



PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 55 of the SA Public Sector Newsletter.

From 14 August 2021 companies can (once again) electronically execute documents under section 127 of the Corporations Act 2001 (Cth) (Corporations Act).

The new changes to the Corporations Act were implemented by the Treasury Laws Amendment (2021 Measures No. 1) Act 2021 (Cth) (Act), which attained Royal Assent on Friday, 13 August 2021. As with the changes introduced by the now lapsed Corporations (Coronavirus Economic Response) Determination (No.1) 2020, these amendments will facilitate the business activity of companies during a time of lockdowns and limited mobility, where wet-ink signatures and face to face meetings are difficult or impossible to achieve.

The changes took effect from 14 August 2021 (with no retrospective application) and will automatically lapse on 31 March 2022. However, the Explanatory Memorandum in respect of these amendments sets out the Government's intention to implement permanent reforms to allow electronic execution under section 127 before the temporary measures expire.

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

ACMA warning about tax phone scams

The ACMA is warning consumers to be wary of tax phone scams attempting to obtain personal or financial details. These messages will commonly include links to click on to provide personal and/or financial information to receive fake refunds. The scammers then use the info to carry out financial crime or identify theft. (13 August 2021) <https://www.acma.gov.au/articles/2021-08/acma-warning-about-tax-phone-scams>

SA independent MP Troy Bell wins bid for High Court to hear appeal

Independent South Australian MP Troy Bell has been granted special leave to appeal to the High Court as he continues his fight against theft charges. (13 August 2021) <https://www.abc.net.au/news/2021-08-13/sa-troy-bell-appeal/100376760>

'Unacceptable conduct': DPP under fire over Renewal SA case

A state MP has launched a stinging attack on the Office of the Director of Public Prosecutions, accusing it of "unacceptable conduct" over a failed case against two former top Renewal SA bureaucrats, and saying ongoing delays in resolving the matter could amount to "a gross abuse of process". (13 August 2021) <https://indaily.com.au/news/2021/08/13/unacceptable-conduct-dpp-under-fire-over-renewal-sa-case/>

COVID-19 vaccinations and the workplace

The Federal Government is continuing to support Australians through the pandemic and is encouraging employers and employees to work together on the issue of COVID-19 vaccination for Australian workers. (12 August 2021) <https://www.attorneygeneral.gov.au/media/media-releases/covid-19-vaccinations-and-workplace-12-august-2021>

LCA: Government to reinstate measures allowing for virtual meetings and electronic document execution

Steps taken by the Australian Government to reinstate temporary measures that will allow companies to use technology to meet regulatory requirements to hold general meetings, distribute meeting related materials and validly execute documents are positive moves for business and the investing public. (11 August 2021) <https://www.lawcouncil.asn.au/media/media-releases/government-to-reinstate-measures-allowing-for-virtual-meetings-and-electronic-document-execution>

Continuous disclosure laws pass Parliament

The temporary measures that allowed companies and their officers to only be liable for civil penalty proceedings where they acted with "knowledge, recklessness or negligence" are now permanent. (11 August 2021) <https://www.moneymanagement.com.au/news/policy-regulation/continuous-disclosure-laws-pass-parliament>

Govt targets 'pile-on attacks', encrypted comms in new online safety rules

The federal government has laid out the minimum safety expectations that 'big tech' companies will need to adhere under its controversial online safety laws to minimise abusive or harmful content online. (09 August 2021) <https://www.itnews.com.au/news/govt-targets-pile-on-attacks-encrypted-comms-in-new-online-safety-rules-568360>

Significant new funding for the justice system to close the gap

Over \$25 million in targeted investments will be directed towards reducing the overrepresentation of adult and youth Aboriginal and Torres Strait Islander people in the criminal justice system (Targets 10 and 11). (07 August 2021) <https://www.attorneygeneral.gov.au/media/media-releases/significant-new-funding-justice-system-close-gap-7-august-2021>

Online account takeover bill faces 33 changes to pass parliament

Parliament's intelligence and security committee has recommended a number of changes to proposed laws that would hand federal authorities unprecedented online account takeover powers. (06 August 2021) <https://www.itnews.com.au/news/online-account-takeover-bill-faces-33-changes-to-pass-parliament-568295>

PJCIS in agreement with the Law Council

The recently tabled PJCIS Advisory Report on the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020 has overwhelmingly endorsed the key reforms recommended by the Law Council of Australia. The Committee's recommendations recognise and agree with the Law Council's primary concern that the proposed legislative framework does not meet the essential requirements of proportionality. (06 August 2021) <https://www.lawcouncil.asn.au/media/media-releases/pjcis-in-agreement-with-the-law-council>

Investigation into Optus

The OAIC is investigating Singtel Optus Pty Ltd (Optus) over data breaches involving publication of Optus customer details in the White Pages under the Privacy Act 1988. (06 August 2021) <https://www.oaic.gov.au/updates/news-and-media/investigation-into-optus/>

Keeping kids safe and well: National Children's Commissioner consulting with children, young people and their families

Keeping kids safe and well - your voices is a national consultation project which will inform the first five-year implementation plan to the National Framework for Protecting Australia's Children (2009-2020) successor plan, currently being developed by all Australian governments. Children and young people had valuable insights to inform policy development, and they had a right to have their views heard. (05 August 2021) <https://humanrights.gov.au/about/news/keeping-kids-safe-and-well-national-childrens-commissioner-consulting-children-young>

Experts warn 2021 census will be a magnet for cyber criminals

Cyber adversaries around the world will be targeting this year's census, which is certain to come under attack again, cyber security experts say. A report by the Australian National Audit Office released last November concluded that planning for the 2021 census had been only partly effective. (05 August 2021) <https://www.governmentnews.com.au/expert-warns-2021-census-will-be-a-magnet-for-cyber-criminals/>

ACMA steps up fight against illegal online gambling

The ACMA has stepped up its efforts to combat illegal online gambling by blocking websites that promote and drive traffic toward online casino type services. The ACMA has asked Australian internet service providers (ISPs) to block these affiliate advertising websites, which typically present themselves as independent reviewers of gambling services. (04 August 2021) <https://www.acma.gov.au/articles/2021-08/acma-steps-fight-against-illegal-online-gambling>

Public comment sought on lotteries regulation

South Australia's gambling regulator is seeking public comment on potential changes to the regulations around lotteries. (04 August 2021) <https://www.agd.sa.gov.au/newsroom/public-comment-sought-lotteries-regulation>

Parents warned to keep children off-line

The Australian Human Rights Commission has called on parents around Australia to protect their children from surveillance by online monitors who begin collecting data about the children from the day they are born. (02 August 2021) <https://humanrights.gov.au/about/news/opinions/protect-children-data-surveillance>

The Report can be downloaded [here](#).

IN PRACTICE AND COURT

[Commencement of the new Federal Circuit and Family Court of Australia](#)

The Family Court of Australia and Federal Circuit Court of Australia has released a full package of details outlining the changes to court operations that will occur on the commencement of the Federal Circuit and Family Court of Australia (FCFCOA) from 1 September. From September 1, the new court will focus on risk, responsiveness and resolution.

[Update to the family law profession: Commencement of the new FCFCOA](#)

The Family Court of Australia and Federal Circuit Court of Australia released information outlining changes to court operations that will occur on the commencement of the Federal Circuit and Family Court of Australia (FCFCOA) from 1 September 2021. It provides an overview of changes to the FCFCOA's harmonised rules, practice directions, forms and website.

[A new website – fccoa.gov.au](#)

A new website will be launched for 1 September which has been designed to provide users with simplified access to, and navigation of, court information. The single website will make it easier for the profession, litigants and the public to source specific information about family law, migration and general federal law.

[Australian Public Service Commission \(APSC\): Performance Bonus Guidance](#)

Principles governing performance bonus use in Commonwealth entities and companies, 13 August 2021. Under the new bonus rules, which will apply from 2021-22, entities will need to exercise "rigour and restraint" and only use bonuses "in limited circumstances, justifiable to the parliament and the public".

Attorney-General Appointments

[Nomination to the International Court of Justice](#)

The independent Australian National Group – has nominated Professor Hilary Charlesworth AM FASSA for election as a Judge of the International Court of Justice. (11 August 2021)

[Appointment to the Federal Circuit Court of Australia](#)

Ms Allyson Ladhams has been appointed as a judge of the Federal Circuit Court of Australia (FCC). (7 August 2021)

[Reappointment of Australian Information Commissioner and Privacy Commissioner](#)

Ms Angelene Falk has been reappointed as Australian Information Commissioner and Privacy Commissioner for a period of three years. (6 August 2021)

[ACMA Consultation: 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 08 September 2021.

[ACMA Consultation: Proposal to amend Do Not Call Register \(Access Fees\) Determination 2017 - consultation 29/2021](#)

ACMA invite your comments on the Do Not Call Register cost-recovery arrangements. Closing date 20 August 2021.

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

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. 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 our submission form before 27 August 2021.

[Strengthening Australia's cyber security regulations and incentives – Quick summary](#)

[Department of Infrastructure, Transport, Regional Development and Communications: Draft Online Safety \(Basic Online Safety Expectations\) Determination 2021 consultation](#)

The Department is seeking submissions on an exposure draft of the Online Safety (Basic Online Safety Expectations) Determination 2021. The draft determination sets out the government's demands for providers that offer a social media service, "relevant electronic service" or "designated internet service", including the nine principle-based "core expectations" included in the Act. View the consultation paper [here](#). Submissions to the consultation close on 15 October 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. 16/2021, 9 August 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 06 August 2021.

Legal and Constitutional Affairs Legislation Committee [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](#)

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

Law Society SA: Point of Law Articles

[Our children deserve better than to languish in prison](#) (09 August 2021)

Law Society SA Submissions

[Litigation Funding Schemes: Guidance and Relief \(ASIC CP 345\)](#) (6 August 2021)

[Model Operating Requirements Version 7](#) (4 August 2021)

[Advance Care Directives \(Review\) Amendment Bill 2021](#) (4 August 2021)

Attorney-General's Department: Consultations

[Review of Lotteries Regulation](#)

To support the commencement of the [Lotteries Act 2019](#), amended regulations are required to outline the rules and requirements for the various lottery types. To inform the review yourSAy are seeking your feedback on the [draft Lotteries Regulations 2021](#). You can read a summary of the key proposals in the [Review of Lotteries Regulation in South Australia](#). Feedback closes on 27 August 2021.

[CourtSA Criminal is launching 28 February 2022](#)

CourtSA in the Criminal jurisdiction will officially launch on Monday, 28 February 2022. CourtSA in the Criminal jurisdiction will use the existing CourtSA portal. If you already have a CourtSA account to lodge in Probate or Civil, you don't need to do anything. (04 August 2021)

[Arrangements for Magistrates Courts from 10 August 2021](#)

Consistent with SA Government guidelines relating to the management of public places during the COVID-19 health emergency, the Magistrates Court issues the following revised directives to parties and practitioners regarding appearances in Court from 10 August 2021. They may be revised as new public health announcements are made.

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Australian Government COVID-19 disaster payments: A quick guide](#)

Michael Klapdor; Parliamentary Library Research Publication: 04 August 2021

This Quick Guide was updated on 4 August 2021 to reflect changes to the COVID-19 Disaster Payment, and provides background to both COVID-19 disaster payments setting out their eligibility criteria, payment rates, and administration arrangements.

[Advisory report on the Surveillance Legislation Amendment \(Identify and Disrupt\) Bill 2020](#)

Parliamentary Joint Committee on Intelligence and Security; handed down on 12 August 2021

Changes include greater oversight of the new powers by both the committee and watchdogs, and a level of assurance the laws will only be used to target the most serious of offences. If passed in its current form, both agencies will be able to take control of a person's online account to gather evidence about serious offences, as well as to add, copy, delete or alter material.

[ParentsNext: Examination of Social Security \(Parenting payment participation requirements – class of persons\) Instrument 2021](#)

Parliamentary Joint Committee on Human Rights' Inquiry report: released August 2021

The report, makes two recommendations, including that participation in the ParentsNext program be voluntary, rather than compulsory. The Commission said that the compulsory method was flawed and there were less restrictive alternative approaches available, such as incentive based models.

[ABA National Brief – 09 August 2021](#)

The ABA issues regular news updates to its members.

CASES

[Karmakar v Minister for Health \(No 2\) \[2021\] FCA 916](#)

ADMINISTRATIVE LAW – Health Insurance Act 1973 (Cth) – application for judicial review of exercise of power by the Director of the Professional Services Review Agency to refer the applicant to a committee – whether the Director was obliged to disclose the identity of a practitioner consulted pursuant to s 90 of the Act – where s 89C(1)(b)(i) of the Act requires the Director to provide a report to the applicant – held: the Director discharged the procedural fairness duty by the provision of that report – whether the exercise of power by the Director ought to have been made in reference to an "objective standard" – where the standard specified in s 82(1)(a) is a professional evaluative standard – held: the Director correctly exercised her power in reference to "inappropriate practice"

ADMINISTRATIVE LAW – Health Insurance Act 1973 – application for judicial review of exercise of power by the Committee to find the applicant had engaged in inappropriate practice – whether the exercise of the power by the Committee ought to have been made in reference to an "objective standard" – held: the Act only requires that the Committee's evaluation be reasonable – whether the Committee took into account the incompleteness of records – held: the Committee's report makes clear issue taken into account – where the applicant makes various claims that the Committee's decision affected by bias and procedural unfairness – where none of allegations made out – application dismissed

PRACTICE AND PROCEDURE – application for judicial review of exercise of power by Chief Executive to request the Director to review the applicant and by Director to decide to undertake that review – whether application brought pursuant to the Judiciary Act 1903 (Cth) in the alternative – where statement of claim and submission exclusively refer to the Administrative Decisions (Judicial Review) Act 1977 (Cth) – where Court proceeds on basis that jurisdiction solely conferred by ADJR Act – held: particular exercises of power by the Chief Executive and Director “wholly procedural” and not amenable to review because they were not decisions to which ADJR Act applies

CONSTITUTIONAL LAW – where applicant submits that s 106ZR of the Health Insurance Act 1973 is invalid – whether s 106ZR unreasonably burdens political communication and goes beyond legislative purpose – where enactment of Pt VAA of the Health Insurance Act 1973 supported by s 51(xxiiiA) or s 51(xxxix) of the Constitution – where Act provides for disclosure in various forms – where Act does not prevent the applicant from calling witnesses or adducing statements before the Committee – where Act does not prevent disclosure by applicant that she is subject to a determination or public discussion that the applicant considers the process unfair – held: s 106ZR is not incompatible with the requirements of responsible government – application dismissed

[Patrick and Secretary, Department of Prime Minister and Cabinet \(Freedom of Information\) \[2021\] AATA 2719](#)

FREEDOM OF INFORMATION – review of the refusals by the Department of Prime Minister and Cabinet to give access to documents to minutes of the National Cabinet – whether documents are exempt documents pursuant to s 34(1) of the Freedom of Information Act 1982 (Cth) (the FOI Act) – consideration of the meaning of “committee of the Cabinet” – whether National Cabinet is a committee of the Cabinet – whether documents are conditionally exempt documents pursuant to s 47B of the FOI Act because their disclosure would or could reasonably be expected to cause damage to relations between the Commonwealth and a State – decisions set aside – order for access made.

LEGISLATION

Commonwealth

Bills

[Electoral Legislation Amendment \(Party Registration Integrity\) Bill 2021](#)

HR 12 August 2021 - The Bill amends the registration eligibility requirements for a federal non-Parliamentary party. These amendments increase the minimum membership requirements for registration from 500 to 1500 unique members. The Bill also amends the prohibitions regarding registrable names, abbreviations, and logos.

[Electoral Legislation Amendment \(Political Campaigners\) Bill 2021](#)

HR 12 August 2021 - The Bill reduces the thresholds for electoral expenditure that can be incurred by an individual or organisation before they are required to register as a political campaigner and aligns transparency requirements for political actors who seek to influence the outcome of an election to more closely resemble those for political parties, candidates, and members of Australian Parliament.

[Ransomware Payments Bill 2021 \(No. 2\)](#)

HR 12 August 2021 - Bill to establish a mandatory reporting requirement for Commonwealth entities, State or Territory agencies, corporations, and partnerships who make ransomware payments in response to a ransomware attack. The Bill will require entities who make a ransomware payment to notify the ACSC of key details of the attack, the attacker, and the payment.

[Counter-Terrorism Legislation Amendment \(Sunsetting Review and Other Measures\) Bill 2021](#)

HR 12 August 2021 - Amends the Criminal Code Act 1995 to extend the operation of the declared areas provisions for a further 3 years and the control order regime and the preventative detention orders (PDO) regime for a further 15 months; Intelligence Services Act 2001 to provide that the Parliamentary Joint Committee on Intelligence and Security may review the operation, effectiveness and proportionality of the declared areas provisions prior to their sunset date; Crimes Act 1914 to extend the operation of the stop, search and seizure powers for a further 15 months; and Independent National Security Legislation Monitor Act 2010 to extend the reporting date for the Independent National Security Legislation Monitor’s review of continuing detention orders for high risk terrorist offenders to as soon as practicable after 7 December 2021.

[Charter of the United Nations Amendment Bill 2021](#)

HR 11 August 2021 - The Amendment Bill clarifies the process by which CT listings are made and puts beyond doubt any question of the application and enforceability of validly made listings to ensure that Australia’s Part 4 COTUNA counter-terrorism legislative framework is able to operate as intended by Parliament to prevent and respond to the financing of terrorism.

[Human Rights \(Targeted Sanctions\) Bill 2021](#)

Senate 11 August 2021 - The purpose of this Bill is to provide a framework for nominations of persons responsible for serious human rights abuses or serious corruption to the Foreign Minister, requiring a statement as to whether the Australian Government will impose targeted sanctions on those persons.

[Human Rights \(Children Born Alive Protection\) Bill 2021](#)

HR 09 August 2021 - The Bill seeks to enshrine an offence for health practitioners that contravene the duty to provide medical care or treatment to a child born alive. More explicitly, the Bill codifies the duty and conduct of medical professionals.

[International Human Rights and Corruption \(Magnitsky Sanctions\) Bill 2021](#)

Senate 03 August 2021 - A Bill for an Act to enable Australia to impose sanctions to promote compliance with international human rights law and respect for human rights or to deter significant corruption, and for related purposes.

South Australia

Proclamations and Notices

5.8.2021 p 2958 [South Australian Civil and Administrative Tribunal \(Designation of Magistrate as Member of Tribunal\) Proclamation 2021](#)

5.8.2021 p 2959 [South Australian Civil and Administrative Tribunal \(Designation of Magistrate as Member of Tribunal\) Proclamation 2021](#)

5.8.2021 p 2960 [Youth Court \(Designation and Classification of Magistrate\) Proclamation 2021](#)

5.8.2021 p 2961 [Youth Court \(Designation and Classification of Magistrate\) Proclamation 2021](#)

12.8.2021 p 3016 [Constitution \(Legislative Council Casual Vacancy\) Proclamation 2021](#)

Regulations and Rules

2021-115 [COVID-19 Emergency Response \(Savings and Transitional Matters\) Regulations 2021](#) 12 August 2021

2021-117 [Professional Standards Regulations 2021](#) 12 August 2021

2021-18 [Subordinate Legislation \(Postponement of Expiry\) Regulations 2021](#) 12 August 2021

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