Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018

2018 asp 14

PART 4 S

GENERAL

VALID FROM 15/10/2019

12 Saving for Royal Pardons S

Nothing in this Act affects the Royal prerogative of mercy.

VALID FROM 15/10/2019

13 Application of Act to conduct dealt with otherwise than by prosecution S

(1) This Act applies in relation to any conduct constituting a historical sexual offence in respect of which an alternative to prosecution has been given as it applies to conduct in respect of which a person is convicted.

(2) Accordingly—

(a) references in this Act to "conviction" and "convicted" are to be read as including references to, or to being given, an alternative to prosecution,

(b) references to a sentence imposed include a reference to the giving of an alternative to prosecution.

(3) For the purposes of this Act, an alternative to prosecution has been given in respect of conduct constituting an offence if a person—

(a) has been given a warning in respect of the conduct by a constable or a procurator fiscal,

Status: *Point in time view as at 12/07/2018. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018, Part 4. (See end of Document for details)*

(b) has accepted, or is deemed to have accepted, a conditional offer issued in respect of the conduct under section 302 of the Criminal Procedure (Scotland) Act 1995, or

(c) has accepted an offer made by a procurator fiscal in respect of the conduct to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution.

(4) For the purposes of this Act—

(a) any ground for referral of a child's case under section 32(2)(g) of the Social Work (Scotland) Act 1968 or section 52(2)(i) of the Children (Scotland) Act 1995 that has been accepted or established (or deemed established) is to be treated as a conviction, and

(b) any disposal of such a case by a children's hearing is to be treated as a sentence.

VALID FROM 15/10/2019

14 Regulations S

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—

(a) incidental, supplementary, consequential, transitional, transitory or saving provision,

(b) different provision for different purposes.

(2) Subject to subsection (3), regulations under section 15(1) are subject to the negative procedure.

(3) Regulations under the following provisions are subject to the affirmative procedure—

(a) section 10(3) or (5),

(b) section 15(1), if the regulations add to, replace or omit any part of the text of an Act.

(4) This section does not apply to regulations under section 17.

15 Ancillary provision S

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, in connection with or for giving full effect to this Act.

(2) Regulations under subsection (1) may—

(a) modify any enactment (including this Act),

(b) make different provision for different purposes.

16 Interpretation S

In this Act—

"alternative to prosecution" is to be construed in accordance with section 13(3),

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"conviction", in addition to being construed in accordance with section 13(2) and (4), includes any finding in criminal proceedings that a person has committed an offence or done the act or made the omission charged (including a finding linked with mental disorder or in respect of which an admonition or absolute discharge is made),

"disregarded conviction" is a conviction for a historical sexual offence in respect of which a disregard has taken effect by virtue of Part 3 (see sections 7(5) and 8(7)),

"historical sexual offence" has the meaning given by section 2,

"official records" means records containing information about persons convicted of offences kept by any relevant record keeper for the purposes of its functions (but does not include any records in the care of the Keeper of the Records of Scotland),

"person", for the purposes of section 3 only, includes a deceased person,

"proceedings before a judicial authority" has the meaning given by section 9(6),

"relevant record keeper" means a person prescribed in regulations made under section 10(5).

17 Commencement S

(1) This section and sections 15, 16 and 18 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

(3) Regulations under subsection (2) may—

(a) include transitional, transitory or saving provision,

(b) make different provision for different purposes.

18 Short title S

The short title of this Act is the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018.

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Changes to legislation:
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