Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2015 ISBN 978-0-11-112663-9*

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

2014 No.

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2014

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 4(4), 7(4) and 10(1) of, and paragraphs 4 and 6(4) of Schedule 2 to, the Rehabilitation of Offenders Act 1974(**1**).

A draft of this Order was laid before Parliament and approved by a 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) Order 1975 (Amendment) (England and Wales) Order 2014.

(2) Subject to paragraph (3) this Order comes into force on the day after the day on which this Order is made.

(3) Articles 3(b), 4(b) and (d), 5(b) and (d) and 6(b)(iii) come into force on 1st September 2014(**2**).

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

Amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

2. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**3**) is amended as follows.

(**1**) 1974 c. 53. Schedule 2 was inserted by paragraph 6 of Part 1 of Schedule 10 to the Criminal Justice and Immigration Act 2008 (c. 4).

(**2**) The articles referred to in article 1(3) of this Order come into force on the same day that section 84 of, and Schedule 4 to, the Children and Families Act 2014 (c. 6) ("the 2014 Act") come into force to the extent that that those provisions of the 2014 Act are not ready in force. S.I. 2014/889 brings those provisions of the 2014 Act into force.

(**3**) S.I. 1975/1023.

Amendments to article 2

3. In article 2(1)(**4**)—

(a) for the definition of "adoption agency" substitute—

""adoption agency" has the meaning given by section 2(1) of the Adoption and Children Act 2002(**5**);

"adoption service" means the discharge by a local authority in England or Wales of relevant adoption functions within the meaning of section 43(3)(a) of the Care Standards Act 2000(**6**);

"adoption support agency" has the meaning given by section 8 of the Adoption and Children Act 2002(**7**);";

(b) after the definition of "authorised payment institution" insert—

""childminder agency" has the meaning given in section 98(1) of the Childcare Act 2006(**8**);";

(c) after the definition of "child minding" insert—

""children's home" has the meaning given by section 1 of the Care Standards Act 2000(**9**);";

(d) after the definition of "the FCA" insert—

""fostering agency" has the meaning given by section 4(4) of the Care Standards Act 2000;

"fostering service" means the discharge by a local authority in England or Wales of relevant fostering functions within the meaning of section 43(3)(b) of the Care Standards Act 2000(**10**);";

(e) after the definition of "relevant collective investment scheme" insert—

""residential family centre" has the meaning given by section 4(2) of the Care Standards Act 2000;";

(f) after the definition of "UK recognised investment exchange" insert—

""voluntary adoption agency" has the meaning given by section 4(7) of the Care Standards Act 2000(**11**);"; and

(g) in the definition of "work with children" for "or 14A" substitute ", 14A, 14B or 14C".

Amendments to article 3

4. In article 3(1)(**12**)—

(**4**) Article 2(1) and (2) were substituted by S.I. 1986/2268. The definition of "adoption agency" was inserted by S.I. 2001/1192. The definition of "authorised payment institution" was inserted by S.I. 2011/1800. The definition of "the FCA" was inserted by S.I. 2013/472. The definitions of "relevant collective investment scheme" and "UK recognised investment exchange" were inserted by S.I. 2001/3816. The definition of "work with children" was inserted by S.I. 2001/1192 and was amended by S.I. 2008/3259. The reference to paragraph 14A in that definition was inserted by S.I. 2012/1957. There have been other amendments to article 2 that are not relevant.

(**5**) 2002 c. 38.

(**6**) 2000 c. 14. Section 43(3)(a) has been amended by paragraph 112 of Schedule 3 to the Adoption and Children Act 2002.

(**7**) Section 8 has been amended by Paragraph 126 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), S.I. 2010/1158 and paragraph 106 of Schedule 5 to the Health and Social Care Act 2012 (c. 7).

(**8**) 2006 c. 21. The definition of childminder agency is inserted by paragraph 62(2) of Schedule 4 to the 2014 Act.

(**9**) Section 1 has been amended by paragraph 2 of Schedule 5 to the Health and Social Care Act 2008 (c. 14).

(**10**) Section 43(3)(b) was substituted by paragraph 13 of Schedule 1 to the Children and Young Persons Act 2008 (c. 23). This amendment is only in force in relation to England in accordance with S.I. 2010/2981.

(**11**) Section 4(7) was amended by paragraph 104 of Schedule 3 to the Adoption and Children Act 2002.

(**12**) Article 3 has been amended by S.I. 2001/1192, S.I. 2008/3259, S.I. 2009/1818, S.I. 2012/1957, S.I. 2012/3006 and S.I. 2013/1198. There have been other amendments to article 3 that are not relevant.

(a) in sub-paragraph (a)(ii), after "14A," insert "14B, 14C,";

(b) in sub-paragraph (a)(ii), after "14C," insert "14D,";

(c) after sub-paragraph (e) insert—

"(ea) any question asked by or on behalf of any person in the course of his duties as a person employed by a local authority in England or Wales for the purpose of preparing a report for the court under section 14A(8) of the Children Act 1989(**13**) regarding the suitability of any person to be a special guardian, where —

(i) the question relates to the person whose suitability is being assessed; or

(ii) the question relates to a person over the age of 18 living in the same household as the person whose suitability is being assessed;

and where the person to whom the question relates is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed;"; and

(d) after sub-paragraph (f) insert—

"(fa) any question asked by or on behalf of Her Majesty's Chief Inspector of Education, Children's Services and Skills in assessing a person's suitability for registration as a childminder agency under Part 3 of the Childcare Act 2006, where the person to whom the question relates is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed;".

Amendments to article 4

5. In article 4(1)(**14**)—

(a) in sub-paragraph (b), after "14A," insert "14B, 14C,";

(b) in sub-paragraph (b), after "14C," insert "14D,";

(c) after sub-paragraph (j) insert—

"(ja) any decision by the relevant registration authority, as defined by section 5 of the Care Standards Act 2000(**15**), to refuse to grant an application for registration under Part 2 of that Act or to suspend or remove or refuse to restore a person's registration under that Part of that Act;"; and

(d) after sub-paragraph (k) insert—

"(ka) any decision of Her Majesty's Chief Inspector of Education, Children's Services and Skills to refuse to grant a person's application for registration as a childminder agency or to suspend, cancel or impose a condition on a person's registration as a childminder agency under Part 3 of the Childcare Act 2006;".

Amendments to Schedule 1

6. In Schedule 1(**16**)—

(**13**) 1989 c. 41. Section 14A was inserted by section 115(1) of the Adoption and Children Act 2002.

(**14**) Article 4 has been amended by S.I. 2001/1192, S.I. 2008/3259, S.I. 2009/1818, S.I. 2012/1957 and S.I. 2013/1198. There have been other amendments to article 4 that are not relevant.

(**15**) Section 5 has been amended by paragraph 105 of Schedule 3 to the Adoption and Children Act 2002, paragraph 6 of Schedule 5 to the Health and Social Care Act 2008 and by section 4(2)(b) of the Children and Young Persons Act 2008.

(**16**) The headings to Schedule 1 and to Part II of that Schedule were substituted by S.I. 2001/1192. Paragraph 16 in Part I and the definition of "legal executive" in Part IV were inserted by S.I. 2002/441. The definition of "child" in Part IV was inserted by S.I. 2007/2149. There have been other amendments to Schedule 1 that are not relevant.