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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (“the 2013 Order”) to bring individuals who are offering to provide accommodation to a person who has permission to enter into or to stay in the United Kingdom granted under immigration rules in relation to the Homes for Ukraine Sponsorship Scheme within the excluded circumstances set out in schedule 3 of the 2013 Order.

The 2013 Order disapplies certain provisions of the Rehabilitation of Offenders Act 1974 (“the 1974 Act”) which would otherwise prevent a person from having to disclose a spent conviction and protect that person from being prejudiced by that conviction or any failure to disclose it. The general effect of the disapplication of certain provisions is that, in specified circumstances, questions about spent convictions are permitted to be asked in order to assess a person’s suitability for admission to certain professions or occupations or to hold certain offices, types of employment, licences or permits.

Section 4(2)(a) and (b) of the 1974 Act (which relates to questions asked about criminal convictions otherwise than in the course of judicial proceedings) is excluded in relation to questions put in the various circumstances specified in schedule 3 of the 2013 Order. The questions to which schedule 3 applies include questions on the assessment of a person’s suitability for various professions, offices, employments, occupations or to hold certain licences, certificates or permits.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2022 (which came into force on 24 March 2022) inserted a new paragraph 17 into the 2013 Order to bring individuals offering to provide accommodation within premises that they also resided in (along with those individuals over the age of 16 years residing within the same premises) to Ukrainian nationals, and their immediate family members, who had left Ukraine in connection with the Russian invasion (and being provided accommodation via the Homes for Ukraine Sponsorship Scheme) within the scope of the exceptions set out in the 2013 Order, requiring them to self-disclose spent convictions.

Article 2(2) of this Order modifies schedule 3 of the 2013 Order to substitute a new paragraph 17 so that any question asked to assess the suitability of an individual offering to provide accommodation (whether residing in that accommodation or not) to a person who has permission to enter into or to stay in the United Kingdom, granted under immigration rules in relation to the Homes for Ukraine Sponsorship Scheme, is included. These circumstances also continue to extend to those individuals, who are over the age of 16 years who are also residing in the accommodation to be provided.