



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

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Queensland

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

An Act to adopt the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cwlth), and to refer certain matters relating to the National Redress Scheme for Institutional Child Sexual Abuse to the Parliament of the Commonwealth, for the purposes of section 51 (xxxvii) of the Commonwealth Constitution

Part 1 Preliminary

1 Short title

This Act may be cited as the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018*.

2 Definitions

In this Act—

adoption means the adoption under section 3(1).

amendment reference means the reference under section 3(2).

express amendment of the National Redress Act means the direct amendment of the text of that Act (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act or by an instrument under a Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has or

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will have substantive effect otherwise than as part of the text of the National Redress Act.

National Redress Act means the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth) as in force from time to time.

National redress scheme means the National Redress Scheme for Institutional Child Sexual Abuse as established by the National Redress Act and as in force from time to time.

Part 2 Adoption and reference of matters

3 Adoption and references

- (1) The relevant version of the National Redress Act is adopted within the meaning of section 51(xxxvii) of the Commonwealth Constitution.
- (2) Matters relating to a redress scheme for institutional child sexual abuse are, except as provided by sections 5 and 6, referred to the Parliament of the Commonwealth, but only to the extent of making laws with respect to those matters by making express amendments of the National Redress Act.
- (3) The reference of a matter under subsection (2) has effect only—
 - (a) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference under section 51(xxxvii) of the Constitution of the Commonwealth); and
 - (b) if and to the extent that the matter is included in the legislative powers of the Parliament of the State.
- (4) Despite any provision of this Act other than section 8(2), the adoption under subsection (1) or the reference under subsection (2) has effect for a period—

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- (a) beginning when the subsection under which the adoption or reference is made commences; and
 - (b) ending at the beginning of the day fixed under section 7 as the day on which the adoption or reference is to terminate;

but no longer.

- (5) In this section—

relevant version of the National Redress Act means the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth) as originally enacted and as subsequently amended by any amendments enacted by the Parliament of the Commonwealth at any time before the commencement of this Act.

4 Amendment of National Redress Act

To remove any doubt, it is declared that it is the intention of the Parliament of the State that the National Redress Act may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act—

- (a) by provisions of Commonwealth Acts the operation of which is based on any legislative powers that the Parliament of the Commonwealth has apart from under the amendment reference; and
- (b) by provisions of instruments that are made or issued under the National Redress Act or under provisions mentioned in paragraph (a).

5 State redress mechanism

- (1) A *State redress mechanism* is—

- (a) a scheme, program or arrangement, whether temporary or otherwise, established before or after the commencement of this Act by either of the following for or in respect of persons who have suffered institutional child sexual abuse in the State, whether applying only to

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- those persons or applying to any class of victims of crime, and any associated matters—
- (i) the Parliament or government of the State;
 - (ii) an institution, whether governmental or non-governmental, or other entity; or
- (b) the jurisdiction of a court or tribunal to grant compensation or support for or in respect of victims of crime, including crime relating to institutional child sexual abuse, and any associated matters.
- (2) The amendment reference does not include the matter of making a law to the extent that the law would operate to prevent or limit the power to establish, or to prevent or limit the operation of, any State redress mechanism, whether or not the mechanism deals with the same or similar subject matters as those dealt with in any aspect of the National redress scheme.
- (3) Subsection (2) does not include any of the following matters if they would otherwise be included by section 3(2)—
- (a) any matter to which the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cwlth), as originally enacted, relates;
 - (b) in connection with the operation of the National redress scheme—
 - (i) the matter of the release or discharge of relevant civil liability of institutions or officials; or
 - (ii) the matter of the disclosure or use of evidence or other information provided or obtained; or
 - (iii) the matter of the making, enforcement or protection of payments, including, for example, protection against the operation of orders in the nature of garnishee orders.

6 Requirements for agreement of the State

The amendment reference does not include the matter of making a law to the extent that the law would substantively remove or override a provision of the National Redress Act that requires the agreement of the State.

7 Termination of adoption or reference

- (1) The Governor may, at any time, by proclamation, fix a day as the day on which—
 - (a) the adoption and the amendment reference are to terminate; or
 - (b) the amendment reference is to terminate; or
 - (c) the adoption is to terminate (if the amendment reference has been previously terminated).
- (2) The Governor may, by proclamation, revoke a proclamation under subsection (1).
- (3) A revoking proclamation has effect only if notified before the day fixed under subsection (1).
- (4) If a revoking proclamation has effect, the revoked proclamation is taken, for the purposes of section 3, never to have been notified.
- (5) The revocation of a proclamation under subsection (1) does not prevent notification of a further proclamation under that subsection.
- (6) A proclamation under subsection (1) or (2) is subordinate legislation.

8 Effect of termination of amendment reference before termination of adoption

- (1) If the amendment reference is terminated but the adoption is not terminated, the termination of the amendment reference does not affect—

- (a) laws that were made under the amendment reference before that termination (whether or not they have come into operation before that termination); or
 - (b) the continued operation in the State of the National Redress Act as in operation immediately before that termination or as subsequently amended or affected by—
 - (i) laws referred to in paragraph (a) that come into operation after that termination; or
 - (ii) provisions referred to in section 4(a) or (b).
- (2) Accordingly, the amendment reference continues to have effect for the purposes of subsection (1) unless the adoption is terminated.

Part 3 Other provisions for the operation of the National redress scheme in the State

9 Definitions for part

In this part—

information includes a document.

operator means the Operator within the meaning of the National Redress Act.

participating State institution means a participating State institution within the meaning of the National Redress Act to the extent that the institution is part of or connected with the State.

State agency—

- (a) means the whole or part of a body (whether or not incorporated) established for a public purpose by or under a law of the State, whether or not it is a State institution or participating State institution; and

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- (b) includes a body or class of bodies prescribed by regulation for this definition; but
 - (c) does not include a body or class of bodies prescribed by regulation as not being a body or class of bodies for this definition.

State institution means a State institution within the meaning of the National Redress Act.

10 How agreement of the State is given, withdrawn and evidenced

- (1) A regulation may make provision for or with respect to or, subject to any relevant provisions of the regulation, the Minister may give directions as to how the agreement of the State is to be given or withdrawn and may be evidenced for the purposes of, and consistently with, this Act and the National redress scheme.
- (2) Without limiting subsection (1)—
 - (a) the regulation or directions may authorise a person to give agreement on behalf of the State; and
 - (b) the agreement of the State to State institutions participating in the National redress scheme may be given in respect of—
 - (i) 1 or more particular State institutions; or
 - (ii) a class of State institutions, however described.

11 Chief executive may request information

- (1) The chief executive may, by notice given to a State agency and for the purpose of the National redress scheme, ask the agency to give the chief executive particular information in the agency's possession or control.
- (2) The notice must state the day by which the particular information must be given.
- (3) The State agency must comply with the request.

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- (4) A person does not commit an offence merely by failing to comply with subsection (3).

12 Information sharing

- (1) A participating State institution may give information to the operator for the purpose of complying with a request made by the operator to the participating State institution under the National Redress Act to give information in relation to an application under the National redress scheme.
- (2) The chief executive may give information to a State agency for the purpose of assisting any participating State institution to comply with a request made by the operator to the participating State institution under the National Redress Act to give information as mentioned in subsection (1).

13 Interaction with other laws

Nothing in a law of the State prevents—

- (a) a State agency from giving information to the chief executive as mentioned in section 11; or
- (b) a participating State institution from giving information to the operator as mentioned in section 12(1); or
- (c) the chief executive from giving information to a State agency as mentioned in section 12(2);

unless that law is prescribed by regulation for this section.

Part 4 Miscellaneous

14 Regulation-making power

The Governor in Council may make regulations under this Act.