

Status: Point in time view as at 26/01/2009.

Changes to legislation: Sexual Offences Act 2003, SCHEDULE 4 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4 E+W+N.I.

Section 93

PROCEDURE FOR ENDING NOTIFICATION REQUIREMENTS FOR ABOLISHED HOMOSEXUAL OFFENCES

Scope of Schedule

- 1 This Schedule applies where a relevant offender is subject to the notification requirements of this Part as a result of a conviction, finding or caution in respect of an offence under—
- (a) section 12 or 13 of the Sexual Offences Act 1956 (c. 69) (buggery or indecency between men), or
 - (b) section 61 of the Offences against the Person Act 1861 (c. 100) or section 11 of the Criminal Law Amendment Act 1885 (c. 69) (corresponding Northern Ireland offences).

Application for decision

- 2 (1) The relevant offender may apply to the Secretary of State for a decision as to whether it appears that, at the time of the offence, the other party to the act of buggery or gross indecency—
- (a) where paragraph 1(a) applies, was aged 16 or over,
 - (b) where paragraph 1(b) applies, was aged 17 or over,
- and consented to the act.
- (2) An application must be in writing and state—
- (a) the name, address and date of birth of the relevant offender,
 - (b) his name and address at the time of the conviction, finding or caution,
 - (c) so far as known to him, the time when and the place where the conviction or finding was made or the caution given and, for a conviction or finding, the case number,
 - (d) such other information as the Secretary of State may require.
- (3) An application may include representations by the relevant offender about the matters mentioned in sub-paragraph (1).

Decision by Secretary of State

- 3 (1) In making the decision applied for, the Secretary of State must consider—
- (a) any representations included in the application, and
 - (b) any available record of the investigation of the offence and of any proceedings relating to it that appears to him to be relevant,
- but is not to seek evidence from any witness.
- (2) On making the decision the Secretary of State must—

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- (a) record it in writing, and
- (b) give notice in writing to the relevant offender.

Effect of decision

- 4 (1) If the Secretary of State decides that it appears as mentioned in paragraph 2(1), the relevant offender ceases, from the beginning of the day on which the decision is recorded under paragraph 3(2)(a), to be subject to the notification requirements of this Part as a result of the conviction, finding or caution in respect of the offence.
- (2) Sub-paragraph (1) does not affect the operation of this Part as a result of any other conviction, finding or caution or any court order.

Right of appeal

- 5 (1) If the Secretary of State decides that it does not appear as mentioned in paragraph 2(1), and if the High Court gives permission, the relevant offender may appeal to that court.
- (2) On an appeal the court may not receive oral evidence.
- (3) The court—
- (a) if it decides that it appears as mentioned in paragraph 2(1), must make an order to that effect,
 - (b) otherwise, must dismiss the appeal.
- (4) An order under sub-paragraph (3)(a) has the same effect as a decision of the Secretary of State recorded under paragraph 3(2)(a) has under paragraph 4.
- (5) There is no appeal from the decision of the High Court.

Interpretation

- 6 (1) In this Schedule a reference to an offence includes—
- (a) a reference to an attempt, conspiracy or incitement to commit that offence, and
 - (b) a reference to aiding, abetting, counselling or procuring the commission of that offence.
- (2) In the case of an attempt, conspiracy or incitement, references in paragraph 2 to the act of buggery or gross indecency are references to the act of buggery or gross indecency to which the attempt, conspiracy or incitement related (whether or not that act occurred).

Transitional provision

- 7 Until the coming into force of the repeal by this Act of Part 1 of the Sex Offenders Act 1997 (c. 51), this Schedule has effect as if references to this Part of this Act were references to Part 1 of that Act.

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