

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

Amendments during consideration in detail to be moved by
Ian Walker, Member for Mansfield

1 Clause 1 (Short title)

Page 6, line 5, ‘Institutional’—
omit.

2 Clause 4 (Insertion of new s 11A)

Page 7, lines 2 and 3, ‘happening in institutional context’—
omit.

3 Clause 4 (Insertion of new s 11A)

Page 7, line 6, ‘in an institutional context’—
omit.

4 Clause 4 (Insertion of new s 11A)

Page 7, lines 11 to 33—
omit.

5 Clause 4 (Insertion of new s 11A)

Page 8, lines 21 to 33 and page 9, lines 1 to 8—
omit.

6 Clause 5 (Insertion of new s 48)

Page 9, line 13, ‘Institutional’—
omit.

7 Clause 5 (Insertion of new s 48)

Page 10, after line 22—

insert—

- (5A) 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.
- (5B) If a court makes an order under subsection (5A) for a previously settled right of action—
 - (a) each associated agreement is void despite any Act, law or rule of law; and
 - (b) a party to an associated agreement voided under paragraph (a) may not seek to recover money paid by, or for, the party under the agreement.
- (5C) However, a court hearing an action on a previously settled right of action may—
 - (a) when awarding damages in relation to the action—take into account any amounts paid or payable as consideration under an associated agreement voided under subsection (5B)(a); and
 - (b) when awarding costs in relation to the action—take into account any amounts paid or payable as costs under an associated agreement voided under subsection (5B)(a).

8 Clause 5 (Insertion of new s 48)

Page 10, after line 23—

insert—

associated agreement, for a previously settled right of action, means—

- (a) the agreement effecting the settlement; or

- (b) any other agreement, other than a contract of insurance, related to the settlement.

9 Clause 5 (Insertion of new s 48)

Page 10, after line 28—

insert—

previously settled right of action 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 of action had expired.

10 Clause 11 (Insertion of new pt 16)

Page 31, line 9, ‘Institutional’—

omit.

11 Clause 21 (Insertion of new ch 10, pt 5)

Page 35, line 3, ‘Institutional’—

omit.

12 Clause 24 (Amendment of s 9 (Notice of a claim))

Page 36, lines 23 to 25, from ‘in’ to ‘11A’—

omit.

13 Clause 25 (Insertion of new ch 4, pt 7)

Page 37, line 6, ‘Institutional’—

omit.