



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

## 2018 asp 14

### PART 3

#### DISREGARDING CERTAIN CONVICTIONS FOR HISTORICAL SEXUAL OFFENCES

#### **7 Determination of application for disregard**

- (1) When determining an application made under section 5(1), the Scottish Ministers must in particular—
  - (a) consider all representations and other information included in the application,
  - (b) consider all representations made or other information provided in pursuance of section 6 in relation to the application, and
  - (c) except where it appears to them that the offence to which the application relates is not a historical sexual offence, take reasonable steps to obtain (and, where available, consider) any record of—
    - (i) the investigation of the conduct which led to the conviction, and
    - (ii) any subsequent proceedings relating to the conduct.
- (2) Having done so, the Scottish Ministers must—
  - (a) unless subsection (3) applies, determine that the conviction in respect of which the application is made is to be disregarded, or
  - (b) where subsection (3) applies, determine that the conviction is not to be disregarded.
- (3) This subsection applies if it appears to the Scottish Ministers—
  - (a) that the offence for which the applicant 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.
- (4) The Scottish Ministers must—
  - (a) record their determination, and the reasons for it, in writing,

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**Changes to legislation:** *There are currently no known outstanding effects for the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018, Section 7. (See end of Document for details)*

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- (b) provide notice of their determination, and the reasons for it, to the applicant, and
  - (c) where they have determined that a conviction for a historical sexual offence is to be disregarded, inform the applicant that references to the conviction will be removed in pursuance of section 10.
- (5) Where the Scottish Ministers determine that a conviction for a historical sexual offence is to be disregarded, the disregard takes effect from the day falling 14 days after notice of their determination is given.

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**Commencement Information**

**II** [S. 7](#) in force at 15.10.2019 by [S.S.I. 2019/205](#), [reg. 2](#)

**Changes to legislation:**

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