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

2006 No.

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2006

Made - - - -	*2006*
Coming into force - -	*2006*

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 on him by sections 4(4), 7(4) and 10(1) of 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 2006 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.

Amendment of article 2

3. In article 2(1)—

(a) in the definition of "taxi driver licence", for paragraph (i) substitute—

(**1**) 1974 c.53.

(**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)).

(**3**) S.I. 1975/1023, amended by S.I. 1986/1249, S.I. 1986/2268, S.I. 2001/1192, S.I. 2001/3816, S.I. 2002/441, S.I. 2003/965; and modified by S.I. 1994/1696. 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the Osteopaths Act 1993 (c. 21) and section 40 of the Chiropractors Act 1994 (c. 17), both of which are prospectively repealed by section 133 of the Police Act 1997 (c. 50).

"(i) section 46 of the Town Police Clauses Act 1847(**4**);" and

(b) insert in the appropriate alphabetical positions—

""contracting authority" means a contracting authority within the meaning of Article 1(9) of Directive 2004/18/EC;

"contracting entity" means a contracting entity within the meaning of Article 2(2) of Directive 2004/17/EC;

"Directive 2004/17/EC" means Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004(**5**);

"Directive 2004/18/EC" means Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004(**6**);".

Amendment of article 3

4. In article 3 after paragraph (i), add—

"(j) any question asked by or on behalf of a contracting authority or contracting entity in relation to a conviction within the meaning of Article 45(1) of Directive 2004/18/EC which is a spent conviction (or any circumstances ancillary to such a conviction) for the purpose of determining whether or not to treat a person as ineligible:

(i) for the purposes of regulation 23 of the Public Contracts Regulations 2006(**7**) or regulation 23 of the Utilities Contracts Regulations 2006(**8**); or

(ii) to participate in a design contest for the purposes of regulation 33 of the Public Contracts Regulations 2006 or regulation 34 of the Utilities Contracts Regulations 2006,

where the person questioned is informed at the time the question is asked that, by virtue of this Order, convictions within the meaning of Article 45(1) of Directive 2004/18/EC which are spent convictions are to be disclosed;

(k) any question asked, by or on behalf of the Football Association or Football Association Premier League in order to assess the suitability of the person to whom the question relates or of any other person to be approved as able to undertake, in the course of acting as a steward at a sports ground at which football matches are played or as a supervisor or manager of such a person, licensable conduct within the meaning of the Private Security Industry Act 2001(**9**) without a licence issued under that Act, in accordance with regulations made under section 4 of that Act.".

Amendment of article 4

5. In article 4 after paragraph (m), add—

"(n) any decision by the Football Association or Football Association Premier League to refuse to approve a person as able to undertake, in the course of acting as a steward at a sports ground at which football matches are played or as a supervisor or manager of such a person, licensable conduct within the meaning of the Private Security Industry Act 2001(**10**) without a licence issued under that Act, in accordance with regulations made under section 4 of that Act."

(**4**) 10 & 11 Vict c. 89; section 46 is subject to section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57).
(**5**) OJ L 134, 30.4.2004, p.1.
(**6**) OJ L 134, 30.4.2004, p.114.
(**7**) S.I. 2006/5.
(**8**) S.I. 2006/6.
(**9**) 2001 c.12.
(**10**) 2001 c.12.

Amendment of Schedule 1

6. In Part I of Schedule 1, after paragraph 17 add—

"**18.** Home inspector."

7. Part II of Schedule 1 is amended as follows—

(a) omit paragraph 3;

(b) the following paragraphs are amended as follows—

(i) in paragraph 4(**11**) for the words "and their assistants" substitute "and assistants to justices' clerks";

(ii) in paragraph 7 after the words "remand centre" insert "removal centre, short-term holding facility,";

(iii) in paragraph 15 after the words "carry out the" insert "humane";

(c) for paragraph 12 substitute—

"**12.** Any office or employment which is concerned with:

(a) the provision of care services to vulnerable adults; or

(b) the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment;

and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services.";

(d) for paragraph 18 substitute—

"**18.** The Commissioners for Her Majesty's Revenue and Customs and any office or employment in their service.

18A. The Director and any office or employment in the Revenue and Customs Prosecutions Office.";

(e) after paragraph 21 add—

"**22.** An individual designated under section 2 of the Traffic Management Act 2004(**12**).

23. Judges' clerks, secretaries and legal secretaries within the meaning of section 98 of the Supreme Court Act 1981(**13**).

24. Court officers and court contractors, who in the course of their work, have face to face contact with judges of the Supreme Court, or access to such judges' lodgings.

25. Persons who in the course of their work have regular access to personal information relating to an identified or identifiable member of the judiciary.

26. Court officers and court contractors, who, in the course of their work, attend either the Royal Courts of Justice or the Central Criminal Court.

27. Court security officers, and tribunal security officers.

28. Court contractors, who, in the course of their work, have unsupervised access to court-houses, offices and other accommodation used in relation to the courts.

(**11**) Paragraph 4 was substituted in relation to England and Wales by articles 2 and 6(3) of S.I. 2001/1192.
(**12**) 2004 c.18.
(**13**) 1981 c.54. Section 98 was amended by section 71(2), 74(1) of, and paragraph 47 of Schedule 10 to, the Courts and Legal Services Act 1990 (c.41).It was further amended by the Constitutional Reform Act 2005 (c.4).