
STATUTORY INSTRUMENTS

1975 No. 1023

REHABILITATION OF OFFENDERS

The Rehabilitation of Offenders
Act 1974 (Exceptions) Order 1975

Laid before Parliament in draft

Made - - - - 24th June 1975

Coming into Operation 1st July 1975

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, in exercise of the powers conferred upon me by sections 4(4) and 7(4) of the Rehabilitation of Offenders Act 1974, I hereby make the following Order:—

1. This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and shall come into operation on 1st July 1975.

2.—(1) In this Order “the Act” means the Rehabilitation of Offenders Act 1974.

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

(3) Part IV of Schedule 1 to this Order shall have effect for the interpretation of expressions used in that Schedule.

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

(5) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. None of the provisions of section 4(2) of the Act 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 to this Order; or

(ii) of the person to whom the question relates for any office or employment specified in Part II of the said Schedule 1; or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

- (iii) of the person to whom the question relates or of any other person to pursue any occupation specified in Part III of the said 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 to this Order 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, 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.

4. Paragraph (b) of section 4(3) of the Act shall not apply in relation to—

- (a) the dismissal or exclusion of any person from any profession specified in Part I of Schedule 1 to this Order;
- (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.

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

Whitehall
24th June 1975

Roy Jenkins
One of Her Majesty's Principal Secretaries of
State
Home Office

SCHEDULE 1

Articles 2(3), 3 and 4

EXCEPTED PROFESSIONS, OFFICES, EMPLOYMENTS AND OCCUPATIONS

PART I

Professions

1. Medical practitioner.
2. Barrister (in England and Wales), advocate (in Scotland), 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. Registered teacher (in Scotland).
10. Any profession to which the Professions Supplementary to Medicine Act 1960 applies and which is undertaken following registration under that Act.

PART II

Offices and employments

1. Judicial appointments.
2. The Director of Public Prosecutions and any employment in his office.
3. Procurators Fiscal and District Court Prosecutors, and any employment in the office of a Procurator Fiscal or District Court Prosecutor or in the Crown Office.
4. Justices' clerks and their assistants.
5. Clerks (including depute and assistant clerks) and officers of the High Court of Justiciary, the Court of Session and the district court, sheriff clerks (including sheriff clerks depute) and their clerks and assistants.
6. 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.
7. 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, detention centre, Borstal institution or young offenders institution, and members of boards of visitors appointed under section 6 of the Prison Act 1952 or of visiting committees appointed under section 7 of the Prisons (Scotland) Act 1952.
8. Traffic wardens appointed under section 81 of the Road Traffic Regulation Act 1967 or section 9 of the Police (Scotland) Act 1967.
9. Probation officers appointed under Schedule 3 to the Powers of Criminal Courts Act 1973.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

10. Any employment as a teacher in a school or establishment for further education and any other employment which is carried out wholly or partly within the precincts of a school or establishment for further education, 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 or establishment for further education in the course of his normal duties.

11. Proprietors of independent schools.

12. Any employment by a local authority in connection with the provision of 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.

13. 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.

14. Any employment by a youth club, local authority 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.

15. 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.
2. Any occupation in respect of which an application to the Gaming Board for Great Britain for a licence, certificate or registration is required by or under any enactment.
3. Director, controller or manager of an insurance company—
 - (a) in respect of which the Secretary of State's authorisation is required under section 3(1)(b) of the Insurance Companies Act 1974 for it to carry on insurance business; or
 - (b) to which Part II of that Act applies.
4. Dealer in securities.
5. Manager or trustee under a unit trust scheme.
6. Any occupation which is concerned with—
 - (a) the management of a place in respect of which the approval of the Secretary of State is required by section 1 of the Abortion Act 1967; or

- (b) in England and Wales, carrying on a nursing home in respect of which registration is required by section 187 of the Public Health Act 1936 or section 14 of the Mental Health Act 1959; or
 - (c) in Scotland, carrying on a nursing home in respect of which registration is required under section 1 of the Nursing Homes Registration (Scotland) Act 1938 or a private hospital in respect of which registration is required under section 15 of the Mental Health (Scotland) Act 1960.
7. Any occupation which is concerned with carrying on an establishment in respect of which registration is required by section 37 of the National Assistance Act 1948 or section 61 of the Social Work (Scotland) Act 1968.
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.

PART IV

Interpretation

In this Schedule—

- “certified accountant” means a member of the Association of Certified Accountants;
- “chartered accountant” means a member of the Institute of Chartered Accountants in England and Wales or of the Institute of Chartered Accountants of Scotland;
- “dealer in securities” means a person dealing in securities within the meaning of section 26(1) of the Prevention of Fraud (Investments) Act 1958;
- “firearms dealer” has the meaning assigned to that expression by section 57(4) of the Firearms Act 1968;
- “further education” has the meaning assigned to that expression by section 41 of the Education Act 1944 or, in Scotland, section 4 of the Education (Scotland) Act 1962;
- “health services” means services provided under the National Health Service Acts 1946 to 1973 or the National Health Service (Scotland) Acts 1947 to 1973 and similar services provided otherwise than under the National Health Service;
- “insurance company” has the meaning assigned to that expression by section 85 of the Insurance Companies Act 1974 and, in relation to an insurance company, “director” shall be construed in accordance with that section and “controller” and “manager” shall be construed in accordance with section 7 of that Act;
- “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 section 114(1) of the Education Act 1944 or, in Scotland, section 145 of the Education (Scotland) Act 1962;
- “registered teacher” means a teacher registered under the Teaching Council (Scotland) Act 1965 and includes a provisionally registered teacher;
- “school” has the meaning assigned to that expression by section 114(1) of the Education Act 1944 or, in Scotland, section 145 of the Education (Scotland) Act 1962;
- “social services”, in relation to a local authority, means—

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

- (a) in England and Wales, services provided by the authority in discharging its social services functions within the meaning of the Local Authority Social Services Act 1970;
- (b) in Scotland, services provided by the authority in discharging functions referred to in section 2(2) of the Social Work (Scotland) Act 1968;

“teacher” includes a warden of a community centre, leader of a youth club or similar institution, youth worker and, in Scotland, youth and community worker;

“unit trust scheme” has the meaning assigned to that expression by section 26(1) of the Prevention of Fraud (Investments) Act 1958 and, in relation thereto, “manager” and “trustee” shall be construed in accordance with section 26(3) of that Act.

SCHEDULE 2

Article 3

EXCEPTED LICENCES, CERTIFICATES AND PERMITS

1. Firearm certificates and shot gun certificates issued under the Firearms Act 1968, and permits issued under section 7(1), 9(2) or 13(1)(c) of that Act.
2. Licences issued 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).
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.

SCHEDULE 3

Article 5

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 to this Order.
2. Proceedings before the Court of Appeal or the High Court in the exercise of their disciplinary jurisdiction in respect of solicitors.
3. Disciplinary proceedings against a constable.
4. Proceedings before the Gaming Board for Great Britain.
5. Proceedings under the Mental Health Act 1959 before any Mental Health Review Tribunal, or under the Mental Health (Scotland) Act 1960 before the Sheriff or the Mental Welfare Commission for Scotland.
6. Proceedings under the Firearms Act 1968 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, renewal or revocation of a shot gun certificate; or
 - (d) the grant of a permit under section 7(1), 9(2) or 13(1)(c) of that Act.

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 section 3(1)(b) of the Insurance Companies Act 1974 for the Secretary of State's authorisation to carry on insurance business; or
- (b) in respect of a notice under section 38 or 39 of that Act (which relate to notification of the proposed exercise of certain powers conferred by the Act on the Secretary of State); or
- (c) under section 52 or 53 of that Act (which relate to the Secretary of State's approval of appointments in insurance companies).

9. Proceedings in respect of a determination by the Secretary of State as to the suitability of a person—

- (a) for employment as a teacher in a school or establishment for further education (within the meaning of paragraph 10 of Part II of Schedule 1 to this Order), or in determining the extent to which a person may be employed as such a teacher; or
- (b) to be the proprietor of an independent school (within the meaning of paragraph 11 of the said Part II),
(including proceedings before an Independent Schools Tribunal in respect of the above matters under section 72 of the Education Act 1944 or section 113 of the Education (Scotland) Act 1962).

10. Proceedings under the Prevention of Fraud (Investments) Act 1958 in respect of an application for, or revocation of,—

- (a) a licence to deal in securities; or
- (b) an order by the Secretary of State declaring a person to be an exempted dealer for the purposes of that Act; or
- (c) an order by the Secretary of State 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 tribunal of inquiry constituted under that section in respect of a licence to deal in securities).

11. Proceedings in respect of an application for, or cancellation of,—

- (a) the Secretary of State's approval of a place under section 1 of the Abortion Act 1967; or
- (b) in England and Wales, registration in respect of a nursing home under section 187 of the Public Health Act 1936 or section 14 of the Mental Health Act 1959; or
- (c) in Scotland, registration in respect of a nursing home under section 1 of the Nursing Homes Registration (Scotland) Act 1938 or of a private hospital under section 15 of the Mental Health (Scotland) Act 1960.

12. Proceedings in respect of an application for, or cancellation of, registration under section 37 of the National Assistance Act 1948 or section 61 of the Social Work (Scotland) Act 1968 in respect of any such establishment as is mentioned in those sections.

13. 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.

14. 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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

15. Proceedings held for the receipt of evidence affecting the determination of any question arising in any proceedings specified in this Schedule.

EXPLANATORY NOTE

This Order makes exceptions in the operation of the Rehabilitation of Offenders Act 1974 which comes into force on 1st July 1975. The provisions of the Act affected are section 4(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, section 4(2) which relates to questions asked about them otherwise than in the course of proceedings, and section 4(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 (Articles 3(b) and 4(c)).