

## **Australian Annotated Class Actions Legislation**

A representative proceeding or class action is a procedure whereby the claims of many individuals against the same defendant can be brought or conducted by a single representative.

In Queensland, the *Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Act 2016* (Qld) inserted Pt 13A into the *Civil Proceedings Act 2011* (Qld) so as to make 'representative proceedings' available. Part 13A commenced on 1 March 2017. Part 13A is modelled on the Federal Court regime in Pt IVA of the Federal Court of Australia Act 1976 (Cth) with some alterations. Similar class action regimes also exist in Victoria and New South Wales.

Central to the class action is its representative and aggregative or grouping character. For the aggregation and representation to be permitted there needs to be a certain level of cohesion to the claims so as to make it both fair and efficient to resolve those claims together. Consequently, the legislation that creates the class action contains certain prerequisites that must be satisfied for a class action to be permitted.

The representative and aggregative characteristics of class actions also mean that there need to be protections or safeguards, especially for the group members who, although not before the court, are bound by the outcome of the class action. Consequently, the Australian class action regimes include requirements for group members to be able to exclude themselves (opt out), receive notice of certain events, require certain events to be subject to court approval, such as settlement of the class action, and have a representative that can adequately represent their interests. The existence of group members and the additional procedural steps that follow mean that class actions alter traditional plaintiff-defendant litigation in important respects.

The other jurisdictions in Australia that have class actions regimes have developed a sophisticated jurisprudence around these novel class actions requirements and can provide guidance for the new Queensland regime. However, the Queensland regime is not a direct replica of the provisions in other jurisdictions and careful attention to the specific governing legislative provisions is required. A thorough knowledge of the class actions legislation is mandatory for anyone practising in this area. A section-by-section analysis of the legislative regimes is of great benefit for the practitioner.

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