

Legal Identity of Defendants (Organisational Child Abuse) Act 2018 (Vic)

Under new laws stemming from recommendations of the Betrayal of Trust Inquiry and the *Redress and litigation report* (2015) of the Royal Commission of Inquiry into Institutional Responses to Child Sexual Abuse, unincorporated organisations (such as religious institutions) are required to nominate as a 'proper defendant' a legal entity that has sufficient assets and is capable of being sued by child abuse victims/survivors. If an organisation does not nominate a proper entity, the court will do so.

The new laws are set out in the *Legal Identity of Defendants (Organisational Child Abuse) Act 2018 (Vic)*.

Previously, unincorporated organisations may have used the 'Ellis defence'. This defence arose from the 2007 NSW Court of Appeal case which found that the Catholic Archdiocese of Sydney was not a legal entity that was capable of being sued.

Melbourne Archbishop Denis Hart yesterday voiced his support for the new laws.

'I welcome today's announcement by the Victorian government of its intention to introduce new laws allowing victims of child abuse to sue institutions which may be responsible for their abuse,' Archbishop Hart said in a statement.

'I remain committed to fair, reasonable and honest dealings with victims of child abuse and to always treating them with respect and dignity.'

CathNews 2018

USEFUL RESOURCES

CathNews 2018, 'Victoria to close "Ellis defence" legal loophole', 7 March.

<http://cathnews.com/cathnews/31506-victoria-to-close-ellis-defence-legal-loophole>

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www.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/num_act/liodcaa201818o2018513

Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis [2007] NSWCA 117.

www.caselaw.nsw.gov.au/decision/549fd4653004262463bee049



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*The Archdiocese is committed to the safety, wellbeing and dignity
of all children, young people and vulnerable adults.*