



## PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 35 of the SA Public Sector Newsletter.

This issue highlights a new homeless service which has recently been introduced in South Australia, which simplifies access to crisis and prevention services. The service forms part of the Government's homelessness system reforms, which aim to prevent people from falling into homelessness, ensure people get the right support they need and can access safe and stable long-term housing.

At the federal level, the Morrison Government is providing additional support for Australia's legal system to help those affected by COVID-19 and to support those using the courts to resolve their matters as quickly and efficiently as possible. The 2020-21 Budget measures include an additional \$87.3 million for family law services that help families going through a separation to resolve matters without having to go to court.

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

#### Digital goal to top world by 2030

The Government's Digital Business Plan includes a number of initiatives to support businesses along the journey towards improved business resilience and performance. This would be underpinned by the 2020 Cyber Security Strategy which would ensure Australia's cyber security was robust by improving security practices and awareness across the economy. (08 October 2020) [https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fbudget%2F2020\\_37%22;src1=sm1](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fbudget%2F2020_37%22;src1=sm1)

#### The Family Court of Australia and Federal Circuit Court of Australia welcome Government funding announced in the 2020-21 Budget

The Family Court of Australia and Federal Circuit Court of Australia (the Courts) welcome additional resources announced on 6 October as part of the 2020-21 Budget. Securing key and ongoing funding for judicial and registrar resources has been a priority for the Courts. (08 October 2020) <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/media-releases/2020/mr081020>

#### Election office can count on upgrades

The Australian Electoral Commission's (AEC) ageing ICT systems are to be upgraded as part of the post-pandemic Economic Recovery Plan for Australia. The upgrading will include new systems for control of personnel and logistics, and more seamless voter interactions with the AEC. (06 October 2020) <https://www.liberal.org.au/latest-news/2020/10/06/investment-key-elections-systems-upgrades>

#### Supporting the justice system during the COVID-19 pandemic

As part of Australia's Economic Recovery Plan, the Morrison Government is providing additional support for Australia's legal system to help those affected by the COVID-19 pandemic and to support those using the courts to resolve their matters as quickly and efficiently as possible. (06 October 2020) <https://www.attorneygeneral.gov.au/media/media-releases/supporting-justice-system-during-covid-19-pandemic>

#### SA Opposition warns against privatising child protection service

A plan to contract out a public service that reunites neglected infants with their families to a private or not-for-profit operator draws criticism from the Opposition and unions. (03 October 2020) <https://www.abc.net.au/news/2020-10-03/sa-government-urged-not-to-privatise-infant-protection-service/12729314>

## Updates to the Disability (Access to Premises – Buildings) Standards

The Morrison Government is pleased to announce the finalisation of the Disability (Access to Premises – Buildings) Standards 2020 which have been released. (02 October 2020) <https://www.attorneygeneral.gov.au/media/media-releases/updates-disability-access-premises-buildings-standards-2-october-2020>

## Domestic Violence Related to Problem Gambling, Says Study

New research published by Australia's National Research Organization for Women's Safety (ANROWS) found that gambling doesn't cause intimate partner violence (IPV) but exacerbates it. (02 October 2020) <https://www.gamblingnews.com/news/domestic-violence-related-to-problem-gambling-says-study/>

## Homeless Connect SA to start 1 October

A new homeless service that simplifies access to crisis and prevention services will begin in South Australia. Homeless Connect SA is a single hotline for anyone needing homelessness support, including youth services – and replaces the Homelessness Gateway. (01 October 2020) <https://www.premier.sa.gov.au/news/media-releases/news/homeless-connect-sa-to-start-1-october>

## Mayor escapes conviction for “adding a zero” to election leaflet

Marion mayor and former state MP Kris Hanna has slammed the Local Government Association after he escaped a conviction in the Magistrates Court for incorrectly “adding a zero” to an election pamphlet in breach of electoral law. (01 October 2020) <https://indaily.com.au/news/2020/10/01/mayor-escapes-conviction-for-adding-a-zero-to-election-leaflet/>

## Most want the Australian Government to do more to protect privacy

More than eighty per cent of Australians think the Government should do more to protect the privacy of their data, according to a survey by the OAIC. Privacy Commissioner Angelene Falk says the survey highlights the importance of data privacy to Australians in a time of rapidly evolving data collection and storage. (28 September 2020) <https://www.governmentnews.com.au/most-want-govt-to-do-more-to-protect-privacy/> The OAIC's [Australian Community Attitudes to Privacy Survey](#) (ACAPS), also shows the Australian Government is more trusted than business when it comes to the protection of personal information.

## Information watchdogs mark Access Day

The Australian Information Commissioner joined Information Access Commissioners and Ombudsmen from across Australia and New Zealand to sign a public statement marking Monday, 28 September as International Access to Information Day. They said open, transparent and accountable Governments that proactively release information to the community remained fundamental to a democratic society. (28 September 2020) <https://www.oaic.gov.au/s/access-to-information-day/>

## IN PRACTICE AND COURTS

### Federal Budget 2020-21

The Federal Government delivered the Budget for 2020-21 on 6 October.

*Cyber safety:* \$39.4 million in new funding for the Federal eSafety Commissioner to continue its work protecting Australians from online harms.

### 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. 25/2020, 5 October 2020.

### Office of the National Data Commissioner Exposure draft: Data Availability and Transparency Bill

The Australian Government are [seeking submissions](#) on the exposure draft of the Data Availability and Transparency Bill and explanatory materials, and an [Accreditation Framework discussion paper](#). Submissions are open between 14 September and 6 November 2020. You can also find a second independent Privacy Impact Assessment that examined the privacy implications of the Bill, and see the response.

### AIJA ANROWS Perpetrator Intervention Project - The National Statement for this project finalised

This is another key outcome of the ANROWS project and aims to encourage further discussion of the need to build more opportunities for judicial peer discussion and education on how to effectively utilise perpetrator interventions to enhance accountability. The Monash University Project Webpage can be accessed [here](#).

### 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.

### ACMA Consultation: New arrangements for low interference potential devices - consultation 28/2020

The ACMA would like comments on the draft Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2020 (No. 1). The closing date is 26 October 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.

## 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.

## South Australia

### [CAA Senior Counsel](#)

The Legal Practitioners (Senior and Queens Counsel) Act 2020 enacted by Parliament removes the discretion of the executive government to pick and choose which of the barristers, appointed as Senior Counsel by the Supreme Court, it will appoint as Queen's Counsel. Accordingly, the Judges will resume the practice of appointing Senior Counsel (28 September 2020).

### [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.

### [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. 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.

## 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.

## PUBLISHED - ARTICLES, PAPERS, REPORTS

### [Supplementary submission by the Commonwealth Ombudsman Inquiry into Centrelink's compliance](#)

Commonwealth Ombudsman: 08 October 2020

### [2019 Report on Commonwealth Ombudsman's activities under Part V of the Australian Federal Police Act 1979](#)

Commonwealth Ombudsman: 02 October 2020

For the period: 1 July 2018 to 30 June 2019

### [Auditor-General's mid-term report](#)

ANAO: 07 October 2020

The fifteenth Commonwealth Auditor-General of Australia, Grant Hehir, has prepared a mid-term report reflecting on his first five years in the role. The report presents a description and analysis of the role and impact of audit, as well as analysis of the financial audit and performance audit work of the Australian National Audit Office (ANAO). The report concludes with coverage of ANAO continuous improvement activities across audit quality, better communication, transparency, efficiency and workforce capability.

### [ANAO Annual Report 2019-20](#)

ANAO: 28 September 2020

The report addresses all applicable obligations under the Public Governance, Performance and Accountability Act 2013; the Public Governance, Performance and Accountability Rule 2014; the Auditor-General Act 1997; the performance measures set out in the outcome and programs framework in the ANAO's Portfolio Budget Statements 2019-20 and the ANAO Corporate Plan 2019-20; and annual reporting requirements set out in other relevant legislation.

## CASES

### [Vincentia MC Pharmacy Pty Ltd v Australian Community Pharmacy Authority \[2020\] FCAFC 163](#)

ADMINISTRATIVE LAW – statutory construction – decisions of Australian Community Pharmacy Authority to recommend to approve, and of Secretary to approve, application to supply pharmaceutical benefits under s 90 of National Health Act 1953 (Cth) – whether primary judge erred in adopting narrow construction of “for at least 70 hours each week” for purposes of definition of “large medical centre” in s 5(1) of National Health (Australian Community Pharmacy Authority Rules) Determination 2011 (Cth) – significance of weeks which include a public holiday to proper construction of “each week” – interpretation of subordinate or delegated legislation pursuant to s 13 of the Legislation Act 2003 (Cth) and s 15AA of the Acts Interpretation Act 1901 (Cth) – legislative definition framed as substantive enactment – appeal allowed – outstanding judicial review grounds remitted to primary judge for determination

[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

[WOOLMER v POLICE \[2020\] SASC 184](#)

MAGISTRATES - APPEAL AND REVIEW - SOUTH AUSTRALIA - APPEAL TO SUPREME COURT

TRAFFIC LAW - OFFENCES - EVIDENCE

EVIDENCE - PROOF - FACILITATING PROOF - MATTERS RELATING TO MACHINES, PROCESSES AND OTHER DEVICES

STATUTES - ACTS OF PARLIAMENT - INTERPRETATION

Without the assistance of the Certificate of Testing and Operation as aid to proof, the photographs of the appellant's vehicle turning right while the red light is showing does not establish beyond reasonable doubt that the appellant breached Rule 60 of the Australian Road Rules.

**LEGISLATION**

Commonwealth

Bills

[Judges' Pensions Amendment \(Pension Not Payable for Misconduct\) Bill 2020](#)

Introduced to Senate – 06/10/2020 - This Bill will address a deficit in the current Judges' Pensions Act 1968 (Pensions Act), and in particular the limitation that the Act only applies to Judges currently holding positions on the bench. This Bill is retrospective in operation for the purpose of ensuring all past Judges are held accountable for any serious misconduct done while they held their position and that only becomes apparent after their retirement or departure from the Bench.

[Royal Commissions Amendment \(Confidentiality Protections\) Bill 2020](#)

Introduced to Senate – 06/10/2020 - The Royal Commissions Amendment (Confidentiality Protections) Bill 2020 will amend the Royal Commissions Act 1902 and make consequential amendments to the Freedom of Information Act 1982. The proposed amendments will apply limitations on use and disclosure to information given by individuals to the Disability Royal Commission.

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

Amends the Family Law Act 1975 to provide that: family risk screening information is confidential and cannot be disclosed except in limited circumstances; family safety risk information is inadmissible in court, except in limited circumstances; and court workers (such as registrars and family counsellors) have immunity when involved in family risk screening procedures.

Senate Third reading agreed to 08/10/2020

Regulations

[Competition and Consumer \(Consumer Data Right\) Amendment Rules \(No. 2\) 2020](#)

01/10/2020 - This instrument amends the Competition and Consumer (Consumer Data Right) Rules 2020 to permit the use of accredited 3. intermediaries to collect CDR data, through an expansion of the rules relating to CDR outsourcing arrangements.

[Defence Determination, Conditions of service Amendment \(Imprisonment, detention and custody\) Determination 2020 \(No. 18\)](#)

28/09/2020 - This instrument reinstates the authority for suspending and forfeiting a member's salary and allowances during a period of imprisonment, detention or custody and provides what happens to a member's leave, housing benefits and other conditions of service during a period of imprisonment, detention or custody.

[Public Governance, Performance and Accountability \(Relevant Company\) Amendment \(2020 Measures No. 1\) Rules 2020](#)

28/09/2020 - This instrument makes an amendment to the Public Governance, Performance and Accountability (Relevant company) Rule 2016, to add a relevant company item to the Relevant companies table in section 5, as well as incorporate the proposed relevant company's objects into Column 3 of the Relevant companies table under section 5.

**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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