

Legislative Council—No 102

As introduced and read a first time, 19 June 2019

South Australia

**Limitation of Actions (Actions for Child Abuse)
Amendment Bill 2019**

A BILL FOR

An Act to amend the *Limitation of Actions Act 1936*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Limitation of Actions (Actions for Child Abuse) Amendment Act 2019*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Limitation of Actions Act 1936*

3—Insertion of section 3B

10 After section 3A insert:

3B—Previously settled cause of action

- 15 (1) This section applies in addition to the provisions of Schedule 1 of the *Limitation of Actions (Child Abuse) Amendment Act 2018*.
- (2) An action may be brought on a previously settled right of action if a court, by order on application, sets aside the agreement effecting the settlement on the grounds it is just and reasonable to do so.
- 20 (3) If a court makes an order under this section for a previously settled right of action—
 - (a) each associated agreement is void despite any Act or law to the contrary; and
 - (b) a party to an associated agreement voided under paragraph (a) may not seek to recover money paid by, or for, the party under the agreement.

- (4) However, a court hearing an action on a previously settled right of action may—
- (a) when awarding damages in relation to the action—take into account any amounts paid or payable as consideration under an associated agreement voided under subsection (3); and
 - (b) when awarding costs in relation to the action—take into account any amounts paid or payable as costs under an associated agreement voided under subsection (3).

- (5) In this section—

associated agreement, for a previously settled right of action, means—

- (a) the agreement effecting the settlement; or
- (b) any other agreement, other than a contract of insurance, related to the settlement;

previously settled right of action means a cause of action for an action to which section 3A applies that was settled before the commencement of that section but after a limitation period applying in respect of the cause of action had expired.