

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

2020 No.

**REHABILITATION OF OFFENDERS,
ENGLAND AND WALES**

The Rehabilitation of Offenders Act 1974 (Exceptions)
Order 1975 (Amendment) (England and Wales) Order 2020

Made - - - - *****

Coming into force in accordance with article 1(1)

The Secretary of State, in exercise of the powers conferred by sections 4(4), 7(4) and 10(1) of, and paragraphs 4 and 6(4) of Schedule 2 to, the Rehabilitation of Offenders Act 1974(1), makes the following Order.

In accordance with section 10(2) of that Act, a draft of the instrument has been laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Amendments to Article 2A to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

2.—(1) Article 2A of the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975(2) is amended as follows.

(2) In paragraph (1), omit “it was given to a person for an offence other than a listed offence and—”.

(3) In paragraph (1)(a), omit—

(a) “where”, and

(1) 1974 c. 53.

(2) S.I. 1975/1023. Article 2A was inserted by S.I. 2013/1198.

- (b) “two years or more have passed since the date on which the caution was given”.
- (4) In paragraph (1)(b), after “at the time the caution was given”, insert “, it was given to the person for an offence other than a listed offence, and”.
- (5) At the end of paragraph (3)(a), insert “and”.
- (6) Omit paragraph (3)(c) and the preceding “and”.

Date

Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 ([S.I. 1975/1023](#)) (“the 1975 Order”). The 1975 Order disapplies specified provisions of the Rehabilitation of Offenders Act 1974 ([c. 53](#)) so as to permit specified disclosures by the Disclosure and Barring Service in response to an application for a criminal record certificate or an enhanced criminal record certificate.

Article 2(2) to (4) of this Order amends the 1975 Order by changing the definition of a protected caution to include all those given where a person was aged under 18 years at the time. A protected caution does not have to be disclosed by a person if they are asked about it. These changes also apply to youth warnings and reprimands, which are treated the same as cautions.

Article 2(5) and (6) changes the definition of a protected conviction by removing the “multiple conviction rule” exemption from the scope of the definition. Read alongside the changes made by the Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) (England and Wales) Order 2020, youth cautions and multiple convictions no longer have to be disclosed when a person is asked about them, and will no longer be subject to mandatory disclosure in criminal records certificates.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.