



New South Wales

Limitation Amendment (Child Abuse) Bill 2016

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 provide that there is to be no limitation period for an action for damages that relates to death or personal injury resulting from child abuse (a ***child abuse action***).

The amendments define ***child abuse*** to mean abuse perpetrated against a person when the person is under 18 that is sexual abuse, serious physical abuse, or other abuse perpetrated in connection with sexual abuse or serious physical 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.

Schedule 1 Amendment of Limitation Act 1969 No 31

Schedule 1 [2] allows a child abuse action to be brought at any time without regard to any limitation period under the Act.

The amendments remove the existing time limitations on the commencement of child abuse actions but do not create any new cause of action or liability.

The amendments are not limited to actions against the perpetrator of child abuse and extend to any action that relates to death or personal injury resulting from child abuse (for example an action founded on the negligence or vicarious liability of a person other than the perpetrator).

The amendments will not limit any existing powers or jurisdiction of a court (for example, the power to stay or dismiss proceedings where a court determines that the lapse of time results in a fair trial not being possible).

Schedule 1 [4] provides that the amendments extend 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. This will not permit an action that has already been determined on the merits or settled to be re-litigated.

Schedule 1 [1] and [3] make consequential amendments.