
ONLINE UPDATE – EDITION II

Wednesday, 12 December 2012



New Laws

Welcome to the second edition of the Fabbian Lawyers' Online Update.

In recent weeks the South Australian Parliament has passed a raft of new laws impacting upon crime and the criminal justice system. This Update focuses particularly on these laws regarding sentencing, search powers and the Independent Commissioner Against Corruption.

Sentencing Laws Allowing Penalty Reductions

The South Australian Parliament has recently passed laws allowing for substantial reductions in criminal penalties.

The *Criminal Law (Sentencing) (Guilty Pleas) Amendment Bill 2012* will result in laws allowing defendants to receive penalty reductions of up to 40 percent when pleading guilty not more than 4 weeks after first appearing in court for the relevant offence(s). Lesser discounts will be available where defendants plead guilty at later stages. The laws are expected to apply to all criminal and traffic offences before the South Australian Courts. However, the application of the laws will be limited where mandatory minimum penalties apply. Parliament has explained:

The main objective of the bill is to improve the operation and effectiveness of the criminal justice system by reducing current delays and backlogs in cases coming to trial. It encourages offenders who are minded to plead guilty to do so in a timely way.

In addition to reductions for guilty pleas, Parliament has also passed laws allowing reductions 'at large' in exceptional circumstances where defendants co-operate with law enforcement agencies to combat serious and organised criminal activity. The *Criminal Law (Sentencing) (Supergrass) Amendment Bill 2012* aims to encourage "offenders involved in serious and organised crime to turn on their criminal

associates and to assist the authorities in the investigation and prosecution of other offenders and/or other crimes.” Parliament has further explained:

The common law provides an existing range of about 20-40 or 50% for co-operation with the authorities. The Bill will allow a court to go beyond this to those offenders who will fall within the category of a true supergrass.

Both the *Criminal Law (Sentencing) (Guilty Pleas) Amendment Bill 2012* and the *Criminal Law (Sentencing) (Supergrass) Amendment Bill 2012* are currently awaiting assent and are expected to come into force in the near future. The laws are intended to apply to proceedings instituted after the commencement of the legislation, regardless of when the offence(s) occurred.

[>> Criminal Law \(Sentencing\) \(Guilty Pleas\) Amendment Bill 2012](#)

[>> Criminal Law \(Sentencing\) \(Supergrass\) Amendment Bill 2012](#)

[>> Parliament Hansard Second Reading Speeches](#)

See Guilty Pleas at page 2426 (page 44 of 74) and Supergrass at page 2434 (page 52 of 74)

Independent Commissioner Against Corruption

There is to be an Independent Commissioner Against Corruption (‘ICAC’). Parliament has sought to “*establish in South Australia an independent body focussed entirely on preserving and safeguarding confidence and the integrity of the functions performed by public officers, agencies and authorities in South Australia.*”

The Commissioner will have several functions including identifying and investigating corruption in public administration. Furthermore, the Commissioner will refer matters for prosecution. Conduct relating to public officers including bribery, threats and dishonesty offences will fall under the scope of what is to be considered by the Commissioner.

[>> Independent Commissioner Against Corruption Bill 2012](#)

[>> SA Government News Release](#)

Increase in Police Search Powers

The Police will soon be permitted to conduct metal detector searches for the purpose of identify individuals possessing prohibited weapons (or committing other weapon related offences). The Police will be allowed to conduct these searches upon people entering or leaving licensed premises, places of declared public events and associated car parking areas. The *Summary Offences (Weapons) Amendment Bill 2012*, in addition to the search powers, includes a number of law changes relating to weapons.

[>> Summary Offences \(Weapons\) Amendment Bill 2012](#)

Merry Christmas & Best Wishes for the New Year

Fabbian Lawyers would like to take the opportunity to say Merry Christmas and a best wishes for New Year. We wish everyone a safe and enjoyable festive period.



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