

# Clydebank Aikido Club

## Appendix 2: Exclusions and Exceptions



### The Rehabilitation of Offenders Act 1974 – (Exclusions and Exceptions) (Scotland) Order 2003

Various kinds of employment, occupations and professions are exempted from the Act under the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003.

To ensure adequate protection for the public exemptions have to be made so that information about “spent” convictions may not be withheld in certain circumstances. These exemptions are set out in statute – ‘The Exceptions Order’.

The Exceptions Order sets out the types of work and range of proceedings involving a particular level of trust to which the protection offered by the Rehabilitation of Offenders Act to exoffenders is not available. Types of work include work with children, work with Adults at Risk, and employment involving the administration of justice, national security and financial services. It does not necessarily debar exoffenders from these jobs. Generally it will be for an employer or other authorized person to make an assessment of the relevance of the conviction.

However, if the person is seeking work in a child care position and their previous convictions are such that they have been included in the list that is provided for in the Protection of Children (Scotland) Act 2003 – the Disqualified from Working with Children’s List, it will be unlawful for the person to be employed in a child care position.

In all circumstances, the person whose suitability for a position is being assessed must be informed when the question is asked that ‘spent’ convictions (or, in the case of financial services, ‘spent’ convictions for a relevant offence), are to be disclosed. Questions can for the most part only be asked to determine the suitability of the person seeking the post. It should be noted however that for child minding, adoption and fostering questions can be asked of the individual being assessed, and also those living or working in the same household.

In respect of those posts covered by the Exceptions Order, an employer or authorised body is generally entitled to know about all previous convictions, both ‘spent’ and ‘unspent’ and to take them into account in assessing an individual’s suitability for work. The only one area where the range of previous convictions which the employer or authorised body is entitled to know about is restricted, is in the financial service sector.

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The Exceptions Order now makes it clear that questions about previous convictions can be asked of those who are seeking to train for any of the professions, offices, occupations or employments specified in the Order, and of those who are currently training for such positions.

### EXCEPTED PROFESSIONS, OFFICES, EMPLOYMENTS, AND OCCUPATIONS

#### Professions

- Medical Practitioner
- Advocate, Solicitor
- Chartered Accountant
- Dentist, Dental Hygienist, Dental Auxiliary
- Veterinary Surgeon
- Nurse, Midwife, Health Visitor
- Ophthalmic Optician, Dispensing Optician
- Pharmaceutical Chemist
- Registered Teacher
- Any profession to which the Professions Supplementary to Medicine Act 1960 applies and which is undertaken following registration under the Act
- Registered Osteopath
- Registered Chiropractor
- Chartered Psychologist
- Actuary
- Registered European Lawyer, Registered Foreign Lawyer
- Social Worker
- Social Service Worker

#### Offices and Employments

- Judicial Appointments
- Prosecutors, Officers assisting prosecutors, and Officers assisting in the work of the Crown Office
- Signing Justices, and their Clerks and Assistants
- Clerks (including depute and assistant clerks) and officers of the High Court of Justiciary, and the Court of Session and the District Court, Sheriff Clerks (including Sheriff Clerk Depute) and their Clerks and assistants
- Precognition Agents
- Constables, Police Custody, Security Officers, Persons appointed as Police Cadets to undergo training with a view to becoming Constables and persons employed for the purposes of, or to assist the Constables of, a Police Force established under any enactment, Naval, Military and Air Force Police
- Any employment which is concerned with the administration of, or is otherwise normally carried out wholly or partly within the precincts of a prison, remand centre, young offenders institution, detention centre or removal centre, and members of visiting committees for prisons appointed under rules made under section 39 of the Prisons (Scotland) Act 1989(a) and members of visiting committees for remand centres and young offenders institutions appointed under section 19(3) of that Act
- Traffic wardens appointed under section 95 of the Road Traffic Regulation Act 1984(b) or section 9 of the Police (Scotland) Act 1967(c)
- Any employment or work which is concerned with the provision of a care service
- Any employment or work which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of that person's normal duties
- Any employment or work in a child care position

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- Any person who provides a service, or who seeks to provide a service under Part 4 of the Adults with Incapacity (Scotland) Act 2000(d)
- Any employment in the Scottish Society for the Prevention of Cruelty to Animals where the person employed or working, as part of his or her duties, may carry out the killing of Animals
- Any office or employment in the Serious Fraud Office
- Any office or employment in the National Crime Squad or the National Criminal Intelligence Service
- Any office or employment in Her Majesty's Customs and Excise
- Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet
- Any office or employment in the Scottish Social Services Council
- Her Majesty's Inspectors or any person appointed by the Scottish Ministers for the purposes of section 66 of the Education (Scotland) Act 1980(e) or section 9 of the Standards in Scotland's Schools etc. Act 2000(f)
- The principal Reporter or officers appointed under section 128(5) of the Local Government etc. (Scotland) Act 1994(g) to assist that officer
- Members of a panel established by virtue of section 101 (1) of the Children (Scotland) Act 1995 (h) (panels for curators ad litem, reporting officers and safeguarders)

### Occupations

- Firearms dealer
- Any occupation in respect of which an application to the Gaming Board for Great Britain for a licence, certificate or registration is required by or under any enactment
- Any occupation which is concerned with the management of a place in respect of which the approval of the Secretary of State is required by section 1 of the Abortion Act 1967
- Any occupation in respect of which the holder, as occupier of premises on which explosives are kept, is required by an Order in Council made under section 43 of the Explosives Act 1875 to obtain from the police or a court of summary jurisdiction a certificate as to his fitness to keep explosives
- Taxi driver or private hire driver

### Interpretation In this schedule

'Actuary' means a member of the Institute of Actuaries or a member or student of the Faculty of Actuaries;

'Accountant' means a member of –

- a) the Association of Certified Accountants;
- b) the Institute of Chartered Accountants in Scotland;
- c) the Institute of Chartered Accountants in England and Wales;
- d) the Chartered Institute of Public Finance Accountants; or
- e) the Chartered Institute of Management Accountants;

'Chartered Psychologist' means a psychologist included in the British Psychological Society's Register of Chartered Psychologists;

'child care position' has the meaning given by schedule 2 to the Protection of Children (Scotland) Act 2003(a);

'Firearms Dealer' has the meaning given by section 57(4) of the Firearms Act 1968(b);

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'Health Services' means services provided under the National Health Service (Scotland) Act 1978(c) and similar services provided otherwise than under the National Health Service;

'Her Majesty's Inspectors' has the meaning given by section 135 of the Education (Scotland) Act 1980;

'Judicial Appointment' means an appointment to any office by virtue of which the holder has power (whether alone or with others) under any enactment or rule of law to determine any questions affecting the rights, privileges, obligations or liabilities of any person;

'Prosecutors' has the meaning given by section 307 of the Criminal Procedure (Scotland) Act 1995(d);

'Registered Chiropractor' has the meaning given by section 43 of the Chiropractors Act 1994(e);

'Registered Foreign Lawyer' and 'Registered European Lawyer' have the meaning given by section 65 of the Solicitors (Scotland) Act 1980(f);

'Registered Osteopath' has the meaning given by section 41 of the Osteopaths Act 1993(g);

'Registered Teacher' means a teacher registered under the Teaching Council (Scotland) Act 1965(h);

'work' has the meaning given by section 16 of the Protection of Children (Scotland) Act 2003.