gov.au/work/performance-audit/administration-financial-disclosure-requirements-under-the-commonwealth-electoral-act>

Citywide park lands booze ban knocked back

The State Government has rejected a request from the Adelaide City Council to ban the consumption of alcohol at all times in the park lands, after the majority of respondents to the council's own consultation claimed the idea was "discriminatory and racist". (18 September 2020) <https://indaily.com.au/news/local/2020/09/18/citywide-park-lands-booze-ban-knocked-back/>

Appointment to the Federal Circuit Court of Australia

Mr Patrick O'Shannessy SC has been appointed as a judge of the Federal Circuit Court of Australia and will commence in the Melbourne registry, 18th September 2020. (18 September 2020) <https://www.attorneygeneral.gov.au/media/media-releases/appointment-federal-circuit-court-australia-18-september-2020>

Reappointments to the Administrative Appeals Tribunal

The Morrison Government is pleased to announce 16 reappointments to the Administrative Appeals Tribunal. The Tribunal serves an important function of providing independent merits review and the Government is committed to ensuring the Tribunal has the resources it needs to provide high quality merits review with minimum delay. (18 September 2020) <https://www.attorneygeneral.gov.au/media/media-releases/reappointments-administrative-appeals-tribunal-18-september-2020>

Enshrining privacy and security regime for data use key to the delivery of simple and accessible government services

A major milestone in the Morrison Government's reforms to government services was reached with the release of the Data Availability and Transparency Bill for

public comment. The Bill will establish the foundations of a seamless and proactive experience of government services, by enshrining in legislation privacy and security safeguards that set out modern foundations for use of data across the Commonwealth Government. (14 September 2020) <https://www.datacommissioner.gov.au/media-hub/enshrining-privacy-and-security-regime-data-use-key-delivery-simple-and-accessible>

Commissioner welcomes ruling on Facebook application

The Federal Court rejected Facebook Inc's application to set aside the Court's earlier ruling granting the Australian Information Commissioner leave to serve legal documents on the US-based entity. (14 September 2020) <https://www.oaic.gov.au/updates/news-and-media/commissioner-welcomes-ruling-on-facebook-application/>

IN PRACTICE AND COURTS

[Consultation on Financial Products and the Personal Property Securities Act 2009](#)

The Attorney-General's Department has released its consultation paper on the Personal Properties Securities Act 2009 and Financial Products. This consultation process will inform the Attorney-General's policy considerations and help ensure the law regarding financial property and intermediated securities is clear and fit for purpose in the PPS Act. Consultation closes on 30 October 2020.

[Family Law Amendment \(Powers Delegated to Registrars\) Rules 2020 and Federal Circuit Court Amendment \(Powers Delegated to Registrars\) Rules 2020](#)

[Family Law Amendment \(Powers Delegated to Registrars\) Rules 2020](#) and the [Federal Circuit Court Amendment \(Powers Delegated to Registrars\) Rules 2020](#) commenced on Saturday 26 September 2020. The amendments delegate additional powers to Registrars and Deputy Registrars of the Family Court of Australia (known respectively in practice as 'Senior Registrars' and 'Registrars') and Registrars of the Federal Circuit Court of Australia.

[National Cabinet Meeting, 18 September 2020](#)

The National Cabinet met to discuss Australia's COVID-19 response, recent progress following the Victorian outbreak, easing restrictions (including international border measures), helping Australians prepare to go back to work in a COVID-safe environment and getting the economy moving again.

[OAIC: New privacy resource: When do Australian Government agencies need to conduct a privacy impact assessment?](#)

The Office of the Australian Information Commissioner has released a privacy resource to assist Australian Government agencies to determine when they need to conduct a privacy impact assessment. (14 September 2020)

[Ombudsman Recommendations](#)

The fact sheet outlines what Government agencies or other entities can expect when the Ombudsman seeks assurance that recommendations have been implemented. (25 September 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.

[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.

[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. 24/2020, 21 September 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.

[Nationhood, national identity and democracy](#)

The committee's reporting date is extended to 8 December 2020.

[Guidance for digital check-in providers collecting personal information for contact tracing](#)

[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.

[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.

[South Australia](#)

[Legal profession required to use CourtSA to lodge documents in civil proceedings where CourtSA has an online option](#)

From Monday 21 September 2020, CourtSA is being mandated for legal practitioners in the civil jurisdiction. This means anything that can be lodged using CourtSA must be. Anything that cannot be lodged using CourtSA can be lodged via email or in person at a Court Registry counter. See the [CourtSA Help Centre](#) for more information.

[CAA Disability Access and Inclusion Plan \(DAIP\)](#)

The Courts Administration Authority has drafted a Disability Access and Inclusion Plan (DAIP) 2020-2023 that supports the State Disability Inclusion Plan. The draft plan sets out the actions the CAA will take over the next three years to improve the accessibility and inclusiveness of our services. Consultation is open until 25 October 2020. View the [Draft CAA Disability Access and Inclusion Plan](#).

[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.

PUBLISHED - ARTICLES, PAPERS, REPORTS[System Redevelopment – Managing Risks While Planning Transition](#)

ANAO Report No 10: 24 September 2020

The audit objective was to assess whether Services Australia appropriately managed risks to operating the current welfare payment system and appropriately prepared to transition to the future system.

[Administration of Financial Disclosure Requirements under the Commonwealth Electoral Act](#)

ANAO Report No 8: 17 September 2020

The AEC's management of the financial disclosures required under Part XX of the Commonwealth Electoral Act 1918 is partially effective.

CASES[Knowles v Secretary, Department of Defence \[2020\] FCA 1328](#)

ADMINISTRATIVE LAW – judicial review – decisions made by the respondent in relation to applications made under the Privacy Act 1988 (Cth) (hereafter, the "Privacy Act") for access to and correction of certain information – various species of relief sought – whether Privacy Act mandates provision of access to information within 30 days – appropriateness of declaratory relief – whether existence of other remedies for the review of administrative decisions should incline the court against granting prerogative or other relief – whether private information might be corrected by associating or attaching other documents to it – whether a demand that information be destroyed qualifies as a request for correction under the Privacy Act – further amended originating application dismissed with costs

[Matthews and Comcare \(Compensation\) \[2020\] AATA 3503](#)

SOCIAL SECURITY – Disability support pension - workers compensation – whether applicant suffers incapacity for work arising from employment – multiple claims at request of decision maker – employer ignoring clear medical recommendations - employment significant contributing factor to worsening of accepted injury – plaintiff's evidence not subject to significant challenge – Respondent accepts all but one of the outstanding disputes at the outset of the hearing – relief at being away from acute stress at work does not equate recovery – Treating Doctor not an advocate - Decision under review set aside.

Administrative Appeals Tribunal Act; Commonwealth Services Delivery Agency Act 1997

[Riger and Commonwealth Bank of Australia Limited \(Compensation\) \[2020\] AATA 3528](#)

PRACTICE AND PROCEDURE – Administrative Appeals Tribunal Act 1975 (Cth) – Summons – Objection to Summons – Relevance of evidence to facts in issue – propensity evidence – similar fact evidence – rules of evidence in the Tribunal – objection refused – summons varied in scope – summons to be complied with

Administrative Appeals Tribunal Act 1975 (Cth)

['VI' and CSIRO \(Privacy\) \[2020\] AICmr 44](#)

Privacy – Privacy Act 1988 (Cth) – Australian Privacy Principles – APP 6 – APP 11 – Personal information provided for workers compensation claim – Personal information used for an employee's workplace grievance – Sensitive medical information - Compensation for non-economic loss – Aggravated damages not awarded

['VJ', 'VK', 'VL' and 'VM' \(Privacy\) \[2020\] AICmr 45](#)

Privacy – Privacy Act 1988 (Cth) – Australian Privacy Principles – Breach of APP 12 – Breach of APP 11 – Psychologist delayed access to personal information – Damages for non-economic loss awarded – Aggravated damages awarded

['VN' and 'VM' \(Privacy\) \[2020\] AICmr 46](#)

Privacy – Privacy Act 1988 (Cth) – Australian Privacy Principles – Breach of APP 12 – Breach of APP 11 – Psychologist delayed access to personal information – Damages for non-economic loss awarded – Aggravated damages awarded

['VO' and Northern Australia Infrastructure Facility \(Freedom of information\) \[2020\] AICmr 47](#)

Freedom of Information – Whether documents subject to legal professional privilege – Whether material obtained in confidence – Whether disclosure would disclose commercially valuable 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 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

['VR' and Department of Defence \(Freedom of information\) \[2020\] AICmr 50](#)

Freedom of Information – Access grant – Whether disclosure would unreasonably affect an organisation in respect of its lawful business affairs – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5) and 47G

['VU' and 'VV', 'VW' \(Privacy\) \[2020\] AICmr 52](#)

Privacy – Privacy Act 1988 (Cth) – Australian Privacy Principles – Breach of APP 12 – Failure to provide access to personal information – Remedial action declared – Respondent required to provide access to personal information.

[William Yabsley and Australian Federal Police \(Freedom of information\) \[2020\] AICmr 48](#)

Freedom of Information – Whether reasonable steps taken to find documents – Whether material in documents irrelevant to the request – 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 contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982, ss 11A(5), 22, 24A, 47E and 47F

[KING v OMBUDSMAN & ANOR \[2020\] SASCFC 90](#)

ADMINISTRATIVE LAW - THE OMBUDSMAN - REVIEW OF OMBUDSMAN'S DECISIONS

ADMINISTRATIVE LAW - THE OMBUDSMAN - JURISDICTION

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

COURTS AND JUDGES - COURTS - JURISDICTION AND POWERS - GENERAL PRINCIPLES

[LESTER LAND HOLDINGS PTY LTD & ORS v THE DEVELOPMENT ASSESSMENT COMMISSION & ANOR \[2020\] SASC 170](#)

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - RELEVANT CONSIDERATIONS

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - IRRELEVANT CONSIDERATIONS

ADMINISTRATIVE LAW - JUDICIAL REVIEW - GROUNDS OF REVIEW - UNREASONABLENESS

ENVIRONMENT AND PLANNING - ENVIRONMENTAL PLANNING - DEVELOPMENT CONTROL - CONSENTS, APPROVALS AND PERMITS

[RYAN v RSPCA OF SA INC \[2020\] SASC 176](#)

ANIMALS - VARIOUS STATUTORY PROVISIONS - PREVENTION OF CRUELTY TO ANIMALS - OFFENCES - CAUSING UNNECESSARY PAIN AND CRUELLY ILLTREATING

MAGISTRATES - COMMENCEMENT OF PROCEEDINGS - DUPLICITY, AMBIGUITY AND UNCERTAINTY

LEGISLATION

Commonwealth

[Family Law Amendment \(Powers Delegated to Registrars\) Rules 2020](#)

25/09/2020 - The amendments delegate additional powers to Registrars and Deputy Registrars of the Family Court of Australia.

[Federal Circuit Court Amendment \(Powers Delegated to Registrars\) Rules 2020](#)

25/09/2020 - The amendments delegate a number of additional powers to Registrars of the Federal Circuit Court. The amendments, in conjunction with concurrent amendments to the Family Law Rules 2004, have the effect of harmonising the delegation of powers to family law Registrars in the Family Court of Australia and the Federal Circuit Court.

[Broadcasting Services \(Primary Commercial Television Broadcasting Service\) Declaration 2020](#)

22/09/2020 - This instrument declares specified television broadcasting services to be the 'primary commercial television broadcast service' of a licensee for the purposes of the Broadcasting Services Act 1992.

[Broadcasting Services \(Parental Lock\) Technical Standard 2020](#)

18/09/2020 - This instrument ensures that particular domestic reception equipment has parental lock capabilities or distributes information that enables the parental lock capabilities in other domestic reception equipment to operate.

South Australia

Proclamations

24.9.2020 p 4657 [Criminal Law \(Legal Representation\) \(Reimbursement of Commission\) Amendment Act \(Commencement\) Proclamation 2020](#)

Acts

2020-28 [Controlled Substances \(Confidentiality and Other Matters\) Amendment Act 2020](#) – 17 September 2020

2020-29 [Fair Trading \(Repeal of Part 6A—Gift Cards\) Amendment Act 2020](#) – 17 September 2020

2020-30 [COVID-19 Emergency Response \(Expiry and Rent\) Amendment Act 2020](#) – 25 September 2020

Regulations

2020-269 [Fair Trading \(Gift Cards\) Revocation Regulations 2020](#)

2020-270 [Criminal Law \(Legal Representation\) Regulations 2020](#)

2020-71 [Public Sector \(Data Sharing\) \(Prescribed Purposes\) Variation Regulations 2020](#)

2020-82 [COVID-19 Emergency Response \(Commercial Leases No 2\) \(Prescribed Period\) Variation Regulations 2020](#)

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