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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 231**

**The Rehabilitation of Offenders Act 1974  
(Exclusions and Exceptions) (Scotland) Order 2003**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, and shall come into force the day after the day on which it is made.

(2) This Order extends to Scotland and, in so far as it extends beyond Scotland, it does so only as a matter of Scots law.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Rehabilitation of Offenders Act 1974;

“the 2001 Act” means the Regulation of Care (Scotland) Act 2001(1), and the following expressions have the meaning given—

- (a) by section 1 of that Act, “Scottish Commission for the Regulation of Care”;
- (b) by section 2 of that Act, “care service” and “child minding”;
- (c) by section 43 of that Act, “Scottish Social Services Council”; and
- (d) by section 77 of that Act, “social worker” and “social service worker”;

“administration of justice offence” means—

- (a) an offence against the course of justice including attempting to pervert the course of justice and attempting to defeat the ends of justice;
- (b) perjury and subornation of perjury; or
- (c) any offence committed under the law of any part of the United Kingdom (other than Scotland) or of any other country where the conduct which constitutes the offence would, if it all took place in Scotland, constitute one or more of the offences specified by paragraphs (a) and (b);

“enactment” includes an Act of the Scottish Parliament and any order, regulation or other instrument having effect by virtue of such an Act;

“private hire driver” means a driver of a private hire car, as defined by section 23(1) of the Civic Government (Scotland) Act 1982(2), who is required to be licensed by a licensing authority under the provisions of that Act;

“relevant offence” means—

- (a) an offence involving fraud or other dishonesty;

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(1) 2001 asp 8.  
(2) 1982 c. 45.

- (b) an offence under legislation (whether or not of the United Kingdom) relating to building societies, companies (including insider dealing), industrial and provident societies, credit union, friendly societies, insurance, banking or other financial services, money laundering, insolvency, consumer credit or consumer protection;
- (c) an administration of justice offence; or
- (d) an offence committed (whether or not under the law of, or of any part of, the United Kingdom) in connection with, or in relation to, taxation for which a person of 21 years of age or over may be sentenced to imprisonment for a term of 2 years or more; and

“taxi driver” means a driver of a taxi as defined by section 23(1) of the Civic Government (Scotland) Act 1982, who is required to be licensed by a licensing authority under the provisions of that Act.

(2) Any reference in this Order to a numbered article or Schedule is, unless the context otherwise requires, a reference to the article or Schedule so numbered in this Order.

#### **Exclusion of section 4(1) of the Act**

3. The application of section 4(1) (effect of rehabilitation generally and in proceedings before a judicial authority) of the Act is excluded in relation to—

- (a) any proceedings specified in Schedule 1; and
- (b) any proceedings with respect to a decision or a proposed decision specified in Part 1 of Schedule 2—
  - (i) to the extent that there falls to be determined in those proceedings any issue relating to a spent conviction for any relevant offence or to circumstances ancillary thereto; and
  - (ii) to the extent that section 4(1) renders inadmissible any evidence relating to such conviction or circumstances or removes the requirement to answer any question relating to the conviction or circumstances.

#### **Exclusion of section 4(2)(a) and (b) of the Act**

4. The provisions of section 4(2)(a) and (b) (questions seeking information with respect to previous convictions) of the Act are excluded in relation to questions put in the circumstances to which Schedule 3 applies.

#### **Exceptions from section 4(3) of the Act**

5. There is excepted from the provisions of section 4(3)(b) (effect of rehabilitation on grounds of dismissal or exclusion from an office, profession, occupation or employment) of the Act—

- (a) any profession, office, employment or occupation specified in Schedule 4;
- (b) any action taken for the purpose of safeguarding national security; and
- (c) any decision or proposed decision taken by a person specified in Part 1 of Schedule 2 to do or to refuse to do anything specified in that Part.

#### **Revocation**

6. The following Orders are hereby revoked—

- (a) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(3);

- (b) The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 1986(4); and
- (c) The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment No. 2) Order 1986(5).

St Andrew's House, Edinburgh  
28th March 2003

*JAMES WALLACE*  
A member of the Scottish Executive

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(4) S.I. 1986/1249.  
(5) S.I. 1986/2268.