



Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
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Mr Neil Laurie
The Clerk of Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr ^{Neil}Laurie

I refer to e-Petition No. 2785-17 tabled in the Legislative Assembly on 15 February 2018 requesting the House to increase the time limit placed on personal injury actions under the *Limitation of Actions Act 1974* (Limitation Act) to 10 years.

The purpose of providing limitation periods is to bring fairness and certainty to civil litigation matters. Limitation periods seek to remove the threat of open-ended liability (for both potential defendants and third parties), resolve matters as quickly as possible and ensure that a defendant is not unfairly prejudiced in proceedings through an inability to access documents to defend the claim, that due to the passage of time have been lost, deteriorated or destroyed; trace witnesses; or sufficiently recall events. At a broader community level, limitation period legislation contributes to the ongoing affordability of insurance.

In Queensland, the Limitation Act establishes limitation periods for different classes of legal action. In the case of an action for damages for personal injury, the action must be brought within three years of the date on which the cause of action arose.

In limited circumstances, this period can be extended.

If a plaintiff is claiming damages in an action for negligence, trespass, nuisance or breach of duty and can show that a material fact of a decisive character relating to a right of action was not within the plaintiff's means of knowledge until a date after the commencement of the final year of the limitation period specified by the Act, and there is evidence to establish a right of action, the court may on application order an extension so the limitation period expires at the end of one year after that date.

Further, section 29 of the Limitation Act provides that a person who is under a disability may bring the action at any time before the expiration of six years from the date on which the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired. 'Under a disability' is narrowly interpreted for the purposes of the Limitation Act to mean a person who is an infant or of unsound mind.


It is also noted that, for some limited classes of matter, the Limitation Act does not apply. Specifically, the Limitation Act does not apply to personal injury resulting from a dust-related condition and personal injury arising from child sexual abuse.

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In 2010, the Limitation Act was amended to abolish limitation periods for personal injury claims relating to injury from dust-related conditions in recognition that these conditions typically manifest a significant time after exposure. In 2017, the Limitation Act was further amended to give effect to recommendations 85 - 88 in the *Redress and Civil Litigation Report* of the Royal Commission into Institutional Responses to Child Sexual Abuse. The amendments removed the limitation periods for an action for damages relating to the personal injury of a person resulting from the sexual abuse of the person as a child and were made in recognition that, unlike other forms of personal injury where injury is the result of an accident, the average timeframe for disclosure of the abuse was around 22 years after the abuse had occurred.

I note that the petitioners are not requesting the removal of the limitation period but rather an extension of the period in which to commence a claim. However, in the absence of distinguishing factors which would mean that a plaintiff could not reasonably be expected to make a claim within the standard limitation period as raised in the above examples (e.g. due to capacity or latent injury), an amendment as suggested by the petitioners is not currently under consideration.

Yours sincerely



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