



## PUBLIC SECTOR NEWSLETTER - SOUTH AUSTRALIA

Welcome to Issue 57 of the SA Public Sector Newsletter.

Ratepayers, residents and the broader South Australian community will have access to unprecedented levels of information about their local council's performance through a new Government-established website, "Councils in Focus".

Minister for Planning and Local Government Vickie Chapman said the website would help people to better understand what their council is spending money on, where that revenue comes from and how it benefits their community.

Information available to the public will include:

- Details on rates individual councils charge, grants they receive and other sources of funding
- Where councils spend money and how much
- Each council's financial position and performance

Ratepayers will be able to see how their council has changed over a five-year period, compare their council to similar councils, and, compare their council to the State average.

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

#### Wingard cleared of bullying, misconduct

Sports Minister Corey Wingard and his chief of staff have been cleared of allegations of bullying and misconduct after an independent investigation, Premier Steven Marshall has told parliament – but the State Government won't release the report in full. (10 September 2021) <https://indaily.com.au/news/2021/09/10/wingard-cleared-of-bullying-misconduct/>

#### Review of the Parliamentary Business Resources Act 2017 and Independent Parliamentary Expenses Authority Act 2017

The Finance Minister announces the independent review of the Parliamentary Business Resources Act 2017 and Independent Parliamentary Expenses Authority Act 2017. The Explanatory Memorandum of the PBR Bill advises that the purpose of periodic independent reviews is to ensure the Act continues to meet its objectives of improving the accountability and transparency of parliamentary business resources. (09 September 2021) <https://www.finance.gov.au/publications/reviews/PBRAct2017andIPEAAct2017>

#### Help shape new domestic violence laws

Controlling and abusive behaviours - which constitute domestic violence and are red flags for murder - would be criminalised under a draft Bill that's been released for public comment. (09 September 2021) <https://www.agd.sa.gov.au/newsroom/help-shape-new-domestic-violence-laws>

#### COVID-19 sees huge increase in support for a Charter of Human Rights: Poll

There has been a dramatic increase in support for a Charter of Human Rights compared to before the COVID-19 pandemic, new data reveals. (09 September 2021) <https://www.hrlc.org.au/news/2021/9/7/covid-19-sees-huge-increase-in-support-for-a-charter-of-human-rights-poll>

### Privacy tsar wants police blocked from COVID-19 check-in app data

Australia's privacy watchdog says police access to the COVID-19 check-in app histories has the potential to "undermine" contact tracing efforts and should be prohibited. If law-enforcement access remained unconstrained, as remains the case in some states and territories, it could discourage individuals from providing accurate information. (07 September 2021) <https://www.innovationaus.com/privacy-tsar-wants-police-blocked-from-covid-check-in-app-data/>

### New study identifies cyber strategies with the potential to identify and protect victims of child abuse material

The Australian Institute of Criminology (AIC) has released a paper that identifies cyber strategies that have the potential to identify victims of child sexual abuse material (CSAM) and detect offenders. (07 September 2021) <https://www.aic.gov.au/media-centre/news/new-study-identifies-cyber-strategies-potential-identify-and-protect-victims-child-abuse-material>

### Former Renewal SA boss set to face fresh court action months after case was thrown out

A high-profile former public servant is set to face fresh legal action in the District Court despite having his case thrown out by a magistrate less than three months ago. (06 September 2021) <https://www.abc.net.au/news/2021-09-06/fresh-court-action-renewal-sa-boss-john-hanlon/100438918>

### Commission welcomes appointment of Human Rights Commissioner

The Australian Human Rights Commission welcomes the Government's decision to fill the role of Human Rights Commissioner, a role which is a foundational one to the Commission. (05 September 2021) <https://humanrights.gov.au/about/news/commissioner-welcomes-appointment-human-rights-commissioner>

### Crown Solicitor appointed to the Supreme Court

Crown Solicitor Laura Stein has been appointed to the Supreme Court, marking the next stage of a career in the profession that has so far spanned more than 30 years. (03 September 2021) <https://www.agd.sa.gov.au/newsroom/crown-solicitor-appointed-supreme-court>

### Statement on passage of Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021

The AHRC welcomes the passage of the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021. The Bill contains important reforms to address sexual harassment in Australian workplaces which were recommended by the AHRC following its world-leading National Inquiry into Sexual Harassment in Australian Workplaces, Respect@Work. (03 September 2021) <https://humanrights.gov.au/about/news/statement-passage-sex-discrimination-and-fair-work-respect-work-amendment-bill-2021>

### Councils the focus of new website

Ratepayers, residents and the broader South Australian community will have access to unprecedented levels of information about their local council's performance through a new Government-established website. (03 September 2021) <https://www.agd.sa.gov.au/newsroom/councils-focus-new-website>

### Government passes legislation to prevent and address sexual harassment in Australian workplaces

The Federal Government has taken important action to strengthen and simplify national laws to better protect Australians against sexual harassment in the workplace. (02 September 2021) <https://www.attorneygeneral.gov.au/media/media-releases/government-passes-legislation-prevent-and-address-sexual-harassment-australian-workplaces-2-september-2021>

### Commencement of the Federal Circuit and Family Court of Australia

A new Federal Circuit and Family Court of Australia (FCFCOA) came into being on 1 September, with the Attorney-General declaring its structure addressed the confusion, costs and delays Australian families had experienced under the previous two-court system. (02 September 2021) <https://www.attorneygeneral.gov.au/media/media-releases/federal-circuit-and-family-court-of-australia-1-september-2021>

The FCFC website can be accessed [here](#).

### ACMA requests internet service providers block more illegal gambling websites

Following numerous complaints about these services, the ACMA undertook investigations that found them to be operating in breach of the Interactive Gambling Act 2001. (01 September 2021) <https://www.acma.gov.au/articles/2021-08/acma-requests-internet-service-providers-block-more-illegal-gambling-websites>

### DPC rolls out PS vaccine directions

The Department of Premier and Cabinet (DPC) has issued a Circular to guide Agencies in determining if their employees should be directed to be vaccinated against COVID-19. (31 August 2021) <https://arp.nsw.gov.au/c2021-16-guidance-for-government-sector-agencies-regarding-covid-19-vaccinations-for-their-employees/>

## IN PRACTICE AND COURT

### [Review of PBR Act and IPEA Act](#)

The Federal Government announces the required statutory review will be undertaken by the Hon Kelly O'Dwyer and the Hon Kate Ellis. This Review will consider how the current legislative framework provides appropriate levels of accountability and transparency to the use of taxpayers' money. The Review will report by 31 December 2021.

More information on the Review including the terms of reference can be found [here](#).

### [APS pay rates in line for a change](#)

The Australian Public Service Commission (APSC) has issued a Circular setting out changes to APS pay rates to apply between 1 September 2021 and 31 August 2022.

### [Federal Circuit and Family Court of Australia - Rules of Court - Family Law, General Federal law and Bankruptcy](#)

The Chief Justice of the Family Court of Australia and Chief Judge of the Federal Circuit Court of Australia has advised that new Rules regarding the family law and child support jurisdictions and general federal law and bankruptcy proceedings in the FCFCOA have been made and will commence on 1 September 2021.

### [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. The document provides an overview of changes to the FCFCOA's harmonised rules, practice directions, forms and website.

### [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.

### [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. 18/2021, 6 September 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 Closed: 20 August 2021; Reporting Date: 31 December 2021.

### **Select Committee on Foreign Interference through Social Media**

#### [Foreign Interference through Social Media](#)

The 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 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**

#### [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.

### [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.

### [Criminalising coercive and controlling behaviours](#)

YourSAY are proposing a draft [Criminal Law Consolidation \(Abusive Behaviour\) Amendment Bill 2021](#) to strengthen domestic violence laws by criminalising coercive and controlling behaviour against current or former intimate partners. The draft Bill has been modelled on the findings of a NSW Select Committee into coercive control. To view the draft Bill and make a submission, visit the [YourSAY website](#).

### **PUBLISHED - ARTICLES, PAPERS, REPORTS**

#### [Privacy needs to be upfront in pandemic debate](#)

OAIC Commissioner: 7 September 2021

An article by Australian Information Commissioner and Privacy Commissioner Angelene Falk, published by The Australian on 15 August 2021.

#### [National COVID-19 Privacy Principles](#)

OAIC: 2 September 2021

The Office of the Australian Information Commissioner and state and territory privacy commissioners and ombudsmen have produced the following universal privacy principles to support a nationally consistent approach to solutions and initiatives designed to address the ongoing risks related to the COVID-19 pandemic.

#### [Corporate Plan 2021–22](#)

OAIC: 31 August 2021

Angelene Falk, Australian Information Commissioner, present the Office of the Australian Information Commissioner's Corporate Plan 2021–22, for the 2021–22 to 2024–25 reporting periods, as required under section 35(1)(b) of the Public Governance, Performance and Accountability Act 2013.

#### [Workforce Planning in the Australian Security Intelligence Organisation](#)

ANAO Report No 2: 08 September 2021

The audit objective was to assess the effectiveness of the Australian Security Intelligence Organisation's workforce planning to support key activities.

#### [The effect of appointing additional judges on District Court finalisations](#)

BOSCAR Crime and Justice Bulletin No. CJB241: September 2021

While the DC7 reforms have only generated a small increase in the number of monthly finalisations in some courts, they appear to have reduced the NSW DC's reliance on acting judges.

## [Audit Quality Report 2020–21](#)

ANAO: 3 September 2021

The Australian National Audit Office (ANAO) Corporate Plan is the ANAO's key strategic planning document. It guides their operating environment and sets out how they will deliver on their purpose. This report also includes the achievement of the quality assurance strategy and deliverables set out in the Quality Assurance Framework and Plan 2020–21.

## CASES

### [Athvle v State of New South Wales \[2021\] FCA 1075](#)

HUMAN RIGHTS – freedom of religion – COVID-19 pandemic – applicants sought urgent interlocutory injunction restraining enforcement of NSW and Victorian public health orders (the impugned instruments) to allow observance of Jewish religious holidays – whether serious question to be tried – whether balance of convenience favoured injunction – where orders sought could have dire consequences for public health and third parties – undertaking as to damages inadequate – interlocutory application dismissed

HIGH COURT AND FEDERAL COURT – interpretation of Constitution – accrued jurisdiction – whether applicants' Federal claims merely colourable – borderline case – whether Federal claim is bona fide – merely because Federal claim is untenable does not deprive Court of jurisdiction – federal jurisdiction enlivened

STATUTORY INTERPRETATION – whether "principle of legality" applies to read down impugned instruments – whether public health orders unreasonable or disproportionate – common law right to freedom of religion – where purpose of impugned instruments to restrict rights and freedoms to protect public health – where impugned instruments involve complex policy choices – where relief sought invites Court to rewrite impugned instruments – separation of powers between executive and judiciary – no constructional choice available – no serious question to be tried and balance of convenience does not favour applicants

CONSTITUTIONAL LAW – whether impugned instruments constitutionally invalid – whether implied Constitutional right to religious freedom restricting State legislative power – implied right to religious freedom would be contrary to express terms of s 116 of the Constitution – Preamble to Constitution does not support implication – no serious question to be tried and balance of convenience does not favour applicants

### [BDR21 v Australian Broadcasting Corporation \[2021\] FCA 960](#)

PRACTICE AND PROCEDURE – application pursuant to rr 16.21 and 26.01 of the Federal Court Rules 2011 (Cth) and s 31A(2) of the Federal Court of Australia Act 1976 (Cth) to strike out and/or give summary judgment in relation to parts of amended statement of claim – whether reasonable cause of action disclosed – whether

any reasonable prospect of success – where applicant alleges reprisal action pursuant to s 13 of the Public Interest Disclosures Act 2013 (Cth) (PID Act) – whether allegations in document subject to parliamentary privilege can be relied upon as disclosable conduct for purposes of whistleblower protections in the PID Act – whether unlawful to adduce evidence of material facts of alleged public interest disclosures by reason of s 16(3) of the Parliamentary Privileges Act 1987 (Cth) – whether document prepared for purposes of or incidental to the transacting of the business of a parliamentary committee – whether material facts require evidence, questions or submissions concerning proceedings in Parliament – whether Parliament intended s 24 of the PID Act to abrogate or modify parliamentary privilege – application granted

### ['XM' and Australian Financial Security Authority \(No 2\) \(Freedom of information\) \[2021\] AICmr 41](#)

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

### ['XV' and Services Australia \(Freedom of information\) \[2021\] AICmr 43](#)

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

## LEGISLATION

### Commonwealth

#### Bills

### [Sex Discrimination and Fair Work \(Respect at Work\) Amendment Bill 2021](#)

Assent Act no: 104 Year: 2021 10 Sept 2021 - Implements certain recommendations of the Australian Human Rights Commission report, Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces by amending the: Australian Human Rights Commission Act 1986 to amend the definition of 'unlawful discrimination'; and extend the period of time between an alleged incident and the lodging of a complaint in relation to the President's discretion to terminate a complaint.

### [Commonwealth Electoral Amendment \(Integrity of Elections\) Bill 2021](#)

On 2 September 2021 the Senate referred the Commonwealth Electoral Amendment (Integrity of Elections) Bill 2021 for inquiry and report by 14 October 2021. The closing date for submissions was 20 September 2021.

### [Commonwealth Electoral Amendment \(Integrity of Elections\) Bill 2021](#)

Introduced Senate 01 Sept 2021 - A bill to amend the Commonwealth Electoral Act 1918 to provide for the routine auditing of the electronic component of Australian federal elections and the provision of voter identification. This bill does not cover referendums.

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

Finally passed both Houses - 02 Sept 2021 - Amends the Charter of the United Nations Act 1945 to: specify that certain counter-terrorism financial sanctions lists and revocations be made by legislative instrument; and confirm the validity of action that has been taken, or which may need to be taken, in respect of conduct in relation to existing counter-terrorism financial sanctions listings that were made but not registered on the Federal Register of Legislation at the time of their making.

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

Senate – 3rd reading – 02 Sept 2021 - Amends the: A New Tax System (Family Assistance) (Administration) Act 1999, Administrative Appeals Tribunal Act 1975, Child Support (Registration and Collection) Act 1988, Paid Parental Leave Act 2010 and Social Security (Administration) Act 1999 to standardise, across all divisions, the powers of the Administrative Appeals Tribunal (AAT) to issue summonses to require persons to give evidence or produce documents; Administrative Appeals Tribunal Act 1975 in relation to: procedural fairness; alternative dispute resolution processes; constitution and reconstitution of the AAT; dismissal powers; correction of errors; appointments, authorisations and assignments; taxation of costs; and protection and immunity of reviewers in the Immigration Assessment Authority; and more.

### [Independent National Security Legislation Monitor Amendment Bill 2021](#)

Senate 2nd reading – 02 Sept 2021 - Amends the Independent National Security Legislation Monitor Act 2010 to: enable the Independent National Security Legislation Monitor (INSLM) to report on own-motion inquiries in standalone reports; provide that the INSLM's annual report may include information relating to the performance of the INSLM's functions in relation to a referral from the Parliamentary Joint Committee on Intelligence and Security; specify reporting arrangements for statutory reviews conducted by the INSLM; provide a framework for the engagement of staff (including contractors) to assist the INSLM in the performance of its functions or exercise of its powers; and provide current and former staff of the INSLM with certain legal protections during the course of assisting the INSLM with performing functions or exercising powers of the INSLM.

### [No Requirement for Medical Treatment \(Including Experimental Injections\) Without Consent \(Implementing Article 6 of the Universal Declaration on Bioethics and Human Rights\) Bill 2021](#)

HR 30 August 2021 – Although Australia is signatory to the Universal Declaration on Bioethics and Human Rights, the articles of this Declaration do not form part of Australian law. 4. Australians are currently not receiving 'adequate information' to enable them to give 'free and informed consent' in regard to the administration of preventative medical intervention (the COVID-19 vaccinations).

### [Crimes Amendment \(Remissions of Sentences\) Bill 2021](#)

On 26 August 2021, the Senate referred the Crimes Amendment (Remissions of Sentences) Bill 2021 to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 14 October 2021. The deadline for submissions to this inquiry is 17 September 2021.

#### Acts – 07 September 2021

[Foreign Intelligence Legislation Amendment Act 2021](#)  
Act No. 95 of 2021 as made

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

Act No. 94 of 2021 as made

[Electoral Legislation Amendment \(Electoral Offences and Preventing Multiple Voting\) Act 2021](#)

Act No. 93 of 2021 as made

[Electoral Legislation Amendment \(Counting, Scrutiny and Operational Efficiencies\) Act 2021](#)

Act No. 92 of 2021 as made

[Australian Organ and Tissue Donation and Transplantation Authority Amendment \(Governance and Other Measures\) Act 2021](#)

Act No. 89 of 2021 as made

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

Act No. 88 of 2021 as made

#### Regulations

[Broadcasting Services \(Parental Lock\) Amendment Technical Standard 2021 \(No.2\)](#)

06/09/2021 - This instrument amends the Broadcasting Services (Parental Lock) Technical Standard 2020 to correct a technical legal flaw in the definition of domestic digital television receiver that was included by the Broadcasting Services (Parental Lock) Amendment Technical Standard 2021 (No. 1).

[Biosecurity \(Human Biosecurity Emergency\) \(Human Coronavirus with Pandemic Potential\) Variation \(Extension No. 3\) Instrument 2021](#)

02/09/2021 - This instrument amends the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential) Declaration 2020 to extend the human biosecurity emergency period for a further 3 months until 17 December 2021.

[Marriage \(Celebrancy Qualifications or Skills\) Amendment \(Guidelines\) Determination 2021](#)

01/09/2021 - This instrument amends the Marriage (Celebrancy Qualifications or Skills) Determination 2018 to include a reference to the Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021 as a training material to be utilised in the delivery of the Certificate IV in Celebrancy.

### [Federal Circuit and Family Court of Australia Legislation \(Consequential Amendments and Other Measures\) Regulations 2021](#)

30/09/2021 - This instrument amends family law and court-related regulations to ensure that they continue to operate effectively following the commencement of the Federal Circuit and Family Court of Australia Act 2021 and the Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021. It also makes minor and consequential amendments to other Commonwealth regulations to reflect the commencement of the Federal Circuit and Family Court of Australia.

### [Federal Circuit and Family Court of Australia \(Consequential Amendments and Transitional Provisions\) Rules 2021](#)

30/09/2021 - This instrument provides transitional rules in respect of amendments to the Federal Court and Federal Circuit Court Regulation 2012 and the Family Law (Fees) Regulation 2012 made by the Federal Circuit and Family Court of Australia Legislation (Consequential Amendments and Other Measures) Regulations 2021.

### [Federal Circuit and Family Court of Australia \(Division 2\) \(Family Law\) Rules 2021](#)

30/09/2021 - These Rules adopt the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 to apply in family law and child support proceedings in the Federal Circuit and Family Court of Australia (Division 2), in order to harmonise the rules of court that apply across the federal family law and child support jurisdictions.

### [Family Law \(State and Territory Courts\) Rules 2021](#)

30/09/2021 - This instrument adopts the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 to apply to state and territory courts exercising family law jurisdiction, in order to harmonise the rules of court that apply to all courts when exercising family law jurisdiction (with the exclusion of Western Australia).

#### **South Australia**

##### **Acts**

2021-30 [Rail Safety National Law \(South Australia\) \(Alcohol and Drug Offence\) Amendment Act 2021](#)  
Assented 02 September 2021

2021-31 [Oaths \(Miscellaneous\) Amendment Act 2021](#)  
Assented 02 September 2021

##### **Regulations and Rules**

2021-123 [Planning, Development and Infrastructure \(General\) \(Time Periods\) Variation Regulations 2021](#)

2021-124 [Disability Inclusion \(Restrictive Practices – NDIS\) Regulations 2021](#)

2021-134 [Return to Work \(Self-Insured Employers\) Variation Regulations 2021](#)

## KEY CONTACTS

Your contacts responsible for navigating our firm, connecting you with appropriate expertise and achieving maximum efficiency and your newsletter editors.

### PANEL RELATIONSHIP CONTACTS



[Loretta Reynolds](#)

Partner, Markets  
+61 8 8236 1406  
+61 403 069 819  
lreynolds@tglaw.com.au



[Josh Simons](#)

Partner  
+61 8 8236 1122  
+61 414 370 774  
jsimons@tglaw.com.au



[Adrian Tembel](#)

Chief Executive Partner  
+61 8 8236 1312  
+61 402 009 560  
atembel@tglaw.com.au

### NEWSLETTER EDITORS



[Chris Kelly](#)

Partner  
+61 8 8236 1169  
+61 402 883 848  
ckelly@tglaw.com.au



[Lisa Ziegler](#)

Special Counsel  
+61 8 8236 1103  
+61 421 449 974  
lziegler@tglaw.com.au

### THOMSON GEER ADELAIDE PARTNERS

To view expertise and contact details of our Adelaide Partners, please click on their names below and above.



[David Beer](#)



[Fraser Bell](#)



[Geoff Brennan](#)



[Dem Christou](#)



[Bronwyn Furse](#)



[David Gaszner](#)



[George Hodson](#)



[Karl Luke](#)



[Michael Liebich](#)



[Stephen Lyons](#)



[Michael O'Donnell](#)



[Matthew Prescott](#)



[Tony Saint](#)



[Paul Tanti](#)



[Stephen Voss](#)

Further information about other partners and staff is available at [tglaw.com.au](http://tglaw.com.au)

This Alert is produced by Thomson Geer. It is intended to provide general information in summary form on legal topics, current at the time of publication. The contents do not constitute legal advice and should not be relied upon as such. Formal legal advice should be sought in particular matters. Liability limited by a scheme approved under Professional Standards Legislation.