




Speech By
Joan Pease

MEMBER FOR LYTTON

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**LIMITATIONS OF ACTIONS (INSTITUTIONAL CHILD SEXUAL ABUSE) AND
OTHER LEGISLATION AMENDMENT BILL; LIMITATION OF ACTIONS AND
OTHER LEGISLATION (CHILD ABUSE CIVIL PROCEEDINGS) AMENDMENT
BILL**

 **Ms PEASE** (Lytton—ALP) (3.31 pm): I rise to make a contribution to this cognate debate on the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 and the Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016. I begin by thanking the chair and member for Ferny Grove, Mr Mark Furner, my parliamentary colleagues on the committee and the committee secretariat. Ms Emily Booth stepped into the role as acting research director and she and her colleagues all did a wonderful job of providing excellent secretariat support to the committee and I thank them. The committee invited submissions from the public and stakeholders and we received 23 written submissions. The committee also received oral briefings on both bills, and held public and private hearings on the bills. I thank those who made submissions and those who provided evidence at the public and private hearings. In particular, I thank those who shared their experiences with the committee.

Committee report No. 41 of the Legal Affairs and Community Safety Committee had two recommendations: that the government's bill, Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016, be passed; and that the private member's bill not be passed. The Premier introduced the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill in August 2016 and referred the bill to the Legal Affairs and Community Safety Committee. The government bill will amend the Limitations of Action Act 1974 and the Personal Injuries Proceedings Act 2002, and remove limitation periods that apply to the commencement of civil claim damages where the claim relates to child sexual abuse in an institutional context. I note the Attorney-General's acknowledgement of suggested amendments to extend the child sexual abuse in a non-institutional context.

The Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 also amends the Civil Proceedings Act 2011 and introduces a comprehensive statutory regime for the conduct and management of representative proceedings, commonly known as class actions, in Queensland. The bill will also amend the Legal Profession Act 2007 to support new funding arrangements in place for the current Legal Practitioners Interest on Trust Accounts Fund and to simplify solicitors' trust arrangements. The bill also amends the Queensland Civil and Administrative Tribunal Act 2009, QCAT, and the Queensland Civil and Administrative Tribunal Regulation 2009 to remove the expiry provisions regarding the justices of the peace QCAT jurisdiction.

When introducing this bill, the Premier outlined what an historic occasion it was and today we witness another example of the Palaszczuk government's commitment to important social reform. The purpose of the government's bill is to finally take the necessary steps to provide increased access to

justice for survivors of institutional child sexual abuse by retrospectively removing the limitation period for when a legal claim can be made. Our government understands the injustices wrought upon child sexual abuse survivors by the current limitation period, which only provides three years from when a survivor turns 18 years of age to lodge a claim. The Premier spoke of hearing from survivors who have been brave enough to tell their stories and discuss their anguish. I join with the Premier to pay tribute to all of those people who have spent time raising these issues and have campaigned and shared their personal stories, and those who gave evidence during our committee proceedings. I am proud to be part of a government that listened and has responded.

The current period is inadequate to allow victims of childhood sexual abuse to even come to terms with their abuse on a personal level, let alone to find the enormous strength needed to address their pain, to move forward and to commence the daunting and often arduous task of commencing litigation in the courts. The government prioritised reform to recognise that there is no time limit on suffering and to ensure that survivors have the time they need to come forward and talk about their abuse. The Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 will remove one of the barriers to justice that many victims have felt has let them down and will give those affected by institutional sexual abuse the opportunity to argue their claim in a time frame that will accommodate the hardships that they are already facing.

The amendments to the limitation period recognise the program of work and the significant degree of consultation already undertaken by the Royal Commission into Institutional Responses to Child Sexual Abuse and, in particular, its recommendation that the removal of the statutory limitation period for institutional child sexual abuse in an institutional context should occur as soon as possible. This will override the current limitation, which requires an action to be commenced within three years from the date of the incident occurring or the person attaining the age of 18 years. The government's bill defines that sexual abuse in an institutional context extends to abuse happening on the premises of the institution where the activities of the institution take place or in connection with those activities being engaged in by an official of the institution in stated circumstances, or happening in other circumstances where the institution is or should be treated as being responsible for persons having contact with children. Institutions cover a range of government and non-government entities and institutions, including religious organisations and other organisations and clubs, however described and whether or not incorporated.

The justification for this departure from the general principle that legislation should operate prospectively is based on the commission's findings that victims typically do not report their abuse for long periods after the limitation period has expired. Further, the new section 11A(4) in the government's bill removes the application of limitation periods that apply to surviving actions by the dependants or estates of deceased survivors of institutional child sexual abuse under the Civil Proceedings Act 2011 and the Succession Act 1981.

The government's bill also includes amendments to the Civil Proceedings Act to incorporate a comprehensive regime for the effective conduct and management of representative proceedings, commonly called class actions. The government's bill will establish proceedings for class actions in Queensland. This is an issue that has been called for by legal stakeholders and consumer groups alike for many years in Queensland. We have seen causes of action being commenced in other jurisdictions because of the lack of a contemporary representative action regime in Queensland. Currently, Queensland has only a court rule provision to facilitate representative proceedings under the Uniform Civil Procedure Rules 1999. However, those rules are limited in scope and do not provide adequate procedural guidance for the effective conduct and management of complex proceedings.

The amendments contained in this bill will address this obstacle to justice by establishing new laws that clearly set out the relevant matters for commencing and undertaking class actions. The amendments will create a greater degree of certainty and promote transparency, efficiency and consistency in the conduct of class actions in this state. These amendments will also strengthen access to justice by overcoming the cost barriers and the lack of knowledge that might otherwise deter affected Queenslanders from pursuing a legal claim.

The new class action regime in the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 is modelled on similar legislation schemes in place in the Federal Court of Australia, New South Wales and Victoria. Importantly, the introduction of this similar legislation in Queensland will ensure that Queenslanders are no longer burdened by being forced to commence costly litigation interstate. Furthermore, this will allow for class actions that are relevant to Queensland to be dealt with in our state by our judges and lawyers who know Queensland best.

The government's bill will also make changes to the Legal Practitioner Interest on Trust Accounts Fund and will amend the Legal Profession Act 2007 which provides for how interest from solicitors' trust funds is dealt with. Currently, this includes the payment of that interest into the Legal Practitioner Interest on Trust Accounts Fund which is then distributed from the funds by way of payments for various purposes, including legal assistance, legal professional regulation and law library services.

The need for legal assistance has been increasing in Queensland. The earnings from the interest on solicitors' trust accounts has not kept pace with that growth. There is a growing need to ensure stability of funding sources for those needs and the government has acted to ensure that those payments will come from consolidated revenue.

These revised amendments will ensure sustainable, long-term funding for current recipients of Legal Practitioner Interest on Trust Accounts Fund distributions. The Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill will repeal all provisions in the Legal Profession Act relating to the fund and enable the transfer of revenue received from the fund into the Consolidated Fund effective 1 January 2017. Future funding for these purposes will come from the Consolidated Fund and interest on solicitors' trust accounts will be paid to the Consolidated Fund.

The government's bill will also simplify and improve the administration of solicitors' trust account arrangements under the Legal Profession Act by requiring solicitors to keep only one general trust account, removing the requirement for a special deposit account and it will make other improvements of an administrative nature. The government's bill will also permanently establish the trialled Queensland Civil and Administrative Tribunal justices of the peace jurisdiction by amending the Queensland Civil and Administrative Tribunal Act 2009 and the Queensland Civil and Administrative Tribunal Regulation 2009 to provide permanency for the Queensland Civil and Administrative Tribunal justices of the peace model that has been trialled in a number of Queensland communities since June 2013.

Under the trial, a panel of two JPs, one of whom must be legally qualified, hears and decides certain minor civil disputes. The trial has provided many benefits to the Queensland Civil and Administrative Tribunal, including improved clearance rates and improved time to trial rates in the minor civil disputes jurisdiction. Importantly, it also provides JPs with a valued, professional opportunity to enhance their role and their recognition in the community.

As I said at the beginning of my speech, the Premier outlined when introducing this bill that this is an historic occasion—that is, to be taking the necessary steps to provide increased access to justice for survivors of institutional child sexual abuse. I commend the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill to the House.