Draft Order laid before Parliament under section 10(2) of the Rehabilitation of Offenders Act 1974 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No.

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) (No.2) Order 2011

Made - - - - ***

Coming into force in accordance with article 1(1)

The Secretary of State for Justice, in exercise of the powers conferred by sections 4(4) and 10(1) of, and paragraph 4 of Schedule 2 to, the Rehabilitation of Offenders Act 1974(**a**), makes the following Order.

A draft of this Order was laid before Parliament and approved by resolution of each House of Parliament in accordance with section 10(2) of that Act.

Citation, commencement and extent

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) (No.2) Order 2011 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

2.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**b**) is amended as follows.

(2) In article 3(**c**), at the end insert—

"(o) any question asked by or on behalf of any body which is a licensing authority within the meaning of section 73(1) of the Legal Services Act 2007(**d**) (licensing authorities and relevant licensing authorities) where—

(**a**) 1974 c.53. Schedule 2 was inserted by paragraphs 1 and 6 of Schedule 10 to the Criminal Justice and Immigration Act 2008 (c.4).
(**b**) S.I. 1975/1023.
(**c**) There are amendments to article 3 which are not relevant to this Order.
(**d**) 2007 c.29.

(i) it is asked in order to assess whether, for the purposes of Schedule 13 to that Act (ownership of licensed bodies), the approval requirements(**a**) are met in relation to a person's holding of a restricted interest in a licensed body(**b**); and

(ii) the person to whom the question relates is informed at the time that the question is asked that, by virtue of this Order, spent convictions are to be disclosed.".

Signed by authority of the Secretary of State for Justice

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

EXPLANATORY NOTE

(This note is not part of the Order)

The Legal Services Act 2007 ("the 2007 Act") contains a scheme requiring the authorisation of those who provide certain legal services ("reserved legal activities"). Part 5 of the 2007 Act (alternative business structures) provides that bodies which have been designated as licensing authorities under Schedule 10 to that Act may issue licences to firms which are wholly or partly owned or controlled by those who are not so authorised, permitting those bodies to offer legal services, or a mixture of legal services and other services, to the public. Schedule 13 to that Act requires that, before granting such a licence, the licensing authority must approve the holding by a non-authorised person of certain interests in the body (known as a restricted interest).

This Order amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 so as to permit a licensing authority to ask about spent convictions and cautions when deciding whether to give such approval.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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(**a**) Paragraph 6 of Schedule 13 to the Legal Services Act 2007 makes provision as to when the approval requirements are met in relation to a person.

(**b**) For the definition of "restricted interest" and "licensed body" see respectively paragraph 2 of Schedule 13 to, and section 71 of, the Legal Services Act 2007.

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