

**TERMS OF REFERENCE FOR THE INQUIRY INTO SOUTH AUSTRALIAN
REDUCTION OF SENTENCES SCHEME TO BE CONDUCTED BY
THE HON BRIAN MARTIN AO QC**

The *Criminal Law (Sentencing) (Guilty Pleas) Amendment Act 2012* and the *Criminal Law (Sentencing) (Supergrass) Amendment Act 2012* (the Amending Acts), which came into operation on 11 March 2013, amended the *Criminal Law (Sentencing) Act 1988* (SA) (now repealed) to create a legislative scheme for the reduction of sentences (the 2013 Scheme).

On 23 October 2015 you provided the then Attorney-General with a report concerning the operation of the 2013 Scheme as a result of a review completed in accordance with Schedule 1 of the *Criminal Law (Sentencing) Act 1988* (SA) (copy provided).

The *Summary Procedure (Indictable Offences) Amendment Act 2017*, which commenced operation on 5 March 2018, made a number of amendments to the *Criminal Law (Sentencing) Act 1988* (SA) regarding the reduction of sentences.

On 30 April 2018 the *Sentencing Act 2017* (SA) commenced operation, adopting those amendments.

The operation of the reduction of sentences schemes is now contained in Part 2 Division 2 Subdivision 4 of the *Sentencing Act 2017* (SA) (the Current Scheme).

Accordingly, you are asked to inquire into, and to report to the Attorney-General on:

- the operation of the 2013 Scheme as necessary;
- the application of the 2013 Scheme and the Current Scheme within the South Australian criminal justice system, including judicial consideration of the relevant provisions;
- whether or not the Current Scheme has achieved the appropriate balance between the benefit to the community of an early guilty plea by a defendant and the need to ensure that a defendant is adequately punished for the offending behaviour and held accountable to the community for the offending behaviour, and in particular whether the factors listed in sections 37(3), 38(2), 39(4), 40(5) and 43(5) are sufficient so as to ensure that balance; and
- whether, in comparison to the 2013 Scheme, the Current Scheme has improved the operation and effectiveness of the South Australian criminal justice system and provided transparency in respect of sentences given to offenders;
- recommendations regarding:
 - improvements to the Current Scheme; and
 - any others matters you see fit.

For the purposes of your inquiry:

- you may consult with such experts, interested parties or persons as you see fit;
- you may seek such information and data from the Attorney-General's Department as required; and
- it is confirmed that you are not required to disclose any information in your report that identifies, or could tend to identify, a person if, in your opinion, disclosure of the information would put at the risk the safety of any person or would otherwise not be in the public interest.