

I certify that this is a copy of the authorised version of this Act as at 27 November 2025, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 27 November 2025.

K Woodward
Chief Parliamentary Counsel
Dated 1 December 2025



TASMANIA

EXPUNGEMENT OF HISTORICAL OFFENCES ACT 2017

No. 45 of 2017

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SCHEDULE 1 –



EXPUNGEMENT OF HISTORICAL OFFENCES ACT 2017

No. 45 of 2017

An Act to provide for a scheme to enable charges and convictions for certain historical homosexual offences and other offences to be expunged, and for related purposes

[Royal Assent 21 November 2017]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Expungement of Historical Offences Act 2017*.

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Part 1 – Preliminary

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act –

ACC means the Australian Crime Commission established under section 7 of the *Australian Crime Commission Act 2002* of the Commonwealth or, if ACC is replaced by another body or agency that performs functions substantially similar to ACC's national policing information functions (as defined in section 4 of that Act), that body or agency;

applicant means a person who makes an application;

application means an application under section 6;

charge means a charge against a person for a historical offence and includes the following:

- (a) a charge on an arrest;
- (b) a complaint under the *Justices Act 1959*;
- (c) a charge by a court;
- (d) an indictment;

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conviction means a conviction for a historical offence recorded against a person, whether on indictment or summarily;

cross-dressing offence means –

- (a) an offence under section 8(1)(d) of the *Police Offences Act 1935* as in force before 12 April 2001; or
- (b) an offence of attempting to commit an offence referred to in paragraph (a); or
- (c) an offence of inciting, instigating, aiding, or abetting, the commission of an offence referred to in paragraph (a);

data controller means the following:

- (a) the Registrar of the Supreme Court;
- (b) the Administrator of the Magistrates Court appointed under section 16 of the *Magistrates Court Act 1987*;
- (c) the Commissioner of Police;
- (d) the person for the time being holding, or acting in, the office of the Director of Public Prosecutions established by

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section 3(1) of the *Director of
Public Prosecutions Act 1973*;

eligible person means –

- (a) a person referred to in section 6(2); or
- (b) a person who was charged with a historical offence and is deceased or lacks legal capacity to make an application;

expunged charge means a charge expunged under section 12(6) that has not ceased to be expunged under section 20;

expunged conviction means a conviction expunged under section 12(6) that has not ceased to be expunged under section 20;

historical offence means –

- (a) a homosexual offence; or
- (b) a cross-dressing offence; or
- (c) a related offence;

homosexual offence means –

- (a) a sexual offence or a public morality offence; or
- (b) an offence of attempting to commit an offence referred to in paragraph (a); or

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- (c) an offence of inciting, instigating, aiding, or abetting, the commission of an offence referred to in paragraph (a);

official criminal record means a record, containing information of criminal proceedings relating to a historical offence, kept by –

- (a) a court of this State; or
- (b) a Government department, or State authority, within the meaning of the *State Service Act 2000*;

personal information has the same meaning as in the *Personal Information Protection Act 2004*;

public morality offence means an offence, other than a sexual offence, as in force at any time –

- (a) the essence of which is the maintenance of public decency or morality; and
- (b) by which homosexual behaviour could be punished;

regulations means regulations made and in force under this Act;

related offence means an offence against –

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- (a) section 34B of the *Police Offences Act 1935*; or
- (b) a provision in an Act that has substantially the same effect as an offence referred to in paragraph (a);

secondary electronic record means an official criminal record in electronic form that acts as a duplicate of, is derived from, or is generated as a result of, an already existing official criminal record, regardless of whether that secondary electronic record is held by the same entity as the already existing record or by a different entity;

Secretary means the Secretary of the Department;

sexual offence means an offence under a law as in force at any time by which sexual activity of a homosexual nature, whether penetrative or non-penetrative, could be punished, whether or not heterosexual sexual activity could also be punished by the offence.

- (2) For the purposes of this Act, where a court finds a person guilty of an offence but does not proceed to record a conviction, the finding is to be regarded as a conviction.

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4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

5. Act prevails

If a provision of this Act is inconsistent with a provision of any other Act, the provision of this Act prevails to the extent of the inconsistency.

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PART 2 – APPLICATIONS

6. Application to have historical offence expunged

(1) In this section –

spouse, in relation to a person, includes the person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with that person whether or not that relationship is the subject of a deed of relationship registered under Part 2 of that Act.

(2) A person who, at any time, has been charged with a historical offence may apply to the Secretary for the charge to be expunged.

(3) If the person referred to in subsection (2) has died or lacks legal capacity to make an application, an application under this section may be made in respect of that person by –

(a) if the person –

(i) has died and immediately before death had a spouse and the spouse is available, the spouse of the person; or

(ii) lacks legal capacity to make an application and has a spouse that is available, the spouse of the person; or

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- (b) if no spouse is available, a son or daughter of the person if the son or daughter has attained the age of 18 years; or
 - (c) where no person referred to in paragraph (a) or (b) is available, a parent of the person; or
 - (d) where no person referred to in paragraph (a), (b) or (c) is available, a sibling of the person if the sibling has attained the age of 18 years; or
 - (e) where no person referred to in paragraph (a), (b), (c) or (d) is available, a niece or nephew of the person if the niece or nephew has attained the age of 18 years; or
 - (f) where no person referred to in paragraph (a), (b), (c), (d) or (e) is available, the legal personal representative of the person; or
 - (g) where no person referred to in paragraph (a), (b), (c), (d), (e) or (f) is available, a person determined to be an appropriate representative under subsection (4).
- (4) For the purposes of subsection (3)(g), a person is an appropriate representative if the Secretary determines that the person should be taken to be an appropriate representative of –

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- (a) a deceased person because of the closeness of the person's relationship with the deceased person immediately before the deceased person's death; or
 - (b) a person who lacks legal capacity to make an application because of the closeness of the person's relationship with the person who lacks legal capacity.
- (5) An application under this section –
 - (a) must be in a form approved by the Secretary; and
 - (b) is to contain the information required under section 7; and
 - (c) may relate to more than one charge; and
 - (d) is to be lodged in the manner prescribed by the regulations or, if no manner is so prescribed, in a manner approved by the Secretary.
- (6) Despite this section, if the Secretary decides to refuse to expunge a charge under section 12(2)(b), the person who made the application to have the charge expunged is only entitled to make a further application in respect of the same charge if the Secretary is satisfied on reasonable grounds that necessary supporting information became available only after the Secretary's initial decision.

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7. Contents of application

- (1) An application in relation to an eligible person must include the following information, so far as the information is known to the applicant:
 - (a) the name, date and place of birth of the eligible person;
 - (b) the residential address and phone number of the applicant;
 - (c) in respect of each historical offence to which the application relates –
 - (i) the name and address of the eligible person at the time the eligible person was charged with the historical offence; and
 - (ii) if the eligible person was convicted of the historical offence, the date when, and the court by which, the eligible person was convicted; and
 - (iii) the name of any other person involved in the conduct constituting the historical offence.
- (2) An application must be accompanied by the applicant's consent for the Secretary to check the eligible person's criminal history and any other information about the eligible person that may be relevant in determining the application.

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- (3) An application may include, or be accompanied by –
- (a) statements by the applicant; or
 - (b) written evidence given by any other person (including a person involved in the conduct constituting a historical offence to which the application relates) –
- about the matters about which the Secretary must be satisfied under section 10.
- (4) The applicant may submit to the Secretary statements or evidence relating to the application at any time after making the application and before it has been determined by the Secretary.

8. Investigation of application

- (1) Subject to subsection (2), in considering an application, the Secretary may take all steps, and make all inquiries, that are reasonable and appropriate to consider the application properly.
- (2) The Secretary must not hold an oral hearing for the purpose of determining the application.
- (3) The Secretary may, by written notice, require an applicant to provide additional information or additional documents if the Secretary believes on reasonable grounds that the information or documents are necessary to consider the application properly.

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- (4) If an applicant does not comply with a notice under subsection (3), the Secretary may refuse to consider the application further.
- (5) If the Secretary intends to refuse to consider an application further under subsection (4), the Secretary is to –
- (a) notify the applicant in writing of that intention; and
 - (b) give the applicant a reasonable opportunity to make a submission as to why the Secretary should not refuse to consider the application further; and
 - (c) take into consideration any such submission when deciding whether to refuse to consider an application further under subsection (4).
- (6) In considering an application, the Secretary is to –
- (a) give each person, who the Secretary believes to have been involved in the conduct constituting a historical offence to which the application relates, a reasonable opportunity to make a submission in relation to the decision whether to expunge the charge for that historical offence; and
 - (b) take into consideration any such submissions.

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- (7) When contacting, or attempting to contact a person for the purposes of subsection (6)(a), the Secretary is to –
- (a) contact, or attempt to contact that person, in a manner that is appropriate to the circumstances; and
 - (b) have regard to the sensitivity of the information, confidentiality and the privacy of the applicant and the person contacted.
- (8) The Secretary may, by written notice, require any person (other than the applicant) to do any one or more of the following:
- (a) answer specified questions which in the opinion of the Secretary are relevant to the investigation of the application;
 - (b) provide to the Secretary any document specified in the notice which is in the person's possession or control and which, in the opinion of the Secretary, is relevant to the investigation of the application;
 - (c) provide to the Secretary any other information specified in the notice which, in the opinion of the Secretary, is relevant to the investigation –

within a time and in a manner specified in the notice.

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- (9) If a notice under subsection (8) requires a data controller to provide to the Secretary a copy of an official criminal record held by the data controller, the data controller is to comply with that requirement as soon as possible.
- (10) A person must not fail, without reasonable excuse, to comply with a notice under subsection (8).
- Penalty: Fine not exceeding 10 penalty units.
- (11) To the extent that a person or body, in good faith, provides information or documents in response to a requirement of the Secretary under this Act, the person or body –
- (a) does not incur any civil or criminal liability in respect of the provision of the information or documents; and
 - (b) cannot be held, in respect of the provision of the information or documents, to have –
 - (i) breached any code of professional etiquette or ethics; or
 - (ii) departed from any accepted standard of professional conduct; or
 - (iii) contravened any Act.
- (12) If any information or document is obtained by the Secretary under this Act, evidence of that information or document, or evidence of the

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obtaining of that information or document, may
be used only for the purposes of this Act.

9. Disclosure of records to applicant

(1) In this section –

record, in relation to an application, means a record of the investigation of, or a record of proceedings relating to, a historical offence to which the application relates.

(2) If a record is obtained by the Secretary in relation to an application, the Secretary must, as soon as reasonably practicable, but not later than 42 days, after obtaining the record –

- (a) give the applicant a copy of the record, except so far as it contains personal information relating to any person other than the eligible person; and
- (b) give written notice to the applicant that the Secretary will not proceed to determine the application until at least 28 days, or any longer period that the Secretary determines in consultation with the applicant, after the day on which the applicant is given a copy of the record.

10. Matters to be considered in determining application

(1) The Secretary must not decide to expunge a charge for a homosexual offence or a cross-dressing offence under section 12(2)(a) unless satisfied on reasonable grounds that –

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- (a) the offence with which the eligible person was charged is a homosexual offence or a cross-dressing offence; and
 - (b) in the case of a charge for a homosexual offence –
 - (i) the eligible person would not have been charged with the homosexual offence but for the fact that the eligible person was suspected of having engaged in the conduct constituting the offence for the purposes of, or in connection with, sexual activity of a homosexual nature; and
 - (ii) the conduct constituting the homosexual offence, if engaged in by the eligible person at the time of the making of the application, would not constitute an offence under the law of this State.
- (1A) The Secretary must not decide to expunge a charge for a related offence under section 12(2)(a) unless the Secretary –
- (a) has received advice from the Commissioner of Police in relation to the circumstances of the related offence; and
 - (b) is satisfied on reasonable grounds, after considering that advice, that –

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- (i) the offence for which the eligible person was charged is a related offence; and
 - (ii) the person charged with the related offence would not have been so charged but for the fact that the eligible person was suspected of committing a homosexual offence or cross-dressing offence; and
 - (iii) expunging the charge is not contrary to the public interest.
- (2) In considering whether the test set out in subsection (1)(b)(ii) is satisfied, the Secretary must have regard to –
 - (a) whether any person involved in the conduct constituting the homosexual offence, including the eligible person, consented to the conduct; and
 - (b) the ages, or respective ages, of any such persons at the time of that conduct.
- (3) If the consent of a person to the conduct is an issue in the decision to expunge a charge for a homosexual offence, the Secretary may only be satisfied by written evidence on that issue –
 - (a) from the official criminal records, if available; or

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- (b) from a person, other than the eligible person, who was involved in the conduct constituting the homosexual offence; or
 - (c) if no person referred to in paragraph (b) can be found after reasonable enquiries are made by the Secretary, from a person (other than the applicant) with knowledge of the circumstances in which that conduct occurred.
- (4) In considering an application, the Secretary may have regard to any matter he or she reasonably considers relevant in the circumstances.

11. Withdrawal of application

- (1) An applicant may withdraw an application before the Secretary determines it.
- (2) Despite an application being withdrawn under this section, the Secretary may reinstate the application if satisfied that the applicant wishes to proceed with it and has provided any information required under section 7(1) or further information or documents required under section 8(3).
- (3) For the avoidance of doubt, the withdrawal under this section of an application in relation to a charge does not, in itself, prevent any further applications being made in relation to that charge.

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12. Determination of application

- (1) The Secretary must determine an application as soon as practicable after it is received.
- (2) In determining an application, the Secretary is to, in respect of each charge to which the application relates, decide to –
 - (a) expunge the charge for that offence; or
 - (b) refuse to expunge the charge for that offence.
- (3) If the Secretary intends to make a decision to refuse to expunge a charge, the Secretary must –
 - (a) by notice in writing, inform the applicant of that intention and the reasons for the intended decision; and
 - (b) provide the applicant with a copy of any relevant records, relating to the application, in the possession of the Secretary except so far as those records contain personal information relating to a person other than the eligible person; and
 - (c) give the applicant 28 days from the date of that notice to submit further information to the Secretary regarding the charge.
- (4) The Secretary must, within 28 days after a decision under this section is made, give –
 - (a) the applicant written notice of the decision and, if the decision is to refuse

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to expunge a charge, inform the applicant of –

- (i) the reasons for the decision; and
 - (ii) the applicant’s right to have the decision reviewed under section 21; and
- (b) any person who has made a submission pursuant to section 8(6) written notice of the decision and, if the decision is to expunge a charge, inform the person of –
 - (i) the reasons for the decision; and
 - (ii) the person’s right to have the decision reviewed under section 21.
- (5) On making a decision to expunge a charge, the Secretary must, within 28 days, notify any relevant data controller of –
 - (a) that decision and the reasons for the decision; and
 - (b) the data controller’s right to have the decision reviewed under section 21.
- (6) If the Secretary makes a decision to expunge a charge, the charge, and any conviction in respect of that charge, is expunged at the expiration of 90 days after the day on which the Secretary makes the decision.
- (7) Despite subsection (6), if within those 90 days an interested person has applied for a review

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under section 21 in relation to the decision, the decision to expunge a charge –

- (a) does not take effect until all reviews in respect of the decision have been determined; and
- (b) only takes effect if, in respect of each review –
 - (i) the decision of the Secretary is upheld; or
 - (ii) the review is abandoned or withdrawn by the person applying for that review.

13. Confidentiality

- (1) A person must not, directly or indirectly, make a record of, or disclose or communicate to another person, any information, relating to an application, acquired by the person for the purposes of this Act.

Penalty: Fine not exceeding 50 penalty units.

- (2) Subsection (1) does not apply if –
 - (a) it is necessary to make the record, or disclose or communicate the information, for the purposes of this Act; or
 - (b) the person to whom the information relates gives written consent to the making of the record or to the disclosure or communication.

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- (3) Subsection (1) also does not apply to the disclosure or communication of information –
- (a) to a court or tribunal in the course of a legal proceeding; or
 - (b) under an order of a court or tribunal; or
 - (c) to a legal practitioner for the purpose of obtaining legal advice or representation; or
 - (d) as required or authorised by or under this Act or any other Act.

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PART 3 – CONSEQUENCES OF EXPUNGEMENT

14. Interpretation of Part

In this Part, a reference to information about an expunged charge includes information about the following:

- (a) the expunged charge;
- (b) any conviction in respect of the expunged charge;
- (c) any investigation associated with the expunged charge;
- (d) the associated arrest of the person whose charge has been expunged;
- (e) the associated detention of the person whose charge has been expunged.

15. Removal or annotation of official criminal records

- (1) The Secretary must, as soon as possible after a charge has been expunged under section 12(6), notify any relevant data controller of the expunging of that charge and any conviction in respect of that charge.
- (2) On receipt of a notification under subsection (1), the relevant data controller must, within 28 days –
 - (a) in the case of any secondary electronic record under the data controller's

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management or control that includes information about an expunged charge –

- (i) erase or remove the secondary electronic record; or
 - (ii) remove any information from the secondary electronic record that identifies the person whose charge was expunged; or
 - (iii) remove any link between the secondary electronic record and data that could potentially identify the person whose charge was expunged; and
 - (b) in the case of any other official criminal record under the data controller's management or control that contains an entry that includes information about an expunged charge, annotate that entry with a statement to the effect that –
 - (i) the entry includes information about an expunged charge; and
 - (ii) it is an offence to disclose information about an expunged charge.
- (2A) If a data controller is unable, due to technological limitations, to comply with subsection (2)(a) in respect of a secondary electronic record, that data controller may annotate that record in accordance with subsection (2)(b).

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- (3) A data controller must notify the Secretary of any action taken under subsection (2) or (2A) as soon as possible after the action is taken.
- (4) As soon as possible after the Secretary is satisfied that all necessary action has been taken in relation to entries in official criminal records, the Secretary must give written notice of that fact to the person who made the application to have the charge expunged.

16. Effect of expunging

If a charge is expunged under section 12(6) in respect of a person –

- (a) the person is not required to disclose any information about the expunged charge to any other person, including when giving evidence under oath in legal proceedings; and
- (b) any information about the expunged charge is taken not to form part of the person's official criminal record and is not required to be disclosed; and
- (c) a question about the person's criminal history, including a question in legal proceedings required to be answered under oath, is taken not to refer to any information about the expunged charge; and

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- (d) in applying a provision of any legislation, agreement or arrangement to the person –
- (i) a reference to a conviction, however expressed, is taken not to refer to an expunged conviction; and
 - (ii) a reference to a charge, however expressed, is taken not to refer to an expunged charge; and
 - (iii) a reference, however expressed, to the person's character is not to be taken to allow or require anyone to take account of any information about an expunged charge; and
- (e) the disclosure or non-disclosure, of any information about an expunged charge is not a proper ground for –
- (i) refusing the person any appointment, office, status or privilege; or
 - (ii) revoking any appointment, status or privilege held by the person or dismissing the person from any office.

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Part 3 – Consequences of Expungement

17. Disclosure of expunged records

- (1) Unless authorised by the Secretary under section 18, a person with access to official criminal records must not directly or indirectly disclose any information about another person's expunged charge, or expunged conviction, held in those records without the consent of that other person.

Penalty: Fine not exceeding 50 penalty units.

- (2) Subsection (1) does not apply to –
- (a) an archive or library, or an authorised officer of an archive or library, that makes available to a member of the public, or to another archive or library, under the normal procedures of the archive or library, material that is normally available for public use and that contains information about an expunged charge or expunged conviction; or
 - (b) the Secretary, or any person acting under the direction of the Secretary, in informing a data controller that holds information about an expunged charge or expunged conviction; or
 - (c) the Commissioner of Police, or any person acting under the direction of the Commissioner of Police, disclosing to the ACC, for incorporation into the police information sharing system known as the National Police Reference System or any system for the sharing of police

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information that replaces that system, the fact that a charge or a conviction has become an expunged charge or expunged conviction.

- (3) Subsection (1) does not apply to the disclosure of information if the disclosure is necessary for the purposes of this Act.
- (4) Subsection (1) does not apply to the disclosure of statistical or other information if the disclosure could not reasonably be expected to lead to the identification of any person to whom it relates.
- (5) It is a defence to a charge for an offence against subsection (1) to show that the defendant acted in good faith in the honest belief that –
 - (a) he or she had lawful authority to disclose the information; or
 - (b) the charge or conviction had not been expunged; or
 - (c) the person who made the application to have the charge expunged had consented to the disclosure of the information.
- (6) This section has effect despite sections 77(4), 79(3) and 135(3) of the *Health Practitioner Regulation National Law (Tasmania)*.

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18. Disclosure of expunged records for research purposes

- (1) A person carrying out research into sentencing, criminal justice or other matters related to historical convictions, whether for academic, legal or other related purposes, may make a written application to the Secretary for authorisation to access and copy information about an expunged charge contained in an official criminal record for the purposes of that research.
- (2) If a person makes an application to access and copy information about an expunged charge under subsection (1), the Secretary is to, by written notice –
 - (a) inform the person who made the application to have that charge expunged –
 - (i) of the application under subsection (1); and
 - (ii) of his or her right to either consent to, or refuse to consent to, the access to and copying of the information requested in the application under subsection (1); and
 - (b) provide the person who made the application to have the charge expunged with a copy of the application under subsection (1) in so far as it relates to the expunged charge.

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- (3) The Secretary may grant an authorisation to a person who has made an application under subsection (1) to access and copy information about an expunged charge if –
- (a) the person who made the application to have the charge expunged consents to the access to and copying of the information; or
 - (b) the Secretary has not been able to provide written notice under subsection (2)(a) to the person who made the application to have the charge expunged and has made every reasonable effort to do so; or
 - (c) the person who made the application to have the charge expunged does not within 90 days either consent to, or refuse to consent to, the access to and copying of the information requested in the application under subsection (1).
- (4) The Secretary may grant an authorisation under this section subject to such conditions as the Secretary thinks fit.
- (5) The Secretary may only authorise the access to and copying of information about an expunged charge if that information does not identify a person other than the person whose charge was expunged or enable such a person to be ascertained or discovered.

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Part 3 – Consequences of Expungement

19. Improperly obtaining information about expunged convictions

A person must not fraudulently or dishonestly obtain, or attempt to obtain, information about –

- (a) another person's expunged charge from an official criminal record; or
- (b) another person's expunged conviction from an official criminal record.

Penalty: Fine not exceeding 50 penalty units.

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**PART 3A – REDRESS PAYMENTS PAYABLE UNDER
ACT**

19A. Meaning of eligible recipient

For the purposes of this Part, a person is an *eligible recipient* if –

- (a) an application is made –
 - (i) by that person under section 6(2);
or
 - (ii) if that person is unable to make an application under that subsection due to a lack of legal capacity, by another person on that person's behalf under section 6(3); and
- (b) as a result of that application, one or more charges against that person are expunged under this Act.

19B. Redress payment for expunged charges

- (1) This Part applies in respect of an eligible recipient regardless of whether the eligible recipient's charge or charges is or are expunged before or after the commencement of this Part.
- (2) The Secretary must make a redress payment under this Part to an eligible recipient –
 - (a) if the charge or charges is or are expunged before the commencement of

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this Part, as soon as reasonably possible after the commencement of this Part; or

(b) if the charge or charges is or are expunged on or after the commencement of this Part, as soon as reasonably possible after the charge or charges is or are so expunged.

(3) Subsection (2) does not apply in respect of an eligible recipient if, at the time at which the application was made to have the eligible recipient's charge or charges expunged, the eligible recipient was deceased.

19C. Amount of redress payment

(1) In this section –

adjustment figure, in respect of a financial year, means the number calculated by dividing the CPI figure for Hobart for the immediately preceding December quarter by the CPI figure for Hobart for the December quarter one year earlier;

CPI figure for Hobart means the Consumer Price Index Number (All Groups) for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth;

sanction means any punitive or coercive measure including, but not limited to, the following:

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- (a) a fine or penalty;
- (b) community service;
- (c) a probation order;
- (d) a custodial or suspended sentence;
- (e) mandatory counselling or treatment;

subsequent financial year means a financial year after the financial year ending on 30 June 2026.

- (2) The amount of redress payment to be paid under this Part to an eligible recipient is –
- (a) if the eligible recipient was not convicted in respect of any expunged charge –
 - (i) if the charge is expunged before 30 June 2026 – \$15,000; or
 - (ii) if the charge is expunged in a subsequent financial year – the amount calculated under subsection (3) for the subsequent financial year; or
 - (b) if the eligible recipient was convicted in respect of one or more expunged charges but was not subject to any court-imposed sanctions in respect of any such charge –
 - (i) if the charge is expunged before 30 June 2026 – \$45,000; or

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- (ii) if the charge is expunged in a subsequent financial year – the amount calculated under subsection (3) for the subsequent financial year; or
- (c) if the eligible recipient was convicted in respect of one or more expunged charges and was subject to at least one court-imposed sanction in respect of any such charge –
 - (i) if the charge is expunged before 30 June 2026 – \$75,000; or
 - (ii) if the charge is expunged in a subsequent financial year – the amount calculated under subsection (3) for the subsequent financial year.
- (3) The amount of redress payment to be paid in respect of a subsequent financial year (a ***subsequent year***) is the greater of the following amounts:
 - (a) the amount calculated by –
 - (i) multiplying the amount payable, for the financial year immediately preceding the subsequent year, by the adjustment figure for the subsequent year; and
 - (ii) rounding up to the nearest whole dollar amount;

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- (b) the amount payable for the financial year immediately preceding the subsequent year.
 - (4) Before the commencement of a subsequent financial year, and for the duration of the subsequent financial year, the Department is to publish, on a website maintained by or on behalf of the Department, the amounts of redress payments that are payable under this Part for that subsequent financial year.
 - (5) For the avoidance of doubt, an eligible recipient is only entitled to one redress payment under this Part as determined under subsection (2).

19D. Ex gratia payments

If an ex gratia payment has been made by the State to an eligible recipient in respect of an expunged charge or charges, the amount of redress payable to that eligible recipient under this Part in respect of that expunged charge or those charges is to be reduced by the amount of that ex gratia payment.

19E. Cessation of expungement

- (1) If the Secretary makes a determination under section 20(1) that a charge has or charges have ceased to be expunged, the Secretary may determine that the redress payment, or part of the redress payment, that has been paid under this Part in respect of that charge or those charges is to be repaid.

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- (2) If the Secretary makes a determination under subsection (1) that any amount of a redress payment is to be repaid, that amount is a debt due and payable to the Crown by the person who received that redress payment.

19F. Incorrect redress paid

- (1) In this section –

original redress amount means a redress amount paid under this Part to an eligible recipient;

variation amount, in respect of an expunged charge or charges, means the difference between the varied redress amount for that charge or those charges and the original redress amount paid in respect of that charge or those charges;

varied redress amount, in respect of an expunged charge or charges, means the redress amount for that charge or those charges as varied under subsection (2).

- (2) If the Secretary is satisfied that a redress payment paid in respect of an expunged charge or charges under this Part was calculated incorrectly, the Secretary is to vary the redress amount payable in respect of that charge or those charges and is to notify the person to whom the redress has been paid of that variation.
- (3) If the amount paid as the original redress amount in respect of an expunged charge or charges is

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greater than the varied redress amount for that charge or those charges, the Secretary may recover the variation amount from the person whose charge has or charges have been expunged as a debt due and payable to the Crown.

- (4) If the varied redress amount payable for an expunged charge or charges is greater than the original redress amount paid in respect of that charge or those charges, the Secretary must pay the variation amount to the person whose charge has or charges have been expunged.

19G. Payment of outstanding amounts

- (1) The Secretary may enter into an arrangement for a liability outstanding to the Crown under this Part to be paid by instalments.
- (2) The Secretary may write off the whole, or any part, of a liability to pay an amount to the Crown under this Part, if satisfied that any action, or further action, to recover the outstanding amount is impracticable or unwarranted.

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PART 4 – MISCELLANEOUS

20. Determination that charge has ceased to be expunged

- (1) If the Secretary is satisfied that a charge became expunged by reason of an application that included information that was false or misleading in a material particular, or documents that were false or misleading in a material particular, the Secretary may determine that the charge has ceased to be expunged.
- (2) The charge, and any conviction in respect of that charge, ceases to be expunged on and from the date of the determination under subsection (1).
- (3) The Secretary must, within 28 days of making a determination under subsection (1) –
 - (a) give the person who made the application to have the charge expunged written notice of the determination and inform the person in writing of –
 - (i) the reasons for the determination; and
 - (ii) the person's right to have the determination reviewed under section 21; and
 - (b) notify any relevant data controller in writing that the charge, and any conviction in respect of that charge, has ceased to be expunged.

21. Review of decisions

(1) In this section –

reviewable decision means –

- (a) a decision to expunge a charge under section 12(2)(a); or
 - (b) a decision to refuse to expunge a charge under section 12(2)(b); or
 - (c) a determination that a charge has ceased to be expunged under section 20(1).
- (2) If the Secretary, or a person acting as the delegate of the Secretary, makes a reviewable decision, an interested person may apply to the Tasmanian Civil and Administrative Tribunal for a review of the decision.
- (3) For the purposes of this section, each of the following persons is taken to be an interested person:
 - (a) for a decision to expunge a charge under section 12(2)(a) –
 - (i) a person who has made a submission pursuant to section 8(6) in relation to the charge; and
 - (ii) a data controller who has any official criminal records relating to the charge under their management or control;

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- (b) for a decision to refuse to expunge a charge under section 12(2)(b), the applicant;
 - (c) for a determination that a charge has ceased to be expunged, the person who made the application to have the charge expunged.
- (4) The review by the Tasmanian Civil and Administrative Tribunal of a reviewable decision made under this Act is to be held in private.
- (5) A person who made an application to have a charge expunged is taken to be a party to any proceedings before the Tasmanian Civil and Administrative Tribunal for a review of the decision to expunge that charge under section 12(2)(a).

22. No entitlement to compensation

Other than as entitled under this Act, if a charge or a conviction for an offence is expunged under section 12(6), a person is not entitled to compensation of any kind, on account of that charge or conviction becoming expunged, in respect of the fact that—

- (a) the person was charged with, or prosecuted for, the offence; or
- (b) the person was convicted of, or sentenced for, the offence; or

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- (c) the person served a sentence for the offence; or
 - (d) the person was required to pay a fine or other money (including costs or any amount by way of restitution or compensation) on account of being convicted of, or sentenced for, the offence; or
 - (e) the person has an expunged charge or expunged conviction; or
 - (f) the person incurred any loss, or suffered any consequence, as a result of an event referred to in paragraph (a), (b), (c), (d) or (e), whether or not that person was the person whose charge or conviction was expunged.

23. Royal prerogative of mercy not affected

Nothing in this Act is to be taken as affecting the royal prerogative of mercy.

24. Integrity of official criminal records

Subject to section 15(2), nothing in this Act is to be taken as authorising or requiring any person to destroy, cull or edit any documents containing official criminal records.

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25. Prior lawful acts not affected

Nothing in this Act is to be taken as affecting anything lawfully done before a charge or a conviction for a historical offence is expunged.

26. Offence to give false or misleading information

A person must not, in answering a question, giving information or providing a document under this Act –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading; or
- (c) provide a document that the person knows to be false or misleading without informing the person to whom the document is provided of that knowledge.

Penalty: Fine not exceeding 30 penalty units.

27. Delegation by Secretary

The Secretary may delegate any of his or her functions or powers under this Act, other than this power of delegation.

28. Information sharing

A person who is a personal information custodian, within the meaning of the *Personal*

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Information Protection Act 2004, is not taken to contravene that Act by reason only of collecting, using or disclosing, or otherwise dealing with, personal information for the purposes of this Act.

28A. Exemption from *Right to Information Act 2009* in certain circumstances

(1) In this section –

relevant person means –

- (a) the Secretary; or
 - (b) a data controller; or
 - (c) a person required, or engaged by, the Secretary or a data controller to do or not to do a thing; or
 - (d) a person engaged in the administration of this Act; or
 - (e) a person prescribed for the purposes of this section.
- (2) The *Right to Information Act 2009* does not apply to information in the possession, for the purposes of this Act, of a relevant person unless the information relates to the administration of a public authority within the meaning of that Act.

29. Infringement notices

(1) In this section –

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infringement offence means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

- (2) The Secretary may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.
- (5) The regulations –
 - (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
 - (b) may prescribe different penalties for bodies corporate and individuals.

30. Annual report

- (1) The Secretary must, within 3 months after the end of each financial year, prepare a report on the administration and operation of this Act.
- (2) The Secretary must give the report prepared in accordance with subsection (1) to the Minister who must table it in both Houses of Parliament within 10 sitting-days of its receipt.

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31. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied, regulated or approved by the Secretary.

32. Review of Act

- (1) In this section –

independent review means a review carried out by persons –

- (a) who, in the Minister's opinion, are appropriately qualified for that task; and

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- (b) the majority of whom are not employees of the State or of any agency of the State.
- (2) The Minister is to cause an independent review of the operation of this Act to be completed within 6 months after the second anniversary of its commencement.
- (3) The Minister is to cause a copy of the review to be tabled in each House of Parliament within 10 sitting-days of that House after it is given to the Minister.

33. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

34. *See Schedule 1.*

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SCHEDULE 1

The amendments effected by Section 34 and this Schedule have been incorporated into the authorised version of the Anti-Discrimination Act 1998.

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NOTES

The foregoing text of the *Expungement of Historical Offences Act 2017* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 27 November 2025 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Expungement of Historical Offences Act 2017</i>	No. 45 of 2017	9.4.2018
<i>Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Act 2025</i>	No. 7 of 2025	1.7.2025
<i>Expungement of Historical Offences Amendment Act 2025</i>	No. 21 of 2025	27.11.2025

TABLE OF AMENDMENTS

Provision affected	How affected
Section 3	Amended by No. 21 of 2025, s. 4
Section 9	Amended by No. 21 of 2025, s. 5
Section 10	Amended by No. 21 of 2025, s. 6
Section 12	Amended by No. 21 of 2025, s. 7
Section 15	Amended by No. 21 of 2025, s. 8
Section 19A	Inserted by No. 21 of 2025, s. 9
Section 19B	Inserted by No. 21 of 2025, s. 9
Section 19C	Inserted by No. 21 of 2025, s. 9
Section 19D	Inserted by No. 21 of 2025, s. 9
Section 19E	Inserted by No. 21 of 2025, s. 9
Section 19F	Inserted by No. 21 of 2025, s. 9
Section 19G	Inserted by No. 21 of 2025, s. 9
Section 21	Amended by No. 7 of 2025, s. 98
Section 22	Amended by No. 21 of 2025, s. 10
Section 28A	Inserted by No. 21 of 2025, s. 11