



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

2018 asp 14

PART 3

DISREGARDING CERTAIN CONVICTIONS FOR HISTORICAL SEXUAL OFFENCES

8 Appeals

- (1) This section applies where the Scottish Ministers have determined that a conviction in respect of which an application is made under section 5(1) is not to be disregarded.
- (2) The applicant may, with the permission of the sheriff, appeal against the determination.
- (3) When deciding an appeal, the sheriff may not take account of any representations which were, or other information which was, not available to the Scottish Ministers when determining the application.
- (4) On an appeal, the sheriff must—
 - (a) unless subsection (5) applies, order that the conviction in respect of which the appeal is made is to be disregarded, or
 - (b) where subsection (5) applies, dismiss the appeal.
- (5) This subsection applies if it appears to the sheriff—
 - (a) that the offence for which the appellant was convicted is not a historical sexual offence, or
 - (b) that the conduct constituting the historical sexual offence, if occurring in the same circumstances, would have been an offence on the day on which section 3 came into force.
- (6) The sheriff's decision on an appeal is final.
- (7) Where the sheriff orders that a conviction for a historical sexual offence is to be disregarded, the disregard takes effect from the day falling 14 days after the sheriff's order is made.
- (8) An appeal under this section is to be made—
 - (a) to a sheriff of the sheriffdom in which the appellant resides, or

Status: This is the original version (as it was originally enacted).

- (b) where no sheriff has jurisdiction under paragraph (a), to a sheriff of the sheriffdom of Lothian and Borders at Edinburgh.