

SCHEDULE 3

Article 4

EXCLUSION OF SECTION 4(2)(a) AND (b) OF THE ACT

Application

1. Subject to paragraph 3, this Schedule applies, for the purposes of article 4, to questions put in the circumstances set out in paragraphs 4 to 9.

Interpretation

2. In this Schedule—

“adopt” includes any arrangements to adopt a child, including arrangements for adoption where the proposed adopter is a relative of the child, whether under section 12 or section 17 of the Adoption (Scotland) Act 1978(1) or in circumstances where the child is to be adopted outside of the United Kingdom;

“foster” has the meaning given by regulation 2(1) of the Fostering of Children (Scotland) Regulations 1996(2);

“foster carer” means a person approved by a local authority in terms of regulation 7 of the Fostering of Children (Scotland) Regulations 1996; and

“private foster carer” means a person required to give notice to a local authority by virtue of section 5(1) or (2) of the Foster Children (Scotland) Act 1984(3).

Requirements to inform

3.—(1) This Schedule applies only where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed.

(2) In the case of questions put in the circumstances to which paragraph 7 applies, the person questioned is also to be informed at that time that spent convictions are to be disclosed in the interests of national security.

(3) In the case of questions put in the circumstances to which paragraph 8 applies, the person questioned is also to be informed at that time that the question relates only to spent convictions for a relevant offence.

Specified professions etc.

4.—(1) Any question asked in order to assess the suitability—

(a) of the person to whom the question relates for a profession specified in Part 1 of Schedule 4;

(b) of the person to whom the question relates for any office or employment specified in Part 2 of Schedule 4;

(c) of the person to whom the question relates or of any other person to pursue any occupation specified in Part 3 of Schedule 4 or to pursue it subject to a particular condition or restriction; and

(d) of the person to whom the question relates or of any other person to hold a licence, certificate or permit specified in sub-paragraph (3) or to hold it subject to a particular condition or restriction.

(1) 1978 c. 28.

(2) S.I.1996/3263.

(3) 1984 c 56.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) For the avoidance of doubt, references in sub paragraph (1) to the suitability of a person for any profession or for any office, employment or occupation include the suitability of that person for training for such profession or, as the case may be, for training for such office, employment or occupation.

- (3) The licences, certificates or permits referred to in paragraph (d) are—
- (a) firearm certificates and shot gun certificates issued under the Firearms Act 1968, and permits issued under section 7(1), 9(2) or 13(1)(c) of that Act;
 - (b) licences issued under section 25 (Restrictions on persons under eighteen going abroad for the purpose of performing for profit) of the Children and Young Persons Act 1933(4); or
 - (c) certificates issued by the police or a court of summary jurisdiction under any Order in Council made under section 43 of the Explosives Act 1875(5) as to the fitness of a person to keep explosives for private use.

Child minding

5. Any question asked in order to assess the suitability of a person to act as a child minder, where—
- (a) the question relates to the person whose suitability is being assessed; or
 - (b) the person whose suitability is being assessed lives on the premises where the child minding would normally take place and the question relates to a person who lives in the same premises as that person or to a person who regularly works on them at a time when the child minding takes place.

Adoption and fostering

- 6.—(1) Any question asked by or on behalf of any person for the purpose of assessing, investigating, reviewing or confirming the suitability of any person to—
- (a) adopt children in general or a child in particular;
 - (b) foster children in general or a child in particular (whether as a foster carer or as a private fosterer); or
 - (c) have a child or children placed with that person by virtue of section 70 of the Children (Scotland) Act 1995(6) or in terms of regulation 14 of the Fostering of Children (Scotland) Regulations 1996,

in the circumstances set out in sub-paragraph (2).

- (2) The circumstances are that—
- (a) the question relates to the person whose suitability is being assessed, investigated, reviewed or confirmed; or
 - (b) the question relates to a person over the age of 16 living in the same household as the person whose suitability is being assessed, investigated, reviewed or confirmed.

National security

- 7.—(1) Any question asked by or on behalf of—
- (a) the Crown, the United Kingdom Atomic Energy Authority, the Financial Services Authority or the Post Office Corporation, in order to assess, for the purpose of safeguarding

(4) 1933 c. 12.
(5) 1875 c17.
(6) 1995 c36.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

national security, the suitability of the person to whom the question relates or of any other person for any office or employment.

- (b) the Civil Aviation Authority;
 - (c) any other person authorised to provide air traffic services under section 4 or 5 of the Transport Act 2000⁽⁷⁾ (in any case where such person is a company, an “authorised company”); or
 - (d) subject to sub paragraph (3)–
 - (i) any company which is a subsidiary within the meaning given by section 736(1) of the Companies Act 1985⁽⁸⁾ of an authorised company; and
 - (ii) any company of which an authorised company is a subsidiary,
- in the circumstances set out in sub paragraph (2).

(2) The circumstances are that the question is put in order to assess, for the purpose of safeguarding national security, the suitability of the person to whom the question relates or of any other person for any office or employment.

(3) Where the question is put on behalf of a company mentioned in sub-paragraph (1)(d), this paragraph applies only where the question is put in relation to the provision of air traffic services.

Financial services

8. Any question asked in order to assess the suitability of the individual to whom the question relates to have the status specified in the first column of the table in Part 2 of Schedule 2 by, or on behalf of, the person listed in relation to that status in the second column of that table.

The National Lottery Commission

9. Any question asked by or on behalf of the National Lottery Commission for the purpose of determining whether to grant or revoke a licence under Part I of the National Lottery etc. Act 1993 where the question relates to an individual–

- (a) who manages the business or any part of the business carried on under the licence (or who is likely to do so if the licence is granted); or
- (b) for whose benefit that business is carried on (or is likely to be carried on if the licence is granted).

(7) 2000 c38.

(8) 1985 c. 6.