



Management of Offenders (Scotland) Act 2019 2019 asp 14

PART 2

DISCLOSURE OF CONVICTIONS

Applications for certain convictions to be treated as spent

33 Excluded sentences: applications for convictions to be treated as spent

- (1) The Scottish Ministers may make regulations for or in connection with the purpose mentioned in subsection (2).
- (2) The purpose is allowing a person on whom a relevant sentence was imposed in respect of a conviction to apply (both)—
 - (a) to be treated as a protected person in respect of the conviction for the purposes of the 1974 Act, and
 - (b) for the conviction to be treated as spent for the purposes of the 1974 Act.
- (3) A relevant sentence is—
 - (a) a sentence mentioned in section 5(1)(b) or (da) of the 1974 Act, or
 - (b) a sentence imposed by a court outwith Scotland which, by virtue of section 5(2F)(d) of the 1974 Act, falls to be treated as such a sentence.
- (4) The regulations must contain provision—
 - (a) for—
 - (i) an application to be made to a specified reviewer, and
 - (ii) the application to be determined by the specified reviewer,
 - (b) excluding someone who is, for whatever reason, subject to notification requirements under Part 2 of the Sexual Offences Act 2003 from making an application,
 - (c) preventing an application from being made until the expiry of the appropriate period, and
 - (d) setting, or for ascertaining, the relevant date.

(5) In subsection (4)—

- (a) in paragraph (c), “the appropriate period” is—
 - (i) in the case of an applicant who was 18 years of age or older on the date of the conviction to which the application relates, the term of the sentence imposed in respect of the conviction plus 6 years,
 - (ii) in the case of an applicant who was under 18 years of age on the date of the conviction to which the application relates, the term of the sentence imposed in respect of the conviction plus 3 years,
- (b) in paragraph (d), “the relevant date” is the date from which (both)—
 - (i) an applicant’s conviction is to be treated as spent, and
 - (ii) the applicant is to be treated as a protected person.

(6) In this section and section 34, the references to—

- (a) a protected person, or
 - (b) a conviction being treated as spent,
- are to be construed in accordance with the 1974 Act.