
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders (Exceptions) Order 1979 (“the 1979 Order”) The 1979 Order disapplies specified provisions of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (“the 1978 Order”) to allow questions to be asked about spent convictions in order to assess a person’s suitability for admission to certain occupations or to hold certain types of employment, licences or permits. It also allows spent convictions, or a failure to disclose them, to be grounds for excluding a person from these occupations or for making decisions in relation to those types of employments, licences and permits.

Article 3(3) of this Order inserts a new paragraph (2A) into Article 1 of the 1979 Order. It provides that the 1979 Order does not apply to “service offences” within the meaning of the Armed Forces Act 2006 other than “recordable service offences” as defined in the Police and Criminal Evidence Act 1984 (Armed Forces) Order 2009. Its effect is that minor “non-recordable service offences”, which do not correlate to conduct which would be criminal in the civilian sphere, need not be disclosed once the relevant rehabilitation period has been served.

Articles 4 to 8 of this Order make amendments to the coverage of the 1979 Order by adjusting the range of spent convictions covered by it. Articles 5 and 7 amend Articles 2 and 3 of the 1979 Order respectively so that the 1978 Order is no longer disapplied in respect of a “protected conviction” when a question is asked to assess a person’s suitability for certain purposes or when a decision is made for certain purposes.

The definition of a “protected conviction” is provided in Article 4, which inserts a new Article 1A into the 1979 Order. A conviction is a “protected conviction” if it was given for an offence other than those listed in new Article 1A(4); a sentence other than custody or service detention was imposed; the person has not been convicted of any other offence at any time; and, where the person was aged 18 or over at the time of the conviction, 11 years or more have passed since the date of conviction. Shorter time periods apply in respect of a person aged under 18 at the date of conviction.

Articles 6 and 8 introduce new Articles 2A and 3A respectively into the 1979 Order. These new Articles continue the existing effect of Articles 2 and 3 in certain circumstances so that in those circumstances, such as for the purpose of safeguarding national security, the 1978 Order continues to be disapplied even in relation to a “protected conviction”.

The Order comes into operation on 14th April 2014.