

40TH PARLIAMENT



Report 117

**STANDING COMMITTEE ON UNIFORM
LEGISLATION AND STATUTES REVIEW**

*National Redress Scheme for Institutional Child Sexual Abuse
(Commonwealth Powers) Bill 2018 - Extension of Time*

Presented by
Hon Michael Mischin (Chairman)
October 2018

Standing Committee on Uniform Legislation and Statutes Review

Members as at the time of this inquiry:

Hon Michael Mischin MLC (Chairman)

Hon Pierre Yang MLC (Deputy Chairman)

Hon Laurie Graham MLC

Hon Robin Scott MLC

Staff as at the time of this inquiry:

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ISBN 978-1-925578-51-5



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

Extension of time

On 13 September 2018, the Legislative Council referred the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 (Bill) to the Standing Committee on Uniform Legislation and Statutes Review (Committee) for consideration and report. The reporting date is 30 October 2018, the next sitting day after the 45 day period mandated by Standing Order 126.

The Bill provides for Western Australia to adopt the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) (National Redress Act). Adopting the National Redress Act will enable the National Redress Scheme for Institutional Child Sexual Abuse (National Redress Scheme) to operate in Western Australia. The National Redress Scheme is intended to provide support to people who were sexually abused as children in an institutional context.

The Bill also contains an amendment reference, a referral of power that enables the Commonwealth to make amendments to the National Redress Act which will then apply in Western Australia.

The Committee has identified Parliamentary sovereignty issues raised by the Bill. Apart from the referral of power, these include:

- the lack of any Parliamentary oversight of amendments made to the National Redress Act between when the Committee's report is tabled and when the Bill receives Royal Assent
- a Henry VIII clause which allows for the termination of the adoption or amendment reference by proclamation, and the revocation of such proclamation also by proclamation.

The Committee has also identified Parliamentary sovereignty issues raised by the National Redress Act. These include:

- significant matters central to determining the scope of the National Redress Scheme being included in subsidiary legislation rather than the National Redress Act
- no requirement for the reviews of the National Redress Scheme required under the National Redress Act to be made public or tabled in the Commonwealth, State or Territory Parliaments.

On 8 October 2018, the Committee conducted a private hearing on the Bill with representatives from the Department of Justice (Department). The Committee has sought further information from the Department to assist with its inquiry into the Bill.

On 15 October 2018, the Committee passed a motion to seek an extension of the time in which it was to report to the Legislative Council. The extension of time is requested to enable the Committee to properly discharge its reporting obligations to the Legislative Council due to the:

- need to consider the significant Parliamentary sovereignty issues raised by the Bill and the National Redress Act
- need to consider any further information provided by the Department
- Committee's reporting requirements in relation to the Fair Trading Amendment Bill 2018.

The Committee therefore requests an extension of time in which to report on the Bill from 30 October 2018 to 21 November 2018.

A handwritten signature in blue ink, appearing to read "M. Mischin". The signature is stylized with a large initial "M" and a cursive "Mischin".

Hon Michael Mischin MLC
Chairman

Standing Committee on Uniform Legislation and Statutes Review

Date first appointed:

17 August 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

'6. Uniform Legislation and Statutes Review Committee

- 6.1 *A Uniform Legislation and Statutes Review Committee is established.*
- 6.2 The Committee consists of 4 Members.
- 6.3 The functions of the Committee are –
 - (a) to consider and report on Bills referred under Standing Order 126;
 - (b) on reference from the Council, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to Standing Order 126;
 - (c) to examine the provisions of any treaty that the Commonwealth has entered into or presented to the Commonwealth Parliament, and determine whether the treaty may impact upon the sovereignty and law-making powers of the Parliament of Western Australia;
 - (d) to review the form and content of the statute book; and
 - (e) to consider and report on any matter referred by the Council.
- 6.4 In relation to function 6.3(a) and (b), the Committee is to confine any inquiry and report to an investigation as to whether a Bill or proposal may impact upon the sovereignty and law-making powers of the Parliament of Western Australia.'



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