

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

Explanatory notes for SL 2017 No. 19

made under the

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

General Outline

Short title

Proclamation commencing Part 2 and Part 3, Divisions 1, 3 and 4 of the *Limitation of Actions (Child Sexual Abuse) and Other Legislation Amendment Act 2016*

Authorising law

Section 2(1) of the *Limitation of Actions (Child Sexual Abuse) and Other Legislation Amendment Act 2016* (the Act) provides for Part 2 and Part 3, Divisions 1, 3 and 4 of the Act to commence on a day to be fixed by proclamation

Policy objectives and the reasons for them

The objective of the proclamation is to fix 1 March 2017 as the commencement date for Part 2 and Part 3, Divisions 1, 3 and 4 of the Act which amend the *Limitation of Actions Act 1974* (Limitation of Actions Act), the *Civil Proceedings Act 2011* (Civil Proceedings Act), the *Personal Injuries Proceedings Act 2002* (Personal Injuries Proceedings Act) and *Personal Injuries Proceedings Regulation 2014* (Personal Injuries Proceedings Regulation).

Part 2 of the Act amends the Limitation of Actions Act to remove the limitation period for commencing civil damages for personal injury arising from child sexual abuse and in certain circumstances, to allow for judgments and settlements made in respect of previously time barred matters to be re-actioned.

Part 3, Division 1 of the Act amends the Civil Proceedings Act to introduce a comprehensive statutory regime for the conduct and management of representative proceedings.

Part 3, Divisions 3 and 4 of the Act amend the Personal Injuries Proceedings Act and Personal Injuries Proceedings Regulation to remove compliance with the timeframes for the claimant to provide written notice of a claim in accordance with section 9(3) regardless of whether the injury the subject of the action arose before, or after, commencement.

Achievement of policy objectives

The policy objective is achieved by fixing the commencement date of 1 March 2017 for Part 2 and Part 3, Divisions 1, 3 and 4 of the Act.

Consistency with policy objectives of authorising law

The proclamation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The proclamation is not inconsistent with the policy objectives of any other legislation.

Benefits and costs of implementation

In relation to the amendments to the Limitation of Actions Act, Personal Injuries Proceedings Act and Personal Injuries Proceedings Regulation, the main benefits of the proclamation are that claimants who have previously been subject to statutory timeframes within which to bring an action for damages in relation to personal injury arising from child sexual abuse when the person was a child, will be able to commence an action, regardless of when the abuse occurred. There will be costs for parties and demands on the resources of the courts associated with any resulting claims and legal proceedings.

In relation to the amendments to the Civil Proceedings Act, the main benefits of the proclamation are that it will: enhance access to justice; improve the administration of justice by providing a more transparent and effective set of procedures for the conduct of representative proceedings in the Supreme Court of Queensland; and prevent the leakage to other jurisdictions of representative proceedings of significance to the Queensland community. There will be costs for parties and demands on the resources of the courts associated with such legal proceedings.

Consistency with fundamental legislative principles

The proclamation is consistent with fundamental legislative principles.

Consultation

The Chief Justice and the Rules Committee, established under the *Supreme Court of Queensland Act 1991*, were consulted on the proclamation of Part 3 Division 1 of the Act.