



Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016



Queensland

Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Limitation of Actions Act 1974	
3	Act amended	6
4	Insertion of new s 11A	6
	11A No limitation period for actions for child sexual abuse happening in institutional context	7
5	Insertion of new s 48	9
	48 Transitional provision for Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	9
Part 3	Amendment of other legislation	
Division 1	Amendment of Civil Proceedings Act 2011	
6	Act amended	11
7	Amendment of s 16 (Amendment for new cause of action or party)	11
8	Amendment of s 17 (Interested person may become a party and may be bound by outcome)	11
9	Amendment of s 18 (Order binds persons who are represented)	11
10	Insertion of new pt 13A	12
	Part 13A Representative proceedings in Supreme Court	
	Division 1 Preliminary	
	103A Definitions for pt 13A	12
	Division 2 Conduct of representative proceedings	
	103B Starting proceeding	13
	103C Standing	14

Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016

Contents

	103D	Whether consent required to be a group member . . .	14
	103E	Persons under a legal incapacity	15
	103F	Originating process	15
	103G	Right of group member to opt out	16
	103H	Cause of action accruing after representative proceeding started	16
	103I	Fewer than 7 group members	17
	103J	Distribution costs excessive	17
	103K	Discontinuance of proceeding in particular circumstances	18
	103L	Effect of discontinuance order under this part	19
	103M	Where not all issues are common	19
	103N	Individual issues	20
	103O	Directions for further proceedings	20
	103P	Adequacy of representation	21
	103Q	Stay of execution in particular circumstances	21
	103R	Settlement and discontinuance	21
	103S	Settlement of individual claim of representative party	22
	Division 3	Notices	
	103T	When notice must be given	23
	103U	Notice requirements	24
	Division 4	Powers of the court	
	103V	Judgment	25
	103W	Constitution etc. of fund	26
	103X	Effect of judgment	27
	Division 5	Appeals	
	103Y	Appeals	27
	Division 6	Miscellaneous	
	103Z	Suspension of limitation periods	29
	103ZA	General power of court to make orders	30
	103ZB	Costs	30
	103ZC	Reimbursement of representative party's costs	30
11		Insertion of new pt 16	31
	Part 16	Transitional provision for Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	
	111	Application of pt 13A	31
12		Amendment of sch 1 (Dictionary)	31

Division 2	Amendment of Legal Profession Act 2007	
13	Act amended	32
14	Amendment of s 237 (Definitions for pt 3.3)	32
15	Amendment of s 243 (Discharge by legal practitioner associate of obligations of law practice)	32
16	Amendment of s 280 (Approval of ADIs)	33
17	Amendment and relocation of s 287 (Arrangement with financial institution)	33
18	Omission of ch 3, pt 3.3, div 6 (Prescribed accounts and Legal Practitioner Interest on Trust Accounts Fund)	33
19	Amendment of s 295 (Disclosure of accounts used to hold money entrusted to legal practitioners)	34
20	Amendment of s 296 (Report about law society's functions)	34
21	Insertion of new ch 10, pt 5	34
	Part 5 Transitional provisions for the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	
	781 Existing approved ADIs	35
	782 Existing arrangements with ADIs	35
	783 Closure of Legal Practitioner Interest on Trust Accounts Fund	35
22	Amendment of sch 2 (Dictionary)	36
Division 3	Amendment of Personal Injuries Proceedings Act 2002	
23	Act amended	36
24	Amendment of s 9 (Notice of a claim)	36
25	Insertion of new ch 4, pt 7	37
	Part 7 Transitional provision for Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	
	86 Time for lodging notice for existing claims	37
Division 4	Amendment of Personal Injuries Proceedings Regulation 2014	
26	Regulation amended	37
27	Amendment of s 7 (Claimant may add other respondents—Act, s 14)	37
Division 5	Amendment of Queensland Civil and Administrative Tribunal Act 2009	
28	Act amended	38
29	Renumbering of s 206BA (Application of ch 5 provisions)	38
30	Replacement of ch 4, pt 4B, div 6 (Expiry)	38

Contents

	Division 6	Other provision	
	206ZB	Hearing of matter after location stops being prescribed location	38
31		Omission of ch 10, div 3 (Transitional provisions for Queensland Civil and Administrative Tribunal (Justices of the Peace) Amendment Act 2013)	39
Division 6		Amendment of Queensland Civil and Administrative Tribunal Regulation 2009	
32		Regulation amended	39
33		Omission of s 19 (Expiry of pt 5)	39

2016

A Bill

for

An Act to amend the *Civil Proceedings Act 2011*, the *Legal Profession Act 2007*, the *Limitation of Actions Act 1974*, the *Personal Injuries Proceedings Act 2002*, the *Personal Injuries Proceedings Regulation 2014*, the *Queensland Civil and Administrative Tribunal Act 2009* and the *Queensland Civil and Administrative Tribunal Regulation 2009*, for particular purposes

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016*. 4
5
6

Clause 2 Commencement 7

(1) The following provisions commence on a day to be fixed by proclamation— 8
9

(a) part 2; 10

(b) part 3, divisions 1, 3 and 4. 11

(2) Part 3, division 2 commences on 1 January 2017. 12

Part 2 Amendment of Limitation of Actions Act 1974 13
14

Clause 3 Act amended 15

This part amends the *Limitation of Actions Act 1974*. 16

Clause 4 Insertion of new s 11A 17

After section 11— 18

insert— 19

11A No limitation period for actions for child sexual abuse happening in institutional context	1 2 3
(1) An action for damages relating to the personal injury of a person resulting from the sexual abuse of the person in an institutional context when the person was a child—	4 5 6 7
(a) may be brought at any time; and	8
(b) is not subject to a limitation period under an Act or law or rule of law.	9 10
(2) For subsection (1), sexual abuse happens in an <i>institutional context</i> if the sexual abuse—	11 12
(a) happens—	13
(i) on the premises of an institution; or	14
(ii) where activities of an institution take place; or	15 16
(iii) in connection with the activities of an institution; or	17 18
(b) is engaged in by an official of an institution in circumstances, including circumstances involving settings not directly controlled by the institution, in which the institution has, or the institution’s activities have, (whether by act or omission) created, facilitated, increased, or contributed to—	19 20 21 22 23 24 25
(i) the risk of sexual abuse of children; or	26
(ii) the circumstances or conditions giving rise to the risk of sexual abuse of children; or	27 28 29
(c) happens in any other circumstances in which an institution is, or should be treated as being, responsible for persons having contact with children.	30 31 32 33
(3) This section applies whether the claim for	34

damages is brought in tort, in contract, under statute, or otherwise.	1 2
(4) This section applies to an action for damages—	3
(a) arising under the <i>Civil Proceedings Act 2011</i> , section 64; or	4 5
(b) that has survived on the death of a person for the benefit of the person’s estate under the <i>Succession Act 1981</i> , section 66.	6 7 8
(5) This section does not limit—	9
(a) any inherent, implied or statutory jurisdiction of a court; or	10 11
(b) any other powers of a court under the common law or any other Act (including a Commonwealth Act), rule of court or practice direction.	12 13 14 15
<i>Example—</i>	16
This section does not limit a court’s power to summarily dismiss or permanently stay proceedings if the lapse of time has a burdensome effect on the defendant that is so serious that a fair trial is not possible.	17 18 19 20
(6) In this section—	21
<i>institution</i> means an entity (whether existing or no longer existing, whether or not incorporated, and however described) that provides or provided activities, facilities, programs or services of any kind that gives or gave an opportunity for a person to have contact with a child.	22 23 24 25 26 27
<i>official of an institution</i> includes—	28
(a) a representative (however described) of the institution or a related entity; and	29 30
(b) a member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and	31 32 33

-
- (c) a person who provides services to, or for, the institution or a related entity, including, for example, a member, officer, employee, associate, contractor or volunteer (however described) of an entity; and
- (d) any other person who would be considered as, or should be treated as if the person were, an official of the institution.

Clause 5	Insertion of new s 48	9
	After section 47—	10
	<i>insert—</i>	11
	48 Transitional provision for Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	12
	(1) Section 11A applies to an action for damages whether the right of action accrued before or after the commencement of that section (the <i>commencement</i>).	15
	(2) An action on a previously barred right of action may be brought even if—	19
	(a) a limitation period previously applying to the right of action has expired; or	21
	(b) another action has been started in the right of action but not finalised before the commencement; or	23
	(c) another action was started in the right of action and discontinued before the commencement; or	26
	(d) a judgment was given in relation to the right of action on the ground that a limitation period applying to the right of action had expired; or	29

- (e) an action in the right of action was dismissed on the ground that a limitation period applying to the right of action had expired. 1
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4
- (3) If an action on a previously barred right of action is brought after the commencement, the court hearing the action may, if the court decides it is just and reasonable to do so, do either or both of the following— 5
6
7
8
9
- (a) set aside a judgment given in relation to the right of action on the ground that a limitation period applying to the right of action had expired; 10
11
12
13
- (b) take into account any amounts paid or payable as damages or costs under the judgment. 14
15
16
- (4) The Supreme Court may, on application, set aside a judgment under this section even though the Supreme Court is not hearing the action. 17
18
19
- (5) However, a court, other than the Supreme Court, may not set aside another court’s judgment under this section. 20
21
22
- (6) In this section— 23
- previously barred right of action* means a right of action for an action to which section 11A applies that was not maintainable immediately before the commencement because a limitation period applying to the right of action had expired. 24
25
26
27
28

Part 3	Amendment of other legislation	1
Division 1	Amendment of Civil Proceedings Act 2011	2 3
Clause 6	Act amended	4
	This division amends the <i>Civil Proceedings Act 2011</i> .	5
Clause 7	Amendment of s 16 (Amendment for new cause of action or party)	6 7
	Section 16(4)—	8
	<i>omit, insert—</i>	9
	(4) This section—	10
	(a) applies despite the <i>Limitation of Actions Act 1974</i> ; and	11 12
	(b) does not limit section 103H.	13
Clause 8	Amendment of s 17 (Interested person may become a party and may be bound by outcome)	14 15
	(1) Section 17—	16
	<i>insert—</i>	17
	(1A) However, this section does not apply to a representative proceeding under part 13A.	18 19
	(2) Section 17(1A) to (3)—	20
	<i>renumber</i> as section 17(2) to (4).	21
Clause 9	Amendment of s 18 (Order binds persons who are represented)	22 23
	(1) Section 18—	24
	<i>insert—</i>	25

	(1A) However, this section does not apply to a representative proceeding under part 13A.	1 2
	(2) Section 18(1A) to (3)— <i>renumber</i> as section 18(2) to (4).	3 4
Clause 10	Insertion of new pt 13A	5
	After part 13—	6
	<i>insert</i> —	7
	Part 13A Representative proceedings in Supreme Court	8 9 10
	Division 1 Preliminary	11
	103A Definitions for pt 13A	12
	In this part—	13
	<i>court</i> means the Supreme Court.	14
	<i>defendant</i> means a person against whom relief is sought in a representative proceeding.	15 16
	<i>group member</i> means a member of a group of persons on whose behalf a representative proceeding has been started.	17 18 19
	<i>representative party</i> means a person who starts a representative proceeding.	20 21
	<i>representative proceeding</i> means a proceeding started under section 103B.	22 23
	<i>sub-group member</i> means a person included in a sub-group established under section 103M.	24 25
	<i>sub-group representative party</i> means a person appointed to be a sub-group representative party	26 27

under section 103M. 1

Division 2 Conduct of representative 2
proceedings 3

103B Starting proceeding 4

- (1) A proceeding may be started under this part if— 5
 - (a) 7 or more persons have claims against the 6
same person; and 7
 - (b) the claims of all the persons are in respect 8
of, or arise out of, the same, similar or 9
related circumstances; and 10
 - (c) the claims of all the persons give rise to a 11
substantial common issue of law or fact. 12
- (2) The proceeding may be started by 1 or more of the 13
persons on behalf of some or all of the other 14
persons. 15
- (3) The proceeding may be started— 16
 - (a) whether or not the relief sought— 17
 - (i) is, or includes, equitable relief; or 18
 - (ii) consists of, or includes, damages; or 19
 - (iii) includes claims for damages that would 20
require individual assessment; or 21
 - (iv) is the same for each person 22
represented; and 23
 - (b) whether or not the proceeding— 24
 - (i) is concerned with separate contracts or 25
transactions between the defendant and 26
individual group members; or 27
 - (ii) involves separate acts or omissions of 28
the defendant done or omitted to be 29

done in relation to individual group members.	1 2
103C Standing	3
(1) A person who has a claim as mentioned in section 103B(1)(a) has a sufficient interest to start a representative proceeding against another person (the <i>proposed defendant</i>) on behalf of other persons who also have a claim as mentioned in that section if the person has standing to start proceedings on the person's own behalf against the proposed defendant.	4 5 6 7 8 9 10 11
(2) The person may start a representative proceeding on behalf of other persons against more than 1 defendant, whether or not each of the other persons have a claim against each of the defendants in the proceeding.	12 13 14 15 16
(3) A person who has started a representative proceeding retains standing to do the following even if the person ceases to have a claim against any or all defendants—	17 18 19 20
(a) continue the proceeding;	21
(b) appeal against a decision in the proceeding.	22
103D Whether consent required to be a group member	23 24
(1) Subject to subsection (2), the consent of a person to be a group member is not required.	25 26
(2) Each of the following persons is a group member only if the person gives consent in writing to be a group member—	27 28 29
(a) the Commonwealth or a State;	30
(b) a Minister of the Commonwealth or a State;	31

-
- (c) a body corporate established for a public purpose by a law of the Commonwealth or a State, other than an incorporated company or association;
- (d) an officer of the Commonwealth or a State, in his or her capacity as an officer.

103E Persons under a legal incapacity

- (1) It is not necessary for a person under a legal incapacity to have a litigation guardian merely in order to be a group member.
- (2) A group member who is a person under a legal incapacity may only take a step in the representative proceeding or conduct part of the proceeding by the member's litigation guardian.
- (3) In this section—
person under a legal incapacity has the meaning given by the *Supreme Court of Queensland Act 1991*.

103F Originating process

- (1) The originating process for a representative proceeding, or a document filed in support of the originating process, must, in addition to any other matters required—
- (a) describe or otherwise identify the group members to whom the proceeding relates; and
- (b) state the nature of the claims made and relief sought on behalf of the group members; and
- (c) state the questions of law or fact common to the claims of the group members.
- (2) For describing or otherwise identifying the group members under subsection (1)(a), it is not

necessary to name or state the number of the 1
group members. 2

103G Right of group member to opt out 3

- (1) The court must fix a date before which a group 4
member may opt out of a representative 5
proceeding. 6
- (2) A group member may opt out of the 7
representative proceeding by giving written 8
notice before the date fixed under subsection (1). 9
- (3) On the application of a group member, the 10
representative party or the defendant, the court 11
may fix a later date to extend the period during 12
which a group member may opt out of the 13
representative proceeding under subsection (2). 14
- (4) Except by leave of the court, the hearing of a 15
representative proceeding must not start earlier 16
than the date before which a group member may 17
opt out of the proceeding. 18

**103H Cause of action accruing after representative 19
proceeding started 20**

- (1) At any stage of a representative proceeding, on 21
the application of the representative party, the 22
court may give leave to amend the originating 23
process for the proceeding to change the 24
description of the group members. 25
- (2) The description of the group members may be 26
changed to include a person— 27
- (a) whose cause of action accrued after the start 28
of the representative proceeding but before 29
the date fixed by the court when giving 30
leave; and 31
- (b) who would have been a group member or, 32
with the consent of the person would have 33

-
- been a group member, if the cause of action
had accrued before the proceeding was
started. 1
2
3
- (3) The date mentioned in subsection (2)(a) may be 4
the date on which leave is given or another date 5
before or after that date. 6
- (4) If the court gives leave under subsection (1), the 7
court may also make any other order it considers 8
just, including an order relating to— 9
- (a) the giving of notice to persons who, as a 10
result of the amendment, will be included in 11
the description of group members for the 12
representative proceeding; and 13
- (b) the date before which the persons may opt 14
out of the representative proceeding. 15
- 103I Fewer than 7 group members** 16
- If, at any stage of a representative proceeding, it 17
appears likely to the court that there are fewer 18
than 7 group members, the court may, on the 19
conditions it considers appropriate— 20
- (a) order that the proceeding be continued 21
under this part; or 22
- (b) order that the proceeding no longer continue 23
under this part. 24
- 103J Distribution costs excessive** 25
- (1) This section applies if— 26
- (a) the relief sought in a representative 27
proceeding is or includes payment of money 28
to group members, other than for costs; and 29
- (b) on application by the defendant, the court 30
considers it is likely that, if judgment were 31
to be given in favour of the representative 32

party, the cost to the defendant of identifying the group members and distributing to them the amounts ordered to be paid to them would be excessive, having regard to the likely total of those amounts.

- (2) The court may, by order—
 - (a) direct that the proceeding no longer continue under this part; or
 - (b) stay the proceeding so far as it relates to relief of the kind mentioned in subsection (1)(a).

103K Discontinuance of proceeding in particular circumstances

- (1) The court may, on application by the defendant or on its own initiative, order that a proceeding no longer continue under this part if it considers it is in the interests of justice to do so because—
 - (a) the costs that would be incurred if the proceeding were to continue under this part are likely to exceed the costs that would be incurred if each group member conducted a separate proceeding; or
 - (b) all the relief sought can be obtained by way of a proceeding other than a proceeding under this part; or
 - (c) the proceeding will not provide an efficient and effective way of dealing with the claims of the group members; or
 - (d) a representative party is not able to adequately represent the interests of the group members; or
 - (e) it is otherwise inappropriate that the claims be pursued by way of a proceeding under this part.

-
- (2) For subsection (1)(e), it is not inappropriate for claims to be pursued by way of a proceeding under this part merely because the persons identified as group members for the proceeding—
- (a) do not include all persons on whose behalf the proceeding might have been brought; or
 - (b) are aggregated together for a particular purpose including, for example, a litigation funding arrangement.
- (3) If the court dismisses an application under this section for a proceeding under this part, the court may order that no further application under this section be made by the defendant in the proceeding except with the leave of the court.
- (4) For subsection (3), leave may be granted subject to the conditions about costs the court considers just.

103L Effect of discontinuance order under this part

If the court makes an order under section 103I, 103J or 103K that a proceeding no longer continue under this part—

- (a) the proceeding may be continued as a proceeding by the representative party on the party's own behalf against the defendant; and
- (b) on the application of a person who was a group member for the proceeding, the court may order that the person be joined as an applicant or plaintiff in the continued proceeding.

103M Where not all issues are common

- (1) If it appears to the court that deciding the issue or issues common to all group members will not

finally decide the claims of all group members, 1
the court may give directions in relation to 2
deciding the remaining issues. 3

(2) If an issue is common to the claims of some only 4
of the group members, the directions given by the 5
court may include directions— 6

(a) establishing a sub-group consisting of those 7
group members; and 8

(b) appointing a person to be the sub-group 9
representative party for the sub-group 10
members. 11

(3) If the court appoints a person other than the 12
representative party to be a sub-group 13
representative party, that person, and not the 14
representative party, is liable for costs associated 15
with deciding the issue or issues common to the 16
sub-group members. 17

103N Individual issues 18

(1) In giving directions under section 103M, the court 19
may allow an individual group member to appear 20
in the proceeding for the purpose of deciding an 21
issue that relates only to the claims of that 22
member. 23

(2) If an individual group member is allowed to 24
appear under subsection (1), the individual group 25
member, and not the representative party, is liable 26
for costs associated with deciding the issue. 27

103O Directions for further proceedings 28

If an issue can not properly or conveniently be 29
dealt with by the court under section 103M or 30
103N, the court may give directions for the 31
starting and conduct of other proceedings, 32
whether or not the other proceedings are 33

representative proceedings. 1

103P Adequacy of representation 2

(1) If, on application by a group member, the court 3
considers that a representative party is not able 4
adequately to represent the interests of the group 5
members, the court may— 6

(a) substitute another group member as the 7
representative party; and 8

(b) make any other orders in relation to the 9
substitution it considers appropriate. 10

(2) If, on application by a sub-group member, the 11
court considers that the sub-group representative 12
party is not able adequately to represent the 13
interests of the sub-group members, the court 14
may— 15

(a) substitute another person as the sub-group 16
representative party; and 17

(b) make any other orders in relation to the 18
substitution it considers appropriate. 19

103Q Stay of execution in particular circumstances 20

If a defendant starts a proceeding in the court 21
against a group member, the court may order a 22
stay of execution for any relief awarded to the 23
group member in the representative proceeding 24
until the other proceeding is decided. 25

103R Settlement and discontinuance 26

(1) A representative proceeding may not be settled or 27
discontinued without the approval of the court. 28

(2) If the court gives approval under subsection (1), it 29
may make any orders it considers just for the 30
distribution of money paid under a settlement or 31

paid into the court. 1

103S Settlement of individual claim of representative party 2
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- (1) A representative party may, with the leave of the court, settle the party's individual claim in whole or part at any stage of the representative proceeding. 4
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7
- (2) A representative party seeking leave to settle, or who has settled, the party's individual claim may, with leave of the court, withdraw as the representative party. 8
9
10
11
- (3) If a representative party seeks leave to withdraw under subsection (2), the court may, on the application of a group member, make— 12
13
14
- (a) an order for the substitution of a group member as the representative party; and 15
16
- (b) any other orders in relation to the substitution it considers appropriate. 17
18
- (4) Before a representative party may be granted leave to withdraw under subsection (2)— 19
20
- (a) the court must be satisfied that notice of the application has been given to group members under section 103T in sufficient time for a group member to apply under subsection (3) to have someone substituted as the representative party; and 21
22
23
24
25
26
- (b) any application for the substitution of a group member as representative party must have been decided. 27
28
29

Division 3	Notices	1
103T	When notice must be given	2
(1)(1)	Notice must be given to group members of the following matters in relation to a representative proceeding—	3 4 5
(a)(a)	the starting of the proceeding and the right of the group members to opt out of the proceeding before the date fixed by the court under section 103G;	6 7 8 9
(b)(b)	an application by the defendant for the dismissal of the proceeding on the ground of want of prosecution;	10 11 12
(c)(c)	an application by a representative party seeking leave to withdraw under section 103S as representative party.	13 14 15
(2)(2)	The court may dispense with a requirement of subsection (1) if the relief sought in the representative proceeding does not include a claim for damages.	16 17 18 19
(3)(3)	If the court orders, notice must be given to group members of the payment into court of money in answer to a cause of action on which a claim in the representative proceeding is based.	20 21 22 23
(4)(4)	Unless the court considers it just, an application for approval of a settlement under section 103R must not be decided unless notice has been given to group members in the representative proceeding.	24 25 26 27 28
(5)(5)	The court may, at any stage, order that notice of any matter be given to a group member or group members.	29 30 31
(6)(6)	Notice under this section must be given as soon as practicable after the happening of the event to	32 33

which it relates. 1

103U Notice requirements 2

- (1) The form and content of a notice under section 103T must be approved by the court. 3
4
- (2) The court must, by order, state— 5
 - (a) who must give the notice; and 6
 - (b) the way in which the notice must be given. 7
- (3) The order may also— 8
 - (a) direct a party to provide information relevant to the giving of the notice; and 9
10
 - (b) provide for the costs of giving notice. 11
- (4) An order under subsection (2) may require notice to be given by way of press advertisement, radio or television broadcast, or any other means. 12
13
14
- (5) The court must not order that notice be given personally to each group member unless it considers it is reasonably practicable and not unduly expensive to do so. 15
16
17
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- (6) A notice about a matter for which the court's leave or approval is required must state the period within which a group member or other person may apply to the court, or take some other step, in relation to the matter. 19
20
21
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- (7) A notice that includes or is about conditions must state the conditions and period, if any, for compliance. 24
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- (8) The failure of a group member to receive or respond to a notice does not affect a step taken, an order made, or a judgment given in the representative proceeding. 27
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Division 4 Powers of the court 1

103V Judgment 2

- (1)(1) The court may do any 1 or more of the following 3
in deciding a matter in a representative 4
proceeding— 5
- (a)(a)decide an issue of law; 6
 - (b)(b)decide an issue of fact; 7
 - (c)(c)make a declaration of liability; 8
 - (d)(d)grant equitable relief; 9
 - (e)(e)make an award of damages for group 10
members, sub-group members or individual 11
group members, consisting of stated 12
amounts or amounts worked out in a stated 13
way; 14
 - (f)(f)award damages in an aggregate amount 15
without stating amounts awarded in respect 16
of individual group members; 17
 - (g)(g)make any other order the court considers 18
just. 19
- (2)(2) In making an order for an award of damages, the 20
court must provide for the payment or distribution 21
of the money to the group members entitled. 22
- (3)(3) Other than as provided under section 103R, the 23
court must not make an award of damages as 24
mentioned in subsection (1)(f) unless a 25
reasonably accurate assessment can be made of 26
the total amount to which group members are 27
entitled under the judgment. 28
- (4)(4) If the court makes an order for the award of 29
damages, the court may give any directions it 30

- considers just in relation to the way in which— 1
- (a)(a)a group member must establish the 2
member's entitlement to share in the 3
damages; and 4
- (b)(b)any dispute regarding the entitlement of a 5
group member to share in the damages must 6
be decided. 7

103W Constitution etc. of fund 8

- (1) Without limiting section 103V(2), in providing 9
for the distribution of money to group members, 10
the court may provide for— 11
- (a) the constitution and administration of a fund 12
consisting of the money to be distributed; 13
and 14
- (b) either— 15
- (i) the payment by the defendant of a fixed 16
sum of money into the fund; or 17
- (ii) the payment by the defendant into the 18
fund of instalments, on the conditions 19
the court considers appropriate, to meet 20
the claims of group members; and 21
- (c) entitlements to interest earned on the money 22
in the fund. 23
- (2) The costs of administering the fund are to be 24
borne by the fund or the defendant, as the court 25
directs. 26
- (3) If the court orders the constitution of a fund under 27
subsection (1), the order must— 28
- (a) require notice to be given to group members 29
in the way stated in the order; and 30
- (b) state the way in which a group member must 31
make a claim for payment from the fund and 32

establish the member's entitlement to the payment; and	1 2
(c) state a date, at least 6 months after the date on which the order is made, before which the group members must make a claim for payment from the fund; and	3 4 5 6
(d) provide for the date before which the fund must be distributed to group members who have established an entitlement to be paid from the fund.	7 8 9 10
(4) The court may, if it considers it just, allow a group member to make a claim after the date stated under subsection (3)(c) if the fund has not been fully distributed.	11 12 13 14
(5) On application by the defendant after the date provided for under subsection (3)(d), the court may make the orders it considers just for the payment from the fund to the defendant of the money remaining in the fund.	15 16 17 18 19
103X Effect of judgment	20
A judgment given in a representative proceeding—	21 22
(a) must describe or otherwise identify the group members affected by it; and	23 24
(b) binds the group members described, other than a person who has opted out of the proceeding under section 103G.	25 26 27

Division 5 Appeals 28

103Y Appeals 29

(1) An appeal from a judgment of the court under this	30
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- part may be brought as a representative proceeding. 1
2
- (2) The parties to the appeal are— 3
- (a) for an appeal by a representative party in respect of the judgment to the extent it relates to issues common to the claims of the group members—the representative party, as the representative of the group members, and the defendant; or 4
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9
- (b) for an appeal by a sub-group representative party in respect of the judgment to the extent it relates to issues common to the claims of the sub-group members—the sub-group representative party, as the representative of the sub-group members, and the defendant; or 10
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- (c) for an appeal by an individual group member in respect of the judgment to the extent it relates to an issue relating only to the claim of the group member—the group member and the defendant; or 17
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21
- (d) for an appeal by the defendant in respect of the judgment generally—the defendant and the representative party as the representative of the group members; or 22
23
24
25
- (e) for an appeal by the defendant in respect of the judgment to the extent it relates to issues common to the claims of sub-group members—the defendant and the sub-group representative party as the representative of the sub-group members; or 26
27
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- (f) for an appeal by the defendant in respect of the judgment to the extent it relates to an issue relating only to the claim of an individual group member—the defendant and the group member. 32
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-
- (3) If a representative party or sub-group representative party does not start an appeal within the time for starting the appeal, another member of the group or sub-group may, within a further 21 days, start an appeal on behalf of the group members or sub-group members.
- (4) If an appeal from the judgment of the court in a representative proceeding is started, the Court of Appeal may direct that notice of the appeal be given to the person or persons, and in the way, the Court of Appeal considers appropriate.
- (5) This part, other than section 103G, applies to an appeal started under this section despite any other Act or law.
- (6) The notice of appeal for an appeal relating to issues that are common to the claims of group members or sub-group members must describe or otherwise identify the group members or sub-group members, but need not name or state the number of the members.

Division 6 Miscellaneous 21

103Z Suspension of limitation periods 22

- (1) On the starting of a representative proceeding, the running of any limitation period applying to the claim of a group member to which the proceeding relates is suspended.
- (2) The limitation period does not start running again unless—
- (a) the member opts out of the representative proceeding under section 103G; or
- (b) the representative proceeding, and any appeal from the proceeding, is decided

without finally disposing of the member's claim.	1 2
(3) This section applies despite anything in the <i>Limitation of Actions Act 1974</i> or any other law or rule of law.	3 4 5
103ZA General power of court to make orders	6
In any proceeding, including an appeal, conducted under this part, the court may, on its own initiative or on application by a party or group member, make any order the court considers appropriate or necessary to ensure justice is done in the proceeding.	7 8 9 10 11 12
103ZB Costs	13
In a representative proceeding, the court—	14
(a) may order a party to pay costs; but	15
(b) may not order a group member who is not a representative party to pay costs, other than under section 103M or 103N.	16 17 18
103ZC Reimbursement of representative party's costs	19 20
(1) If the court makes an award of damages in a representative proceeding, any person who is or was a representative party or a sub-group representative party in the proceeding may apply to the court for an order under this section.	21 22 23 24 25
(2) If, on an application under this section, the court is satisfied the costs reasonably incurred in relation to the representative proceeding by the applicant are likely to exceed the costs recoverable by the applicant from the defendant, the court may order an amount equal to the whole or part of the excess be paid to the applicant out of	26 27 28 29 30 31 32

	the damages awarded.	1	
	(3) On an application under this section, the court may also make any other order it considers just.	2 3	
Clause 11	Insertion of new pt 16	4	
	After part 15—	5	
	<i>insert—</i>	6	
	Part 16	Transitional provision for Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	7 8 9 10 11 12
	111 Application of pt 13A	13	
	(1) Part 13A applies only to a proceeding started after the commencement.	14 15	
	(2) The proceeding may be started even if the cause of action the subject of the proceeding arose before the commencement.	16 17 18	
Clause 12	Amendment of sch 1 (Dictionary)	19	
	(1) Schedule 1, definition <i>court—</i> <i>omit.</i>	20 21	
	(2) Schedule 1— <i>insert—</i>	22 23	
	<i>court—</i>	24	
	(a) for part 13A—see section 103A; and	25	
	(b) otherwise—see section 5.	26	

	<i>defendant</i> , for part 13A, see section 103A.	1
	<i>group member</i> , for part 13A, see section 103A.	2
	<i>representative party</i> , for part 13A, see section 103A.	3 4
	<i>representative proceeding</i> , for part 13A, see section 103A.	5 6
	<i>sub-group member</i> , for part 13A, see section 103A.	7 8
	<i>sub-group representative party</i> , for part 13A, see section 103A.	9 10
Division 2	Amendment of Legal Profession Act 2007	11 12
Clause 13	Act amended	13
	This division amends the <i>Legal Profession Act 2007</i> .	14
Clause 14	Amendment of s 237 (Definitions for pt 3.3)	15
	Section 237(1), definition <i>approved ADI</i> , ‘law society’—	16
	<i>omit, insert—</i>	17
	chief executive	18
Clause 15	Amendment of s 243 (Discharge by legal practitioner associate of obligations of law practice)	19 20
	(1) Section 243(1)(f)—	21
	<i>omit.</i>	22
	(2) Section 243(1)(g)—	23
	<i>renumber</i> as section 243(1)(f).	24

Clause 16	Amendment of s 280 (Approval of ADIs)	1
	(1) Section 280(1), (2) and (4), ‘law society’—	2
	<i>omit, insert—</i>	3
	chief executive	4
	(2) Section 280(3), ‘law society may’—	5
	<i>omit, insert—</i>	6
	chief executive may	7
	(3) Section 280(3)(a), ‘is’—	8
	<i>omit, insert—</i>	9
	and the chief executive are	10
Clause 17	Amendment and relocation of s 287 (Arrangement with financial institution)	11
	(1) Section 287, heading, ‘financial institution’—	12
	<i>omit, insert—</i>	13
	ADI	14
	(2) Section 287, from ‘on’—	15
	<i>omit, insert—</i>	16
	on trust accounts kept by law practices.	17
	(3) Section 287, as amended—	18
	<i>relocate</i> to division 5.	19
Clause 18	Omission of ch 3, pt 3.3, div 6 (Prescribed accounts and Legal Practitioner Interest on Trust Accounts Fund)	20
	Chapter 3, part 3.3, division 6—	21
	<i>omit.</i>	22
		23
		24

Clause 19	Amendment of s 295 (Disclosure of accounts used to hold money entrusted to legal practitioners)	1
		2
	(1) Section 295(2)—	3
	<i>omit.</i>	4
	(2) Section 295(3)—	5
	<i>renumber</i> as section 295(2).	6
	(3) Section 295—	7
	<i>insert</i> —	8
	(3) The law society must notify the chief executive about the matters the law society is given notice of by law practices under subsection (1).	9
		10
		11
	(4) A notification under this section must be given in the way, and include the details, prescribed by regulation.	12
		13
		14
Clause 20	Amendment of s 296 (Report about law society's functions)	15
		16
	(1) Section 296, 'Minister'—	17
	<i>omit, insert</i> —	18
	chief executive	19
	(2) Section 296(1), 'Minister's'—	20
	<i>omit, insert</i> —	21
	chief executive's	22
Clause 21	Insertion of new ch 10, pt 5	23
	Chapter 10—	24
	<i>insert</i> —	25

Part 5	Transitional provisions for the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016	1 2 3 4 5 6
781 Existing approved ADIs		7
(1)	This section applies to an ADI approved before the commencement by the law society under section 280 as in force before the commencement.	8 9 10
(2)	The ADI is taken to have been approved by the chief executive under section 280.	11 12
782 Existing arrangements with ADIs		13
	From the commencement, an arrangement under section 287(a) as in force before the commencement has no effect.	14 15 16
783 Closure of Legal Practitioner Interest on Trust Accounts Fund		17 18
(1)	The Legal Practitioner Interest of Trust Accounts Fund established under section 288 is closed.	19 20
(2)	Any amount remaining in the fund on the commencement is transferred to the consolidated fund.	21 22 23
(3)	An amount payable to the fund on the commencement that has not been paid is payable to the department.	24 25 26

Clause 22	Amendment of sch 2 (Dictionary)	1
	(1) Schedule 2, definitions <i>fund</i> , <i>law practice</i> and <i>prescribed account</i> —	2
	<i>omit.</i>	3
		4
	(2) Schedule 2—	5
	<i>insert</i> —	6
	<i>law practice</i> means—	7
	(a) an Australian legal practitioner who is a sole practitioner; or	8
		9
	(b) a law firm; or	10
	(c) an incorporated legal practice; or	11
	(d) a multi-disciplinary partnership.	12
Division 3	Amendment of Personal Injuries Proceedings Act 2002	13
		14
Clause 23	Act amended	15
	This division amends the <i>Personal Injuries Proceedings Act 2002</i> .	16
		17
Clause 24	Amendment of s 9 (Notice of a claim)	18
	Section 9—	19
	<i>insert</i> —	20
	(9C) Subsections (3), (5) and (6) do not apply to a claim based on a personal injury of a person resulting from the sexual abuse of the person in an institutional context (within the meaning of the <i>Limitation of Actions Act 1974</i> , section 11A) when the person was a child.	21
		22
		23
		24
		25
		26

Clause 25	Insertion of new ch 4, pt 7	1
	Chapter 4—	2
	<i>insert—</i>	3
	Part 7	4
	Transitional provision	5
	for Limitation of	6
	Actions (Institutional	7
	Child Sexual Abuse)	8
	and Other Legislation	9
	Amendment Act 2016	9
	86 Time for lodging notice for existing claims	10
	Section 9(9C) applies to a claim mentioned in the	11
	section arising before or after the commencement.	12
Division 4	Amendment of Personal Injuries	13
	Proceedings Regulation 2014	14
Clause 26	Regulation amended	15
	This division amends the <i>Personal Injuries Proceedings</i>	16
	<i>Regulation 2014</i> .	17
Clause 27	Amendment of s 7 (Claimant may add other	18
	respondents—Act, s 14)	19
	(1) Section 7(1)(a), before ‘the day’—	20
	<i>insert—</i>	21
	if applicable,	22
	(2) Section 7(1)(a), after ‘section 9(3)’—	23
	<i>insert—</i>	24
	or 9A(9)(b)	25

Division 5	Amendment of Queensland Civil and Administrative Tribunal Act 2009	1 2 3	
Clause 28	Act amended	4	
	This division amends the <i>Queensland Civil and Administrative Tribunal Act 2009</i> .	5 6	
Clause 29	Renumbering of s 206BA (Application of ch 5 provisions)	7	
	Section 206BA—	8	
	<i>renumber</i> as section 206ZA.	9	
Clause 30	Replacement of ch 4, pt 4B, div 6 (Expiry)	10	
	Chapter 4, part 4B, division 6—	11	
	<i>omit, insert—</i>	12	
	Division 6	Other provision	13
	206ZB	Hearing of matter after location stops being prescribed location	14 15
	(1)	This section applies if—	16
	(a)	the tribunal, as constituted by 2 QCAT justices of the peace under division 2, is hearing a matter; and	17 18 19
	(b)	the location at which the tribunal is constituted stops being a prescribed location.	20 21 22
	(2)	For the purposes of the tribunal hearing and deciding the matter, the location is taken to be a prescribed location until the matter is finally dealt with under this Act.	23 24 25 26
	(3)	In this section—	27

	<i>prescribed location</i> means a location prescribed by regulation for section 206E.	1 2
Clause 31	Omission of ch 10, div 3 (Transitional provisions for Queensland Civil and Administrative Tribunal (Justices of the Peace) Amendment Act 2013)	3 4 5
	Chapter 10, division 3—	6
	<i>omit.</i>	7
Division 6	Amendment of Queensland Civil and Administrative Tribunal Regulation 2009	8 9 10
Clause 32	Regulation amended	11
	This part amends the <i>Queensland Civil and Administrative Tribunal Regulation 2009</i> .	12 13
Clause 33	Omission of s 19 (Expiry of pt 5)	14
	Section 19—	15
	<i>omit.</i>	16