

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

Second Reading Speech – Legislative Council

I move that the Bill be now read a second time.

On behalf of the State Government and all West Australians, I have much pleasure in introducing into the Parliament this very important Bill.

Redress is likely to be preferable for many Western Australian survivors, as it is more supportive, less traumatic and less financially onerous than other avenues. The National Redress Scheme offers eligible applicants three elements of redress:

- a direct personal response from the responsible institution, if requested;
- funds to access counselling and psychological care; and
- a monetary payment.

Importantly, the Scheme also provides survivors with community based supports, including: application assistance; financial support services; and independent legal advice.

The National Redress Scheme formally commenced operation on 1 July 2018 and will operate for 10 years. It is being administered by the Commonwealth Government on behalf of all participating governments, and government and non-government institutions, who contribute on a 'responsible entity pays' basis.

The Commonwealth Parliament does not have the power to enact legislation to enable the delivery of the National Redress Scheme for institutions other than its own. Therefore, this Bill, will enable the Western Australian Government and Western Australia-based non-government institutions to participate in the Scheme. The Bill achieves this in two ways:

- First, by providing for the adoption of the Commonwealth's *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth); and
- Second, by providing, by a referral of power, an amendment reference, which will enable the Commonwealth Parliament to make express amendments to the National Redress Act.

In relation to these matters, it is important to note that there are several safeguards. First, the amendments to the National Redress Act can only be made by the Commonwealth Parliament with the agreement of participating jurisdictions, as detailed within the *Intergovernmental Agreement on the National Redress Scheme for Institutional Child Sexual Abuse*.

Secondly, as with any referral of State legislative power to the Commonwealth Parliament, the amendment reference is subject to limitations. Clause 7 of the Bill provides that the amendment reference does not include State redress mechanisms. This ensures that the State retains control over the operation or establishment of any current or future Western Australian redress mechanisms or schemes. It also ensures that the jurisdiction of the State's courts and tribunals is not inadvertently affected by the National Redress Act.

Thirdly, clause 8 also limits the amendment reference by preventing the Commonwealth Parliament from making any amendments to the National Redress Act that would remove or override a provision of that Act that requires the agreement of the State.

Fourthly, protection for the State is also provided through Clauses 9 and 10, which relate to the termination of the adoption or amendment reference. The Governor may, by proclamation, terminate the adoption and/or the amendment references.

In addition, clause 11 of the Bill provides that regulations or a ministerial declaration may be made by Western Australia about how the agreement of the State is to be given, withdrawn or evidenced for the purposes of the Scheme.

Clause 12 of the Bill provides for the sharing of information with the Scheme Operator, as well as between State institutions.

The Bill also provides for the making of regulations at Clause 17. This may, for example, include the making of regulations for the purposes of Clause 11 and 12.

Part 4 of the Bill addresses the interaction between the National Redress Scheme and the Western Australian criminal injuries compensation scheme, as provided by the *Criminal Injuries Compensation Act 2003* (WA).

It is considered appropriate that a person pursues the National Redress Scheme prior to their application for criminal injuries compensation being considered. Criminal injuries compensation is intended to be an avenue of last resort. Additionally, the National Redress Scheme is likely to provide a quicker and more therapeutic approach. It is also likely to result in more favourable financial outcomes for survivors of historical child abuse.

The provisions in Clauses 13 to 16 make clear the intersection between a person's application to the National Redress Scheme and their entitlement to criminal injuries compensation.

Western Australian survivors are currently able to access the Scheme's support services and submit their application. Arrangements need to be put in place before the Western Australian Government can officially participate in the Scheme. It is proposed that the Government's participation in the Scheme will formally commence on 1 January 2019, subject to this Bill passing by the end of 2018. After this time, applications by Western Australian survivors who experienced abuse in a government institution will be progressed by the Scheme.

Pursuant to Standing Order 126(1), I advise that this Bill is a uniform legislation Bill. As it is important for survivors that the Government and Western Australian-based non-government institutions are able to join the National Redress Scheme as soon as possible, I would respectfully ask that the Uniform Legislation Committee discharge its review function in a timely manner.

I commend the Bill to the House and table the explanatory memorandum.