



## PUBLIC SECTOR NEWSLETTER - VICTORIA

Victoria's new pandemic law is progressing with key amendments being put forward to the Public Health and Wellbeing (Pandemic Management) Bill 2021 and being debated in the Victorian Parliament..

In this edition, eSafety is in the spotlight with tougher penalties being a key part of the new Online Safety Act which comes into force next year and foreign interference, artificial intelligence and cyber security being considered as part of the Commonwealth Government's critical technologies framework and action plan.

Prevention of sexual harassment and assault is also in the news, with Victoria to move to an affirmative consent model following the release of a report from the Victoria Law Reform Commission after its investigation into sexual violence and the justice system.

In the Courts, the High Court has handed down an interesting decision on apprehended bias in *Charisteads v Charisteads* [2021] HCA 29. The decision confirms and clarifies the law on apprehended bias and how such an allegation is to be assessed.

We hope you enjoy this edition of our public sector newsletter.

### IN THE MEDIA

#### Online abusers to face tougher penalties

The eSafety Commission says people who post an intimate image without consent, including deep-fakes, could face up to \$111,000 in penalties. In addition, online platforms will be forced to take down image-based abuse material faster under new powers given to the Commission enshrined in an updated Image-Based Abuse Scheme, a key part of the new Online Safety Act. <https://psnews.com.au/2021/11/18/online-abusers-to-face-tougher-penalties/?state=aps>

#### New plan leads way to techno future

The Department of the Prime Minister and Cabinet has produced a Blueprint and Action Plan addressing the opportunities and risks resulting from the embrace of critical technologies. In a statement, PM&C said the Blueprint set out the vision, while the Action Plan outlined what Australia was doing to protect and promote critical technologies. <https://psnews.com.au/2021/11/18/new-plan-leads-way-to-techno-future/?state=aps>

#### New Guidelines to tackle racism in sport

The AHRC has developed guidelines to help sports act effectively and consistently in responding to incidents of spectator racism and preventing racism from occurring at sporting events. <https://psnews.com.au/2021/11/18/new-guidelines-to-tackle-racism-in-sport/?state=aps>

#### ACMA moves to block illegal online lottery services

The ACMA will today request Australian internet service providers (ISPs) block illegal offshore lottery websites We Love Lotto and Red Fox Lotto. "Blocking illegal offshore sites protects Australians from potentially dodgy operators, where there is little or no recourse if things go wrong. <https://www.acma.gov.au/articles/2021-11/acma-moves-block-illegal-online-lottery-services>

#### Critical technologies under a national security spotlight

Quantum computing, artificial intelligence, cybersecurity services and autonomous vehicles will come under increased government scrutiny, particularly around foreign interference, as part of the federal government's new critical technologies framework and action plan. <https://www.innovationaus.com/critical-technologies-under-a-national-security-spotlight>

### Consideration of raising minimum age of criminal responsibility doesn't go far enough

The LCA welcomes the decision by Australia's State Attorneys-General to support development of a proposal to increase the minimum age of criminal responsibility from 10 to 12 years of age, but believes an opportunity to bring Australia into step with international human rights standards has been missed (16 November 2021) <https://www.lawcouncil.asn.au/media/media-releases/consideration-of-raising-minimum-age-of-criminal-responsibility-doesn-t-go-far-enough>

### 'Empty commitment' does nothing to help children: Raise the Age Coalition

The Raise the Age Coalition has condemned the decision of the Meeting of Attorneys-General to develop a plan to raise the age of criminal responsibility to only 12 years old as inadequate and failing to improve the lives of children and young people. <https://www.hrlc.org.au/news/2021/11/16/empty-commitment-does-nothing-to-help-children-raise-the-age-coalition>

### Majority of Australians want stronger whistleblower protections

Seven in 10 Australians want more legal protections for whistleblowers and say that whistleblowers make Australia a better place, according to new research by The Australia Institute and the Human Rights Law Centre

<https://www.hrlc.org.au/news/2021/11/15/majority-of-australians-want-stronger-whistleblower-protections>

### Ita defends ABC complaints review

Chair of the ABC, Ita Buttrose said the Senate inquiry into the ABC's complaints handling process, announced last week, was an act of political interference. In October, the ABC Board initiated its own independent review of the ABC's complaints system – in line with its legal responsibilities under the Australian Broadcasting Corporation Act 1983. <https://psnews.com.au/2021/11/15/ita-defends-abc-complaints-review/?state=aps>

### Victoria

#### Law Institute of Victoria urges members of parliament to take opportunity to get Pandemic Management Bill right

The Law Institute of Victoria urges all members of parliament to take the opportunity to consider its suggested amendments to the Public Health and Wellbeing (Pandemic Management) Bill 2021 following its adjournment of debate in parliament today. <https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/November-2021/Law-Institute-of-Victoria-urges-members-of-parliament>

#### New laws of consent a big 'Yes' for victims

Victoria is to move to an affirmative consent model following the release of a report from the Victorian Law Reform Commission (VLRC) after its investigation into

sexual violence and the justice system. The Government will also amend laws to make it explicit that stealthing is a crime. <https://psnews.com.au/2021/11/18/new-laws-of-consent-a-big-yes-for-victims?state=vic>

#### Victoria's pandemic law: new human rights and accountability safeguards welcomed

The Human Rights Law Centre has welcomed proposed amendments to Victoria's new pandemic legislation, revealed in Parliament today. <https://www.hrlc.org.au/news/2021/11/16/victorias-pandemic-law-new-human-rights-and-accountability-safeguards-welcomed>

#### New Anti-Scalping Laws Crack Down On Inflated Bundle Deals

Victorian fans attending major sports and entertainment events will be further protected from scalpers under new legislation that will guard against unscrupulous individuals and companies buying tickets and then obscuring inflated resale prices for the seats in packages involving hospitality, experiences or merchandise. <https://www.premier.vic.gov.au/new-anti-scalping-laws-crack-down-inflated-bundle-deals>

#### IBAC appeals for information in relation to sharing of Dani Laidley photograph

IBAC is appealing to anyone who may have information in relation to allegations a photograph taken of former AFL coach Dani Laidley at Geelong Racecourse was shared by Victoria Police officers via text message alongside transphobic comments. <https://www.ibac.vic.gov.au/media-releases/article/ibac-appeals-for-information-in-relation-to-sharing-of-dani-laidley-photograph>

### IN PRACTICE AND COURTS

#### [Federal Circuit and Family Court of Australia \(the Court\) New court initiatives help uncover higher prevalence of family violence and other risks](#)

The number of high risk matters identified through the Lighthouse Project confirms the concerns women's legal services have been raising for many years – that family violence is drastically underreported. We are keen to have the benefit of the Lighthouse pilot becoming a fixture in our family law system and extending to Victoria.)

#### [Consultation on review of the Workplace Gender Equality Act 2012](#)

The Workplace Gender Equality Agency (WGEA) has invited feedback on a review of the law covering workplace gender equality in Australia, on an issued a consultation paper which covers the current legislation, enshrined in the Workplace Gender Equality Act 2012, as well as gender indicators and continuing employer reporting obligations. Submissions close on 24 November and further information can be accessed on

the PM&C website at this PS News link.

## Victoria

### [County Court of Victoria: eCase and Section 198B application form](#)

The County Court of Victoria has launched its eCase portal, an electronic platform for the subpoena process, and is the Court's preferred method for the submission of subpoena responses, objections, objection withdrawals, inspection requests and inspection itself amongst other things.

Section 198B application form - The Court has developed an s 198B application form which should be used by parties when seeking to file an s 198B application. The template form is [here](#) and will be available on the Court's website.

### [Commonwealth and Victorian Courts' COVID updates](#)

The Supreme Court of Victoria published a joint jurisdictional statement from the Chief Justice, on behalf of the Victorian courts and VCAT in response to yesterday's announcement about easing restrictions.

### [Supreme Court of Australia Library Judgments Bulletin](#)

The Law Library of Victoria produces a fortnightly bulletin that summarises the latest legislation and cases for the Victorian jurisdiction, as well as High Court of Australia cases.

### [Supreme Court Victoria: annual report for 2020-21](#)

The Supreme Court of Victoria's 2020-21 annual report was tabled in Parliament on 18 November 2021.

### [Supreme Court Victoria: Review related to the Scale of Costs in Victoria](#)

10 November 2021 - The Council of Judges of the Supreme Court of Victoria approved a proposal from the Legal Costs Committee of the Court for a prompt and limited review concerning the use and utility of the Scale of Costs in Victorian courts.

### [Review of Victoria's birth, death and marriage certificate fee](#)

Have your say on proposed changes to the Victorian fee for legal certificates, including birth, death and marriage certificates. The increase in fees would bring Victoria's fees more in line with the corresponding fees in other jurisdictions. Consultation closes at 5.00pm on Friday 17

December 2021.

## **PUBLISHED – ARTICLES, PAPERS, REPORTS**

### [Adjusting to technology inside and outside the court room post COVID' \(2021\)](#)

Judge Paul E Smith, Paper delivered to South Australian Supreme and District Court Judges, 5 November 2021

### [Apprehend this - High Court provides sobering reminder on bias](#)

Victorian Government Solicitor's Office: 08 November 2021

In October 2021, the Full Bench of the High Court of Australia delivered judgment in *Charistead v Charistead* [2021] HCA 29. The case confirms and clarifies the law on apprehended bias and provides a sobering reminder to decision-makers about how their conduct will be assessed when apprehended bias is alleged.

## KEY CONTACTS

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## HELP DESK SERVICES

Thomson Geer is delighted to offer access to the Victorian Government to its Legal Help Desk on our usual terms of engagement and as set out below.

### Scope

We are pleased to be able to work collaboratively with the Victorian Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- a dedicated library resource to assist Victorian Government departments and agencies research relevant case law, statutes, regulations and articles.

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

### Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 03 8080 3604; or
- (b) Emailing [legalhelpdesk@tglaw.com.au](mailto:legalhelpdesk@tglaw.com.au)

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and email address will be monitored during normal business hours (9.00 am to 5.00 pm (EST), Monday to Friday).

Thomson Geer will use its best endeavours to provide the Help Desk Services within one business day of the query being logged.

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