

Sexual Offences (Pardons Etc) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Public Bill Office on behalf of John Nicolson, are published separately as Bill 6 – EN.

Sexual Offences (Pardons Etc) Bill

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TO

Make provision for the pardoning, or otherwise setting aside, of cautions and convictions for specified sexual offences that have now been abolished; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Effect of this Act

Nothing in this Act is to be interpreted as pardoning, disregarding or in any other way affecting cautions, convictions, sentences or any other consequences of convictions or cautions for conduct or behaviour that is unlawful on the date that the Act comes into force.

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2 Pardon for certain convictions and cautions

(1) This section applies to any person convicted or cautioned for a relevant offence.

(2) Each such person is to be taken to be pardoned under this section in respect of the relevant offence or relevant offences for which that person was convicted or cautioned.

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(3) In this section 'relevant offence' means an offence under—

(a) section 12 of the Sexual Offences Act 1956 (buggery),

(b) section 13 of that Act (gross indecency between men),

(c) section 32 of that Act (solicitation by men), or

(d) section 61 of the Offences against the Person Act 1861 or section 11 of the Criminal Law Amendment Act 1885 (corresponding earlier offences),

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which fulfils the conditions in subsection (4).

(4) The conditions a relevant offence must meet are that—

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(a) the other person involved in the conduct constituting the offence—

(i) consented to it, and

- (ii) was aged 16 or over,
- (b) any such conduct would not be an offence under section 71 of the Sexual Offences Act 2003 (sexual activity in a public lavatory), and
- (c) any such conduct would not be an offence on the date this Act comes into force. 5
- (5) The Secretary of State may by regulation add to or otherwise amend the conditions in subsection (4).
- (6) This section does not –
- (a) affect any conviction or sentence,
- (b) give rise to any right, entitlement or liability, or 10
- (c) affect the prerogative of mercy.
- (7) This section does not affect, replace or reduce the right of any person to make an application to the Secretary of State under section 92 of the Protection of Freedoms Act 2012 in respect of a conviction or caution for a relevant offence.
- 3 Amendment of the Protection of Freedoms Act 2012 15**
- (1) The Protection of Freedoms Act 2012 is amended as follows.
- (2) In section 92 (power of Secretary of State to disregard convictions or cautions) –
- (a) in subsection (1)(b), omit “, or”,
- (b) after subsection (1)(b), insert – 20
- “(ba) section 32 of that Act (solicitation by men), or”,
- (c) after subsection (1) insert –
- “(1A) In the case of a person who is deceased, but who would, had they still been alive, have been eligible to apply to have a conviction or caution disregarded under subsection (1), any relative of the person may make an application under subsection (1) on behalf of the deceased person.”. 25
- (3) In section 94 (procedure for decisions by the Secretary of State) after subsection (1) insert –
- “(1A) If an application is being made on behalf of a deceased person, the Secretary of State may only make a decision of the kind mentioned in condition A in section 92 if the available records of the investigation of the offence, and any proceedings related to it, provide the Secretary of State with sufficient information to make such a decision.”. 30
- 4 Regulations 35**
- (1) The power to make regulations under section 2(5) of this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under section 2(5) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 40
- 5 Short title, commencement and extent**
- (1) This Act may be cited as the Sexual Offences (Pardons Etc) Act 2017.

- (2) This Act comes into force on the day on which it is passed.
- (3) This Act extends to England and Wales.

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*Ordered, by The House of Commons,
to be Printed, 29 June 2016.*

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LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by The Stationery Office Limited
£x.xx