STATUTORY INSTRUMENTS

2002 No. 441

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002

Made - - - - 28th February 2002

Coming into force in accordance with article 1(2)

The Secretary of State, in exercise of the powers conferred on him by sections 4(4), 7(4) and 10(1) of the Rehabilitation of Offenders Act 1974**(a)**, hereby makes the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

Citation, commencement and extent

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002.

(2) This Order shall come into force on the day after the day on which it is made, with the exception of articles 3(3) and 6(2) which shall come into force on the day that section 133(d) of the Police Act 1997**(b)** comes into force for England and Wales.

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

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

2. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**(c)** is hereby amended in accordance with the following provisions of this Order.

Amendment of article 3

3.—(1) In article 3(a)(ii) after the word "paragraph" there shall be inserted the words "12 or".

(2) In article 3(b) the words "the Civil Aviation Authority," shall be deleted.

(3) After article 3(b) there shall be inserted:

"(bb) any question asked by or on behalf of

(i) the Civil Aviation Authority,

(ii) any other person authorised to provide air traffic services under section 4 or section 5 of the Transport Act 2000**(d)** (in any case where such person is a company, an "authorised company"),

(a) 1974 c.53.
(b) 1997 c.50.
(c) S.I. 1975/1023, amended by S.I. 1986/1249 and 2768; S.I. 1988/872; S.I. 2001/1192 and 3861; and modified by S.I. 1994/1696. It is also amended by section 39 of the Osteopaths Act 1993 (c.21) and section 40 of the Chiropractors Act 1994 (c.17), both of which are prospectively repealed by section 133 of the Police Act 1997 (c.50).
(d) 2000 c.38.

(iii) any company which is a subsidiary (within the meaning given by section 736(1) of the Companies Act 1985**(a)**) of an authorised company, or

(iv) any company of which an authorised company is a subsidiary,

where, in the case of sub-paragraphs (iii) and (iv) of this paragraph the question is put in relation to the provision of air traffic services, and in all cases, where the question is put 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) After article 3(g) there shall be inserted:

"(h) any question asked by or on behalf of the National Lottery Commission for the purpose of determining whether to grant or revoke a licence under Part I of the National Lottery etc. Act 1993**(b)** where the question relates to an individual—

(i) who manages the business or any part of the business carried on under the licence (or who is likely to do so if the licence is granted), or

(ii) for whose benefit that business is carried on (or is likely to be carried on if the licence is granted),

and where 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.".

Amendment of article 4

4. In article 4(b) after the word "paragraph" there shall be inserted the words "12 or".

Amendment of Schedule 1

5.—(1) In Part I of Schedule 1 after paragraph 12 there shall be inserted:

"**13.** Chartered psychologist.

14. Actuary.

15. Registered foreign lawyer.

16. Legal executive.

17. Receiver appointed by the Court of Protection.".

(2) In Part II of Schedule 1—

(a) for paragraph 2 there shall be substituted:

"**2.** The Director of Public Prosecutions and any office or employment in the Crown Prosecution Service.";

(b) for paragraph 12 there shall be substituted:

"**12.** Any employment or other work which is concerned with the provision of care services to vulnerable adults and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his normal duties.";

(c) after paragraph 14 there shall be inserted:

"**15.** Any employment in the Royal Society for the Prevention of Cruelty to Animals where the person employed or working, as part of his duties, may carry out the killing of animals.

16. Any office or employment in the Serious Fraud Office.

17. Any office or employment in the National Crime Squad or the National Criminal Intelligence Service.

(a) 1985 c.6.
(b) 1993 c.39.

18. Any office or employment in Her Majesty's Customs and Excise.

19. Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.".

(3) In Part III of Schedule 1—

(a) after paragraph 8 there shall be inserted:

"**9.** Taxi driver.".

(4) In Part IV of Schedule 1—

(a) before the definition of "certified accountant" there shall be inserted:

""actuary" means a member of the Institute of Actuaries or a member or student of the Faculty of Actuaries;

"care services" means

(i) accommodation and nursing or personal care in a care home (where "care home" has the same meaning as in the Care Standards Act 2000**(a)**);

(ii) personal care or nursing or support for a person to live independently in his own home;

(iii) social care services; or

(iv) any services provided in an establishment catering for a person with learning difficulties;";

(b) after the definition of "chartered accountant" there shall be inserted:

""chartered psychologist" means a psychologist included in the British Psychological Society's Register of Chartered Psychologists;";

(c) after the definition of "judicial appointment" there shall be inserted:

""legal executive" means a fellow of the Institute of Legal Executives;";

(d) after the definition of "registered chiropractor" there shall be inserted:

""registered foreign lawyer" has the meaning given by section 89 of the Courts and Legal Services Act 1990**(b)**;";

(e) the definition of "social services" shall be deleted and in its place there shall be inserted:

""taxi driver" means a driver of a hackney carriage vehicle who is required to be licensed by a person pursuant to section 46 of the Town Police Clauses Act 1847**(c)** and section 59 of the Local Government (Miscellaneous Provisions) Act 1976**(d)** or pursuant to section 8 of the Metropolitan Public Carriage Act 1869**(e)**, or a driver of a private hire vehicle who is required to be licensed by a person under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 or the Plymouth City Council Act 1975**(f)**;";

(f) after the definition of "teacher" there shall be inserted:

""vulnerable adult" means a person aged 18 or over who has a condition of the following type:

(i) a substantial learning or physical disability;

(ii) a physical or mental illness or mental disorder, chronic or otherwise, including an addiction to alcohol or drugs; or

(iii) a significant reduction in physical or mental capacity.".

Amendment of Schedule 3

6.—(1) After paragraph 15 of Schedule 3 there shall be inserted:

"**16.** Proceedings held in respect of an application for the grant, renewal or cancellation of a licence to be a taxi driver.".

(a) 2000 c.14.
(b) 1990 c.41.
(c) 10 & 11 Vict c.89.
(d) 1976 c.57.
(e) 32 & 33 Vict c.115.
(f) 1975 c.xx.

(2) At the end of Schedule 3 there shall be inserted:

"**17.** Proceedings—

(a) before the National Lottery Commission in respect of the grant or revocation of a licence under Part I of the National Lottery etc. Act 1993; or

(b) by way of appeal to the Secretary of State against the revocation of any such licence by the National Lottery Commission.".

Home Office
28th February 2002

Keith Bradley
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 ("the 1975 Order").

Article 3 amends article 3 of the 1975 Order, which provides exceptions to section 4(2) of the Rehabilitation of Offenders Act 1974 ("the Act") (questions that relate to spent convictions). It adds certain classes of air traffic workers and National Lottery Commission personnel to that exception.

Article 5 amends Schedule 1 of the 1975 Order by adding to the list of professions, offices, employments, work and occupations in relation to which exceptions from the rehabilitative provisions of the Act apply.

Added to the list in Part I of Schedule 1 are the professions of chartered psychologist, actuary, registered foreign lawyer, legal executive, and receiver appointed by the Court of Protection.

Added to the list of excepted offices, employments and work in Part II of Schedule 1 are the Crown Prosecution Service, work for the Royal Society for the Prevention of Cruelty to Animals that involves the killing of animals, the Serious Fraud Office, the National Crime Squad, the National Criminal Intelligence Service and Her Majesty's Customs and Excise. In addition, article 5 excepts work that is concerned with the provision of care services to vulnerable adults and that is of such a kind as to enable the holder to have access to vulnerable adults in the course of his normal duties. It also excepts work that is concerned with the monitoring of internet communications for the purposes of child protection.

Taxi drivers are added to the excepted occupations contained in Part III of Schedule 1.

Article 6 amends Schedule 3 of the Order (excepted proceedings) by adding certain proceedings concerning the licencing of taxi drivers and certain proceedings relating to National Lottery licences.

This Order extends to England and Wales only.

£1.75

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E0376 3/02 ON (MFK)