

FACT SHEET

Limitation Amendment Bill 2017

The Bill makes the following changes to the *Limitation Act 1974*:

- Abolition of any limitation period for personal injury claim arising from physical or sexual abuse, or associated psychological abuse that occurred when the plaintiff was a minor. This reform is in accordance with the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse and reforms made by Victoria, New South Wales, Queensland and the Northern Territory. This change recognises the special circumstances of cases arising from sexual or physical abuse of a child, in particular the fact that many survivors are not able to disclose the abuse until well into adulthood.
- Abolition of the long-stop period of 12 years (section 5A(3)(b)). This change removes the need for a plaintiff, who may have recently been diagnosed with a serious illness, from having to overcome the additional hurdle of seeking leave from the court to bring an action.
- Provision for a court to have discretion to extend the limitation period for a further three years after the expiration of the initial limitation period, that is, to six years from the date of discoverability. To prevent an unfair impact on defendants, the application for a further three year extension will apply only to matters that are still within the initial limitation period. This will prevent the change impacting on court cases where a defendant has relied on a statutory limitation defence. In addition it will prevent insurance claims being revived in circumstances where a reserve is no longer held against a potential claim, thereby preventing any impact on future insurance availability or premiums.
- Clarification of provisions relating to the extension of time for persons with a disability so that:
 - running of time is suspended if the prospective plaintiff is under a disability for a significant portion of the limitation period unless the plaintiff is in the care of a capable parent (defined) or has a legal representative (defined) who is not a person in a 'close relationship' with the defendant;
 - the knowledge of the parent or legal representative of a person who is under a disability is deemed to be the knowledge of the plaintiff for the purpose of determining the date of discoverability;
 - there is provision for consequential and transitional provisions necessary to give effect to the above amendments. The consequential amendments include the repeal of section 5, the pre-2004 limitation period for personal injuries, which no longer has application.