STATUTORY RULES OF NORTHERN IRELAND

2014 No. 27

REHABILITATION OF OFFENDERS

The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2014

Made - - - - 5th February 2014

Coming into operation 14th April 2014

The Department of Justice makes the following Order in exercise of the powers conferred by Articles 5(4) and 8(4) of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**1**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2014 and shall come into operation on 14th April 2014.

(2) In this Order "the 1979 Order" means the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(**2**).

Amendment of the 1979 Order

2. The 1979 Order is amended in accordance with the following provisions of this Order.

Amendment of Article 1

3.—(1) In Article 1(2) after the definition of "the PRA" insert—

""protected conviction" means a conviction of the kind described in Article 1A;"

(2) Omit paragraph (3).

(3) Before paragraph (4) insert—

"(2A) Nothing in this Order applies in relation to a conviction for a service offence which is not a recordable service offence; and for this purpose—

(**1**) S.I. 1978/1908 (N.I. 27); Article 4(1) of and paragraph 6 of Schedule 1 to S.I. 2010/976 transferred the Order making powers of the Secretary of State to the Department of Justice.

(**2**) S.R. 1979 No. 195; relevant amending Orders are S.R. 1987 No. 393, S.R. 2001/No. 248, S.R. 2001 No. 400, S.R. 2003 No. 355, S.R. 2006 No. 425, S.R. 2009 No. 173, S.R. 2009 No.303 and S.R. 2012 No. 318

(a) "service offence" means an offence which is a service offence within the meaning of the Armed Forces Act 2006(**3**) or an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009(**4**);

(b) "recordable service offence" means an offence which is a recordable service offence within the meaning of the Police and Criminal Evidence Act 1984 (Armed Forces) Order 2009(**5**)."

Insertion of new Article 1A

4. After Article 1 insert—

"**1A.**—(1) For the purposes of this Order, a person's conviction is a protected conviction if the conditions in paragraph (2) are satisfied and —

(a) where the person was under 18 years at the time of the conviction, five years and six months or more have passed since the date of the conviction; or

(b) where the person was 18 years or over at the time of the conviction, 11 years or more have passed since the date of the conviction.

(2) The conditions referred to in paragraph (1) are that —

(a) the offence of which the person was convicted was not a listed offence;

(b) no sentence mentioned in paragraph (3) was imposed in respect of the conviction; and

(c) the person has not been convicted of any other offence at any time.

(3) The sentence referred to in paragraph (2)(b) is a sentence of imprisonment, sentence of service detention or a custodial order within the meaning of Articles 2 and 6 of the Order.

(4) In paragraph (2)(a) "listed offence" means —

(a) The following offences–

(i) Abducting girl under 18 with intention of marriage;

(ii) Abducting girl under 18;

(iii) Affray;

(iv) Breach of the peace;

(v) False imprisonment;

(vi) Going armed so as to terrify the public;

(vii) Indecency – outraging public decency;

(viii) Kidnapping;

(ix) Manslaughter;

(x) Murder;

(xi) Publishing obscene libel;

(xii) Publishing/exhibiting/selling indecent/obscene things;

(xiii) Rape;

(xiv) Riot;

(xv) Rout (incipient riot); and

(**3**) 2006 c. 52
(**4**) S.I. 2009/1059
(**5**) S.I. 2009/1922

(xvi) Unlawful assembly.

(b) an offence under section 1 of the Unlawful Drilling Act 1819;

(c) an offence under section 10 or 11 of the Slave Trade Act 1824;

(d) an offence under section 2 or 3 of the Tumultuous Risings (Ireland) Act 1831;

(e) an offence under section 35 of the Malicious Damage Act 1861;

(f) an offence under section 32, 33, 34, 58, 59 or 64 of the Offences Against the Person Act 1861;

(g) an offence under section 26 of the Criminal Justice Act (Northern Ireland) 1945;

(h) an offence under section 2 of the Nuclear Installations Act 1965;

(i) an offence under section 13, 13A or 13B of the Criminal Justice Act (Northern Ireland) 1966(**6**);

(j) an offence under section 5(1) of the Criminal Law Act (NI) 1967;

(k) an offence under section 25 or 30 of the Children and Young Persons Act (Northern Ireland) 1968;

(l) an offence under section 7(2)(a), 52, 58(2)(a), 58(2)(b), 63(b), 67 or 67 (1A) of the Medicines Act 1968(**7**);

(m) an offence under section 1, 2 or 3 of the Protection of Persons and Property Act (Northern Ireland) 1969;

(n) an offence under section 7 of the Public Order Amendment Act (Northern Ireland) 1970;

(o) an offence under section 4(2), 5(2), 5(3), 6(2), 8, 9, 11, 12, 13, 18, 19, 20 or 23 of the Misuse of Drugs Act 1971;

(p) an offence under section 1 of the Biological Weapons Act 1974;

(q) an offence under section 2 of the Criminal Jurisdiction Act 1975;

(r) an offence under Article 5 of the Poisons (Northern Ireland) Order 1976;

(s) an offence under Article 4 or 5 of the Criminal Damage (Northern Ireland) Order 1977;

(t) an offence under Article 19 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;

(u) an offence under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977;

(v) an offence under section 50 of the Customs and Excise Management Act 1979;

(w) an offence under section 6(2) or section 7(2) of the Aviation Security Act 1982;

(x) an offence under Article 5, 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(**8**);

(y) an offence under sections 1A to 1D or 2 of the Nuclear Material (Offences) Act 1983(**9**);

(z) an offence under section 38 of the Public Order Act 1986;

(**6**) 1966 c.20 (N.I.) Sections 13A and 13B have been inserted by section 60(4) of the Coroners and Justice Act 2009 (c.25).
(**7**) 1968 c.67 Section 67(1A) has been inserted by section 63(7) of the Health and Social Care Act 2001 (c.15).
(**8**) S.I. 1983/1120 (N.I. 3). Article 9A has been inserted by section 6(1) of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c.40) and has been amended by section 72(2)(a) of the Coroners and Justice Act 2009 (c.25).
(**9**) 1983 c. 18. Sections 1A to 1D have been inserted by paragraph 3 of Schedule 17(1) to the Criminal Justice and Immigration Act 2008 (c. 18).

(aa) an offence under Article 11, 28, 29, 31, 58, 58ZA or 59 of the Adoption (Northern Ireland) Order 1987(**10**);

(bb) an offence under Article 9, 10, 11, 12, 13, 18(3), 22 or 23 of the Public Order (Northern Ireland) Order 1987;

(cc) an offence under section 139, 139A, or 141 of the Criminal Justice Act 1988(**11**);

(dd) an offence under Article 3, 4 or 5 of the Crossbows (Northern Ireland) Order 1988;

(ee) an offence under section 12, 18 or 19 of the Criminal Justice (International Cooperation) Act 1990;

(ff) an offence under Article 68 or 132 of the Children (Northern Ireland) Order 1995;

(gg) an offence under Article 11A or 12B of the Road Traffic (Northern Ireland) Order 1995(**12**);

(hh) an offence under Article 53 or 54 of the Criminal Justice (Northern Ireland) Order 1996;

(ii) an offence under section 2 or 11 of the Chemical Weapons Act 1996;

(jj) an offence specified in the Schedule to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;

(kk) an offence under section 1 or 2 of the Knives Act 1997;

(ll) an offence under Article 4, 5(6), 6 or 7(5) of the Protection from Harassment (Northern Ireland) Order 1997;

(mm) an offence under section 2 of the Landmines Act 1998;

(nn) an offence under section 35 of the Criminal Justice and Courts Services Act 2000;

(oo) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 58, 60 or paragraph 37 of Schedule 4 to the Terrorism Act 2000;

(pp) an offence under section 52, 54, 67, 79, 80 or 114 of the Anti-terrorism, Crime and Security Act 2001;

(qq) an offence under section 58 or 59 of the International Criminal Court Act 2001;

(rr) an offence under Article 17 of the Criminal Injuries Compensation (Northern Ireland) Order 2002;

(ss) an offence under section 327, 328, 329, 330, 331, 332, 333A or 342 of the Proceeds of Crime Act 2002;

(tt) an offence under Article 12, 15(2)(a)-(e), 24 to 28 or 42 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

(uu) an offence under Article 30 or 46 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(vv) an offence stated by a court to be aggravated by hostility under Article 2 of the Criminal Justice (No 2) (Northern Ireland) Order 2004;

(ww) an offence under Article 3, 24, 37, 39, 40, 41, 42, 45, 61, 62, 63 or 67 of the Firearms (Northern Ireland) Order 2004;

(xx) an offence under section 1 or 2 of the Terrorism Act 2006;

(**10**) S.I. 1987/2203 (N.I. 22). Article 58ZA has been inserted by Article 12 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11 (N.I.)).
(**11**) 1988 c. 33. Section 139A has been inserted by section 4(1) of the Offensive Weapons Act 1996 (c. 26).
(**12**) S.I. 1995/2994 (N.I. 18). Article 11A has been inserted by Article 52(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)). Article 12B has been inserted by Article 53(1) of that Order.