



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 12

DISREGARDS AND PARDONS FOR CERTAIN HISTORICAL OFFENCES

195 Pardons for certain convictions or cautions

- (1) The Policing and Crime Act 2017 is amended in accordance with subsections (2) to (13).
- (2) Section 164 (posthumous pardons for convictions etc. of certain abolished offences) is amended in accordance with subsections (3) to (10).
- (3) Before subsection (1) insert—
 - “(A1) Subsection (1) applies in relation to a person—
 - (a) who was convicted of, or cautioned for, an offence in circumstances where the conduct constituting the offence was sexual activity between persons of the same sex, and
 - (b) who died before the end of the period of twelve months beginning with—
 - (i) the day on which section 194 of the Police, Crime, Sentencing and Courts Act 2022 comes into force, or
 - (ii) if later, the day on which the offence referred to in paragraph (a) became an abolished offence (see subsection (1A)).”
- (4) For subsection (1) substitute—
 - “(1) The person is pardoned for the offence if—
 - (a) any other person involved in the sexual activity was aged 16 or over, and

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- (b) the offence has become an abolished offence.
- (1A) An offence becomes an abolished offence at the point at which conditions A and B are first met.
- (1B) Condition A is that the offence has been repealed or, in the case of an offence at common law, abolished by enactment (whether or not it was re-enacted or replaced).
- (1C) Condition B is that the sexual activity referred to in subsection (A1)(a) would not, if occurring in the same circumstances, constitute an offence.”
- (5) Omit subsections (2) to (6).
- (6) In subsection (7)—
 - (a) for “subsection (8)” substitute “subsections (8) and (8A)”, and
 - (b) at the end of paragraph (b) insert “(but as if the reference in subsections (6A) and (6C) to section 92 were a reference to this section)”.
- (7) In subsection (8) (as amended by section 19 of the Armed Forces Act 2021)—
 - (a) omit paragraph (ba),
 - (b) at the end of paragraph (c) omit “or”,
 - (c) after paragraph (c) (but before paragraph (d) inserted by section 19(3)(d) of the Armed Forces Act 2021) insert—
 - “(ca) the Mutiny Act 1878, the Marine Mutiny Act 1878, any Act previously in force corresponding to either of those Acts or any relevant Articles of War, or”.
- (8) After subsection (8) insert—
 - “(8A) Section 101(6D) of the 2012 Act is to be read, in its application to this section by virtue of subsection (7) of this section, as if the enactments listed in that subsection included—
 - (a) Article 2 of Section 20 of the Articles of War of 1749 (offences triable by courts martial outside Great Britain),
 - (b) section 38 of the Naval Discipline Act 1860,
 - (c) section 38 of the Naval Discipline Act 1861,
 - (d) section 41 of the Naval Discipline Act 1864,
 - (e) Article 93 of Section 2 of the Articles of War of 1876 (offences not specified in Marine Mutiny Act or Articles of War),
 - (f) section 41 of the Army Discipline and Regulation Act 1879, and
 - (g) any provision corresponding to the provision mentioned in paragraphs (a) or (e), contained in other relevant Articles of War.”
- (9) In subsection (10) (inserted by section 19 of the Armed Forces Act 2021) insert in the appropriate place—
 - ““sexual activity” includes—
 - (a) any physical or affectionate activity which is of a type characteristic of people involved in an intimate personal relationship, and
 - (b) conduct intended to lead to sexual activity.”
- (10) After subsection (10) insert—

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

- “(11) Subsection (1) does not apply in relation to an offence for which the person has previously been pardoned under this section or section 165.”
- (11) In section 165(1) (other pardons for convictions etc. of certain abolished offences) after “offence” insert “in the circumstances”.
- (12) Omit section 166 (power to provide disregards and pardons for additional abolished offences).
- (13) In section 167 (sections 164 to 166: supplementary)—
- (a) in the opening words of subsection (1) omit “, or under regulations under 166,”, and
 - (b) in subsection (2)—
 - (i) for “sections 164 to 166” substitute “section 164 or 165”, and
 - (ii) omit “or regulations under section 166”.
- (14) Nothing in this section affects a pardon for a conviction or caution which took effect before this section comes into force.
- (15) In section 19 of the Armed Forces Act 2021 (posthumous pardons in relation to certain abolished offences), omit subsection (2) and paragraphs (b) and (c) of subsection (3).