

Draft Regulations laid before the Scottish Parliament under section 14(3) of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

CRIMINAL LAW

**The Historical Sexual Offences (Disregarded Convictions
and Official Records) (Scotland) Regulations 2019**

Made - - - - 2019
Coming into force - - 15th October 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 10(3) and (5) of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 14(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Historical Sexual Offences (Disregarded Convictions and Official Records) (Scotland) Regulations 2019 and come into force on 15 October 2019.

Interpretation

2. In these Regulations—

“annotation” means recording that the conviction has been disregarded and that the individual is to be treated for all purposes as someone who has not committed the offence,

“deletion” means physical removal from the official records,

“redaction” means physical blocking in the official records in a manner so the information cannot be read,

Removal of disregarded convictions from official records

3. References to disregarded convictions are to be removed by a relevant record keeper from official records by—

(1) 2018 asp 14.

- (a) deletion,
- (b) redaction, or
- (c) annotation.

Relevant record keepers

4. The following are specified for the purposes of section 10(5) of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018 as relevant record keepers—

- (a) The Crown Office and Procurator Fiscal Service,
- (b) The Chief Constable of the Police Service of Scotland,
- (c) The Scottish Courts and Tribunals Service, and
- (d) The Scottish Ministers acting in their capacity as the holder of official records maintained by Disclosure Scotland with regard to their functions under the Protection of Vulnerable Groups (Scotland) Act 2007(2).

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the mechanisms for removing disregarded convictions from official records, and specify the identities of those persons who are to be treated as relevant record keepers, under section 10(3) and (5) of the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018 (“the Act”). Sections 15 to 18 of the Act came into force on 12 July 2018. The remainder of the Act comes into force on 15 October 2019, the same day as these Regulations.

Regulation 2 provides definitions for the terminology used in Regulation 3.

Regulation 3 specifies the means by which disregarded convictions are to be removed from official records. While any of the listed means is acceptable, the nature of a particular record may in practice require use of a particular method, or preclude the use of one or more methods.

Regulation 4 lists the persons defined as relevant record keepers, who will be required to remove references to disregarded convictions from official records held by them.