

2012 No. 318

REHABILITATION OF OFFENDERS

**Rehabilitation of Offenders (Exceptions) (Amendment) Order
(Northern Ireland) 2012**

Made - - - - *13th August 2012*

Coming into operation - *10th September 2012*

The Department of Justice 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) 2012 and shall come into operation on 10 September 2012.

(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.—(1) In article 1(2), omit the definition of “relevant offence”.

(2) In article 1(2) insert in the appropriate alphabetical positions—

“authorised payment institution” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009(c);

“electronic money institution” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011(d);

“payment services” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009; and

“small payment institution” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009.

(3) In Article 1(3) omit “unless the said provisions are excluded only in relation to spent convictions for relevant offences”.

(a) S.I. 1978/1908 (N.I. 27); Article 4(1) of and paragraph 6 of Schedule 1 to S.I. 2010/976 transferred the Order making powers of the Secretary of State to the Department of Justice.

(b) S.R. 1979 No. 195; relevant amending Orders are S.R. 1987 No. 393, S.R. 2001/No. 248, S.R. 2001 No. 400, S.R. 2003 No. 355, S.R. 2006 No. 425, S.R. 2009 No. 173 and S.R. 2009 No.303.

(c) S.I. 2009/209.

(d) S.I. 2011/99.

Amendment of article 2

- 4.—(1) In article 2(e)—
- (i) omit “for a relevant offence”; and
 - (ii) for the word “such” substitute “a”.
- (2) In article 2(e)(i) omit “for relevant offences”.
- (3) In article 2(e), in the table at the end insert—

“17. A director or manager responsible for the management of the electronic money or payment services business of an electronic money institution.	The Financial Services Authority.
18. A controller of an electronic money institution.	The Financial Services Authority.
19. A director or a person responsible for the management of an authorised payment institution or a small payment institution.	The Financial Services Authority.
20. A person responsible for the management of payment services provided, or to be provided, by an authorised payment institution or a small payment institution.	The Financial Services Authority.
21. A controller of an authorised payment institution or a small payment institution.	The Financial Services Authority.”

Amendment of article 3

- 5.—(1) In article 3 omit “for a relevant offence” in each place where it occurs.
- (2) In article 3(d) omit the word “or” before sub-paragraph (xii) and after that sub-paragraph insert—

- “(xiii) to refuse an application for registration as an authorised electronic money institution or a small electronic money institution under the Electronic Money Regulations 2011,
- (xiv) to vary or cancel such registration (or to refuse to vary or cancel such registration) or to impose a requirement under regulation 7 of those regulations,
- (xv) to refuse an application for registration as an authorised payment institution or a small payment institution under the Payment Services Regulations 2009, or
- (xvi) to vary or cancel such registration (or to refuse to vary or cancel such registration) or to impose a requirement under regulation 7 of those Regulations.”.

Amendment of article 4

6. In article 4 omit “for a relevant offence” in each place where it occurs.

Amendment of Schedule 1

- 7.—(1) In Part 1 of Schedule 1 for paragraph 1 substitute the following:—
- “1. Health care professional.”.

(2) In Part 1 of Schedule 1 paragraphs 4,6,7,8,9,10,11,13 shall be omitted.

(3) In Part 2 of Schedule 1 in paragraph 11 insert at the end “as it had effect immediately before the coming into operation of paragraph 1 of Schedule 7 to the Protection of Freedoms Act 2012”.

(4) In Part 2 of Schedule 1 in paragraph 13 insert at the end “as it had effect immediately before the coming into operation of paragraph 3 of Schedule 7 to the Protection of Freedoms Act 2012”.

(5) In Part 2 of Schedule 1 in paragraphs 21 and 22 insert at the end “as it had effect immediately before the coming into operation of paragraph 5 of Schedule 7 to the Protection of Freedoms Act 2012”.

(6) In Part II of Schedule 1 after paragraph 23 add:—

“**24.** Any office or employment which is concerned with the representation of, or advocacy services for, vulnerable adults by a service created under any enactment or commissioned by an HSC Body.”.

(7) In Part IV of Schedule 1 insert in the appropriate alphabetical positions—

““health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;

“HSC Body” means any of the following within the meaning of the Health and Social Care (Reform) Act (Northern Ireland) 2009—

- (a) the Regional Health and Social Care Board;
- (b) the Regional Agency for Public Health and Social Well-being;
- (c) an HSC Trust;

“vulnerable adult” means a person aged 18 or over who has a condition of the following type:

- (a) a substantial learning or physical disability;
- (b) a physical or mental illness or mental disorder, chronic or otherwise, including an addiction to alcohol or drugs; or
- (c) a significant reduction in physical or mental capacity;”.

(8) In Part IV of Schedule 1 the definitions of “chartered psychologist”, “registered chiropractor” and “registered osteopath” shall be omitted.

Sealed with the Official Seal of the Department of Justice on 13th August 2012.



David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

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

Article 2 of the 1979 Order provides exceptions to article 5(2) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (“the 1978 Order”) (questions which relate to spent convictions). Article 3 of this Order updates the 1979 Order to enable the finance industry and the Financial Services Authority to consider all spent convictions committed by individuals falling within the Order by deleting references to “relevant offences”. Articles 4, 5 and 6 of this Order make similar amendments.

Articles 1, 2 and 3 of this Order also update the 1979 Order to permit the Financial Services Authority to take spent convictions into account when exercising certain functions under the Payment Services Regulations 2009 and the Electronic Money Regulations 2011 relating to payment institutions and electronic money institutions.

Article 7 updates the 1979 Order to secure that the coverage of the 1979 Order is unaffected by the amendments made to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 by the Protection of Freedoms Act 2012. Without the changes made by this article, those amendments would operate to limit the range of cases in which the 1979 Order would permit questions to be asked, or allow persons to be excluded from certain types of work and would therefore reduce the protection afforded by the 1979 Order to children and vulnerable adults. The changes made by Article 7 secure that there is no reduction in that protection.

Article 7 also updates the 1979 Order to simplify the way in which it covers health and social care occupations; to provide coverage of the 1979 Order to those providing advocacy services for vulnerable adults; and to remove inoperative (or largely inoperative) material from the 1979 Order.

The Order comes into operation on 10 September 2012.

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