

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 42
Issue No. 1
TUESDAY, 21 AUGUST 2018

HISTORICAL HOMOSEXUAL CONVICTIONS EXPUNGEMENT BILL 2017
[42-1]

When in committee on the *Historical Homosexual Convictions Expungement Bill 2017*:

Clause 5

Hon Michael Mischin: To move –

3/5 Page 5, line 6 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

4/5 Page 6, line 13 — To delete “refused by the CEO” and insert:

refused

Hon Michael Mischin: To move –

5/5 Page 6, lines 14 and 15 — To delete “considered by the CEO if the CEO” and insert:

Dealt with under this Act if the Minister

Clause 6

Hon Michael Mischin: To move –

6/6 Page 7, line 14 — To delete “CEO” and insert

Minister

Hon Michael Mischin: To move –

7/6 Page 7, line 18 — To delete “to the CEO”.

Hon Michael Mischin: To move –

8/6 Page 7, line 22 — To delete “entity; and” and insert:

entity for the purposes of dealing with the application under this Act; and

Hon Michael Mischin: To move –

9/6 Page 7, line 29 — To delete “CEO” and insert:

Minister

Clause 7

Hon Michael Mischin: To move –

10/7 Page 8, line 3 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

11/7 Page 8, line 4 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

12/7 Page 8, line 5 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

13/7 Page 8, line 7 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

14/7 Page 8, line 9 — To delete “CEO.” and insert:

Minister.

Hon Michael Mischin: To move –

15/7 Page 8, line 10 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

16/7 Page 8, line 12 — To delete “CEO” (each occurrence) and insert:

Minister

Hon Michael Mischin: To move –

17/7 Page 8, line 18 — To delete “CEO” and insert:

Minister

Clause 8

Hon Michael Mischin: To move –

18/8 Page 8, line 22 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

19/8 Page 8, line 23 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

20/8 Page 8, line 28 — To delete “CEO” and insert:

Minister

Clause 9

Hon Michael Mischin: To move –

21/9 Page 9, line 3 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

22/9 Page 9, line 6 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

23/9 Page 9, line 8 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

24/9 Page 9, line 10 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

25/9 Page 9, line 11 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

26/9 Page 9, line 12 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

27/9 Page 9, line 13 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

28/9 Page 9, line 21 — To delete “CEO” and insert:

Minister

Clause 10

Hon Michael Mischin: To move –

29/10 Page 9, line 26 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

30/10 Page 10, line 11 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

31/10 Page 10, line 18 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

32/10 Page 10, line 28 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

33/10 Page 10, line 29 — To delete “CEO” and insert:

Minister

Clause 11

Hon Michael Mischin: To move –

34/11 Page 10, line 32 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

35/11 Page 11, line 1 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

36/11 Page 11, line 6 — To delete “CEO” (each occurrence) and insert:

Minister

Hon Michael Mischin: To move –

37/11 Page 11, line 10 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

38/11 Page 11, line 13 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

39/11 Page 11, line 19 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

40/11 Page 11, line 25 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

41/11 Page 11, line 28 — To delete “CEO” and insert:

Minister

Clause 12

Hon Michael Mischin: To move –

42/12 Page 12, line 6 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

43/12 Page 12, line 9 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

44/12 Page 12, line 11 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

45/12 Page 12, line 12 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

46/12 Page 12, line 16 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

47/12 Page 12, line 21 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

48/12 Page 12, line 28 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

49/12 Page 13, line 1 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

50/12 Page 13, line 7 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

51/12 Page 13, line 14 — To delete “CEO” and insert:

Minister

Clause 13

Hon Michael Mischin: To move –

52/13 Page 14, line 3 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

53/13 Page 14, line 12 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

54/13 Page 14, line 21 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

55/13 Page 14, line 23 — To delete “CEO” and insert:

Minister

Clause 15

Hon Michael Mischin: To move –

56/15 Page 16, line 5 — To delete “CEO” and insert:

Minister

Hon Michael Mischin: To move –

57/15 Page 16, line 6 — To delete “CEO” and insert:

Minister

Clause 18**Hon Michael Mischin:** To move –**58/18** Page 18, line 10 — To delete “CEO — ” and insert:

Minister —

Hon Michael Mischin: To move –**59/18** Page 18, line 17 — To delete “CEO” and insert:

Minister

Clause 24**Hon Michael Mischin:** To move –**60/24** Page 20, line 24 — To delete “CEO” and insert:

Minister

Clause 25**Hon Michael Mischin:** To move –**61/25** Page 21, line 3 — To delete “CEO or a delegate of the CEO” and insert:

Minister

Hon Michael Mischin: To move –**62/25** Page 21, lines 11 and 12 — To delete “CEO or a person who was, at that time, a delegate of the CEO, as the case requires.” and insert:

Minister.

Clause 27**Hon Michael Mischin:** To move –**63/27** Page 21, after line 28 — To insert:

- (1A) The Minister may delegate to the CEO any function of the Minister under another provision of this Act, other than section 11(2), 12(1) or 29B.
- (1B) A delegation under subsection (1A) may expressly authorise the CEO to further delegate the function.

Hon Michael Mischin: To move –

64/27 Page 21, lines 29 and 30 — To delete “any function of the CEO under another provision of this Act”.

Hon Michael Mischin: To move –

65/27 Page 22, line 2 — To delete “Department.” And insert:

Department any function —

- (a) of the CEO under another provision of this Act; or
- (b) delegated to the CEO under subsection (1A) that the CEO is authorised to further delegate under subsection (1B).

Hon Michael Mischin: To move –

66/27 Page 22, line 3 — To delete “The” and insert:

A

Hon Michael Mischin: To move –

67/27 Page 22, line 3 — To insert after “delegation”:

Under subsection (1A) or (1)

Hon Michael Mischin: To move –

68/27 Page 22, line 3 — To delete “CEO.” and insert:

Minister or the CEO, as the case requires.

Hon Michael Mischin: To move –

69/27 Page 22, line 4 — To delete “this section” and insert:

subsection (1)

Hon Michael Mischin: To move –

70/27 Page 22, line 10 — To insert after “ability of the”:

Minister or the

New Clause 29A**Leader of the House representing the Attorney General:** To move –**1/NC29A** Page 23, after line 15 — To insert:**29A. Annual Report**

- (1) The CEO must prepare and submit to the Minister, not later than 30 September in each year, a report for the previous financial year that contains details of the following —
 - (a) the number of applications made under section 5;
 - (b) for applications determined under section 11 —
 - (i) the number of applications approved under section 11(2);
 - (ii) the number of applications refused under section 11(2) and a summary of the grounds for refusal;
 - (iii) the number of convictions expunged under section 11(3) and a summary of the offences to which the expunged convictions relate;
 - (iv) the average amount of time taken to determine an application;
 - (c) the number of determinations that a conviction is no longer an expunged conviction under section 12(1) and a summary of the grounds for the determinations;
 - (d) the number of review applications made to the State Administrative Tribunal under section 18 and the outcomes of such applications, if available;
 - (e) any other matters that are, in the CEO's opinion, of such significance as to require reporting.
- (2) The Minister must cause a copy of the annual report to be laid before each House of Parliament within 14 sitting days after the report is received by the Minister.

Hon Michael Mischin: To move –**71/NC29** Page 23, after line 15 — To insert:**29A. Annual Report**

- (1) The CEO must prepare and submit to the Minister, not later than 30 September in each year, a report for the previous financial year that contains details of the following —
 - (a) the number of applications made under section 5;
 - (b) for applications determined under section 11 —
 - (i) the number of applications approved under section 11(2);
 - (ii) the number of applications refused under section 11(2) and a summary of the grounds for refusal;
 - (iii) the number of convictions expunged under section 11(3) and a summary of the offences to which the expunged convictions relate;
 - (iv) the average amount of time taken to determine an application;
 - (c) the number of determinations that a conviction is no longer an expunged conviction under section 12(1) and a summary of the reasons for the determinations;

- (d) the number of review applications made to the State Administrative Tribunal under section 18 and the outcomes of such applications, if available;
 - (e) any other matters that are, in the CEO's opinion, of such significance as to require reporting.
- (2) The Minister must cause a copy of the annual report to be laid before each House of Parliament within 14 sitting days after the report is received by the Minister.

New Clause 29B

Leader of the House representing the Attorney General: To move –

2/NC29B Page 23, after line 15 — To insert:

29B. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which this section comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

Hon Michael Mischin: To move –

72/NC29B Page 23, after line 15 — To insert:

29B. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after every 5th anniversary of the commencement of this section.
- (2) In the course of each review the Minister must consider and have regard to the following —
 - (a) the objects of this Act;
 - (b) the adequacy of the procedure for the expungement of certain convictions for historical homosexual offences under this Act;
 - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —
 - (a) as soon as practicable after the review is completed; but
 - (b) not later than 1 year after each 5 year anniversary.

