
DISREGARD OF HISTORIC SEXUAL OFFENCES BILL 2023

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Explanatory Memorandum

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Purpose of the Bill

The principal purpose of the Disregard of Historic Sexual Offences Bill 2023 is to provide for a process for the disregard of certain historic criminal convictions or cautions arising from consensual sexual activity between men.

Main Provisions of the Bill

Section 1 provides for the short title and commencement of the Bill.

Section 2 provides for the definitions of terms used in the Bill and contains standard interpretive clauses.

Section 3 allows the Minister for Justice to make regulations prescribing an offence for the purpose of sections 5 or 8. Subsection (2) gives power to the Minister regarding the content of any regulations to be issued under the aegis of the Bill. Subsection (3) specifies that any regulations made under the terms of the Bill must be brought before the Houses of the Oireachtas for approval.

Section 4 allows for approved expenses associated with the administration of the Bill to be paid for from public funds.

Section 5 lists the qualifying offences to be included within the legislation and allows the Minister to add additional offences by way of regulation.

Section 6 provides for the determination by the Irish Human Rights and Equality Commission of applications for the disregard of certain qualifying offences. The Commission shall consider the application and decide to disregard a conviction or caution or refuse to disregard a conviction or caution.

Section 7 provides for the effect of a decision by the Irish Human Rights and Equality Commission or Appeals Officer on appeal to disregard a conviction or caution.

Section 8 provides for the notification by the Irish Human Rights and Equality Commission of a disregard of a conviction or caution to the

Commissioner of the Garda Síochána or other prescribed body to amend details of relevant records in respect of disregarded offences. Section 8(5) provides that such amendment means recording the fact and effect of a disregarded conviction or caution.

Section 9 provides for the application process for disregard of a conviction or caution to the Irish Human Rights and Equality Commission.

Section 10 provides for appeals in relation to where the Irish Human Rights and Equality Commission has refused to disregard a conviction or caution. Section 10(7)-(10) provide for the appointment, qualification, number and term of appeals officers.

Section 11 provides for the review of the Bill by the Minister not later than 3 years after the commencement of the Act.

Section 12 provides for the annual reporting by the Irish Human Rights and Equality Commission to the Minister of the performance of its functions in relation to the Bill or making of other reports as considered appropriate.

Section 13 provides for the Minister to issue an individual apology to each successful Applicant.

Section 14 provides for an information campaign and involvement of LGBTQIA+ and civil society organisations.

Section 15 provides that the application process shall be free of charge for Applicants and allows for support and assistance to be provided to Applicants by the Commission in the course of the process.

Section 16 provides for the amendment of the Irish Human Rights and Equality Commission Act 2014 by the insertion of section 10(2)(r) in relation to its functions.

Schedule 1 provides for the Table of Offences Criminalising Same-Sex Sexual Activity in Ireland as provided for in sections 5(1), (4) and 11.

Schedule 2 provides for the Table of Military Offences Criminalising Same-Sex Sexual Activity in Ireland as provided for in sections 5(1), (4) and 11.

Iúil, 2023.