



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 37 of the SA Public Sector Newsletter.

Crime Stoppers SA has received an \$800,000 investment over four years from the Marshall Government, to help improve the future safety of South Australians. The ongoing funding will allow Crime Stoppers to expand its operations across South Australia, including measures to stop rural criminal activity.

In other local news, the laws that will significantly reduce the discounts available to serious criminal offenders for early guilty pleas have now come into effect, with the previous available discount of up to 40% for an early guilty plea reduced to a maximum of 25%.

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

Modern slavery concerns rise during COVID-19, especially among fruit pickers

A South Australian university researcher says cases of modern slavery have been detailed since the start of the pandemic and action must be taken now. (07 November 2020) <https://www.abc.net.au/news/2020-11-07/concerns-slavery-has-risen-during-coronavirus-pandemic/12821900>

Cashless Centrelink payment cards "not worth the human cost"

Cashless debit cards for welfare recipients are demeaning and create stress for recipients, senators have been told as the Morrison Government looks to widen the scheme. (06 November 2020) <https://indaily.com.au/news/2020/11/06/cashless-centrelink-payment-cards-not-worth-the-human-cost/>

Clive Palmer has lost his WA border battle. What does it mean for state and territory boundaries?

The High Court has knocked back billionaire miner Clive Palmer's challenge against Western Australia's COVID-19 hard border closure. Chief Justice Susan Kiefel said the court had found the Act complied with the constitution and the directions did not raise a constitutional issue. (06 November 2020) <https://www.abc.net.au/news/2020-11-06/clive-palmer-has-lost-his-wa-border-battle-so-what-does-it-mean/12856366>

Hutt St Centre hopes legal clearance will end neighbourhood dispute

The Hutt Street Centre says a controversial legal review into its compliance with land use regulations has "put to bed" long-standing tensions in the city's southeast, as the cost of the inquiry exceeds the reported \$41,000. (05 November 2020) <https://indaily.com.au/news/local/2020/11/05/hutt-st-centre-hopes-legal-clearance-will-end-neighbourhood-dispute/>

SA councils say higher Centrelink JobSeeker rate good for recipients, economy

Five northern suburb councils have joined forces with social justice groups to push for a permanent increase to the JobSeeker allowance, arguing it would benefit not just welfare recipients but stimulate local economies and employment. (05 November 2020) <https://indaily.com.au/news/2020/11/05/sa-councils-say-higher-centrelink-jobseeker-rate-good-for-recipients-economy/>

Commonwealth Integrity Commission consultation draft

The Attorney-General has announced that work has begun to establish a Commonwealth Integrity Commission (CIC) to strengthen anti-corruption measures and law enforcement directed at the national Public Service to keep it free from criminal corruption. (05 November 2020) <https://www.ag.gov.au/integrity/consultations/commonwealth-integrity-commission-consultation-draft>

Understanding Digital Identity

The Digital Transformation Agency (DTA) has announced that it is developing an initiative to make it simpler and safer to securely access Government services online. (05 November 2020) <https://www.dta.gov.au/blogs/understanding-digital-identity>

Privacy concerns as SA the latest state to flag QR code contact tracing

Civil libertarians are concerned for their privacy as SA becomes the latest state to consider QR code scanning for contact tracing. But the SA Police Commissioner says the data will be deleted after 28 days. (03 November 2020) <https://www.abc.net.au/news/2020-11-03/privacy-concerns-with-qr-code-contact-tracing-in-south-australia/12844050>

Proposed reforms to reduce discrimination against LGBTIQ+ community

The Marshall Government has encouraged South Australians to have their say on plans to reduce discrimination against members of the LGBTIQ+ community. (02 November 2020) <https://www.premier.sa.gov.au/news/media-releases/news/proposed-reforms-to-reduce-discrimination-against-lgbtqi-community>

ABC upgrades emergency broadcasts

The Australian Broadcasting Corporation (ABC) has announced upgrades to its emergency broadcasting services in preparation for this year's emergency summer season. The ABC's new Emergency website, which brings together information from key national and State emergency services agencies. (02 November 2020) <http://www.content-technology.com/asiapacificnews/?p=22170>
The ABC's new Emergency website can be accessed [here](#).

Crime Stoppers SA tipped for historic \$800k cash boost

The Marshall Liberal Government will help improve the safety of South Australians by future-proofing Crime Stoppers, supporting the organisation with a cash boost worth more than \$800,000. (02 November 2020) <https://www.agd.sa.gov.au/newsroom/crime-stoppers-sa-tipped-historic-800k-cash-boost>

Reduced sentence discount laws start

Laws that will significantly reduce the discounts available to serious criminal offenders for early guilty pleas will come into effect. "40 per cent discounts for indictable offences for an early guilty plea have resulted in far too

many sentences that didn't reflect the seriousness of the crime," the Attorney-General said. (02 November 2020) <https://www.agd.sa.gov.au/newsroom/reduced-sentence-discount-laws-start-today>

The Morrison Government release of Commonwealth Integrity Commission consultation draft

Commonwealth Integrity Commission (CIC) designed to strengthen and complement the existing multi-agency approach to integrity, anti-corruption and law enforcement at a federal level. (02 November 2020) <https://www.attorneygeneral.gov.au/media/media-releases/release-commonwealth-integrity-commission-consultation-draft-2-november-2020>

OAIC welcomes Privacy Act review

The Australian Government's review of the Privacy Act is a landmark opportunity to ensure our privacy framework can respond to new challenges in the digital environment, Australian Information Commissioner and Privacy Commissioner Angelene Falk said. (30 October 2020) <https://www.oaic.gov.au/updates/news-and-media/oaic-welcomes-privacy-act-review/>

Intelligence Committee recommends scaling back privacy-invading metadata laws

The Parliamentary Joint Committee on Intelligence and Security (PJCIS) has made bi-partisan recommendations for the scaling back of Australia's controversial metadata retention regime. (30 October 2020) <https://www.hrlc.org.au/news/2020/10/29/intelligence-committee-recommends-scaling-back-privacy-invading-metadata-laws>

Privacy Act review - terms of reference and issues paper

The Morrison Government has released the terms of reference and issues paper for a wide-ranging review of the Privacy Act 1988 (the Privacy Act). (30 October 2020) <https://www.attorneygeneral.gov.au/media/media-releases/privacy-act-review-30-october-2020>

Top End Silk appointed to District Court

A distinguished silk from the Northern Territory will return to South Australia to take up a new role as the state's newest District Court Judge and Deputy President of the South Australian Employment Tribunal. (29 October 2020) <https://www.agd.sa.gov.au/newsroom/top-end-silk-appointed-district-court>

Appointments to the High Court of Australia

His Excellency the Governor-General has accepted the advice of the Government to appoint the Honourable Justice Simon Steward and the Honourable Justice Jacqueline Gleeson as Justices of the High Court of Australia. (28 October 2020) <https://www.attorneygeneral.gov.au/media/media-releases/appointments-high-court-australia-28-october-2020>

Update on Services Australia debt pause

Minister for Government Services, Stuart Robert said the Agency would gradually begin debt-raising activity from 2 November this year, except for areas that remained in a state of disaster such as Victoria. Mr Robert said delaying full debt recovery until February 2021 recognised the difficulties many people were still facing. (28 October 2020) <https://minister.servicessaustralia.gov.au/media-releases/2020-10-28-update-services-australia-debt-pause>

ACMA backs telco consumer regulatory reform

With telecommunications now an essential service for Australian consumers and business, the ACMA is backing reform of current regulatory safeguards. The ACMA has also published complaints data from telcos that prompts continuing concerns about their complaints-handling performance. (28 October 2020) <https://www.acma.gov.au/articles/2020-10/acma-backs-telco-consumer-regulatory-reform>

Joint agency taskforce expands to target crime at the border

A joint Agency taskforce charged with targeting criminal networks led by the AFP and the Australian Border Force (ABF) is to be expanded. ABF officers appointed as AFP Special Members would be able to exercise AFP powers for the purpose of obtaining evidence under the Crimes Act 1914, including search warrants to investigate migration, visa, trade, citizenship and customs offences. (26 October 2020) <https://minister.homeaffairs.gov.au/peterdutton/Pages/joint-agency-taskforce-expands-to-target-crime-at-the-border.aspx>

Surge in online messaging use as big digital platforms continue to expand

A new report from the Australian Competition and Consumer Commission (ACCC) has found that Australians are increasingly turning to online private messaging services from Facebook and Apple to keep in touch. (23 October 2020) <https://www.accc.gov.au/media-release/surge-in-online-messaging-use-as-big-digital-platforms-continue-to-expand>

Assistance notifications make COVIDSafe easier to use

The Digital Transformation Agency (DTA) has released the latest update to the COVIDSafe app, now providing assistance notifications to help users make sure their app is running properly. (23 October 2020) <https://www.dta.gov.au/news/assistance-notifications-make-covidsafe-easier-use>

IN PRACTICE AND COURTS

[Attorney General: Privacy Act Review Issues Paper](#)

Public submissions on the Issues Paper would be accepted until 29 November 2020. (02 November 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. 27/2020, 2 November 2020.

New Family Court and FCC form for child abuse, family violence or risk

A new form aims to harmonise risk notification in both the Family Court and Federal Circuit Court. The Family Court and Federal Circuit Court will implement a new form – Notice of Child Abuse, Family Violence or Risk – on 31 October. The form will be available from the [Family Court of Australia](#) and [Federal Circuit Court of Australia](#) from 31 October.

[Office of the National Data Commissioner Exposure draft: Data Availability and Transparency Bill](#)

The Office of the National Data Commissioner 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 until November 2020. You can also find a second independent Privacy Impact Assessment that examined the privacy implications of the Bill, and see the response.

[ACMA reminder: NBN consumer experience rules](#)

ACMA has enhanced [NBN consumer experience rules](#) to protect Australians during the final phase of the NBN migration. The enhancements have been made to the following rules: [Service Continuity Standard](#); [Service Migration Determination](#); [Consumer Information Standard](#); [Complaints Handling Standard](#).

The enhancements to the Service Continuity Standard and Service Migration Determination will start on 14 December 2020, while most enhancements to the Complaints Handling Standard and Consumer Information Standard will start on 1 April 2021.

[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.

South Australia

[CAA COVID-19 Information](#)

Arrangements for Magistrates Courts from 1 November 2020. (29 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.

PUBLISHED - ARTICLES, PAPERS, REPORTS[Digital Platform Services Inquiry interim report](#)

ACCC: 26 October 2020

This report showed how the use of online private messaging services had grown significantly during the COVID-19 pandemic and identified competition and consumer issues across digital platforms; large platforms and advertising service providers were able to receive a range of user information from Android apps.

[Review of the mandatory data retention regime](#)

Parliamentary Joint Committee on Intelligence and Security: 28 October 2020

The Parliamentary Joint Committee on Intelligence and Security is required by Part 5-1A of the Telecommunications (Interception and Access) Act 1979 (TIA Act) to undertake a review of the mandatory data retention regime (MDRR). This report outlines the findings from the 2020 inquiry.

[Commonwealth Ombudsman Annual Report 2019-20](#)

Annual reports: 27 October 2020

CASES[Re Golding \[2020\] HCA 38](#)

High Court – Appellate jurisdiction – Application for special leave to appeal – Abuse of process – Where applicant applied for special leave to appeal – Where applicant previously made application for special leave to appeal – Where previous application for special leave refused – Where substance of subsequent application for special leave substantially identical to substance of previous application for special leave – Where no exceptional circumstances identified in subsequent application explaining failure to raise novel issues in previous application – Whether subsequent application for special leave an abuse of process.

Federal Court of Australia Act 1976 (Cth), ss 24(1A), 25(2). Judiciary Act 1903 (Cth), ss 21(1), 34(2), 35(2).

High Court Rules 2004 (Cth), rr 6.07, 13.03.

[Attorney-General \(Cth\) v Ogawa \[2020\] FCAFC 180](#)

ADMINISTRATIVE LAW – judicial review of executive power under s 61 of the Constitution – whether advice tendered by Attorney-General to Governor-General regarding petition for mercy is amenable to judicial review – whether Attorney-General's power to refer a matter pursuant to s 672A of the Criminal Code 1899 (Qld) is amenable to judicial review

[Davidson v Suncorp-Metway Limited \(No 3\) \[2020\] FCA 1593](#)

PRACTICE AND PROCEDURE - application for preliminary discovery - reasonableness of belief that prospective applicant may have the right to obtain relief - prospective applicant had previously commenced proceedings against prospective respondent -

prospective applicant had already settled many of the claims said to give rise to reasonable belief - prior decision of Queensland Supreme Court found that prospective applicant had no real prospects of establishing that settlement deed was voidable - issue estoppel - reasonable belief held in relation to one claim - no jurisdiction in Federal Court of Australia in respect of that claim - application dismissed

HIGH COURT AND FEDERAL COURT - federal jurisdiction - jurisdiction of Federal Court of Australia in preliminary discovery matters - consideration of jurisdiction of Federal Court generally - meaning of 'matter' - Federal Court lacks jurisdiction over claim forming basis of preliminary discovery application

Federal Court Rules 2011 (Cth) r 7.23; Judiciary Act 1903 (Cth) ss 39B, 39B(1A)(c)

[Norouzi v The Director of the Professional Services Review Agency \[2020\] FCA 1524](#)

ADMINISTRATIVE LAW – Judicial Review – Professional Services Review Scheme under Part VAA of the Health Insurance Act 1973 (Cth) (the Act) – where Professional Services Review Committee (the committee) found applicant doctor engaged in "inappropriate practice" as defined in s 82 – where Determining Authority directed applicant should be reprimanded, counselled, partially disqualified and required to repay amount – where application for judicial review of committee's decision filed 183 days after applicant had been given notice of that decision and after Determining Authority had made its decision – whether extension of time should be granted under Administrative Decisions (Judicial Review) Act 1977 (Cth) – whether relief under s 398(1) of the Judiciary Act 1903 (Cth) should be refused as a matter of discretion on the basis of delay in respect of committee's decision - whether the committee's decision involved an error of law – whether the committee's decision involved a breach of the rules of natural justice – whether the Determining Authority misunderstood its function in relation to s 106U(1) (cb) of the Act – whether the Determining Authority's direction as to repayment of the whole amount was legally unreasonable – whether the Determining Authority's direction as to partial disqualification was legally unreasonable

HEALTH LAW – Health Insurance Act 1973 (Cth) "inappropriate practice" pursuant to s 82(1) – construction of reg 2.15.1 of the Health Insurance (General Medical Services Table) Regulation 2016

Constitution ss 51, 75, 81, 83

Administrative Decisions (Judicial Review) Act 1977 (Cth) ss 3, 8, 11, 15, 16

[Norouzi v The Director of the Professional Services Review Agency \(No 2\) \[2020\] FCA 1600](#)

The third respondent pay two thirds of the applicant's costs of and incidental to the proceeding to be fixed by a Registrar if not agreed. These reasons for judgment must be read in conjunction with those which resolved the substantive judicial review proceeding; *Norouzi v The Director of the Professional Services Review Agency* [2020] FCA 1524 (principal judgment)

[K, A v PUBLIC TRUSTEE \[2020\] SASCFC 104](#)

APPEAL AND NEW TRIAL - PROCEDURE - SOUTH AUSTRALIA - WHEN APPEAL LIES - FROM SUPREME COURT - BY LEAVE OF COURT - GENERALLY

ADMINISTRATIVE LAW - ADMINISTRATIVE TRIBUNALS - STATUTORY APPEALS FROM ADMINISTRATIVE AUTHORITIES TO COURTS

[LESTER LAND HOLDINGS PTY LTD & ORS v THE DEVELOPMENT ASSESSMENT COMMISSION & ANOR \(No 2\) \[2020\] SASC 214](#)

ADMINISTRATIVE LAW - JUDICIAL REVIEW - PROCEDURE AND EVIDENCE - COSTS

PROCEDURE - CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS - COSTS

PROCEDURE - CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS - COSTS - GENERAL RULE: COSTS FOLLOW EVENT - PARTIAL SUCCESS

LEGISLATION

Commonwealth

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

Finally passed both Houses 29 Oct 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.

[Higher Education Support Amendment \(Freedom of Speech\) Bill 2020](#)

House of Representatives 28 Oct 2020

The proposed amendments insert a new, definition of 'academic freedom' into the HESA and replace the existing term 'free intellectual inquiry' in relevant provisions with the allied concepts of 'freedom of speech' and 'academic freedom'.

[Australian Federal Integrity Commission Bill 2020](#)

House of Representatives 26 Oct 2020

The bill establishes the Australian Federal Integrity Commission – a new independent body responsible for the implementation of a national pro-integrity framework, and have appropriate powers of assessment, investigation and referral to enable clear, proportionate and practical responses to allegations of serious and/or systemic corruption issues at the federal level in the public interest, with comprehensive procedural fairness and whistleblower safeguards.

[Commonwealth Parliamentary Standards Bill 2020](#)

House of Representatives 26 Oct 2020

The Bill will strengthen public confidence in the Commonwealth Parliament by equipping it with the appropriate powers and resources to prevent, manage and resolve its own integrity issues where possible, and provide clear pathways for the assessment, investigation, resolution and/or referral of serious integrity issues –including through the Australian Federal Integrity Commission.

[Criminal Code \(Terrorist Organisation—Islamic State Khorasan Province\) Regulations 2020](#)

30/10/2020 - This instrument repeals and replaces the Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2017, and specifies Islamic State Khorasan Province as a terrorist organisation for the purposes of paragraph (b) of the definition of 'terrorist organisation' in subsection 102.1(1) of the Criminal Code.

[Criminal Code \(Terrorist Organisation—Jama'at Nusrat al-Islam wal-Muslimin\) Regulations 2020](#)

30/10/2020 - This instrument repeals and replaces the Criminal Code (Terrorist Organisation—Al-Murabitun) Regulations 2017, and specifies Jama'at Nusrat al-Islam wal-Muslimin as a terrorist organisation for the purposes of paragraph (b) of the definition of 'terrorist organisation' in subsection 102.1(1) of the Criminal Code.

[Family Law Amendment \(Notice of Child Abuse, Family Violence or Risk\) Rules 2020](#)

30/10/2020 - This instrument amends the Family Law Rules 2004 to allow for a consistent Notice of Child Abuse, Family Violence or Risk form between the Federal Circuit Court of Australia and the Family Court of Australia.

[Federal Circuit Court Amendment \(Notice of Child Abuse, Family Violence or Risk\) Rules 2020](#)

30/10/2020 - This instrument amends the Federal Circuit Court Rules 2001 to allow for a consistent Notice of Child Abuse, Family Violence or Risk form between the Federal Circuit Court of Australia and the Family Court of Australia.

[Australian National University \(Governance\) Statute 2020](#)

29/10/2020 - This instrument provides governance arrangements for the Australian National University.

South Australia

Proclamations

29.10.2020 p 4927 [South Australian Employment Tribunal \(Appointment of Deputy President\) Proclamation 2020](#)

29.10.2020 p 4927 [Statutes Amendment \(Sentencing\) Act \(Commencement\) Proclamation 2020](#)

5.11.2020 p 4970 [Holidays \(Substitution of Appointed Day\) Proclamation 2020](#)

Regulations

2020-287 [Controlled Substances \(Poisons\) \(Real Time Prescription Monitoring\) Variation Regulations 2020](#)

2020-288 [Summary Offences \(Custody Notification Service\) \(No 2\) Variation Regulations 2020](#)

2020-289 [Sentencing \(Discounts\) Variation Regulations 2020](#)

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