
STATUTORY RULES OF NORTHERN IRELAND

1979 No. 193

REHABILITATION OF OFFENDERS

Rehabilitation of Offenders (Exceptions)
Order (Northern Ireland) 1979

Made - - - - 7th June 1979

To be laid before Parliament

Coming into operation 1st July 1979

The Secretary of State in pursuance of articles 5(4) and 8(4) of the Rehabilitation of Offenders (Northern Ireland) Order 1978(1) hereby makes the following Order :

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 and shall come into operation on 1st July 1979.

(2) In this Order “the Order” means the Rehabilitation of Offenders (Northern Ireland) Order 1978.

(3) Where, by virtue of this Order, the operation of any of the provisions of the Order is excluded in relation to spent convictions the exclusion shall be taken to extend to spent convictions for offences of every description.

(4) Part IV of Schedule 1 shall have effect for the interpretation of expressions used in that Schedule.

(5) In this Order a reference to any enactment shall be construed as a reference to that enactment as extended or applied by or under any enactment.

Exclusion of article 5(2) of the Order in relation to certain questions

2. None of the provisions of article 5(2) of the Order shall apply in relation to—

(a) any question asked by or on behalf of any person, in the course of the duties of his office or employment, in order to assess the suitability—

(i) of the person to whom the question relates for admission to any of the professions specified in Part I of Schedule 1; or

- (ii) of the person to whom the question relates for any office or employment specified in Part II of Schedule 1; or
- (iii) of the person to whom the question relates or of any other person to pursue any occupation specified in Part III of Schedule 1 or to pursue it subject to a particular condition or restriction; or
- (iv) of the person to whom the question relates or of any other person to hold a licence, certificate or permit of a kind specified in Schedule 2 or to hold it subject to a particular condition or restriction,

where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed;

- (b) any question asked by or on behalf of any person, in the course of his duties as a person employed in the service of the Crown, the United Kingdom Atomic Energy Authority, the Civil Aviation Authority or the Post Office Corporation in order to assess, for the purpose of safeguarding national security or of protecting public safety or public order, the suitability of the person to whom the question relates or of any other person for any office or employment where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed for the purpose of safeguarding national security or of protecting public safety or public order.

Exceptions from article 5(3)(b) of the Order in relation to certain professions, offices, employments, etc.

- 3. Paragraph (b) of article 5(3) of the Order shall not apply in relation to—
 - (a) the dismissal or exclusion of any person from any profession specified in Part I of Schedule 1;
 - (b) any office, employment or occupation specified in Part II or Part III of the said Schedule 1;
 - (c) any action taken for the purpose of safeguarding national security or of protecting public safety or public order.

Exclusion of article 5(1) of the Order in relation to certain proceedings

- 4. Article 5(1) of the Order shall not apply in relation to any proceedings specified in Schedule 3.

Humphrey Atkins
One of Her Majesty's Principal Secretaries of
State
Northern Ireland Office

7th June 1979

SCHEDULE 1

Articles 1(4), 2 and 3

Excepted professions, offices, employments and occupations

PART I

Professions

1. Medical practitioner.
2. Barrister, solicitor.
3. Chartered accountant, certified accountant.
4. Dentist, dental hygienist, dental auxiliary.
5. Veterinary surgeon.
6. Nurse, midwife.
7. Ophthalmic optician, dispensing optician.
8. Pharmaceutical chemist.
9. Any profession to which the Professions Supplementary to Medicine Act 1960⁽²⁾ applies and which is undertaken following registration under that Act.

PART II

Offices and employments

1. Judicial appointments.
2. The Director of Public Prosecutions for Northern Ireland and any employment in his office.
3. Employment in the Northern Ireland Court Service.
4. Constables, persons appointed as police cadets to undergo training with a view to becoming constables and persons employed for the purposes of, or to assist the constables of, a police force established under any enactment; naval, military and air force police.
5. Any employment which is concerned with the administration of, or is otherwise normally carried out wholly or partly within the precincts of, a prison, remand centre, remand home, training school, special reception centre, Borstal institution or young offenders centre, and members of boards of visitors for prisons appointed under section 10 of the Prison Act (Northern Ireland) 1953⁽³⁾, members of visiting committees for Borstal institutions appointed under section 11 of that Act, and members of visiting committees for young offenders centres appointed under section 3 of the Treatment of Offenders Act (Northern Ireland) 1968⁽⁴⁾.
6. Civilian Search Officers appointed under section 53 of the Explosives Act 1875⁽⁵⁾ to be inspectors under that Act.

(2) 1960 c. 66
(3) 1953 c. 18 (N.I.)
(4) 1968 c. 29 (N.I.)
(5) 1875 c. 17

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7. Traffic wardens authorised to discharge functions under Part VII of the Road Traffic Act (Northern Ireland) 1970⁽⁶⁾.

8. Probation officers appointed under section 12 of the Probation Act (Northern Ireland) 1950⁽⁷⁾.

9. Any employment as a teacher in a school or institution of further education within the meaning of the Education and Libraries (Northern Ireland) Order 1972⁽⁸⁾ or as an instructor in a government training centre and any other employment which is carried out wholly or partly within the precincts of a school, institution of further education or centre, being employment which is of such a kind as to enable the holder to have access to persons under the age of 18 in attendance at the school, institution of further education or centre in the course of his normal duties; or employment as a peripatetic teacher within the meaning of article 53 of that Order.

10. Proprietors of independent schools.

11. Any employment by a Health and Social Services Board in connection with the provision of personal social services or by any other body in connection with the provision by it of similar services, being employment which is of such a kind as to enable the holder to have access to any of the following classes of person in the course of his normal duties, namely—

- (a) persons under the age of 18 or over the age of 65;
- (b) persons suffering from serious illness or mental disorder of any description;
- (c) persons addicted to alcohol or drugs;
- (d) persons who are blind, deaf or dumb;
- (e) other persons who are substantially and permanently handicapped by illness, injury or congenital deformity.

12. Any employment which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of his normal duties.

13. Any employment by a youth club, Education and Library Board, district council, or other body which is concerned with the promotion of leisure or recreational activities for persons under the age of 18, being employment which is of such a kind as to enable the holder to have access to such persons in the course of his normal duties.

14. Any employment within a cadet force concerned with naval, military or air force training for persons under the age of 18, being employment which is of such a kind as to enable the holder to have access to such persons in the course of his normal duties.

PART III

Regulated Occupations

1. Firearms dealer and a servant of such a person.

2. Director, controller or manager of an insurance company—

- (a) in respect of which the authorisation of the Department of Commerce is required under article 7(1)(b) of the Insurance Companies (Northern Ireland) Order 1976⁽⁹⁾ for it to carry on insurance business; or

⁽⁶⁾ 1970 c. 2 (N.I.)

⁽⁷⁾ 1950 c. 7 (N.I.)

⁽⁸⁾ S.I. 1972/1263 (N.I. 12)

⁽⁹⁾ S.I. 1976/59 (N.I. 3)

- (b) to which Part III of that Order applies.
3. Dealer in securities.
 4. Manager or trustee under a unit trust scheme.
 5. Any occupation which is concerned with carrying on a nursing home in respect of which registration is required by section 1 of the Nursing Home and Nursing Agencies Act (Northern Ireland) 1971(10).
 6. Any occupation which is concerned with carrying on an establishment in respect of which registration is required by article 35 of, and Schedule 5 to, the Health and Personal Social Services (Northern Ireland) Order 1972(11).
 7. Any occupation which is concerned with the care and maintenance of a child to which section 1 of the Children and Young Persons Act (Northern Ireland) 1968(12) applies or with the reception of children into premises which are required to be registered under section 11 of that Act.
 8. Any occupation in respect of which the holder, as occupier of premises on which explosives are kept, is required by any Order in Council made under section 43 of the Explosives Act 1875 to obtain from the police or a court of summary jurisdiction a certificate as to his fitness to keep the explosives, or a servant of such a person.
 9. Any occupation in respect of which the holder as an occupier of a factory, magazine or store is required to obtain a licence from the Secretary of State for the keeping of explosives, or a servant of such a person.

PART IV

Interpretation

In this Schedule—

“certified accountant” means a member of the Association of Certified and Corporate Accountants;

“chartered accountant” means a member of the Institute of Chartered Accountants in Ireland;

“dealer in securities” means a person dealing in securities within the meaning of section 22(1) of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(13);

“Education and Library Board” means an Education and Library Board established under article 3 of the Education and Libraries (Northern Ireland) Order 1972;

“firearms dealer” has the meaning assigned to that expression by section 50(1) of the Firearms Act (Northern Ireland) 1969(14);

“further education” has the meaning assigned to that expression by article 5(c) of the Education and Libraries (Northern Ireland) Order 1972;

“health services” means services provided under the Health and Personal Social Services (Northern Ireland) Order 1972 and similar services provided otherwise than under the National Health Service;

(10) 1971 c. 32 (N.I.)

(11) S.I. 1972/1265 (N.I. 14)

(12) 1968 c. 34 (N.I.)

(13) 1940 c. 9 (N.I.)

(14) 1969 c. 12 (N.I.)

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“insurance company” has the meaning assigned to that expression by article 2 of the Insurance Companies (Northern Ireland) Order 1976 and, in relation to an insurance company, “director” shall be construed in accordance with that article and “controller” and “manager” shall be construed in accordance with article 11 of that Order;

“judicial appointment” means an appointment to any office by virtue of which the holder has power (whether alone or with others) under any enactment or rule of law to determine any question affecting the rights, privileges, obligations or liabilities of any person;

“proprietor” and “independent school” have the meanings assigned to those expressions by article 2 of the Education and Libraries (Northern Ireland) Order 1972;

“school” has the meaning assigned to that expression by Article 2 of the Education and Libraries (Northern Ireland) Order 1972;

“personal social services” in relation to a Health and Social Services Board means services provided by the Board in discharging its social services functions within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972;

“unit trust scheme” has the meaning assigned to that expression by section 22(1) of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 and, in relation thereto, “manager” and “trustee” shall be construed in accordance with section 22(3) of that Act.

SCHEDULE 2

Article 2

Excepted licences, certificates and permits

1. Firearm certificates issued under the Firearms Act (Northern Ireland) 1969, permits issued under section 8(2) or section 12(1)(c) of that Act or certificates of approval issued under regulations made under section 13 of that Act; and authorisations under section 1 of the Unlawful Drilling Act 1819⁽¹⁵⁾.
2. Licences issued under section 25 of the Children and Young Persons Act 1933⁽¹⁶⁾ (which relates to persons under the age of 18 going abroad for the purpose of performing or being exhibited for profit).
3. Certificates issued by the police or a court of summary jurisdiction under any Order in Council made under section 43 of the Explosives Act 1875 as to the fitness of a person to keep explosives for private use.
4. Any authorisation, licence or other statutory document issued under Explosives Regulations made under section 3 of the Explosives Act (Northern Ireland) 1970⁽¹⁷⁾ or section 3 of that Act as extended by article 3 of the Explosives (Northern Ireland) Order 1972⁽¹⁸⁾.

SCHEDULE 3

Article 4

Excepted proceedings

1. Proceedings in respect of a person's admission to, or disciplinary proceedings against a member of, any profession specified in Part I of Schedule 1.

⁽¹⁵⁾ 1819 c. 1

⁽¹⁶⁾ 1933 c. 12

⁽¹⁷⁾ 1970 c. 10 (N.I.)

⁽¹⁸⁾ S.I. 1972/730 (N.I. 3)

2. Proceedings before the Court of Appeal in Northern Ireland or the High Court in Northern Ireland arising out of the exercise of any disciplinary jurisdiction in respect of solicitors.
3. Disciplinary proceedings against a constable.
4. Proceedings under the Mental Health Act (Northern Ireland) 1961(19) before the Mental Health Review Tribunal for Northern Ireland.
5. Proceedings under the Firearms Act (Northern Ireland) 1969 (including appeals to the Secretary of State by virtue of the provisions of section 46 of that Act) in respect of—
 - (a) the registration of a person as a firearms dealer, the removal of a person's name from a register of firearms dealers or the imposition, variation or revocation of conditions of any such registration; or
 - (b) the grant, renewal, variation or revocation of a firearm certificate; or
 - (c) the grant of a permit under section 8(2) or section 12(1)(c) of that Act or a certificate of approval issued under regulations made under section 13 of that Act.
6. Proceedings relating to authorisations under section 1 of the Unlawful Drilling Act 1819.
7. Proceedings in respect of the grant, renewal or variation of a licence under section 25 of the Children and Young Persons Act 1933 (which relates to persons under the age of 18 going abroad for the purpose of performing or being exhibited for profit).
8. Proceedings—
 - (a) in respect of an application under article 7(1)(b) of the Insurance Companies (Northern Ireland) Order 1976 for the authorisation of the Department of Commerce to carry on insurance business; or
 - (b) in respect of a notice under article 44 or 45 of that Order (which relate to notification of the proposed exercise of certain powers conferred by that Order on that Department); or
 - (c) under article 63 or 64 of that Order (which relate to that Department's approval of appointments in insurance companies).
9. Proceedings in respect of a decision by the Department of Education as to the suitability of a person—
 - (a) for employment as a teacher in a school or institution of further education or as a peripatetic teacher;
 - (b) to be the proprietor of an independent school (within the meaning of Part IV of Schedule 1),(including proceedings before a county court in respect of the above matters under article 30 of the Education and Libraries (Northern Ireland) Order 1972).
10. Proceedings under the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 in respect of an application for, or revocation of,—
 - (a) a licence to deal in securities; or
 - (b) an order by the Department of Commerce declaring a person to be an exempted dealer for the purposes of that Act; or
 - (c) an order by the Department of Commerce declaring a unit trust scheme to be an authorised unit trust scheme for the purposes of that Act,(including proceedings under section 6 of that Act before the High Court in respect of a licence to deal in securities).

(19) 1961 c. 15 (N.I.)

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11. Proceedings in respect of an application for, or cancellation of, registration in respect of a nursing home under section 1 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971.
12. Proceedings in respect of an application for, or cancellation of, registration under Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1972 in respect of any such establishment as is mentioned in that Schedule.
13. Proceedings in respect of any consent required under section 1(2)(b) of the Children and Young Persons Act (Northern Ireland) 1968 or in respect of an application for, or registration under section 11 of that Act of any such premises as are required to be registered under that section.
14. Proceedings on an application to the police or a court of summary jurisdiction for a certificate under any Order in Council made under section 43 of the Explosives Act 1875 as to the fitness of the applicant to keep explosives and on an application to the police or to the Secretary of State for any statutory document, authorisation or licence required under the provisions of Explosives Regulations made in pursuance of section 3 of the Explosives Act (Northern Ireland) 1970 or of section 3 of that Act as extended by article 3 of the Explosives (Northern Ireland) Order 1972.
15. Proceedings in respect of an application under the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968⁽²⁰⁾, the Criminal Damage (Compensation) (Northern Ireland) Order 1977⁽²¹⁾ or the Criminal Injuries (Compensation) (Northern Ireland) Order 1977⁽²²⁾.
16. Proceedings by way of appeal against, or review of, any decision taken, by virtue of any of the provisions of this Order, on consideration of a spent conviction.
17. Proceedings held for the receipt of evidence affecting the determination of any question arising in any proceedings specified in this Schedule.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

This Order makes exceptions in the operation of the Rehabilitation of Offenders (Northern Ireland) Order 1978, which comes into force on 1st July 1979. The provisions of the Order affected are article 5(1), which relates to the way in which offenders whose convictions have become spent are to be treated and evidence about them in the course of proceedings, article 5(2), which relates to questions asked about them otherwise than in the course of proceedings, and article 5(3)(b), which relates to their work. The exceptions are concerned with various types of work (Schedule 1), licences, certificates and permits (Schedule 2) and proceedings (Schedule 3). Exceptions are also made in relation to action taken for the purpose of safeguarding national security or of protecting public safety or public order.

⁽²⁰⁾ 1968 c. 9 (N.I.)

⁽²¹⁾ S.I. 1977/1247 (N.I. 14)

⁽²²⁾ S.I. 1977/1248 (N.I. 15)