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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No.**

**REHABILITATION OF OFFENDERS**

**The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Amendment) (Scotland) Order 2006**

*Made* - - - - 2006

*Coming into force* - - 2006

The Scottish Ministers, in exercise of the powers conferred on them by sections 4(4), 7(4) and 10(1) of the Rehabilitation of Offenders Act 1974(a), hereby make the following Order, a draft of which has, in accordance with section 10(2) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Amendment) (Scotland) Order 2006.

(2) This Order shall come into force in accordance with the following sub-paragraphs:—

- (a) articles 2, 3(a) and 5(b) to (d) shall come into force on the day after the day on which this Order is made;
- (b) articles 3(b) and 4 shall come into force on 31st March 2006 or, if this Order has not been made by 30th March 2006, on the day after the day on which it is made; and
- (c) article 5(a) shall come into force on 1st April 2006 or if this Order has not been made by 31st March 2006, on the day after the day on which it is made.

(3) This Order extends to Scotland and, in so far as it extends beyond Scotland, it does so only as a matter of Scots law.

**Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003**

**2.** The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(b) is amended in accordance with the following provisions of this Order.

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(a) 1974 c.53; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415).  
(b) S.S.I. 2003/231.

### **Amendment of Schedule 1**

**3.** In Schedule 1–

- (a) in paragraph 8 for “Secretary of State’s” substitute “Scottish Ministers”;
- (b) after paragraph 15, insert–

“**16.** Proceedings in respect of a decision by a local authority to–

- (a) refuse to enter a person in; or
- (b) remove a person from,

the register maintained by the authority under section 82(1) of the Antisocial Behaviour etc. (Scotland) Act 2004.”**(a)**.

### **Amendment of Schedule 3**

**4.** At the end of Schedule 3, insert–

“**Registration of certain landlords**

**10.** Any question asked by or on behalf of a local authority in order to assess whether–

- (a) a relevant person within the meaning of section 83(8) of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”); or
- (b) a person acting for that person within the meaning of section 83(1) or 88(1) of the 2004 Act,

is a fit and proper person for the purpose of determining whether the relevant person should be entered in or removed from the register maintained by the local authority under section 82(1) or the 2004 Act.”.

### **Amendment of Schedule 4**

**5.** In Schedule 4–

- (a) in paragraph 15 of Part 2 for “National Crime Squad or the National Criminal Intelligence Service” substitute “Serious Organised Crime Agency”;
- (b) in paragraph 16 of Part 2 for “Customs and Excise” substitute “Revenue and Customs”;
- (c) in paragraph 3 of Part 3, for “Secretary of State” substitute “Scottish Ministers”; and
- (d) in the definition of work in Part 4, for “16” substitute “18”.

A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
February 2006

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(a) 2004, asp 8.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (“the 2003 Order”).

Article 5(a) and (b) make amendments to the 2003 order to take account of recent legislation, namely the replacement of the National Criminal Intelligence Service with the Serious Organised Crime Agency and Her Majesty’s Customs and Excise with Her Majesty’s Revenue and Customs. Articles 3(a) and 5(c) correct the reference to the Secretary of State’s approval of a place under the Abortion Act 1967 to reflect the fact that this function has executively devolved to Scottish Ministers. Article 5(d) corrects a typographical error in the 2003 Order.

Articles 3(b) and 4 takes account of the system for registration of private landlords introduced by the Antisocial Behaviour etc. (Scotland) Act 2004 which comes into effect on 31st March 2006. The amendments will allow spent convictions to be referred to in appeals under that Act. The amendments also allow a local authority to obtain a criminal record certificate under Part V of the Police Act 1997 (c.50) when considering whether a private landlord should be registered under the 2004 Act.

*Draft Order laid before the Scottish Parliament under section 10(2) of the Rehabilitation of Offenders Act 1974 for approval by resolution of the Scottish Parliament.*

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