*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

# 2009 No.

# REHABILITATION OF OFFENDERS, ENGLAND AND WALES

## The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2009

*Made - - - - 2009*

*Coming into force in accordance with article 1(2)*

A draft of this Order has been laid before and approved by a resolution of each House of Parliament:

The Secretary of State, 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**), makes the following Order:

### Citation, commencement and extent

**1.**—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2009.

(2) This Order comes into force—

(a) on 12th October 2009 for the purposes of article 7(1)(a) and (b), and

(b) on the day after the day on which this Order is made for all other purposes.

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

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

**2.** The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**3**) is amended in accordance with the following provisions of this Order.

(**1**) 1974 c.53, as amended by the Criminal Justice and Immigration Act 2008 (c.4).

(**2**) As regards Scotland, see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415 (S.5)). The 1975 Order was revoked in relation to Scotland, by article 6(a) of S.S.I. 2003/231.

(**3**) S.I. 1975/1023, amended by S.I. 1986/1249, 1986/2268, 2001/1192, 2001/3816, 2002/441, 2003/965, 2005/617, 2005/848, 2005/1082, 2005/2011, 2006/594, 2006/2143, 2006/3290, 2007/289, 2007/2149, 2007/3224, 2008/2683 and 2008/3259. S.I. 1975/1023 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 statutory provisions are subject to prospective repeals.

**Amendment of article 2**

**3.** In article 2, after the definition of "the 2000 Act" insert—

""the 2006 Act" means the Safeguarding Vulnerable Groups Act 2006(**4**)."

**Amendment of article 3**

**4.**—(1) In article 3(a)(ii) for "13, 14, 20, 21, 35, 36, 37, 40 or 43" substitute "12A, 13, 14, 14A, 20, 21, 35, 36, 37, 40, 43 or 44".

(2) After article 3(l) insert—

"(m) any question asked by or on behalf of the Master Locksmiths Association for the purposes of assessing the suitability of any person who has applied to be granted membership of that Association;

(n) any question asked by or on behalf of the Secretary of State for the purpose of assessing the suitability of any person or body to obtain or retain a licence under regulation 5 of the Misuse of Drugs Regulations 2001(**5**) or under Article 3(2) of Regulation 2004/273/EC(**6**) or under article 6(1) of Regulation 2005/111/EC(**7**) where—

(i) the question relates to the holder of, or an applicant for, such a licence or any person who as a result of his role in the company or other body concerned is required to be named in the application for such a licence (or would have been so required if that person had had that role at the time the application was made), and

(ii) any 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."

**Amendment of article 4**

**5.** In article 4(b) for "13, 14, 20, 21, 35, 36, 37, 40 or 43" substitute "12A, 13, 14, 14A, 20, 21, 35, 36, 37, 40, 43 or 44".

**New article 6: Channel Islands exceptions**

**6.** After article 5 insert the following article—

"**6.**—(1) Neither section 4(2) of, nor paragraph 3(3) of Schedule 2 to, the Act applies to a question to which paragraph (2) applies.

(2) This paragraph applies to a question asked by or on behalf of any person in the course of the duties of that person's office or employment in the Channel Islands in order to assess the person's suitability for any purposes referred to in article 3, where—

(a) the person asking the question states that a corresponding question and purpose are also provided for in the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002 ("the Jersey Regulations"), or the Rehabilitation of Offenders (Bailiwick of Guernsey) Law 2002 (Commencement, Exclusions and Exceptions) Ordinance 2006 ("the Guernsey Ordinance"), and

(b) the person to whom the question relates is a person to whom article 3 would apply and is informed at the time the question is asked that spent convictions must be disclosed.

(**4**) 2006 c.47
(**5**) S.I. 2001/3998
(**6**) O.J. No. L 47 18.2.2004, p.1
(**7**) O.J. No. L 22, 26.1.2005, p.1