

Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016

Explanatory Notes for amendments to be moved during Consideration in Detail by Ian Walker MP, Member for Mansfield

Short title

The short title of the Bill is the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016

Policy objectives and the reasons for them

The objectives of the Amendments are:

To ensure that the limitation of actions is removed for claims of child sexual abuse that occurred in a non-institutional setting as well as providing the opportunity for a Court to void a previous deed of settlement that may have been unfairly settled because it was entered into after the time limitation period had expired.

Achievement of policy objectives

To achieve these objectives, the Bill is amended to remove any reference to 'institutional context.' Clause 5 is also amended to provide that an action may be brought on a previously settled right of action if a court, by order on application, sets aside the agreement effecting the settlement on the grounds it is just and reasonable to do so.

Alternative ways of achieving policy objectives

There are no known alternate ways of achieving the same policy objectives.

Estimated cost for government implementation

It is not possible to estimate the financial impact of implementation for government as the relevant costs will depend on the number of claims brought as a result of these changes.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

There was no formal consultation undertaken on the amendments, however there has been informal discussions with representatives of the Queensland Law Society about a range of matters relating to the amendments and the Bill.

Consistency with legislation of other jurisdictions

Each state legislates in a different way and this is not applicable.

Notes on provisions

Amendment 1 removes the term 'institutional' from the short title of the Bill

Amendment 2 amends clause 4 to remove the term 'happening in institutional context'

Amendment 3 amends clause 4 to remove the term 'in an institutional context'

Amendment 4 amends clause 4 to remove the definition of 'institutional context' for new section 11A

Amendment 5 amends clause 4 to remove the definition of 'institutional context'

Amendment 6 amends clause 5 to remove the term 'institutional' from the short title of the Bill

Amendment 7 amends clause 5 to insert a new 5A, 5B and 5C relating to previous deeds of settlement

Amendment 8 amends clause 5 to provide for a definition of 'associated agreement' as a consequence to Amendment 7 to ensure that any agreement voided by a Court by application under Amendment 7 does not void an insurance agreement as well.

Amendment 9 amends clause 5 to include a definition to previously settled right of action, which means a right of action for an action to which section 11A applies that was settled before the commencement but after a limitation period applying to the right action had expired.

Amendment 10 amends clause 11 to remove the word 'Institutional'

Amendment 11 amends clause 21 to remove the word 'Institutional'

Amendment 12 amends clause 24 broadens the scope of when a claim can be lodged under the Personal Injuries Proceedings Act 2002 to remove any mention of an institutional context

Amendment 13 amends clause 25 to remove the word 'institutional'