

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018

Explanatory Notes

**For amendments to be moved during consideration in detail by
The Honourable Di Farmer MP
Minister for Child Safety, Youth and Women and
Minister for the Prevention of Domestic and Family Violence**

Short title

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (the Bill)

Policy objectives and the reasons for them

The amendments to be moved during consideration in detail are a series of minor and consequential amendments attributed to the following:

- passage of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth) by the Commonwealth Parliament on 19 June 2018; and
- to ensure alignment with the drafting of other jurisdictions' corresponding adoption Bills, which were not available at the time of introduction of the Bill.

Achievement of policy objectives

The amendments will ensure:

- that the Bill correctly refers to the adoption of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth) rather than a Bill for a Commonwealth Act;
- the text of the Commonwealth's National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 is removed from Schedule 1 as it is no longer required for reference; and
- other minor changes are incorporated to ensure consistency with the drafting of other jurisdictions' adoption Bills.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by legislative amendment.

Estimated cost for government implementation

There are no costs associated with the amendments to be moved during consideration in detail.

Consistency with fundamental legislative principles

The amendments to be moved during consideration in detail are consistent with fundamental legislative principles.

Consultation

Consultation on these amendments was not necessary as they are minor and technical in nature.

Notes on provisions

Amendment 1 amends the definition of *National Redress Act* at clause 2, to refer to the ‘*National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth) as in force from time to time’ rather than a Commonwealth Act enacted in the terms of the scheduled text. This amendment is required following passage of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* by the Commonwealth Parliament on 19 June 2018.

Amendment 2 removes the definition of *scheduled text* at clause 2 as, due to the amended definition of *National Redress Act*, the text of the Commonwealth’s National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 is no longer required to be included in the schedule.

Amendment 3 replaces subclause 3(1) with a new subclause 3(1) to clarify that the Bill adopts the ‘relevant version’ of the National Redress Act within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth. This is to ensure that the version of the National Redress Act that Queensland adopts is the Act as originally enacted plus any subsequent amendments enacted by the Commonwealth Parliament prior to commencement of the Bill.

Amendment 4 amends subclause 3(2) to correct cross references to refer to sections 5 and 6 of the Bill rather than sections 7 and 8.

Amendment 5 amends subclause 3(2) to replace the phrase ‘but only to the extent of the making of laws with respect to the matter’ with the phrase ‘but only to the extent of making laws with respect to those matters’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 6 omits subclause 3(3) in its entirety as this clarifying provision is not required in the context of an adoption Bill.

Amendment 7 renumbers subclause 3(4) as subclause 3(3) as a result of the omission of subclause 3(3) by amendment 6.

Amendment 8 renumbers subclause 3(5) as subclause 3(4) as a result of the omission of subclause 3(3) by amendment 6.

Amendment 9 amends subclause 3(5)(b) (renumbered as subclause 3(4)(b) by amendment 8) to refer to the ‘beginning’ of the day rather than the ‘end’ of the day. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 10 inserts a new definition of ‘relevant version of the National Redress Act’. This definition is required as a result of the amendment to subclause 3(1), by amendment 3 above, to now refer to adoption of the relevant version of the National Redress Act.

Amendment 11 amends the heading of clause 4 to refer to amendment of the ‘National Redress Act’ rather than amendment of a ‘Commonwealth law’. This change is required following passage of the Commonwealth’s *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*.

Amendment 12 amends subclause 4(a) to remove the reference to ‘adoption’ as only the amendment reference is required to be referred to in this context.

Amendment 13 amends subclause 5(1)(a) to replace the words ‘in relation to’ with the words ‘in respect of’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 14 amends subclause 5(1)(a) to insert the words ‘and any associated matters’. This is to ensure clarity regarding scope of the provision, consistently with other jurisdictions’ adoption Bills.

Amendment 15 amends subclause 5(1)(b) to replace the words ‘in relation to’ with the words ‘in respect of’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 16 amends subclause 5(2) to replace the words ‘A matter referred by section 3(2)’ with the words ‘The amendment reference’. This is to ensure use of consistent terminology throughout the Bill, as well as consistency with other jurisdictions’ adoption Bills.

Amendment 17 amends subclause 5(3)(a) to replace the phrase ‘any matter to which the adoption relates’ with the phrase ‘any matter to which the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth), as originally enacted, relates’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 18 amends subclause 5(3)(b) to replace the words ‘in relation to’ with the words ‘in connection with’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 19 amends subclause 5(3)(b)(i) to replace the words ‘civil liability of institutions or officers’ with the words ‘relevant civil liability of institutions or officials’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 20 amends clause 6 to replace the words ‘A matter referred by section 3(2)’ with the words ‘The amendment reference’. This is to ensure use of consistent terminology throughout the Bill, as well as consistency with other jurisdictions’ adoption Bills.

Amendment 21 amends subclause 8(1)(a) to remove the words ‘(but not repealed)’ as they are not essential and removing them will ensure consistency with the approach taken in other jurisdictions’ adoption Bills.

Amendment 22 amends clause 9 to remove the phrase ‘to the extent that the institution is part of or connected with the State’ from the definition of *State institution* as the words are not required and removing them will ensure consistency with the approach taken in other jurisdictions’ adoption Bills.

Amendment 23 amends subclause 10(1) to replace the words ‘or may be evidenced for the purposes of’ with the words ‘and may be evidenced for the purposes of, and consistently with,’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 24 amends the end of subclause 10(2)(a) to replace the word ‘or’ with the word ‘and’. This is to ensure consistency with the drafting of other jurisdictions’ adoption Bills.

Amendment 25 amends clause 18 to correctly refer to the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cwlth)* rather than the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018*.

Amendment 26 omits Schedule 1 in its entirety as, following passage of the Commonwealth’s *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*, the text of the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018 is no longer required to be included in the schedule.

Amendment 27 amends the Long Title to refer to the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cwlth)* rather than the National Redress Act.