

CLAUSE NOTES

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

PART I - PRELIMINARY

Clause 1: Short title

Cites the Act as the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018*.

Clause 2: Commencement

Clause 2 provides for the Act to commence on 1 November 2018.

Clause 3: Principal Act

Clause 3 contains the definitions of terms used in the proposed Act.

PART 2 – ADOPTION AND REFERRAL

Clause 4: Adoption of relevant version of National Redress Act

Clause 4 deals with the adoption of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* of the Commonwealth.

Clause 4(1) defines *relevant version of the National Redress Act* to mean the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* of the Commonwealth as enacted or amended from time to time.

Clause 4(2) deals with the adoption of the *relevant version of the National Redress Act*.

Clause 4(3) provides for the commencement and termination of the adoption reference.

Clause 5: Amendment reference

Clause 5 deals with the amendment reference related to the adoption of the *National Redress Scheme for Institutional Child Sexual Abuse 2018* of the Commonwealth.

Clause 5(1) provides that the amendment reference does not include certain matters relating to State redress mechanisms (Clause 7 and 8).

Clause 5(2) provides that the amendment reference includes only matters that are not within the legislative powers of the Commonwealth and matters that are within the legislative powers of the State of Tasmania.

Clause 5(3) provides for the commencement and termination of the amendment reference.

Clause 6: Amendment of the National Redress Act

Clause 6 allows for the amendment of the National Redress Act and its instruments by the Commonwealth Parliament.

Clause 7: State redress mechanisms

Clause 7(1) defines State redress mechanism to mean a scheme established by the State Parliament or the State government or by any governmental or non-governmental entity for persons who have suffered institutional child sexual abuse in the State, and also to mean the jurisdiction of a court or tribunal to grant compensation or support for victims of crime (including crime relating to institutional child sexual abuse).

Clause 7(2) provides that the amendment reference does not include the matter of making a law to the extent that it would operate to prevent or limit the power to establish, or to prevent or limit the operation of, any State redress mechanism.

Clause 7(3) provides that clause 7(2) does not cover: any matters covered by the original enactment of the National Redress Act; the release or discharge of civil liability under the National Redress Scheme; the disclosure or use of evidence or other information provided or obtained under the National Redress Scheme; or the making, enforcement or protection (e.g. against the operation of garnishee orders) of payments under the National Redress Scheme.

Clause 8: Requirements for agreement of State

Clause 8 provides that the amendment reference does not include the matter of making a law to the extent that it would substantially remove or override a provision of the National Redress Act that requires the agreement of the State (e.g. for a State institution to be declared a participating institution).

Clause 9: Termination of adoption or amendment reference

Clause 9 deals with the termination of the period of references under clauses 4 and 5 (namely, the period ending on a day to be fixed by the Governor by proclamation).

Clause 10: Effect of termination of amendment reference before adoption

Clause 10 clarifies that the termination of the amendment reference does not affect laws already in place.

PART 3 – MISCELLANEOUS

Clause 11: How agreement of State is given, withdrawn and evidenced

Clause 11 authorises the regulations or (subject to the regulations) the Minister to 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, the National Redress Act and the National Redress Scheme.

Clause 12: Information sharing

Clause 12 provides that a participating institution may give information to the Operator under the National Redress Scheme in response to a relevant request of the Operator, and that a State agency may provide information to another State agency for the purpose of assisting any participating State institution to comply with such a request. The information may be provided despite any law of the State unless the law is prescribed by the regulations.

Clause 13: Regulations

Clause 13 authorises regulations to be made for the purposes of the proposed Act.

Clause 14: Administration of Act

Clause 14 provides that the Minister for Justice and the Department of Justice has administrative responsibility for the Act until order is made under section 4 of the *Administrative Arrangements Act 1990*.