

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

PART 3

DISREGARDING CERTAIN CONVICTIONS FOR HISTORICAL SEXUAL OFFENCES

9 Effect of disregard

- (1) This section applies where a disregard for a conviction for a historical sexual offence has taken effect (see sections 7(5) and 8(7)).
- (2) The person who was convicted of the offence is to be treated for all purposes as not having—
 - (a) committed the offence,
 - (b) been charged with, or prosecuted for, the offence,
 - (c) been convicted of the offence, or
 - (d) been sentenced for the offence.

(3) In particular—

- (a) no evidence is admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Scotland to prove that the person has done, or undergone, anything within subsection (2), and
- (b) the person is not, in any such proceedings, to be asked (and, if asked, is not to be required to answer) any question relating to the person's past which cannot be answered without acknowledging or referring to the conviction or any circumstances ancillary to it.
- (4) Where a question is put to a person, other than in such proceedings, seeking information with respect to the previous convictions, offences, conduct or circumstances of any person—
 - (a) the question is to be treated as not relating to any disregarded conviction, or any circumstances ancillary to it (and the answer to the question may be framed accordingly), and

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- (b) the person questioned is not to be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose that conviction or any circumstance ancillary to it in answering the question.
- (5) Any obligation imposed on any person by any enactment or rule of law, or by the provisions of any agreement or arrangement, to disclose any matters to any other person is not to extend to requiring the disclosure of a disregarded conviction or any circumstances ancillary to it.
- (6) In this section, "proceedings before a judicial authority" includes, in addition to any court proceedings, proceedings before any tribunal, body or person having power by virtue of any enactment, rule of law, arbitration agreement, rules, custom or practice—
 - (a) to determine any question affecting the rights, privileges, obligations or liabilities of any person, or
 - (b) to receive evidence affecting the determination of any such question.
- (7) For the purposes of this section, circumstances ancillary to a conviction are any circumstances of—
 - (a) the offence which was the subject of the conviction,
 - (b) the conduct constituting the offence,
 - (c) any process or proceedings preliminary to the conviction,
 - (d) any sentence imposed in respect of the conviction,
 - (e) any proceedings (whether by way of appeal or otherwise) for reviewing the conviction or sentence,
 - (f) anything done in pursuance of, or undergone in compliance with, any such sentence.

Commencement Information

II S. 9 in force at 15.10.2019 by S.S.I. 2019/205, reg. 2

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