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

2001 No.

REHABILITATION OF OFFENDERS, ENGLAND AND WALES

Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (No. 2) Order 2001

Made - - - -	*2001*
Coming into force - -	*2001*

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament pursuant to section 10(2) of the Rehabilitation of Offenders Act 1974(**1**);

The Secretary of State, in exercise of the powers conferred on him by sections 4(4), 7(4) and 10(1) of that Act, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (No. 2) Order 2001 and shall come into force on the day after the day on which it is made.

(2) 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(**2**) ("the 1975 Order") is amended in accordance with the following provisions of this Order.

Amendment of article 2

3.—(1) In article 2(1) (interpretation), there is inserted, in the appropriate alphabetical position,

(**1**) 1974 c. 53.
(**2**) S.I. 1975/1023; amended by the Osteopaths Act 1993 (c. 21), section 39; the Chiropractors Act 1994 (c. 17), section 40; S.I. 1986/1249; S.I. 1986/2268; S.I. 1988/872 and S.I. 2001/1192; and modified by S.I. 1994/1696. The relevant provisions of the Osteopaths Act 1993 and the Chiropractors Act 1994 are repealed by section 133 of, and Schedule 10 to, the Police Act 1997 (c. 50); these repeals had not been brought into force at the time this Order was made.

““the 2000 Act” means the Financial Services and Markets Act 2000(**3**);”;

““administration of justice offence” means—

(a) the offence of perverting the course of justice,

(b) any offence under section 51 of the Criminal Justice and Public Order Act 1994 (intimidation etc. of witnesses, jurors and others)(**4**),

(c) an offence under section 1, 2, 6 or 7 of the Perjury Act 1911 (perjury)(**5**),

or any offence committed under the law of any part of the United Kingdom (other than England or Wales) or of any other country where the conduct which constitutes the offence would, if it all took place in England or Wales, constitute one or more of the offences specified by paragraph (a) to (c);”;

““associate”, in relation to a person (“A”), means someone who is a controller, director or manager of A or, where A is a partnership, any partner of A;”;

““collective investment scheme” has the meaning given by section 235 of the 2000 Act;”;

““the competent authority for listing” means the competent authority for the purposes of Part VI of the 2000 Act (listing);”;

““controller” has the meaning given by section 422 of the 2000 Act;”;

““Council of Lloyd's” means the council constituted by section 3 of Lloyd’s Act 1982(**6**);”;

““director” has the meaning given by section 417 of the 2000 Act;”;

““key worker”, in relation to any body (“A”), means any individual who is likely, in the course of the duties of his office or employment—

(a) where A is the Authority, to play a significant role in the decision making process of the Authority in relation to the exercise of the Authority’s public functions (within the meaning of section 349(5) of the 2000 Act) under any provision of the 2000 Act other than Part VI, or to support directly such a person;

(b) where A is the competent authority for listing, to play a significant role in the decision making process of the competent authority for listing in relation to the exercise of its functions under Part VI of the 2000 Act, or to support directly such a person;”;

““manager” has the meaning given by section 423 of the 2000 Act;”;

““open-ended investment company” has the meaning given by section 236 of the 2000 Act;”;

““Part IV permission” has the meaning given by section 40(4) of the 2000 Act;”;

““relevant collective investment scheme” means a collective investment scheme which is recognised under section 264 (schemes constituted in other EEA States), 270 (schemes authorised in designated countries or territories) or 272 (individually recognised overseas schemes) of the 2000 Act;”;

““trustee”, in relation to a unit trust scheme, has the meaning given by section 237 of the 2000 Act;”;

““UK recognised clearing house” means a clearing house in relation to which a recognition order under section 290 of the 2000 Act, otherwise than by virtue of section 292(2) of that Act (overseas clearing houses), is in force;”;

(**3**) 2000 c. 8.
(**4**) 1994 c. 33; amended by the Criminal Appeal Act 1995 (c. 35), Schedule 2, paragraph 19 and the Youth Justice and Criminal Evidence Act 1999 (c. 23), Schedule 4, paragraph 21.
(**5**) 1911 c. 6; sections 1 and 2 repealed in part by the Criminal Justice Act 1948 (c. 58), section 1; section 7 repealed in part by the Criminal Attempts Act 1981 (c. 47), the Schedule.
(**6**) 1982. c. 14.

""UK recognised investment exchange" means an investment exchange in relation to which a recognition order under section 290 of the 2000 Act, otherwise than by virtue of section 292(2) of that Act (overseas investment exchanges), is in force;".

(2) In the definition of "relevant offence"—

(a) there is omitted the word "or" at the end of sub-paragraph (a);

(b) in sub-paragraph (b), after "financial services,", there is inserted "money laundering,"; and

(c) at the end of sub-paragraph (b), there is inserted—

"(c) an administration of justice offence; or

(d) an offence committed (whether or not under the law of, or of any part of, the United Kingdom) in connection with, or in relation to, taxation for which a person of 21 years of age or over may be sentenced to imprisonment for a term of 2 years or more;".

(3) The definition of "the Building Societies Commission" and the words from "the expressions "authorisation" " to the end of paragraph (1) are omitted.

Amendment of article 3

4.—(1) This article amends article 3 of the 1975 Order (application of section 4(2) of the Act).

(2) Paragraph (ab) is omitted.

(3) In paragraph (b), after "Civil Aviation Authority,", there is inserted "the Financial Services Authority".

(4) After paragraph (f), there is inserted—

"(g) any question asked by, or on behalf of, the person listed in the second column of any entry in the table below to the extent that it relates to a conviction for a relevant offence (or any circumstances ancillary to such a conviction) of any individual, but only if—

(i) the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions for relevant offences are to be disclosed; and

(ii) the question is asked in order to assess the suitability of the individual to whom the question relates to have the status specified in the first column of that entry.

Status	*Questioner*
1. A person with Part IV permission.	The Financial Services Authority.
(a) An approved person (within the meaning of Part V of the 2000 Act (performance of regulated activities)). (b) An associate of the person (whether or not an individual) mentioned in sub-paragraph (a).	The Financial Services Authority or the authorised person (within the meaning of section 31(2) of the 2000 Act) or the applicant for Part IV permission who made the application for the Authority's approval under section 59 of the 2000 Act in relation to the person mentioned in sub-paragraph (a) of the first column.
(a) The manager or trustee of an authorised unit trust scheme, within the meaning of section 237 of the 2000 Act.	The Financial Services Authority or the unit trust scheme mentioned in the first column.

Status	*Questioner*
(b) An associate of the person (whether or not an individual) mentioned in sub-paragraph (a).	
(a) A director of an open-ended investment company. (b) An associate of the person (whether or not an individual) mentioned in sub-paragraph (a).	The Financial Services Authority or the open-ended investment company mentioned in the first column.
5. An associate of the operator or trustee of a relevant collective investment scheme.	The Financial Services Authority or the collective investment scheme mentioned in the first column.
6. An associate of a UK recognised investment exchange or UK recognised clearing house.	The Financial Services Authority or the investment exchange or clearing house mentioned in the first column.
7. A controller of a person with Part IV permission	The Financial Services Authority or the person with Part IV permission mentioned in the first column.
(a) A person who carries on a regulated activity (within the meaning of section 22 of the 2000 Act) but to whom the general prohibition does not apply by virtue of section 327 of the 2000 Act (exemption from the general prohibition for members of a designated professional body).	(a) The Financial Services Authority.
(b) An associate of the person (whether or not an individual) mentioned in sub-paragraph (a).	(b) In the case of a person mentioned in sub-paragraph (b) of the first column, the person mentioned in sub-paragraph (a) of that column.
9. A key worker of the Financial Services Authority.	The Financial Services Authority.
10. An ombudsman (within the meaning of Schedule 17 to the 2000 Act) of the Financial Ombudsman Service.	The scheme operator (within the meaning of section 225 of the 2000 Act) of the Financial Ombudsman Service.
11. An associate of the issuer of securities which have been admitted to the official list maintained by the competent authority for listing under section 74 of the 2000 Act.	The competent authority for listing.