



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 53 of the SA Public Sector Newsletter.

The South Australian Government will expand the Child Sexual Abuse Counselling service, with the Government announcing a further \$1.4 million in funding over the next three years. Children, young people and adults who have survived child sexual abuse can access free counselling, information and referrals under the expanded service, which will be delivered by Relationships Australia.

In other local news, the State Government has appointed a new Chair of the South Australian Productivity Commission (SAPC). The acting Chair, Mr Adrian Tembel, replaces the inaugural SAPC Chair Dr Matthew Butlin.

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

Move to lower youth levy for \$178m Victims of Crime Fund

Young offenders could be set to pay a lower Victims of Crime Levy under moves to make the compulsory fine contribution more affordable, as the State Government reveals the fund now holds a huge \$178 million. (16 July 2021) <https://indaily.com.au/news/2021/07/16/move-to-lower-youth-levy-for-victims-of-crime-fund-which-holds-178m/>

A statement from State Courts Administrator: WORK FOR SA - Your Voice Survey 2021

The Office of the Commissioner for Public Sector Employment (OCPSE) has released the results of the *I WORK FOR SA - Your Voice Survey 2021* undertaken in May 2021. "Work is progressing on reviewing our complaints mechanisms to ensure staff have confidence and trust in the system. Where appropriate, we are focusing on conflict resolution and relationship building with all parties being properly supported." (16 July 2021) <http://www.courts.sa.gov.au/Information/Pages/General-Media-Releases.aspx?IsDlg=1&Filter=135>

SAPOL search uncovers stash of fake driver's licences

An ongoing SAPOL investigation into identity theft has seen four alleged offenders arrested after a search of a western suburbs home uncovered more than 100 fake or stolen licences, health and bank cards. (16 July 2021) <https://www.premier.sa.gov.au/news/media-releases/news/sapol-search-uncovers-stash-of-fake-drivers-licences>

SA's new Productivity Commission Chair announced

The State Government has appointed Mr Adrian Tembel as the new Chair of the South Australian Productivity Commission (SAPC). Dr Butlin will continue temporarily as a commissioner while existing inquiries are completed. (15 July 2021) <https://www.premier.sa.gov.au/news/media-releases/news/sas-new-productivity-commission-chair-announced>

Expectations for telcos dealing with vulnerable consumers

The Australian Communications and Media Authority (ACMA) is looking to improve the way the telco sector supports consumers in vulnerable circumstances, with a proposed Statement of Expectations for the industry released for consultation. (14 July 2021) <https://www.acma.gov.au/articles/2021-07/expectations-telcos-dealing-vulnerable-consumers>

Strengthening Australia's cyber security regulations and incentives

On 13 July 2021, the Australian Government opened consultation on options for regulatory reforms and voluntary incentives to strengthen the cyber security of Australia's digital economy. This work forms part of Australia's Cyber Security Strategy 2020 and also responds to recommendations of the 2020 Cyber Security Strategy Industry Advisory Panel. (13 July 2021) <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/cyber-security-regulations-incentives>

Privacy Act review delayed as reforms stall

A significant review of the Privacy Act has been delayed, with a discussion paper still yet to be released 18 months after it was launched, while draft legislation introducing a new penalty scheme for data breaches announced well over two years ago still hasn't been produced. (08 July 2021) <https://www.innovationaus.com/privacy-act-review-delayed-as-reforms-stall/>

Expanded state-wide free counselling for child sexual abuse survivors

Children, young people and adults who have survived child sexual abuse can access free counselling, information and referrals under an expanded state-wide service for South Australia. (05 July 2021) <https://www.premier.sa.gov.au/news/media-releases/news/expanded-state-wide-free-counselling-for-child-sexual-abuse-survivors>

ICAC response

Last month, the University of Adelaide announced that they will make changes to their policies, processes, and culture as part of a series of measures to improve the handling of reports of sexual assault, sexual harassment and other inappropriate behaviour. These changes are outlined in an independent report – *Towards a safer and more inclusive culture: University of Adelaide ICAC response*. (05 July 2021) <https://www.adelaide.edu.au/alumni/news/list/2021/07/05/icac-response>

IN PRACTICE AND COURT

[Strengthening Australia's cyber security regulations and incentives: Discussion Paper](#)

Interested stakeholders are invited to provide a submission to the discussion paper, [Strengthening Australia's cyber security regulations and incentives](#). Submissions on the discussion paper can be made via the submission form before 27 August 2021.

Commonwealth Parliamentary Review now open for submissions and interviews: Sex Discrimination

The AHRC is inviting contributions for its [Independent Review into Commonwealth Parliamentary Workplaces](#), accepting written contributions from groups covered by the Review's Terms of Reference. The Review aim is to ensure all Commonwealth Parliamentary workplaces are safe and respectful and that the national Parliament reflects best practice. Make a written submission via [humanrights.gov.au/cpwreview](#). View the Consultation Paper [here](#).

[Proposed amendments to the Legal Profession Uniform Conduct \(Barristers\) Rules 2015](#)

The Australian Bar Association invites comments and submissions on a proposal to amend Rules 123 and 125 of the Legal Profession Uniform Conduct (Barristers) Rules Submissions should be sent to the Australian Bar Association on or before 2 August 2021.

ACMA Consultations

[Proposal to remake the anti-terrorism standards - consultation 22/2021](#)

The anti-terrorism standards for narrowcast television services are due to sunset on 1 October 2021. ACMA are seeking your views on remaking the standards in a single instrument with only minor changes.

[Consumer vulnerability: expectations for the telco industry - consultation 27/2021](#)

ACMA want to create a statement of expectations for the telco industry to improve outcomes for vulnerable consumers. Closing date 8 September 2021.

Have your say on national child protection framework

People can now contribute to the development of a five-year plan that will help deliver the next National Framework for Protecting Children by 'having their say' online. People can get involved in the online consultation by providing feedback through the Australian Government's Department of Social Services Engage [website](#). The public consultation closes on 26 July 2021.

[AAT: Translation of fact sheets](#)

AAT has translated some fact sheets into selected languages. (12 July 2021)

[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. 14/2021, 12 July 2021.

[OAIC: FOI disclosure log](#)

The information described in the disclosure log has been released by the OAIC under the Freedom of Information Act 1982 (FOI Act): updated May 2021.

[Legal and Constitutional Affairs Legislation Committee Family Law Amendment \(Federal Family Violence Orders\) Bill 2021 \[Provisions\]](#)

On 13 May 2021, the Senate referred the provisions of the Family Law Amendment (Federal Family Violence Orders) Bill 2021 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 29 July 2021.

[Constitution Alteration \(Freedom of Expression and Freedom of the Press\) 2019](#)

Status: Accepting Submissions

Date Referred: 17 June 2021

Submissions Close: 20 August 2021

Reporting Date: 31 December 2021

[Courts and Tribunals Legislation Amendment \(2021 Measures No. 1\) Bill 2021](#)

Status: Accepting Submissions
Date Referred: 24 June 2021
Submissions Close: 15 July 2021
Reporting Date: 13 August 2021

Select Committee on Foreign Interference through Social Media

[Foreign Interference through Social Media](#)

Select Committee on Foreign Interference through Social Media to inquire into and report on the risk posed to Australia's democracy by foreign interference through social media. The committee is to present its final report on or before the second sitting day of May 2022. The closing date for submissions is 31 October 2021.

South Australia

[ICAC: Evaluation of the Department for Correctional Services - report tabled](#)

Deputy Independent Commissioner Against Corruption Michael Riches' report on the [Evaluation of the Practices, Policies and Procedures of the Department for Correctional Services](#) has been tabled in Parliament. The Deputy Commissioner has made 24 recommendations.

[Have your say on SA's anti-ticket scalping laws](#)

South Australians are being encouraged to comment on the effectiveness of the state's existing anti-ticket scalping laws. People can have their say by heading to: <https://yoursay.sa.gov.au/ticket-reselling-review> Consultation closes on 6 August 2021.

Law Society SA: Advocacy Notes – July 2021

Advocacy Notes is a monthly newsletter providing the latest news and advocacy from the Law Society. [New invasion of privacy tort proposed | Changes to Legislation Interpretation Bill | Proposed workers compensation changes](#)

[Law Society SA: Point of Law Articles](#)

SA helps lead the charge with defamation changes.

Attorney-General's Department: Consultations

[Have 'YourSAy' on council transparency website](#)

South Australians are being given the chance to help design a new website aimed at increasing transparency in local councils. You can visit the [YourSAy website](#) before 16 July and provide your comments.

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Annual Audit Work Program 2021–22](#)

ANAO: 6 July 2021

The annual audit work program (AAWP) is designed to reflect the ANAO's audit strategy and inform the Parliament, government entities and the public of the planned audit coverage for the Australian Government sector. The AAWP is also designed to anticipate and respond to current and emerging risks and challenges impacting on public administration.

CASES

[Epic Games, Inc v Apple Inc \[2021\] FCAFC 122](#)

PRIVATE INTERNATIONAL LAW – stay application – proceedings alleging contraventions of Pt IV of Competition and Consumer Act 2010 (Cth) and s 21 of the Australian Consumer Law – where exclusive jurisdiction clause requires litigation relating to app developer agreement to occur in Northern District of California – whether there are strong reasons to refuse to grant the stay – whether there is a public policy that the proceeding should be heard in the Federal Court of Australia – whether clearly inappropriate forum – stay refused

In particular, Epic alleges that Apple has contravened s 46 which prohibits a corporation with a substantial degree of power in a market in Australia from engaging in conduct that has the purpose, effect or likely effect of substantially lessening competition, s 47 which prohibits a corporation from engaging in the practice of exclusive dealing, and s 45 which prohibits, among other things, a party from making a contract which has the purpose, effect or likely effect of substantially lessening competition

[Commissioner of Taxation v Ross \[2021\] FCA 766](#)

TAXATION – onus of proof – appeal from decisions of Administrative Appeals Tribunal setting aside objection decisions relating to assessments – default assessments pursuant to s 167 of Income Tax Assessment Act 1936 (Cth)

ADMINISTRATIVE LAW – procedural fairness – whether Tribunal denied Commissioner procedural fairness by considering matter arising after hearing concluded – whether Tribunal failed to provide opportunity to make submissions on new matter – appeal allowed

ADMINISTRATIVE LAW – whether Tribunal denied taxpayers procedural fairness – where significant delay between hearing of evidence and delivery of decisions and reasons – whether delay gives rise to real and substantial risk that Tribunal's capacity to assess matters was impaired – where Tribunal's decisions failed to reflect its reasons in several respects – where Tribunal improperly used document tendered as aide-memoire as evidence – where reasons failed to specifically address matters raised before Tribunal – cross-appeal allowed

ADMINISTRATIVE LAW – appropriate order on setting aside decisions of Tribunal – where no properly instructed Tribunal could be satisfied as to requisite onus by evidence adduced by taxpayers – whether s 44 of Administrative Appeals Tribunal Act 1975 (Cth) permits order substituting only decision available on evidence before Tribunal – where only decision available on evidence was different to decision made by Tribunal – order remitting matters to Tribunal for re-hearing

ADMINISTRATIVE LAW – appropriate order on remission of matters to Tribunal for re-hearing – whether matters should be re-heard on same or further evidence – where taxpayers did not indicate nature or extent of further evidence to be adduced before Tribunal – where any further evidence could have been obtained for earlier hearing of evidence

– significance of delay since earlier hearing – where taxpayers contended on appeal that evidence adduced below was adequate to satisfy onus – order that matters be re-heard without hearing further evidence Administrative Appeals Tribunal Act 1975 (Cth) ss 43, 44

[Josh Taylor and Minister for Foreign Affairs \(Freedom of information\) \[2021\] AICmr 33](#)

Freedom of Information – Whether reasonable steps taken to find documents – (CTH) Freedom of Information Act 1982 s 24A

[Rex Patrick and Services Australia \(Freedom of information\) \[2021\] AICmr 32](#)

Freedom of Information – Whether document was brought into existence for the dominant purpose of submission for consideration by Cabinet – (CTH) Freedom of Information Act 1982 – ss 34(1)(a) and 34(3)

[Stefania Maurizi and Department of Foreign Affairs and Trade \(Freedom of information\) \[2021\] AICmr 31](#)

Freedom of Information – Whether disclosure would cause damage to international relations of the Commonwealth – Whether disclosure would divulge information communicated in confidence by a foreign government – 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 is unreasonable – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5), 33(a)(iii), 33(b), 47E(d) and 47F

[‘XM’ and Australian Financial Security Authority \(Freedom of information\) \[2021\] AICmr 30](#)

Freedom of Information – Whether reasonable steps taken to locate documents – (CTH) Freedom of Information Act 1982 s 24A

[‘XN’ and Australian Federal Police \(Freedom of information\) \[2021\] AICmr 35](#)

Freedom of Information – Whether documents subject to legal professional privilege – Whether documents contain deliberative matter prepared for a deliberative process – Whether disclosure would have a substantial adverse effect on the management of personnel – Whether disclosure of personal information unreasonable – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 42, 47C, 47E(c), 47F and 11A(5)

[ISLANDER ENTERPRISES PTY LTD v COMMONWEALTH \[2021\] SASC 84](#)

COURTS AND JUDGES - COURTS - JURISDICTION AND POWERS - CONCURRENT JURISDICTION OF DIFFERENT COURTS - TRANSFER OF PROCEEDINGS UNDER CROSS-VESTING LEGISLATION - WHERE APPROPRIATE AND IN INTERESTS OF JUSTICE - GENERALLY

LEGISLATION

Commonwealth

Regulations

[National Redress Scheme for Institutional Child Sexual Abuse Amendment \(2021 Measures No. 1\) Rules 2021](#)

15/07/2021 - This instrument amends the National Redress Scheme for Institutional Child Sexual Abuse Rules 2018 to prescribe that certain entities are or are not State or Territory institutions for the purposes of the Scheme and to establish the Scheme’s brand as a protected symbol.

[Foreign Evidence \(Application of Amendments\) Regulations 2021](#)

12/07/2021 - This instrument lists States and Territories which have elected to opt-in to certain amendments made to the Foreign Evidence Act 1994 by the Foreign Evidence Amendment Act 2010. The regulations repeal and replace the Foreign Evidence (Application of Amendments) Regulations 2011, which are scheduled to sunset on 1 October 2021.

[Fair Work Amendment \(Respect at Work\) Regulations 2021](#)

09/07/2021 - This instrument amends the Fair Work Regulations 2009 to give effect to recommendation 31 of the Respect@Work: National Inquiry into Sexual Harassment in the Workplace by adding sexual harassment to the list of conduct falling within the definition of ‘serious misconduct’ and supports amendments that would be made by the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021 to include ‘sexual harassment’ in the existing stop-bullying jurisdiction.

[Commonwealth Electoral \(Authorisation of Voter Communication\) Determination 2021](#)

06/07/2021 - This instrument gives effect to the Electoral Commissioner’s power at subsection 321D(7) of the Commonwealth Electoral Act 1918 to make a legislative instrument which further determines exceptions to communications or circumstances for electoral and referendum matter, and to also determine further requirements in relation to the particulars which are to be notified as part of the authorisation across a number of pieces of legislation.

South Australia

Regulations

2021-109 [Firearms \(Miscellaneous\) Variation Regulations 2021](#)

2021-110 [Mining \(Rules of Warden’s Court\) Variation Regulations 2021](#)

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