



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

2018 asp 14

PART 1

INTRODUCTORY

2 Historical sexual offence: definition

- (1) In this Act, “historical sexual offence” means—
- (a) an offence under section 13(5)(a) or (c), (6) or (9) of the Criminal Law (Consolidation) (Scotland) Act 1995,
 - (b) an offence under section 80(7)(a), (c) or (d), (9) or (12) of the Criminal Justice (Scotland) Act 1980,
 - (c) an offence under section 7 of the Sexual Offences (Scotland) Act 1976,
 - (d) an offence under section 11 of the Criminal Law Amendment Act 1885,
 - (e) the common law offence of sodomy,
 - (f) the common law offence of shameless indecency, in so far as that offence covered sexual activity between men,
 - (g) any other offence which falls within subsection (2),
 - (h) an offence of attempting, inciting or conspiring to commit any of the offences mentioned in paragraphs (a) to (g).
- (2) An offence falls within this subsection if the offence—
- (a) regulated, or was used in practice to regulate, sexual activity between men, and
 - (b) either—
 - (i) has been repealed or, in the case of an offence at common law, abolished, or
 - (ii) has not been repealed or abolished but once covered sexual activity between men of a type which, or in circumstances which, would not amount to the offence on the day on which section 3 comes into force.

- (3) Where an offence of the type described in subsection (2)(b)(ii) covers or once covered activity other than sexual activity between men, the offence falls with subsection (2) only to the extent that it once covered sexual activity between men.
- (4) In this section, “sexual activity between men” includes—
- (a) any physical or affectionate activity between males of any age which is of a type which is characteristic of persons involved in an intimate personal relationship,
 - (b) conduct intended to introduce or procure such activity.