



New South Wales

Limitation Amendment (Child Abuse Civil Actions) Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Limitation Act 1969* (*the Act*) to remove any limitation period applying under the Act to an action on a cause of action for damages that relate to death or personal injury resulting from child abuse.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Limitation Act 1969 No 31

Schedule 1 [1] excludes an action on a cause of action for damages that relate to death or personal injury resulting from child abuse from the operation of the Act. Accordingly, the bringing of proceedings on such causes of action is not subject to any limitation period provided for in the Act. The proposed provision is expressed not to limit any existing powers or jurisdiction of the courts (for example, the power or jurisdiction to stay or dismiss proceedings where a court determines that the lapse of time has a burdensome effect on the defendant that is so serious that a fair trial is not possible).

Schedule 1 [3] makes it clear that the exclusion of such actions from the limitation periods applying under the Act extends to existing causes of action, including cases where the relevant limitation period has already expired, an action has been commenced previously on the cause of

action, or judgment on the cause of action has previously been given on the ground that the action was statute barred. To this end, the item empowers a court to set aside a judgment based on the fact that an action was statute barred. **Schedule 1 [2]** makes a consequential amendment.