

**2009 No. 173**

**REHABILITATION OF OFFENDERS**

**Rehabilitation of Offenders (Exceptions) (Amendment) Order  
(Northern Ireland) 2009**

*Made* - - - - - *22nd April 2009*  
*Coming into operation* - *1st June 2009*  
*To be laid before Parliament*

The Secretary of State 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 (a)

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2009 and shall come into operation on 1st June 2009.

(2) In this Order the 1979 Order means the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (b)

**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. In Article 1(2) insert in the appropriate alphabetical positions—

““contracting authority” means a contracting authority within the meaning of Article 1(9) of Directive 2004/18/EC”;

““contracting entity” means a contracting entity within the meaning of Article 2(2) of Directive 2004/17/EC”;

““Directive 2004/17/EC” means Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004[5]”;

““Directive 2004/18/EC” means Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004[6]”.

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(a) S.I. 1978 No. 1908 (N.I. 27)  
(b) S.R. 1979 No. 195

## **Amendment of Article 2**

4. In Article 2 after paragraph (f), add—

“(g) any question asked by or on behalf of a contracting authority or contracting entity in relation to a conviction within the meaning of Article 45(1) of Directive 2004/18/EC which is a spent conviction (or any circumstances ancillary to such a conviction) for the purpose of determining whether or not to treat a person as ineligible:

(i) for the purposes of Regulation 23 of the Public Contracts Regulations 2006[7] or Regulation 23 of the Utilities Contracts Regulations 2006[8];or

(ii) to participate in a design contest for the purposes of Regulation 33 of the Public Contracts Regulations 2006 or Regulation 34 of the Utilities Contracts Regulations 2006

where the person questioned is informed at the time the question is asked that, by virtue of this order, convictions within the meaning of Article 45(1) of Directive 2004/18/EC which are spent convictions are to be disclosed”

## **Amendment of Schedule 1**

5.—(1) In Part II of Schedule I there shall be inserted:

(a) In Paragraph 2 after the word “employment” insert “or other work”;

(b) In Paragraph 3 after the word “employment” insert “or other work”;

(c) In Paragraph 15 after the word “employment” insert “or other work”;

(d) In Paragraph 16 after the word “employment” insert “or other work”;

(e) In Paragraph 17 after the word “employment” insert “or other work”;

(f) After Paragraph 18 there shall be inserted:

“19 The Director of the Revenue and Customs Prosecution Office and any office or employment or other work in that office

20 Any employment or other work in the Electoral Office for Northern Ireland”

(g) For Paragraph 5 there shall be substituted:

“any employment or other work which is concerned with the administration of or is normally carried wholly or partly with in the precincts of a prison, young offenders centre, juvenile justice centre, remand centre or remand home”;

(h) For Paragraph 7 there shall be substituted:

“Traffic warden authorised to discharge functions under the Road Traffic Regulations (Northern Ireland) 1997”;

(i) For Paragraph 8 there shall be substituted:

“Probation officers appointed under Article 5 of the Probation Board (Northern Ireland) Order 1982”.

(2) In Part III of Schedule I after paragraph 9 there shall be inserted;

“10. Any employment or other work in a regulated position as defined by the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

11. Any employment or other work which is concerned with a care position as defined by the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

12. Any employment or other work which is concerned with the monitoring, for the purposes of child protection, of communications by way of the internet.

13. Taxi Drivers as licenced by the Department of the Environment pursuant to Articles 59 and 79A of the Road Traffic (Northern Ireland) Order 1981.

14. Licences granted under Section 8 of the Private Security Industry Act 2001”.

### **Amendment of Schedule 3**

6.—(1) For paragraph 4 there shall be substituted:

“Proceedings under the Mental Health (Northern Ireland) Order 1986 before the Mental Health Review Tribunal for Northern Ireland”.

(2) For Paragraph 5 there shall be substituted:

“Proceedings under the Firearms (Northern Ireland) Order 2004”

(3) For Paragraph 15 there shall be substituted:

“Proceedings in respect of an application under the Criminal Injuries to Persons (Compensation) Act (Northern Ireland) 1968, the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or the Criminal Injuries Compensation (Northern Ireland) Order 2002”.

(4) At the end of Schedule 3 there shall be inserted:

“19. Proceedings for recovery orders under Part 5 of the Proceeds of Crime Act 2002

20. Revenue (taxation) proceedings under Part 6 of the Proceeds of Crime Act 2002”

Northern Ireland Office  
22nd April 2009

*Paul Goggins*  
Minister of State

## EXPLANATORY NOTE

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

This Order amends the Rehabilitation of Offenders (Exceptions) Order 1979.

Article 3 adds new definitions for EU Directive purposes

Article 4 amends Article 2 to allow questions to be asked for EU Directive purposes.

Article 5 amends Part II of Schedule I by adding to the list of excepted offices and employments to which exceptions from the rehabilitative provisions of the Order apply.

Added to the list are the Director of the Revenue and Customs Prosecution Office and the Electoral Office for Northern Ireland.

It also adds “other work” as well as employment to apply the provisions to contracted staff who may not be employed by the excepted offices.

It also at Article 3(2) adds to the regulated occupations;

Any employment or other work in a regulated position as defined by the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

Any employment or other work which is concerned with a care position as defined by the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

Any employment or other work which is concerned with the monitoring, for the purposes of child protection, of communication by way of the internet.

Taxi Drivers as licenced by the Department of the Environment.

Licences granted under section 2 of the Private Security Industry Act 2001.

Article 6 adds to the excepted proceedings, Proceedings for Recovery Orders under Part 5 of the Proceeds of Crime Act 2002 and Revenue (Taxation) Proceedings under Part 6 of the Proceeds of Crime Act 2002.

The Order comes into operation on 1st June 2009.

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