



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 5

SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.

CHAPTER 2

CRIMINAL RECORDS

Safeguards in relation to certificates

82 Enhanced criminal record certificates: additional safeguards

- (1) In subsection (4) of section 113B of the Police Act 1997 (enhanced criminal record certificates: requests by the Secretary of State to chief officers for information)—
 - (a) for “the chief officer of every relevant police force” substitute “any relevant chief officer”,
 - (b) omit “, in the chief officer’s opinion”,
 - (c) in paragraph (a), for “might” substitute “the chief officer reasonably believes to”, and
 - (d) in paragraph (b), at the beginning insert “in the chief officer’s opinion,”.
- (2) After subsection (4) of that section of that Act insert—

“(4A) In exercising functions under subsection (4) a relevant chief officer must have regard to any guidance for the time being published by the Secretary of State.”
- (3) In subsection (9) of that section of that Act—
 - (a) before the definition of “relevant police force” insert—

““relevant chief officer” means any chief officer of a police force who is identified by the Secretary of State for the purposes of making a request under subsection (4).”, and”

Status: This is the original version (as it was originally enacted).

(b) omit the definition of “relevant police force”.

(4) After section 117(1) of that Act (disputes about accuracy of certificates) insert—

“(1A) Where any person other than the applicant believes that the information contained in a certificate under any of sections 112 to 116 is inaccurate, that person may make an application in writing to the Secretary of State for a decision as to whether or not the information is inaccurate.”

(5) After section 117 of that Act insert—

“117A Other disputes about section 113B(4) information

- (1) Subsection (2) applies if a person believes that information provided in accordance with section 113B(4) and included in a certificate under section 113B or 116 —
 - (a) is not relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), or
 - (b) ought not to be included in the certificate.
- (2) The person may apply in writing to the independent monitor appointed under section 119B for a decision as to whether the information is information which falls within subsection (1)(a) or (b) above.
- (3) The independent monitor, on receiving such an application, must ask such chief officer of a police force as the independent monitor considers appropriate to review whether the information concerned is information which—
 - (a) the chief officer reasonably believes to be relevant for the purpose described in the statement under section 113B(2) or (as the case may be) 116(2), and
 - (b) in the chief officer’s opinion, ought to be included in the certificate.
- (4) In exercising functions under subsection (3), the chief officer concerned must have regard to any guidance for the time being published under section 113B(4A).
- (5) If, following a review under subsection (3), the independent monitor considers that any of the information concerned is information which falls within subsection (1)(a) or (b)—
 - (a) the independent monitor must inform the Secretary of State of that fact, and
 - (b) on being so informed, the Secretary of State must issue a new certificate.
- (6) In issuing such a certificate, the Secretary of State must proceed as if the information which falls within subsection (1)(a) or (b) had not been provided under section 113B(4).
- (7) In deciding for the purposes of this section whether information is information which falls within subsection (1)(a) or (b), the independent monitor must have regard to any guidance for the time being published under section 113B(4A).
- (8) Subsections (10) and (11) of section 113B apply for the purposes of this section as they apply for the purposes of that section.”