
STATUTORY RULES OF NORTHERN IRELAND

2023 No. 17

REHABILITATION OF OFFENDERS

**The Rehabilitation of Offenders (Exceptions) (Amendment)
Order (Northern Ireland) 2023**

Made - - - - - *20th February 2023*

Coming into operation- - - - - *20th March 2023*

The Department of Justice makes the following Order in exercise of the powers conferred by Article 5(4) of the Rehabilitation of Offenders (Northern Ireland) Order 1978(a).

Citation and commencement

1. This Order may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2023 and shall come into operation on 20th March 2023.

Interpretation

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

Amendment of the 1979 Order

3.—(1) The 1979 Order is amended as follows.

(2) After Article 2(1)(n) insert—

“(o) any question asked by or on behalf of any person, in the course of his work, in order to assess the suitability of an individual to act as an adult placement carer (within the meaning of Regulation 2 of the Adult Placement Agencies Regulations (Northern Ireland) 2007)(c), where —

- (i) the question relates to the individual whose suitability is being assessed, or
- (ii) the question relates to a person living in the same household as the person whose suitability is being assessed.”.

Sealed with the Official Seal of the Department of Justice on 20th February 2023.

(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. 2009 No. 173, S.R. 2009 No. 303, S.R. 2012 No. 318, S.R. 2014 No. 27, S.R. 2014 No. 174, S.R. 2019 No. 214 and S.R. 2022 No. 213.
(c) S.R. 2007 No. 221.



Richard Pengelly
A senior officer of the Department of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order amends the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (“the 1979 Order”) to bring individuals who are seeking to act as an adult placement carer in accordance with the Adult Placement Agencies Regulations (Northern Ireland) 2007, within the excluded circumstances set out in Article 2 of the 1979 Order.

The 1979 Order disapplies specific provisions of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (“the 1978 Order”) which would otherwise prevent a person from having to disclose a spent conviction and protect that person from being prejudiced by that conviction or any failure to disclose it. The general effect of the disapplication is to allow, in specific circumstances, questions to be asked about spent convictions (except where they are protected convictions as described in Article 1A of the 1979 Order) 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 failure to disclose them, to be grounds for excluding a person from these occupations, or making decisions in relation to those types of employments, licenses and permits.

Article 5(2) of the 1978 Order (which relates to questions asked about criminal convictions otherwise than in the course of judicial proceedings) is excluded in relation to questions put in the various circumstances specified in Article 2 of the 1979 Order. The questions to which Article 2 applies include questions on the assessment of a person’s suitability for various professions, offices, employments, occupations or to hold certain licences, certificates or permits.

Article 3 of this Order inserts a new paragraph (o) into Article 2(1) of the 1979 Order so that any question asked to assess the suitability of an individual seeking to act as an adult placement carer within the meaning of the Adult Placement Agencies Regulations (Northern Ireland) 2007 and any individual residing in the same household, is included within the scope of the exceptions set out in the 1979 Order, requiring them to self-disclose spent convictions.