

CHAPTER 2

BACKGROUND AND OVERVIEW OF THE BILL

2.1 This chapter provides background on the issue of compensation for the stolen generation, and briefly outlines the main provisions of the Bill.

Background

2.2 Reparation for the stolen generation has been an issue since the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, entitled *Bringing them home*,¹ was tabled in Parliament in May 1997. One of the recommendations in the *Bringing them home* report was that reparation should be made to all Indigenous persons who suffered because of forcible removal policies.² The report recommended that reparation should follow the van Boven principles,³ and consist of:

- acknowledgement and apology;
- guarantees against repetition;
- measures of restitution;
- measures of rehabilitation; and
- monetary compensation.⁴

2.3 In December 1997, the Federal Government announced its formal response to the *Bringing them home* report. The response included a \$63 million package over four years for practical assistance for those affected by the former practice of separating Indigenous children from their families. In February 1998, the former Aboriginal and Torres Strait Islander Commission (ATSIC) set up the Bringing Them Home Taskforce and funds were provided for 'LinkUp' family tracing and reunion services in each state.⁵ In 2001-02, an additional \$53.8 million was provided to

1 National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, *Bringing them home*, April 1997.

2 Recommendation 4.

3 United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities, *Basic principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights* E/CN.4/Sub.2/1996/17.

4 Recommendation 3.

5 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008).

continue LinkUp services, as well as the counselling and parenting elements of the original package of measures.⁶

Apology

2.4 As has been well-documented, Federal Parliament did not agree to a full apology under the Howard Government. Instead, as part of a 'Motion of Reconciliation' on 26 August 1999, Federal Parliament expressed 'deep and sincere regret' for unspecified injustices under the practices of past generations and for the 'hurt and trauma that many indigenous people continue to feel as a consequence of those practices'.⁷ The Opposition Leader at the time, the Hon Kim Beazley MP, moved an amendment to replace 'deep and sincere regret' with an apology and with specific reference to the stolen generation. However, that amendment was unsuccessful.⁸

2.5 Since 1997, all state and territory parliaments have passed motions containing explicit apologies to those affected by past policies of forced separation.⁹

2.6 On 13 February 2008, the new Rudd Government honoured its election commitment to apologise unreservedly to the stolen generation in Federal Parliament:

We apologise for the laws and policies of successive parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians.

We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country.

For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry.

And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry.¹⁰

6 Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), *Submission 83*, p. 2.

7 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008); the Hon John Howard MP, Prime Minister, *House of Representatives Hansard*, 26 August 1999, p. 9165.

8 See *House of Representatives Hansard*, 26 August 1999, p. 9209.

9 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008).

10 The Hon Kevin Rudd MP, Prime Minister, *House of Representatives Hansard*, 13 February 2008, p. 167.

Compensation

2.7 Many stakeholders¹¹ have long sought full implementation of the recommendations in the *Bringing them home* report, including implementation of the recommendation about monetary compensation.

2.8 The question of appropriate compensation was dealt with at length by the Senate Legal and Constitutional References Committee in an inquiry referred to it by the Senate in 1999. The inquiry focussed on the Federal Government's implementation of the recommendations in the *Bringing them home* report and the committee's report, *Healing: A Legacy of Generations*, was tabled in November 2000.¹² The committee recommended the establishment of a 'reparations tribunal' to address the need for an effective process of reparation, including the provision of individual monetary compensation.¹³ The committee also recommended that the details of the form and operations of the tribunal be finalised following consultation at a proposed national summit.¹⁴

2.9 In June 2001, the Howard Government tabled its response to the committee's recommendations. While accepting that 'the events of the past and their legacy be acknowledged', it expressly rejected the notion of compensation and the establishment of a reparations tribunal.¹⁵ The Howard Government consistently emphasised policies of practical assistance for the stolen generation: it considered that it was more important to provide practical measures, such as facilities for family reunions, and health and counselling services, than provide monetary compensation to those affected by the policies of forced separation.¹⁶

2.10 The Public Interest Advocacy Centre (PIAC) submitted a detailed proposal for a reparations tribunal to the Senate Legal and Constitutional References Committee's

11 For example, the National Sorry Day Committee and the Stolen Generations Alliance.

12 Senate Legal and Constitutional References Committee, *Healing: A Legacy of Generations*, The Report of the Inquiry into the Federal Government's Implementation of Recommendations Made by the Human Rights and Equal Opportunity Commission in *Bringing Them Home*, November 2000.

13 Recommendation 7.

14 Recommendation 9.

15 Senator the Hon Ian Campbell, Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts, *Senate Hansard*, 28 June 2001, p. 25401.

16 Senator the Hon Ian Campbell, Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts, *Senate Hansard*, 28 June 2001, p. 25401; Parliamentary Library, "'Sorry': the unfinished business of the *Bringing Them Home* report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008).

inquiry.¹⁷ The committee recommended that the tribunal model proposed by PIAC be used as a general template and that the model should consider the most effective ways to deal with issues of reparation.¹⁸ PIAC has continued to advocate such a tribunal as the preferred means for compensation (including during the current inquiry).¹⁹

2.11 The Senate Legal and Constitutional References Committee also recommended independent evaluation of the progress of initiatives implemented by governments in response to the *Bringing them home* report.²⁰ In response to this recommendation, the Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA) agreed to sponsor an independent evaluation of government and non-government responses to the *Bringing them home* report. MCATSIA's final report, *Evaluation of Responses to Bringing Them Home*, was released in December 2003. The report noted that 'the area of financial compensation remains controversial and unresolved'.²¹

Rudd Government position

2.12 On several occasions, the Prime Minister, the Deputy Prime Minister and the Minister for Families, Housing, Community Services and Indigenous Affairs have stated explicitly that the Federal Government will not be establishing any compensation arrangements or any compensation fund. For example, on 29 January 2008, Prime Minister Rudd told the Channel 7 Sunrise program that:

We will not be establishing any compensation fund. I said that before the election, I say it again. And since the Stolen Generation report came out years and years ago, it has been open for any individual, Aboriginal person affected by that to engage their own legal actions through the courts of their State or Territory. That's fine. But at the level of national Government, we will not be establishing any compensation fund.²²

2.13 In a covering letter to a submission to this inquiry, the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs

17 PIAC's proposal for the establishment of a stolen generations reparations tribunal was originally put forward in 1997, in response to the recommendations of the *Bringing them home* report, and to provide an alternative to litigation as a means of securing redress for harm suffered by members of the stolen generation: Associate Professor Andrea Durbach, Australian Human Rights Centre, *Committee Hansard*, 16 April 2008, p. 1.

18 Recommendation 8.

19 See, for example, PIAC, *Restoring Identity*, Final report of the *Moving Forward* consultation project, 2002, at <http://www.eniar.org/news/pdfs/restoringidentity.pdf> (accessed 27 March 2008); *Submission 69* pp 4-13; *Committee Hansard*, 16 April 2008, pp 1-9.

20 Recommendation 1.

21 MCATSIA, *Evaluation of Responses to Bringing Them Home Report*, November 2003, p. 46 at http://www.dpac.tas.gov.au/divisions/oaa/information/bthreport_dec2003.pdf (accessed 26 March 2008).

22 FaHCSIA, answers to questions on notice, received 14 May 2008, p. 1.

(FaHCSIA) reiterated that the Federal Government's position on compensation to the stolen generation is 'clear and unambiguous'.²³

2.14 FaHCSIA provided the committee with a further explanation of the Federal Government's position on the apology and the issue of compensation. In particular, FaHCSIA noted that:

A theme in a range of submissions to the B[ringing]T[hem]H[ome] inquiry was that people were seeking recognition of their pain and suffering and that compensation would provide some tangible evidence of that recognition. However, most submissions acknowledged that monetary compensation could never make up for the loss, grief and trauma experienced by Aboriginal people as a result of past removal policies, laws and practices.

The Government offered the apology on 13 February 2008 in a spirit of respect, acknowledgement and recognition of the past mistreatment of Indigenous peoples, and particularly the profound grief, suffering and loss inflicted on the Stolen Generations. This is in keeping with relevant elements of the B[ringing]T[hem]H[ome] recommendation around reparations.²⁴

2.15 FaHCSIA advised that the Federal Government is focussed on making restitution by closing the 17-year gap in life expectancy between Indigenous and non-Indigenous Australians, within a generation:

This will be achieved by setting concrete targets and timeframes for meeting those targets, including within a decade: to halve the gap in mortality rates for Indigenous children under five; to halve the gap in Indigenous employment outcomes; and halve the gap in literacy, numeracy and reading achievements for Indigenous children. This will restore the same life chances and opportunities available to other Australians to all Indigenous Australians, including the Stolen Generations.²⁵

2.16 FaHCSIA's submission also informed the committee that the Federal Government recognises that the stolen generation is 'in need of additional initiatives aimed at restoration and rehabilitation, such as critical services to help trace and reconnect their families'.²⁶

2.17 The Rudd Government recently committed an additional \$15.7 million over four years to further ensure that LinkUp services, family history programs and Bringing Them Home Counsellors are adequately resourced to meet demand.²⁷ In an

23 *Submission 83*, covering letter dated 9 May 2008.

24 *Submission 83*, p. 1.

25 *Submission 83*, p. 2.

26 *Submission 83*, p. 2.

27 *Submission 83*, p. 2.

answer to a question on notice, FaHCSIA explained that this additional funding would enable 1000 members of the stolen generation to be reunited with their families through LinkUp, and would fund an extra 20 Bringing Them Home Counsellors.²⁸ Further, the states and territories 'are being asked to fund another 20 counsellors and focus these in areas of need',²⁹ such as male health, and remote and rural health.³⁰ The Department of Health and Ageing's submission to this inquiry noted that the implementation of such measures 'will further strengthen and expand current service delivery to members of the Stolen Generations'.³¹

2.18 FaHCSIA also advised the committee of progress and developments since the apology:

Prior to the apology the Government engaged with representatives of the two national Stolen Generations organisations [that is, the National Sorry Day Committee and the Stolen Generations Alliance] to ensure the apology reflected their priorities. The Government has continued that engagement after the apology, to ascertain their priorities on what their members believe are the initiatives needed to address their specific needs around restitution and rehabilitation.

Most recently a working group of Stolen Generation representatives from both national bodies has been established by the Department of Families, Housing, Community Services and Indigenous Affairs to move this partnership forward.

One of the main issues that has arisen through this engagement with the Stolen Generations organisations to date has been the critical need for healing services to restore a sense of worth and hope. The Canadian Healing Foundation is cited as a model that Australia should follow. The Commonwealth Government is looking at this suggestion, along with others, in considering how to respond most effectively to the identified needs for Stolen Generations members and their families. Any response will be based on evidence of what works in the Australian context.³²

2.19 In a speech on 26 May 2008, the tenth anniversary of the first National Sorry Day, Prime Minister Rudd emphasised the 'process of closing the gap between

28 The Bringing Them Home Counsellors program provides funding for over 108 counsellor positions in 73 Aboriginal and Torres Strait Islander Community Controlled Health Services across Australia. These positions provide counselling to individuals, families and communities affected by past practices regarding the forced removal of Indigenous children from their families. Bringing Them Home Counsellors respond to the needs of a broad range of clients, including those removed, those left behind, and the children, grandchildren and relatives of all those affected by separation practices: Department of Health and Ageing, *Submission 84*, p. 3.

29 FaHCSIA, answers to questions on notice, received 14 May 2008, p. 3.

30 Department of Health and Ageing, *Submission 84*, p. 6.

31 *Submission 84*, p. 6.

32 *Submission 83*, p. 2.

Aboriginal and Non Aboriginal Australia' and spoke of specific Federal Government initiatives which have been announced since the apology:

\$100 million for Indigenous maternal and child health services; \$56 million over four years to improve literacy and numeracy for every Indigenous child; \$100 million to employ 200 new teachers in the Northern Territory; \$90 million to create 300 jobs for indigenous rangers. And we recently announced \$647 million in Housing funding in partnership with the Northern Territory Government, which will deliver around 750 new houses and over 2500 upgrades over the next 5 years and beyond. All part of a \$1.6 billion Indigenous housing program.³³

2.20 The Prime Minister spoke also of the work of the stolen generation working group and the Federal Government's commitment to the ongoing healing of the stolen generation:

Prior to the apology the Government engaged with representatives of the two national Stolen Generations organisations to ensure that the apology reflected their aspirations. The Government has continued this engagement. I would like to applaud the growing partnership between the National Sorry Day Committee and the Stolen Generations Alliance.

...

A number of [the practical measures highlighted in the *Bringing Them Home* report] merge with our national priorities for a modern Australia, including the national child protection framework, and giving children the best start in life through early childhood and parenting programs. The Government is committed to working with Stolen Generations to make sure their voices are heard in the design of these policies and programs, and to bring forward some concrete outcomes by this time next year.

Today the Australian Government continues its commitment to the ongoing healing of our Stolen Generations. It is so important that we build on the goodwill and opportunities that were opened up by the apology. One of the main concerns that has arisen through our engagement with the stolen generations has been the critical need for healing services to help individuals and families with their own healing.³⁴

2.21 Prime Minister Rudd also announced that, at the end of June, members of the stolen generation, professionals in men's health, trauma, child safety, mental health, suicide prevention, family reunion services and government departments 'will come together to meet to map out the way forward, together'. Mr Rudd stated that this group will consider evidence which 'might include information about experience in other jurisdictions and other parts of Australia', research led most recently by Dr Fiona

33 The Hon Kevin Rudd MP, Prime Minister, *Apology Calligraphy Unveiling* speech, Parliament House, Canberra, 26 May 2008.

34 The Hon Kevin Rudd MP, Prime Minister, *Apology Calligraphy Unveiling* speech, Parliament House, Canberra, 26 May 2008.

Stanley, the head of the Telethon Institute for Child Health Research, as well as ideas presented at the 2020 summit.³⁵

2.22 Further:

As a first step, the Department of Health and Ageing, with advice from the Stolen Generations working group, will develop a training program for mainstream health services to improve their ability to care for the Stolen Generations, their families and others who were affected. As part of improving access to services, we will develop information materials to promote options for care available to members of the Stolen Generation.³⁶

State government compensation initiatives

2.23 To date, the Tasmanian Government is the only government to offer specific compensation to Indigenous people affected by policies of forced separation. The *Stolen Generations of Aboriginal Children Act 2006* (Tas) created a \$5 million fund to provide payments to eligible members of the stolen generation and their children. An independent Office of the Stolen Generations Assessor was also established with responsibility for assessing the eligibility of applicants.³⁷

2.24 During the current inquiry, the Tasmanian Premier advised the committee that a total of 151 claims were received under its compensation scheme. Following assessment of all applications, it was determined that 106 were eligible to receive an ex gratia payment. 84 eligible living members of the stolen generation each received \$58,333.33 and 22 eligible children of deceased members of the stolen generation received either \$5,000 or \$4,000 each, depending on how many people were within the particular family group. These ex gratia payments were made on 8 February 2008.³⁸

2.25 In December 2007, the Western Australian Government announced a \$114 million redress scheme, to be known as Redress WA, for all children who were abused while in state care, including members of the stolen generation.³⁹ In a submission to this inquiry, the Premier of Western Australia advised that applications to Redress

35 The Hon Kevin Rudd MP, Prime Minister, Apology Calligraphy Unveiling speech, Parliament House, Canberra, 26 May 2008.

36 The Hon Kevin Rudd MP, Prime Minister, Apology Calligraphy Unveiling speech, Parliament House, Canberra, 26 May 2008.

37 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008); Tasmanian Government, *Submission 80*, p. 1.

38 *Submission 80*, p. 1.

39 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008).

WA opened for 12 months from 1 May 2008 and must be lodged by 30 April 2009. Eligible individuals will be able to apply for an ex gratia redress payment. Members of the stolen generation who were removed from their families as children and were subsequently abused or neglected while in the care of the state are eligible to apply for an ex gratia payment of up to \$10,000 if they show they experienced abuse while in state care; or up to a maximum of \$80,000 where there is medical or psychological evidence of loss or injury as a result of that abuse. Counselling and a range of other support services will also be made available to applicants under the scheme.⁴⁰

2.26 The Queensland Government has also established a \$100 million compensation scheme to provide redress for past mistreatment of children in state care, which includes members of the stolen generation.⁴¹ The Premier of Queensland informed the committee that, through that scheme, payments will be made to people who experienced abuse or neglect as children in a detention centre or licensed institution in Queensland, as covered by the terms of reference of the Forde Inquiry into the Abuse of Children in Queensland Institutions.⁴²

2.27 Some individuals have also sought compensation through the court system. Mr Bruce Trevorrow has been the only successful plaintiff to obtain monetary compensation to date, receiving around \$700,000 (including interest). The Supreme Court of South Australia found that the state of South Australia was liable for injury suffered by Mr Trevorrow, resulting from removal from his family as a child without their knowledge or consent.⁴³ The decision is now the subject of appeal by the South Australian Government to the Full Court of the Supreme Court of South Australia.

Main provisions of the Bill

2.28 The main provisions of the Bill are set out below.

Definitions – proposed section 3

2.29 Proposed section 3 sets out the definitions of various terms used in the Bill. The terms 'Aboriginal or Torres Strait Islander person', 'eligibility criteria', 'ex gratia payment', 'stolen generations' and 'Stolen Generations Tribunal' are defined as follows:

- 'Aboriginal or Torres Strait Islander person' – any person who identifies as an Aboriginal or Torres Strait Islander descendant as defined in the *Aboriginal and Torres Strait Islander Act 2005*;

40 *Submission 81*, p. 1.

41 FaHCSIA, *Submission 83*, p. 3.

42 *Submission 82*, pp 1-2.

43 Parliamentary Library, "'Sorry': the unfinished business of the Bringing Them Home report", Background Note, 4 February 2008, at <http://www.aph.gov.au/Library/pubs/BN/2007-08/BringingThemHomeReport.htm> (accessed 27 March 2008).

- 'eligibility criteria' – the criteria set out in proposed section 5 of the Bill which determines whether an applicant for an ex gratia payment is eligible for such a payment;
- 'ex gratia payment' – a payment referred to in proposed section 9 of the Bill;
- 'stolen generations' – persons eligible for ex gratia payments under the Bill;
- 'Stolen Generations Tribunal' – a group of six persons, half or more of those persons being of Aboriginal or Torres Strait Islander descent.

Entitlement to ex gratia payment – proposed section 4

2.30 Proposed subsection 4(1) deals with the appropriation of funds by the Parliament for an ex gratia payment to an applicant who satisfies the eligibility criteria in proposed section 5.

2.31 Proposed subsection 4(2) provides that if a person makes an application for an ex gratia payment under the eligibility criteria *and* the Stolen Generations Tribunal determines that the person satisfies one or more of the eligibility criteria, the person will be entitled to receive one ex gratia payment.

2.32 Proposed subsection 4(3) precludes a person who has already received a payment under state or territory stolen generation (or similar) legislation from being eligible for an ex gratia payment under the Bill.

Eligibility criteria for ex gratia payment – proposed section 5

2.33 Proposed section 5 sets out the eligibility criteria for ex gratia payments. Eligibility for an ex gratia payment is open to an Aboriginal and Torres Strait Islander person who:

- was subject to the Commonwealth Aboriginals Ordinance (1911 or 1918)⁴⁴ and was removed from their family;
- was not subject to the Commonwealth Aboriginals Ordinance (1911 or 1918) but was subject to similar legislation which resulted in them being forcibly removed from their family prior to 31 December 1975;
- was removed from their family before 31 December 1975 and was under the age of 21 at the time of their removal, *and* who the Stolen Generations Tribunal is satisfied was subject to duress by a state agency because of, in whole or in part, race-based policies operating at the time;
- was subject to the Commonwealth Aboriginals Ordinance (1911 or 1918) or similar legislation which permitted forcible removal of children from their families; or

44 The Commonwealth Aboriginals Ordinances of 1911 and 1918 applied to Indigenous people living in the Northern Territory.

- is a living descendant of a deceased person who would have satisfied one of the above criteria.

Applications for ex gratia payment – proposed section 6

2.34 Proposed section 6 states that an application for an ex gratia payment must be made to the Secretary of the relevant Department. An application may be presented through oral evidence to the Stolen Generations Tribunal by the applicant(s) either in person 'or by other means necessary'.

2.35 An application must be made within a period of seven years of the commencement of the Bill. According to the Explanatory Memorandum (EM) to the Bill, this will ensure that 'information can be disseminated throughout Australia and overseas to locate the Stolen Generations and to provide time for sufficient resources to be gathered to make adequate applications'.⁴⁵

Referral of application to Stolen Generations Tribunal – proposed section 7

2.36 Proposed section 7 states that the Secretary of the Department, on receipt of an application under proposed section 6, is to forward the application to the Stolen Generations Tribunal.

Time for completion of assessments – proposed section 8

2.37 Proposed section 8 provides that the Stolen Generations Tribunal must make its decision in relation to eligibility for an ex gratia payment within 12 months after receiving an application.

Establishment of Stolen Generations Fund – proposed section 10

2.38 Proposed section 10 establishes an account to be known as the 'Stolen Generations Fund' to disburse funds to claimants found to be eligible for compensation under the Bill. The Stolen Generations Fund is to be administered by the Department.

Amount of ex gratia payment – proposed section 11

2.39 Under proposed section 11, if a person makes an application for an ex gratia payment under the eligibility criteria set out in proposed section 5 *and* the Stolen Generations Tribunal determines that the person satisfies one or more of the eligibility criteria, the person will be entitled to receive one ex gratia payment in an amount not exceeding \$20,000 as 'common experience payment' and \$3,000 for each year of institutionalisation.

2.40 Proposed section 11 sets the amount of an ex gratia payment in respect of an individual Aboriginal and Torres Strait Islander applicant at these amounts.

45 p. 2.

Review of Stolen Generations Tribunal decisions – proposed section 13

2.41 Under proposed section 13, all decisions made by the Stolen Generations Tribunal are eligible for judicial review.

Appointment and functions of Stolen Generations Tribunal – proposed sections 14-20

2.42 Proposed sections 14-20 provide for the methods of appointment of the Stolen Generations Tribunal and procedures for merit selection of appointments under the Bill. These proposed sections also specify the powers and procedures pertaining to the Stolen Generations Tribunal.

2.43 Proposed subsection 17(1) gives the Stolen Generations Tribunal 'power to do all things necessary or convenient to be done to perform [its] functions', including power to obtain information from departments and agencies, and power to obtain further information from the applicant if required. Under proposed subsection 17(2), the Stolen Generations Tribunal will be able to exercise its powers, notwithstanding any other legislation relating to the confidentiality or privacy of information.

2.44 Proposed section 20 provides that the Stolen Generations Tribunal must give the Minister a report on the performance of its functions within 30 days after the day on which it makes a decision on the final application for an ex gratia payment. The Minister must then table the report in both Houses of Parliament within five days of receiving it.

Death of applicant – proposed section 21

2.45 Proposed section 21 provides that an application for an ex gratia payment does not lapse because the applicant dies before the application is decided. If an applicant for an ex gratia payment dies before the application is decided, an ex gratia payment (if payable on the application), must be paid to the estate of the deceased applicant.

Additional support – proposed section 22

2.46 Proposed section 22 provides for the establishment of other support services, including funding to be allocated for 'healing centres and services of assistance for people in receipt of compensation as a result of removal from their families', and for a 'Funeral Trust Fund for the provision of funeral services for the deceased'.

Provisions relating to the Stolen Generations Tribunal – Schedule 1

2.47 Schedule 1 contains provisions relating to the remuneration, conditions of appointment, and removal from office of members of the Stolen Generations Tribunal.