

# Civil Liability and Other Legislation Amendment Act 2019

Explanatory notes for SL 2020 No. 2

Made under the

*Civil Liability and Other Legislation Amendment Act 2019*

## General Outline

### Short Title

Proclamation commencing parts 2, 4 and 5 of the *Civil Liability and Other Legislation Amendment Act 2019*.

### Authorising law

Section 2 of the *Civil Liability and Other Legislation Amendment Act 2019* (the Act) provides for parts 2, 4 and 5 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 2 March 2020 as the commencement date for parts 2, 4 and 5 of the Act

Part 2 of the Act amends the *Civil Liability Act 2003* to:

- introduce a new statutory duty on institutions to take all reasonable steps to prevent child sexual abuse and serious child physical abuse of a child under the care, supervision, control or authority of the institution by a person associated with the institution (new statutory duty);
- establish a framework to:
  - allow an unincorporated institution to nominate a proper defendant to defend claims and satisfy liability for child sexual abuse, serious child physical abuse and psychological abuse connected to child sexual abuse or serious child physical abuse (connected abuse); or
  - if the unincorporated institution does not nominate a proper defendant, allow the court to appoint one; and
- allow institutions (whether incorporated or unincorporated) to access associated trusts to satisfy liability arising from a judgment in, or a settlement of, an abuse claim.

Parts 4 and 5 of the Act amend the *Limitation of Actions Act 1974* and the *Personal Injuries Proceedings Act 2002*, respectively, to expand the removal of the limitation periods for child sexual abuse to serious child physical abuse and connected abuse.

## **Achievement of policy objectives**

The policy objective is achieved by fixing the commencement date of 2 March 2020 for parts 2, 4 and 5 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 other legislation.

## **Benefits and costs of implementation**

The main benefits of the Proclamation are the commencement of the new statutory duty and measures for making it easier for survivors of child abuse to claim for civil damages for personal injury.

There will be costs for institutions in satisfying, and being able to demonstrate they satisfy, the new statutory duty and as parties to litigation facilitated by the amendments that are proclaimed to commence. There will be demands on the resources of the courts associated with any resulting legal proceedings.

## **Consistency with fundamental legislative principles**

The Proclamation is consistent with fundamental legislative principles.

## **Consultation**

External stakeholders were not consulted on the Proclamation as the commencement day is of a machinery nature.