

1986 No. 2268

REHABILITATION OF OFFENDERS

**The Rehabilitation of Offenders Act 1974 (Exceptions)
(Amendment No. 2) Order 1986**

Laid before Parliament in draft

Made - - - 18th December 1986

Coming into operation in accordance with Article 1(2)

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, in exercise of the powers conferred upon me by sections 4(4), 7(4) and 10(1) of the Rehabilitation of Offenders Act 1974(a), I hereby make the following Order:—

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment No. 2) Order 1986.

(2) This Order shall come into operation —

(a) for the purposes of Article 2(1), on 1st January 1987;

(b) for the purposes of Article 2(2), on such day as section 189 of, and Schedule 14 to, the Financial Services Act 1986(b) come into force.

2.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(c) shall have effect subject to the amendments specified in the Schedule to this Order.

(2) The following provisions of the said Order shall be omitted:—

(a) in Schedule 1, paragraphs 4 and 5 of Part III and the definitions of “dealer in securities” and “unit trust scheme” in Part IV;

(b) in Schedule 3, paragraph 10.

Douglas Hurd,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
18th December 1986.

(a) 1974 c.53.

(b) 1986 c.60.

(c) S.I. 1975/1023. amended by S.I. 1986/1249.

AMENDMENTS TO THE REHABILITATION OF OFFENDERS ACT 1974 (EXCEPTIONS)

ORDER 1975

1. For paragraphs (1) and (2) of Article 2 there shall be substituted the following paragraphs:—

“2.—(1) In this Order, except where the context otherwise requires —

“the Act” means the Rehabilitation of Offenders Act 1974;

“the Building Societies Commission” means the Building Societies Commission established by section 1 of the Building Societies Act 1986(a);

“relevant offence” means

(a) an offence involving fraud or other dishonesty; or

(b) an offence under legislation (whether or not of the United Kingdom) relating to building societies, companies (including insider dealing), industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection;

the expressions “authorisation”, “building society” and “officer” have the meanings respectively given to them by section 119(1) of the Building Societies Act 1986.

(2) Where, by virtue of this Order, the operation of any of the provisions of the Act is excluded in relation to spent convictions the exclusion shall be taken to extend to spent convictions for offences of every description unless the said provisions are excluded only in relation to spent convictions for relevant offences.”

2. At the end of paragraph(aa) of Article 3 there shall be inserted the following paragraph:—

“(ab) any question relating to a relevant offence which is put by or on behalf of the Building Societies Commission or a building society in order to assess the suitability of the person to whom the question relates to be a director or other officer of a building society, whether or not that individual is the person questioned and where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions for any relevant offence are to be disclosed;”

3. At the end of Article 4 there shall be inserted the following words:—

“(d) any of the following, that is to say —

(i) the refusal by the Building Societies Commission to grant authorisation;

(ii) the revocation by the said Commission of a building society’s authorisation;

(iii) the imposition by the said Commission of conditions on its authorisation;

(iv) the dismissal or exclusion by a building society of a person from a position as an officer in a building society,

by reason, or partly by reason, of a spent conviction of an individual for a relevant offence, or of any circumstances ancillary to such a conviction or of a failure (whether or not by that individual) to disclose such a conviction or any such circumstances.”

4. For Article 5 there shall be substituted the following Article:—

“5.—(1) Section 4(1) of the Act shall not

(a) apply in relation to any proceedings specified in Schedule 3 to this Order;

(b) apply in relation to any proceedings specified in paragraph (2) below to the extent that there falls to be determined therein any issue relating to a person’s spent conviction for any relevant offence or to circumstances ancillary thereto:

(a) 1986 c.53.

- (c) prevent, in any proceedings specified in paragraph (2) below, the admission or requirement of any evidence relating to a person's spent conviction for any relevant offence or to circumstances ancillary thereto.
 - (2) The proceedings referred to in paragraph (1) above are —
 - (a) any proceedings before the Building Societies Commission —
 - (i) on an application for authorisation;
 - (ii) for the revocation of authorisation, or
 - (iii) for the imposition of conditions on authorisations, as to the conditions imposed or as to their revocation; and
 - (b) any proceedings by way of appeal against, or review of, any decision taken by the said Commission following any proceedings falling within sub-paragraph(a) above.”.
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EXPLANATORY NOTE

(This Note is not part of the Order.)

Section 4(1) of the Rehabilitation of Offenders Act 1974 provides that a rehabilitated person is to be treated in law as a person who has not been convicted of any spent convictions. Subsection (2) of that section makes provision for questions concerning a person's previous convictions to be treated as not relating to spent convictions and subsection (3)(b) further provides that a spent conviction or any failure to disclose a spent conviction shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment or for prejudicing him in any way in any occupation or employment.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 makes certain exceptions to these provisions. This Order amends the 1975 Order in a number of respects.

Firstly, it provides that subsection (2) shall not apply in specified circumstances to questions relating to certain offences (referred to in the Order as “relevant offences”) put by or on behalf of the Building Societies Commission (“the Commission”) or building societies. Secondly, it provides that subsection (3)(b) shall not apply to certain specified actions taken by the Commission in relation to building societies or to the dismissal or exclusion by a building society of a person from his office by reason of a spent conviction for a relevant offence. Thirdly, it provides that section 4(1) shall not apply to certain specified proceedings before the Commission or to any proceedings by way of appeal against, or review of, any decision taken by the Commission to the extent that those proceedings raise issues relating to a spent conviction for a relevant offence.

Finally, the Order makes amendments consequential upon the coming into force of section 189 of, and Schedule 14 to, the Financial Services Act 1986 (which makes its own provision in relation to exceptions to be made to the Rehabilitation of Offenders Act 1974 in the context of the provision of financial services).