

CLAUSE NOTES – Government’s alternative to clause 9
EXPUNGEMENT OF HISTORICAL OFFENCES AMENDMENT BILL
2024

Clause A 19A Ex gratia payment for charges expunged

The clause provides that ex-gratia payments will be automatically made by the Secretary to a person whose charge(s) are expunged under section 12(6) of the *Expungement of Historical Offences Act 2017*.

Subsection (1) and (2) provides that payments will be made as soon as practicable after a charge is expunged, but in any case, within 3 months after the commencement of Part 3A for charges already expunged or within 3 months after the charge is expunged for charges which are expunged after the Principal Act commences, whichever of those days is later.

Subsection (3) provides that the clause does not apply if the eligible person notifies the Secretary in writing that they do not wish for an ex gratia payment to be made to them.

19B Amount of ex gratia payment

The clause provides that ex-gratia amounts will be paid for charges expunged under the Principal Act. It also provides for an indexation method so payments will be adjusted in line with consumer price index (CPI) increases or decreases.

To facilitate CPI adjusted ex-gratia payment calculations subsection (1) defines “CPI figure for Hobart”, “percentage change” and “subsequent financial year”.

Subsection (2) provides that eligible persons whose expunged charge result in an annotation to their criminal record will be paid \$5000 and those whose charge does not result in an annotation to their criminal record will be paid \$2500. The distinction in payment amounts recognise that whilst all applicants whose records are expunged should be acknowledged, a person who has had a conviction or charge recorded on their criminal record is more likely to have encountered discrimination and their payment should be adjusted to reflect that difference.

Subsection (3) provides for an indexation method for calculating CPI adjusted ex-gratia payments.

19C Cessation of expungement

Subsection (1) provides that if the Secretary makes a determination under section 20(1) that a charge has ceased to be expunged, the

Secretary may determine that any ex-gratia payment that has been paid under this Part in respect of that charge is to be repaid.

Subsection (2) provides that if the Secretary makes a determination that compensation is to be repaid a debt will be owed to the Crown by the person who received that payment.