Draft Order laid before the Scottish Parliament under section 10(2) of the Rehabilitation of Offenders Act 1974 for approval by resolution of the Scottish Parliament. This draft Order replaces the one laid on 18th May 2009 and is being issued free of charge to all known recipients of that draft Scottish Statutory Instrument.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

REHABILITATION OF OFFENDERS

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2009

Made - - - -

Coming into force - - 29th June 2009

The Scottish Ministers make the following Order in exercise of the powers conferred by section 4(4) of the Rehabilitation of Offenders Act 1974(**a**), and of all other powers enabling them to do so.

In accordance with section 10(2) of that Act, a draft of this Order been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2009 and comes into force on 29th June 2009.

(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.

Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003

2.—(1) The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(**b**) is amended in accordance with the following paragraphs.

(2) In article 2(1) (interpretation)–

(a) after the definition of ' administration of justice offence' insert–

""adult at risk" has the meaning given by regulation 10 of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006(**c**);"; and

(**a**) 1974.c53: the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) and the Scotland Act 1998 (Transfer of functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415).

(**b**) S.S.I. 2003/231 as amended by S.I. 2004/1771, S.I. 2005/2011, S.S.I. 2005/445, S.S.I. 2006/194, S.S.I. 2007/75 and S.I. 2007/289.

(**c**) S.S.I. 2006/96 as amended by S.S.I. 2006/521, 2007/112, 2008/6 and 2009/40. S.S.I. 2006/521 was made in exercise of the powers conferred by sections 112(1)(a), 113A(1)(a), 113B(1)(a), 114(1)(a) and 116(1)(a) of the Police Act 1997. All these powers were repealed by section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) commenced on 11th January 2008.

(b) after the definition of "relevant offence" insert–

""social care service" means any service provided by or on behalf of an organisation, not being a care service or a health service, which involves caring for, training of, or support, assistance, advice, counselling or guidance to, individuals relating to their physical or emotional well-being, education, training or welfare needs;".

(3) In Schedule 4 (excepted professions, offices, employments, and occupations), part 2, at the end, insert–

"**28.** Any employment or work concerned with the provision of a social care service which is of such a kind as to enable the holder of the position to have unsupervised one to one contact in the course of that person's normal duties, with an adult at risk ".

A member of the Scottish Executive

St Andrew's House,
Edinburgh
2009

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 ('the principal order'), which makes exceptions to the provisions of section 4 (effect of rehabilitation) of the Rehabilitation of Offenders Act 1974 (the Act). The principal order excludes further proceedings and types of work from certain provisions within that section. This order amends Schedule 4 of the principal order to provide that a post in a social care service involving one to one work with adults at risk is excepted from section 4(2)(a), (b) and 4(3)(b) of the Act which relates to the effect of a spent conviction on grounds of dismissal and exclusion of persons from certain types of work.

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