

Historical Sexual Offences (Pardons and Disregards) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Definition of sexual activity between men

6

Historical Sexual Offence: definition

7, 13

Pardons letter for deceased person

1

Application for disregard

2, 8, 3, 3A, 14

Appeals: availability of legal aid

9

Promotion of Act

4

Review of the Act

10, 11, 15

Guidance on the operation of the Act

12

Procedure for regulations on removal of disregarded convictions from official records

5

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Amendments in debating order

Definition of sexual activity between men

Jamie Greene

- 6 In section 2, page 2, line 13, after <age> insert <(provided that the activity is not between a person who has attained the age of 16 years and one who has not)>

Historical Sexual Offence: definition

Jamie Greene

- 7 In section 2, page 2, line 15, at end insert—
<(4A) The Scottish Ministers may by regulations amend this section, so as to add offences to the definition of “historical sexual offence”.>

Jamie Greene

- 13 In section 14, page 7, line 28, leave out <section> insert <sections 2(4A) and>

Pardons letter for deceased person

Mary Fee

Supported by Jamie Greene

- 1 After section 4, insert—
<**Application for pardons letter for deceased persons**
- (1) A family member of a deceased person, who has been convicted of a historical sexual offence, may apply to the Scottish Ministers for a letter in regards to a pardon for that deceased person under section 3.
 - (2) Subsection (1) applies only if the conviction the application under subsection (1) relates to has not been determined under sections 7 and 8.
 - (3) An application made under subsection (1) must be in writing and must include—
 - (a) the applicant’s name and address,
 - (b) the deceased person’s name at the time of the conviction and date of birth,
 - (c) the family relationship between the applicant and the deceased person,
 - (d) in so far as is known to the applicant—
 - (i) the deceased person’s address at the time of the conviction,
 - (ii) the time when and place where the conviction took place and the relevant case number,
 - (iii) the nature and circumstances of the offence and the sentence imposed,
 - (e) any other information which the Scottish Ministers may require.

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- (4) On receipt of an application under subsection (1), the Scottish Ministers must provide a letter to the applicant, unless it appears, on the basis of the information provided that—
- (a) the offence is not a historical sexual offence,
 - (b) the conduct constituting the offence, if occurring in the same circumstances, remains an offence on the day which section 3 comes into force,
- in which case, the Scottish Ministers must provide notice of their determination, and the reasons for it, to the applicant.
- (5) The letter must—
- (a) include a statement that—
 - (i) the deceased person has been pardoned for a historical sexual offence, subject to the conditions in section 3,
 - (ii) explains the effect of the conditions in section 3,
 - (iii) where a pardon has been granted under section 3, the wrongfulness and discriminatory effect of the conviction are acknowledged by virtue of this Act,
 - (b) include an apology for the convictions pardoned under section 3, acknowledging the wrong done to the deceased person by the state,
 - (c) be signed by the First Minister.
- (6) For the purposes of this section, “a family member” is—
- (a) the spouse or civil partner of the deceased person,
 - (b) a person who was living with the deceased person immediately before their death as if they were married to each other,
 - (c) a parent of the deceased person,
 - (d) a sibling of the deceased person,
 - (e) a child of the deceased person,
 - (f) a grandchild of the deceased person.>

Application for disregard

Stewart Stevenson

- 2 In section 5, page 2, line 33, at beginning, insert <in so far as known to the applicant,>

Jamie Greene

- 8 In section 6, page 3, line 12, at end insert—

<(2A) The Scottish Ministers must by regulations make provision for a person to make an application under section (5)(1) on behalf of a person who has been convicted of a historical sexual offence.>

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Mary Fee

3 In section 7, page 3, line 40, at end insert—

<() Where the Scottish Ministers have determined that a conviction for a historical sexual offence is to be disregarded, the notice provided under subsection (4)(b) must—

(a) include a statement that—

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(i) the applicant has been pardoned for a historical sexual offence,

(ii) the wrongfulness and discriminatory effect of the conviction are acknowledged by virtue of this Act,

(b) include an apology for the conviction, acknowledging the wrong done to the applicant by the state,

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(c) be signed by the First Minister.

Jamie Greene

3A As an amendment to amendment 3, line 10, at end insert—

<() issue a certificate of historical sexual offence disregard.>

Jamie Greene

14 In section 14, page 7, line 28, leave out <section> insert <sections 6(2A) and>

Appeals: availability of legal aid

Jamie Greene

9 In section 8, page 4, line 28, at end insert—

<() For the avoidance of doubt, civil legal aid would be available, subject to entitlement, for the purposes of an appeal under this section.>

Promotion of Act

Annie Wells

4 After section 13, insert—

<Public awareness and understanding of the Act

The Scottish Ministers must take such steps as they consider appropriate to promote public awareness and understanding of the operation of this Act.>

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Review of the Act

Jamie Greene

10 After section 13, insert—

<Review of Act

- (1) The Scottish Ministers may review the outcome and effectiveness of this Act at any time.
- (2) In carrying out a review under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (3) When consulting under subsection (2), the Scottish Ministers must in particular seek advice on any further historical sexual offences which take place in Scotland but are not listed under section 2.
- (4) Following a review, the Scottish Ministers may by regulations add offences to the definition of “historical sexual offence” under section 2.>

Jamie Greene

11 After section 13, insert—

<Review of Act

- (1) The Scottish Ministers may review the outcome and effectiveness of this Act at any time.
- (2) In carrying out a review under subsection (1), the Scottish Ministers must consult—
 - (a) Her Majesty’s military forces, and
 - (b) such other persons as they consider appropriate.
- (3) When consulting under subsection (2), the Scottish Ministers must in particular seek advice on any further historical sexual offences which take place in Scotland but are not listed under section 2.
- (4) Following a review, the Scottish Ministers may by regulations add offences to the definition of “historical sexual offence” under section 2.>

Jamie Greene

15 In section 14, page 7, line 28, leave out <section> insert <sections (*Review of Act*(4)) and>

Guidance on the operation of the Act

Jamie Greene

12 After section 13, insert—

<Guidance

- (1) The Scottish Ministers must issue guidance on such matters relating to the operation of this Act as they think appropriate.
- (2) Guidance under subsection (1) must in particular make provisions in regard to the disclosure scheme under the Protection of Vulnerable Groups (Scotland) Act 2007 in so far as it relates to the operation of this Act.

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- (3) The Scottish Ministers may revoke or vary guidance issued under subsection (1) at any time.>

Procedure for regulations on removal of disregarded convictions from official records

Michael Matheson

5 In section 14, page 7, leave out lines 25 to 29 and insert—

- <(2) Subject to subsection (3), regulations under section 15(1) are subject to the negative procedure.
- (3) Regulations under the following provisions are subject to the affirmative procedure—
- (a) section 10(3) or (5),
 - (b) section 15(1), if the regulations add to, replace or omit any part of the text of an Act.>