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 This draft has been replaced by a new draft, The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2009 ISBN 978-0-11-148102-8*

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

2008 No.

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008

Made - - - -	*2008*
Coming into force - -	*2008*

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 2008 and comes into force on the day after the day on which it is made.

(2) 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 The 1975 Order was revoked in relation to Scotland, by article 6(a) of S.S.I. 2003/231.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, 2005/848, 2005/20112006/2143, 2006/3290, 2007/289 and 2007/2149. 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the Osteopaths Act 1993 (c. 21) and section 40 of the Chiropractors Act 1994 (c. 17), both of which are prospectively repealed by section 133 of the Police Act 1997 (c. 50).

Amendment of article 2

3.—(1) In article 2(1)—

(a) in the definition of "child minding" for paragraphs (a) and (b) substitute–

"(a) child minding within the meaning of section 79A of the Children Act 1989(**4**); and

(b) early years childminding within the meaning of section 96(4) of the Childcare Act 2006(**5**), or later years childminding within the meaning of section 96(8) of that Act;"

(b) in the definition of "day care" for paragraphs (a) and (b) substitute–

"(a) day care for which registration is required by section 79D(5)(**6**) of the Children Act 1989; and

(b) early years provision within the meaning of section 96(2) of the Childcare Act 2006 (other than early years childminding), or later years provision within the meaning of section 96(6) of that Act (other than later years childminding), for which registration is required, or permitted, under Part 3 of that Act;"

(c) in the definition of "work with children" after "paragraph 14 of" insert "Part 2 of".

(2) After paragraph (4) insert–

"(4A) In this Order any reference to a conviction shall where relevant include a reference to a caution(**7**), and any reference to spent convictions shall be construed accordingly."

Amendment of article 3

4. In article 3, for "None of the provisions of section 4(2) of" substitute "Neither section 4(2) of, nor paragraph 3(3) of Schedule 2 to,".

Amendment of article 4

5. In article 4, for "Paragraph (b) of section 4(3) of the Act shall not apply" substitute "Neither paragraph (b) of section 4(3) of, nor paragraph 3(5) of Schedule 2 to, the Act shall apply".

Amendment of article 5

6.—(1) In article 5(1), for "Section 4(1) of the Act shall not" substitute "Neither section 4(1) of, nor paragraph 3(1) of Schedule 2 to, the Act shall".

(2) In article 5(2) for "(j)" substitute "(n)".

Amendment of Schedule 1

7.—(1) In Part 3 of Schedule 1, after paragraph 8 insert–

"**10.** Approved legal services body manager.".

(2) In Part 4 of Schedule 1 before the definition of "assistants to justices' clerks" insert–

(**4**) 1989 c.41. Section 79A was inserted by section 79(1) of the Care Standards Act 2000 (c.14).
(**5**) 2006 c.21.
(**6**) Section 79D(5) was amended by paragraph 9 of Schedule 2 to the Childcare Act 2006. As a result of that amendment section 79D applies only in relation to Wales.
(**7**) "Caution" is defined in section 8A(2) of the Act. Section 8A of and Schedule 2 to the Rehabilitation of Offenders Act 1974 were inserted by section 49 and Schedule 10 of the Criminal Justice and Immigration Act 2008 (c.4).