
REHABILITATION OF OFFENDERS ORDINANCE 2009 (EXCEPTIONS) ORDER 2009

The Administrator makes the following Order in exercise of the powers in section 4(6) and 7(4) of the Rehabilitation of Offenders Ordinance 2009(a).

Citation and commencement

1. This Order may be cited as the Rehabilitation of Offenders Ordinance 2009 (Exceptions) Order 2009 and comes into force on the day on 1 August 2009.

Interpretation

2. (1) In this Order—

“corresponding United Kingdom law” means the United Kingdom Rehabilitation of Offenders Act 1974(b);

“the Ordinance” means the Rehabilitation of Offenders Ordinance 2009.

(2) Where this Order excludes the provisions of the Ordinance in relation to spent convictions, the exclusion applies to spent convictions of any description.

(3) In this Order—

- (a) a reference to any enactment is a reference to that enactment as amended, extended or applied by or under any other enactment; and
- (b) a reference to the Crown is a reference to Her Majesty in Right of Her Government of the United Kingdom and to Her Majesty in Right of Her Administration of the Areas.

Exceptions relating to professions and employment

3. (1) None of the provisions of section 4(4) of the Ordinance apply in relation to the questions specified in paragraph 2 where the person questioned is informed at the time the question is asked that spent convictions are to be disclosed by virtue of this Order.

(2) The questions specified in this paragraph are—

- (a) Any question asked by a person in the course of the office or employment of that person in order to assess the suitability of—
 - (i) the person to whom the question relates for admission to any of the professions specified in Part 1 of Schedule 1 to this Order;
 - (ii) the person to whom the question relates for any appointment, employment or work specified in Part 2 of Schedule 1;
 - (iii) the person to whom the question relates or of any other person to pursue any occupation specified in Part 3 of Schedule 1 or to pursue it subject to a particular condition or restriction;
 - (iv) the person to whom the question relates or of any other person to hold a licence, certificate or permit of a kind specified in Schedule 2 to this Order or to hold it subject to a particular condition or restriction;
- (b) any question asked by or on behalf of any person, in the course of the duties of that person, in order to assess the suitability of a person (the “assessed person”) to work with children, where—

- (i) the question relates to the assessed person;
- (ii) the assessed person lives on the premises where the work with children would normally take place and the question relates to another person living in the same household as the assessed person;
- (iii) the assessed person lives on the premises where his work with children would normally take place and the question relates to another person who regularly works on those premises at a time when the work with children usually takes place; or
- (iv) the work for which the assessed person is being assessed is childminding which would normally take place on premises other than premises where the assessed person lives and the question relates to a person who lives on those other premises or to a person who regularly works on them at a time when the childminding takes place;
- (c) Any question where—
 - (i) the question is asked by or on behalf of any person, in the course of his duties as a person employed in the service of the Crown;
 - (ii) the question is asked in order to assess, for the purpose of safeguarding the security of the Areas, the suitability any person for any office or employment; and
 - (iii) the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed for the purpose of safeguarding the security of the Areas;
- (d) any question asked by or on behalf of any person in the course of his duties as a person employed in relation to the adoption of children for the purpose of assessing the suitability of any person (the “assessed person”) to adopt children in general or a child in particular where—
 - (i) the question relates to the assessed person; or
 - (ii) the question relates to a person over the age of 18 living in the same household as the assessed person;
- (e) any question asked, by or on behalf of the management of a sports ground or a sports association for the purpose of assess the suitability of the person to whom the question relates or of any other person to be approved as able to undertake the duties of a steward or security officer at a sports ground.

(3) In this article, a reference to a person being informed at the time that a question is asked that spent convictions are to be disclosed by virtue of this Order includes a reference to that person being informed that spent convictions are to be disclosed by virtue of an order made under section 4(4) of the corresponding Republican law or an order made under section 4(4) of the corresponding United Kingdom law.

Exceptions relating to dismissal or exclusions from any office, profession, occupation or employment

4. Section 4(5)(b) of the Ordinance does not apply in relation to—

- (a) the dismissal or exclusion of any person from any profession specified in Part 1 of Schedule 1;
- (b) any office, employment work, or occupation specified in Part 2 or Part 3 of Schedule 1;
- (c) any action taken for the purpose of safeguarding the security of the Areas.

Exceptions relating to proceedings

5. Sections 4(1) to 4(3) of the Ordinance do not apply in relation to any proceedings specified in Schedule 3.

SCHEDULE 1

Article 3 and 4

Excepted professions, appointments, employments, work and occupations

Part 1

Professions

1. Medical Practitioner.
2. Advocate.
3. Chartered accountant, certified accountant.
4. Dentist, dental hygienist.
5. Veterinary surgeon.
6. Nurse, midwife.
7. Optometrist, dispensing optician.
8. Pharmaceutical chemist.
9. Pharmacist.
10. Registered pharmacy technician.
11. Teacher.
12. Registered osteopath.
13. Registered chiropractor.
14. Chartered psychologist.
15. Actuary.

Part 2

Appointments, employments and work

1. Judicial appointments.
2. Employment in the Office of the Attorney General and Legal Adviser.
3. Officers of the Sovereign Base Areas Police Service.
4. Any office or employment in the Administration—
 - (a) concerned with the administration of the Sovereign Base Areas Police Service or carried out in the precincts of a police station or the headquarters of the Sovereign Base Areas Police Service;
 - (b) concerned with the administration of, or normally carried out wholly or partly in the precincts of a court;
 - (c) concerned with the administration of, or normally carried out wholly or partly in the precincts of a prison or other place where persons are detained.
5. Inspector of Explosives under the Explosive Substances Ordinance(c);
6. Any office or employment which is concerned with the provision of care services to vulnerable

adults and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services or information about such vulnerable adults.

7. Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services or information about persons in receipt of such services in the course of his normal duties.

8. Any office or employment which is concerned with the provision of services to children and which is of such a kind as to enable a person, in the course of his normal duties, to have access to children in receipt of such services or information about such children.

9. Any office or employment which is concerned with the provision of legal services or financial services and which is of such a kind as to enable a person, in the course of his normal duties, to have access to persons in receipt of such services or information about such persons.

10. Persons authorised under section 3 of the Probation and Other non-Custodial Sentences Ordinance 2006(d) to exercise the powers and perform the duties imposed on a probation officer under that Ordinance.

11. Any occupation which is concerned with the management of—

(1) a place in respect of which the approval of the Administrator is required by section 3 of the Abortion Ordinance 1974(e);

(2) a private hospital in respect of which registration is required by section 3 of the Private Hospitals Ordinance(f);

12. Any employment where the person employed may carry out the humane killing of animals.

13. Persons who in the course of their employment have access to personal information relating to an identified or identifiable member of the judiciary.

Part 3

Regulated occupations

1. Gun dealer or employee or person working for a gun dealer.

2. Any occupation in respect of which a person requires a licence under the Explosive Substances Ordinance.

Part 4

Interpretation

In this Schedule—

“actuary” means a member of the Institute of Actuaries or a member or student of the Faculty of Actuaries;

“care services” means

- (a) accommodation and nursing or personal care in a residential home;
- (b) personal care or nursing or support for a person to live independently in his own home;
- (c) social care services; or
- (d) any services provided in an establishment catering for a person with learning difficulties;

“certified accountant” means a member of the Association of Chartered Certified Accountants;

“chartered accountant” means a member of the Institute of Chartered Accountants in England and Wales or of the Institute of Chartered Accountants of Scotland;

“chartered psychologist” means a psychologist included in the British Psychological

- Society's Register of Chartered Psychologists or a person registered under section 8 of the Republican Registration of Professional Psychologists Law of 1995(**g**);
- "child" means a person under the age of 18 years (and "children" is to be construed accordingly);
- "gun dealer" has the meaning given by section 2 of the Republican Firearms and Other Weapons Law 2004(**h**);
- "personal information" means any information which is of a personal or confidential nature and is not in the public domain and it includes information in any form but excludes anything disclosed for the purposes of legal proceedings in a particular cause of action or matter;
- "pharmacist" means a person recognised as a pharmacist under the provisions of section 3 of the Pharmacy and Poisons Ordinance 1964(**i**);
- "registered chiropractor" has the meaning given by section 43 of the United Kingdom Chiropractors Act 1994(**j**) or by the Republican Registration of Chiropractors Law of 1991(**k**);
- "registered osteopath" has the meaning given by section 41 of the United Kingdom Osteopaths Act 1993(**l**);
- "teacher" includes a warden of a community centre, leader of a youth club or similar institution and a youth worker;
- "vulnerable adult" means a person aged 18 years 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.

SCHEDULE 2

Article 3

Excepted licences, certificates and permits

1. Licences issued under the Firearms Ordinance 1974(**m**).
2. Licences issued under section 4 of the Explosive Substances Ordinance.

SCHEDULE 3

Article 5

Excepted Proceedings

1. Proceedings in respect of a person's admission to or disciplinary proceedings against, a member of any profession specified in Part 1 of Schedule 2.
2. Disciplinary proceedings in respect of an officer of the Sovereign Base Areas Police Service.
3. Proceedings under the Mental Patients Ordinance(**n**).
4. Proceedings relating to the issue of a licence under the Firearms Ordinance 1974.
5. Proceedings in respect of the application for or cancellation of—
 - (1) the Administrator's approval of a place under section 3 of the Abortion Ordinance 1974;

(2) registration of a private hospital in respect of which registration is required by section 3 of the Private Hospitals (Control) Ordinance.

6. Proceedings relating to the issue of licences under section 4 of the Explosive Substances Ordinance.

7. Proceedings by way of an appeal against, or review of, any decision taken under this Order or consideration of a spent conviction.

8. Proceedings held for the receipt of evidence affecting the determination of any question arising in proceedings specified in this Schedule.

Dated this 21st day of May 2009.

By the Administrator's Command,

J. D. Wilson,

Chief Officer,
Sovereign Base Areas.

(SBA/AG/2/CR/510/1)

Notes

- (a) Ordinance 11/09.
- (b) 1974 c. 53, United Kingdom.
- (c) Cap 54, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).
- (d) Ordinance 14/06.
- (e) Ordinance 9/74.
- (f) Cap 255, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).
- (g) Law 66 (I) 1995, Republic of Cyprus.
- (h) Law 113(1) 2004, Republic of Cyprus.
- (i) Ordinance 23/64.
- (j) 1994 c. 17, United Kingdom.
- (k) Law 62 (I) 1991, Republic of Cyprus.
- (l) 1993 c. 21, United Kingdom.
- (m) Ordinance 10/74.
- (n) Cap 252, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Introduction

1. This explanatory note relates to the Rehabilitation of Offenders Ordinance 2009 (Exception) Order 2009. It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Order. It does not form part of the Order.

2. This note should be read in conjunction with the Order. It is not, and is not meant to be, a comprehensive description of the Order. So when a provision does not seem to require any explanation or comment, none is given.

Particular points

3. This Order provides for the exceptions to the Rehabilitation of Offenders Ordinance 2009 (the “Ordinance”) in relation to:-

- circumstances in which convictions which are spent under the provisions of the Ordinance must be disclosed;
- circumstances in which convictions which are spent under the provisions of the Ordinance might be relevant to a rehabilitated person being excluded or prejudiced in any appointment, employment or profession; and
- proceedings in which spent convictions may be referred to.

4. Article 3 of the Order provides for the exceptions relating to questions put to a person for the purpose of:-

- assessment of the suitability of a person for employment or appointment,
- safeguarding the security of the Areas; and
- assessing the suitability of a person as an adoptive parent.

5. Article 4 of the Order sets out the exceptions where convictions which are spent under the Ordinance might be relevant to a rehabilitated person being excluded or prejudiced in any office, employment, work or profession.

6. Article 5 of the Order sets out proceedings in which spent convictions may be referred to, such as disciplinary proceedings against a member of certain professions.