

HISTORICAL SEXUAL OFFENCES (PARDONS AND DISREGARDS) (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE ACT

Part Three – Disregarding Certain Convictions for Historical Sexual Offences

Section 7 – Determination of application for disregard

26. **Section 7** sets out the process for the Scottish Ministers to follow in determining an application for a conviction to be disregarded.
27. **Section 7(1)** requires the Scottish Ministers to consider all representations and other information provided by the applicant, or provided by persons to whom a request was made under section 6(1); and for Ministers to take reasonable steps to obtain, and where available, to consider, information held about the case (unless it already appears that the conviction was not for a historical sexual offence, for example, because it was a conviction for an offence such as fraud or theft). This may involve contacting Police Scotland or other justice agencies for any information they hold about the applicant's conviction.
28. **Sections 7(2) and 7(3)**, read together, provide that the Scottish Ministers must grant an application for a disregard unless it appears to them either that the offence for which the applicant was convicted was not a historical sexual offence as defined at section 2, or that the conduct constituting the offence would, if occurring in the same circumstances on the day the Act comes into force, still be an offence.
29. **Section 7(4)** requires Ministers to record their determination and the reasons for it in writing, provide notice of the determination and reasons for it to the applicant and, where the application is granted, to inform the applicant that references to the conviction will be removed as set out at section 10. **Section 7(5)** provides that where an application for a disregard is granted, it takes effect 14 days after notice of the determination is given to the applicant.