
EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (“2003 Order”) which excludes and makes exceptions to the provisions of section 4 (effect of rehabilitation) of the Rehabilitation of Offenders Act 1974 (“the Act”). It excludes further proceedings and types of work from certain provisions within that section and updates the terms used to reflect recent legislation, including the Legal Services (Scotland) Act 2010 and the Electronic Money Regulations 2011.

Section 4(1) of the Act (which relates to the way in which offenders whose convictions have become spent are to be treated, particularly in judicial proceedings) is excluded in relation to the proceedings specified in Schedule 1 to the Order and, to a limited extent, the proceedings with respect to decisions specified in Part 1 of Schedule 2 (article 3).

Section 4(2)(a) and (b) of the Act (which relates to questions asked about criminal convictions otherwise than in the course of judicial proceedings) is excluded in relation to questions to which Schedule 3 applies (article 4). The questions to which Schedule 3 applies include questions on the assessment of a person’s suitability for a profession, office, employment or occupation set out in Schedule 4, or to hold certain licences, certificates or permits.

The professions, offices, employments and occupations set out in Schedule 4 are excepted from section 4(3)(b) of the Act (which relates to the effect of a spent conviction on grounds of dismissal and exclusion of persons from certain types of work). Action taken to safeguard national security and decisions taken by persons specified in Part 1 of Schedule 2 to do anything specified in that Part are also excluded from section 4(3)(b) of the Act (article 5).

The 2003 Order and those provisions amending that Order are revoked (article 6).